

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

SENATE No. 1542

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:

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

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

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

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

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

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

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

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

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

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

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

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

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

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