Danna E. Mauch, PhD
President and CEO

Ambassador (ret.) Barry B. White
Chairperson of MAMH Board of Directors

November 8, 2021

The Honorable Julian Cyr
Chair, Joint Committee on Mental Health, Substance Use and Recovery
24 Beacon Street, Room 312-E
Boston, MA 02133

The Honorable Adrian Madaro
Chair, Joint Committee on Mental Health, Substance Use and Recovery
24 Beacon Street, Room 33
Boston, MA 02133

Submitted via MyLegislature

Dear Chair Cyr, Chair Madaro, and members of the Committee:

Re: S. 1285 - An Act ensuring access to addiction services and H. 2066 - An Act ensuring access to addiction services

On behalf of the Massachusetts Association for Mental Health (MAMH), thank you for strong and steadfast leadership in advancing the health of people with behavioral health conditions and their families across the Commonwealth. I am writing to respectfully submit this testimony in support of **S. 1285** - **An Act ensuring access to addiction services and H. 2066 - An Act ensuring access to addiction services**. These bills will help ensure that individuals with substance use conditions will be able to access voluntary treatment services, without the stigma and coercion inherent in the provision of such services in carceral settings.

Formed over a century ago, MAMH is dedicated to promoting mental health and well-being, while preventing behavioral health conditions and associated disability. We are committed to advancing prevention, early intervention, effective treatment, and research for people of all ages. We seek to eliminate stigma and discrimination and advance full inclusion in all aspects of community life. This includes discrimination affecting not only people with behavioral health conditions, but also people who face unequal burdens and barriers to the protections and benefits of citizenship due to their race, ethnicity, gender identity, or disability status. MAMH has a demonstrated track record of furthering its mission by convening stakeholders across the behavioral health and public health communities; disseminating emerging knowledge; and

providing subject matter expertise to inform public policy, service delivery, and payment methodologies.

These bills would amend Section 35 of Chapter 123 to ensure that individuals who are involuntarily committed for substance use treatment are housed and treated in "a secure facility licensed or approved by the department of public health or the department of mental health, which is not a jail or correctional facility." S.1285 has additional provisions to ensure a geographical distribution of treatment facilities across the state and to clarify that a person could still be committed for treatment to a correctional facility should they have a concurrent commitment pursuant to an order in a criminal matter, if that facility could provide appropriate, evidence-based treatment. S. 1285 also includes a reporting requirement for DOC regarding section 35 commitments. These provisions further reinforce the strong central requirement of the two bills to treat people with substance use disorders in licensed treatment facilities, not carceral facilities.

To treat people facing a substance use crisis with compassion and consistent with best practices, the Legislature should move section 35 services fully out of the correctional system to within the public health sphere. The evidence strongly suggests that this is the appropriate way to deliver these services.

First, treating people in secure, DPH or DMH licensed facilities is less coercive than serving them in jails or prisons and substance use recovery is more likely with voluntary treatment. In general, voluntary treatment yields better results than coerced therapy.[1] While court-ordered substance use treatment involves some level of coercion, the lower the overall perceived coercion, the more likely the treatment is to promote recovery.[2]

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[1] K.K. Parhar et al., Offender Coercion in Treatment: A Meta-Analysis of Effectiveness. Crim Justice Behav. (2008), http://dx.doi.org/10.1177/0093854808320169; D. Werb et al. The effectiveness of compulsory drug treatment: A systematic review. Int J Drug Policy (2016) http://dx.doi.org/10.1016/j.drugpo.2015.12.005

[2] See A. Opsal et al., Perceived coercion to enter treatment among involuntarily and voluntarily admitted patients with substance use disorders, BMC Health Services Research (2016) https://link.springer.com/article/10.1186/s12913-016-1906-4#Sec11(even when an admission is coercive, increased collaboration with the patient can facilitate a better experience and a better process towards recovery); B. Habermeyer et al., Coercion in substance use disorders: clinical course of compulsory admissions in a Swiss psychiatric hospital, Swiss Medical Weekly (2018) https://smw.ch/article/doi/smw.2018.14644/ (patients involuntarily admitted for SU treatment showed lower health and social functioning compared with those with voluntary status; length of stay was significantly shorter and the proportion of patients who left treatment against recommendation was twice as high as in voluntarily admitted patients; if treatment was initiated on a compulsory basis, a subsequent switch to voluntary treatment status appeared to be very uncommon); A. Theodoridou et al., Therapeutic relationship in the context of perceived coercion in a psychiatric population. Psychiatry Res. (2012),

