

HOUSE No. 1806

The Commonwealth of Massachusetts

PRESENTED BY:

Frank A. Moran and Kate Lipper-Garabedian

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 relative to community corrections.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Frank A. Moran</i>	<i>17th Essex</i>	<i>2/18/2021</i>
<i>Kate Lipper-Garabedian</i>	<i>32nd Middlesex</i>	<i>2/18/2021</i>
<i>Tommy Vitolo</i>	<i>15th Norfolk</i>	<i>2/25/2021</i>
<i>Andres X. Vargas</i>	<i>3rd Essex</i>	<i>2/26/2021</i>

HOUSE No. 1806

By Representatives Moran of Lawrence and Lipper-Garabedian of Melrose, a petition (accompanied by bill, House, No. 1806) of Frank A. Moran, Kate Lipper-Garabedian and others for legislation to further regulate community corrections. The Judiciary.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Second General Court
(2021-2022)**

An Act relative to community corrections.

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 211F of the General Laws, as appearing in the 2016 Official
2 Edition, is hereby stricken and inserting in place thereof the following:-

3 § 1. Definitions

4 The following terms as used in this chapter shall have the following meanings:

5 “Commissioner”, the commissioner of probation.

6 “Community justice program”, any program or service that is operated by a state, local or
7 private service agency, that has been deemed an appropriate provider of services by the office of
8 community justice programs including, but not limited to, intensive supervision with treatment,
9 community service, pretrial services programs, reentry services programs, programs designed as
10 an alternative to jail or prison, and any other program or service as the commissioner may so

11 direct; provided, however, that pretrial and reentry services programs shall each be a separate
12 track of programming from intensive supervision with treatment as defined herein.

13 “Community justice plan”, a written proposal submitted to the executive director of the
14 office of community justice programs for approval and funding as a community justice program.

15 “Executive director”, the executive director of the office of community justice programs.

16 “Intensive supervision with treatment”, as determined by the office of community justice
17 programs, a community justice program that provides a combination of interventions, including
18 treatment, services and accountability measures for persons assessed to be at moderate or higher
19 risk for recidivism.

20 § 2. Office of community justice programs; executive director

21 (a) There is hereby established subject to appropriation within the office of the
22 commissioner of probation an office of community justice programs, which shall be used for any
23 criminal justice purpose as determined by the commissioner, and shall establish a continuum of
24 community justice programs statewide.

25 (b) The executive director of the office of community justice programs shall be appointed
26 by the commissioner to establish, oversee and operate a statewide continuum of community
27 justice programs.

28 (c) The executive director shall operate subject to the direction and approval of the
29 commissioner. The office shall, to the extent practicable, utilize existing resources of the office
30 of court management for the purpose of avoiding unnecessary duplication.

31 § 3 Sentence to intensive supervision with treatment; conditions; eligibility

32 (a) Any court exercising jurisdiction is authorized to sentence any eligible person to
33 intensive supervision with treatment.

34 (b) A sentence to intensive supervision with treatment shall be imposed as a condition of
35 probation consistent with chapters 276 and 276A. The court may modify the sentence of a person
36 subject to intensive supervision with treatment in the same manner as if the person had been
37 placed on probation.

38 (c) The commissioner shall develop guidelines for the eligibility of persons for intensive
39 supervision with treatment.

40 (d) No person shall be sentenced to intensive supervision with treatment in lieu of a
41 mandatory minimum term of incarceration set by statute.

42 § 3A. Participation in a pretrial services program in lieu of bail or as condition of release

43 (a) Participation in a pretrial services program may be ordered by the court, in lieu of bail
44 or as a condition of release consistent with sections 57, 58 and 58A of chapter 276. The court
45 may dictate the duration and conditions of the pretrial services program. Any conditions should
46 be imposed to ensure return of the defendant to court or, where permitted by law, to assure the
47 safety of any person or the community.

48 (b) The Massachusetts probation service may utilize pretrial services programs for
49 pretrial supervision consistent with sections 87 and 87A of chapter 276, upon agreement by the
50 person before the court who is charged with an offense or crime.

51 (c) If the sheriff who has custody of a person held on bail under section 57 or 58 of
52 chapter 276 determines that the person would benefit from entering a pretrial services program,

53 the sheriff shall provide a written recommendation of such determination to the court, the
54 commissioner, the prosecuting office and the person or the person's attorney, where applicable.
55 The prosecuting office may notify any victim of the sheriff's recommendation upon receipt of
56 such recommendation. If the commissioner or the prosecuting office objects to such
57 recommendation, the commissioner or prosecuting office shall file written objection with the
58 court within 14 days of receipt of such notice. Upon receipt of such objection, the court may set
59 the matter for hearing. After expiration of the time for filing objections and after hearing, if
60 applicable, the court shall either decline to modify its earlier bail order or make an order under
61 subsection (a) of this section authorizing the person's participation in a pretrial services program.
62 In no event shall the person held on bail be ordered under this paragraph to enter a pretrial
63 services program without that person's consent.

64 (d) Placement of a person in a pretrial services program shall require victim notification
65 as required under subsection (t) of section 3 of chapter 258B.

66 § 3B. Utilization of programs developed by the office of community justice programs for
67 persons not sentenced to intensive supervision with treatment under Sec. 3

68 (a) For any person sentenced to probation supervision who has not been sentenced to
69 intensive supervision with treatment under section 3, the probation department may utilize
70 programs and services offered by the office of community justice programs: (i) for participation
71 in court-ordered programming where such programming is available through the office of
72 community justice programs; or (ii) upon agreement by the person so sentenced.

73 (b) The use of programs and services under subsection (a) of section 3B of this chapter
74 shall not operate as intensive supervision with treatment as defined in section 1.

