

SENATE No. 940

The Commonwealth of Massachusetts

PRESENTED BY:

Cindy F. Friedman

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 reduce recidivism among emerging adults.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Cindy F. Friedman</i>	<i>Fourth Middlesex</i>	
<i>Jason M. Lewis</i>	<i>Fifth Middlesex</i>	<i>1/24/2019</i>
<i>Mike Connolly</i>	<i>26th Middlesex</i>	<i>1/28/2019</i>
<i>Kay Khan</i>	<i>11th Middlesex</i>	<i>1/30/2019</i>
<i>Joseph A. Boncore</i>	<i>First Suffolk and Middlesex</i>	<i>1/30/2019</i>
<i>Denise Provost</i>	<i>27th Middlesex</i>	<i>1/30/2019</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>	<i>1/30/2019</i>
<i>Patricia D. Jehlen</i>	<i>Second Middlesex</i>	<i>1/31/2019</i>
<i>Mary S. Keefe</i>	<i>15th Worcester</i>	<i>1/31/2019</i>
<i>Jack Patrick Lewis</i>	<i>7th Middlesex</i>	<i>1/31/2019</i>
<i>Sal N. DiDomenico</i>	<i>Middlesex and Suffolk</i>	<i>1/31/2019</i>
<i>Sean Garballey</i>	<i>23rd Middlesex</i>	<i>2/1/2019</i>
<i>Michael D. Brady</i>	<i>Second Plymouth and Bristol</i>	<i>2/1/2019</i>
<i>Liz Miranda</i>	<i>5th Suffolk</i>	<i>2/1/2019</i>
<i>David M. Rogers</i>	<i>24th Middlesex</i>	<i>2/1/2019</i>
<i>Julian Cyr</i>	<i>Cape and Islands</i>	<i>2/4/2019</i>

SENATE No. 940

By Ms. Friedman, a petition (accompanied by bill, Senate, No. 940) of Cindy F. Friedman, Jason M. Lewis, Mike Connolly, Kay Khan and other members of the General Court for legislation to reduce recidivism among emerging adults. The Judiciary.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-First General Court
(2019-2020)**

An Act to reduce recidivism among emerging adults.

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 7 of chapter 4 of the General Laws, as amended by section 1 of
2 chapter 69 of the acts of 2018, is hereby amended by adding the following clause:-

3 Sixty-second. “Emerging Adult” shall mean any person who has attained the age of
4 criminal majority but has not yet attained the age of 26.

5 SECTION 2. Section 11A of chapter 71B of the General Laws, as appearing in the 2016
6 Official Edition, is hereby amended by striking out, in line 1, the words “department of
7 education,” and inserting in place thereof the following words:- department of elementary and
8 secondary education.

9 SECTION 3. Said section 11A of said chapter 71B, as so appearing, is hereby further
10 amended by inserting after the words “county houses of correction,” in line 3, the following
11 words:- and state correctional facilities as defined by section 1 of chapter 125.

12 SECTION 4. Section 1 of chapter 124 of the General Laws, as appearing in the 2016
13 Official Edition, is hereby amended by adding to following subsections:-

14 (v) adopt policies and procedures that are designed to aid, encourage, and guide emerging
15 adults, consistent with the goal of rehabilitating said emerging adults and preparing them to
16 assume the responsibilities and exercise the rights of a citizen of the commonwealth.

17 (w) in accordance with clauses (f) and (g), the commissioner shall as part of developing a
18 rehabilitation program and determining the custody requirements and program needs for each
19 emerging adult prisoner held in any county or state correctional facility, require the development
20 of an individualized rehabilitation program for each such emerging adult. Such program shall be
21 based on an individualized review of said emerging adult's physical and behavioral health,
22 educational, and other history relevant to their future rehabilitation, as well as any risk factors
23 that are strongly associated with re-offending behavior, and shall be documented on a
24 standardized form. The rehabilitation program shall be developed in consultation with family
25 members chosen by the emerging adult to support his or her rehabilitation goals. A proposed
26 program shall be shared with the emerging adult within 1 week of the emerging adult's
27 commitment and said emerging adult shall be afforded a meeting to discuss such program at
28 which the emerging adult may make additional suggestions for or raise any concerns with such
29 program. The program shall contain short and long-term objectives that are measurable,
30 reviewed monthly with the emerging adult, and revised as circumstances warrant. The
31 commissioner shall ensure that programs or services are available at every facility that provide a
32 realistic opportunity for each emerging adult in custody to achieve any objectives identified in
33 the individualized rehabilitation program that are to be accomplished during any period of
34 confinement, furlough, pre-release or parole.

