

SENATE No. 1550

The Commonwealth of Massachusetts

PRESENTED BY:

Sonia Chang-Diaz

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 strengthen family and community connection with incarcerated people.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Sonia Chang-Diaz</i>	<i>Second Suffolk</i>	
<i>Michael J. Barrett</i>	<i>Third Middlesex</i>	<i>2/24/2021</i>
<i>Jack Patrick Lewis</i>	<i>7th Middlesex</i>	<i>2/24/2021</i>
<i>Patrick M. O'Connor</i>	<i>Plymouth and Norfolk</i>	<i>3/17/2021</i>
<i>Joanne M. Comerford</i>	<i>Hampshire, Franklin and Worcester</i>	<i>4/1/2021</i>
<i>Kay Khan</i>	<i>11th Middlesex</i>	<i>4/7/2021</i>

SENATE No. 1550

By Ms. Chang-Diaz, a petition (accompanied by bill, Senate, No. 1550) of Sonia Chang-Diaz, Michael J. Barrett, Jack Patrick Lewis, Patrick M. O'Connor and other members of the General Court for legislation to strengthen family and community connection with incarcerated people. Public Safety and Homeland Security.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Second General Court
(2021-2022)**

An Act to strengthen family and community connection with incarcerated 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 36C of chapter 127 of the General Laws of 2018, as amended by
2 section 92 of chapter 69 of the acts of 2018, is hereby amended by striking out the section in its
3 entirety and inserting in place thereof the following :-

4 Section 36C.

5 (1) A correctional institution, jail or house of correction shall not: (i) prohibit, eliminate
6 or unreasonably limit in-person visitation of incarcerated people; or (ii) coerce, compel or
7 otherwise pressure an incarcerated person to forego or limit in-person visitation. For the purposes
8 of this section, to unreasonably limit in-person visitation of incarcerated people shall include, but
9 not be limited to:

10 (a) providing an eligible incarcerated person fewer than 3 opportunities for in-person
11 visitation during any 7-day period;

12 (b) placing limitations on the number of unique individuals who may be eligible to visit
13 the incarcerated person;

14 (c) prohibiting an individual from visiting more than one incarcerated person in the
15 custody of the department of correction, or more than one incarcerated person in the same
16 facility, absent an individual determination that such visitation would pose a threat to security or
17 orderly running of the facility;

18 (d) requiring eligible visitors to submit more private and personal information to be pre-
19 approved to visit than is strictly necessary for the safety and security of the institution and/or
20 without complying with all applicable statutes, regulations, and orders governing the protection
21 of sensitive and/or private personal information;

22 (e) limiting incarcerated people to receiving visitors from a pre-approved list without
23 permitting them to update their list upon request, or limiting incarcerated people to receiving
24 visitors from a pre-approved list without providing a reasonable process for them to request an
25 exception allowing for approval of visitors where visitation could not have been reasonably
26 foreseen. Such requests shall be approved within 10 calendar days absent an individual
27 determination that such visitation would pose a threat to security or orderly running of the
28 facility;

29 (f) refusing to permit a visitor or visitors who previously visited an incarcerated person
30 without incident or who was on an incarcerated person's previously approved visitor list to visit
31 that incarcerated person upon his or her admission or transfer to a new facility, absent a specific
32 determination that such visitor(s) would pose a threat to security or orderly running of the
33 facility; or requiring a new pre-approved list of authorized visitors upon an incarcerated person's

34 admission or transfer to a new facility without permitting at least two adult visitors and any of
35 the incarcerated person's minor children to visit the incarcerated person pending authorization of
36 the person's visitor applicants;

37 (g) excluding a visitor from eligibility solely on the basis of their status as formerly
38 incarcerated;

39 (h) excluding a visitor from eligibility solely on the basis of their role, past or present, as
40 a volunteer in a state or federal prison, jail or house of correction;

41 (i) excluding a visitor from eligibility unless there is a reasonable individualized
42 suspicion that their visitation poses a threat to institutional security, articulated in writing to the
43 excluded person, and articulating a fixed period of time with an expiration date for the exclusion;
44 and further without providing the excluded person the right to appeal their exclusion as well as to
45 have their exclusion re-evaluated after no more than one year has passed;

46 (j) prohibiting an incarcerated person from holding their minor children, or prohibiting
47 incarcerated people or visitors from playing with or instructing their children, or, where there is a
48 designated children's area, prohibiting incarcerated people or visitors from playing with or
49 instructing their children within the confines of that area.

