HOUSE DOCKET, NO. 1877 FILED ON: 1/18/2023

HOUSE . . . . . No. 1561

The Commonwealth of Massachusetts

PRESENTED BY:

Daniel J. Hunt

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 related to indigency.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
Daniel J. Hunt	*13th Suffolk*	*1/18/2023*

HOUSE DOCKET, NO. 1877 FILED ON: 1/18/2023

HOUSE . . . . . No. 1561

By Representative Hunt of Boston, a petition (accompanied by bill, House, No. 1561) of Daniel J. Hunt for legislation relative to indigency. The Judiciary.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. *934* OF 2021-2022.]

The Commonwealth of Massachusetts

In the One Hundred and Ninety-Third General Court
(2023-2024)

An Act related to indigency.

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

SECTION 1. Section 27A of chapter 261 is hereby amended by striking out the definition of “indigent” and inserting in place thereof the following:

"Indigent", (a) a person who receives one of the following types of public assistance: transitional aid to families with dependent children, emergency aid to elderly, disabled and children, supplemental nutrition assistance program benefits, refugee cash assistance, need-based veterans' benefits or SSI state supplemental program benefits; (b) a person whose income, after taxes, is 125 per cent or less of the current poverty guidelines established annually by the Department of Health and Human Services pursuant to Section 673(2) of the Omnibus Budget Reconciliation Act of 1981 (42 U.S.C. 9902(2)), as amended; or (c) a person who is unable to pay the fees and costs of the proceeding in which he is involved or is unable to do so without

depriving himself or his dependents of the necessities of life, including food, shelter and clothing, but a prisoner shall not be adjudged indigent pursuant to section 27C unless the prisoner has complied with the procedures set forth in section 29 and the court finds that the prisoner is incapable of making payments under the plans set forth in said section 29.

Section 27A of chapter 261 is hereby further amended by striking out the word “Inmate” and inserting in place thereof the word “Prisoner”:

" Prisoner”, a person committed to, held by or in the custody of the department of correction or a state, county or federal correctional facility or the treatment center under chapter 123A.

Section 29 of chapter 261 is hereby amended by striking the word “inmate” wherever it appears and replacing it with the word “prisoner.”

Section 2A of Chapter 211D is hereby amended by striking out the second paragraph of section 2A (c) and inserting in place thereof the following:

At any time the court receives information causing its determination of a person’s indigency status to be in doubt, the court shall order the chief probation officer or the officer's designee to reassess the financial circumstances of the person to ensure that the person meets the definition of indigency. The chief probation officer or the officer's designee shall prepare, sign and file a written report certifying that the person meets, or does not meet, the definition of indigency.

Said chapter 211D is further amended by amending section 2A (d) as follows:

(d) If a criminal defendant is charged with a second or further offense while continuing to be represented by court-appointed counsel for a previously charged offense, the court in its discretion shall determine whether any further determination of indigency need be undertaken. Upon completion of a reassessment, the chief probation officer shall prepare a written report of the officer's findings. The chief probation officer or the officer's designee shall sign the report, certifying that the defendant either continues to meet or no longer meets the definition of indigency. The report shall be filed with the case papers and shall be presented to the judge presiding at the defendant's next court appearance. If, upon receipt of the report, a judge finds that the defendant no longer meets the definition of indigency, the judge shall revoke the appointment of counsel and allow the defendant a reasonable continuance to obtain new counsel.

Said chapter 211D is further amended by striking out section 2A (f), (g), (h) and (i).