

HOUSE No. 1515

By Mr. Jones of North Reading, petition of Bradley H. Jones, Jr., and others relative to mandatory post-release supervision. The Judiciary.

The Commonwealth of Massachusetts

PETITION OF:

Bradley H. Jones, Jr.	Elizabeth A. Poirier
Mary S. Rogeness	Karyn E. Polito
George N. Peterson, Jr.	Susan Williams Gifford
John A. Lepper	Richard J. Ross
Viriato Manuel deMacedo	Jeffrey Davis Perry
Lewis G. Evangelidis	Paul J. P. Loscocco
Paul K. Frost	Todd M. Smola
Robert S. Hargraves	Donald F. Humason, Jr.

In the Year Two Thousand and Seven.

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 2004
2 Official Edition, is hereby amended by adding the following at the
3 end of the last sentence:—
4 The parole board shall administer and oversee mandatory post-
5 release supervision functions for as set forth in Section 133D of
6 Chapter 127 and Chapter 127A.

1 SECTION 2. The General Laws, as so appearing, are hereby fur-
2 ther amended by inserting after chapter 127 the following chapter:—

3 **CHAPTER 127A.**
4 **MANDATORY POST-RELEASE SUPERVISION.**

5 Section 1. All sentences to incarceration in a house of correction,
6 jail or state prison shall include a period of post-release supervision,

7 excluding those for whom parole eligibility is determined by Section
8 133A of Chapter 127. Except as provided in this chapter, for individ-
9 uals who complete the incarceration portion of their sentences
10 without supervised release or are re-incarcerated for the remainder
11 of the sentence for violating the terms of parole or probation, the
12 period of mandatory post-release supervision shall be 25 percent of
13 the maximum term of incarceration imposed at sentencing but in no
14 case shall be less than nine months. Where an individual is sen-
15 tenced to incarceration on multiple offenses, the greater of the max-
16 imum terms imposed at sentencing shall be used to calculate the
17 mandatory post-release supervision period. Mandatory post-release
18 supervision as established in this chapter shall not be imposed upon
19 any individual who successfully completes a period of probation
20 imposed by a court at sentencing, upon an individual who is granted
21 a parole permit under Chapter 127 and successfully completes a
22 period of parole supervision, or upon an individual sentenced to life-
23 time community parole under the provisions of Section 45 of
24 Chapter 265 and Section 133D of Chapter 127. An individual sub-
25 ject to the provisions of this chapter may be supervised in another
26 jurisdiction in accordance with Sections 151A through 151L of
27 Chapter 127 and shall be considered on parole for the purposes of
28 supervision.

29 Section 2. Upon release, an individual sentenced to a term of
30 incarceration for not more than one year in a house of corrections or
31 jail shall be subject to the supervision and jurisdiction of the office
32 of the commissioner of probation during the period of mandatory
33 post-release supervision. Upon release, an individual sentenced to a
34 term of incarceration in a house of corrections or jail for more than
35 one year, or in a state prison for any length of time shall be subject
36 to the supervision and jurisdiction of the parole board during the
37 period of mandatory post-release supervision. All persons under
38 such supervision of the office of the commissioner of probation shall
39 be subject to the provisions of law, rules and regulations governing
40 probation. All persons under such supervision of the parole board
41 shall be subject to the provisions of law, rules and regulations gov-
42 erning parole. The commissioner of probation and the chairman of
43 the parole board shall establish uniform regulations for post-release
44 supervision consistent with applicable provisions of Chapter 127 and
45 Chapter 276. Nothing in this section or within said regulations shall

46 limit the authority of the superior, municipal, district or juvenile
47 court to impose conditions of probation supervision to protect the
48 public or promote the rehabilitation of any person.

49 Section 3. An individual subject to mandatory post-release super-
50 vision and who has successfully completed 9 months of supervision
51 shall be eligible for early termination of such supervision. In the case
52 of a person under the supervision of the office of the commissioner
53 of probation, early termination may only occur upon an order of a
54 court of competent jurisdiction. In the case of a person under the
55 supervision of the parole board, early termination may only occur in
56 accordance with procedure to be promulgated in the regulations of
57 the parole board. In all proceedings under this section, the uniform
58 criteria for early termination of mandatory post-release supervision
59 shall be established jointly by the commissioner of probation and the
60 chairman of the parole board and shall include, but not be limited to,
61 the amount of time the individual has successfully spent under post-
62 release supervision, success in finding permanent employment, suc-
63 cess in establishing adequate housing, completing all counseling or
64 substance abuse treatment programs and successful passing of all
65 mandated post-release testing programs.

