

HOUSE No. 1680

The Commonwealth of Massachusetts

PRESENTED BY:

John F. Quinn

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 creating separate criminal offenses for assault committed with a firearm.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
John F. Quinn	9th Bristol
Joan M. Menard	First Bristol and Plymouth
Stephen R. Canessa	12th Bristol
Antonio F.D. Cabral	13th Bristol
Walter F. Timilty	7th Norfolk
Bruce E. Tarr	First Essex and Middlesex
David B. Sullivan	6th Bristol
Steven J. D'Amico	4th Bristol
Patricia A. Haddad	5th Bristol
Samuel Sutter, District Attorney	888 Purchase Street New Bedford, MA 02740

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 1695 OF 2007-2008.]

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

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

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

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

6 (b) A person found guilty of section (a) above, shall be sentenced to the state prison for a maximum penalty of
7 life or no less than ten (10) years. The sentence imposed on such person shall not be reduced to less than ten (10)
8 years, nor suspended, nor shall any person convicted under this subsection be eligible for probation, parole, work
9 release, or furlough or receive any deduction from his sentence for good conduct until he shall have served ten (10)
10 years of such sentence; provided, however, that the commissioner of correction may on the recommendation of the
11 warden, superintendent, or other person in charge of a correctional institution, grant to an offender committed under
12 this subsection a temporary release in the custody of an officer of such institution for the following purposes only: to
13 attend the funeral of a relative; to visit a critically ill relative; or to obtain emergency medical or psychiatric service
14 unavailable at said institution. Prosecutions commenced under this subsection shall neither be continued without a
15 finding nor placed on file.

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

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

20 (b) A person found guilty of section (a) above, shall be sentenced to the state prison for a maximum penalty of
21 twenty (20) years but no less than seven (7) years. The sentence imposed on such person shall not be reduced to less
22 than seven years, nor suspended, nor shall any person convicted under this subsection be eligible for probation,
23 parole, work release, or furlough or receive any deduction from his sentence for good conduct until he shall have
24 served seven years of such sentence; provided, however, that the commissioner of correction may on the
25 recommendation of the warden, superintendent, or other person in charge of a correctional institution, grant to an
26 offender committed under this subsection a temporary release in the custody of an officer of such institution for the
27 following purposes only: to attend the funeral of a relative; to visit a critically ill relative; or to obtain emergency
28 medical or psychiatric service unavailable at said institution. Prosecutions commenced under this subsection shall
29 neither be continued without a finding nor placed on file.