35 (x) in accordance with clause (h), the commissioner shall as part of establishing training
36 programs for employees of the department and, by agreement, other corrections personnel,
37 require trainings on early, trauma-focused interventions, trauma-informed screenings and
38 assessments, and the recognition of reactions to victimization, as well as the necessity for using
39 diagnostic tools to assess the presence of trauma. Such training shall explicitly address the
40 impact of trauma on emerging adults and those emerging adults' pathways into the criminal
41 justice system, with the goal of reducing the likelihood of recidivism by addressing the unique
42 issues associated with emerging adults who may experience trauma, including without limitation
43 trauma resulting from victimization, emotional abuse, physical abuse, sexual abuse, emotional
44 neglect, physical neglect, family or community violence, substance use disorder, mental illness,
45 parental absence, and the incarceration of a parent or other caregiver.

46 (y) in accordance with clause (q), the commissioner shall, as part of making and
47 promulgating rules and regulations regarding nutrition and recreation, require that emerging
48 adults, regardless of classification or housing status, be provided multiple options for wellness
49 activities, including daily opportunities for physical activity and structured leisure activities, and
50 nutritious dining options supportive of lifelong health and well-being.

51 (z) in accordance with clause (q), the commissioner shall, as part of making and
52 promulgating rules and regulations regarding communication and visiting privileges, require that
53 all emerging adults, regardless of classification or housing status, be provided the physical space
54 and time necessary to encourage contact with family members, while maintaining safety and
55 security. To that end, visitation with parents, grandparents, legal guardians, spouses, or children
56 of emerging adults, which is consistent with facility visitation rules and hours, shall not be
57 denied unless there is documentation demonstrating that security may be compromised by such

58 visitation or that the visit will unduly impact the visited emerging adult's well-being in a
59 negative manner.

60 (aa) in accordance with clause (q), the commissioner shall adopt policies that promote
61 meaningful family engagement that creates a partnership between facility staff and families to
62 best serve emerging adults in custody, including policies that require that: (i) families and social
63 supports are identified and engaged in emerging adults' rehabilitation; (ii) families and social
64 supports are valued and treated as partners in emerging adults' rehabilitation; (iii) families and
65 social supports assist with and actively participate in the design and implementation of emerging
66 adults' treatment plans and programming; and (iv) all emerging adults have plans, skills and
67 strategies that draw on relationships for problem solving and achieving goals.

68 (bb) in accordance with clause (q), the commissioner shall, as part of making and
69 promulgating rules and regulations regarding education, training, and employment, require that
70 all emerging adults, regardless of classification or housing status, be provided with opportunities
71 to: graduate from high school or achieve a high school equivalency diploma; pursue higher
72 education or vocational training, which shall include a minimum of 6 hours of classroom
73 instruction on every weekday and special educational services for those who are eligible in order
74 to enable the achievement of such educational levels; and pursue, as far as practicable, college
75 level courses or appropriate vocational education and training.

76 (cc) in accordance with clause (q), the commissioner shall as part of making and
77 promulgating rules and regulations regarding safety, discipline, and care, require that, with
78 respect to emerging adults, restraints, use of force, and the use of restrictive housing be limited to
79 those situations where an emerging adult demonstrates by his or her actions that he or she is

80 dangerous to him or herself or others, and no other intervention has been or is likely to be
81 effective in averting the danger posed by the emerging adult's behavior. An emerging adult shall
82 not be placed in restrictive housing or subject to restraints or use of force as a punishment,
83 harassment or consequence for noncompliance or in retaliation for any conduct.

84 (dd) in accordance with clause (v), the commissioner shall adopt policies that ensure that:

85 (i) all emerging adults in custody in state correctional facilities, regardless of classification or
86 housing status, are placed in a pre-release facility or released to a community corrections
87 program at least 120 days prior to discharge or parole, and (ii) all emerging adults in custody in
88 county correctional facilities serving sentences greater than 6 months, regardless of
89 classification, are placed in a pre-release facility or released to a community corrections program
90 at least 90 days prior to discharge or parole.

91 (ee) in accordance with clause (e), the commissioner shall, as part of establishing,
92 maintaining, and administering programs of rehabilitation, adopt policies and procedures
93 concerning the provision of health services for emerging adults that foster continuity of care for
94 each emerging adult with any community-provided health services received before or after their
95 incarceration, including but not limited to medical, dental, psychological and psychiatric services
96 and substance use treatment, and minimize interruptions of such services resulting from
97 incarceration. Such policies shall include provisions to ensure that emerging adults continue to
98 receive any treatment and medication that they received prior to confinement during their
99 sentence, that prior health records for each emerging adult are received and considered in
100 providing health services on an ongoing basis, and that every facility creates a discharge plan for
101 each emerging adult with any health issue that might impair his or her ability to succeed in the

102 community, including the identification of and a plan for engaging all necessary health care
103 providers, including insurance providers, upon his or her release.

