

**HOUSE . . . . . No. 1446**

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**The Commonwealth of Massachusetts**

PRESENTED BY:

**Bradley H. Jones, Jr.**

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*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 establishing mandatory post release supervision in the Commonwealth.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Viriato Manuel deMacedo	1st Plymouth
Bradley H. Jones, Jr.	20th Middlesex
George N. Peterson, Jr.	9th Worcester
Elizabeth Poirier	14th Bristol
Paul K. Frost	7th Worcester
Susan Williams Gifford	2nd Plymouth
Bradford R. Hill	4th Essex
Richard J. Ross	9th Norfolk
Todd M. Smola	1st Hampden
Robert S. Hargraves	1st Middlesex

[SIMILAR MATTER FILED IN PREVIOUS SESSION  
SEE HOUSE, NO. 1515 OF 2007-2008.]

## The Commonwealth of Massachusetts

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In the Year Two Thousand and Nine

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### 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 2006 Official Edition, is hereby  
2 amended by adding the following at the end of the last sentence of the first paragraph:—

3 The parole board shall administer and oversee mandatory post-release supervision functions as  
4 set forth in section 133D of chapter 127 and chapter 127A.

5 SECTION 2. The General Laws, as so appearing, are hereby further amended by inserting after  
6 chapter 127 the following chapter:—

7 CHAPTER 127A.

8 MANDATORY POST-RELEASE SUPERVISION.

9 Section 1. All sentences to incarceration in a house of correction, jail or state prison shall include  
10 a period of post-release supervision, excluding those for whom parole eligibility is determined by  
11 section 133A of chapter 127. Except as provided in this chapter, for individuals who complete  
12 the incarceration portion of their sentences without supervised release or are re-incarcerated for  
13 the remainder of the sentence for violating the terms of parole or probation, the period of  
14 mandatory post-release supervision shall be 25 percent of the maximum term of incarceration  
15 imposed at sentencing but in no case shall be less than nine months. Where an individual is  
16 sentenced to incarceration on multiple offenses, the greater of the maximum terms imposed at  
17 sentencing shall be used to calculate the mandatory post-release supervision period. Mandatory  
18 post-release supervision as established in this chapter shall not be imposed upon any individual

19 who successfully completes a period of probation imposed by a court at sentencing, upon an  
20 individual who is granted a parole permit under chapter 127 and successfully completes a period  
21 of parole supervision, or upon an individual sentenced to lifetime community parole under the  
22 provisions of section 45 of chapter 265 and section 133D of chapter 127. An individual subject  
23 to the provisions of this chapter may be supervised in another jurisdiction in accordance with  
24 sections 151A through 151L of chapter 127 and shall be considered on parole for the purposes of  
25 supervision.

26 Section 2. Upon release, an individual sentenced to a term of incarceration for not more than one  
27 year in a house of corrections or jail shall be subject to the supervision and jurisdiction of the  
28 office of the commissioner of probation during the period of mandatory post-release supervision.  
29 Upon release, an individual sentenced to a term of incarceration in a house of corrections or jail  
30 for more than one year, or in a state prison for any length of time shall be subject to the  
31 supervision and jurisdiction of the parole board during the period of mandatory post-release  
32 supervision. All persons under such supervision of the office of the commissioner of probation  
33 shall be subject to the provisions of law, rules and regulations governing probation. All persons  
34 under such supervision of the parole board shall be subject to the provisions of law, rules and  
35 regulations governing parole. The commissioner of probation and the chairman of the parole  
36 board shall establish uniform regulations for post-release supervision consistent with applicable  
37 provisions of chapter 127 and chapter 276. Nothing in this section or within said regulations shall  
38 limit the authority of the superior, municipal, district or juvenile court to impose conditions of  
39 probation supervision to protect the public or promote the rehabilitation of any person.

40 Section 3. An individual subject to mandatory post-release supervision and who has successfully  
41 completed 9 months of supervision shall be eligible for early termination of such supervision. In  
42 the case of a person under the supervision of the office of the commissioner of probation, early  
43 termination may only occur upon an order of a court of competent jurisdiction. In the case of a  
44 person under the supervision of the parole board, early termination may only occur in accordance  
45 with procedure to be promulgated in the regulations of the parole board. In all proceedings under  
46 this section, the uniform criteria for early termination of mandatory post-release supervision shall  
47 be established jointly by the commissioner of probation and the chairman of the parole board and  
48 shall include, but not be limited to, the amount of time the individual has successfully spent  
49 under post-release supervision, success in finding permanent employment, success in  
50 establishing adequate housing, completing all counseling or substance abuse treatment programs  
51 and successful passing of all mandated post-release testing programs.

