

TREATMENT, NOT IMPRISONMENT



ALIGNING PROBATION ORDERS WITH ADDICTION SCIENCE

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Every year, Massachusetts courts mandate thousands of people with substance use disorders to submit to invasive drug-testing as a condition of pretrial release or probation. If a person tests positive for an illegal drug once, they may be reincarcerated – even if they are actively working to achieve long-term recovery. It is unsafe, unjust, and ineffective to require defendants with substance use disorders to remain relapse-free or else face jail.

Incarceration disrupts treatment and endangers recovery. **This bill will allow judges to order a probationer to participate in treatment, but prohibit courts from imposing incarceration if relapse is the only infraction and the defendant is otherwise engaged in treatment.**

Criminal activity while on probation, including drug possession charges, will still be a violation. This bill simply stops the court from interfering with treatment for people who are committed to and consistently attending treatment, but nonetheless relapse.

THIS BILL WILL:

- Enhance public safety by enabling defendants to authentically engage in treatment – and communicate honestly with their providers about relapse – without fear that they will be locked up as result.
- Prevent courts from disrupting the treatment process.
- Decrease incarceration rates, saving MA taxpayer dollars.
- Save lives by helping people exit the dangerous cycle of relapse and incarceration and instead find sustained recovery.

ENDORISING ORGANIZATIONS

ACLU of Massachusetts
Action Lab at Northeastern University School of Law
Association for Behavioral Healthcare
Coalition for Effective Public Safety
Committee for Public Counsel Services
Community Resources for Justice
Criminal Justice Policy Coalition
Grayken Center for Addiction, Boston Medical Center
Greater Boston Legal Services CORI & Re-entry Project
Jobs Not Jails Coalition
League of Women Voters of MA
MA Community Action Network
Mass Incarceration Working Group of the First Parish Unitarian Universalist of Arlington
Massachusetts Law Reform Institute
Massachusetts Medical Society
Massachusetts Organization for Addiction Recovery
Massachusetts Society of Addiction Medicine
National Association of Social Workers, MA Chapter
Prisoners' Legal Services
Real Cost of Prisons Project
Resolve to Stop the Violence Program
Roca, Inc.

BECAUSE ADDICTION REQUIRES TREATMENT, NOT IMPRISONMENT.

Addiction is a health condition, not a moral failing.

- Severe substance use disorder – addiction – is a health condition; its hallmark feature is compulsive use of a substance despite significant negative consequences.
- Addiction alters brain function, limiting one’s own control over the disease.
- Extensive research shows that recurrence of substance use indicates the need for more or different treatment, not punishment.

Addiction requires treatment, not imprisonment.

- For a century, we have predominantly responded to drug addiction as a criminal issue requiring punishment.
- Scientific breakthroughs have revolutionized our understanding of drug addiction as an illness that responds favorably to treatment, not imprisonment.
- If our Commonwealth is serious about ending the opioid crisis, we need to reframe our approach to addiction – to one that is rooted in public health, not punishment.

Relapse is a common symptom of substance use disorder.

- Because addiction is an all-consuming, developmental, and chronic health condition, most people with addiction experience several relapses before achieving sustained recovery.
- Therapeutic intervention after relapse works to help strengthen the recovery process.

Punishing people for relapse disrupts treatment.

- A punitive response to relapse decreases the likelihood that people with addictions will seek care and remain in treatment.
- Fear of punishment interferes with authentic treatment because patients are afraid to speak honestly about their struggles with their healthcare professionals. This prevents patients and providers from developing effective strategies to address those struggles.

Incarcerating people for their addictions endangers lives.

- While incarcerated, few inmates receive treatment – and most “treatment” in jails and prisons is not evidence-based.
- The opioid overdose death rate is 120 times higher for those recently released from incarceration compared to the rest of the adult population.