



MASSACHUSETTS MEDICAL SOCIETY

Every physician matters, each patient counts.

**TESTIMONY IN SUPPORT OF H.1759/S.1047
AN ACT ESTABLISHING MEDICAL CIVIL RIGHTS
BEFORE THE JOINT COMMITTEE ON JUDICIARY
JULY 25, 2023**

The Massachusetts Medical Society (MMS) wishes to be recorded in support of H.1759/S.1047, *An Act establishing medical civil rights.*

The MMS is a professional association of over 25,000 physicians, residents, and medical students across all clinical disciplines, organizations, and practice settings. The Medical Society is committed to advocating on behalf of patients for a better health care system, and on behalf of physicians, to help them to provide the best care possible. The Medical Society believes that health care is a human right and supports policies that facilitate greater access to medical services for persons in any situation that presents barriers to accessing health care.

H.1759/S.1047 would establish a right to prompt access to emergency medical services for persons experiencing a medical emergency who are in contact with, or under the custody or control of law enforcement. We are fortunate that such access is commonplace across police encounters in Massachusetts, as evidenced by the close relationships many police departments have with EMS and local hospitals. While many police departments have policies to promote access to emergency medical services during law enforcement encounters, the Medical Society believes this legislation is prudent for the following reasons. First, while there are legal rights to basic medical care for persons who are incarcerated, these Constitutional protections have never been applied to situations prior to formal arrest when a person similarly does not feel that they have an opportunity to leave the situation. Legislation could clearly and unambiguously establish a right to medical services when a person is in contact with, or under the custody or control of law enforcement to address this legal gap. Second, even if there are internal police department policies or regulations promoting medical access, having a codified right could encourage persons experiencing or observing a medical emergency to request necessary help. Third, while many policies address the broad issue of medical assessment, this legislation would ensure that the assessment is prompt and is provided by a trained emergency medical professional. In a time when much is asked of law enforcement, this could help delineate a helpful line of responsibility to ensure that assessment and triaging is done by appropriate medical personnel. Fourth, codifying this best practice

into law can help ensure consistency in application across all racial and ethics demographics. Fifth, this legislation would ensure law enforcement officers understand their duty to request assistance when they observe a medical emergency being experienced by a person with whom they are in contact or have in their custody or control. Codifying this duty into law is particularly important for addressing situations where law enforcement may be interacting with an incapacitated individual who is unable to request emergency medical assistance.

Importantly, this legislation is drafted with a public health orientation: it does not distinguish the cause or type of medical emergency. It is designed to assure a right to health care for a person who is under the custody or control of law enforcement and is experiencing a mental health crisis or a physical emergency, regardless of whether the medical emergency is caused by or related to the police encounter. The legislation is designed to incorporate a “reasonableness” standard into the determinations of whether a person is experiencing a medical emergency to acknowledge the complexities of day-to-day policing. The Medical Society supports this legislation because people deserve to have a right to appropriate emergency medical services when they do not have the ability to seek those services on their own accord.

While the typical anticipated application of this new medical civil right would be in the frequent police encounters where a person may be experiencing a mental health or substance use-related emergency best addressed with the involvement of medical professionals, the reality of policing in the United States is that police encounters can lead to injury, and that significant racial disparities exist in police-related injury and death. This has led to many calls for a public health response to police violence. The Medical Society supports this legislation as a first step in such a response.

MMS believes the right to emergency medical services should be extended through this legislation to situations where a person is in the custody or control of law enforcement but not yet arrested or detained. We see this as a public health and racial justice imperative. MMS looks forward to further engagement with the legislature and the law enforcement community to discuss this and other important matters related to emergency care and behavioral health and substance use response.

For these reasons, the Medical Society respectfully urges a favorable report on H.1759/S.1047, *An Act Establishing Medical Civil Rights*. Thank you for your consideration.