SENATE DOCKET, NO. 2018 FILED ON: 1/20/2023

SENATE . . . . . No. 1252

The Commonwealth of Massachusetts

PRESENTED BY:

John F. Keenan

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 regarding consistent care for addiction rooted in evidence.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
John F. Keenan	*Norfolk and Plymouth*	
Ruth B. Balser	*12th Middlesex*	
Jason M. Lewis	*Fifth Middlesex*	*2/9/2023*

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SENATE . . . . . No. 1252

By Mr. Keenan, a petition (accompanied by bill, Senate, No. 1252) of John F. Keenan, Ruth B. Balser and Jason M. Lewis for legislation relative to consistent care for addiction rooted in evidence. Mental Health, Substance Use and Recovery.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. *1296* OF 2021-2022.]

The Commonwealth of Massachusetts

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

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:

SECTION 1. Section 1 of chapter 127 of the General Laws, as appearing in the 2020 Official Edition, is hereby amended by striking out the definition of "Medication-assisted treatment" and replacing it with the following definition:-

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

SECTION 2. Section 16 of said chapter 127 is amended by striking out in the second paragraph, in lines 13 and 14, the words “who is committed for a term of 30 days’ imprisonment or more.” and inserting in place thereof the following:-

within 24 hours of admission to the facility. Regardless of whether the individual was receiving medication for addiction treatment immediately prior to admission to the facility, the examination shall include an assessment for treatment with medication for addiction treatment.

SECTION 3. Said chapter 127 is further amended by striking out section 17B and replacing it with the following:-

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

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

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

be discontinued due to any disciplinary infraction. A detained, committed or incarcerated person may request medication for addiction treatment at any time during the incarceration, detention or commitment of such detained, committed or incarcerated person.

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

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

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

(f) Treatment established under this section shall include behavioral health counseling for individuals diagnosed with substance use disorder or substance use-related needs; provided, however, that counseling services shall be consistent with current therapeutic standards for these therapies in a community setting and shall not be a substitute for medication for addiction treatment. The commissioner and county sheriffs may make such treatment available by directly engaging qualified providers of substance use services, through collaboration with other agencies, and by utilizing volunteers from community recovery programs.

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

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

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

Not later than 120 days prior to the expected discharge date of a person detained, committed or incarcerated in a state prison or county facility, or within a reasonable timeframe if the length of incarceration, detention or commitment is less than 120 days, but in any event no less than 30 days prior to such expected discharge date, a qualified addiction specialist shall establish a medically appropriate re-entry treatment plan for the person. A re-entry treatment plan may include any treatment upon discharge that the qualified addiction specialist shall

recommend and deem appropriate, which may include, but shall not be limited to, any medication for addiction treatment. A re-entry treatment plan shall ensure that a detained, committed or incarcerated person is directly connected to an appropriate provider or treatment site in the geographic region in which the person shall reside upon release. A detained, committed or incarcerated person upon release shall receive information regarding treatment facilities in their area, information on available housing and employment resources, and any other information that will assist the individual as they continue their addiction recovery. The commissioner and county sheriffs shall further ensure that, for a person with a re-entry treatment plan under this section, the facility shall request reinstatement or apply for MassHealth benefits for the person at least 30 days prior to release or shall use best efforts to request such reinstatement of or apply for MassHealth benefits or other public assistance for the person within a reasonable timeframe if the person's sentence, detention or commitment is less than 30 days. Notwithstanding the foregoing, nothing in this section shall authorize a state prison or county facility to extend a person's sentence, detention or commitment to comply with this section. In the event the expected discharge date of a detained, committed or incarcerated person serving a sentence to a state prison or county facility is less than 30 days following the start date of said detained, committed or incarcerated person's sentence, detention or commitment, a qualified addiction specialist shall use best efforts to establish a medically appropriate treatment plan for the person prior to the expected discharge date.

SECTION 5. Said chapter 127 is hereby amended by striking out section 17D and replacing it with the following:-

(a) Every six months, on a schedule to be established by the department of public health, the commissioner and the administrator of each county correctional facility shall report, in a

format determined by the commissioner of public health, to the commissioner of public health, the house and senate committees on ways and means, the joint committee on mental health, substance use and recovery, the joint committee on public safety and homeland security and the joint committee on the judiciary the following information for the prior six months: (i) at the time of the report, the number of persons in the custody of the facility receiving each medication for addiction treatment, in total and disaggregated by dosage; (ii) the number of persons in the custody of the facility, in any status, who continued to receive the same medication for addiction treatment as they received prior to incarceration, detention or commitment, by medication type; (iii) the number of persons in the custody of the facility, in any status, who discontinued medication for addiction treatment that they received prior to incarceration, detention or commitment by medication type; (iv) the number of persons in the custody of the facility, in any status, who received a different medication for addiction treatment than they received prior to incarceration, detention or commitment, by medication type; (v) the number of persons in the custody of the facility, in any status, who received medication for addiction treatment who did not receive such treatment prior to incarceration, detention or commitment, by medication type; (vi) a summary of facility practices and any changes to those practices related to medication for addiction treatment; (vii) the number of persons who were connected to treatment after release; (viii) the number of nonfatal and fatal overdoses in the facility; (ix) the number of nonfatal and fatal overdoses within 1 year of release from the department of correction and each county facility, provided, however, that the commissioner, the sheriffs, and the commissioner of public health shall coordinate to provide such information; (x) the number of persons who received a re-entry treatment plan under section 17C and were subsequently enrolled in MassHealth upon discharge; provided, however, that the commissioner, the sheriffs, the commissioner of medical

assistance and the commissioner of public health shall coordinate to provide such information; and (xi) any other information requested by the commissioner of public health related to the provision of medication for addiction treatment.

(b) Every 2 years, not later than April 30, the commissioner of public health shall prepare a report, pursuant to section 237 of chapter 111, regarding outcomes for the treatment programs established under sections 17B and 17C to the house and senate committees on ways and means, the joint committee on mental health, substance use and recovery, the joint committee on public safety and homeland security and the joint committee on the judiciary. The department of correction and county correctional facilities shall provide, upon request from the commissioner of public health, information necessary to prepare the report. The report shall, to the extent possible, provide a comparison between the detained, committed and incarcerated persons who did not receive medication for addiction treatment and those who did, reported separately for each medication type, in order to determine the impact of the treatment programs on the following: (i) treatment retention after release; (ii) substance use after release; (iii) rates of recidivism; (iv) rates of nonfatal and fatal overdose; and (v) other outcome measures identified by the commissioner of public health.

SECTION 6. As soon as practicable, and in any event within 30 days of passage of this legislation, all state and county correctional facilities shall assess for treatment with medication for addiction treatment all detained, committed or incarcerated persons in their respective institutions who have substance use-related needs but who are not currently receiving medication for addiction treatment. Detained, committed or incarcerated persons for whom such medication is clinically indicated shall be offered such medication within 24 hours of such assessment, and

such medication shall be prescribed and provided in a manner consistent with the provisions of section 17B of chapter 127.

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