

HOUSE No.

The Commonwealth of Massachusetts

PRESENTED BY:

Bradley H. Jones, Jr.

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act establishing mandatory post release supervision in the Commonwealth.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Viriato Manuel deMacedo	1st Plymouth
Bradley H. Jones, Jr.	20th Middlesex
George N. Peterson, Jr.	9th Worcester
Elizabeth Poirier	14th Bristol

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 1515 OF 2007-2008.]

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT ESTABLISHING MANDATORY POST RELEASE SUPERVISION IN THE COMMONWEALTH.

*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 5 of chapter 27, as appearing in the 2006 Official Edition, is hereby
2 amended by adding the following at the end of the last sentence of the first paragraph:—

3 The parole board shall administer and oversee mandatory post-release supervision functions as
4 set forth in section 133D of chapter 127 and chapter 127A.

5 SECTION 2. The General Laws, as so appearing, are hereby further amended by inserting after
6 chapter 127 the following chapter:—

7 CHAPTER 127A.

8 MANDATORY POST-RELEASE SUPERVISION.

9 Section 1. All sentences to incarceration in a house of correction, jail or state prison shall include
10 a period of post-release supervision, excluding those for whom parole eligibility is determined by
11 section 133A of chapter 127. Except as provided in this chapter, for individuals who complete
12 the incarceration portion of their sentences without supervised release or are re-incarcerated for
13 the remainder of the sentence for violating the terms of parole or probation, the period of
14 mandatory post-release supervision shall be 25 percent of the maximum term of incarceration
15 imposed at sentencing but in no case shall be less than nine months. Where an individual is
16 sentenced to incarceration on multiple offenses, the greater of the maximum terms imposed at

17 sentencing shall be used to calculate the mandatory post-release supervision period. Mandatory
18 post-release supervision as established in this chapter shall not be imposed upon any individual
19 who successfully completes a period of probation imposed by a court at sentencing, upon an
20 individual who is granted a parole permit under chapter 127 and successfully completes a period
21 of parole supervision, or upon an individual sentenced to lifetime community parole under the
22 provisions of section 45 of chapter 265 and section 133D of chapter 127. An individual subject
23 to the provisions of this chapter may be supervised in another jurisdiction in accordance with
24 sections 151A through 151L of chapter 127 and shall be considered on parole for the purposes of
25 supervision.

26 Section 2. Upon release, an individual sentenced to a term of incarceration for not more than one
27 year in a house of corrections or jail shall be subject to the supervision and jurisdiction of the
28 office of the commissioner of probation during the period of mandatory post-release supervision.
29 Upon release, an individual sentenced to a term of incarceration in a house of corrections or jail
30 for more than one year, or in a state prison for any length of time shall be subject to the
31 supervision and jurisdiction of the parole board during the period of mandatory post-release
32 supervision. All persons under such supervision of the office of the commissioner of probation
33 shall be subject to the provisions of law, rules and regulations governing probation. All persons
34 under such supervision of the parole board shall be subject to the provisions of law, rules and
35 regulations governing parole. The commissioner of probation and the chairman of the parole
36 board shall establish uniform regulations for post-release supervision consistent with applicable
37 provisions of chapter 127 and chapter 276. Nothing in this section or within said regulations shall
38 limit the authority of the superior, municipal, district or juvenile court to impose conditions of
39 probation supervision to protect the public or promote the rehabilitation of any person.

40 Section 3. An individual subject to mandatory post-release supervision and who has successfully
41 completed 9 months of supervision shall be eligible for early termination of such supervision. In
42 the case of a person under the supervision of the office of the commissioner of probation, early
43 termination may only occur upon an order of a court of competent jurisdiction. In the case of a
44 person under the supervision of the parole board, early termination may only occur in accordance
45 with procedure to be promulgated in the regulations of the parole board. In all proceedings under
46 this section, the uniform criteria for early termination of mandatory post-release supervision shall
47 be established jointly by the commissioner of probation and the chairman of the parole board and
48 shall include, but not be limited to, the amount of time the individual has successfully spent
49 under post-release supervision, success in finding permanent employment, success in
50 establishing adequate housing, completing all counseling or substance abuse treatment programs
51 and successful passing of all mandated post-release testing programs.

