

**SENATE . . . . . No. 861**

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**The Commonwealth of Massachusetts**

PRESENTED BY:

***Joseph A. Boncore***

*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 relative to affirmatively furthering fair housing.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Joseph A. Boncore</i>	<i>First Suffolk and Middlesex</i>	
<i>Jack Patrick Lewis</i>	<i>7th Middlesex</i>	<i>2/25/2021</i>
<i>Jason M. Lewis</i>	<i>Fifth Middlesex</i>	<i>2/26/2021</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>	<i>4/1/2021</i>
<i>Sal N. DiDomenico</i>	<i>Middlesex and Suffolk</i>	<i>4/7/2021</i>

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By Mr. Boncore, a petition (accompanied by bill, Senate, No. 861) of Joseph A. Boncore, Jack Patrick Lewis, Jason M. Lewis, James B. Eldridge and others for legislation relative to affirmatively furthering fair housing. Housing.

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**The Commonwealth of Massachusetts**

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

An Act relative to affirmatively furthering fair housing.

*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 23B of the General Laws, as so appearing, is hereby amended by  
2 adding the following section:-

3 Section 31. As used in sections 31 to 32, inclusive, the following words shall have the  
4 following meanings:

5 “Affirmatively further fair housing” means taking meaningful actions, in addition to  
6 combating discrimination, that overcome patterns of segregation and foster inclusive  
7 communities free from barriers that restrict access to opportunity based on protected  
8 characteristics. Specifically, to affirmatively further fair housing means to take meaningful  
9 actions that, taken together, address significant disparities in housing needs and in access to  
10 opportunity, replacing segregated living patterns with truly integrated and balanced living  
11 patterns, transforming racially and ethnically concentrated areas of poverty into areas of  
12 opportunity, and fostering and maintaining compliance with civil rights and fair housing laws.

13           “Meaningful actions” means significant actions that are designed and can be reasonably  
14 expected to achieve a material positive change that affirmatively furthers fair housing by, for  
15 example, increasing fair housing choice or decreasing disparities in access to opportunity.

16           “Public entity” means (i) any department or office of a state or municipal government and  
17 any council, division, board, bureau, commission, institution, tribunal or other instrumentality  
18 thereof or thereunder; and (ii) any other political subdivision of the state that is a grantee or sub-  
19 grantee receiving funds provided by the United States Department of Housing and Urban  
20 Development under the Community Development Block Grant program, the Emergency  
21 Solutions Grants program, the HOME Investment Partnerships program, or the Housing  
22 Opportunities for Persons With AIDS program or the successors to these programs.

23           “Protected characteristics” means any characteristic enumerated in chapter 151B of the  
24 Massachusetts General Laws.

25           SECTION 2. Chapter 23B of the General Laws, as so appearing, is hereby amended by  
26 adding the following section:-

27           Section 32. (a) A public entity affecting housing and community development shall  
28 administer its programs and activities in a manner to affirmatively further fair housing, and take  
29 no action that is materially inconsistent with its obligation to affirmatively further fair housing.

30           (b) There shall be a commission to determine how a public entity shall fulfill its  
31 obligation to affirmatively further fair housing as created by this section. The commission shall  
32 establish different categories of public entities based on criteria identified by the commission.  
33 The categories shall include, but not be limited to exclusionary municipal governments, local  
34 governments where there is a high risk of displacement, and local housing authorities. The

35 commission shall establish lists of meaningful actions that a public entity may take to fulfill the  
36 obligation to affirmatively further fair housing created by this section, with such lists being  
37 specific to the types of public entities and specific protected characteristics. The commission  
38 shall establish the minimum number of actions a public entity must take in order to fulfill its  
39 obligation to affirmatively further fair housing as created by this section.

40           The commission shall be chaired by the secretary of housing and economic development,  
41 or a designee. The commission shall consist of, but not be limited to, the following members or  
42 their designees: the house and senate chairs of the joint committee on housing; one member of  
43 the house of representatives who shall be appointed by the minority leader and one member of  
44 the senate who shall be appointed by the minority leader; the undersecretary of housing and  
45 community development; the Massachusetts Attorney General; a member from each of the  
46 Massachusetts regional planning agencies; the executive director of the Massachusetts Housing  
47 Partnership; one member from Citizens' Housing and Planning Association; one member from  
48 the Massachusetts Municipal Association; one member from the Massachusetts Chapter of the  
49 National Association of Housing and Redevelopment Officials; one member from the  
50 Massachusetts Union of Public Housing Tenants; at least six members representing those with  
51 protected characteristics; and at least two experienced civil rights practitioners.

52           The commission shall submit its report and findings to the joint committee on housing  
53 and the clerks of the house of representatives and senate no later than one year following the  
54 passage of this act.

55           (c) Compliance by a public entity with its obligation to affirmatively further fair housing  
56 as created by this section shall be evaluated every three years.

57 (d) Any person, as defined by Chapter 151B, may institute and prosecute a civil action  
58 for injunctive and other appropriate equitable relief for a public entity's failure to affirmatively  
59 further fair housing as described in this section and regulations promulgated by the department of  
60 housing and community development. A prevailing plaintiff shall be entitled to an award of the  
61 costs of the litigation and reasonable attorneys' fees in an amount fixed by the court or by  
62 agreement of the parties.

63 (e) The compliance of a public entity with the duty to affirmatively further fair housing as  
64 created in this section shall not relieve a public entity from any obligation to affirmatively further  
65 fair housing under federal law.

66 (f) The compliance of a public entity with any obligation to affirmatively further fair  
67 housing created under federal law shall not relieve a public entity from the obligation to  
68 affirmatively further fair housing as created in this section. The provisions of this section shall be  
69 construed liberally for the accomplishment of the remedial purposes thereof, regardless of  
70 whether federal laws, including those laws with provisions comparably worded to the provisions  
71 of this section, have been so construed.

72 (g) The department of housing and community development shall promulgate guidelines  
73 to implement this section and to incorporate the report and findings of the commission created by  
74 this section.