SENATE DOCKET, NO. 297 FILED ON: 1/10/2025

# SENATE . . . . . No. 1660

## The Commonwealth of Massachusetts

PRESENTED BY:

***Julian Cyr***

*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 promote rehabilitation including guaranteed health, treatment, and safety for incarcerated LGBTQI+ People.

PETITION OF:

| NAME: | DISTRICT/ADDRESS: |
|---|---|
| *Julian Cyr* | *Cape and Islands* |

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# SENATE . . . . . No. 1660

By Mr. Cyr, a petition (accompanied by bill, Senate, No. 1660) of Julian Cyr for legislation to promote rehabilitation including guaranteed health, treatment, and safety for incarcerated LGBTQI+ people. Public Safety and Homeland Security.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. *1499* OF 2023-2024.]

## The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Fourth General Court**
**(2025-2026)**

An Act to promote rehabilitation including guaranteed health, treatment, and safety for incarcerated LGBTQI+ People.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

SECTION 1. Section 1 of chapter 125 of the General Laws, as appearing in the 2022 Official Edition, is hereby amended by inserting the following definitions:-

"Consensual", free from fraud, force, or coercion, provided, however, that relations involving correctional officers and incarcerated persons shall not be deemed consensual.

"General Population", any housing placement where an incarcerated person is not held in restrictive housing. In no event shall any general population unit have conditions that are similar to or more restrictive than restrictive housing. These conditions shall include an incarcerated person's access to: out of cell time; the yard, gym, and other recreational spaces; the law library; religious services; canteen; all personal property; visitation, including both the total available

visitation time and the opportunity for contact visits; telephones and video visits; opportunities to earn a wage, and opportunities to earn good time. All such access shall be maximized as much as possible.

"Incarcerated Person", inmate or prisoner.

"LGBTQI+", lesbian, gay, bisexual, transgender, queer, intersex or not conforming to a specific gender identity or sexual orientation.

SECTION 2. Section 13 of said chapter 125, as so appearing, is hereby amended by adding the following paragraph:-

The superintendent of each state correctional facility and administrator of each county correctional facility shall designate 1 staff member as the LGBTQI+ coordinator. The LGBTQI+ coordinator shall: (i) ensure compliance with housing compatibility standards; (ii) coordinate education, employment, and program placement for incarcerated persons who are LGBTQI+, as defined in section 1 of chapter 127; (iii) support self-facilitated LGBTQ+ groups and leisure activities as defined in section 32C; (iv) after consulting with incarcerated persons, ensure at least one periodical is available in each institutional library pertaining to living well with HIV and at least one periodical pertaining to the LGBTQI+ community, and (v) perform other necessary responsibilities. The LGBTQI+ coordinator shall not be the institutional PREA officer appointed pursuant to section 32B of chapter 127.

SECTION 3. Section 1 of chapter 127 of the General Laws, as so appearing, is hereby amended by inserting the following definitions:-

“Consensual”, free from fraud, force, or coercion, provided, however, that relations involving correctional officers and incarcerated persons shall not be deemed consensual.

"General Population", any housing placement where an incarcerated person is not held in restrictive housing. In no event shall any general population unit have conditions that are similar to or more restrictive than restrictive housing. These conditions shall include an incarcerated person’s access to: out of cell time; the yard, gym, and other recreational spaces; the law library; religious services; canteen; all personal property; visitation, including both the total available visitation time and the opportunity for contact visits; telephones and video visits; opportunities to earn a wage, and opportunities to earn good time. All such access shall be maximized as much as possible.

“Incarcerated Person”, inmate or prisoner.

“LGBTQI+”, lesbian, gay, bisexual, transgender, queer, intersex or not conforming to a specific gender identity or sexual orientation.

SECTION 4. Said chapter 127 is hereby amended by adding the following 3 sections:-

Section 16A: Each correctional facility shall ensure that an incarcerated person that requests access to medication to prevent the transmission of HIV be provided such medication at no cost to the incarcerated person, provided further, that reasons for requesting said medication shall be kept confidential between the medical provider and incarcerated person and not be shared with security or administrative staff, provided however, that said medication shall only be provided if clinically appropriate.

Section 16B: Each correctional facility shall ensure that any incarcerated person prescribed medication to prevent the transmission of HIV or to control and manage HIV, whether held on pre-trial or committed status, shall be provided a thirty day supply upon release from custody.

Section 16C: Each correctional facility shall ensure that an incarcerated person prescribed medication to control and manage HIV shall be permitted to keep said medication on their person or in their cell to ensure regular and timely dosage of said medication.

SECTION 5. Said chapter 127 is hereby amended by inserting after section 21 the following section:-

Section 21A. Upon intake at a correctional facility, each incarcerated person shall be provided an opportunity to voluntarily disclose their sexual orientation and gender identity, provided further that this information may be disclosed and documented at any time. The information provided shall only be made available to the LGBTQI+ coordinator and any other staff persons designated by the commissioner of correction or sheriff; provided, however that the commissioner and sheriffs shall minimize access to sensitive information. Aggregated data on the number of incarcerated persons who voluntarily disclosed their sexual orientation and gender identity shall be made publicly available on an annual basis for each correctional facility; provided, however, that the report shall not include any personally identifiable information.

