

SENATE No. 1389

The Commonwealth of Massachusetts

PRESENTED BY:

Julian Cyr

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 modernizing the 6 fundamental rights.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Julian Cyr</i>	<i>Cape and Islands</i>	
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>	<i>2/11/2025</i>
<i>Michael O. Moore</i>	<i>Second Worcester</i>	<i>3/12/2025</i>
<i>Mike Connolly</i>	<i>26th Middlesex</i>	<i>4/3/2025</i>

SENATE No. 1389

By Mr. Cyr, a petition (accompanied by bill, Senate, No. 1389) of Julian Cyr and James B. Eldridge for legislation to modernize the 6 fundamental rights. Mental Health, Substance Use and Recovery.

The Commonwealth of Massachusetts

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

An Act modernizing the 6 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 Chapter 123 of the General Laws is hereby amended by striking out section 23, as
2 appearing in the 2022 Official Edition, and inserting in place thereof the following section:-

3 Section 23. (a) As used in this section, the following words shall, unless the context
4 clearly requires otherwise, have the following meanings:

5 “Confidential calls”, private phone calls free from routine interruptions or persons within
6 an audible distance

7 “Legal advocate”, an individual reasonably informed, though not necessarily through
8 formal legal training, and able to support persons subject to this section in exercising such
9 persons’ legal rights

10 “Peer supporter”, an individual working in a designated peer role including but not
11 limited to peer advocates, community bridges, recovery coaches and certified peer specialists.

“Serious disruptions”, interference that would lead to significant safety risks to persons subject to this section or inability for employees to carry out core responsibilities across the unit

“Stated gender identity”, such person’s stated gender identity as opposed to sex stated in their medical records

“Culturally relevant personal care items”, items that are formulated, developed and marketed to adequately care for particular skin and hair types, gender affirming care items including but not limited to binders and basic hygiene items

(b) This section sets forth the statutory rights of all persons regardless of age receiving services from any program or facility, or part thereof, operated by, licensed by or contracting with the department of mental health, including persons who are in state hospitals or community mental health centers or who are in residential programs or inpatient facilities operated by, licensed by or contracting with said department. Such persons may exercise the rights described in this section without harassment or reprisal, including reprisal in the form of denial of appropriate, available treatment. The rights contained herein shall be in addition to and not in derogation of any other statutory or constitutional rights accorded such persons.

Any such person shall have the following rights:

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

(b) to send and receive sealed, unopened, uncensored mail or electronic mail; provided, however, that the superintendent or director or designee of an inpatient facility may direct, for good cause and with documentation of specific facts in such person's record, that a particular person's postal or other paper mail be opened and inspected in front of such person, without it being read by staff, for the sole purpose of preventing the transmission of contraband. A computer or similar device, writing materials and postage stamps in quantities sufficient to provide for reasonable daily access shall be made available for use by such person. Reasonable assistance shall be provided to such person in setting up and using e-mail or similar messaging applications, writing, addressing and posting letters and other documents upon request. Such persons shall be able to bring and access daily personal computers or similar devices.

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

(d) to a humane psychological and physical environment. Each such person shall be provided living quarters and accommodations which afford privacy and security in resting, sleeping, dressing, bathing and personal hygiene, reading and writing and in toileting in a manner appropriate to their stated gender identity and with reasonable access to culturally relevant personal care products. Nothing in this section shall be construed to require individual sleeping quarters.

(e) to receive at any reasonable time as defined in department regulations, or refuse to receive, visits and telephone calls from a client's attorney or legal advocate, physician, psychologist, clergy member, peer supporter, recovery coach, social worker, therapist or any other community mental health, medical or holistic provider, even if not during normal visiting hours and regardless of whether such person initiated or requested the visit or telephone call. An attorney or legal advocate working under an attorney's supervision and who represents a client shall have access to the client and, with such client's consent, the client's record, the hospital staff responsible for the client's care and treatment and any meetings concerning treatment planning or discharge planning where the client would be or has the right to be present. Any program or facility, or part thereof, operated by, licensed by or contracting with the department shall ensure reasonable access by attorneys and legal advocates of the Massachusetts Mental Health Protection and Advocacy Project, the Mental Health Legal Advisors Committee, the committee for public counsel services and any other legal service agencies funded by the Massachusetts Legal Assistance Corporation under the provisions of chapter 221A, to provide free legal services. Upon admission, and upon request at any time thereafter, persons shall be provided with the name, address and telephone number of such organizations and shall be provided with reasonable assistance in contacting and receiving visits or telephone calls from attorneys or legal advocates from such organizations; provided, however, that the facility shall designate reasonable times for unsolicited visits and for the dissemination of educational materials to persons by such attorneys or legal advocates. The department shall promulgate rules and regulations further defining such access. Nothing in this paragraph shall be construed to limit the ability of attorneys or legal advocates to access clients records or staff as provided by any other state or federal law.

(f) reasonable daily access to the outdoors, as weather conditions reasonably permit, at inpatient facilities in a manner consistent with the person's clinical condition and safety as determined by the treating clinician and with the ability of the facility to safely provide access. The department shall promulgate regulations defining what shall constitute reasonable access and regulations implementing sufficient precautions to ensure the safety of staff members charged with accompanying patients outdoors.

Any dispute or disagreement concerning the exercise of the aforementioned rights in clauses (a) to (f), inclusive, and the reasons therefor shall be documented with specific facts in the client's record and subject to timely appeal. The department shall also promulgate regulations for implementation of fines no less than \$100.00 per incident applicable upon findings that a facility has continued to commit violations of any rights named under this section after having been given fair warning and reasonable opportunity to correct. The department shall further establish regulations for the management of a fund where all fines shall be held and equitably distributed by a formal but expeditious request process to benefit the individual or collective needs of people staying in any facility that is subject to this section.

The Department shall contract, with one or more qualified legal or advocacy organizations, a minimum of three new full-time positions wherein those so employed will be responsible for investigating complaints, assessing fines and collectively managing distributions for the related fund.

Any right set forth in clauses (a), (c) or (f) may be temporarily suspended, but only for a person in an inpatient facility and only by the superintendent, director, acting superintendent or acting director of such facility upon such person; concluding, pursuant to standards and

101 procedures set forth in department regulations that, based on experience of such person's exercise
102 of such right, further such exercise of it in the immediate future would present a substantial risk
103 of serious harm to such person or others and that less restrictive alternatives have either been
104 tried and failed or would be futile to attempt. The suspension shall last no longer than the time
105 necessary to prevent the harm and its imposition shall be documented with specific facts in such
106 person's record.

107 A notice of the rights provided in this section shall be posted in appropriate and
108 conspicuous places in the program or facility and shall be available to any such person upon
109 request. The notice shall be in language understandable by such persons and translated for any
110 such person who cannot read or understand English.

111 The department, after notice and public hearing pursuant to section 2 of chapter 30A,
112 shall promulgate regulations to implement the provisions of this section.

113 In addition to the rights specified above and any other rights guaranteed by law, a
114 mentally ill person in the care of the department shall have the following legal and civil rights: to
115 wear his own clothes, to keep and use his own personal possessions including toilet articles, to
116 keep and be allowed to spend a reasonable sum of his own money for canteen expenses and
117 small purchases, to have access to individual storage space for his private use, to refuse shock
118 treatment, to refuse lobotomy, and any other rights specified in the regulations of the department;
119 provided, however, that any of these rights may be denied for good cause by the superintendent
120 or his designee and a statement of the reasons for any such denial entered in the treatment record
121 of such person.