

By Mr. Brett of Boston, petition of James T. Brett and other members of the General Court relative to the care and protection of certain pregnant women. Human Services and Elderly Affairs.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Ninety-One.

AN ACT RELATIVE TO THE CARE AND PROTECTION OF CERTAIN PREGNANT WOMEN.

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. Section 51A of chapter 119 of the General Laws
2 is hereby amended by inserting after the word "birth", in line 16,
3 as appearing in the 1988 Official Edition, the words: — or a
4 pregnant woman who is determined to be dependent upon a
5 controlled substance.

1 SECTION 2. The third paragraph of said section 51A of said
2 chapter, as so appearing, is hereby amended by adding the
3 following sentence: — A pregnant woman dependent upon a
4 controlled substance who reports herself pursuant to this section
5 shall not be held liable in a criminal or civil action.

1 SECTION 3. Section 51B of said chapter, as most recently
2 amended by chapter 560 of the acts of 1989, is hereby further
3 amended by inserting, after clause (3), the following clause: —

4 (3A) in the case of a pregnant woman reported to be dependent
5 on a controlled substance, investigate and evaluate the
6 information reported under section fifty-one A. Said investigation
7 and evaluation shall commence within two working days of initial
8 contact and be completed within ten calendar days.

9 The investigation shall include a home visit at which the
10 pregnant woman is viewed and evaluated to determine whether
11 the allegations that she is dependent on a controlled substance
12 are verified. The investigation will include an assessment of the

13 gestational age of the fetus. Such determinations and evaluations
14 shall be in writing.

15 If it is determined that the mother is dependent on a controlled
16 substance but the gestational age is less than twenty-four weeks,
17 the department shall offer in-patient drug rehabilitation or such
18 out-patient treatment as is deemed appropriate. If the woman
19 refuses treatment, either expressly or by not accepting treatment
20 within three days of the request, the department shall make every
21 attempt to offer services on a continuing basis until such time as
22 the fetus reaches a gestational age of twenty-four weeks.

23 If it is determined that the mother is dependent on a controlled
24 substance and the gestational age is at least twenty-four weeks,
25 the department shall offer in-patient drug rehabilitation or such
26 out-patient treatment as deemed appropriate. If the woman
27 refuses treatment, either expressly or by not allowing treatment
28 within three days of the request, the department or any person
29 may file a petition requesting an appropriate order with reference
30 to the care and protection of the fetus.

31 In the event that a drug dependent mother whose fetus is the
32 subject of the petition shall refuse such treatment, the department
33 shall immediately provide in-patient drug treatment in a staff
34 secure facility or such other treatment as is deemed appropriate.

35 Nothing hereunder shall violate a mother's rights under c.112
36 or any other chapter under the general laws;