

HOUSE No. 1695

By Representative Quinn of Dartmouth and Senator Menard, joint petition of John F. Quinn and others relative to creating separate criminal offenses for assault committed with a firearm. The Judiciary.

The Commonwealth of Massachusetts

PETITION OF:

John F. Quinn	Patricia A. Haddad
Joan M. Menard	Mark C. Montigny
Stephen R. Canessa	Douglas W. Petersen
Robert M. Koczera	Scott P. Brown
Steven J. D'Amico	David B. Sullivan
Cleon H. Turner	Robert Correia
Michael J. Rodrigues	Joseph R. Driscoll
William M. Straus	Antonio F. D. Cabral
James E. Timilty	

In the Year Two Thousand and Seven.

AN ACT CREATING SEPARATE CRIMINAL OFFENSES FOR ASSAULT COMMITTED WITH A FIREARM.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 Chapter 265 of the General Laws, as appearing in the 2004
2 Official Edition, is hereby amended by inserting after section 15B
3 the following new sections:—

4 Section 15C: Assault and Battery by means of a firearm;
5 penalties.

6 (a) Whoever commits an assault and battery upon another by dis-
7 charging a firearm, large capacity weapon, rifle, shotgun, sawed-off
8 shotgun, or machine gun as defined by G.L. c. 140 §121 shall be
9 punished.

10 (b) A person found guilty of section (a) above, shall be sentenced
11 to the state prison for a maximum penalty of life or no less than ten
12 (10) years. The sentence imposed on such person shall not be
13 reduced to less than ten (10) years, nor suspended, nor shall any
14 person convicted under this subsection be eligible for probation,

15 parole, work release, or furlough or receive any deduction from his
16 sentence for good conduct until he shall have served ten (10) years
17 of such sentence; provided, however, that the commissioner of
18 correction may on the recommendation of the warden, superinten-
19 dent, or other person in charge of a correctional institution, grant to
20 an offender committed under this subsection a temporary release in
21 the custody of an officer of such institution for the following
22 purposes only: to attend the funeral of a relative; to visit a critically
23 ill relative; or to obtain emergency medical or psychiatric service
24 unavailable at said institution. Prosecutions commenced under this
25 subsection shall neither be continued without a finding nor placed on
26 file.

27 Section 15D: Attempted Assault and Battery by means of a
28 firearm; penalties.

29 (a) Whoever attempts to commit an assault and battery upon
30 another by means of discharging a firearm, large capacity weapon,
31 rifle, shotgun, sawed-off shotgun, or machine gun as defined by G.L.
32 c. 140 §121 shall be punished.

33 (b) A person found guilty of section (a) above, shall be sentenced
34 to the state prison for a maximum penalty of twenty (20) years but
35 no less than seven (7) years. The sentence imposed on such person
36 shall not be reduced to less than seven years, nor suspended, nor
37 shall any person convicted under this subsection be eligible for
38 probation, parole, work release, or furlough or receive any deduction
39 from his sentence for good conduct until he shall have served seven
40 years of such sentence; provided, however, that the commissioner of
41 correction may on the recommendation of the warden, superinten-
42 dent, or other person in charge of a correctional institution, grant to
43 an offender committed under this subsection a temporary release in
44 the custody of an officer of such institution for the following
45 purposes only: to attend the funeral of a relative; to visit a critically
46 ill relative; or to obtain emergency medical or psychiatric service
47 unavailable at said institution. Prosecutions commenced under this
48 subsection shall neither be continued without a finding nor placed
49 on file.