

By Mr. Coon of Andover (by request), petition of Joyce E. Young relative to the penalty for the unlawful use of controlled substances during pregnancy. Criminal Justice.

The Commonwealth of Massachusetts

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

AN ACT RELATIVE TO THE UNLAWFUL USE OF CONTROLLED SUBSTANCES DURING PREGNANCY.

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. Chapter 94C of the General Laws is hereby
2 amended by inserting after section 32K the following section: —

3 Section 32L. Any person who gives birth to a child who is drug
4 addicted or develops drug related handicaps or impairments due
5 to such person's unlawful use of controlled substances shall be
6 imprisoned for not less than three years and not more than fifteen
7 years. No sentence imposed under this section shall be for less than
8 a mandatory term of imprisonment of three years.

1 SECTION 2. Chapter 111 of the General Laws is hereby
2 amended by adding the following section: —

3 Section 215. (a) Any person who is pregnant and known to be
4 a person who unlawfully uses drugs shall be confined to an
5 inpatient drug rehabilitation facility during the pregnancy;
6 provided, however, that such person shall receive appropriate
7 medical care. Upon the birth of a child to such person, the child
8 shall promptly be placed in foster care and shall be eligible for
9 adoption at the expiration of eighteen months if the mother is not
10 rehabilitated.

11 (b) For a period of eighteen months after the birth of a child,
12 such person shall: (1) participate in an outpatient drug
13 rehabilitation program which shall require drug screening every
14 twenty-four hours; (2) perform fifteen hundred hours of

15 community service; and (3) have birth control devices implanted
16 and checked every twenty-four hours.

17 (c) If the child of such person is born addicted to drugs or
18 develops drug related handicaps or impairments, such child shall
19 immediately be eligible for adoption and such person shall be: (1)
20 prosecuted under the provisions of section thirty-two L of chapter
21 ninety-four C; (2) required to be screened for drugs every twenty-
22 hour hours for a period of four years; and (3) required to have
23 birth control devices implanted for a period of five years and
24 checked every twenty-four hours.

25 (d) If the child of such person dies due to drug related problems
26 such person shall be prosecuted for involuntary manslaughter;
27 provided, however, that no sentence imposed herein shall be for
28 less than a mandatory minimum term of imprisonment of five
29 years; and provided, further, such person shall undergo a tubal
30 ligation.

31 (e) The department shall promulgate regulations to implement
32 the provisions of this section.