

SENATE No. 2927

The Commonwealth of Massachusetts

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

SENATE, August 8, 2024.

The committee on The Judiciary, to whom was referred the petitions (accompanied by bill, Senate, No. 982) of Cindy F. Friedman, Michael J. Barrett, Joanne M. Comerford, Sal N. DiDomenico and other members of the Senate for legislation relative to treatment, not imprisonment; and (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, report the accompanying bill (Senate, No. 2927).

For the committee,
James B. Eldridge

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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 2022
2 Official Edition, is hereby amended by inserting after the first paragraph the following 4
3 paragraphs:-

4 The court may, at any time or upon motion of a party, order a substance abuse assessment
5 of a person on probation and request probation provide a report on the person’s substance use
6 history, treatment needs and prior or current efforts to seek treatment to use as an aid in
7 determining whether the person has an alcohol or substance use disorder and needs treatment.

8 If, after evaluation, the court determines the person to have an alcohol or substance use
9 disorder, the person may be ordered to engage in a treatment plan or protocol determined by the
10 court to match their treatment needs which may include treatment: (i) with a mental health clinic
11 or alcohol or substance use disorder program licensed by the department of public health under
12 chapters 17, 111, 111B, or 111E; (ii) with a behavioral, alcohol use disorder, substance use
13 disorder, or mental health professional who is licensed under chapters 111J and 112 and

14 accredited or certified to provide services consistent with law; (iii) with a primary care provider
15 or mental health care provider prescribing medication for alcohol or substance use disorder; or
16 (iv) that aligns with evidence-based practices described in the American Society of Addiction
17 Medicine or the Substance Abuse and Mental Health Services Administration. A court shall,
18 when monitoring or modifying the person's conditions of probation, review and consider an
19 attestation by the treatment provider of the person's engagement in such treatment plan or
20 protocol.

21 The court shall, after a positive drug or alcohol test or other indicator of relapse occurs,
22 review and consider an attestation of the treatment provider that the person: (i) is sufficiently
23 engaged in, or taking reasonable effort to engage in a treatment plan or protocol to meet its
24 requirements for participation; (ii) is switching treatment plans or protocols at the direction of the
25 court or of a treatment provider; or (iii) has completed a treatment plan or protocol and remains
26 in compliance with all other conditions of probation.

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

31 Nothing included herein shall limit the court's ability to employ graduated probation
32 sanctions to enhance public safety outcomes for probationers and pretrial defendants who remain
33 in community settings.