

SENATE No. 980

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 provide critical community health services.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Cindy F. Friedman</i>	<i>Fourth Middlesex</i>	
<i>John J. Cronin</i>	<i>Worcester and Middlesex</i>	<i>2/3/2023</i>
<i>Hannah Kane</i>	<i>11th Worcester</i>	<i>2/9/2023</i>
<i>Joanne M. Comerford</i>	<i>Hampshire, Franklin and Worcester</i>	<i>2/9/2023</i>
<i>Marc T. Lombardo</i>	<i>22nd Middlesex</i>	<i>2/14/2023</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>	<i>2/15/2023</i>
<i>Bruce E. Tarr</i>	<i>First Essex and Middlesex</i>	<i>2/21/2023</i>

SENATE No. 980

By Ms. Friedman, a petition (accompanied by bill, Senate, No. 980) of Cindy F. Friedman, John J. Cronin, Hannah Kane, Joanne M. Comerford and other members of the General Court for legislation to provide critical community services. The Judiciary.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. 942 OF 2019-2020.]

The Commonwealth of Massachusetts

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

An Act to provide critical community health services.

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 1 of chapter 123 of the General Laws, as appearing in the 2020
2 Official Edition, is hereby amended by inserting after the definition of “Commissioner” the
3 following definitions:-

4 “Critical community health services”, health, behavioral health and social services that
5 can be provided in a community setting and do not require continuous inpatient hospitalization.

6 “Critical community health service treatment plan”, a plan defining a set of health,
7 behavioral health or social services delivered to an individual.

8 SECTION 2. Said section 1 of said chapter 123, as so appearing, is hereby further
9 amended by inserting after the definition of “Funds” the following definition:-

10 “Gravely disabled”, a condition evidenced by behavior in which a person, as a result of a
11 mental illness, is at substantial risk of inflicting serious harm to self or others, or is in danger of
12 serious physical harm resulting from a failure to provide for his or her essential human needs of
13 health or safety; or manifests severe deterioration in routine functioning evidenced by repeated
14 and escalating loss of cognitive or volitional control over his or her actions; and has shown an
15 inability to provide for his or her basic physical needs, including medical and psychiatric
16 treatment and shelter, because of the mental illness.

17 SECTION 3. Said section 1 of said chapter 123, as so appearing, is hereby further
18 amended by inserting after the definition of “Superintendent” the following definition:-

19 “Supervising mental health professional”, a mental health services provider who is
20 required pursuant to such practice to obtain a license from the commonwealth or who, at the
21 discretion of the court, is deemed suitable to supervise a critical community health service
22 treatment plan.

23 SECTION 4. Said chapter 123 is hereby further amended by inserting after section 8 the
24 following section:-

25 Section 8 1/2. (a) Any physician licensed pursuant to section 2 of chapter 112, the
26 department of mental health, the superintendent of a medical facility or residence where the
27 individual receives medical care, or the medical director of the Bridgewater state hospital, or the
28 spouse, blood relative, legal relative, legal guardian or individual partner in a substantive dating
29 relationship, shall be authorized to petition for an order of a critical community health service
30 treatment plan in the district court in whose jurisdiction a facility is located that shall provide
31 such services, for any individual who:

- 32 (1) has a primary diagnosis of a serious mental illness;
- 33 (2) is at least 18 years old; and
- 34 (3) meets the following criteria:
- 35 (i) is gravely disabled;
- 36 (ii) has a history of lack of compliance with treatment for mental illness that, prior to the
37 filing of the petition, has been a significant factor in: (A) necessitating, at least twice within the
38 previous 36 months, hospitalization or receipt of mental health services in a forensic or
39 department of correction facility or house of corrections or the Bridgewater state hospital; or (B)
40 the commission of one or more acts of serious violent behavior toward self or others or threats
41 of, or attempts at, serious physical harm to self or others within the previous 36 months;
- 42 (iii) is in need of, based on the individual's treatment history and current behavior,
43 critical community health services in order to prevent a relapse or deterioration that would likely
44 result in serious harm to the individual or others; and
- 45 (iv) is likely to benefit from critical community health services.

46 The petition shall include a written critical community health service treatment plan
47 prepared in consultation with, when possible, those familiar with the individual, the
48 superintendent or physician in charge of the care of the individual or those familiar with the case
49 history of the individual. The treatment plan shall include:

- 50 (1) a statement of the requirements for supervision, medication, and assistance in
51 obtaining basic necessities such as employment, food, clothing, and shelter;

52 (2) if known, the address of the residence where the individual resides and the name of
53 the person or persons in charge of the residence;

54 (3) if known, the name and address of any person, agency, or organization assigned to
55 supervise a critical community health service treatment plan or care for the individual; and

56 (4) the conditions for continued receipt of critical community health services, which may
57 require reporting, continuation of medication, submission to testing, or other reasonable
58 conditions.

59 (b) A petition for critical community health services may be filed along with, and as an
60 alternative to, a petition for inpatient commitment under section 7.

