
Following Civil Rights Lawsuit, State Lawmakers Act to Address Decades-Long Practice of Imprisoning Women Suffering From Addiction

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Responding to a class action lawsuit filed in 2014 by a coalition of groups—the [American Civil Liberties Union of Massachusetts](#), [Prisoners' Legal Services](#), the [Center for Public Representation](#) and WilmerHale—the Massachusetts legislature today passed and laid before the Governor a measure reforming a state civil commitment law under which women suffering from drug or alcohol addiction had been imprisoned without treatment at MCI-Framingham. Massachusetts is the only state in the nation that incarcerates people suffering from addiction who have not been convicted of crimes; the ongoing lawsuit, *Doe v. Baker*, alleges that this practice violates due process and discriminates based on disability.

"We are glad that our lawsuit has led to the passage of this bill," said ACLU of Massachusetts staff attorney Jessie Rossman. "No one should go to prison for suffering from addiction. It's unconstitutional and it reduces the chances for successful rehabilitation."

"Sending addicts to prison is like pouring gasoline on a fire," said Kellie Fitzgerald, a class member who was incarcerated at MCI Framingham under Section 35 this fall.

Under a law known as Section 35, an alcoholic or substance abuser can be civilly committed to a treatment facility if her addiction risks "serious harm." But if "suitable facilities" are unavailable, the law has authorized men or women to be sent to prison.

"We welcome this legislation, but remain concerned and vigilant about other aspects of proposals to deal with opioid addiction in Massachusetts," said Whitney Taylor, political director of the ACLU of Massachusetts. "We must stop depending on the criminal justice system to deal with addiction. The end goal should be treatment on demand in the community and treatment availability in correctional settings when individuals have been convicted of non-addiction-related crimes."

In the past several years, hundreds of civilly committed women have been sent to MCI-Framingham under Section 35. The legislation passed today addresses women, but not men, who are imprisoned under Section 35.

"We're pleased the Governor is going to stop sending women to MCI-Framingham because they have a substance use disorder. But it is also time to end the practice of placing men at MCI-Bridgewater solely because of their addiction. No one should be locked up in prison for a disease," said James Pingeon of Prisoners' Legal Services.

At MCI-Framingham, women committed solely under Section 35 are, in many respects, treated worse than convicted prisoners. Like other prisoners, they are strip-searched, subjected to body-cavity inspections and deprived of their personal possessions and dignity. But unlike other prisoners, they cannot go to the prison chapel or make use of exercise equipment and other indoor facilities open to the prisoners, except for limited use of the prison library. In fact, civilly committed women at MCI-Framingham cannot even access the addiction treatment programs available to sentenced prisoners.

Today's legislation also follows more than two decades of efforts by civil rights groups, including prior litigation, to end the practice of imprisoning people suffering from addiction in Massachusetts.

"In 1990, our office signed a settlement agreement with the state to limit admissions of women with addictions to prison. When the settlement was over, the state reverted to the discredited practice of overusing Framingham. A new lawsuit was the only possible response. Finally, after 25 long years, the problem is being addressed," Robert Fleischner of the Center for Public Representation said.

For more information about *Doe v. Baker*, the challenge to the imprisonment of women with drug addiction, go to:

<https://aclum.org/cases-briefs/doe-v-baker-formerly-doe-v-patrick/>

For more information about House Bill 3956, go to:

<https://malegislature.gov/Bills/189/House/H3956>