HOUSE DOCKET, NO. 2972 FILED ON: 1/19/2023

HOUSE . . . . . No. 2325

The Commonwealth of Massachusetts

PRESENTED BY:

Brandy Fluker Oakley

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 rehabilitation, re-entry, and human rights for incarcerated persons.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
Brandy Fluker Oakley	*12th Suffolk*	*1/19/2023*
Lindsay N. Sabadosa	*1st Hampshire*	*1/19/2023*
Bud L. Williams	*11th Hampden*	*1/20/2023*
Danillo A. Sena	*37th Middlesex*	*1/25/2023*
Russell E. Holmes	*6th Suffolk*	*1/25/2023*
Mindy Domb	*3rd Hampshire*	*1/31/2023*
John J. Cronin	*Worcester and Middlesex*	*2/7/2023*
Michelle M. DuBois	*10th Plymouth*	*2/7/2023*
Joanne M. Comerford	*Hampshire, Franklin and Worcester*	*2/9/2023*
Thomas M. Stanley	*9th Middlesex*	*2/10/2023*
Erika Uyterhoeven	*27th Middlesex*	*2/22/2023*
Rebecca L. Rausch	*Norfolk, Worcester and Middlesex*	*2/23/2023*
Samantha Montaño	*15th Suffolk*	*2/25/2023*
Michelle L. Ciccolo	*15th Middlesex*	*3/2/2023*
Natalie M. Higgins	*4th Worcester*	*3/16/2023*
Tommy Vitolo	*15th Norfolk*	*3/20/2023*
Patricia A. Duffy	*5th Hampden*	*3/21/2023*
Josh S. Cutler	*6th Plymouth*	*3/23/2023*

Jack Patrick Lewis	*7th Middlesex*	*3/24/2023*
Kay Khan	*11th Middlesex*	*3/28/2023*
Mary S. Keefe	*15th Worcester*	*5/2/2023*
Marjorie C. Decker	*25th Middlesex*	*5/3/2023*
Shirley B. Arriaga	*8th Hampden*	*5/8/2023*
Margaret R. Scarsdale	*1st Middlesex*	*6/2/2023*
Priscila S. Sousa	*6th Middlesex*	*10/30/2023*
Steven Owens	*29th Middlesex*	*11/1/2023*
Mike Connolly	*26th Middlesex*	*3/26/2024*

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HOUSE . . . . . No. 2325

By Representative Fluker Oakley of Boston, a petition (accompanied by bill, House, No. 2325) of Brandy Fluker Oakley and others for legislation to maximize out-of-cell time and opportunities for incarcerated people to attend education, training, employment, and other programs. Public Safety and Homeland Security.

The Commonwealth of Massachusetts

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

An Act related to rehabilitation, re-entry, and human rights for incarcerated persons.

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. Chapter 127, as appearing in the 2020 Official Edition, is hereby amended by inserting the following new section immediately after section 48B:-

Section 48C:

(a) Definitions. For purposes of this section, the following definitions apply:

"Cell" means any room, area, or space that is not a shared space conducive to meaningful, regular, and congregate social interaction among many people in a group setting, where an individual is held for any purpose.

"Congregate" means more than one person together in a space without barriers between them.

"Out of cell" means a space outside of, and in an area away from, a cell, in a group setting with other people all in the same shared space without physical barriers, conducive to meaningful and regular social interaction and activity.

(b) The commissioner and administrators of state prisons and county facilities shall, by the effective date of this legislation, promulgate regulations to maximize out of cell time and opportunities for participation of incarcerated people in education, training, employment, and all other programming including programming related to rehabilitation, health care, and substance use. At a minimum, the commissioner and administrators of state prisons and county facilities shall ensure that:

(1)All incarcerated people shall have the opportunity to access at least one hour of congregate programming per day which is eligible for good conduct deductions under Mass. Gen. Laws chapter 127 section 129D. Programming in addition to the one hour daily required by this section shall be maximized and may include individual tablet-based programming as well as other individual and congregate programming.

(2)All incarcerated people shall have the opportunity to access vocational and educational training and work opportunities, including in the community. Community partnerships for vocational training shall be maximized, and vocational training shall be updated in accordance with evolving community needs to increase the potential for successful re-entry.

(3)All incarcerated people shall have the opportunity to earn good conduct deductions pursuant to Mass. Gen. Laws chapter 127 section 129D every month through a combination of in-person and virtual education, vocational, and rehabilitation programming and work.

(4)All incarcerated people shall have the opportunity to create organizations and affinity groups for peer support, peer-led programming, and self-improvement.

