

SENATE, No. 2197

AN ACT

TO EXPAND THE SCOPE OF THE COMMONWEALTH'S DRUG TREATMENT PROGRAM TO ALLOW FOR THE DIVERSION OF LOW-LEVEL OFFENDERS UNDER COURT SUPERVISION

Whereas, The deferred operation of this act would tend to defeat its purpose, which is forthwith to promote the public health and safety by providing effective treatment to individuals who abuse controlled substances (by increasing the availability of such treatment); therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

*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: Chapter 111E of the General Laws is hereby amended by striking out the
2 definition of “Drug dependent person” in lines 18 to 22, inclusive, of section 1, as
3 appearing in the 2000 Official Edition, and inserting in place thereof the following:—
4 “Drug dependent person”, a person, regardless of age, who is unable to function
5 effectively and whose inability to do so causes, or results from, the use of a drug other
6 than alcohol, tobacco or lawful beverages containing caffeine, and other than from a
7 medically prescribed drug when such drug is medically indicated and the intake is
8 proportioned to the medical need, or a person who is at risk of becoming drug dependent,
9 as defined herein.
- 10 SECTION 2. Said chapter 111E of the General Laws, as so appearing, is hereby further
11 amended by striking from section 10 the first paragraph and inserting in place thereof the

12 following:—

13 Any defendant who is charged with a drug offense shall, upon being brought before the
14 court on such charge, be informed that he is entitled to request an examination to
15 determine whether or not he is a drug dependent person who would benefit by treatment,
16 and that if he chooses to exercise such right he must do so in writing no less than five
17 days before trial.

18 SECTION 3. Said chapter 111E of the General Laws, as so appearing, is hereby further
19 amended by inserting at the end of the eighth paragraph in section 10 thereof the
20 following:—

21 provided, however, that, where the offense charged is that of a sale or sale to a minor, no
22 defendant may be assigned under this section unless that defendant is determined to be
23 drug dependent, not merely at risk of becoming drug dependent.

24 SECTION 4. Said chapter 111E of the General Laws, as so appearing, is hereby further
25 amended by striking from section 10 the last sentence and inserting in place thereof the
26 following:—

27 The provisions of this section shall not apply to a person charged with violating sections
28 thirty-two to thirty-two G, inclusive, of chapter ninety-four C of the General Laws;
29 provided, however, notwithstanding the provisions of section 32H of said chapter 94C or
30 any other law to the contrary, the provisions of this section shall apply to a person
31 charged with
32 a first or second offense of paragraph (a) of section 32 of chapter 94C or a first offense of
33 paragraph (b) of said section 32,
34 a first or second offense of paragraph (a) of section 32A of chapter 94C or a first offense

35 of paragraph (b) of said section 32A,
36 a first or second offense of paragraph (c) of section 32A of chapter 94C or a first offense
37 of paragraph (d) of said section 32A,
38 a first or second offense of paragraph (a) of section 32B of chapter 94C or a first offense
39 of paragraph (b) of said section 32B,
40 a first or second offense of paragraph (a) of section 32C of chapter 94C or a first offense
41 of paragraph (b) of said section 32C, and
42 a first or second offense of paragraph (a) of section 32D of chapter 94C or a first offense
43 of paragraph (b) of said section 32D.
44 SECTION 5. This act shall not apply to any convictions entered or sentences imposed
45 prior to the effective date of this act.

