

HOUSE No. 822

The Commonwealth of Massachusetts

PRESENTED BY:

Carlos Gonzalez

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 relating to inmates organ donations.

PETITION OF:

| NAME: | DISTRICT/ADDRESS: |
|------------------------|---------------------|
| <i>Carlos Gonzalez</i> | <i>10th Hampden</i> |
| <i>Bud Williams</i> | <i>11th Hampden</i> |

HOUSE No. 822

By Mr. Gonzalez of Springfield, a petition (accompanied by bill, House, No. 822) of Carlos Gonzalez and Bud Williams for legislation to establish an organ and tissue donor program within the Department of Correction. The Judiciary.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 1624 OF 2015-2016.]

The Commonwealth of Massachusetts

**In the One Hundred and Ninetieth General Court
(2017-2018)**

An Act relating to inmates organ donations.

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. Notwithstanding Chapter 124, M.G.L. to the contrary, this act shall
2 establish an organ and tissue donor program within the Department of Corrections (DOC) in the
3 Commonwealth of Massachusetts for the purpose of educating inmates about the need for organ
4 and tissue donors, the procedures required to become an organ donor, bone marrow donor, and
5 for the procedures for determining an individual’s tissue type and process of donating bone
6 marrow.

7

8 (2) The Commissioner of Correction shall in addition exercise the powers and duties
9 which are otherwise given by law; the Commissioner shall establish, maintain, and administer
10 within the Department of Corrections an organ and tissue donor program.

11 (3) The organizations involved in organ, tissue, and bone marrow donations and
12 medical transplant centers shall make available to the Department of Corrections' educational
13 pamphlets and brochures concerning organ and tissue donation and bone marrow donation.

14 (4) The Department of Corrections shall display material received pursuant to
15 subsection (2) of this section within its inmate housing units and shall, upon request, provide an
16 inmate with necessary forms and information to facilitate organ or tissue donation in accordance
17 with this act the choice of an inmate to donate all or any part of his or her body shall be
18 documented in the inmate's records.

19 (5) The Department of Corrections in conjunction with appropriate medical
20 authorities shall develop and maintain policies and shall promulgate administrative regulations
21 pursuant to this act include but are not limited to:

22 (a) Facilitation of participation in bone marrow donor programs for interested
23 inmates:

24 (b) Ensuring that organ or tissue donations, and bone marrow donations, comply with
25 all considerations contained in chapter 17, M.G.L.

26 (c) Ensuring that all organ or tissue donations, including bone marrow donations, are
27 made on a voluntary basis

28 SECTION II Inmates Protection.

29 (1) Organ or tissue donations may be made by an inmate who meets the donation
30 guidelines. If the department or the institution that houses the inmate determines that an
31 inmate's participation would constitute a threat to security, the department of the institution may
32 prohibit the inmate from participation.

33 (2) The Department of Corrections or the institution that houses the inmate shall not
34 be responsible for any costs associated with tests or other procedures required to make an organ
35 or tissue donation, including costs associated with medical follow-up or complications arising
36 from a donation.

37 SECTION 3. Is amended to read as follows:

38 (1) Any person convicted and sentenced to a state penal institution may receive a
39 credit on his sentence of not exceeding ten (10) days for each month served, except as otherwise
40 provided in this section, to be determined by the department from the conduct of the prisoner. In
41 addition, the department shall provide an educational good time credit of sixty (60) days to any
42 prisoner who:

43 (a) Successfully receives a graduate equivalency diploma or a high school diploma:

44 (b) Receives[,] a two (2) or four (4) year college degree, or a two (2) year or four (4)
45 year certification in applied sciences:

46 (c) [,or who] Receives a technical education diploma as provided and defined by the
47 department; or

48 (d) Becomes a living organ donor.

49 Prisoners may earn additional credit for each program completed. Except for good time
50 earned under, section 1 of M.G.L. Chapter 74 the department may forfeit any good time
51 previously earned by the prisoner or deny the prisoner the right to earn good time in any amount
52 if during the term of imprisonment; a prisoner commits any offense or violates the rules of the
53 institution.

54 (2) When two (2) or more consecutive sentences are to be served, the several
55 sentences shall be merged and served in the aggregate for the purposes of the good time credit
56 computation or in computing dates of expiration of sentence.

57 (3) An inmate may, at the discretion of the commissioner, be allowed a deduction
58 from a sentence not to exceed five (5) days per month for performing exceptionally meritorious
59 service or performing duties of outstanding importance in connection with institutional
60 operations and programs. The allowance shall be an addition to commutation of time for good
61 conduct and under the same terms and conditions and without regard to length of sentence.

62 (4) Until successful completion of the sex offender treatment program, an eligible
63 sexual offender may earn good time. However, the good time shall not be credited to the eligible
64 sexual offender's sentence. Upon the successful completion of the sex offender treatment
65 program, as determined by the program director, the offender shall be eligible for all good time
66 earned but not otherwise forfeited under administrative regulations promulgated by the
67 Department of Corrections. After successful completion of the sex offender treatment program,
68 an eligible sexual offender may continue to earn good time in the manner provided by
69 administrative regulations promulgated by the Department of Corrections. Any eligible sexual
70 offender, as defined in, in section 49 of M.G.L. Chapter 127, who has not successfully completed

71 the sex offender treatment program as determined by the program director, shall not be entitled
72 to the benefit of any credit on his sentence. A sexual offender who does not complete the sex
73 offender treatment program for any reason shall serve his entire sentence without benefit of good
74 time, parole, or other form of early release. The provisions of this section shall not apply to any
75 sexual offender convicted before July 15, 1998, or to any mentally retarded sexual offender.

76 (5) (a) The Department of Corrections shall, by administrative regulation, specify the
77 length

78 of forfeiture of good time and the ability to earn good time in the future for those inmates
79 who have civil actions dismissed because the court found the action to be malicious, harassing,
80 or factually frivolous. The department or any institution shall not forfeit good time earned under
81 this section.

82 (b) Penalties set by administrative regulation pursuant to this subsection shall be as
83 uniform as practicable throughout all institutions operated by, under contract to, or under the
84 control of the department and shall specify a specific number of days or months of good time
85 forfeited as well as any prohibition imposed on the future earning of good time.