

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 relative to repeat offenders.

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. 1520 OF 2007-2008.]

The Commonwealth of Massachusetts

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In the Year Two Thousand and Nine
—————

AN ACT RELATIVE TO REPEAT OFFENDERS.

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 24 of chapter 90 of the General Laws, as most recently amended by chapter
2 302 of the acts of 2008, is hereby amended by inserting in the fourth paragraph after the words
3 “has served thirty days of such sentence” the following words:- provided, further, that any such
4 probation, parole, or furlough shall consist of not less than 30 days of community service.

5 SECTION 2. Said section 24 of said chapter 90, as so amended, is hereby further amended by
6 inserting after the word “drivers” at the end of the fourth paragraph the following paragraph:-

7 A mandatory condition of any probation or parole that may be ordered as a result of this
8 paragraph is that the offender shall have an alcohol assessment conducted by the department of
9 public health. The assessment shall include, but need not be limited to, an assessment of the level
10 of the offender’s addiction to alcohol or drugs, and the department’s recommended course of
11 treatment. Such assessment shall be reported to the offender’s probation or parole officer, and the
12 recommendations contained therein shall become a mandatory condition of his probation or
13 parole. No person shall be excluded from an assessment or recommended course of treatment for
14 inability to pay, if the offender files an affidavit of indigency or inability to pay with the court,
15 investigation by the probation or parole officer confirms such indigency or establishes that such
16 payment would cause a grave and serious hardship to the offender or his family, and the court
17 enters written findings thereof. The department of public health may make such rules and
18 regulations as are necessary to accomplish the intent of this assessment.

20 SECTION 3. Said section 24 of said chapter 90, as so amended, is hereby amended by inserting
21 in the fifth paragraph after the words “he shall have served one hundred and fifty days of such
22 sentence” the following words:- provided, further, that any such probation, parole, or furlough
23 shall consist of not less than 60 days of community service.

24 SECTION 4. Said section 24 of said chapter 90, as so amended, is hereby further amended by
25 inserting after the word “drivers” at the end of the fifth paragraph the following paragraph:-

26 A mandatory condition of any probation or parole that may be ordered as a result of this
27 paragraph is that the offender shall have an alcohol assessment conducted by the department of
28 public health. The assessment shall include, but need not be limited to, an assessment of the level
29 of the offender’s addiction to alcohol or drugs, and the department’s recommended course of
30 treatment. Such assessment shall be reported to the offender’s probation or parole officer, and the
31 recommendations contained therein shall become a mandatory condition of his probation or
32 parole. No person shall be excluded from said assessment or recommended course of treatment
33 for inability to pay, if the offender files an affidavit of indigency or inability to pay with the
34 court, the investigation by the probation or parole officer confirms such indigency or establishes
35 that such payment would cause a grave and serious hardship to the offender or his family, and
36 the court enters written findings thereof. The department of public health may make such rules
37 and regulations as are necessary to accomplish the intent of this assessment.

38 SECTION 5. Said section 24 of said chapter 90, as so amended, is hereby further amended in
39 the sixth paragraph by striking out “nor more than five years;” and inserting in place thereof:-
40 nor more than seven years;

41 SECTION 6. Said section 24 of said chapter 90, as so amended, is hereby amended by inserting
42 in the sixth paragraph after the words “has served twelve months of such sentence” the following
43 words:- provided, further, that any such probation, parole, or furlough shall consist of not less
44 than 60 days of community service.

45 SECTION 7. Said section 24 of said chapter 90, as so amended, is hereby further amended by
46 inserting after the word “drivers” at the end of the sixth paragraph the following paragraph:-

47 A mandatory condition of any probation or parole that may be ordered as a result of this
48 paragraph is that the offender shall have an alcohol assessment conducted by the department of
49 public health. The assessment will include, but need not be limited to, an assessment of the level
50 of the offender’s addictions to alcohol or drugs, and the department’s recommended course of
51 treatment. Such assessment shall be reported to the offender’s probation or parole officer, and the
52 recommendations contained therein shall become a mandatory condition of his probation or
53 parole. No person shall be excluded from said assessment or recommended course of treatment
54 for inability to pay, provided that the offender files an affidavit of indigency or inability to pay
55 with the court, that investigation by the probation or parole officer confirms such indigency or
56 establishes that such payment would cause a grave and serious hardship to the offender or his

57 family, and that the court enters written findings thereof. The department of public health may
58 make rules and regulations as are necessary to accomplish the intent of this assessment.

