

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 to promote rehabilitation including guaranteed health, treatment, and safety for incarcerated LGBTQI+ People.

PETITION OF:

NAME:

Julian Cyr

DISTRICT/ADDRESS:

Cape and Islands

SENATE No.

[Pin Slip]

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. 1499 OF 2023-2024.]

The Commonwealth of Massachusetts

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

An Act to promote rehabilitation including guaranteed health, treatment, and safety for incarcerated LGBTQI+ People.

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 1 of chapter 125 of the General Laws, as appearing in the 2022
2 Official Edition, is hereby amended by inserting the following definitions:-

3 “Consensual”, free from fraud, force, or coercion, provided, however, that relations
4 involving correctional officers and incarcerated persons shall not be deemed consensual.

5 "General Population", any housing placement where an incarcerated person is not held in
6 restrictive housing. In no event shall any general population unit have conditions that are similar
7 to or more restrictive than restrictive housing. These conditions shall include an incarcerated
8 person’s access to: out of cell time; the yard, gym, and other recreational spaces; the law library;
9 religious services; canteen; all personal property; visitation, including both the total available
10 visitation time and the opportunity for contact visits; telephones and video visits; opportunities to

11 earn a wage, and opportunities to earn good time. All such access shall be maximized as much as
12 possible.

13 “Incarcerated Person”, inmate or prisoner.

14 “LGBTQI+”, lesbian, gay, bisexual, transgender, queer, intersex or not conforming to a
15 specific gender identity or sexual orientation.

16 SECTION 2. Section 13 of said chapter 125, as so appearing, is hereby amended by
17 adding the following paragraph:-

18 The superintendent of each state correctional facility and administrator of each county
19 correctional facility shall designate 1 staff member as the LGBTQI+ coordinator. The LGBTQI+
20 coordinator shall: (i) ensure compliance with housing compatibility standards; (ii) coordinate
21 education, employment, and program placement for incarcerated persons who are LGBTQI+, as
22 defined in section 1 of chapter 127; (iii) support self-facilitated LGBTQ+ groups and leisure
23 activities as defined in section 32C; (iv) after consulting with incarcerated persons, ensure at
24 least one periodical is available in each institutional library pertaining to living well with HIV
25 and at least one periodical pertaining to the LGBTQI+ community, and (v) perform other
26 necessary responsibilities. The LGBTQI+ coordinator shall not be the institutional PREA officer
27 appointed pursuant to section 32B of chapter 127.

28 SECTION 3. Section 1 of chapter 127 of the General Laws, as so appearing, is hereby
29 amended by inserting the following definitions:-

30 “Consensual”, free from fraud, force, or coercion, provided, however, that relations
31 involving correctional officers and incarcerated persons shall not be deemed consensual.

32 "General Population", any housing placement where an incarcerated person is not held in
33 restrictive housing. In no event shall any general population unit have conditions that are similar
34 to or more restrictive than restrictive housing. These conditions shall include an incarcerated
35 person's access to: out of cell time; the yard, gym, and other recreational spaces; the law library;
36 religious services; canteen; all personal property; visitation, including both the total available
37 visitation time and the opportunity for contact visits; telephones and video visits; opportunities to
38 earn a wage, and opportunities to earn good time. All such access shall be maximized as much as
39 possible.

40 "Incarcerated Person", inmate or prisoner.

41 "LGBTQI+", lesbian, gay, bisexual, transgender, queer, intersex or not conforming to a
42 specific gender identity or sexual orientation.

43 SECTION 4. Said chapter 127 is hereby amended by adding the following 3 sections:-

44 Section 16A: Each correctional facility shall ensure that an incarcerated person that
45 requests access to medication to prevent the transmission of HIV be provided such medication at
46 no cost to the incarcerated person, provided further, that reasons for requesting said medication
47 shall be kept confidential between the medical provider and incarcerated person and not be
48 shared with security or administrative staff, provided however, that said medication shall only be
49 provided if clinically appropriate.

50 Section 16B: Each correctional facility shall ensure that any incarcerated person
51 prescribed medication to prevent the transmission of HIV or to control and manage HIV,
52 whether held on pre-trial or committed status, shall be provided a thirty day supply upon release
53 from custody.

54 Section 16C: Each correctional facility shall ensure that an incarcerated person prescribed
55 medication to control and manage HIV shall be permitted to keep said medication on their
56 person or in their cell to ensure regular and timely dosage of said medication.

57 SECTION 5. Said chapter 127 is hereby amended by inserting after section 21 the
58 following section:-

59 Section 21A. Upon intake at a correctional facility, each incarcerated person shall be
60 provided an opportunity to voluntarily disclose their sexual orientation and gender identity,
61 provided further that this information may be disclosed and documented at any time. The
62 information provided shall only be made available to the LGBTQI+ coordinator and any other
63 staff persons designated by the commissioner of correction or sheriff; provided, however that the
64 commissioner and sheriffs shall minimize access to sensitive information. Aggregated data on
65 the number of incarcerated persons who voluntarily disclosed their sexual orientation and gender
66 identity shall be made publicly available on an annual basis for each correctional facility;
67 provided, however, that the report shall not include any personally identifiable information.

