

SENATE No. 985

The Commonwealth of Massachusetts

PRESENTED BY:

Brendan P. Crighton

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 relative to access to justice.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Brendan P. Crighton</i>	<i>Third Essex</i>	
<i>Maria Duaime Robinson</i>	<i>6th Middlesex</i>	<i>2/24/2021</i>
<i>Thomas M. Stanley</i>	<i>9th Middlesex</i>	<i>3/30/2021</i>

SENATE No. 985

By Mr. Crighton, a petition (accompanied by bill, Senate, No. 985) of Brendan P. Crighton, Maria Duaime Robinson and Thomas M. Stanley for legislation relative to access to justice. The Judiciary.

The Commonwealth of Massachusetts

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

An Act relative to access to justice.

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 167A of chapter 6 of the General Laws, as appearing in the 2018
2 Official Edition, is hereby amended by inserting after clause (i) the following clause:-

3 (j) The department shall not disclose to any federal agency or permit any federal agency
4 to access any files, data, or other information from the Massachusetts Registry of Motor Vehicles
5 for purposes of civil immigration enforcement, provided that information concerning a particular
6 identified individual may be disclosed upon receipt of a probable cause warrant signed by a
7 judge. The Attorney General is authorized to bring an action in state or federal court to quash,
8 modify, or otherwise contest any demand for information not in accordance with the
9 requirements of this paragraph.

10 SECTION 2. Said chapter 6 is hereby further amended by inserting in the first sentence
11 of subclause (1) of clause (a) of section 172 after the word “duties”:- ; provided that criminal

offender record information shall not be accessed or disclosed for any non-criminal justice purpose, including civil enforcement duties.

SECTION 3. Said clause (a) is hereby further amended by inserting at the end of subclause (30) after the word “databases”:- ; provided that criminal offender record information shall not be accessed or disclosed for any non-criminal justice purpose, including civil enforcement duties.

SECTION 4. Section 24 of chapter 37 of the General Laws is hereby amended by inserting after clause (e) the following clause:-

(f) federal detainees housed in their facilities to and from the several divisions or departments of the trial court, pursuant to a valid state court writ of habeas corpus.

SECTION 5. Chapter 147 of the General Laws is hereby amended by inserting after section 62 the following section:-

Section 63. (a) An interview or any questioning conducted for immigration investigation or enforcement purposes of a person in the custody of any state or local law enforcement agency, sheriff’s office, the department of correction, or Massachusetts court, shall take place only with the written informed consent of the person in custody, unless otherwise required by federal law. If the person in custody indicates that they wish to have an attorney present for an interview with a federal agent, the custodian shall allow them to contact such attorney, and in the case that no attorney can be present, the interview shall not take place. The custodian agency shall not be responsible for the payment of the person’s attorney’s fees and expenses.

(b) The office of the attorney general shall prepare a uniform consent form in English and other languages commonly spoken in Massachusetts for use pursuant to subsection (a), which shall: (i) explain the purpose of the interview, that the interview is voluntary, that the person may decline to be interviewed or may choose to be interviewed only with an attorney present, and that the person may decline to sign any documents presented to them at the interview; and (ii) document the person's consent or lack thereof, whether an interview took place, and, if so, whether an attorney was present. Custodian agencies shall make their best efforts to provide a form in a language that the person understands, and to provide interpretation if needed. Consent forms shall be public records as defined in clause Twenty-sixth of section 7 of chapter 4, provided that the name, address, phone number and other personal identifying information regarding the interview subject shall not be a public record.

(c) The provisions of paragraphs (a) and (b) shall not apply to persons in federal custody who are held in a state or local facility pursuant to an intergovernmental contract.

(d) Court officers, clerks, probation department employees, other trial court administrative personnel, prosecutors, and personnel of the prosecutor's office, may provide federal agencies or agents with information relating to any person involved in matters before the court only upon request and in the same manner and to the same extent as such information is lawfully made available to the general public. Such officials shall not otherwise notify federal agencies or agents of the presence of individuals attending proceedings in Massachusetts courthouses, unless required by federal law.

(e) The superior court in the county where the person is held shall be authorized to hear any claim in law or equity arising from violation of this section.

SECTION 6. Section 3 of chapter 258B of the General Laws is hereby amended by inserting after clause (w) the following clause:-

(x) for victims, family members, and witnesses, to not be asked by a law enforcement agency, the prosecutor, personnel in the prosecutor's office, trial court personnel, or parole, probation or corrections officials about their immigration status, or the immigration status of their family members, unless such inquiry is required by federal or state law; provided that a judge or magistrate may make such inquiries as are necessary to adjudicate matters within their jurisdiction. The court may enter orders or conditions to maintain limited disclosure of any information regarding immigration status as it deems appropriate to protect the liberty interests of victims, family members and witnesses.