59 SECTION 8. Said section 24 of said chapter 90, as so amended, is hereby further amended in
60 the seventh paragraph by striking out “nor more than five years;” and inserting in place thereof:-
61 nor more than ten years.

62 SECTION 9. Said section 24 of said chapter 90, as so amended, is hereby amended by inserting
63 in the seventh paragraph after the words “has served twenty-four months of such sentence” the
64 following words:- provided, further, that any such probation, parole, or furlough shall consist of
65 not less than 60 days of community service.

66 SECTION 10. Said section 24 of said chapter 90, as so amended, is hereby further amended by
67 inserting after the word “drivers” at the end of the seventh paragraph the following paragraph:-

68 A mandatory condition of any probation or parole that may be ordered as a result of this
69 paragraph is that the offender shall have an alcohol assessment conducted by the department of
70 public health. The assessment will include, but need not be limited to, an assessment of the level
71 of the offender’s addictions to alcohol or drugs, and the department’s recommended course of
72 treatment. Such assessment shall be reported to the offender’s probation or parole officer, and the
73 recommendations contained therein shall become a mandatory condition of his probation or
74 parole. No person shall be excluded from said assessment or recommended course of treatment
75 for inability to pay, provided that the offender files an affidavit of indigency or inability to pay
76 with the court, that investigation by the probation or parole officer confirms such indigency or
77 establishes that such payment would cause a grave and serious hardship to the offender or his
78 family, and that the court enters written findings thereof. The department of public health may
79 make rules and regulations as are necessary to accomplish the intent of this assessment.

80 SECTION 11. Said section 24 of said chapter 90, as so amended, is hereby amended by adding
81 the following:-

82 Notwithstanding the provisions of any section of this chapter, any person who after being
83 administered the chemical test set forth in this section and such evidence indicates that the
84 percentage was fifteen one hundredths or more and the person is before the court for the first
85 time for such offense, upon conviction the court shall order an alcohol assessment conducted by
86 the department of public health. The assessment will include, but need not be limited to, an
87 assessment of the level of the offender’s addictions to alcohol or drugs, and the department’s
88 recommended course of treatment. No person shall be excluded from said assessment or
89 recommended course of treatment for inability to pay, provided that the offender files an
90 affidavit of indigency or inability to pay with the court, that investigation by the probation or
91 parole officer confirms such indigency or establishes that such payment would cause a grave and
92 serious hardship to offender or his family, and that the court enters written findings thereof. The

93 department of public health may make such rules and regulations as are necessary to accomplish
94 the intent of this assessment.

95 SECTION 12. Chapter 90, as so amended, is hereby amended by inserting after section 24X, the
96 following section:-

97 Section 24Y. (a) Whoever, upon any way or in any place to which members of the public has a
98 right to access, or upon any way or in any place to which members of the public have access as
99 invitees or licensees, operates a motor vehicle with a percentage of weight, of alcohol in his
100 blood of eight-one hundredths or greater, or while under the influence of intoxicating liquor, or
101 of marijuana, narcotic drugs, depressants or stimulant substances or the vapors of glue, in
102 violation of sections 24, 24G or 24L, while a child under the age of 14 is in the vehicle, shall be
103 punished by imprisonment in the house of correction for not more than 6 months and a fine of
104 not more than \$10,000.

105 (b) In accordance with section 8A of chapter 279, such sentence shall begin from and after the
106 expiration of the sentence for violation of said sections 24, 24G or 24L.

107 (c) The registrar may extend, for an additional 2 months, any suspension or revocation of a
108 license or right to operate imposed for violation of said sections 24, 24G or 24L, on any person
109 that violates this section.

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