50 (k) prohibiting incarcerated people and visitors from sitting side by side or from engaging
51 in reasonable physical contact, including but not limited to a brief handshake, hug, and/or closed-
52 mouth kiss;

53 (l) prohibiting contact visitation wherever such visitation is feasible;

54 (m) removing contact visitation as a disciplinary measure for more than 15 days;

55 (n) implementing a dress code that is unreasonable and/or fails to respect a visitor's
56 religion, race, class, culture, gender identity, and sexual orientation; "unreasonable" includes but
57 is not limited to barring any clothing or accessory that does not pose a threat to security or the
58 orderly running of the facility or preventing a visitor whose dress was deemed unacceptable from
59 returning during a designated visiting period on the same day with alternate clothing;

60 (o) turning away a visitor on the basis of a dress code violation without consulting the
61 superintendent, shift commander, or designee, provided, however, that if a visitor is turned away
62 for a dress code violation that the specific reason must be in writing and provided to the visitor
63 upon request;

64 (r) prohibiting incarcerated people in restrictive housing or any other unit separated or
65 segregated from the general population from having access to the same visitation as people in
66 general population, provided, however, that visits may be restricted for up to 15 days for a
67 disciplinary offense;

68 (s) failing to provide a separate confidential room for legal visits in each correctional
69 facility;

70 (t) prohibiting daily access to visitation during all facility or hospital visiting hours
71 should an incarcerated person be transferred to an outside facility or hospital and be in critical
72 condition or in imminent danger of death;

73 (u) failing to establish a policy that visitation be maximized and as free and
74 unencumbered as possible, provided it is not inconsistent with a facility's operational and
75 security needs.

76 (v) failing to allow incarcerated people and visitors to use the restroom during regular
77 visitation hours without being prohibited from resuming the visit after using the restroom.

78 (w) using a drug-detection dog to screen minor children who are otherwise conducting a
79 lawful visit, when other drug-detection screening options are available at the facility.

80 (x) failing to post visitation schedules, including holidays and other foreseeable changes,
81 in the visitor lobby of the facility and online at least 3 weeks in advance.

82 (2) A correctional institution, jail or house of correction may use video or other types of
83 electronic devices for communication with visitors; provided, that such communications shall be
84 in addition to and shall not replace in-person visitation, as prescribed in this section.

85 Video or other such electronic communication with visitors shall not be unreasonably
86 limited, as defined in parts (1)(a)-(x) of this Section. Minor children shall always be allowed to
87 be on screen with adults during video or other electronic communication, notwithstanding any
88 other rules or procedures to the contrary. Incarcerated people shall not be strip searched prior or
89 subsequently to video or electronic communication with visitors unless there is an individualized
90 and particularized suspicion that justifies such search. There shall be no cost associated with any
91 video or electronic communication with visitors.

92 Nothing in this section shall prohibit the temporary suspension of visitation privileges for
93 good cause including, but not limited to, misbehavior or during a bonafide emergency.

94 (3) Every guard, corrections officer and employee of a correctional institution, jail or
95 house of correction shall be required to attend a training session and receive educational
96 information on; (1) the importance of ongoing visitation to individuals who are incarcerated as

97 related to reducing recidivism, violence and increasing successful re-entry, and (2) the
98 importance of civility and respectful conduct toward family members and other members of the
99 public who visit individuals who are incarcerated so as to encourage visitation on a regular basis
100 while maintaining security. Training materials and educational information shall be developed in
101 consultation with representatives of the Massachusetts Bar Association, the Women's Bar
102 Association, Prisoners Legal Services, ex-prisoners community based organizations, and
103 community based re-entry programs, and prior to implementation shall be submitted to the joint
104 committee on the judiciary and the joint committee on public safety and homeland security.

105