

By Mr. Flaherty of Boston, petition of Michael F. Flaherty for legislation to insure the ability of a defendant in a drug case to make rational decisions relative to his own welfare when appearing in court. The Judiciary.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Seventy-Four.

AN ACT TO INSURE A DRUG DEFENDANT'S ABILITY TO MAKE RATIONAL DECISIONS RELATIVE TO HIS OWN WELFARE WHEN APPEARING IN COURT.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 Chapter 123 of the General Laws is hereby amended by
2 inserting after section 46, the following section: —

3 *Section 46A.* Any defendant in a criminal proceeding who,
4 upon his appearance in court, appears to be under the influence
5 of a drug as defined in chapter 94C, schedules one through six,
6 classes A through E, to such an extent that the court believes the
7 defendant to be incapable of making rational decisions con-
8 cerning his own welfare, may be committed to an institution
9 under the jurisdiction of the department for a period not to
10 exceed five court days for detoxification. The court shall give
11 written notice to the administrator of the facility of its reasons
12 for ordering the commitment. The commissioner shall designate
13 to which institutions under the jurisdiction of the department
14 such commitments may be made. If, at the conclusion of said
15 commitment, the court finds that the defendant is still incapable
16 of making rational decisions relative to his own welfare, the court
17 may order a renewal of said commitment for a period of up to
18 but not exceeding ten court days.

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