

HOUSE No. 2325

The Commonwealth of Massachusetts

PRESENTED BY:

Brandy Fluker Oakley

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 related to rehabilitation, re-entry, and human rights for incarcerated persons.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Brandy Fluker Oakley</i>	<i>12th Suffolk</i>	<i>1/19/2023</i>
<i>Lindsay N. Sabadosa</i>	<i>1st Hampshire</i>	<i>1/19/2023</i>
<i>Bud L. Williams</i>	<i>11th Hampden</i>	<i>1/20/2023</i>
<i>Danillo A. Sena</i>	<i>37th Middlesex</i>	<i>1/25/2023</i>
<i>Russell E. Holmes</i>	<i>6th Suffolk</i>	<i>1/25/2023</i>
<i>Mindy Domb</i>	<i>3rd Hampshire</i>	<i>1/31/2023</i>
<i>John J. Cronin</i>	<i>Worcester and Middlesex</i>	<i>2/7/2023</i>
<i>Michelle M. DuBois</i>	<i>10th Plymouth</i>	<i>2/7/2023</i>
<i>Joanne M. Comerford</i>	<i>Hampshire, Franklin and Worcester</i>	<i>2/9/2023</i>
<i>Thomas M. Stanley</i>	<i>9th Middlesex</i>	<i>2/10/2023</i>
<i>Erika Uytterhoeven</i>	<i>27th Middlesex</i>	<i>2/22/2023</i>
<i>Rebecca L. Rausch</i>	<i>Norfolk, Worcester and Middlesex</i>	<i>2/23/2023</i>
<i>Samantha Montaño</i>	<i>15th Suffolk</i>	<i>2/25/2023</i>
<i>Michelle L. Ciccolo</i>	<i>15th Middlesex</i>	<i>3/2/2023</i>

HOUSE No. 2325

By Representative Fluker Oakley of Boston, a petition (accompanied by bill, House, No. 2325) of Brandy Fluker Oakley and others for legislation to maximize out-of-cell time and opportunities for incarcerated people to attend education, training, employment, and other programs. Public Safety and Homeland Security.

The Commonwealth of Massachusetts

In the One Hundred and Ninety-Third General Court
(2023-2024)

An Act related to rehabilitation, re-entry, and human rights for incarcerated persons.

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. Chapter 127, as appearing in the 2020 Official Edition, is hereby amended
2 by inserting the following new section immediately after section 48B:-

3 Section 48C:

4 (a) Definitions. For purposes of this section, the following definitions apply:

5 “Cell” means any room, area, or space that is not a shared space conducive to
6 meaningful, regular, and congregate social interaction among many people in a group setting,
7 where an individual is held for any purpose.

8 “Congregate” means more than one person together in a space without barriers between
9 them.

10 “Out of cell” means a space outside of, and in an area away from, a cell, in a group
11 setting with other people all in the same shared space without physical barriers, conducive to
12 meaningful and regular social interaction and activity.

13 (b) The commissioner and administrators of state prisons and county facilities shall, by
14 the effective date of this legislation, promulgate regulations to maximize out of cell time and
15 opportunities for participation of incarcerated people in education, training, employment, and all
16 other programming including programming related to rehabilitation, health care, and substance
17 use. At a minimum, the commissioner and administrators of state prisons and county facilities
18 shall ensure that:

19 (1)All incarcerated people shall have the opportunity to access at least one hour of
20 congregate programming per day which is eligible for good conduct deductions under Mass.
21 Gen. Laws chapter 127 section 129D. Programming in addition to the one hour daily required by
22 this section shall be maximized and may include individual tablet-based programming as well as
23 other individual and congregate programming.

24 (2)All incarcerated people shall have the opportunity to access vocational and educational
25 training and work opportunities, including in the community. Community partnerships for
26 vocational training shall be maximized, and vocational training shall be updated in accordance
27 with evolving community needs to increase the potential for successful re-entry.

28 (3)All incarcerated people shall have the opportunity to earn good conduct deductions
29 pursuant to Mass. Gen. Laws chapter 127 section 129D every month through a combination of
30 in-person and virtual education, vocational, and rehabilitation programming and work.

31 (4)All incarcerated people shall have the opportunity to create organizations and affinity
32 groups for peer support, peer-led programming, and self-improvement.

33 (5)Except for operational emergencies, all incarcerated people shall be offered at least
34 eight hours out of cell per day. Incarcerated people shall not be handcuffed, shackled, restrained
35 to a chair or table, or otherwise restrained during out of cell time.

36 (6)All incarcerated people shall have access to at least one hour of congregate fresh air
37 recreation outdoors where they can reasonably move around, exercise and have social interaction
38 without physical barriers or mechanical restraints per day. Weather permitting, this recreation
39 shall be offered in an uncovered location.

