

SENATE No. 1095

The Commonwealth of Massachusetts

PRESENTED BY:

Patrick M. O'Connor

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 relative to drug induced homicide.

PETITION OF:

| NAME: | DISTRICT/ADDRESS: | |
|-------------------------------|-----------------------------------|------------------|
| <i>Patrick M. O'Connor</i> | <i>First Plymouth and Norfolk</i> | |
| <i>Steven George Xiarhos</i> | <i>5th Barnstable</i> | <i>1/26/2023</i> |
| <i>Patrick Joseph Kearney</i> | <i>4th Plymouth</i> | <i>2/16/2023</i> |

SENATE No. 1095

By Mr. O'Connor, a petition (accompanied by bill, Senate, No. 1095) of Patrick M. O'Connor, Steven George Xiarhos and Patrick Joseph Kearney for legislation relative to drug induced homicide. The Judiciary.

The Commonwealth of Massachusetts

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

An Act relative to drug induced homicide.

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. Any person while in the course of trafficking or unlawfully distributing a
2 Class A controlled substance, as defined in Section 31 of Chapter 94C, who knowingly or
3 intentionally manufactures, distributes, dispenses, delivers, or provides any amount of a Class A
4 controlled substance or counterfeit substance which results in death shall be punished for a term
5 up to life in prison.

6 SECTION 2. Any person who, in good faith, without malice and in the absence of
7 evidence of an intent to defraud seeks medical assistance for someone experiencing a Class A
8 controlled substance overdose as defined in Section 34A of Chapter 94C shall not be charged or
9 prosecuted for a violation of Section 1.

10 SECTION 3.

11 (A) Notwithstanding any general or special law to the contrary, there is hereby
12 established a permanent commission to oversee the effectiveness of drug induced homicide laws

13 and review every drug induced homicide conviction in the Commonwealth of Massachusetts.
14 The commission shall investigate and collect data to ensure there is no prejudice in charging or
15 sentencing individuals who violate drug induced homicide laws, that prosecutors are providing
16 treatment first options for individuals suffering from substance use disorder, and that sentencing
17 is based on the judge's discretion on a case-by-case basis and that there is no minimum
18 mandatory sentence for drug induced homicide.

19 (B) The commission shall consist of the secretary of public safety or a designee; the
20 Chief Justice of the Trial court or a designee; the President of the Massachusetts District
21 Attorney's Association of a designee; the President of the Massachusetts Bar Association or a
22 designee; the Colonel of the Massachusetts State Police or a designee; the President of the
23 Massachusetts Police Chiefs Association of a designee; 1 member of the house of representatives
24 appointed by the speaker of the house of representatives; 1 member of the senate appointed by
25 the senate president; 1 member of the house of representatives appointed by the minority leader
26 of the house of representatives; 1 member of the senate appointed by the senate minority leader;
27 1 member appointed by the Attorney General; and 3 members appointed by the governor, 1 of
28 whom shall be a whom shall be an individual with expertise in substance use and recovery, 1 of
29 whom shall be an individual with expertise in racial justice, and 1 of whom shall be an individual
30 with expertise in law enforcement.

31 (C) The commission shall be established no less than 90 days after passage of this act.
32 The Commission shall convene every 120 days and present a report and recommendations for
33 charges to improve drug induced homicide law with the governor, attorney general, the clerks of
34 the house and senate, the house and senate chairs of the joint committee on judiciary, and the

35 Massachusetts District Attorney's Association no later than 365 days following the passage of
36 this act.

37 (D) Annually, The Commission shall, not later than June 30, reassess and report on drug
38 induced homicide laws and any policy recommendations to the governor, attorney general, the
39 clerks of the house and senate, the joint committee on judiciary, and the Massachusetts District
40 Attorney's Association.

41 (E) Appointed members shall serve terms of 2 years and until their successors are
42 appointed, or the member is reappointed by their appointing or nominating authority. Vacancies
43 in the membership of the commission shall be filled by the original appointing authority for the
44 balance of the unexpired term.