

SENATE No. 888

The Commonwealth of Massachusetts

PRESENTED BY:

Cynthia Stone Creem

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act to establish an office of adult decisional support services.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Cynthia Stone Creem</i>	<i>First Middlesex and Norfolk</i>	
<i>Jason M. Lewis</i>	<i>Fifth Middlesex</i>	<i>1/29/2019</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>	<i>1/29/2019</i>
<i>Kay Khan</i>	<i>11th Middlesex</i>	<i>1/30/2019</i>
<i>Anne M. Gobi</i>	<i>Worcester, Hampden, Hampshire and Middlesex</i>	<i>1/30/2019</i>
<i>Daniel J. Hunt</i>	<i>13th Suffolk</i>	<i>1/31/2019</i>
<i>David Henry Argosky LeBoeuf</i>	<i>17th Worcester</i>	<i>1/31/2019</i>
<i>Rebecca L. Rausch</i>	<i>Norfolk, Bristol and Middlesex</i>	<i>1/31/2019</i>
<i>Brendan P. Crighton</i>	<i>Third Essex</i>	<i>1/31/2019</i>
<i>Joan B. Lovely</i>	<i>Second Essex</i>	<i>2/1/2019</i>
<i>Bruce E. Tarr</i>	<i>First Essex and Middlesex</i>	<i>2/1/2019</i>
<i>Jack Patrick Lewis</i>	<i>7th Middlesex</i>	<i>2/1/2019</i>
<i>Dylan A. Fernandes</i>	<i>Barnstable, Dukes and Nantucket</i>	<i>2/4/2019</i>

SENATE No. 888

By Ms. Creem, a petition (accompanied by bill, Senate, No. 888) of Cynthia Stone Creem, Jason M. Lewis, James B. Eldridge, Kay Khan and other members of the General Court for legislation to establish an office of adult decisional support services . The Judiciary.

The Commonwealth of Massachusetts

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

An Act to establish an office of adult decisional support services.

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. The General Laws are hereby amended by inserting after section 9B of
2 chapter 211B the following section:

3 SECTION 9C

4 OFFICE OF ADULT DECISIONAL SUPPORT SERVICES

5 Section 9C. Office of Adult Decisional Support Services created

6 (a) There is hereby established an office of adult decisional support services (the
7 “office”) within the executive office of the trial court, whose purpose is to implement legal and
8 ethical standards for adult decisional support services in the Commonwealth, including the
9 services of guardians and conservators appointed under Article V of Chapter 190B of the
10 General Laws of the Commonwealth (hereinafter, “Article V”), and voluntary services provided
11 through alternatives to judicial appointment. The goals of the office are to promulgate practice

12 standards for all such services that are based on recognized best-practices; to ascertain and report
13 on the adequacy of public and private resources for decisional support in Massachusetts,
14 particularly for the indigent; and to develop oversight and accountability procedures to prevent
15 potential errors or abuses by decisional fiduciaries.

16 (b) The office shall be directed by a judicial administrator of decisional support (the
17 “judicial administrator”), who shall be appointed by the chief justice of the trial court. The
18 judicial administrator shall have significant experience with the laws and clinical practices of
19 decisional surrogacy within Massachusetts, and shall not be a sitting judge or magistrate of any
20 court in any jurisdiction. The judicial administrator shall report to the chief justice of the trial
21 court, and shall have such powers and perform such duties as said chief justice may from time to
22 time prescribe. The judicial administrator may be removed by the chief justice of the trial court.

23 (c) The judicial administrator shall be an officer of the court and shall be authorized
24 to communicate with judges and court personnel in all departments of the trial court, to have
25 access to files and records in all cases involving protective proceedings for adults, and to
26 establish and maintain a database of all judicial appointments for adults under Article V. Any
27 limitations on public disclosure imposed in any case so accessed shall apply to the judicial
28 administrator, except to the extent that data may be de-identified in accordance with procedures
29 established and directed by the chief justice of the trial court.

30 (d) The judicial administrator shall, in his or her discretion, and subject to the
31 direction of the chief justice of the trial court: review cases; develop databases; communicate
32 with court personnel and decisional fiduciaries; submit reports; create media, materials and
33 programs for the public; review relevant technology and communicate with judicial and

34 administrative offices in jurisdictions outside of Massachusetts; propose administrative or
35 judicial procedures or rules; develop, identify and/or designate training programs for guardians,
36 conservators and other decisional fiduciaries; investigate and make recommendations as to the
37 advisability of, and/or the means for, certifying decisional fiduciaries; and perform such other
38 duties as the chief justice of the trial court shall direct. The judicial administrator may, subject to
39 appropriation, appoint or contract with such other personnel as he or she deems necessary for the
40 efficient management of the office and the diligent performance of the duties described herein.

41 (e) In the event that the judicial administrator discovers, pursuant to the normal
42 discharge of the duties of the office, evidence of abuse, neglect, theft, breach of fiduciary duty or
43 other wrongdoing to the person or property of someone who is decisionally-impaired and
44 receiving decisional support, the decisional support administrator, may —

45 (i) petition to modify, discharge or terminate any appointment of a guardian,
46 conservator or other judicially-appointed fiduciary;

47 (ii) file a complaint with an appropriate professional association, or with a state law
48 enforcement or other investigative authority, seeking discipline of, or other remedy against, the
49 decisional fiduciary, whether appointed judicially or through a voluntary instrument.

50 (f) The judicial administrator shall establish an informal help and information
51 process for decisional fiduciaries and those affected by such an appointment.