

SENATE No. 1115

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 continuum of care for severe mental illness.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Cindy F. Friedman</i>	<i>Fourth Middlesex</i>	
<i>John F. Keenan</i>	<i>Norfolk and Plymouth</i>	<i>1/29/2025</i>

SENATE No. 1115

By Ms. Friedman, a petition (accompanied by bill, Senate, No. 1115) of Cindy F. Friedman and John F. Keenan for legislation to provide critical community services. The Judiciary.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. 980 OF 2023-2024.]

The Commonwealth of Massachusetts

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

An Act to provide continuum of care for severe mental illness.

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 2022
2 Official Edition, is hereby amended by inserting after the definition of “Commissioner” the
3 following definitions:-

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

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

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

“Gravely disabled”, a condition evidenced by behavior in which a person, as a result of a severe mental illness, is at substantial risk of inflicting serious harm to self or others, or is in danger of serious demonstrates psychosis; and has shown an inability to provide for his or her basic physical needs, including medical and psychiatric treatment and shelter, and live safely in the community because of the severe mental illness.

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

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

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

Section 8 1/2. (a) Any physician licensed pursuant to section 2 of chapter 112, the department of mental health, the superintendent of a medical facility or residence where the individual receives medical care, or the medical director of the Bridgewater state hospital, qualified health professionals, or the spouse, blood relative, legal relative, legal guardian, any responsible adult or individual partner in a substantive relationship, a parole officer or probation officer assigned to supervise the subject of the petition, shall be authorized to petition for an order of a critical community mental health service treatment plan in the district court where a facility is located that shall provide such services, for any individual who:

(1) has a primary diagnosis of a severe mental illness;

(2) is at least 18 years old; and

(3) meets the following criteria:

(i) is gravely disabled;

(ii) has a history of lack of adherence with treatment for mental illness that, prior to the filing of the petition, has been a significant factor in: (A) necessitating, at least twice within the previous 36 months, involuntary hospitalization pursuant to section 12 of chapter 123 or receipt of mental health services in a forensic or department of correction facility or house of corrections or the Bridgewater state hospital; or (B) the commission of one or more acts of serious violent behavior toward self or others or threats of, or attempts at, serious physical harm to self or others within the previous 36 months;

(iii) is in need of, based on the individual's treatment history and current behavior, critical community mental health services in order to prevent a relapse or deterioration that would likely result in serious harm to the individual or others;

(iv) is likely to benefit from critical community mental health services; and

(v) is, as a result of their mental illness, unlikely to voluntarily participate in outpatient treatment that would enable the individual to live safely in the community.

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

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

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

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

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

(b) A petition for critical community mental health services may be filed along with, and as an alternative to, a petition for inpatient commitment under section 7. A person making a false statement or providing false information or false testimony in a petition or hearing under this section shall be subject to criminal prosecution.

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

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

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

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

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

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

(h) During any period in which an individual receives critical community mental health services, the individual or the supervising mental health professional may petition the court to amend the critical community mental health service treatment plan. The court may order an amended service plan or, if contested, the court may order a hearing on the amended plan. If an

amended service plan is contested, the party wishing to amend the service plan shall provide the opposing party the proposed amended service plan at least 7 days before the filing of a petition.

(i) A supervising mental health professional may petition the court for a hearing if the supervising mental health professional has determined that the individual is not adhering with the critical community mental health service treatment plan. When a supervising mental health professional determines that the individual has not adhered with conditions of the service plan, the monitor shall notify the court of the individual's non-adherence.

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

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

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

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

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

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

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

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

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

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

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

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