

SENATE No. 1296

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: | |
|-----------------------|-------------------------------------|------------------|
| <i>John F. Keenan</i> | <i>Norfolk and Plymouth</i> | |
| <i>John C. Velis</i> | <i>Second Hampden and Hampshire</i> | <i>2/26/2021</i> |

SENATE No. 1296

By Mr. Keenan, a petition (accompanied by bill, Senate, No. 1296) of John F. Keenan and John C. Velis for legislation relative to consistent care for addiction rooted in evidence. Mental Health, Substance Use and Recovery.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Second General Court
(2021-2022)**

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:

1 SECTION 1. Section 1 of chapter 127 of the General Laws, as appearing in the 2018
2 Official Edition, is hereby amended by striking out the definition of “Medication-assisted
3 treatment” and replacing it with the following definition:-

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

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

14 within 24 hours of admission to the facility. Such examination shall include assessment
15 for treatment with medication for opioid use disorder, whether or not the individual was
16 receiving medication for opioid use disorder immediately prior to admission to the facility.

17 SECTION 3. Said chapter 127, as so appearing, is hereby further amended by striking out
18 section 17B and replacing it with the following:-

19 Section 17B. All correctional facilities, jails and houses of correction, in consultation
20 with the commissioner of public health, shall offer medication for opioid use disorder to a
21 detainee or prisoner, upon the recommendation of a qualified addiction specialist. All
22 correctional facilities, jails and houses of correction shall maintain or provide for the capacity to
23 possess, dispense and administer all medications approved by the federal Food and Drug
24 Administration for treatment of opioid use disorder; provided however, that such facilities shall
25 not be required to maintain or provide a medication that is not also a MassHealth covered
26 benefit.

27 The commissioner and county sheriffs shall ensure that each detainee or prisoner who
28 was receiving medication for opioid use disorder immediately preceding incarceration or
29 commitment continues to have such treatment available as soon as practicable, and in any event
30 within 24 hours of admission to the facility, unless such person voluntarily discontinues the
31 treatment or unless a qualified addiction specialist determines that maintaining the same
32 treatment is no longer clinically indicated. Each detainee or prisoner shall receive the same dose

33 of the same medication that the person was receiving before incarceration or detention, unless a
34 qualified addiction specialist determines, based on individual medical need, that a change in dose
35 or medication is clinically indicated.

36 The commissioner and county sheriffs shall ensure that each detainee or prisoner who
37 was not receiving medication for opioid use disorder immediately preceding incarceration or
38 commitment, and for whom medication for opioid use disorder is clinically indicated, shall be
39 offered such medication within 24 hours of the assessment required by section 16 of chapter 127.
40 The determinations of which medication to prescribe and the dosage shall be made based on
41 individual medical need. Detainees and prisoners shall be authorized to receive the medication
42 for as long as clinically indicated.

43 All state and county correctional facilities shall ensure access to a qualified addiction
44 specialist by a detainee or prisoner.

45 Treatment established under this section shall include behavioral health counseling for
46 individuals diagnosed with opioid use disorder; provided, however, that counseling services shall
47 be consistent with current therapeutic standards for these therapies in a community setting.

48 No incentives, rewards or punishments shall be used to encourage or discourage a
49 detainee's or prisoner's decision to receive medication for opioid use disorder, or any particular
50 such medication.

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

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

55 Not later than 120 days prior to the expected discharge date of a detainee or prisoner
56 serving a sentence to a state prison or county facility, a qualified addiction specialist shall
57 establish a medically appropriate re-entry treatment plan for the detainee or prisoner. A re-entry
58 treatment plan may include any treatment upon discharge that the qualified addiction specialist
59 shall recommend and deem appropriate, which may include, but shall not be limited to, all
60 medications approved by the federal Food and Drug Administration for use in treatment for
61 opioid use disorder. A re-entry treatment plan shall ensure that a detainee or prisoner is directly
62 connected to an appropriate provider or treatment site in the geographic region to which the
63 detainee or prisoner shall reside upon release. The commissioner and county sheriffs shall further
64 ensure that, for a detainee or prisoner with a re-entry treatment plan under this section, the
65 facility shall request reinstatement or apply for MassHealth benefits for the detainee or prisoner
66 at least 30 days prior to release.

