SENATE DOCKET, NO. 1041 FILED ON: 1/18/2023

SENATE . . . . . No. 1542

The Commonwealth of Massachusetts

PRESENTED BY:

Liz Miranda

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 emerging adults.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
Liz Miranda	*Second Suffolk*	
Sal N. DiDomenico	*Middlesex and Suffolk*	*2/7/2023*
Lydia Edwards	*Third Suffolk*	*2/8/2023*
Julian Cyr	*Cape and Islands*	*3/2/2023*
James B. Eldridge	*Middlesex and Worcester*	*3/2/2023*
Patricia D. Jehlen	*Second Middlesex*	*3/6/2023*
John F. Keenan	*Norfolk and Plymouth*	*3/17/2023*

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By Ms. Miranda, a petition (accompanied by bill, Senate, No. 1542) of Liz Miranda, Sal N. DiDomenico, Lydia Edwards, Julian Cyr and other members of the Senate for legislation to ensure educational rights are upheld for incarcerated emerging adults. Public Safety and Homeland Security.

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 emerging adults.

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 39 of chapter 15A of the General Laws, as appearing in the 2020 Official Edition, is hereby amended by striking the first sentence and inserting in place thereof the following: - “A qualified student enrolled in a public secondary school, including school-age children in the care or custody of the department of youth services, county houses of corrections or the department of correction, may enroll as a student in Massachusetts public institutions of higher education.”

SECTION 2. Chapter 71 of the General Laws, as appearing in the 2020 Official Edition, is hereby amended by inserting after Section 6A the following section:- Section 6B. All public secondary schools shall credit coursework completed by students in institutional settings, including the county houses of correction, the department of correction, the department of mental health, the department of public health, and the department of youth services toward the public school’s graduation requirements and shall list said coursework on the student’s transcript.

SECTION 3 . Section 11A of chapter 71B of the General Laws, as appearing in the 2020 Official Edition, is hereby amended by striking out the first sentence and inserting in place thereof the following paragraph:- “Upon a student’s entry into custody in a jail or correctional facility, the facility will promptly conduct appropriate intake procedures to determine if the student was previously identified as being in need of special education and promptly report this information, as well as any perception that the student, though not identified previously, may be in need of special education to the department of elementary and secondary education. The department shall directly provide special education to school-aged children with a disability in the care and custody of state correctional facilities as defined by section 1 of chapter 125.

SECTION 4 . Section 1 of chapter 124 of the General Laws, as appearing in the 2020 Official Edition, is hereby amended by adding the following subsection:- (v) in accordance with clause (q), the commissioner shall, as part of making and promulgating rules and regulations regarding education, training, and employment, require that all individuals who have not attained their 22nd birthday housed at a county house of corrections or state correctional facility, regardless of classification, disciplinary, or housing status, be provided with opportunities to: receive credit toward high school graduation; graduate from high school; pursue and receive credit for higher education; and receive vocational training. The rules and regulations shall require that educational opportunities be offered for a minimum of 6 hours of classroom instruction every weekday, 12 months per year; and pursue, as far as practicable, college-level courses or appropriate vocational education and training. Education for special education students shall be delivered in accordance with established individual education plans or newly established plans where no previous plan exists. New or prior individualized education plans may be reasonably modified, or newly written, to accommodate limitations imposed by the

correctional environment, so long as such modifications or new plans do not preclude the delivery of a free appropriate public education or impede progress toward a high school graduation.

Interpretation and translation services will be provided to English Language Learner students, including but not limited to those with disabilities, to ensure meaningful access to the special education process, which shall include interpretation services at IEP and Section 504 meetings and translated Section 504 plans and IEPs, assessments conducted by or at the request of the facility or its medical service providers as part of an initial evaluation or reevaluation to determine eligibility for special education and related services, and due process rights notices in accordance with Title VI, 42 U.S.C. § 2000d et seq. and the Equal Educational Opportunities Act of 1974.

SECTION 5. Section 2 of chapter 124 of the General Laws, as appearing in the 2020 Official Edition, is hereby amended by striking the last paragraph and inserting in place thereof the following paragraphs:-Subject to the supervision and control of the commissioner, the deputy commissioner for educational services shall, in consultation with the department of elementary and secondary education, establish and maintain standards for all teaching positions in the jurisdiction of the department and shall review the qualifications and performances of all teaching personnel in the department.

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

SECTION 6. Chapter 127 of the General Laws, as amended by section 91 of chapter 69 of the acts of 2018, is hereby further amended by inserting after section 32A the following

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

SECTION 7: Section 39 of chapter 127 of the General Laws, as appearing in the 2020 Official Edition, is hereby amended by striking in paragraph (b) the following words: “and (x) other rights and privileges as may be established or recognized by the commissioner.” and inserting in place thereof: “including the right to special education services and (x) other rights and privileges as may be established or recognized by the commissioner."

SECTION 8. Section 48 of chapter 127 of the General Laws, as appearing in the 2020 Official Edition, is hereby amended by striking the last paragraph of said section and inserting in place thereof: The commissioner shall make and promulgate rules and regulations governing programs established under this section which shall include provisions for hours, conditions of employment, wage rates for employment program participants, incentive payments for education and training program participants, provision of good time for participation in education programs at the highest level as awarded by the institution for any activity in the institution, and deductions from said wages pursuant to the provisions of section 86 F.

SECTION 9. Section 49A of chapter 127 of the General Laws, as appearing in the 2020 Official Edition, is hereby amended by inserting after the third paragraph the following paragraph:- Consistent with the foregoing, all individuals who have not attained their 22nd birthday housed at a county house of corrections or state correctional facility, regardless of disciplinary classification or housing status, shall be provided with opportunities to: receive

credit toward high school graduation; graduate from high school; pursue and receive credit for higher education; and receive vocational training; which shall include a minimum of 6 hours of classroom instruction on every weekday, 12 months per year, and special education services for those who are eligible, when appropriate, and pursue, as far as practicable, college level courses and appropriate vocational education and training.