

SENATE No. 855

The Commonwealth of Massachusetts

PRESENTED BY:

Brendan P. Crighton

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 create and implement a Massachusetts Flexible Supportive Housing Subsidy Pool Program.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Brendan P. Crighton</i>	<i>Third Essex</i>	
<i>Sal N. DiDomenico</i>	<i>Middlesex and Suffolk</i>	<i>2/8/2023</i>
<i>Rebecca L. Rausch</i>	<i>Norfolk, Worcester and Middlesex</i>	<i>2/8/2023</i>
<i>Patricia D. Jehlen</i>	<i>Second Middlesex</i>	<i>2/24/2023</i>
<i>Joanne M. Comerford</i>	<i>Hampshire, Franklin and Worcester</i>	<i>2/24/2023</i>
<i>Lydia Edwards</i>	<i>Third Suffolk</i>	<i>3/2/2023</i>
<i>Patrick Joseph Kearney</i>	<i>4th Plymouth</i>	<i>3/6/2023</i>
<i>Mark C. Montigny</i>	<i>Second Bristol and Plymouth</i>	<i>3/6/2023</i>
<i>John F. Keenan</i>	<i>Norfolk and Plymouth</i>	<i>3/13/2023</i>
<i>Jacob R. Oliveira</i>	<i>Hampden, Hampshire and Worcester</i>	<i>4/3/2023</i>
<i>Michael D. Brady</i>	<i>Second Plymouth and Norfolk</i>	<i>4/26/2023</i>
<i>Patrick M. O'Connor</i>	<i>First Plymouth and Norfolk</i>	<i>5/2/2023</i>
<i>Paul R. Feeney</i>	<i>Bristol and Norfolk</i>	<i>5/3/2023</i>
<i>Patricia A. Duffy</i>	<i>5th Hampden</i>	<i>5/10/2023</i>
<i>Daniel Cahill</i>	<i>10th Essex</i>	<i>6/30/2023</i>

SENATE No. 855

By Mr. Crighton, a petition (accompanied by bill, Senate, No. 855) of Brendan P. Crighton, Sal N. DiDomenico, Rebecca L. Rausch, Patricia D. Jehlen and other members of the General Court for legislation to create and implement a Massachusetts Flexible Supportive Housing Subsidy Pool Program. Housing.

The Commonwealth of Massachusetts

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

An Act to create and implement a Massachusetts Flexible Supportive Housing Subsidy Pool Program.

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. The General Court hereby finds and declares all of the following:

2 (i) Housing is the solution to homelessness for low-income families and individuals.

3 Connecting people to housing and services provides a foundation to address other areas that may
4 have contributed to their homelessness, such as employment, health, discrimination and
5 substance misuse. In 2015, the general court cited a need for better coordination between state
6 agencies and departments in creating the Interagency Council on Housing and Homelessness.

7 But there is currently no mechanism for sustainable, coordinated and braided funding to create
8 supportive housing.

9 (ii) Homelessness-focused housing programs have a demonstrated ability to end
10 homelessness. These programs include permanent supportive housing that combines long-term
11 rental assistance with supportive services. Supportive housing is targeted to individuals and

12 families with chronic illnesses, disabilities, mental health issues or substance use disorders who
13 have experienced long-term or repeated homelessness.

14 (iii) In response to the COVID-19 pandemic, federal assistance from the American
15 Rescue Plan Act offers a renewed opportunity to emphasize ending homelessness by moving
16 more people into permanent housing, rather than allowing them to linger indefinitely in shelters
17 and unsheltered locations. The American Rescue Plan Act provides: (1) emergency rental
18 assistance, to help millions of families keep up on their rent and remain in their homes; (2)
19 emergency housing vouchers for individuals and families who are experiencing homelessness or
20 at risk of homelessness; and (3) financing HOME Investment Partnerships Program to help
21 create housing and services for people experiencing or at risk of homelessness.

22 (iv) Federal funding combined with state financial and human resources provided for in
23 this Act will fund a multipronged approach to allow people to exit streets, doubled-up housing
24 and shelters and access permanent and supportive housing.