66 Section 4. An individual who violates a condition of mandatory
67 post-release supervision shall be subject to the provisions of this
68 section and subject to modification or revocation proceedings initi-
69 ated by the agency responsible for the violator's supervision. The
70 laws and judicial rules governing probation violation proceedings
71 shall govern such modification or revocation proceedings for an
72 individual subject to the jurisdiction of the office of the commis-
73 sioner of probation. The laws and regulations governing parole vio-
74 lation proceedings shall govern such modification or revocation
75 proceedings for an individual subject to the jurisdiction of the parole
76 board. In all proceedings under this section, upon a violation, the
77 individual may be placed under increased supervision, subjected to
78 other conditions and intermediate sanctions, or incarcerated for not
79 more than the maximum remaining period of post-release supervi-
80 sion or the remaining unserved portion of the sentence, whichever is
81 greater, if such violation does not otherwise constitute a criminal
82 offense. In all cases where the individual is not being incarcerated
83 for a violation, such individual shall participate in an intermediate
84 sanction through the office of community corrections as established

85 in Chapter 211F, the level of which is to be determined by the com-
86 missioner of probation or the chairman of the parole board, whoever
87 has supervision authority over the individual. In the case of any vio-
88 lation for use of controlled substances or an offense for operating
89 under the influence of drugs or alcohol, the period of mandatory
90 post-release supervision shall be extended to accommodate an
91 appropriate substance abuse program, but the total shall not exceed
92 the maximum supervisory period permitted by section 1 of Chapter
93 127A. For any violation of the conditions of mandatory post-release
94 supervision, the period of supervision shall be stayed during a period
95 of incarceration and it shall be resumed upon release. If such viola-
96 tion constitutes a criminal offense, said period of incarceration shall
97 be served on and after any sentence received as a result of the new
98 offense. Upon subsequent release, the greater of the maximum sen-
99 tences of the original offense and subsequent offense shall be used to
100 calculate the new mandatory post-release supervision period.

101 Section 5. All mandatory post-release supervision shall be
102 deemed completed if any of the following conditions are met:—
103 except as provided in Section 4 of this chapter, the individual serves
104 a post-release supervision period of 25 percent of the maximum term
105 of incarceration imposed at sentencing, or nine months, whichever is
106 greater; the individual is granted early termination under Section 3
107 of this chapter; or if upon completion of the sentence, the individual
108 is immediately committed to the custody of any other state to serve a
109 period of incarceration greater than or equal to the post-release
110 supervision period required under this chapter; or if upon completion
111 of the sentence, the individual is immediately committed to the cus-
112 tody of any federal or immigration authority. Mandatory post-release
113 supervision shall be stayed for any period an individual is in custody
114 pursuant to any order of custody under Chapter 123A.

115 Section 6. Where any provision of this chapter or the application
116 thereof to any person or circumstance, shall, for any reason, be held
117 invalid, the remainder of this chapter or the application of such pro-
118 vision to persons or circumstances other than those as to which it is
119 held invalid shall not be affected thereby.

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

2 Probation officers powers and duties shall include mandatory
3 post-release supervision as set forth in Chapter 127A.

1 SECTION 4. Section 99 of Chapter 276, as so appearing, is
2 hereby amended by adding the following at the end of the last sen-
3 tence:—

4 The commissioner shall oversee mandatory post-release supervi-
5 sion functions as set forth in Chapter 127A.

1 SECTION 5. Section 24 of Chapter 279, as so appearing, is
2 hereby amended by inserting in line 6 after the word “convicted” the
3 following words:— and must be at least 20 percent greater than the
4 minimum term.

1 SECTION 6. The provisions of this chapter shall take effect on
2 January 1, 2009 and the provisions contained herein shall apply to
3 all felonies and misdemeanors committed on or after that date. All
4 offenses committed prior to January 1, 2009 shall be governed by
5 the laws, including but not limited to those on sentencing, parole,
6 and probation, in effect at the time the offense is committed.