

**SENATE . . . . . No.**

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**The Commonwealth of Massachusetts**

PRESENTED BY:

**Cynthia Stone Creem**

*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 post release supervision and community reintegration.

PETITION OF:

NAME:

DISTRICT/ADDRESS:

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[SIMILAR MATTER FILED IN PREVIOUS SESSION  
SEE SENATE, NO. S00900 OF 2007-2008.]

**The Commonwealth of Massachusetts**

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**In the Year Two Thousand and Nine**

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AN ACT RELATIVE TO POST RELEASE SUPERVISION AND COMMUNITY REINTEGRATION.

*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 32H of chapter 94C, as appearing in the 2004 Official Edition, is hereby  
2 amended by striking out, in line 13, the word “parole,” and is hereby further amended by  
3 inserting at the end of said section the following paragraph:-

4 Notwithstanding any general or special law to the contrary, a person convicted of violating any  
5 provisions of sections 32, 32A, 32B, 32E, 32F, and 32J of chapter 94C of the General, who is  
6 serving a sentence where two-thirds of the maximum term of imprisonment imposed is less than  
7 the mandatory minimum sentence required under that section shall be eligible for parole after  
8 serving two-thirds of the maximum term of imprisonment imposed.

9 SECTION 2. Notwithstanding the provisions of sections 32, 32A, 32B, 32E, 32F, and 32J of  
10 chapter 94C of the General Laws, or any other general or special law to the contrary, persons

11 serving mandatory minimum sentences for violations of the above referenced sections as of July  
12 1, 2007 shall be eligible for parole after serving two-thirds of their maximum sentence.

13 SECTION 3. Chapter 279 of the General Laws, as so appearing, is hereby amended by inserting  
14 after section 27 the following section following section:—

15 Section 28. For all sentences to incarceration for a period of twelve months or more which are  
16 imposed in accordance with the sentencing guidelines as established in this chapter, there shall  
17 be imposed a period of post-incarceration supervision. The period of post-incarceration  
18 supervision shall be imposed as follows: a period of 6 months for a sentence with a maximum  
19 term greater than or equal to 12 months but less than 30 months; a period of 12 months for a  
20 sentence with a maximum greater than or equal to 30 months but less than 60 months; and a  
21 period of 24 months for a sentence with a maximum greater than 60 months. The total term of  
22 incarceration for the offense plus any additional commitment for a violation of a condition of  
23 post-incarceration supervision that does not otherwise constitute a new offense, shall not be  
24 greater than the maximum term fixed by statute for the governing offense. During the period of  
25 post-incarceration supervision, the prisoner shall be subject to the supervision of the Parole  
26 Board under such terms and conditions as established by the Board.

27 The post-incarceration supervision period shall be deemed completed if the prisoner completes  
28 the sentence to incarceration while on parole, if the prisoner is granted a certificate of  
29 termination of sentence pursuant to G.L. c. 127, § 130A, if the prisoner is subject upon release  
30 from custody to lifetime parole pursuant to section 133C of chapter 127, or if upon completion of  
31 the sentence the prisoner is immediately committed to a sentence of incarceration, to the custody  
32 of any other state or federal authority, or to the custody of immigration authorities. The

33 post-incarceration supervision shall be stayed for any period the prisoner is in custody pursuant  
34 to any order of custody under chapter 123A. The post-incarceration supervision period shall be  
35 deemed completed upon commitment pursuant to section 14 of chapter 123A. In all other  
36 circumstances, the period of post-incarceration supervision shall commence upon discharge from  
37 the sentence.

38 During the period of post-incarceration supervision, the prisoner shall be subject to the  
39 jurisdiction of the parole board in accordance with section 130 of chapter 127. The prisoner may  
40 be supervised in another jurisdiction in accordance with sections 151A through 151L of chapter  
41 127 and shall be considered on parole for the purposes of such supervision. By a majority vote of  
42 a panel of the parole board after a hearing and for good cause, the parole board may terminate  
43 the period of post-incarceration supervision at any time before completion.

44 An individual who violates a condition of post-incarceration supervision shall be subject to the  
45 provisions of section 149 of chapter 127. Upon a first violation, the prisoner may be incarcerated  
46 for a period no greater than two months or the maximum remaining period of post-incarceration  
47 supervision, whichever is less, if such violation does not otherwise constitute a criminal offense.  
48 Upon a second violation, the prisoner may be incarcerated for a period no greater than six  
49 months or the maximum remaining period of post-incarceration supervision, whichever is less, if  
50 such violation does not otherwise constitute a criminal offense. Upon a third or subsequent  
51 violation the prisoner, may be incarcerated for a period no greater than twelve months or the  
52 maximum remaining period of post-incarceration supervision, whichever is less, if such violation  
53 does not otherwise constitute a criminal offense. If such violation otherwise constitutes a  
54 criminal offense, said period of incarceration shall be served on and after any sentence received

55 for commission of the new offense. In the event that the prisoner has been convicted of more  
56 than one offense, post-incarceration supervision may be imposed if the maximum sentence on all  
57 offenses has not been served.

58 Notwithstanding Section 23 of Chapter 279, where the defendant is sentenced to the house of  
59 correction, the total term of incarceration for any offense plus any additional commitment for  
60 violation of a condition or conditions of post-incarceration supervision pursuant to section 17 of  
61 chapter 211G shall not exceed the longest term fixed by law for the punishment of the crime of  
62 which the prisoner has been convicted or if the defendant is serving a sentence after being  
63 convicted of only one offense, two and one half years, whichever is less.

64 SECTION 4. Section 25 of chapter 279, as so appearing, is hereby amended by inserting after the  
65 word “sentenced” in line 8 the following words:— in addition to two years of post-release  
66 supervision to be served when the habitual offender is released from prison, notwithstanding that  
67 the combined total of years of the term of imprisonment and the post-release supervision exceeds  
68 the maximum term fixed by law. During the period of post-release supervision, the offender shall  
69 be under the jurisdiction and supervised by the parole board pursuant to the provisions of  
70 sections 128 through 151 of chapter 127.

71 SECTION 5. Section 130 of chapter 127 of the General Laws, as so appearing is hereby  
72 amended by striking out the first sentence and inserting in place thereof the following three  
73 sentences:— No prisoner shall be granted a parole permit merely as a reward for good conduct  
74 but only if the parole board is of the opinion that there is a reasonable probability that, if such  
75 prisoner is released, in light of appropriate conditions and community supervision, he will live  
76 and remain at liberty without violating the law and that his release is compatible with the welfare

77 of society. In making this determination, the board shall consider whether, during the period of  
78 incarceration, the prisoner has participated in available work opportunities and education or  
79 treatment programs, and demonstrated good behavior. The board shall also consider whether risk  
80 reduction programs made available through collaboration with criminal justice agencies would  
81 minimize the probability of the prisoner re-offending once released.