

HOUSE No. 01353

The Commonwealth of Massachusetts

PRESENTED BY:

James J. O'Day

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 passage of the accompanying bill:

An Act to establish a HIV testing procedure in correctional institutions in the Commonwealth .

PETITION OF:

NAME:

James J. O'Day

Raymond McGrath NAGE

DISTRICT/ADDRESS:

14th Worcester

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HOUSE No. 01353

By Mr. James J. O'Day of West Boylston, petition (accompanied by bill, House, No. 01353) of James J. O'Day to establish a HIV testing procedure in correctional institutions and providing for sentence reductions for inmates participating in the testing. Joint Committee on the Judiciary.

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

An Act to establish a HIV testing procedure in correctional institutions in the Commonwealth .

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 127 of the General Laws, as appearing in the 2000 Official Edition, is hereby
2 amended by inserting after section 129D the following section:-

3 Section 129E. The commissioner of correction and the keeper or superintendent of all jails
4 and houses of correction shall allow all prisoners held in their custody the opportunity to
5 participate in voluntary anonymous HIV testing programs upon verbal request at least one time
6 within a one year period in the following prescribed manner:

7 (a) testing shall be accomplished through the use of home testing kits to be provided upon
8 verbal request by any prisoner of the health services unit staff at the correctional institution, jail,
9 or house of correction at which said prisoner is currently confined, and that;

10 (b) mailboxes shall be placed in locations accessible to all prisoners, and said mailboxes shall
11 be marked with a red cross, and said mailboxes shall be clearly labeled in both the English and

12 Spanish languages. "HIV TESTING KITS TO BE DEPOSITED HERE", and said mailboxes
13 shall be emptied between the hours of eleven o'clock p.m. and seven o'clock a.m. each day of
14 the calendar year, and:

15 (c) the testing of these kits shall take place as soon as possible and within medical
16 limitations, and the results shall be posted in locations accessible to all prisoners on secure
17 bulletin boards, in both the English and Spanish languages; the results of all testing shall be
18 forwarded to the commissioner of public health by each superintendent of a correctional
19 institution, and a keeper or superintendent of a jail or house of correction, and;

20 (d) each prisoner that participates in said program shall receive a reduction of thirty days to
21 be added to any deduction to which said prisoner is entitled for reducing the term of
22 imprisonment by deduction from the maximum term for which said prisoner may be held under
23 said prisoner's sentence or sentences, and for reducing from the minimum term of the sentence
24 or sentences the good conduct credits earned under this section for parole eligibility as provided
25 under section one hundred and thirty-three, to be calculated on a day for day basis for deductions
26 provided in sections one hundred and twenty-nine to one hundred and twenty-nine C inclusive,
27 and;

28 (e) reductions from a sentence or sentences allowed by this section shall not be subject to
29 forfeiture, with the given exception; if a prisoner has been proven, by the evidence of a
30 physician's report, to have positive indication of a presence of illicit drugs as determined by a
31 blood test, or photographic evidence of recent hypodermic needle use, said prisoner may be
32 subject to forfeiture of any part thereof of all deductions said prisoner has accumulated under the

33 authority of this section to date, having been afforded proper disciplinary due process, and that
34 prisoner shall be subject to immediate testing for the presence of the HIV virus, and:

35 (f) any employee authorized and mandated by this section to perform services of said HIV
36 testing program, or any employee of a correctional facility or agency or organization contracted
37 to perform services of said programs mandated by the authority of this section that attempts to
38 violate, or violates any condition named in this section shall be subject to a fine of up to five
39 thousand dollars, or a term of imprisonment of six months to two and one-half years in a house
40 of correction for each offense said employee has been found guilty of.