Second, treating people in DPH or DMH facilities is less traumatizing than serving them in correctional settings. People with substance use disorders are often found to have a history of trauma.[3] As one researcher explained, the "repetitious aspects of drug dependence are intimately linked to the effects of early-life trauma on subsequent affect and personality development."[4] To treat such individuals in carceral settings only augments the level of trauma they already experience as evidence clearly indicates the inherently traumatic nature of such settings.[5] For these reasons, practitioners advise attention to the potential for the replication of traumatic conditions in correctional treatment.[6]

Third, this bill would help reduce the additional stigma encountered by people with substance use disorders that being placed in a correctional setting likely imposes. Researchers have documented the stigmatizing impact of correctional stays and how that stigma is "inscribed on the body" upon release.[7] Given the existing stigma of having a substance use disorder, it is simply cruel to add to that burden. This risks of enduring "intersectional stigma" in the prison context have been documented.[8]

Fourth, by ensuring that people who enter the section 35 process will be placed in treatment settings outside jails and prisons, this bill should make it more likely that families can comfortably consider the section 35 process if they have exhausted other avenues for helping

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http://dx.doi.org/10.1016/j.psychres.2012.04.012 (it is a widely accepted fact that coercion has a negative effect on the therapeutic relationship).

[3] See, e.g., A. Sisselman-Borgia, Comorbid Trauma and Substance Use Disorders (2018), https://link.springer.com/chapter/10.1007/978-3-319-72778-3_7.

[4] E. Khantzian, The Self-Medication Hypothesis of Substance Use Disorders: A Reconsideration and Recent Applications, Harv. Rev. Psychiatry (1997), https://sci-hub.se/10.3109/10673229709030550.

[5] See J.S. Levenson & G.M. Willis (Implementing Trauma-Informed Care in Correctional Treatment and Supervision, Journal of Aggression, Maltreatment & Trauma (2019), https://sci-hub.se/10.1080/10926771.2018.1531959 at 482 ("[c]orrectional mandates and court-ordered services can be disempowering and oppressive, replicating traumagenic childhood conditions"; see also discussion at 485-87).

[6] Id. at 484-85.

[7] See D. Moran, Prisoner reintegration and the stigma of prison time inscribed on the body, Punishment and Society (2012) (the vast literature on prisoner reintegration shows that overcoming the stigma attached to imprisonment is one of the key, interconnected, issues) https://sci-hub.se/https://doi.org/10.1177/1462474512464008, at 567.

[8] See J.M. Kilty, 'I just wanted them to *see* me': Intersectional stigma and the health consequences of segregating Black, HIV+ transwomen in prison in the US state of Georgia, Gender, Place & Culture (2020), https://sci-hub.se/https://www.tandfonline.com/doi/abs/10.1080/0966369X.2020.1781795. While this study addresses the intersectionality of stigma other than that caused by incarceration itself, the potential for harm from the joint stigmas of substance use and incarceration is also worthy of consideration.

their loved ones. Families may worry about the conditions that their loved one may face in jail or prisons. They may also justifiably worry that their loved ones will become suicidal at the prospect of incarceration.[9]

Fifth, this bill rectifies the current discriminatory arrangement where, pursuant to state law, women are treated for substance use disorders in treatment facilities, but men may still potentially receive section 35 services in correctional settings.[10] The bills also may redress patterns of racial bias in the treatment of people with substance use disorders in correctional settings.[11]

For all these reasons, MAMH urges you to report these bills out favorably.

Thank you for your consideration.

Sincerely,

Danna Mauch, Ph.D.
President and CEO

c: Sen. Cindy Friedman
Rep. Ruth Balser

[9] See D. Becker, Prison for Forced Addiction Treatment? A Parent's "Last Resort" Has Consequences (April 20, 2019), WBUR, https://www.npr.org/sections/health-shots/2019/04/20/712290717/prison-for-forced-addiction-treatment-a-parents-last-resort-has-consequences

[10] M.G.L. c. 123, s. 35.

[11] See E.M. Errison, An historical review of racial bias in prison-based substance abuse treatment design, Journal of Offender Rehabilitation (2017) ("History demonstrates that the extent to which the law seeks to medicalize or penalize substance abuse is not a colorblind phenomenon." "Prison-based [drug rehabilitation] programs have always better served the needs and social contexts of White addicts, more so than those of their counterparts of color."), https://sci-hub.se/https://doi.org/10.1080/10509674.2017.1363114 at 2, 7.