25 SECTION 2. The General Laws are hereby amended by inserting after chapter 121G the
26 following chapter:-

27 Chapter 121H.

28 MASSACHUSETTS FLEXIBLE HOUSING POOL PROGRAM

29 Section 1. For purposes of this chapter, the following terms shall, unless the context
30 clearly requires otherwise, have the following meanings:

31 “Applicant”, a city, municipality or continuum of care that receives funds under the
32 program.

33 “Chronic homelessness”, has the same meaning as in Part 91 and Part 578 of Title 24 of
34 the Code of Federal Regulations, as those parts read on January 1, 2019, except that people,
35 including children, youth, families and individuals, who were chronically homeless before
36 entering an institution continue to be chronically homeless upon discharge, regardless of length
37 of institutional stay.

38 “Continuum of care”, has the same meaning as defined in Section 578.3 of Title 24 of the
39 Code of Federal Regulations.

40 “Coordinated entry system”, or “CES”, a centralized or coordinated assessment system
41 developed pursuant to Section 576.400(d) or 578.7(a)(8), as applicable, of Title 24 of the Code
42 of Federal Regulations, and related requirements, designed to coordinate program participant
43 intake, assessment, and referrals. In order to satisfy this subdivision, recipients of funding shall
44 use a centralized or coordinated assessment system to refer eligible participants to housing
45 funded under the program created in this section. A coordinated assessment system shall cover
46 the entire geographic area, be easily accessed by individuals and families seeking housing or
47 services, be well advertised, and include a comprehensive and standardized assessment tool.

48 “Department”, the department of housing and community development.

49 “Equity Framework”, the Framework for an Equitable COVID-19 Homelessness
50 Response guidance to communities on how to use federal funding sources, including CARES
51 Act programs, strategically across key public health and economic recovery strategies to meet
52 public health goals, increase housing stability, and prevent future increases in homelessness, all
53 with a racial justice and equity for various marginalized population lens.

54 “HMIS”, a Homeless Management Information System, as defined in Section 578.3 of
55 Title 24 of the Code of Federal Regulations. The term “HMIS” includes the use of a comparable
56 database by a victim services provider or legal services provider that is permitted by HUD under
57 Part 576 of Title 24 of the Code of Federal Regulations.

58 “Homeless” or “homelessness”, has the same meaning as “homeless” defined in Section
59 578.3 of Title 24 of the Code of Federal Regulations.

60 “HUD”, the United States Department of Housing and Urban Development.

61 “Intermediary”, a third-party nonprofit organization that does not provide direct services,
62 selected through a competitive process to oversee the MHFP and to administer housing subsidies
63 and integrate health services in a coordinated, person-centered process.

64 “Permanent housing”, a structure or set of structures with subsidized or unsubsidized
65 rental housing units subject to applicable landlord-tenant law, with no limit on length of stay, and
66 no requirement to participate in supportive services as a condition of access to or continued
67 occupancy in the housing. Permanent housing includes permanent supportive housing.

68 “Permanent supportive housing”, permanent housing with no limit on the length of stay
69 that is occupied by the target population and that is linked to onsite or offsite services that assist
70 the supportive housing residents in retaining the housing, improving resident’s health status, and
71 maximizing resident’s ability to live and, when possible, work in the community. Permanent
72 supportive housing includes associated facilities if used to provide services to housing residents.

73 “Program” or “MFHP”, the Massachusetts Flexible Housing Subsidy Pool Program
74 established pursuant to this chapter.

75 “Rental assistance”, a rental subsidy provided to a housing provider, including a
76 developer leasing affordable or supportive housing, to assist a tenant to pay the difference
77 between 30 percent of the tenant’s income and fair market rent or reasonable market rent as
78 determined by the grant recipient and approved by the department.

79 “Subrecipient”, a unit of local government or a private nonprofit or for-profit
80 organization that the recipient determines is qualified to undertake the eligible activities for
81 which the recipient seeks funds under the program, and that enters a contract with the applicant
82 to undertake those eligible activities in accordance with the requirements of the program.

83 “Target population”, people experiencing homelessness, as defined in this section, and
84 people who have experienced homelessness and are exiting rapid rehousing, transitional housing,
85 or other programs providing short- to medium-term rental assistance and who are or would
86 become homeless without longer-term assistance.

