

HOUSE No. 3956

The Commonwealth of Massachusetts

The committee of conference on the disagreeing votes of the two branches with reference to the Senate amendment (striking out all after the enacting clause and inserting in place thereof the text contained in Senate document numbered 2103) of the House Bill relative to substance use, treatment, education and prevention (House, No. 3947), reports (in part) recommending passage of the accompanying bill (House, No. 3956). January 20, 2016.

Brian S. Dempsey	Karen E. Spilka
Elizabeth A. Malia	Jennifer L. Flanagan
Randy Hunt	Viriato Manuel deMacedo

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**In the One Hundred and Eighty-Ninth General Court
(2015-2016)**

An Act relative to civil commitments for alcohol and substance use disorders.

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 35 of chapter 123 of the General Laws, as appearing in the 2014
2 Official Edition, is hereby amended by striking out the first 2 paragraphs and inserting in place
3 thereof the following paragraph:-

4 For the purposes of this section the following terms shall, unless the context clearly
5 requires otherwise, have the following meanings:

6 “Alcohol use disorder”, the chronic or habitual consumption of alcoholic beverages by a
7 person to the extent that (1) such use substantially injures the person’s health or substantially
8 interferes with the person’s social or economic functioning, or (2) the person has lost the power
9 of self-control over the use of such beverages.

10 “Facility”, a public or private facility that provides care and treatment for a person with
11 an alcohol or substance use disorder.

12 “Substance use disorder”, the chronic or habitual consumption or ingestion of controlled
13 substances or intentional inhalation of toxic vapors by a person to the extent that: (i) such use
14 substantially injures the person’s health or substantially interferes with the person’s social or
15 economic functioning; or (ii) the person has lost the power of self-control over the use of such
16 controlled substances or toxic vapors.

17 SECTION 2. Said section 35 of said chapter 123, as so appearing, is hereby further
18 amended by striking out the words “is an alcoholic or substance abuser”, in lines 17 and 18, and
19 inserting in place thereof the following words:- has an alcohol or substance use disorder.

20 SECTION 3. Said section 35 of said chapter 123, as so appearing, is hereby further
21 amended by inserting after the word “a”, in line 36, the third time it appears, the following
22 word:- qualified.

23 SECTION 4. Said section 35 of said chapter 123, as so appearing, is hereby further
24 amended by striking out the fourth and fifth paragraphs and inserting in place thereof the
25 following 3 paragraphs:-

26 If, after a hearing which shall include expert testimony and may include other evidence,
27 the court finds that such person is an individual with an alcohol or substance use disorder and
28 there is a likelihood of serious harm as a result of the person’s alcohol or substance use disorder,
29 the court may order such person to be committed for a period not to exceed 90 days to a facility
30 designated by the department of public health, followed by the availability of case management
31 services provided by the department of public health for up to 1 year; provided, that a review of
32 the necessity of the commitment shall take place by the superintendent on days 30, 45, 60 and 75
33 as long as the commitment continues. A person so committed may be released prior to the

34 expiration of the period of commitment upon written determination by the superintendent of the
35 facility that release of that person will not result in a likelihood of serious harm. Such
36 commitment shall be for the purpose of inpatient care for the treatment of an alcohol or
37 substance use disorder in a facility licensed or approved by the department of public health or the
38 department of mental health. Subsequent to the issuance of a commitment order, the
39 superintendent of a facility may authorize the transfer of a patient to a different facility for
40 continuing treatment; provided, that the superintendent shall provide notification of the transfer
41 to the committing court.

42 If the department of public health informs the court that there are no suitable facilities
43 available for treatment licensed or approved by the department of public health or the department
44 of mental health, or if the court makes a specific finding that the only appropriate setting for
45 treatment for the person is a secure facility, then the person may be committed to: (i) a secure
46 facility for women approved by the department of public health or the department of mental
47 health, if a female; or (ii) the Massachusetts correctional institution at Bridgewater, if a male;
48 provided, however, that any person so committed shall be housed and treated separately from
49 persons currently serving a criminal sentence. The person shall, upon release, be encouraged to
50 consent to further treatment and shall be allowed voluntarily to remain in the facility for such
51 purpose. The department of public health shall maintain a roster of public and private facilities
52 available, together with the number of beds currently available and the level of security at each
53 facility, for the care and treatment of alcohol use disorder and substance use disorder and shall
54 make the roster available to the trial court.

55 Nothing in this section shall preclude a facility, including the Massachusetts correctional
56 institution at Bridgewater, from treating persons on a voluntary basis.