

HOUSE No. 4122

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, May 28, 2014.

The committee on the Judiciary to whom was referred the petition (accompanied by bill, House, No. 1189) of Ruth B. Balser and others relative to the treatment of the mentally ill in prisons, reports recommending that the accompanying bill (House, No. 4122) ought to pass.

For the committee,

CHRISTOPHER M. MARKEY.

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In the Year Two Thousand Fourteen

An Act relative to the treatment of mentally ill in prisons.

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 2006
2 Official Edition, is hereby amended by inserting after the definition of "Commissioner" the
3 following definition: -

4 "Mental health professional," a psychiatrist, psychologist, licensed clinical social worker
5 (LICSW) or licensed mental health counselor (LMHC) who is licensed to practice in the
6 commonwealth pursuant to chapter one hundred and twelve.

7 SECTION 2. Said section 1 of said chapter 127, as so appearing , is hereby further
8 amended by inserting after the definition of "Parole board" the following definition: -

9 "Residential treatment unit," a therapeutic housing unit within a correctional facility that
10 is operated for the purpose of providing treatment and rehabilitation for prisoners with mental
11 illness.

12 SECTION 3. Section 39 of said chapter 127, as so appearing, is hereby amended by
13 striking out the first paragraph and inserting in place thereof the following paragraph:-

14 Except as provided in section 39A of this chapter, at the request of the superintendent of
15 any correctional institution of the commonwealth, the commissioner may authorize the transfer,
16 for such period as s/he may determine, to a segregated unit within any correctional institution of
17 the commonwealth, of any inmate whose continued retention in the general institution population
18 is detrimental to the program of the institution.

19 SECTION 4. Said chapter 127, as so appearing, is hereby amended by inserting after
20 section 39 the following section:

21 Section 39A. Diversion to residential treatment units

22 (a) When an inmate is confined to a segregated unit, the superintendent shall arrange for a
23 mental health professional to assess the mental health of the inmate and to review the inmate's
24 mental health record within twenty-four hours. Inmates remaining in such confinement shall be
25 reassessed at a minimum of two times per week thereafter. Mental health assessments shall be
26 conducted in a confidential manner.

27 (b) As part of all mental health assessments conducted pursuant to paragraph (a) of this
28 section, mental health professionals shall identify for diversion or removal from such segregated
29 unit any inmate who meets the criteria set forth in paragraph (c) of this section. Inmates
30 identified for diversion or removal from a segregated unit shall, within thirty days of the
31 assessment, be diverted or removed from such unit and placed in a residential treatment unit or
32 provided with clinically appropriate treatment in general population. While awaiting transfer, the
33 mental health status of such inmates shall be afforded the opportunity to speak to a mental health
34 clinician at least five (5) days per week. Such inmates shall also be afforded the opportunity for
35 in-cell programming and additional out-of-cell recreation.

36 (c) Inmates who have been designated for transfer to a segregated unit as provided in
37 section 39 of this chapter and who meet at least one of the following criteria shall be diverted or
38 removed from segregation as provided in paragraph (b) of this section. These criteria are:

39 (1) Inmates who have a current diagnoses or recent significant history of one or more of
40 the following disorders described in the most recent edition of the diagnostic and statistical
41 manual of mental disorders:

42 A. schizophrenia and other psychotic disorders,

43 B. major depressive disorders,

44 C. bipolar disorders, all types,

45 (2) Inmates who are diagnosed with one or more of the following disorders that result in
46 significant functional impairment involving acts of self-harm or other behaviors that have a
47 seriously adverse effect on life or on mental or physical health:

48 A. a developmental disability, dementia or other cognitive disorder;

49 B. any Axis I disorder commonly characterized by breaks with reality, or perceptions
50 of reality;

51 C. a severe personality disorder that is manifested by episodes of psychosis or
52 depression;

53 (3) Inmates who have otherwise substantially deteriorated mentally or emotionally while
54 confined in segregation where diversion or removal is deemed to be clinically appropriate by a
55 mental health professional.

56 SECTION 5. Said chapter 127, as so appearing, is hereby further amended by inserting
57 after section 17 the following section:

58 Section 17A. Establishment of mental health treatment programs inside correctional
59 facilities

60 (a) The commissioner, in cooperation with the commissioner of mental health, shall
61 establish in correctional facilities such programs, including but not limited to residential
62 treatment units, as are necessary for the treatment of mentally ill inmates confined therein who
63 are in need of mental health services but who do not require hospitalization for the treatment of
64 mental illness, as determined by a mental health professional. Such inmates shall receive therapy
65 and programming in settings that are appropriate to their clinical needs while maintaining the
66 safety and security of the facility. The Commissioner of the Department of Corrections shall
67 establish the appropriate number of residential treatment units (RTUs), in consultation with the
68 Commissioner of the Department of Mental Health.

69 (b) All correctional staff who work in residential treatment units shall be screened and
70 shall receive at a minimum forty hours of mental health training, plus twelve hours of annual
71 training. In addition to the training requirement provided in this paragraph, all other correctional
72 officers employed by the department shall be given eight hours of annual mental health training.
73 Such training shall include information about the types and symptoms of mental illnesses, the
74 goals of mental health treatment, medication and side effects, co-occurring disorders, de-
75 escalation techniques and training in how to effectively and safely manage inmates with mental
76 illness.