52 Section 4. An individual who violates a condition of mandatory post-release supervision shall be  
53 subject to the provisions of this section and subject to modification or revocation proceedings  
54 initiated by the agency responsible for the violator's supervision. The laws and judicial rules  
55 governing probation violation proceedings shall govern such modification or revocation  
56 proceedings for an individual subject to the jurisdiction of the office of the commissioner of  
57 probation. The laws and regulations governing parole violation proceedings shall govern such

58 modification or revocation proceedings for an individual subject to the jurisdiction of the parole  
59 board. In all proceedings under this section, upon a violation, the individual may be placed under  
60 increased supervision, subjected to other conditions and intermediate sanctions, or incarcerated  
61 for not more than the maximum remaining period of post-release supervision or the remaining  
62 unserved portion of the sentence, whichever is greater, if such violation does not otherwise  
63 constitute a criminal offense. In all cases where the individual is not being incarcerated for a  
64 violation, such individual shall participate in an intermediate sanction through the office of  
65 community corrections as established in chapter 211F, the level of which is to be determined by  
66 the commissioner of probation or the chairman of the parole board, whoever has supervision  
67 authority over the individual. In the case of any violation for use of controlled substances or an  
68 offense for operating under the influence of drugs or alcohol, the period of mandatory post-  
69 release supervision shall be extended to accommodate an appropriate substance abuse program,  
70 but the total shall not exceed the maximum supervisory period permitted by section 1 of chapter  
71 127A. For any violation of the conditions of mandatory post-release supervision, the period of  
72 supervision shall be stayed during a period of incarceration and it shall be resumed upon release.  
73 If such violation constitutes a criminal offense, said period of incarceration shall be served on  
74 and after any sentence received as a result of the new offense. Upon subsequent release, the  
75 greater of the maximum sentences of the original offense and subsequent offense shall be used to  
76 calculate the new mandatory post-release supervision period.

77 Section 5. All mandatory post-release supervision shall be deemed completed if any of the  
78 following conditions are met: except as provided in section 4 of this chapter, the individual  
79 serves a post-release supervision period of 25 percent of the maximum term of incarceration  
80 imposed at sentencing, or nine months, whichever is greater; the individual is granted early  
81 termination under section 3 of this chapter; or if upon completion of the sentence, the individual  
82 is immediately committed to the custody of any other state to serve a period of incarceration  
83 greater than or equal to the post-release supervision period required under this chapter; or if upon  
84 completion of the sentence, the individual is immediately committed to the custody of any  
85 federal or immigration authority. Mandatory post-release supervision shall be stayed for any  
86 period an individual is in custody pursuant to any order of custody under chapter 123A.

87 Section 6. Where any provision of this chapter or the application thereof to any person or  
88 circumstance, shall, for any reason, be held invalid, the remainder of this chapter or the  
89 application of such provision to persons or circumstances other than those as to which it is held  
90 invalid shall not be affected thereby.

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

93 Probation officers powers and duties shall include mandatory post-release supervision as set  
94 forth in chapter 127A.

95 SECTION 4. Section 99 of chapter 276, as so appearing, is hereby amended by adding the  
96 following at the end of the last sentence:—

97 The commissioner shall oversee mandatory post-release supervision functions as set forth in  
98 chapter 127A.

99 SECTION 5. Section 24 of chapter 279, as so appearing, is hereby amended by inserting in line 6  
100 after the word “convicted” the following words:—

101 and must be at least 20 percent greater than the minimum term.

102 SECTION 6. The provisions of this chapter shall take effect on January 1, 2011 and the  
103 provisions contained herein shall apply to all felonies and misdemeanors committed on or after  
104 that date. All offenses committed prior to January 1, 2011 shall be governed by the laws,  
105 including but not limited to those on sentencing, parole, and probation, in effect at the time the  
106 offense is committed.