

HOUSE No. 4947

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, June 30, 2022.

The committee on Mental Health, Substance Use and Recovery to whom was referred the petition (accompanied by bill, House, No. 2067) of Ruth B. Balser and others relative to persons in the custody of the correctional facilities receiving medication for opioid use disorders, reports recommending that the accompanying bill (House, No. 4947) ought to pass.

For the committee,

ADRIAN C. MADARO.

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

An Act regarding consistent care for addiction rooted in evidence.

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 striking out the definition of “Medication-assisted
3 treatment” and replacing it with the following definition:-

4 “Medication for addiction treatment”, treatment for a substance use disorder that: (i) is
5 determined to be clinically indicated by a qualified addiction specialist; (ii) involves the use of
6 medication that is approved by the federal Food and Drug Administration for treatment of a
7 substance use disorder; and (iii) is offered in accordance with a treatment plan that is reviewed
8 by a qualified addiction specialist at a frequency consistent with appropriate clinical standards.
9 “Medication for addiction treatment” is sometimes referred to as “medication-assisted
10 treatment”, “medication for opioid use disorder”, or “MAT”.

11 SECTION 2. Section 16 of said chapter 127, as so appearing, is hereby amended by
12 striking out in the second paragraph the words “who is committed for a term of 30 days’
13 imprisonment or more.” and inserting in place thereof the following:-

14 within 24 hours of admission to the facility. Regardless of whether the individual was
15 receiving medication for addiction treatment immediately prior to admission to the facility, the
16 substance use disorder examination shall include assessment for treatment with medication for
17 addiction treatment, and a determination of need for alcohol, benzodiazepine, opioid or other
18 substance withdrawal management.

19 SECTION 3. Said chapter 127, as so appearing, is hereby further amended by striking out
20 section 17B and replacing it with the following:-

21 Section 17B. Medication-assisted treatment for substance use conditions for state
22 detainees or prisoners at correctional facilities.

23 (a) All correctional facilities, jails and houses of correction, in consultation with the
24 commissioner of public health, shall offer all medications for addiction treatment to a detained,
25 committed or incarcerated person, upon the recommendation of a qualified addiction specialist.
26 All correctional facilities, jails and houses of correction shall maintain or provide for the capacity
27 to possess, dispense and administer all medications for addiction treatment; provided however,
28 that such facilities shall not be required to maintain or provide a medication for addiction
29 treatment that is not also a MassHealth covered benefit.

30 (b) No detained, committed or incarcerated person shall be denied medication for
31 addiction treatment on the basis of a positive drug screening upon entering custody or at any time
32 during the incarceration, detention or commitment of the person; nor shall any detained,
33 committed or incarcerated person receive a disciplinary infraction for a positive drug screening.
34 The medication for addiction treatment of a detained, committed or incarcerated person shall not
35 be discontinued due to any disciplinary infraction. A detained, committed or incarcerated person

36 may request medication for addiction treatment at any time during the incarceration, detention or
37 commitment of such detained, committed or incarcerated person.

38 (c) The commissioner and county sheriffs shall ensure that each detained, committed or
39 incarcerated person who was receiving medication for addiction treatment immediately preceding
40 incarceration, detention or commitment continues to have such treatment available as soon as
41 practicable, and in any event within 24 hours of admission to the facility, unless such person
42 voluntarily discontinues the treatment or unless a qualified addiction specialist determines that
43 maintaining the same treatment is no longer clinically indicated. Each detained, committed or
44 incarcerated person shall receive the same dose of the same medication that the person was
45 receiving before incarceration, commitment or detention, unless a qualified addiction specialist
46 determines, based on individual medical need and in consultation with the person, that a change
47 in dose or medication is clinically indicated.

48 (d) The commissioner and county sheriffs shall ensure that each detained, committed or
49 incarcerated person who was not receiving medication for addiction treatment immediately
50 preceding incarceration, detention or commitment, and for whom medication for addiction
51 treatment is clinically indicated, shall be offered such medication within 24 hours of the
52 assessment required by section 16. The determinations of which medication to prescribe and the
53 dosage shall be made based on individual medical need in consultation with the person.
54 Detained, committed or incarcerated persons shall be authorized to receive the medication for as
55 long as clinically indicated.

56 (e) All state and county correctional facilities shall ensure consistent and ongoing access
57 to a qualified addiction specialist by a detained, committed or incarcerated person.

58 (f) Treatment established under this section shall include behavioral health counseling for
59 individuals diagnosed with substance use disorder or substance use-related needs; provided,
60 however, that counseling services shall be consistent with current therapeutic standards for these
61 therapies in a community setting.

62 (g) No incentives, rewards or punishments shall be used to encourage or discourage a
63 detained, committed or incarcerated person's decision to receive or decline medication for
64 addiction treatment, or any particular such medication.

65 (h) The commissioner of public health may promulgate regulations and guidelines
66 necessary to implement the treatment program under this section.