SECTION 6. Section 22 of said chapter 127, as so appearing, is hereby amended by adding the following paragraph:-

Upon intake at a correctional facility, each incarcerated person shall be provided an opportunity to voluntarily disclose homophobic or transphobic sentiments, provided further that

this information may be disclosed and documented at any time. Anyone who discloses, is reasonably reported to harbor, or demonstrates behavior consistent with homophobic or transphobic sentiments shall not be housed in the same cell or housing unit as someone who identifies as LGBTQI+; provided that no person shall be punished for disclosure or nondisclosure of such information. Information obtained consistent with this section shall not be shared with the Department of Probation or the Parole Board.

SECTION 7. Said chapter 127 is hereby amended by inserting after section 32A the following 2 sections:-

Section 32B. For the purposes of this section, the term "superintendent" shall mean the superintendent of each state correctional facility and administrator of each county correctional facility.

Each correctional facility shall make anonymized, aggregate data related to the federal Prison Rape Elimination Act of 2003, codified in 34 U.S.C. §§ 30301 to 30309, inclusive, hereinafter PREA, publicly available on their website annually.

For each PREA investigation conducted, the correctional facility shall make publicly available on their website the factual basis for the PREA investigation, including, but not limited to, whether it was initiated by staff, an incarcerated person, or a third party. In addition, the factual basis upon which it was initiated shall include a detailed description of the alleged incident, who initiated the investigation, whether the investigated behavior was consensual, and the general location of the alleged incident, provided further, the department will report on the race, age, disability status, sexual orientation and gender identity of incarcerated persons involved delineated by whether they were a victim, perpetrator, or consensual party to said

investigated behavior; provided however, that the detailed description of the complaint shall not include any personally identifiable information of incarcerated persons.

For each PREA investigation conducted, each correctional facility shall make publicly available on their website a detailed summary of the investigation and factual basis for the investigatory outcome including the evidence relied upon and steps taken to respond to the allegation; provided however, that the detailed summary of the investigation shall not include any personally identifiable information of incarcerated persons.

Annually, each correctional facility shall make publicly available on their website all documents normally provided to the federal Bureau of Justice Statistics pursuant to 34 U.S.C. § 30303; provided however, that said documents shall not include any personally identifiable information of incarcerated persons.

All formal or informal institutional grievances and federal Americans With Disabilities Act requests related to sexual violence or the general wellbeing of LGBTQI+ persons and those living with HIV shall be redacted and made publicly available on each correctional facility's website; provided, that said documents shall not include any personally identifiable information of incarcerated persons.

Section 32C. Each correctional facility shall provide meaningful opportunities for LGBTQI+ incarcerated persons to: (i) congregate; (ii) form and self-facilitate self-help groups; (iii) receive LGBTQI+ themed literature in the institutional library, including one commonly read periodical about living well with HIV and one commonly read periodical about the LGBTQI+ community; (iv) watch LGBTQI+ movies free of charge; and (v) celebrate June as

pride month. Provided further, each correctional facility shall allow visitors to participate in subsection (ii) and subsection (v).

SECTION 8. Section 38F of said chapter 127, as so appearing, is hereby amended by adding the following sentence:- Any claim that is directly related to sexual violence by an incarcerated person that may be the subject of a grievance pursuant to said section 38E shall be deemed exhausted.

SECTION 9. Section 39A of said chapter 127, as so appearing, is hereby amended by striking out subsection (c) and inserting in place thereof the following subsection:-

(c) The fact that an incarcerated person identifies as LGBTQI+ shall not be grounds for placement in restrictive housing or removal from the general population, provided however, that an incarcerated person may request to be removed from the general population for their own safety at any time.

SECTION 10. Section 39A of said chapter 127, as so appearing, is hereby further amended by striking out subsection (f) and inserting in place thereof the following 4 subsections:-

(f) No incarcerated person shall be placed in restrictive housing or removed from general population for reporting an act of sexual violence in good faith, provided that an incarcerated person may request to be removed from general population for their own safety at any time.

(g) No incarcerated person who engages in consensual sex shall be removed from general population. Provided further, such behavior shall not be grounds for removal of visitation, or

phone privileges, provided further, any guilty finding on a disciplinary report shall not be used in determining the classification status or parole eligibility of an incarcerated person.

(h) Public displays of affection, including but not limited to handshakes, hugs, touching of another's hair and other forms of non-sexual contact, shall not be subject to disciplinary action, nor shall such incidents be used as a basis to punish or penalize an incarcerated person in any way.

(i) An incarcerated person shall not be confined to restrictive housing except pursuant to section 39 or this section.