

SENATE No. 1283

The Commonwealth of Massachusetts

PRESENTED BY:

James B. Eldridge

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 ensure the constitutional rights and human dignity of prisoners on mental health watch.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
James B. Eldridge	Middlesex and Worcester	
Jack Patrick Lewis	7th Middlesex	2/22/2021
Lindsay N. Sabadosa	1st Hampshire	2/24/2021
Thomas M. Stanley	9th Middlesex	2/26/2021
Tami L. Gouveia	14th Middlesex	3/4/2021
Carmine Lawrence Gentile	13th Middlesex	3/10/2021
Joanne M. Comerford	Hampshire, Franklin and Worcester	3/29/2021
Kay Khan	11th Middlesex	4/7/2021
Jason M. Lewis	Fifth Middlesex	4/12/2021
Mathew J. Muratore	1st Plymouth	4/14/2021
Danillo A. Sena	37th Middlesex	5/7/2021
David Henry Argosky LeBoeuf	17th Worcester	5/10/2021
Christopher Hendricks	11th Bristol	6/8/2021
Michelle M. DuBois	10th Plymouth	6/22/2021
Erika Uyterhoeven	27th Middlesex	7/1/2021

SENATE No. 1283

By Mr. Eldridge, a petition (accompanied by bill, Senate, No. 1283) of James B. Eldridge, Jack Patrick Lewis, Lindsay N. Sabadosa, Thomas M. Stanley and other members of the General Court for legislation to ensure the constitutional rights and human dignity of prisoners on mental health watch. Mental Health, Substance Use and Recovery.

The Commonwealth of Massachusetts

In the One Hundred and Ninety-Second General Court
(2021-2022)

An Act to ensure the constitutional rights and human dignity of prisoners on mental health watch.

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 1 of chapter 127 of the General Laws, as appearing in the 2018
2 Official Edition, is hereby amended by inserting after the definition of “Victim” the following
3 definition:-

4 “Mental health watch”, a status intended to protect a prisoner from a risk of imminent and
5 serious self-harm.

6 SECTION 2. Said chapter 127 is hereby amended by inserting after section 39H the
7 following section:- Section 39I.

8 (a) A prisoner may be placed on mental health watch only if it is determined by a
9 qualified mental health professional’s clinical judgment that the prisoner requires observation to
10 protect the prisoner from a risk of imminent and serious self-harm. A qualified mental health

11 professional shall assess the need for continued mental health watch after 6 hours, after 12 hours
12 and then at least once every 12 hours thereafter. Each such assessment shall include an in-person
13 interview with the prisoner.

14 (b) A prisoner who has been on mental health watch for 24 hours and continues to require
15 observation due to a serious risk of imminent and serious self-harm, as determined by a qualified
16 mental health professional's clinical judgment, shall be transferred pursuant to section 18 of
17 chapter 123 to a suitable inpatient psychiatric facility or unit licensed or operated by the
18 department of mental health or, only if no bed is available in a timely manner at such a facility,
19 to Bridgewater state hospital.

20 (c) The department of mental health shall promulgate regulations not later than December
21 31, 2021. Said regulations shall require that all state and county correctional facilities: (1) Have a
22 written suicide prevention and suicide response policy that includes standards and procedures
23 that are consistent with department of mental health regulations for placing a person on mental
24 health watch status; (2) Establish a mental health suicide watch chain of command supervised by
25 mental health clinical supervisory staff; (3) Ensure that all persons on mental health watch status
26 are housed in clinically-appropriate settings and are provided constant 1-on-1 supervision; (4)
27 Ensure that all incarcerated persons needing mental health care receive confidential mental
28 health treatment that is consistent with generally accepted professional standards for mental
29 health treatment in the community. Medication alone, without therapy, does not constitute
30 sufficient treatment; provided, however, that a prisoner may decline therapy without medication
31 disruption if the prisoner does not want to participate in therapy. A prisoner on mental health
32 watch shall have an individual treatment plan written by a qualified mental health professional in
33 consultation with the prisoner, who may accept or decline the services offered in said plan. The

34 individual treatment plan shall include confidential individual therapy. Time spent in therapy
35 shall not count toward out of cell time as specified in paragraph (5)(iv). The individual treatment
36 plan shall remain in effect after the prisoner is returned to the general population as long as
37 deemed clinically indicated by the qualified mental health professional; (5) Ensure personal
38 dignity, except as limited by a qualified mental health professional based on individual
39 assessment, including but not limited to: (i) Prisoners shall be fully clothed, in clothing that is
40 substantially similar to that which is worn by the general population; (ii) Menstruating prisoners
41 shall be provided with appropriate personal hygiene supplies throughout the duration of their
42 menstrual cycle; (iii) Prisoners on mental health watch shall be provided a minimum of 2
43 blankets of the same or of substantially similar quality to blankets provided in the general
44 population; (iv) Prisoners who have been placed on mental health watch shall be offered time out
45 of cell indoors or outdoors, in accordance with the prisoner's preference, at least once daily; and
46 (v) Prisoners shall have the right to personal possessions. If a qualified mental health
47 professional deems a prisoner to be at continued risk for imminent and serious self-harm while
48 under constant 1-on-1 supervision or deems further human dignity deprivations, including
49 removal of clothing, are indicated to prevent serious self-harm or death by suicide, said prisoner
50 shall be transferred immediately to an inpatient psychiatric facility or unit licensed or operated
51 by the department of mental health or, only if no bed is available in a timely manner at such a
52 facility, to Bridgewater state hospital; (5) Conduct independent reviews of completed suicides,
53 attempted suicides and incidents of self-harm, make recommendations for remediation after each
54 incident and document implementation of said recommendations; (6) Prohibit a correctional
55 officer from future mental health watch duty if the correctional officer is found to be in violation
56 of the written suicide prevention policy.