

SENATE No. 2662

The Commonwealth of Massachusetts

—
In the One Hundred and Ninety-First General Court
(2019-2020)
—

SENATE, April 27, 2020.

The committee on Children, Families and Persons with Disabilities to whom was referred the petition (accompanied by bill, Senate, No. 1379) of Sonia Chang-Diaz, Mike Connolly, Jack Patrick Lewis, Jason M. Lewis and other members of the General Court for legislation to strengthen inmate visitation, reports the accompanying bill (Senate, No. 2662).

For the committee,
Sonia Chang-Diaz

SENATE No. 2662

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**In the One Hundred and Ninety-First General Court
(2019-2020)**

An Act to strengthen inmate visitation.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 36C of chapter 127 of the General Laws, as amended by section 92
2 of chapter 69 of the acts of 2018, is hereby amended by striking out the second sentence and
3 inserting in place thereof the following sentences:-

4 For the purposes of this section, to unreasonably limit in-person visitation of inmates
5 shall include, but not be limited to:

6 (a) providing an eligible inmate fewer than 3 opportunities for in-person visitation during
7 any 7-day period;

8 (b) placing limitations on the number of unique individuals who may be eligible to visit
9 the inmate;

10 (c) prohibiting an individual from visiting more than one inmate in the custody of the
11 department of correction, or more than one inmate in the same facility, absent an individual

12 determination that such visitation would pose a threat to security or orderly running of the
13 facility;

14 (d) requiring eligible visitors to submit more private and personal information to be pre-
15 approved to visit than is strictly necessary for the safety and security of the institution and/or
16 without complying with all applicable statutes, regulations, and orders governing the protection
17 of sensitive and/or private personal information;

18 (e) limiting inmates to receiving visitors from a pre-approved list without permitting
19 inmates to update their list upon request, or limiting inmates to receiving visitors from a pre-
20 approved list without providing a reasonable process for the inmate to request an exception
21 allowing for approval of visitors where visitation could not have been reasonably foreseen. Such
22 requests shall be approved within 10 calendar days absent an individual determination that such
23 visitation would pose a threat to security or orderly running of the facility;

24 (f) refusing to permit a visitor or visitors who previously visited an inmate without
25 incident or who was on an inmate's previously approved visitor list to visit that inmate upon his
26 or her admission or transfer to a new facility, absent a specific determination that such visitor(s)
27 would pose a threat to security or orderly running of the facility; or requiring a new pre-approved
28 list of authorized visitors upon an inmate's admission or transfer to a new facility without
29 permitting at least two adult visitors and any of the inmate's minor children to visit the inmate
30 pending authorization of the inmate's visitor applicants;

31 (g) excluding a visitor from eligibility solely on the basis of their status as formerly
32 incarcerated;

33 (h) excluding a visitor from eligibility solely on the basis of their role, past or present, as
34 a volunteer in a state or federal prison, jail or house of correction;

35 (i) excluding a visitor from eligibility unless there is a reasonable individualized
36 suspicion that their visitation poses a threat to institutional security, articulated in writing to the
37 excluded person, and articulating a fixed period of time with an expiration date for the exclusion;
38 and further without providing the excluded person the right to appeal their exclusion as well as to
39 have their exclusion re-evaluated after no more than one year has passed;

40 (j) prohibiting an inmate from holding their minor children, or prohibiting inmates or
41 visitors from playing with or instructing their children, or, where there is a designated children's
42 area, prohibiting inmates or visitors from playing with or instructing their children within the
43 confines of that area.

44 (k) prohibiting prisoners and visitors from sitting side by side or from engaging in
45 reasonable physical contact, including but not limited to a brief handshake, hug, and/or closed-
46 mouth kiss;

47 (l) prohibiting contact visitation wherever such visitation is feasible;

48 (m) removing contact visitation as a disciplinary measure for more than 15 days;

49 (n) implementing a dress code that is unreasonable and fails to respect a visitor's religion,
50 race, class, culture, gender identity, and sexual orientation; "unreasonable" includes but is not
51 limited to barring any clothing or accessory that does not pose a threat to security or the orderly
52 running of the facility or preventing a visitor whose dress was deemed unacceptable from
53 returning during a designated visiting period on the same day with alternate clothing;

54 (o) turning away a visitor on the basis of a dress code violation without consulting the
55 superintendent, shift commander, or designee, provided, however, that if a visitor is turned away
56 for a dress code violation that the specific reason must be in writing and provided to the visitor
57 upon request;

58 (r) prohibiting inmates in restrictive housing from having access to the same visitation as
59 prisoners in general population, provided, however, that visits may be restricted for up to 15 days
60 for a disciplinary offense;

61 (s) failing to provide a separate confidential room for legal visits in each correctional
62 facility;

63 (t) prohibiting daily access to visitation during all facility or hospital visiting hours
64 should an inmate be transferred to an outside facility or hospital and be in critical condition or in
65 imminent danger of death;

66 (u) failing to establish a policy that visitation be maximized and as free and
67 unencumbered as possible, provided it is not inconsistent with a facility's operational and
68 security needs.

69 (v) failing to allow inmates to use the restroom during regular visitation hours without
70 being prohibited from resuming the visit after using the restroom.

71 (w) using a drug-detection dog to screen minor children who are otherwise conducting a
72 lawful visit, when other drug-detection screening options are available at the facility.

73 (x) failing to post visitation schedules, including holidays and other foreseeable changes,
74 in the visitor lobby of the facility and online at least 3 weeks in advance.

75 SECTION 2. Section 36C of chapter 127 of the General Laws, as amended by section 92
76 of chapter 69 of the acts of 2018, is hereby amended by inserting this paragraph at the end: -

77 Every guard, corrections officer and employee of a correctional institution, jail or house
78 of correction shall be required to attend a training session and receive educational information
79 on; (1) the importance of ongoing visitation to individuals who are incarcerated as related to
80 reducing recidivism, violence and increasing successful re-entry, and (2) the importance of
81 civility and respectful conduct toward family members and other members of the public who
82 visit individuals who are incarcerated so as to encourage visitation on a regular basis while
83 maintaining security. Training materials and educational information shall be developed in
84 consultation with representatives of the Massachusetts Bar Association, the Women's Bar
85 Association, Prisoners Legal Services, ex-prisoners community based organizations, and
86 community based re-entry programs, and prior to implementation shall be submitted to the joint
87 committee on the judiciary and the joint committee on public safety and homeland security.