61 (c) A hearing shall be commenced within 4 days of the filing of the petition. The periods
62 of time prescribed or allowed under the provisions of this section shall be computed pursuant to
63 Rule 6 of the Massachusetts Rules of Civil Procedure. Adjournments shall be permitted only for
64 good cause shown. In granting adjournments, the court shall consider the need for further
65 examination by a physician or the potential need to provide treatment expeditiously.

66 (d) A court may not issue a critical community health service treatment plan unless it
67 finds that providing critical community health services is the least restrictive alternative available
68 to the person.

69 (e) If, after the hearing, the court finds by clear and convincing evidence that the
70 individual who is the subject of the petition meets the criteria for critical community health
71 services included in subsection (a), the court may order the supervising mental health
72 professional of an appropriate treatment program to supervise the plan for such services.

73 Critical community health services shall not be ordered unless the court approves a
74 written critical community health service treatment plan presented to the court which conforms
75 to the requirements of this section and which contains the name of the designated director of the
76 facility that will supervise and administer the service plan.

77 (f) The first order for critical community health services shall not exceed 180 days, and
78 any subsequent order shall not exceed 365 days.

79 (g) Before an order for critical community health services can commence, the individual
80 shall be provided with copies of the court order and full explanations of the approved service
81 plan. The approved service plan shall be filed with the court and the supervising mental health
82 professional in charge of the individual's service plan.

83 (h) During any period in which an individual receives critical community health services,
84 the individual or the supervising mental health professional may petition the court to amend the
85 critical community health service treatment plan. The court may order an amended service plan
86 or, if contested, the court may order a hearing on the amended plan. If an amended service plan
87 is contested, the party wishing to amend the service plan shall provide the opposing party the
88 proposed amended service plan at least 7 days before the filing of a petition.

89 (i) A supervising mental health professional may petition the court for a hearing if the
90 supervising mental health professional has determined that the individual is not complying with
91 the critical community health service treatment plan.

92 When a supervising mental health professional determines that the individual has not
93 complied with any condition of the service plan, that monitor shall notify the court of the
94 conditions of the treatment plan that have been violated.

95 Upon receiving notice from the supervising mental health professional, the court shall
96 appoint counsel, if necessary, and schedule a service plan non-compliance hearing for a date no
97 less than 7 days and not more than 14 days after receiving said petition, except in extraordinary
98 circumstances, as determined by the court. The court shall create a standard “notice of service
99 plan non-compliance” form, which the monitor shall complete with the times and dates of the
100 alleged non-compliance of the individual.

101 The notice of service plan non-compliance shall set forth the conditions of the plan that
102 the supervising mental health professional alleges have not been complied with and shall order
103 the individual to appear at a specific date and time for the non-compliance hearing, and shall be
104 delivered to all parties to the original proceeding under which the service plan order was issued.

105 Service plan non-compliance hearings shall proceed in two distinct steps, the first to
106 adjudicate the factual issue of whether the plan is being complied with and the second to
107 determine the disposition of the matter, if plan non-compliance is found by the court to have
108 occurred.

109 If the court finds that the individual has not complied with one or more conditions of the
110 service plan as alleged, the supervising mental health professional shall recommend to the court
111 a course of immediate action and may present argument and evidence in support of that
112 recommendation. If the court determines that the individual is not complying with the terms of
113 the order, the court may amend the service plan as the court deems necessary. The amended
114 order may alter the service plan, or the court may request, under the provisions of section 12 of
115 this chapter, an emergency evaluation to determine whether the failure to hospitalize the
116 individual would create a likelihood of serious harm.

117 (j) The supervising mental health professional shall require periodic reports, not more
118 frequently than every 30 days, concerning the condition of individuals receiving critical
119 community health services from any person, agency, or organization assigned to treat such
120 individuals.

121 (k) The supervising mental health professional shall review the condition of an individual
122 ordered to receive critical community services at least once every 30 days.

123 (l) The supervising mental health professional may, at any time, petition the court for
124 termination of an individual's critical community health service plan if the supervising mental
125 health professional determines that critical community health services are no longer the least
126 restrictive appropriate treatment available.

127 (m) Nothing in this section shall prevent the supervising mental health professional from
128 authorizing involuntary commitment and treatment in cases of emergency under section 12 of
129 this chapter.

130 (n) The individual or their representative may petition for termination of an order for
131 critical community health services.

132 (o) All hearings under this section shall be conducted by a judge consistent with the
133 requirements of this chapter and applicable law with such flexibility and informality as the court
134 may deem appropriate. The individual shall be entitled to the assistance of counsel, and the court,
135 if necessary, shall appoint counsel. All testimony shall be taken under oath. The standard of
136 proof at such hearing will be that of clear and convincing evidence.

137 (p) Reasonable expense incurred in providing critical community health services may be
138 paid for out of the estate of the individual, by the petitioner or by the commonwealth, as may be
139 determined by the court.

140 SECTION 5. Section 9 of said chapter 123, as so appearing, is hereby amended by
141 inserting after the words “of section eight B.”, in line 39, the following words:- Any person may
142 apply to the court stating their belief that an individual currently receiving critical community
143 health services under section 8 1/2 should no longer be so treated.