

HOUSE No.

The Commonwealth of Massachusetts

PRESENTED BY:

Byron Rushing (BY REQUEST)

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 to enhance post release supervision and classification of prisoners.

PETITION OF:

NAME:

Lloyd Fillion

DISTRICT/ADDRESS:

563 Massachusetts Avenue, Boston, MA 02118

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT TO ENHANCE POST RELEASE SUPERVISION AND CLASSIFICATION OF PRISONERS. .

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.

2 The General Laws are hereby amended by inserting after chapter 127 of the General Laws, as
3 appearing in the 2006 Official Edition, the following new chapter:-

4 CHAPTER 127A

5 MANDATORY POST-RELEASE SUPERVISION

6 Section 1.

7 All sentences of incarceration in a house of correction or jail for more than one year and all
8 sentences to state prison shall include a period of post-release supervision, excluding sentences for
9 those prisoners for whom parole eligibility is determined by section 133A of chapter 127. Except as
10 provided in this chapter, for individuals who complete the incarceration portion of their sentences
11 without supervised release or are re-incarcerated for the remainder of the sentence for violating the

12 terms of parole or probation, the period of mandatory post-release supervision shall be twenty-five per
13 cent of the maximum term of incarceration imposed at sentencing up to a maximum period of
14 supervision of five years; but in no case less than nine months. Where an individual is sentenced to
15 incarceration on multiple offenses to be served concurrently, the greater of the maximum terms
16 imposed at sentencing shall be used to calculate the mandatory post-release supervision period.
17 Mandatory post-release supervision as established in this chapter shall not be imposed upon any
18 individual who successfully completes a period of probation imposed by a court at sentencing, upon an
19 individual who is granted a parole permit under chapter 127 and successfully completes a period of
20 parole supervision, or upon an individual sentenced to lifetime community parole under section 45 of
21 chapter 265 and section 133D of chapter 127. An individual subject to this chapter may be supervised in
22 another jurisdiction in accordance with sections 151A through 151N of chapter 127 and shall be
23 considered on parole for the purposes of supervision.

24 Section 2.

25 Upon release, an individual sentenced to a term of incarceration in a house of correction or jail
26 for more than one year, or in a state prison for any length of time shall be subject to the supervision and
27 jurisdiction of the parole board during the period of mandatory post-release supervision and shall be
28 subject to the law, rules and regulations governing parole. The parole board shall establish uniform
29 regulations for post-release supervision consistent with applicable provisions of chapters 127 and 276.
30 Nothing in this section or in said regulations shall limit the authority of the superior, municipal, district
31 or juvenile court to impose conditions of probation supervision to protect the public or promote the
32 rehabilitation of any person.

33 Section 3.

34 An individual subject to mandatory post-release supervision who has successfully completed
35 nine months of supervision shall be eligible for early termination of that supervision. Early termination
36 shall only occur in accordance with procedures to be adopted in the regulations of the parole board. In
37 all proceedings under this section, the criteria for early termination of mandatory post-release
38 supervision established by the parole board shall include, but not be limited to, the amount of time the
39 individual has successfully spent under post-release supervision, success in finding permanent
40 employment, success in establishing adequate housing, completing all counseling or substance abuse
41 treatment programs and success in passing all mandated post-release testing programs.

42 Section 4.

43 An individual who violates a condition of mandatory post-release supervision shall be subject to
44 this section and to modification or revocation proceedings initiated by the parole board. The laws and
45 regulations governing parole violation proceedings shall govern these modification or revocation
46 proceedings. In all proceedings under this section, an individual who violates a condition of mandatory
47 post-release supervision may be placed under increased supervision, subjected to other conditions and
48 /or intermediate sanctions, or incarcerated for not more than the maximum remaining period of post-
49 release supervision or the remaining un-served portion of the sentence, whichever is greater, if the
50 violation does not otherwise constitute a criminal offense. In all cases where the individual is not being
51 incarcerated for a violation, the individual shall participate in an intermediate sanction through the
52 office of community corrections established in chapter 211F, the level of which is to be determined by
53 the parole board. In the case of any violation for use of controlled substances or an offense for
54 operating under the influence of drugs or alcohol where the individual is not incarcerated for the
55 violation, the period of mandatory post-release supervision shall be extended to accommodate an
56 appropriate substance abuse program, but the total shall not exceed the maximum supervisory period

57 permitted under section 1. For any violation of the conditions of mandatory post-release supervision,
58 the period of supervision shall be stayed during a period of incarceration and it shall be resumed upon
59 release. If the violation constitutes a criminal offense, the period of incarceration shall be served on and
60 after any sentence received as a result of the new offense. Upon subsequent release, the greater of the
61 maximum sentences of the original offense and subsequent offense shall be used to calculate the new
62 mandatory post-release supervision period.

63 Section 5.

64 All mandatory post-release supervision shall be considered completed, if any of the following
65 conditions are met: (a) except as provided in section 4, the individual serves a post-release supervision
66 period of twenty-five per cent of the maximum term of incarceration imposed at sentencing up to a
67 maximum period of supervision of five years, but in no case less than nine months; (b) the individual is
68 granted early termination under section 3; (c) upon completion of the sentence, the individual is
69 immediately committed to the custody of any other state to serve a period of incarceration greater than
70 or equal to the post-release supervision period required under this chapter; or (d) upon completion of
71 the sentence, the individual is immediately committed to the custody of any federal or immigration
72 authority. Mandatory post-release supervision shall be stayed for any period during which an individual
73 is in custody under an order of custody under chapter 123A.

