

# HOUSE . . . . . No. 5229

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## The Commonwealth of Massachusetts

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HOUSE OF REPRESENTATIVES, March 12, 2026.

The committee on Mental Health, Substance Use and Recovery, to whom was referred the petition (accompanied by bill, House, No. 2211) of Natalie M. Higgins and others relative to persons receiving services from the Department of Mental Health, reports recommending that the accompanying bill (House, No. 5229) ought to pass.

For the committee,

MINDY DOMB.

**HOUSE . . . . . No. 5229**

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**The Commonwealth of Massachusetts**

**In the One Hundred and Ninety-Fourth General Court  
(2025-2026)**

An Act modernizing the six fundamental rights.

*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 23 of Chapter 123 of the General Laws, as appearing in the 2024  
2 Official Edition, is hereby amended by striking clause (a) and inserting in place thereof the  
3 following clause:-

4           (a) reasonable access to a telephone or video phone with transcription capabilities, as  
5 needed for accessibility, to make and receive confidential telephone or video phone calls and to  
6 assistance when desired and necessary to implement such right, including access to one’s own  
7 phone or similar device to use and access information contained therein; provided, that such calls  
8 or other uses of a personal device do not constitute a criminal act or represent an unreasonable  
9 infringement of another person’s right to make and receive telephone or video phone calls;

10           SECTION 2. Said section 23 of said chapter 123, as so appearing, is hereby further  
11 amended by striking clause (b) and inserting in place thereof the following clause:-

12           (b) to send and receive sealed, unopened, uncensored mail and to send and receive  
13 electronic mail utilizing the person’s computer or similar device; provided, however, that the

14 superintendent or director or designee of an inpatient facility may direct, for good cause and with  
15 documentation of specific facts in such person's record, that a particular person's postal or other  
16 paper mail be opened and inspected in front of such person, without it being read by staff, for the  
17 sole purpose of preventing the transmission of contraband. Writing materials and postage stamps  
18 in quantities great enough to provide for reasonable daily access shall be made available for use  
19 by such person. Reasonable assistance shall be provided to such person in setting up and using  
20 electronic mail or similar messaging applications and in writing, addressing and posting letters  
21 and other documents upon request; provided, that such mail or electronic mail does not constitute  
22 a criminal act. Where an individual has available and wishes to bring a personal computer or  
23 similar device, this too shall be allowed with reasonable daily access given; provided, that use of  
24 such device does not constitute a criminal act;

25 SECTION 3. Said section 23 of said chapter 123, as so appearing, is hereby further  
26 amended by striking clause (c) and inserting in place thereof the following clause:-

27 (c) to receive visitors of such person's own choosing daily and in private, at reasonable  
28 times even if not within normal visiting hours. Hours during which visitors may be received may  
29 be limited only to protect the privacy of other persons and to avoid serious disruptions in the  
30 normal functioning of the facility or program and shall be sufficiently flexible as to  
31 accommodate individual needs and desires of such person and the visitors of such person;

32 SECTION 4. Said section 23 of said chapter 123, as so appearing, is hereby further  
33 amended by striking clause (d) and inserting in place thereof the following clause:-

34 (d) to a humane psychological and physical environment. Each such person shall be  
35 provided living quarters and accommodations which afford privacy and security in resting,

36 sleeping, dressing, bathing and personal hygiene, reading and writing and in toileting in a  
37 manner also appropriate to their stated gender identity and with reasonable access to culturally  
38 relevant personal care items. Nothing in this section shall be construed to require individual  
39 sleeping quarters;

40 SECTION 5. Said section 23 of said chapter 123 is hereby further amended by striking  
41 the first sentence of clause (e) and inserting in place thereof the following sentence:-

42 to receive at any reasonable time as defined in department regulations, or to refuse to  
43 receive, visits and telephone calls from a client's attorney or legal advocate, physician,  
44 psychologist, clergy member, peer supporter, other advocate, social worker, therapist or any  
45 other community mental health, medical or holistic provider, even if not during normal visiting  
46 hours and regardless of whether such person initiated or requested the visit or telephone call.

47 SECTION 6. Said section 23 of said chapter 123, as so appearing, is hereby further  
48 amended by striking the words "Any dispute or disagreement concerning the exercise of the  
49 aforementioned rights in clauses (a) to (f), inclusive, and the reasons therefor shall be  
50 documented with specific facts in the client's record and subject to timely appeal" and inserting  
51 in place thereof the following words:-

52 Any dispute or disagreement concerning the exercise of any right under this section and  
53 the reasons therefor shall be documented with specific facts in the client's record and subject to  
54 timely appeal. The department shall promulgate regulations relative to discipline and penalties  
55 for programs and facilities that violate the requirements of this section or that employ a staff  
56 member who violates the requirement of this section, which shall include, but not be limited to,  
57 civil penalties and other administrative action; provided, that such penalties shall include a fine

58 not less than \$500.00 per incident upon a finding that a program or facility has continued to  
59 commit violations of any right herein upon receipt of fair warning and reasonable opportunity to  
60 correct such violations; provided further, that the department shall establish and manage a fund  
61 to receive all fines collected under this section; and provided further; that such monies contained  
62 in such fund shall be equitably distributed by a formal but expeditious request process to benefit  
63 the individual or collective needs of persons staying in any program or facility subject to such  
64 fine. The department shall contract with no less than 1 qualified legal or advocacy organization a  
65 minimum of 3 new full-time positions responsible for investigating complaints, assessing fines  
66 and managing distributions from the aforementioned fund. Nothing in this section shall be  
67 construed to limit the ability of any party to bring a civil, criminal or administrative action for  
68 conduct constituting a violation of any other provision of law