67 SECTION 4. Section 17C of said chapter 127, as so appearing, is hereby amended by
68 striking out the first paragraph and replacing it with the following:-

69 Not later than 120 days prior to the expected discharge date of a person detained,
70 committed or incarcerated in a state prison or county facility, or within a reasonable timeframe if
71 the length of incarceration, detention or commitment is less than 120 days but, in any event no
72 less than 30 days prior to such expected discharge date, a qualified addiction specialist shall
73 establish a medically appropriate re-entry treatment plan for the person. A re-entry treatment
74 plan may include any treatment upon discharge that the qualified addiction specialist shall
75 recommend and deem appropriate, which may include, but shall not be limited to, any
76 medication for addiction treatment. A re-entry treatment plan shall ensure that a detained,
77 committed or incarcerated person is directly connected to an appropriate provider or treatment
78 site in the geographic region to which the person shall reside upon release. The detained,
79 committed or incarcerated person shall receive information on available treatment facilities in

80 their area, information on available housing and employment resources and any other
81 information that will assist the individual in continued recovery once released. The
82 commissioner and county sheriffs shall further ensure that, for a person with a re-entry treatment
83 plan under this section, the facility shall request reinstatement or apply for MassHealth benefits
84 for the person at least 30 days prior to release or shall use best efforts to request such
85 reinstatement of or apply for MassHealth benefits or other public assistance for the person within
86 a reasonable timeframe if the person's sentence, detention or commitment is less than 30 days.
87 Notwithstanding the foregoing, nothing in this section shall authorize a state prison or county
88 facility to extend a person's sentence, detention or commitment to comply with this section. In
89 the event the expected discharge date of a detained, committed or incarcerated person serving a
90 sentence to a state prison or county facility is less than 30 days following the start date of said
91 detained, committed or incarcerated person's sentence, detention or commitment, a qualified
92 addiction specialist shall use best efforts to establish a medically appropriate treatment plan for
93 the person prior to the expected discharge date.

94 SECTION 5. Said chapter 127, as so appearing, is hereby amended by striking out
95 section 17D and replacing it with the following:-

96 (a) Every six months, on a schedule to be established by the department of public health,
97 the commissioner and the administrator of each county correctional facility shall report, in a
98 format determined by the commissioner of public health, to the commissioner of public health,
99 the house and senate committees on ways and means, the joint committee on mental health,
100 substance use and recovery, the joint committee on public safety and homeland security and the
101 joint committee on the judiciary the following information for the prior six months: (i) at the
102 time of the report, the number of persons in the custody of the facility receiving each medication

103 for addiction treatment, in total and disaggregated by dosage; (ii) the number of persons in the
104 custody of the facility, in any status, who continued to receive the same medication for addiction
105 treatment as they received prior to incarceration, detention or commitment, by medication type;
106 (iii) the number of persons in the custody of the facility, in any status, who discontinued
107 medication for addiction treatment that they received prior to incarceration, detention or
108 commitment by medication type; (iv) the number of persons in the custody of the facility, in any
109 status, who received a different medication for addiction treatment than they received prior to
110 incarceration, detention or commitment, by medication type; (v) the number of persons in the
111 custody of the facility, in any status, who received medication for addiction treatment who did
112 not receive such treatment prior to incarceration, detention or commitment, by medication type;
113 (vi) a summary of facility practices and any changes to those practices related to medication for
114 addiction treatment; (vii) the number of persons who were connected to treatment after release;
115 (viii) the number of nonfatal and fatal overdoses in the facility; (ix) the number of nonfatal and
116 fatal overdoses within 1 year of release from the department of correction and each county
117 facility, provided, however, that the commissioner, the sheriffs, and the commissioner public
118 health shall coordinate to provide such information; (x) the number of persons who received a re-
119 entry treatment plan under section 17C and were subsequently enrolled in MassHealth upon
120 discharge; provided, however, that the commissioner, the sheriffs, the commissioner of medical
121 assistance and the commissioner of public health shall coordinate to provide such information;
122 and (xi) any other information requested by the commissioner of public health related to the
123 provision of medication for addiction treatment.

124 (b) Every 2 years, not later than April 30, the commissioner of public health shall prepare
125 a report, pursuant to section 237 of chapter 111, regarding outcomes for the treatment programs

126 established under sections 17B and 17C to the house and senate committees on ways and means,
127 the joint committee on mental health, substance use and recovery, the joint committee on public
128 safety and homeland security and the joint committee on the judiciary. The department of
129 correction and county correctional facilities shall provide, upon request from the commissioner
130 of public health, information necessary to prepare the report. The report shall, to the extent
131 possible, provide a comparison between the detained, committed and incarcerated persons who
132 did not receive medication for addiction treatment and those who did, reported separately for
133 each medication type, in order to determine the impact of the treatment programs on the
134 following: (i) treatment retention after release; (ii) substance use after release; (iii) rates of
135 recidivism; (iv) rates of nonfatal and fatal overdose; and (v) other outcome measures identified
136 by the commissioner of public health.

137 SECTION 6. As soon as practicable, and in any event within 30 days of passage of this
138 legislation, all state and county correctional facilities shall assess for treatment with medication
139 for addiction treatment all detained, committed or incarcerated persons in their respective
140 institutions who have substance use-related needs but who are not currently receiving
141 medication for addiction treatment. Detained, committed or incarcerated persons for whom such
142 medication is clinically indicated shall be offered such medication within 24 hours of such
143 assessment, and such medication shall be prescribed and provided in a manner consistent with
144 the provisions of section 17B of chapter 127.

145 SECTION 7. Section 98 of chapter 208 of the acts of 2018 is hereby repealed.