

HOUSE No. 1391**The Commonwealth of Massachusetts**

PRESENTED BY:

Ruth B. Balser

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to treatment, not imprisonment.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Ruth B. Balser</i>	<i>12th Middlesex</i>	<i>1/20/2023</i>
<i>Mindy Domb</i>	<i>3rd Hampshire</i>	<i>1/20/2023</i>
<i>Jack Patrick Lewis</i>	<i>7th Middlesex</i>	<i>1/24/2023</i>
<i>Michael J. Barrett</i>	<i>Third Middlesex</i>	<i>2/2/2023</i>
<i>Joanne M. Comerford</i>	<i>Hampshire, Franklin and Worcester</i>	<i>2/2/2023</i>
<i>Lindsay N. Sabadosa</i>	<i>1st Hampshire</i>	<i>2/2/2023</i>
<i>Marc T. Lombardo</i>	<i>22nd Middlesex</i>	<i>2/14/2023</i>
<i>Danillo A. Sena</i>	<i>37th Middlesex</i>	<i>2/23/2023</i>
<i>Russell E. Holmes</i>	<i>6th Suffolk</i>	<i>3/2/2023</i>
<i>Steven Owens</i>	<i>29th Middlesex</i>	<i>3/2/2023</i>
<i>Tommy Vitolo</i>	<i>15th Norfolk</i>	<i>3/22/2023</i>
<i>Christopher Hendricks</i>	<i>11th Bristol</i>	<i>3/22/2023</i>
<i>David Henry Argosky LeBoeuf</i>	<i>17th Worcester</i>	<i>3/22/2023</i>
<i>Tackey Chan</i>	<i>2nd Norfolk</i>	<i>3/27/2023</i>
<i>Brian W. Murray</i>	<i>10th Worcester</i>	<i>3/28/2023</i>
<i>Erika Uytterhoeven</i>	<i>27th Middlesex</i>	<i>5/16/2023</i>
<i>Rebecca L. Rausch</i>	<i>Norfolk, Worcester and Middlesex</i>	<i>7/6/2023</i>
<i>Kay Khan</i>	<i>11th Middlesex</i>	<i>7/19/2023</i>

<i>Priscila S. Sousa</i>	<i>6th Middlesex</i>	<i>8/24/2023</i>
<i>Vanna Howard</i>	<i>17th Middlesex</i>	<i>12/19/2023</i>
<i>Marjorie C. Decker</i>	<i>25th Middlesex</i>	<i>7/1/2024</i>

HOUSE No. 1391

By Representative Balser of Newton, a petition (accompanied by bill, House, No. 1391) of Ruth B. Balser and others relative to court considerations of persons having alcohol or substance use disorders and needing treatment. The Judiciary.

The Commonwealth of Massachusetts

In the One Hundred and Ninety-Third General Court
(2023-2024)

An Act relative to treatment, not imprisonment.

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 87A of chapter 276 of the General Laws, as appearing in the 2020
2 Official Edition, is hereby amended by inserting after the first paragraph the following
3 paragraphs:-

4 Upon motion by a person who has been ordered to submit to drug or alcohol
5 testing or to refrain from the use of alcohol or a controlled substance as a condition of probation,
6 the court shall consider whether the person has an alcohol or substance use disorder and needs
7 treatment.

8 If the person attests to having or is determined to have an alcohol or substance use
9 disorder, the person shall be ordered to engage in a treatment plan or protocol: (i) with a mental
10 health clinic or alcohol or substance use disorder program licensed by the department of public
11 health under chapters 17, 111, 111B, or 111E; (ii) with a behavioral, alcohol use disorder,
12 substance use disorder, or mental health professional who is licensed under chapters 111J and

112 and accredited or certified to provide services consistent with law; (iii) with a primary care provider or mental health care provider prescribing medication for alcohol or substance use disorder; or (iv) that aligns with evidence-based practices described in the American Society of Addiction Medicine or the Substance Abuse and Mental Health Services Administration. If the person is engaged in such treatment plan or protocol, the court shall not modify such treatment plan or protocol or require the person to submit to additional drug or alcohol testing that is not required by the treatment plan or protocol.

A positive drug or alcohol test or other indicator of relapse shall not be considered a violation of the conditions of probation if the person: (i) is engaged in a treatment plan or protocol; (ii) is making reasonable efforts to receive treatment; (iii) is switching treatment plans or protocols voluntarily or at the direction of a treatment provider; (iv) is discharged from a treatment plan or protocol and transitioning into new a treatment plan or protocol; or (v) has completed a treatment plan or protocol and remains in compliance with all other conditions of probation.

If a person who has completed a treatment plan or protocol and remains subject to conditions of probation tests positive for drugs or alcohol or exhibits any other indicator of relapse, the person may again move the court to consider the person's treatment needs and, if necessary, the court may order further treatment consistent with this section.