52 Section 4. An individual who violates a condition of mandatory post-release supervision shall be
53 subject to the provisions of this section and subject to modification or revocation proceedings
54 initiated by the agency responsible for the violator's supervision. The laws and judicial rules
55 governing probation violation proceedings shall govern such modification or revocation

56 proceedings for an individual subject to the jurisdiction of the office of the commissioner of
57 probation. The laws and regulations governing parole violation proceedings shall govern such
58 modification or revocation proceedings for an individual subject to the jurisdiction of the parole
59 board. In all proceedings under this section, upon a violation, the individual may be placed under
60 increased supervision, subjected to other conditions and intermediate sanctions, or incarcerated
61 for not more than the maximum remaining period of post-release supervision or the remaining
62 unserved portion of the sentence, whichever is greater, if such violation does not otherwise
63 constitute a criminal offense. In all cases where the individual is not being incarcerated for a
64 violation, such individual shall participate in an intermediate sanction through the office of
65 community corrections as established in chapter 211F, the level of which is to be determined by
66 the commissioner of probation or the chairman of the parole board, whoever has supervision
67 authority over the individual. In the case of any violation for use of controlled substances or an
68 offense for operating under the influence of drugs or alcohol, the period of mandatory post-
69 release supervision shall be extended to accommodate an appropriate substance abuse program,
70 but the total shall not exceed the maximum supervisory period permitted by section 1 of chapter
71 127A. For any violation of the conditions of mandatory post-release supervision, the period of
72 supervision shall be stayed during a period of incarceration and it shall be resumed upon release.
73 If such violation constitutes a criminal offense, said period of incarceration shall be served on
74 and after any sentence received as a result of the new offense. Upon subsequent release, the
75 greater of the maximum sentences of the original offense and subsequent offense shall be used to
76 calculate the new mandatory post-release supervision period.

77 Section 5. All mandatory post-release supervision shall be deemed completed if any of the
78 following conditions are met: except as provided in section 4 of this chapter, the individual
79 serves a post-release supervision period of 25 percent of the maximum term of incarceration
80 imposed at sentencing, or nine months, whichever is greater; the individual is granted early
81 termination under section 3 of this chapter; or if upon completion of the sentence, the individual
82 is immediately committed to the custody of any other state to serve a period of incarceration
83 greater than or equal to the post-release supervision period required under this chapter; or if upon
84 completion of the sentence, the individual is immediately committed to the custody of any
85 federal or immigration authority. Mandatory post-release supervision shall be stayed for any
86 period an individual is in custody pursuant to any order of custody under chapter 123A.

87 Section 6. Where any provision of this chapter or the application thereof to any person or
88 circumstance, shall, for any reason, be held invalid, the remainder of this chapter or the
89 application of such provision to persons or circumstances other than those as to which it is held
90 invalid shall not be affected thereby.

91 SECTION 3. Section 85 of chapter 276, as so appearing, is hereby amended by adding the
92 following at the end of the last sentence:—

93 Probation officers powers and duties shall include mandatory post-release supervision as set
94 forth in chapter 127A.

95 SECTION 4. Section 99 of chapter 276, as so appearing, is hereby amended by adding the
96 following at the end of the last sentence:—

97 The commissioner shall oversee mandatory post-release supervision functions as set forth in
98 chapter 127A.

99 SECTION 5. Section 24 of chapter 279, as so appearing, is hereby amended by inserting in line 6
100 after the word “convicted” the following words:—

101 and must be at least 20 percent greater than the minimum term.

102 SECTION 6. The provisions of this chapter shall take effect on January 1, 2011 and the
103 provisions contained herein shall apply to all felonies and misdemeanors committed on or after
104 that date. All offenses committed prior to January 1, 2011 shall be governed by the laws,
105 including but not limited to those on sentencing, parole, and probation, in effect at the time the
106 offense is committed.

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