87 “Trauma Informed Care” or “TIC”, a coordinated, cross-system strategy that has aligned
88 policies, practices and services for supporting healing and resilience.

89 Section 2. (a) The Massachusetts Flexible Housing Pool shall be administered by the
90 department.

91 (b) On or before July 1, 2023, the department shall do all of the following:

92 (1) Issue at least 2 notices of funding availability each year to make available funding to
93 eligible applicants; and

94 (2) Solicit bids from a third-party nonprofit organization through a competitive process to
95 oversee the MHFP.

96 Section 3. The department shall solicit bids from a third-party nonprofit organization
97 through a competitive process to oversee the MHFP and to administer housing subsidies and
98 integrate health services in a coordinated, person-centered process. This role shall serve as the
99 intermediary between the department and the applicants.

100 Section 4. (a) The intermediary shall make grants available to applicants that includes
101 scoring based upon, but not limited to the following:

102 (1) The extent to which the applicant uses an equity framework, throughout the proposal;

103 (2) The extent to which the applicant shows a thorough expertise of trauma informed care
104 service delivery;

105 (3) The extent to which the applicant shows experience in delivering quality supportive
106 services and developing affordable housing;

107 (4) The need of the applicant, which includes consideration of the number of people
108 experiencing homelessness, communities disproportionality impacted by systemic racism and the
109 impact of housing costs in the jurisdiction;

110 (5) The extent of coordination and collaboration between the applicant, other community
111 partners and governmental entities in the region, and the continuum of care covering the
112 geographic area;

113 (6) The ability of the applicant or proposed subrecipient to administer or partner to
114 administer the type of funding the applicant is seeking, based on the applicant's proposed use of
115 program funds;

116 (7) The applicant’s documented partnerships with affordable and supportive housing
117 providers in the jurisdiction;

118 (8) Demonstrated commitment to address the needs of people experiencing homelessness
119 through existing programs or programs planned to be implemented within 12 months; and

120 (9) The proposed use of funds, the extent to which those uses are evidence-based, and the
121 extent to which the proposed use will lead to overall reductions in homelessness.

122 Section 5. Applicants shall compete with other applicants of similar population sizes and
123 characteristics, such as urban centers and rural communities.

124 Section 6. An application shall meet the following requirements:

125 (1) The application shall demonstrate regional coordination between cities, community
126 partners and continuums of care, and report all funds currently being used to provide housing and
127 services to the homeless population in the applicant’s region;

128 (2) The application shall include a commitment to ensuring all grants follow the core
129 components of Housing First, including referrals to coordinated entry systems;

130 (3) The application shall describe or provide documentation of the local program or
131 project selection process anticipated to be used to allocate available funds to subrecipients
132 qualified to carry out the eligible activities. To satisfy the requirements of this paragraph, the
133 applicant’s proposed program or project selection process shall avoid conflicts of interest in
134 program or project selection and shall be easily accessible to the public; and

135 (4) The application shall identify anticipated estimated amounts to be used for the
136 specific eligible activities described in the application and numerical goals and performance

137 measures established by the applicant, in collaboration with the relevant continuum of care, to be
138 used to evaluate success in implementing eligible activities described in the application for the
139 anticipated term of the agreement with the department entered into pursuant to the program. At a
140 minimum, applicants shall evaluate the following project or system performance measures on an
141 annual basis, based on HMIS data from the continuum of care service area or other data, as set
142 forth in the department's notice of funding availability:

143 (A) The number of persons served;

144 (B) The number of unsheltered persons served, and the average length of time spent
145 homeless before entry into the program;

146 (C) The number of persons served currently living in permanent housing;

147 (D) The number of exits from the program, and the reasons for those exits, including
148 returns to homelessness; and

149 (E) The process for referrals to housing.

150 Section 7. (a) An applicant shall use program funds to serve the target populations
151 through 1 or more of the following eligible activities:

152 (1) Rental assistance in an amount the applicant identifies, but no more than 2 times the
153 fair market rent for the community in which the applicant is providing rental assistance;

154 (2) Operating subsidies in new and existing affordable or supportive housing units.

