



**Testimony submitted to the Joint Committee on the Judiciary  
In Support of H.1462/S.1035 An Act relative to treatment, not imprisonment  
By Nancy Bettinger and Lucy Costa, LWVMA Criminal Justice Reform Specialists  
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The League of Women Voters of Massachusetts (LWVMA) represents 47 local Leagues across the state, from Cape Cod to the Berkshires. We urge you to support H.1462/S.1035 and report it favorably out of committee. If passed, this bill would prohibit the courts from imposing incarceration for a substance use relapse while a person is on probation or awaiting trial, but would allow judges to order treatment.

Massachusetts courts have routinely required frequent drug tests as a condition of probation or pretrial release. People who suffer from substance use disorder and fail a drug test after a relapse can be sent to prison, even if they are actively working towards recovery. Further, the fear of incarceration prevents people from addressing relapse events openly with a health care provider. Sending people to prison for addiction is counter to the League of Women Voters' position supporting the exploration and utilization of alternatives to imprisonment (LWVUS 2020). This legislation would enable defendants to address relapse events with a health care provider without fear of incarceration.

The League believes that every U.S. resident should have access to affordable, quality in- and out-patient behavioral health care (for both mental illness and substance use disorder), including needed medications and supportive services (LWVUS 2020). Drug addiction is a treatable disorder that alters the brain in multiple ways and adversely affects behavior. These changes in brain structure and function can persist long after drug use is discontinued. Relapses are a normal part of the recovery process and can serve as warning signs that treatment should be resumed or adjusted (NIH 2018). It has been shown that therapeutic intervention after relapse works to help strengthen the recovery process, whereas re-incarceration disrupts ongoing treatment and progress toward long term recovery.

Incarceration as a consequence of a substance use relapse is counterproductive and dangerous. Addiction is prevalent among the incarcerated population, but few people receive evidence-based treatment while in custody. Without appropriate treatment, addiction persists while a person is in prison, but drug tolerance decreases with abstinence, leading to a very high risk of overdoses after release from incarceration. In a report issued September 15, 2016 concerning opioid deaths in 2013 and 2014, the Massachusetts Department of Public Health wrote: "the risk of an opioid-related overdose death following incarceration in Massachusetts is over 50 times higher than for the general public, with the highest risk of death in the month following release (DPH 2016)."

The Commonwealth has taken positive steps toward responding to substance use disorder with treatment, not imprisonment (EOHHS 2019, CSG 2021). The League of Women Voters of Massachusetts commends those efforts, and supports the development of community resources to support probation (LWVMA 2020). In practice, however, incarceration for relapses continues.



This legislation is urgently needed to ensure that community-based treatment options are consistently available to those who need them and the criminalization of addiction is halted.

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