

SENATE No.

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:

Julian Cyr

DISTRICT/ADDRESS:

Cape and Islands

SENATE No.

[Pin Slip]

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.

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

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

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

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

27 Any such person shall have the following rights:

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

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

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

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

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

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

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

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

98 Any right set forth in clauses (a), (c) or (f) may be temporarily suspended, but only for a
99 person in an inpatient facility and only by the superintendent, director, acting superintendent or
100 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.