155 Operating subsidies may include operating reserves;

156 (3) Incentives to landlords, including, but not limited to, security deposits and holding
157 fees;

158 (4) Services to assist the target population in accessing permanent housing and to
159 promote housing stability in supportive housing;

160 (5) Systems support for activities necessary to create regional partnerships, maintain a
161 homeless services and housing delivery system, including CES, HMIS, or planning activities, as
162 well as staff tasked with identifying and connecting people experiencing homelessness to CES
163 within health care, child welfare, criminal justice or other systems; or

164 (6) Operating support for interim interventions, including, but not limited to, the
165 following:

166 (A) Resource centers that provide temporary room and board and case managers or
167 housing navigators who work to connect homeless individuals and families to permanent
168 housing, as well as income, public benefits, treatment, and other services;

169 (B) Outreach services to connect unsheltered homeless individuals and families to interim
170 interventions and permanent housing;

171 (C) Shelter diversion, including service integration activities, to connect individuals and
172 families to alternate housing arrangements, services, and financial assistance.

173 Section 8. Through the MFHP, eligibility criteria shall be determined to fit the target
174 population, focus on geographic areas of high need and equity issues, streamline the housing
175 placement process and provide services to address complex social and behavioral health
176 scenarios.

177 Section 9. (a) The intermediary shall allocate funding to ensure recipients serve 1 or more
178 of the following populations, so long as the populations also meet target population eligibility of
179 people, as defined by children, youth, families and individuals: experiencing chronic
180 homelessness, have long lengths of stay in shelter and people experiencing homelessness and
181 who are medically complex.

182 (b) In allocating funding to serve this population, the department shall partner with the
183 department of public health to track health care utilization, racial equity data and participate in an
184 evaluation of the outcomes.

185 Section 10. The department shall work with the executive office of health and human
186 services to coordinate MassHealth services funding with rental assistance and operating
187 subsidies funded under the program, and shall implement guidelines to ensure coordination of
188 existing MassHealth programs, including, but not limited to CSP-CHI.

189 Section 11. (a) The program shall prioritize people experiencing homelessness as
190 individual, youth and young adult, or family:

191 (1) In allocating funding to serve this population, the department may incorporate
192 guidelines created pursuant to the Massachusetts Emergency Solutions Grant; and.

193 (2) The department shall work with the department of children and families to draft
194 guidelines ensuring recipients establish processes for serving families experiencing homelessness
195 and child welfare involvement.

196 (b) Recipients shall use a portion of funds received pursuant to this section to match
197 homeless data with child welfare data, to allow local systems to identify and prioritize families

198 who need housing to reunite with children in foster care and families receiving child welfare
199 services experiencing homelessness.

200 Section 12. In allocating funding to serve people experiencing homelessness who are
201 survivors of domestic violence and sexual assault, the department shall partner with the office of
202 victim assistance to create guidelines and draft plans that do all of the following:

203 (1) Ensure services include culturally competent housing navigation in domestic violence
204 shelters and trauma-informed case management;

205 (2) Foster collaboration between domestic violence and sexual assault providers and
206 homeless systems;

207 (3) Provide capacity building assistance to improve and strengthen how homeless,
208 domestic violence, and sexual assault systems work together to improve outcomes for homeless
209 survivors; and

210 (4) Provide rental assistance or operating subsidies to survivors exiting transitional
211 housing, and emergency housing programs.

212 Section 13. (a) In allocating funding to serve people on parole, or who meet the eligibility
213 criteria of the MassHealth Behavioral Health Justice Initiative, the department shall work with
214 the department of correction to establish guidelines that do all the following:

215 (1) Provide culturally competent services in coordination with housing funded under the
216 program;

217 (2) Establish a process for identifying and referring participants into the program; and

218 (3) Ensure participants of programs designed to reduce recidivism among Massachusetts
219 residents likely to recidivate to prison are exiting state-funded programs into permanent housing.

220 (b) The department of correction shall, subject to appropriation, allocate funds that were
221 appropriated to the department of correction for the day center and mental health crisis care that
222 are used for the Transitional Treatment Program program to serve participants under this
223 program.