68 SECTION 6. Section 22 of said chapter 127, as so appearing, is hereby amended by
69 adding the following paragraph:-

70 Upon intake at a correctional facility, each incarcerated person shall be provided an
71 opportunity to voluntarily disclose homophobic or transphobic sentiments, provided further that
72 this information may be disclosed and documented at any time. Anyone who discloses, is
73 reasonably reported to harbor, or demonstrates behavior consistent with homophobic or
74 transphobic sentiments shall not be housed in the same cell or housing unit as someone who
75 identifies as LGBTQI+; provided that no person shall be punished for disclosure or

76 nondisclosure of such information. Information obtained consistent with this section shall not be
77 shared with the Department of Probation or the Parole Board.

78 SECTION 7. Said chapter 127 is hereby amended by inserting after section 32A the
79 following 2 sections:-

80 Section 32B. For the purposes of this section, the term “superintendent” shall mean the
81 superintendent of each state correctional facility and administrator of each county correctional
82 facility.

83 Each correctional facility shall make anonymized, aggregate data related to the federal
84 Prison Rape Elimination Act of 2003, codified in 34 U.S.C. §§ 30301 to 30309, inclusive,
85 hereinafter PREA, publicly available on their website annually.

86 For each PREA investigation conducted, the correctional facility shall make publicly
87 available on their website the factual basis for the PREA investigation, including, but not limited
88 to, whether it was initiated by staff, an incarcerated person, or a third party. In addition, the
89 factual basis upon which it was initiated shall include a detailed description of the alleged
90 incident, who initiated the investigation, whether the investigated behavior was consensual, and
91 the general location of the alleged incident, provided further, the department will report on the
92 race, age, disability status, sexual orientation and gender identity of incarcerated persons
93 involved delineated by whether they were a victim, perpetrator, or consensual party to said
94 investigated behavior; provided however, that the detailed description of the complaint shall not
95 include any personally identifiable information of incarcerated persons.

96 For each PREA investigation conducted, each correctional facility shall make publicly
97 available on their website a detailed summary of the investigation and factual basis for the

98 investigatory outcome including the evidence relied upon and steps taken to respond to the
99 allegation; provided however, that the detailed summary of the investigation shall not include
100 any personally identifiable information of incarcerated persons.

101 Annually, each correctional facility shall make publicly available on their website all
102 documents normally provided to the federal Bureau of Justice Statistics pursuant to 34 U.S.C. §
103 30303; provided however, that said documents shall not include any personally identifiable
104 information of incarcerated persons.

105 All formal or informal institutional grievances and federal Americans With Disabilities
106 Act requests related to sexual violence or the general wellbeing of LGBTQI+ persons and those
107 living with HIV shall be redacted and made publicly available on each correctional facility's
108 website; provided, that said documents shall not include any personally identifiable information
109 of incarcerated persons.

110 Section 32C. Each correctional facility shall provide meaningful opportunities for
111 LGBTQI+ incarcerated persons to: (i) congregate; (ii) form and self-facilitate self-help groups;
112 (iii) receive LGBTQI+ themed literature in the institutional library, including one commonly
113 read periodical about living well with HIV and one commonly read periodical about the
114 LGBTQI+ community; (iv) watch LGBTQI+ movies free of charge; and (v) celebrate June as
115 pride month. Provided further, each correctional facility shall allow visitors to participate in
116 subsection (ii) and subsection (v).

117 SECTION 8. Section 38F of said chapter 127, as so appearing, is hereby amended by
118 adding the following sentence:- Any claim that is directly related to sexual violence by an

119 incarcerated person that may be the subject of a grievance pursuant to said section 38E shall be
120 deemed exhausted.

121 SECTION 9. Section 39A of said chapter 127, as so appearing, is hereby amended by
122 striking out subsection (c) and inserting in place thereof the following subsection:-

123 (c) The fact that an incarcerated person identifies as LGBTQI+ shall not be grounds for
124 placement in restrictive housing or removal from the general population, provided however, that
125 an incarcerated person may request to be removed from the general population for their own
126 safety at any time.

127 SECTION 10. Section 39A of said chapter 127, as so appearing, is hereby further
128 amended by striking out subsection (f) and inserting in place thereof the following 4
129 subsections:-

130 (f) No incarcerated person shall be placed in restrictive housing or removed from general
131 population for reporting an act of sexual violence in good faith, provided that an incarcerated
132 person may request to be removed from general population for their own safety at any time.

133 (g) No incarcerated person who engages in consensual sex shall be removed from general
134 population. Provided further, such behavior shall not be grounds for removal of visitation, or
135 phone privileges, provided further, any guilty finding on a disciplinary report shall not be used in
136 determining the classification status or parole eligibility of an incarcerated person.

137 (h) Public displays of affection, including but not limited to handshakes, hugs, touching
138 of another's hair and other forms of non-sexual contact, shall not be subject to disciplinary

139 action, nor shall such incidents be used as a basis to punish or penalize an incarcerated person in
140 any way.

141 (i) An incarcerated person shall not be confined to restrictive housing except pursuant to
142 section 39 or this section.