

HOUSE No. 2089

The Commonwealth of Massachusetts

PRESENTED BY:

Brandy Fluker Oakley

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 ensure the constitutional rights and human dignity of prisoners on mental health watch.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Brandy Fluker Oakley</i>	<i>12th Suffolk</i>	<i>2/19/2021</i>
<i>Lindsay N. Sabadosa</i>	<i>1st Hampshire</i>	<i>2/20/2021</i>
<i>Chynah Tyler</i>	<i>7th Suffolk</i>	<i>2/26/2021</i>
<i>Sally P. Kerans</i>	<i>13th Essex</i>	<i>2/26/2021</i>
<i>Tram T. Nguyen</i>	<i>18th Essex</i>	<i>2/26/2021</i>
<i>Nika C. Elugardo</i>	<i>15th Suffolk</i>	<i>2/26/2021</i>
<i>Liz Miranda</i>	<i>5th Suffolk</i>	<i>3/15/2021</i>
<i>Tommy Vitolo</i>	<i>15th Norfolk</i>	<i>3/24/2021</i>
<i>Joanne M. Comerford</i>	<i>Hampshire, Franklin and Worcester</i>	<i>3/31/2021</i>
<i>Mary S. Keefe</i>	<i>15th Worcester</i>	<i>4/5/2021</i>
<i>Mathew J. Muratore</i>	<i>1st Plymouth</i>	<i>4/14/2021</i>
<i>Carmine Lawrence Gentile</i>	<i>13th Middlesex</i>	<i>4/14/2021</i>
<i>Peter Capano</i>	<i>11th Essex</i>	<i>4/14/2021</i>
<i>Ruth B. Balsler</i>	<i>12th Middlesex</i>	<i>4/14/2021</i>

HOUSE No. 2089

By Ms. Fluker Oakley of Boston, a petition (accompanied by bill, House, No. 2089) of Brandy Fluker Oakley and others for legislation to require the determination of qualified mental health professionals prior to 'prisoners being placed on mental health watch. Mental Health, Substance Use and Recovery.

The Commonwealth of Massachusetts

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

An Act to ensure the constitutional rights and human dignity of prisoners on mental health watch.

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 127 of the General Laws, as appearing in the 2018

2 Official Edition, is hereby amended by inserting after the definition of “Victim” the

3 following

4 definition:-

5 “Mental health watch”, a status intended to protect a prisoner from a risk of imminent and

6 serious self-harm.

7 SECTION 2. Said chapter 127 is hereby amended by inserting after section 39H the

8 following section:- Section 39I.

9 (a) A prisoner may be placed on mental health watch only if it is determined by a

10 qualified mental health professional’s clinical judgment that the prisoner requires observation to

11 protect the prisoner from a risk of imminent and serious self-harm. A qualified mental health
12 professional shall assess the need for continued mental health watch after 6 hours, after 12 hours
13 and then at least once every 12 hours thereafter. Each such assessment shall include an in-person
14 interview with the prisoner.

15 (b) A prisoner who has been on mental health watch for 24 hours and continues to require
16 observation due to a serious risk of imminent and serious self-harm, as determined by a qualified
17 mental health professional's clinical judgment, shall be transferred pursuant to section 18 of
18 chapter 123 to a suitable inpatient psychiatric facility or unit licensed or operated by the
19 department of mental health or, only if no bed is available in a timely manner at such a facility,
20 to Bridgewater state hospital.

21 (c) The department of mental health shall promulgate regulations not later than December
22 31, 2021. Said regulations shall require that all state and county correctional facilities: (1) Have a
23 written suicide prevention and suicide response policy that includes standards and procedures
24 that are consistent with department of mental health regulations for placing a person on mental
25 health watch status; (2) Establish a mental health suicide watch chain of command supervised by
26 mental health clinical supervisory staff; (3) Ensure that all persons on mental health watch status
27 are housed in clinically-appropriate settings and are provided constant 1-on-1 supervision; (4)
28 Ensure that all incarcerated persons needing mental health care receive confidential mental
29 health treatment that is consistent with generally accepted professional standards for mental
30 health treatment in the community. Medication alone, without therapy, does not constitute
31 sufficient treatment; provided, however, that a prisoner may decline therapy without medication
32 disruption if the prisoner does not want to participate in therapy. A prisoner on mental health
33 watch shall have an individual treatment plan written by a qualified mental health professional in

34 consultation with the prisoner, who may accept or decline the services offered in said plan. The
35 individual treatment plan shall include confidential individual therapy. Time spent in therapy
36 shall not count toward out of cell time as specified in paragraph (5)(iv). The individual treatment
37 plan shall remain in effect after the prisoner is returned to the general population as long as
38 deemed clinically indicated by the qualified mental health professional; (5) Ensure personal
39 dignity, except as limited by a qualified mental health professional based on individual
40 assessment, including but not limited to: (i) Prisoners shall be fully clothed, in clothing that is
41 substantially similar to that which is worn by the general population; (ii) Menstruating prisoners
42 shall be provided with appropriate personal hygiene supplies throughout the duration of their
43 menstrual cycle; (iii) Prisoners on mental health watch shall be provided a minimum of 2
44 blankets of the same or of substantially similar quality to blankets provided in the general
45 population; (iv) Prisoners who have been placed on mental health watch shall be offered time out
46 of cell indoors or outdoors, in accordance with the prisoner's preference, at least once daily; and
47 (v) Prisoners shall have the right to personal possessions. If a qualified mental health
48 professional deems a prisoner to be at continued risk for imminent and serious self-harm while
49 under constant 1-on-1 supervision or deems further human dignity deprivations, including
50 removal of clothing, are indicated to prevent serious self-harm or death by suicide, said prisoner
51 shall be transferred immediately to an inpatient psychiatric facility or unit licensed or operated
52 by the department of mental health or, only if no bed is available in a timely manner at such a
53 facility, to Bridgewater state hospital; (5) Conduct independent reviews of completed suicides,
54 attempted suicides and incidents of self-harm, make recommendations for remediation after each
55 incident and document implementation of said recommendations; (6) Prohibit a correctional

56 officer from future mental health watch duty if the correctional officer is found to be in violation
57 of the written suicide prevention policy.