74 Section 6.

75 On March 31, one year from the effective date of this act, and annually thereafter on March 31
76 of each year thereafter, the chairperson of the parole board shall file a cumulative report detailing the
77 number of individuals incarcerated in a house of correction or jail or prison whose sentence includes a
78 period of post-release supervision as mandated by this act during the each of preceding years. These
79 reports shall detail the number of individuals who are subject to mandatory post-release supervision,

80 the number who successfully complete the supervision , and the number who become eligible for early
81 termination of that supervision. The reports shall describe the criteria for early termination of post-
82 release supervision including the amount of time the individual has successfully spent under post-
83 release supervision, success in finding permanent employment, in establishing adequate housing, in
84 completing all counseling or substance abuse treatment programs and in passing all mandated post-
85 release testing programs. The reports shall also include the number of individuals who violate a
86 condition of mandatory post-release supervision who becomes subject to modification or revocation
87 proceedings initiated by the board. The reports shall detail the rates of recidivism for all of the
88 categories of individuals listed above as well as the rates of recidivism for all categories by offense.
89 Copies of such reports shall be submitted to the chairs of the joint committee on the judiciary and the
90 clerks of the house of representatives and the senate and be posted on the website of the parole board.

91 Section 7.

92 This chapter shall apply to all felonies and misdemeanors committed on or after the effective
93 date of this act. All offenses committed before the effective date of this act shall be governed by the
94 laws in effect at the time the offense was committed, including, but not limited to the laws on
95 sentencing, parole, and probation.

96 SECTION 2.

97

98 The General Laws are hereby amended by repealing section 128 of chapter 127 and inserting in
99 place thereof a new section 128 as follows:

100 Section 128.

101 Subject to other provisions of law, parole permits, in this chapter also referred to as
102 permits to be at liberty, may be granted by the parole board to prisoners in state and county
103 correctional institutions, or serving sentences suspended in part pursuant to sections one or one A
104 of chapter two hundred and seventy-nine, or a special sentence of imprisonment imposed
105 pursuant to section six A of chapter two hundred and seventy-nine.

106 SECTION 3.

107 The General Laws are hereby amended by repealing section 130 of chapter 127 and
108 inserting in place thereof a new section 130 as follows:

109 Section 130.

110 Any prisoner serving in a state prison who has served 1/6th of his maximum sentence
111 shall be presumed to be entitled to be classified to a medium security prison. Any state prisoner
112 who has served 1/3rd of his maximum sentence shall be presumed to be entitled to be classified
113 to a minimum security prison. Any state or county prisoner who has served 1/2 of his maximum
114 sentence shall be presumed to be eligible for parole, notwithstanding any other law to the
115 contrary.

116 Any prisoner having received a life sentence with parole possibility a part thereof who
117 has served 1/3 of his sentence prior to parole eligibility shall be presumed to be entitled to be
118 classified to a medium security prison. Any such prisoner who has served 2/3rds of his sentence
119 prior to parole eligibility shall be presumed to be entitled to be classified to a minimum security
120 prison.

121 If a prisoner is found guilty of new crime committed while incarcerated; then the time
122 period for the presumptions for classification and parole shall restart as of the date of the

123 commission of the new offense with no credit for any time served prior to the commission of the
124 new offense.

125 Any prisoner, who is so aged or physically or mentally disabled as to be of no threat to
126 the safety of the public, shall be eligible for parole.

127 A prisoner to whom a parole permit is granted shall be allowed to go upon parole outside
128 prison walls and inclosure upon such terms and conditions as the parole board shall prescribe,
129 but shall remain, while thus on parole, subject to the jurisdiction of such board until the
130 expiration of the term of imprisonment to which he has been sentenced or until the date which
131 has been determined by deductions from the maximum term of his sentence or sentences for
132 good conduct or until such earlier date as the board shall determine that it is in the public interest
133 for such prisoner to be granted a certificate of termination of sentence. The record of the
134 decision of the board shall contain a summary statement of the case indicating the reasons for
135 said decision. Said record of decision shall become a public record and shall be available to the
136 public except for such portion thereof which contains information upon which said decision was
137 made which said information the board determines is actually necessary to keep confidential to
138 protect the security of a criminal or civil investigation, to protect anyone from physical harm or
139 to protect the source of any information; provided, however, that it was obtained under a promise
140 of confidentiality. All such confidential information shall be segregated from the record of
141 decision and shall not be available to the public. Said confidential information may remain secret
142 only as long as publication may defeat the lawful purposes of this section for confidentiality
143 hereunder, but no longer. In every case, such terms and conditions shall include payment of any
144 child support due under a support order, as defined in section 1A of chapter 119A, including
145 payment toward any arrearage of support that accrues or has accrued or compliance with any

146 payment plan between the prisoner and the IV-D agency as set forth in chapter 119A, provided,
147 however, that the board shall not revise, alter, amend or revoke any term or condition related to
148 payment of child support unless the parole permit itself is revoked.

149 SECTION 4.

150 The General Laws are hereby amended by repealing section 133 of chapter 127 and
151 inserting in place thereof a new section 133 as follows:

152 Section 133.

153 Parole permits may be granted by the parole board to prisoners subject to its jurisdiction
154 at such time as the board in each case may determine; provided, however, that no prisoner
155 sentenced to the state prison shall be eligible for such permit until such prisoner shall have
156 served one half of the maximum, as such maximum term of sentence may be reduced by
157 deductions allowed under section one hundred and twenty-nine D. Where an inmate is serving
158 two or more consecutive or concurrent state prison sentences, a single parole eligibility shall be
159 established for all such sentences. Prisoners who are granted parole permits shall remain subject
160 to the jurisdiction of the board until the expiration of the maximum term of sentence or, if a
161 prisoner has two or more sentences to be served otherwise than concurrently, until the aggregate
162 maximum term of such sentence, unless earlier terminated by the board under the provisions of
163 section one hundred thirty A. Sentences of imprisonment in the state prison shall not be
164 suspended in whole or in part.

165