

HOUSE No. 1431

By Ms. Fox of Boston, petition of Gloria L. Fox, Thomas M. Menino and others for legislation to require mandatory post release supervision and assistance for all offenders released from state and county incarceration. The Judiciary.

The Commonwealth of Massachusetts

PETITION OF:

Gloria L. Fox
Thomas M. Menino

Michael E. Festa
Elizabeth A. Malia

In the Year Two Thousand and Seven.

AN ACT TO REQUIRE MANDATORY POST RELEASE SUPERVISION AND ASSISTANCE FOR ALL OFFENDERS RELEASED FROM STATE AND COUNTY INCARCERATION.

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 28 of Chapter 279 of the General Laws, as appearing in
2 the 2004 Official Edition, is hereby amended by deleting “Section
3 28. Repealed, 1993, 432, Sec. 17”, inserting in its place the
4 following:—

5 Section 28. Post release supervision.

6 (a) All sentences of incarceration to a correctional facility shall
7 include a period of mandatory post-release supervision and assis-
8 tance, except where mandated by section 133A of chapter 127,
9 where an individual has successfully completed a period of proba-
10 tion imposed by the court, or where an individual is sentenced to
11 lifetime community parole pursuant to section 45 of chapter 265 and
12 section 133D of chapter 127. For those not subject to parole or pro-
13 bation, the period of mandatory post-release supervision and assis-
14 tance shall be 25 percent of the maximum term of incarceration
15 imposed at sentencing, or nine months, whichever is greater. Where
16 an individual is convicted of multiple offenses, the offense with the
17 greatest term of incarceration shall be used to determine the length
18 of the post-release supervision period.

19 (b) Upon release, an individual subject to post-release supervision
20 and assistance per section 1 shall be under the jurisdiction of and
21 supervised by the parole board. The chairman of the parole board
22 shall establish uniform regulations for mandatory post-release super-
23 vision consistent with the applicable provisions of chapter 127 and
24 276. All persons under such supervision shall be subject to the pro-
25 visions of law, rules and regulations governing parole. The parole
26 board will actively work either the department of social services or
27 the department of youth services, or both, where applicable, to pro-
28 vide assistance to the releasee in areas including, but not limited to,
29 housing, education, employment training and employment opportu-
30 nity. Nothing in this section shall limit the authority of the superior,
31 municipal, district or juvenile court to impose conditions of proba-
32 tion supervision to protect the public or promote the rehabilitation of
33 any person.

34 (c) An individual who violates a condition of mandatory post-
35 release supervision shall be subject to modification or revocation
36 proceedings initiated by the parole board. In all proceedings under
37 this section, upon a violation, the individual may be placed under
38 increased supervision, subjected to other conditions, or incarcerated
39 for not more than the maximum remaining unserved portion of their
40 sentence. In the case of any violation for use of controlled sub-
41 stances or an offense for operating under the influence of drugs or
42 alcohol, the period of mandatory post-release supervision shall be
43 extended to accommodate an appropriate substance abuse program.
44 For any violation of the conditions of mandatory post-release super-
45 vision, the period of supervision shall be stayed during a period of
46 incarceration and it shall be resumed upon release. If such violation
47 constitutes a criminal offense, said period of incarceration shall be
48 served on and after any sentence received as a result of the new
49 offense. Upon subsequent release, the greater of the maximum sen-
50 tences of the original offense and subsequent offense shall be used to
51 calculate the new mandatory post-release supervision period.

52 (d) Where any provision of this chapter or the application thereof
53 shall, for any reason, be held invalid, the remainder of this chapter or
54 the application of such provision other than those as to which it is
55 held invalid shall not be affected thereby.