69 SECTION 7. Said section 23 of said chapter 123, as so appearing, is hereby further  
70 amended by striking the words “Any right set forth in clauses (a), (c) or (f) may be temporarily  
71 suspended, but only for a person in an inpatient facility and only by the superintendent, director,  
72 acting superintendent or acting director of such facility upon such person; concluding, pursuant  
73 to standards and procedures set forth in department regulations that, based on experience of such  
74 person’s exercise of such right, further such exercise of it in the immediate future would present  
75 a substantial risk of serious harm to such person or others and that less restrictive alternatives  
76 have either been tried and failed or would be futile to attempt. The suspension shall last no  
77 longer than the time necessary to prevent the harm and its imposition shall be documented with  
78 specific facts in such person’s record” and inserting in place thereof the following words:-

79 Any right set forth in clauses (a), (c) or (f) may be temporarily suspended, but only for a  
80 person in an inpatient facility and only by the superintendent, director, acting superintendent or

81 acting director of such facility upon such person concluding, pursuant to standards and  
82 procedures set forth in department regulations: (i) that, based on experience of such person's  
83 exercise of such right, further such exercise of it in the immediate future would present a  
84 substantial risk of serious harm to such person or others and that less restrictive alternatives have  
85 either been tried and failed or would be futile to attempt; or (ii) that, based on experience of such  
86 person's exercise of such right, further such exercise of it in the immediate future would present  
87 a serious disruption and that less restrictive alternatives have either been tried and failed or  
88 would be futile to attempt. The suspension shall last no longer than the time necessary to prevent  
89 the harm or serious disruption and its imposition shall be documented with specific facts in such  
90 person's record

91 SECTION 8. Said section 23 of said chapter 123, as so appearing, is hereby further  
92 amended by striking the words "In addition to the rights specified above and any other rights  
93 guaranteed by law, a mentally ill person in the care of the department shall have the following  
94 legal and civil rights: to wear his own clothes, to keep and use his own personal possessions  
95 including toilet articles, to keep and be allowed to spend a reasonable sum of his own money for  
96 canteen expenses and small purchases, to have access to individual storage space for his private  
97 use, to refuse shock treatment, to refuse lobotomy, and any other rights specified in the  
98 regulations of the department; provided, however, that any of these rights may be denied for  
99 good cause by the superintendent or his designee and a statement of the reasons for any such  
100 denial entered in the treatment record of such person" and inserting in place thereof the  
101 following words:-

102 In addition to the rights specified above and any other rights guaranteed by law, a person  
103 with a behavioral health condition in the care of the department shall have the following legal

104 and civil rights: to wear their own clothes, to keep and use their own personal possessions  
105 including culturally relevant personal care items and toilet articles, to keep and be allowed to  
106 spend a reasonable sum of their own money for canteen expenses and small purchases, to have  
107 access to individual storage space for their private use, to refuse shock treatment, to refuse  
108 lobotomy and any other rights specified in the regulations of the department; provided, however,  
109 that any of these rights may be denied for good cause by the superintendent or a designee and a  
110 statement of the reasons for any such denial entered in the treatment record of such person

111 SECTION 9. Said section 23 of said chapter 123, as so appearing, is hereby further  
112 amended by inserting at the end thereof the following paragraphs:-

113 As used in this section, the following words shall, unless the context clearly requires  
114 otherwise, have the following meanings:

115 “Confidential calls”, a call made outside of and far enough away from any common use  
116 or staff-occupied space that a reasonable person would confidently agree that the content of such  
117 call could not be overheard; provided, that the space shall be enclosed and free of expectation of  
118 routine interruptions where possible.

119 “Culturally relevant personal care item”, an item or product formulated, developed or  
120 marketed to adequately care for or be used by a particular population or demographic, including,  
121 but not limited to: gender affirming care items, including, but not limited to, gender affirming  
122 medications, products and other items included among the gender-affirming health care services  
123 defined in section 111½ of chapter 12; menstrual products, including, but not limited to, sanitary  
124 napkins, tampons and panty liners, and other basic hygiene items; products to treat, maintain or  
125 care for specific skin or hair types; and similar items or products.

126 “Gender identity”, as defined in section 72GG of chapter 111.

127 “Other advocate”, an individual reasonably informed and able to support someone else to  
128 become informed about and exercise their legal rights and not necessarily someone who has been  
129 through formal legal training.

130 “Peer supporter”, an individual working in a designated peer role, including, but not  
131 limited to, peer advocates, community bridgers, licensed recovery coaches as defined in section 1  
132 of chapter 111J, certified peer specialists and other similar professionals.

133 “Receive or refuse to receive”, a person’s ability, in a facility or program in which an  
134 employee monitors or otherwise controls entry, to be asked whether to receive and to consent to  
135 receiving a visitor prior to the visitor being granted or denied access to the facility or program.

136 “Serious disruption”, interference that would lead either to significant safety risks or the  
137 inability of employees to carry out core responsibilities within the program or facility; provided,  
138 however, that a “serious disruption” shall not include simply interfering with an individual’s  
139 participation or similar.

140 SECTION 10. The department of mental health shall update its regulations pursuant to  
141 section 23 of chapter 123 of the General Laws not later than 6 months after the effective date of  
142 this act.