

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

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

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

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

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

Chapter 121H.

MASSACHUSETTS FLEXIBLE HOUSING POOL PROGRAM

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Section 6. An application shall meet the following requirements:

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

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

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

(4) The application shall identify anticipated estimated amounts to be used for the 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;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) Recipients shall use a portion of funds received pursuant to this section to match 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

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

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

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

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

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

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

(c) As part of the annual report required pursuant to subsection (b), the intermediary shall 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.

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

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

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

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

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

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

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

(c) The director may provide that payments in future years under any such contracts shall 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.