

HOUSE No. 1382

The Commonwealth of Massachusetts

PRESENTED BY:

Russell E. Holmes

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 adoption of the accompanying bill:

An Act providing community-based sentencing alternatives for primary caretakers of dependent children convicted of non-violent crimes.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Russell E. Holmes</i>	<i>6th Suffolk</i>
<i>Patricia D. Jehlen</i>	<i>Second Middlesex</i>
<i>David M. Rogers</i>	<i>24th Middlesex</i>
<i>Marjorie C. Decker</i>	<i>25th Middlesex</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>
<i>Kay Khan</i>	<i>11th Middlesex</i>
<i>Peter V. Kocot</i>	<i>1st Hampshire</i>
<i>Tom Sannicandro</i>	<i>7th Middlesex</i>
<i>Gloria L. Fox</i>	<i>7th Suffolk</i>
<i>Sean Garballey</i>	<i>23rd Middlesex</i>
<i>Jonathan Hecht</i>	<i>29th Middlesex</i>
<i>Carmine L. Gentile</i>	<i>13th Middlesex</i>
<i>Ruth B. Balsler</i>	<i>12th Middlesex</i>
<i>Alice Hanlon Peisch</i>	<i>14th Norfolk</i>
<i>Sal N. DiDomenico</i>	<i>Middlesex and Suffolk</i>
<i>Carlos Gonzalez</i>	<i>10th Hampden</i>

HOUSE No. 1382

By Mr. Holmes of Boston, a petition (accompanied by bill, House, No. 1382) of Russell E. Holmes and others relative to providing for community-based sentencing alternatives for primary caretakers of dependent children convicted of non-violent crimes. The Judiciary.

The Commonwealth of Massachusetts

**In the One Hundred and Eighty-Ninth General Court
(2015-2016)**

An Act providing community-based sentencing alternatives for primary caretakers of dependent children convicted of non-violent crimes.

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 279 of the General Laws is hereby amended by inserting after section 6A, as
2 appearing in the 2012 Official Edition, the following section:-

3 Section 6B. (a) As used in this section the following terms shall, unless the context
4 clearly requires otherwise, have the following meanings:-

5 "Dependent child", a person who is less than 18 years of age.

6 "Non-violent offense", any conviction for a crime punishable by imprisonment, except a
7 crime punishable by imprisonment that: (i) has as an element the use, attempted use or threatened
8 use of physical force or a deadly weapon against the person of another; (ii) is burglary, extortion,
9 arson or kidnapping; (iii) involves the use of explosives; or (iv) otherwise involves conduct that
10 presents a serious risk of physical injury to another.

11 “Primary caretaker of a dependent child”, a parent who has consistently assumed
12 responsibility for the housing, health, and safety of a child prior to incarceration; or a woman
13 who has given birth to a child after or while awaiting her sentencing hearing and who expresses a
14 willingness to assume responsibility for the housing, health, and safety of that child. A parent
15 who, in the best interest of the child, has arranged for the temporary care of the child in the home
16 of a relative or other responsible adult shall not for that reason be excluded from the definition of
17 "primary caretaker of a dependent child".

18 (b) Notwithstanding any general or special law to the contrary, as soon as is possible and
19 practicable after the conviction of a person for a non-violent offense, the sentencing court shall
20 determine if the person so convicted is a primary caretaker of a dependent child. If the court
21 determines that a person convicted of a non-violent offense is a primary caretaker of a dependent
22 child, the court shall impose an individually assessed sentence, without imprisonment, based on
23 community rehabilitation, with a focus on parent-child unity and support. In imposing the
24 individually assessed sentence, the court may require the person to meet certain conditions that
25 the court considers appropriate, including but not limited to:

- 26 (i) Drug and alcohol treatment;
- 27 (ii) Domestic violence education and prevention;
- 28 (iii) Physical and sexual abuse counseling;
- 29 (iv) Anger management;
- 30 (v) Vocational and educational services;
- 31 (vi) Job training and placement;

32 (vii) Affordable and safe housing assistance;

33 (viii) Financial literacy;

34 (ix) Parenting classes;

35 (x) Family and individual counseling; and

36 (xi) Family case management services.

37 (c) (1) The court may require any person serving an individually assessed sentence
38 pursuant this section to appear in court any time during his or her sentence to evaluate the
39 person's progress in treatment or rehabilitation, or to determine if the person has violated any
40 condition of the sentence.

41 (2) Upon an appearance in court made pursuant to paragraph (1), the court may: (i)
42 modify the conditions of a sentence imposed pursuant to this section; (ii) decrease the duration of
43 a sentence imposed pursuant to this section based on the person's successful advancement; or
44 (iii) sanction the person for each detected violation of any condition of the sentence imposed
45 pursuant to this section, including but not limited to, requiring the person to serve a term of
46 imprisonment within the range of the offense for which the person was originally convicted,
47 notwithstanding the determination made pursuant to subsection (b) that the person is a primary
48 caretaker of a dependent child.