67 SECTION 5. Said chapter 127, as so appearing, is hereby amended by striking out
68 section 17D and replacing it with the following:-

69 (a) Every six months, on a schedule to be established by the department of public health,
70 the commissioner and the administrator of each county correctional facility shall report, in a
71 format determined by the commissioner of public health, to the commissioner of public health,
72 the house and senate committees on ways and means, the joint committee on mental health,
73 substance use and recovery, the joint committee on public safety and homeland security and the
74 joint committee on the judiciary the following information for the prior six months: (i) at the

75 time of the report, the number of persons in the custody of the facility receiving each medication
76 for opioid use disorder, in total and disaggregated by dosage; (ii) the number of persons in the
77 custody of the facility, in any status, who continued to receive the same medication for opioid
78 use disorder as they received prior to incarceration, by medication type; (iii) the number of
79 persons in the custody of the facility, in any status, who discontinued medication for opioid use
80 disorder that they received prior to incarceration, by medication type; (iv) the number of persons
81 in the custody of the facility, in any status, who received a different medication for opioid use
82 disorder than they received prior to incarceration, by medication type; (v) the number of persons
83 in the custody of the facility, in any status, who received medication for opioid use disorder who
84 did not receive such treatment prior to incarceration, by medication type; (vi) a summary of
85 facility practices and any changes to those practices related to medication for opioid use disorder;
86 (vii) the number of persons who were connected to treatment after release; (viii) the number of
87 nonfatal and fatal overdoses in the facility; (ix) the number of nonfatal and fatal overdoses within
88 one year of release from the department of correction and each county facility, provided,
89 however, that the commissioner, the sheriffs, and the commissioner public health shall
90 coordinate to provide such information; (x) the number of persons who received a re-entry
91 treatment plan under section 17C and were subsequently enrolled in MassHealth upon discharge;
92 provided, however, that the commissioner, the sheriffs, the commissioner of medical assistance
93 and the commissioner of public health shall coordinate to provide such information; and (xi) any
94 other information requested by the commissioner of public health related to the provision of
95 medication for opioid use disorder.

96 (b) Every 2 years, not later than April 30, the commissioner of public health shall prepare
97 a report, pursuant to section 237 of chapter 111, regarding outcomes for the treatment programs

98 established under sections 17B and 17C to the house and senate committees on ways and means,
99 the joint committee on mental health, substance use and recovery, the joint committee on public
100 safety and homeland security and the joint committee on the judiciary. The department of
101 correction and county correctional facilities shall provide, upon request from the commissioner
102 of public health, information necessary to prepare the report. The report shall, to the extent
103 possible, provide a comparison between the detainees and prisoners who did not receive
104 medication for opioid use disorder and those who did, reported separately for each medication
105 type, in order to determine the impact of the treatment programs on the following: (i) treatment
106 retention after release; (ii) substance use and relapse after release; (iii) rates of recidivism; (iv)
107 rates of nonfatal and fatal overdose; and (v) other outcome measures identified by the
108 commissioner of public health.

109 SECTION 6. As soon as practicable, and in any event within 30 days of passage of this
110 legislation, all state and county correctional facilities shall assess for treatment with medication
111 for opioid use disorder all prisoners and detainees in their respective institutions who have been
112 diagnosed with opioid use disorder, but who are not currently receiving medication for opioid
113 use disorder. Prisoners or detainees for whom such medication is clinically indicated shall be
114 offered medication within 24 hours of such assessment, and such medication shall be prescribed
115 and provided in a manner consistent with the provisions of section 17B of chapter 127.

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