

## Support HD2980

### Protect the Fundamental Rights of People Confined for Mental Illness (Sponsored by Representative Denise Provost)

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- HD2980 will provide adequate enforcement procedures for the list of “fundamental”<sup>1</sup> rights given to psychiatric patients authorized in MGL c. 123, § 23.
- Protecting basic entitlements under state law will accelerate the recovery process of persons confined in psychiatric wards, mitigating damage to them and saving the Commonwealth money.

### **Please support HD2980 and protect the rights of vulnerable psychiatric patients from unnecessary harm!**

**H 1806/S 911 (former Fresh Air Bill which included the enforcement language in HD2980) was supported by the following organizations: Mental Health Legal Advisors Committee, ACLU of Massachusetts, Arise for Social Justice, Center for Public Representation, Coalition for the Legal Rights of People with Disabilities, M-Power, Attorney Jim Gottstein (President & CEO, Psychiatric Law Project), NAMI of Massachusetts, NAMI Greater Boston Consumer Advocacy Network, Lawyers Guild Disability Rights Committee, and Dr. Frances Kuo (Professor of Psychology, Natural Resources, and Environmental Sciences and Director of Landscape and Human Health Laboratory, University of Illinois at Urbana-Champaign)**

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<sup>1</sup> Except for impractical court action. MGL c. 123, § 23 guarantees certain fundamental rights to persons receiving services from programs or facilities operated by, licensed by, or contracted with the Department of Mental Health, including:

- The right to reasonable access to a telephone to make and receive confidential calls;
- The right to send and receive sealed unopened, uncensored mail;
- The right to receive visitors of the patient’s own choosing daily and in private, at reasonable times;
- The right to a humane environment including living space which ensures privacy and security in resting, sleeping, dressing, bathing and personal hygiene, reading and writing, and in toileting;
- The right to access legal representation.
- The right to fresh air (passed 2014).

## HD2980

*Section 23 of chapter 123 of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by adding after the seventh paragraph the following paragraphs:*

*Any person who believes that their aforementioned rights in clauses (a) to (f), inclusive were violated may seek redress through the following procedure:*

*Any person alleging such violation shall file a written request for a hearing with the Department stating facts regarding the right(s) violated and requesting a hearing based on the alleged violation.*

*An impartial hearing officer shall select a hearing location convenient to the Department and to the client and shall conduct the hearing, which shall be an adjudicatory proceeding pursuant to section 11 of Chapter 30A, in not less than 10 business days and not later than 30 business days after the receipt of the request for the hearing. The client and the Department may be represented by an attorney or other person and shall be afforded the opportunity to present evidence, to examine adverse evidence and to examine and cross-examine witnesses.*

*Within 30 business days after the conclusion of the hearing, the hearing officer shall prepare a written decision containing findings of fact and conclusions of law based on the evidence received at the hearing. Said decision may order such remedial relief as necessary. If the person is likely to be discharge in less than 30 days after admission, the hearing shall be held within one business day of the issuance of the Department's finding and recommendations, unless otherwise requested by the person complaining, and the hearing officer shall issue a decision within one business day of the hearing. In both cases, the hearing officer shall submit copies of the decision, together with notice of appeal rights, to the client and the Department. The decision may be appealed to the superior court pursuant to section 14 of chapter 30A.*