104 (ff) adopt policies and procedures that provide a discrimination-free environment for
105 emerging adults, including but not limited to policies and procedures ensuring that such
106 emerging adults' self-identifications as Lesbian, Gay, Bi-Sexual, Transgender, Questioning,
107 Queer, Intersex, and Gender Non-Conforming are respected by staff, contractors, interns, and
108 volunteers. The department shall provide, within 1 week of any emerging adult's commitment,
109 written information concerning the department's anti-discrimination policies and procedures,
110 including but not limited to, written information explaining said emerging adult's rights and
111 procedures for reporting complaints.

112 (gg) in accordance with clauses (h) and (ee), the commissioner shall as part of
113 establishing training programs for employees of the department and adopting policies and
114 procedures concerning the provision of a discrimination-free environment for emerging adults,
115 require trainings for employees regarding the department's anti-discrimination policies and
116 procedures, including but not limited to trainings concerning behaviors constituting
117 discrimination or harassment, procedures for preventing and reporting such behaviors, and
118 methods of communicating effectively and professionally with emerging adults self-identifying
119 as Lesbian, Gay, Bi-Sexual, Transgender, Questioning, Queer, Intersex, or Gender Non-
120 Conforming.

121 Nothing in this section shall preclude the commissioner from extending the provisions of
122 subsections (v) to (gg), inclusive, to prisoners who are not emerging adults.

123 SECTION 5. Section 2 of chapter 124 of the General Laws, as appearing in the 2016
124 Official Edition, is hereby amended by striking the last paragraph and inserting in place thereof
125 the following paragraphs:-

126 Subject to the supervision and control of the commissioner, the deputy commissioner for
127 educational services shall, in consultation with the department of elementary and secondary
128 education, establish and maintain standards for all teaching positions in the jurisdiction of the
129 department and shall review the qualifications and performances of all teaching personnel in the
130 department.

131 Each of the said deputy commissioners shall perform such other duties as may be
132 assigned to him from time to time by the commissioner.

133 SECTION 6. Section 25 of chapter 126 of the General Laws, as appearing in the 2016
134 Official Edition, is hereby amended by striking the third sentence and inserting in place thereof
135 the following sentences:-

136 Every prisoner shall have made available, at the expense of the county, appropriate and
137 adequate hygiene and sanitary products, including without limitation water that is safe for human
138 consumption and personal hygiene, toothbrushes, toothpaste, deodorant, feminine hygiene
139 products where applicable and regardless of gender identity, soap, shampoo, and comb or brush.
140 The sheriff of every county and the commissioner of corrections shall adopt policies and
141 practices that ensure that sanitation and hygiene services in all correctional facilities are provided
142 in a manner to ensure privacy and dignity, and are physically accessible, safe, hygienic, and
143 culturally appropriate.

144 SECTION 7. Section 19 of chapter 127 of the General Laws, as appearing in the 2016
145 Official Edition, is hereby amended by adding the following sentence:- The commissioner shall
146 require that, in any system of physical training implemented pursuant to this section, emerging
147 adults, regardless of classification or housing status, be provided multiple options for wellness
148 activities, including daily opportunities for physical activity and structured leisure activities.

149 SECTION 8. Section 22 of said chapter 127, as so appearing, is hereby amended by
150 inserting after the word “minors”, in line 8, the following words:- and emerging adults.

151 SECTION 9. Said chapter 127, as amended by section 91 of chapter 69 of the acts of
152 2018127, is hereby further amended by inserting after section 32A the following sections:-

153 Section 32B. Emerging adults in jails or correctional facilities shall be treated as needing
154 aid, encouragement, and guidance, consistent with the goal of rehabilitating such emerging
155 adults to assume the responsibilities and exercise the rights of a citizen of the commonwealth.

156 Section 32C. In accordance with section 32B, emerging adults shall be provided a
157 discrimination-free environment, including with respect to their self-identifications as Lesbian,
158 Gay, Bi-Sexual, Transgender, Questioning, Queer, Intersex, and Gender Non-Conforming, which
159 shall be respected by staff, contractors, interns, and volunteers.