224 Section 14. (a) In allocating funding to serve people experiencing homelessness as older
225 adults, the department shall work with the office of elder affairs to draft guidelines to address the
226 needs of this population.

227 Section 15. The department may adjust or add populations proscribed in this chapter
228 based on a data-based assessment of state need and inventory.

229 Section 16. (a) The intermediary shall distribute funds allocated to an applicant by
230 executing a contract with that entity that shall be for a term of 5 years, subject to renewal. Upon
231 expiration of a contract, any funds not expended for eligible activities shall revert to the
232 intermediary for use for the program.

233 (b) The intermediary shall submit an annual report to the department on a form issued by
234 the department, pertaining to the overall program and project selection process, contract
235 expenditures, and progress toward meeting state and local housing goals set out in this chapter as
236 demonstrated by the performance measures set forth in the application.

237 (c) As part of the annual report required pursuant to subsection (b), the intermediary shall
238 report to the department on the expenditures and activities of any subrecipients for each year of

239 the term of the contract with the department until all funds awarded to a subrecipient have been
240 expended.

241 (d) The intermediary may monitor the expenditures and activities of the recipient, as the
242 department deems necessary, to ensure compliance with program requirements.

243 (e) The intermediary may, as it deems appropriate or necessary, request the repayment of
244 funds from a recipient or pursue any other remedies available to it by law for failure to comply
245 with program requirements.

246 (f) Annually, commencing on January 1, 2024, the intermediary shall evaluate the
247 outcomes of the program and report the outcomes to the department.

248 Section 17. (a) The department of housing and economic development shall work with
249 United Way Massachusetts Bay to create a statewide Funder's Collaborative to End
250 Homelessness.

251 (b) The Funder's Collaborative shall do the following:

252 (1) Establish a process for incorporating private contributions through the Statewide
253 Funders Collaborative to End Homelessness into the MFHP to create local innovations, establish
254 pilots, or evaluate programs; and

255 (2) Represent foundations working to solve homelessness, criminal justice inequities,
256 social determinants of health, the impact of homelessness on child welfare involvement,
257 domestic violence, and other private funders with an interest in solving homelessness.

258 Section 18. (a) There shall be established and set up on the books of the commonwealth a
259 trust to be known as the Flexible Housing Subsidy Pool Program Trust Fund for the purpose of
260 funding contracts for loans, grants and other financial assistance pursuant to this chapter.

261 (b) Notwithstanding any general or special law to the contrary, the director of the
262 department, may enter into contracts for the purposes of this chapter. Each contract shall include:

263 (1) A requirement that a substantial portion of the payment be conditioned on the
264 achievement of outcomes based on performance targets;

265 (2) An objective process by which an independent evaluator will determine whether the
266 performance targets have been achieved;

267 (3) A calculation of the amount and timing of payments that would be earned by the
268 recipient during each year of the agreement if performance targets are achieved as determined by
269 the independent evaluator;

270 (4) A sinking fund requirement under which the director shall request an appropriation
271 for each fiscal year that the contract is in effect, in an amount equal to the expected payments
272 that the commonwealth would ultimately be obligated to pay in the future based upon service
273 provided during that fiscal year, if performance targets were achieved; and

274 (5) A determination by the director that the contract will result in significant performance
275 improvements and budgetary savings across all impacted agencies if the performance targets are
276 achieved.

277 (c) The director may provide that payments in future years under any such contracts shall
278 constitute a general obligation of the commonwealth for which the full faith and credit of the

279 commonwealth shall be pledged for the benefit of the providers of the contracted government
280 services, but the total amount of payments under such contracts secured by a pledge of the full
281 faith and credit of the commonwealth shall not exceed, in the aggregate, \$100,000,000.

282 (d) The director shall be the trustee of the trust, shall administer the trust and shall ensure
283 that all funds appropriated as described in this section are deposited in the trust and shall make
284 payments from the trust in accordance with the terms and conditions of the contracts, without
285 further appropriation. The director shall provide an annual status report on all contracts not later
286 than February 1 to the house and senate committees on ways and means.