(5)Except for operational emergencies, all incarcerated people shall be offered at least eight hours out of cell per day. Incarcerated people shall not be handcuffed, shackled, restrained to a chair or table, or otherwise restrained during out of cell time.

(6)All incarcerated people shall have access to at least one hour of congregate fresh air recreation outdoors where they can reasonably move around, exercise and have social interaction without physical barriers or mechanical restraints per day. Weather permitting, this recreation shall be offered in an uncovered location.

(7)All incarcerated people shall be treated with dignity and cultural sensitivity and shall not be discriminated against on the basis of age, race, ethnicity, sexuality, gender identity, citizenship status, disability, alleged or charged crime.

(8)All incarcerated people shall receive access to in-person visitations at least in accordance with Mass. Gen. Laws chapter 127 section 36C.

(9)All incarcerated people shall have access to commissary on a weekly basis that is appropriate for their race, culture and gender identity, and commissary shall not be restricted unless the Superintendent makes an individualized determination that such restriction is necessary, explained in writing. Prices for items shall be in line with community prices and state or county correctional facilities shall not charge more than 3 percent over the purchase cost for commissary items. Culturally, racially, gender appropriate, and gender affirming items shall be made equally available as all other items. Incarcerated Black, Indigenous, and people of color shall be permitted to provide input at least quarterly on what items are deemed racially and

culturally appropriate. Incarcerated women, transgender, and gender nonconforming people shall be permitted to provide input at least quarterly on what items are deemed appropriate and affirming for their gender identity. The catalogue of items shall be made accessible to incarcerated people and the public. The department of correction and sheriffs shall maximize opportunities to purchase commissary items in bulk and shall not receive revenue, financial incentives or commissions, in any contract with suppliers of commissary items. Any service, benefit or program for incarcerated people to which commissary commissions were specifically designated in fiscal year 2023 including, but not limited to, the Inmate Benefit Fund, The Law Library and the Central Program Account in the state prison system, shall be funded by the department of correction and the sheriffs at not less than the level of funding in fiscal year 2023.

(10) All incarcerated people shall receive medical care, substance use disorder treatment, and mental health care in line with the community standard of care, state regulations, and agency contracts.

(11)All incarcerated people shall have access to water quality that meets the Massachusetts Department of Environmental Protection's most recent standards and guidelines for contaminants in Massachusetts drinking water, daily showers, and flushable toilets.

(12)All incarcerated people shall have access to a library where they can access legal and other reading materials at least three times weekly.

(13)All correctional facilities must maintain temperatures in every habitable area of at least 68°F, between 7:00 A.M. and 11:00 P.M, and at least 64°F, between 11:01 P.M. and 6:59 A.M. The temperature should at no time exceed 78°F.

(c) The Commissioner shall collect data from the counties and publish a snapshot report on January first of each year with, for each state prison, county jail and house of correction, (1) how many people are in custody (2) how many people are enrolled in an educational program, and how many of those are earning good conduct deductions (3) how many people are enrolled in a rehabilitative program, and how many of those are earning sentence reduction credits (4) how many people are enrolled in vocational training, and how many of those are earning sentence reduction credits (5) how many people are working in a community based job, community based vocational program, or community based educational program and (6) how many people have at least eight hours out of cell daily as defined by this section.

SECTION 2. Section 48 of Chapter 127, as appearing in the 2020 Official Edition, is hereby amended by striking the second paragraph and inserting in place thereof the following:- The commissioner shall ensure that each facility provide educational programs that earn high school credit toward graduation, vocational classes, and high school equivalency classes and certificate programming to all persons who are committed to the custody of the department or to a county correctional facility who have not obtained a high school degree or equivalency. These educational programs shall be provided regardless of classification or disciplinary status. The commissioner shall ensure that each facility provide community college or four year college programming for all students who have already received a high school diploma or equivalency and who express interest in higher education. In addition to each such facility providing at least one general high school equivalency (GED) class, each facility shall also include specialized, age-appropriate educational classes for emerging adults, including all individuals ages 18 thru 25, for both individuals who have and have not obtained a high school degree or equivalency, including but not limited to: (1) classes that earn credit toward high school graduation; (2)

special education classes and supports in line with the educational goals identified in students' individualized educational programs, (3) high school equivalency classes and testing opportunities; (4) vocational education classes, (5) college and workforce readiness classes; and (6) credit-bearing community college and college classes. All emerging adults shall have the opportunity to access at least 4 hours of educational programming daily at least five days a week.

SECTION 3. This legislation shall come into effect 120 days after passage.