

HOUSE No. 515

The Commonwealth of Massachusetts

PRESENTED BY:

Mary S. Keefe

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 educational rights are upheld for incarcerated youth.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Lindsay N. Sabadosa</i>	<i>1st Hampshire</i>	<i>1/19/2023</i>
<i>Mindy Domb</i>	<i>3rd Hampshire</i>	<i>1/25/2023</i>
<i>David Henry Argosky LeBoeuf</i>	<i>17th Worcester</i>	<i>1/25/2023</i>
<i>Steven Ultrino</i>	<i>33rd Middlesex</i>	<i>1/25/2023</i>
<i>Russell E. Holmes</i>	<i>6th Suffolk</i>	<i>1/27/2023</i>
<i>Margaret R. Scarsdale</i>	<i>1st Middlesex</i>	<i>1/30/2023</i>
<i>Kay Khan</i>	<i>11th Middlesex</i>	<i>2/1/2023</i>
<i>Priscila S. Sousa</i>	<i>6th Middlesex</i>	<i>2/14/2023</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>	<i>2/23/2023</i>
<i>Samantha Montaño</i>	<i>15th Suffolk</i>	<i>2/27/2023</i>
<i>James C. Arena-DeRosa</i>	<i>8th Middlesex</i>	<i>3/7/2023</i>
<i>Antonio F. D. Cabral</i>	<i>13th Bristol</i>	<i>3/8/2023</i>
<i>Erika Uytterhoeven</i>	<i>27th Middlesex</i>	<i>5/15/2023</i>
<i>Sal N. DiDomenico</i>	<i>Middlesex and Suffolk</i>	<i>10/5/2023</i>

HOUSE No. 515

By Representative Keefe of Worcester, a petition (accompanied by bill, House, No. 515) of Lindsay N. Sabadosa and others relative to educational rights for incarcerated youth. Education.

The Commonwealth of Massachusetts

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

An Act to ensure educational rights are upheld for incarcerated youth.

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 39 of chapter 15A of the General Laws, as appearing in the 2020
2 Official Edition, is hereby amended by striking the first sentence and inserting in place thereof
3 the following: -

4 A qualified student enrolled in a public secondary school, including school-age children
5 in the care or custody of the department of youth services, county houses of corrections or the
6 department of correction, may enroll as a student in Massachusetts public institutions of higher
7 education.

8 SECTION 2. Chapter 71 of the General Laws, as appearing in the 2020 Official Edition,
9 is hereby amended by inserting after section 6A the following section:-

10 Section 6B. All public secondary schools shall credit coursework completed by students
11 in institutional settings, including the county houses of correction, the department of correction,
12 the department of mental health, the department of public health, and the department of youth

13 services toward the public school's graduation requirements and shall list said coursework on the
14 student's transcript.

15 SECTION 3 . Section 11A of chapter 71B of the General Laws, as appearing in the 2020
16 Official Edition, is hereby amended by striking out the first sentence and inserting in place
17 thereof the following paragraph:-

18 Upon a student's entry into custody in a jail or correctional facility, the facility will
19 promptly conduct appropriate intake procedures to determine if the student was previously
20 identified as being in need of special education and promptly report this information, as well as
21 any perception that the student, though not identified previously, may be in need of special
22 education to the department of elementary and secondary education. The department shall
23 directly provide special education to school-aged children with a disability in the care and
24 custody of state correctional facilities as defined by section 1 of chapter 125.

25 SECTION 4 . Section 1 of chapter 124 of the General Laws, as appearing in the 2020
26 Official Edition, is hereby amended by adding the following subsection:-

27 (v) in accordance with clause (q), the commissioner shall, as part of making and
28 promulgating rules and regulations regarding education, training, and employment, require that
29 all individuals who have not attained their 22nd birthday housed at a county house of corrections
30 or state correctional facility, regardless of classification, disciplinary, or housing status, be
31 provided with opportunities to: receive credit toward high school graduation; graduate from high
32 school; pursue and receive credit for higher education; and receive vocational training. The rules
33 and regulations shall require that educational opportunities be offered for a minimum of 6 hours
34 of classroom instruction every weekday, 12 months per year; and pursue, as far as practicable,

35 college-level courses or appropriate vocational education and training. Education for special
36 education students shall be delivered in accordance with established individual education plans
37 or newly established plans where no previous plan exists. New or prior individualized education
38 plans may be reasonably modified, or newly written, to accommodate limitations imposed by the
39 correctional environment, so long as such modifications or new plans do not preclude the
40 delivery of a free appropriate public education or impede progress toward a high school
41 graduation.

42 Interpretation and translation services will be provided to English Language Learner
43 students, including but not limited to those with disabilities, to ensure meaningful access to the
44 special education process, which shall include interpretation services at IEP and Section 504
45 meetings and translated Section 504 plans and IEPs, assessments conducted by or at the request
46 of the facility or its medical service providers as part of an initial evaluation or reevaluation to
47 determine eligibility for special education and related services, and due process rights notices in
48 accordance with Title VI of the Civil Rights Act of 1964 and the Equal Educational
49 Opportunities Act of 1974.

50 SECTION 5. Section 2 of said chapter 124, as so appearing, is hereby amended by
51 striking the last paragraph and inserting in place thereof the following paragraphs:-

52 Subject to the supervision and control of the commissioner, the deputy commissioner for
53 educational services shall, in consultation with the department of elementary and secondary
54 education, establish and maintain standards for all teaching positions in the jurisdiction of the
55 department and shall review the qualifications and performances of all teaching personnel in the
56 department.

57 Each of the said deputy commissioners shall perform such other duties as may be
58 assigned to him from time to time by the commissioner.

59 SECTION 6. Chapter 127 of the General Laws, as appearing in the 2020 Official Edition,
60 is hereby amended by inserting after section 32A the following section:-

61 Section 32B. Any person who has attained the age of criminal majority but has not yet
62 attained the age of 26 in jails or correctional facilities shall be treated as needing aid,
63 encouragement, and guidance, consistent with the goal of positive youth development to assume
64 the responsibilities and exercise the rights of a citizen of the commonwealth.

65 SECTION 7: Section 39 of said chapter 127, as so appearing, is hereby amended by
66 inserting in paragraph (b) after the word "population," in line 31, the following words:-

67 including the right to special education services

68 SECTION 8. Section 48 of said chapter 127, as so appearing, is hereby amended by
69 striking the last paragraph of said section and inserting in place thereof:-

70 The commissioner shall make and promulgate rules and regulations governing programs
71 established under this section which shall include provisions for hours, conditions of
72 employment, wage rates for employment program participants, incentive payments for education
73 and training program participants, provision of good time for participation in education programs
74 at the highest level as awarded by the institution for any activity in the institution, and deductions
75 from said wages pursuant to the provisions of section 86 F.

76 SECTION 9. Section 49A of said chapter 127, as so appearing, is hereby amended by
77 inserting after the third paragraph the following paragraph:-

78 Consistent with the foregoing, all individuals who have not attained their 22nd birthday
79 housed at a county house of corrections or state correctional facility, regardless of disciplinary
80 classification or housing status, shall be provided with a minimum of 6 hours of classroom
81 instruction and educational opportunities on every weekday, 12 months per year to: receive
82 credit toward high school graduation; graduate from high school; receive special education
83 services for those who are eligible; pursue and receive credit for higher education; and receive
84 vocational training.