

HOUSE No. 5274

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, March 25, 2026.

The committee on Mental Health, Substance Use and Recovery, to whom was referred the petition (accompanied by bill, House, No. 2196) of Marjorie C. Decker, Mindy Domb and others relative to overdose deaths and access to treatment, reports recommending that the accompanying bill (House, No. 5274) ought to pass [Representatives Markey of Dartmouth, Xiarhos of Barnstable, Muradian of Grafton and Howitt of Seekonk dissent].

For the committee,

MINDY DOMB.

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**In the One Hundred and Ninety-Fourth General Court
(2025-2026)**

An Act relative to establishing protections for and ensuring access to harm reduction programming and services in the commonwealth.

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 34A½ of chapter 94C of the General Laws, as inserted by chapter
2 285 of the Acts of 2024, is hereby amended by inserting after the words “prior to” the following
3 words:- or after.

4 SECTION 2. Said section 34A½ of said chapter 94C, as so appearing, is hereby further
5 amended by inserting at the end thereof the following subsection:-

6 (d) A person acting in good faith and within the scope of such person’s role as an owner,
7 employee, intern, volunteer or third-party contractor of an entity which utilizes testing equipment
8 for the purposes of performing public health activities, as authorized by the department, related
9 to the identification and surveillance of chemicals, toxic substances or hazardous compounds
10 present in a controlled substance in the possession of another individual and exclusively for that
11 individual’s personal use shall not be: (i) charged or prosecuted pursuant to sections 32I, 34 or
12 40; or (ii) subject to any criminal or civil liability or any professional disciplinary action as a
13 result of any act or omission, related to the utilization of such testing equipment for the purpose

14 of conducting such public health activities; provided, however, that this paragraph shall not
15 apply to acts or omissions of gross negligence or willful or wanton misconduct.

16 SECTION 3. Chapter 111 of the General Laws is hereby amended by inserting after
17 section 215 the following section:-

18 Section 215A. (a) For the purposes of this section, the following words shall have the
19 following meanings unless the context clearly requires otherwise:

20 “Harm reduction program”, a department approved program or service that reduces the
21 adverse consequences of substance use, including related morbidity and mortality, seeks to
22 stabilize and improve the health of people who use substances and advances public health;
23 provided, that harm reduction programming or services provided by a harm reduction program
24 may include, but shall not be limited to: (1) the distribution of supplies and provision of services
25 that reduce substance use-related harms, morbidity and mortality, including, but not limited to,
26 needle exchange services, distribution of opioid antagonists and provision of educational
27 materials and information; (2) primary care, including disease prevention and health screenings;
28 (3) access or referral to evidence-based treatment options; (4) the provision of drug testing
29 services and use or distribution of testing equipment, as defined in section 34A½ of chapter 94C;
30 and (5) other social support services or activities deemed permissible by the department.

31 “Harm reduction program operators”, entities or individuals directly involved in the
32 operation, administration or staffing of a harm reduction program, including directors, board
33 members, consultants, health care providers, service providers, staff and volunteers. (b) The
34 department may authorize harm reduction programs in cities and towns. Prior to establishment of
35 a harm reduction program, approval shall be obtained from the board of health in the hosting city

36 or town. The city or town shall, in a manner determined by the department, provide notice of
37 such approval to the department. (c) Not later than 1 year after the establishment of a harm
38 reduction program under this section and by January 1 annually thereafter, the department shall
39 collect data and report on harm reduction programs in the commonwealth and any
40 recommendations by filing the same with the clerks of the senate and house of representatives,
41 the joint committee on mental health, substance use and recovery, the joint committee on public
42 health and the senate and house committees on ways and means. The report shall include, but
43 shall not be limited to, specific information on: (i) the number of participant visits and the
44 number of individuals served; (ii) if applicable, the number or quantity of harm reduction
45 supplies collected and distributed, including, but not limited to, hypodermic needles and
46 syringes; (iii) if applicable, drug testing services provided, the types of substances tested and
47 results, including, but not limited to, the presence of contaminants or other chemicals, for the
48 purpose of informing public health activities and surveillance and public safety efforts; (iv) the
49 number of referrals to behavioral health treatment or services, healthcare or other services and
50 other outcomes measures as determined by the department; (v) the number of calls to and
51 transports by emergency medical services or other first responders, if applicable; (vi) in
52 consultation with local law enforcement and public health departments, changes to the
53 prevalence of crimes or other public health and safety concerns in the vicinity of the program;
54 (vii) operating costs; (viii) staffing levels; (ix) staff experiences and perspectives; and (x) any
55 other information deemed relevant by the department. (d) Notwithstanding any general or special
56 law to the contrary, harm reduction program operators, individuals who access harm reduction
57 programming or services, owners, lessors and sub-lessors of property used for harm reduction
58 programs and state, county and municipal employees involved in approving or operating harm

59 reduction programs shall, for actions related to the approval or operation of, or participation in, a
60 harm reduction program, be immune from: (i) arrest, charge or prosecution, including for
61 attempting, aiding and abetting or conspiracy to commit a violation, pursuant to sections 32,
62 32A, 32B, 32C, 32D, 32E, 32I, 34, 40, 43 and 47 of chapter 94C and chapter 271A; (ii) seizure
63 or forfeiture of data, records, assets or property under state law; (iii) civil suit, liability or
64 damages alleged to have been sustained by an act or omission by a harm reduction program
65 operator in the course of providing harm reduction programming or services; (iv) denial of any
66 right or privilege; and (v) for health care providers, disciplinary action by a professional
67 licensing board, credentialing restriction, contractual liability, adverse employment action or
68 denial of any professional privilege; provided, however, that the immunity described in this
69 subsection shall apply only if the harm reduction program is approved by the department and
70 operates in good faith in accordance with this section and applicable department regulations.

71 (e) Entering, exiting or utilizing a harm reduction program shall not serve as the basis for,
72 or a fact contributing to the existence of, reasonable suspicion or probable cause to conduct a
73 search or seizure.

74 (f) The immunity provided under subsection (d) shall not apply: (i) if the damage was
75 caused by an act or omission constituting gross negligence or recklessness, conduct with an
76 intent to harm, discrimination based on race, ethnicity, national origin, religion, disability, sexual
77 orientation or gender identity, or conduct outside the scope of responsibility of a harm reduction
78 program operator, as determined by the department; (ii) to consumer protection actions brought
79 by the attorney general; (iii) to false claims actions brought by or on behalf of the
80 commonwealth; or (iv) to privacy violations.

81 (g) Notwithstanding any general law or special law to the contrary, a person or entity
82 providing harm reduction programming or services under this section and approved by the
83 department shall not be required to register their activities pursuant to section 7 of chapter 94C.

84 (h) The department shall promulgate regulations to implement this section.

85 SECTION 4. Section 193U of chapter 175 of the General Laws, as amended by section
86 23 of chapter 285 of the acts of 2024, is hereby amended by inserting after the words “harm
87 reduction program”, the following words:- , as defined in section 215A of chapter 111, a needle
88 exchange program pursuant to section 215 of said chapter 111.

89 SECTION 5. The department of public health shall promulgate regulations pursuant to
90 section 215A of chapter 111 of the General Laws not later than 120 days after the effective date
91 of this act. Said regulations shall include, but shall not be limited to, a process by which a
92 program currently authorized to operate in the commonwealth pursuant to section 215 of said
93 chapter 111 may continue operations under said sections 215 or 215A of said chapter 111.