160 SECTION 10. Section 36C of said chapter 127, as amended by section 92 of chapter 69
161 of the acts of 2018, so appearing, is hereby amended by inserting after the second sentence the
162 following sentence:- Visitation, including contact visits, with parents, grandparents, legal
163 guardians, spouses, or children of emerging adults, which is consistent with facility visitation
164 rules promulgated by the commissioner, shall not be denied unless there is documentation

165 demonstrating that security may be compromised by such visitation or that the visit will unduly
166 impact the visited emerging adult’s well-being in a negative manner.

167 SECTION 11. Section 48B of said chapter 127, as amended by section 96 of chapter 69
168 of the acts of 2018, is hereby amended by striking out the words “young adult”, in each instance,
169 and inserting in place thereof the following words:- emerging adult.

170 SECTION 12. Said section 48B of said chapter 127, as amended by section 96 of chapter
171 69 of the acts of 2018, is hereby further amended by striking out the words “are 18 to 24 years”
172 and inserting in place thereof the following words: have not attained 26 years.

173 SECTION 13. Said section 48B of said chapter 127, as amended by section 96 of chapter
174 69 of the acts of 2018, is hereby further amended by adding the following subsection:-

175 (d) Officers designated under subsection (a) shall receive trainings on early, trauma-
176 focused interventions, trauma-informed screenings and assessments, and the recognition of
177 reactions to victimization, as well as the necessity for using diagnostic tools to assess the
178 presence of trauma. Such training shall explicitly address the impact of trauma on emerging
179 adults and those emerging adults’ pathways into the criminal justice system, with the goal of
180 reducing the likelihood of recidivism by addressing the unique issues associated with emerging
181 adults who may experience trauma, including without limitation trauma resulting from
182 victimization, emotional abuse, physical abuse, sexual abuse, emotional neglect, physical
183 neglect, family or community violence, substance use disorder, mental illness, parental absence,
184 and the incarceration of a parent or other caregiver.

185 SECTION 14. Section 49A of said chapter 127, as so appearing, is hereby amended by
186 inserting after the third paragraph the following paragraph:-

187 Consistent with the foregoing, all emerging adults, regardless of classification or housing
188 status, shall be provided with opportunities to: graduate from high school or achieve a high
189 school equivalency diploma; pursue higher education or vocational training, which shall include
190 a minimum of 6 hours of classroom instruction on every weekday and special educational
191 services for those who are eligible, when appropriate, in order to enable the achievement of such
192 educational levels; and pursue, as far as practicable, college level courses or appropriate
193 vocational education and training.

194 SECTION 15. Section 117 of said chapter 127, as so appearing, is hereby amended by
195 adding the following sentence:- Physician determinations concerning where emerging adults
196 should receive health services, including but not limited to medical, dental, and psychiatric
197 services, shall prioritize the continuity of community-provided health services and aim to
198 minimize interruptions of such services resulting from confinement.

199 SECTION 16. Said chapter 127, as so appearing, is hereby further amended by adding
200 the following section:-

201 Section 170. With respect to emerging adults, the use of restraints, the use of force, and
202 the use of restrictive housing shall be limited to those situations where an emerging adult
203 demonstrates by his or her actions that he or she is dangerous to him or herself or others, and no
204 other intervention has been or is likely to be effective in averting the danger posed by the
205 emerging adult's behavior. An emerging adult shall not be placed in restrictive housing or
206 subject to restraints or use of force as a punishment, harassment or consequence for
207 noncompliance or in retaliation for any conduct.

208 SECTION 17. Section 57 of chapter 276 of the General Laws, as amended by sections
209 166 through 169 of chapter 69 of the acts of 2018, is hereby amended by adding the following
210 sentence:-

211 No emerging adult in any trial court proceeding shall be detained in any secure facility
212 because such person lacks a suitable place to live or because, if such emerging adult is in the
213 custody of another state agency, such agency is unable to locate a suitable placement or place to
214 live for him or her.

215 SECTION 18. Section 58 of said chapter 276 of the General Laws, as amended by
216 sections 170 and 171 of chapter 69 of the acts of 2018, is hereby amended by adding the
217 following sentence:-

218 No emerging adult in any trial court proceeding shall be detained in any secure facility
219 because such person lacks a suitable place to live or because, if such emerging adult is in the
220 custody of another state agency, such agency is unable to locate a suitable placement or place to
221 live for him or her.

222 SECTION 19. Section 58A of said chapter 276, as amended by sections 174 through 176
223 of chapter 69 of the acts of 2018, is hereby amended by adding the following sentence:-

224 No emerging adult in any trial court proceeding shall be detained in any secure facility
225 because such person lacks a suitable place to live or because, if such emerging adult is in the
226 custody of another state agency, such agency is unable to locate a suitable placement or place to
227 live for him or her.