40 (7)All incarcerated people shall be treated with dignity and cultural sensitivity and shall
41 not be discriminated against on the basis of age, race, ethnicity, sexuality, gender identity,
42 citizenship status, disability, alleged or charged crime.

43 (8)All incarcerated people shall receive access to in-person visitations at least in
44 accordance with Mass. Gen. Laws chapter 127 section 36C.

45 (9)All incarcerated people shall have access to commissary on a weekly basis that is
46 appropriate for their race, culture and gender identity, and commissary shall not be restricted
47 unless the Superintendent makes an individualized determination that such restriction is
48 necessary, explained in writing. Prices for items shall be in line with community prices and state
49 or county correctional facilities shall not charge more than 3 percent over the purchase cost for
50 commissary items. Culturally, racially, gender appropriate, and gender affirming items shall be
51 made equally available as all other items. Incarcerated Black, Indigenous, and people of color
52 shall be permitted to provide input at least quarterly on what items are deemed racially and

53 culturally appropriate. Incarcerated women, transgender, and gender nonconforming people shall
54 be permitted to provide input at least quarterly on what items are deemed appropriate and
55 affirming for their gender identity. The catalogue of items shall be made accessible to
56 incarcerated people and the public. The department of correction and sheriffs shall maximize
57 opportunities to purchase commissary items in bulk and shall not receive revenue, financial
58 incentives or commissions, in any contract with suppliers of commissary items. Any service,
59 benefit or program for incarcerated people to which commissary commissions were specifically
60 designated in fiscal year 2023 including, but not limited to, the Inmate Benefit Fund, The Law
61 Library and the Central Program Account in the state prison system, shall be funded by the
62 department of correction and the sheriffs at not less than the level of funding in fiscal year 2023.

63 (10) All incarcerated people shall receive medical care, substance use disorder treatment,
64 and mental health care in line with the community standard of care, state regulations, and agency
65 contracts.

66 (11) All incarcerated people shall have access to water quality that meets the
67 Massachusetts Department of Environmental Protection's most recent standards and guidelines
68 for contaminants in Massachusetts drinking water, daily showers, and flushable toilets.

69 (12) All incarcerated people shall have access to a library where they can access legal and
70 other reading materials at least three times weekly.

71 (13) All correctional facilities must maintain temperatures in every habitable area of at
72 least 68°F, between 7:00 A.M. and 11:00 P.M., and at least 64°F, between 11:01 P.M. and 6:59
73 A.M. The temperature should at no time exceed 78°F.

74 (c) The Commissioner shall collect data from the counties and publish a snapshot report
75 on January first of each year with, for each state prison, county jail and house of correction, (1)
76 how many people are in custody (2) how many people are enrolled in an educational program,
77 and how many of those are earning good conduct deductions (3) how many people are enrolled
78 in a rehabilitative program, and how many of those are earning sentence reduction credits (4)
79 how many people are enrolled in vocational training, and how many of those are earning
80 sentence reduction credits (5) how many people are working in a community based job,
81 community based vocational program, or community based educational program and (6) how
82 many people have at least eight hours out of cell daily as defined by this section.

83 SECTION 2. Section 48 of Chapter 127, as appearing in the 2020 Official Edition, is
84 hereby amended by striking the second paragraph and inserting in place thereof the following:-
85 The commissioner shall ensure that each facility provide educational programs that earn high
86 school credit toward graduation, vocational classes, and high school equivalency classes and
87 certificate programming to all persons who are committed to the custody of the department or to
88 a county correctional facility who have not obtained a high school degree or equivalency. These
89 educational programs shall be provided regardless of classification or disciplinary status. The
90 commissioner shall ensure that each facility provide community college or four year college
91 programming for all students who have already received a high school diploma or equivalency
92 and who express interest in higher education. In addition to each such facility providing at least
93 one general high school equivalency (GED) class, each facility shall also include specialized,
94 age-appropriate educational classes for emerging adults, including all individuals ages 18 thru
95 25, for both individuals who have and have not obtained a high school degree or equivalency,
96 including but not limited to: (1) classes that earn credit toward high school graduation; (2)

97 special education classes and supports in line with the educational goals identified in students'
98 individualized educational programs, (3) high school equivalency classes and testing
99 opportunities; (4) vocational education classes, (5) college and workforce readiness classes; and
100 (6) credit-bearing community college and college classes. All emerging adults shall have the
101 opportunity to access at least 4 hours of educational programming daily at least five days a week.

102 SECTION 3. This legislation shall come into effect 120 days after passage.