75 § 3C. Utilization of programs developed by the office of community justice programs for
76 reentry and other criminal justice involved persons

77 (a) The office of community justice programs may provide reentry services programs,
78 which shall not operate as intensive supervision with treatment as defined in section 1 of this
79 chapter, to any person released from incarceration including, but not limited to, any probationer
80 or parolee.

81 (b) Any person who has previously been sentenced to probation supervision, even if that
82 person is no longer being supervised by the Massachusetts probation service, may utilize
83 programs and services offered by the office of community justice programs. The use of programs
84 and services under this section shall not operate as intensive supervision with treatment as
85 defined in section 1.

86 § 4. Community justice plans

87 (a) The executive director is hereby authorized and directed to develop and implement
88 standards for a contracting process for community justice plans, as follows:

89 (1) A community justice plan shall include:

90 (A) the type of programs and services offered such as, intensive supervision with
91 treatment, pretrial services or reentry services and the interventions to be made therein, such as
92 cognitive behavioral therapy, employment counseling, educational support, etc.

93 (B) a description of the administrative, capital and operating costs of the programs;

94 (C) a description of methods by which the state, local or private service agency shall
95 implement the community justice program with fidelity to evidence-based practices;

96 (D) a description of the knowledge, skill and experience of the state, local or private
97 service agency in the fields of criminal justice, human services and social sciences.

98 (2) Subject to appropriation, the executive director shall select plans for funding. All
99 contracts shall provide that the executive director may suspend funding or may assume
100 administrative responsibility for any community justice programs not in compliance with
101 standards, or if the public safety is threatened. The executive director shall separately contract to
102 provide specialized, age-appropriate reentry services for emerging adults (18-25 years old),
103 released from incarceration including, but not limited to, any probationer or parolee.

104 (3) The executive director shall monitor programs for compliance with the goals of this
105 chapter, and shall provide technical assistance, training and education to providers in developing
106 and operating community justice programs.

107 (b) Subject to an agreement between the commissioner and the secretary of public safety
108 and subject to appropriation, the resources of community justice programs shall be utilized by
109 the parole board for the purpose of parole supervision and the department of correction for the
110 purpose of reentry.

111 § 5. Annual report

112 The commissioner shall submit an annual report no later than January 15 of each year,
113 commencing January 15, 2021, to the governor, the joint committees on the judiciary, mental
114 health, substance use and recovery, public health and public safety and homeland security and
115 the clerks of the house of representatives and the senate. The report shall include but shall not be
116 limited to the following information:

117 (1) a statistical report of the utilization of community justice programs, including a list of
118 all community justice programs operated under the office of community justice programs;

119 (2) the effectiveness of the office of community justice programs in reducing prison
120 commitments, reducing pretrial detention and increasing the court appearance rate and the
121 metrics used to evaluate said effectiveness;

122 (3) fiscal audits on the expenditure of state funds;

123 (4) the results of any investigations into community justice program noncompliance with
124 community justice plans;

125 (4) any other relevant information or recommendations provided by the commissioner.

126 SECTION 2:Section 57 of chapter 276 of the General Laws, as amended by chapter 69 of
127 the Acts of 2018, is hereby amended by striking out the last paragraph and inserting in place
128 thereof the following paragraph:- Participation in intensive supervision with treatment pursuant
129 to chapter 211F as pretrial treatment may be ordered by the court, in lieu of bail, or as a
130 condition of release; provided, however, that the defendant shall consent to such participation.
131 The following shall not be admissible against the person in any proceedings: (i) a request to
132 engage in a pretrial treatment program; (ii) a decision not to enter a pretrial treatment program;
133 (iii) any statement made by the person during the course of a pretrial treatment program
134 assessment. A statement or other disclosure or a record thereof made by a person during the
135 course of a pretrial treatment program assessment shall not be disclosed at any time to the
136 commonwealth or other law enforcement officer in connection with the investigation or
137 prosecution of any charges against the person or a codefendant.

138 SECTION 3:Section 58 of chapter 276 of the General Laws, as amended by chapter 69 of
139 the Acts of 2018, is hereby amended by striking out the last paragraph and inserting in place
140 thereof the following paragraph:- Participation in intensive supervision with treatment pursuant
141 to chapter 211F as pretrial treatment may be ordered by the court, in lieu of bail, or as a
142 condition of release; provided, however, that the defendant shall consent to such participation.
143 The following shall not be admissible against the person in any proceedings: (i) a request to
144 engage in a pretrial treatment program; (ii) a decision not to enter a pretrial treatment program;
145 (iii) any statement made by the person during the course of a pretrial treatment program
146 assessment. A statement or other disclosure or a record thereof made by a person during the
147 course of a pretrial treatment program assessment shall not be disclosed at any time to the
148 commonwealth or other law enforcement officer in connection with the investigation or
149 prosecution of any charges against the person or a codefendant.

150 SECTION 4:Section 58A of chapter 276 of the General Laws, as amended by chapter 69
151 of the Acts of 2018, is hereby amended by striking out, in lines 94-97 the following words
152 “Participation in a community corrections program pursuant to chapter 211F may be ordered by
153 the court or as a condition of release; provided, however, that the defendant shall consent to such
154 participation” and by inserting in place thereof:- Participation in intensive supervision with
155 treatment pursuant to chapter 211F as pretrial treatment may be ordered by the court, in lieu of
156 bail, or as a condition of release; provided, however, that the defendant shall consent to such
157 participation. The following shall not be admissible against the person in any proceedings: (i) a
158 request to engage in a pretrial treatment program; (ii) a decision not to enter a pretrial treatment
159 program; (iii) any statement made by the person during the course of a pretrial treatment
160 program assessment. A statement or other disclosure or a record thereof made by a person during

161 the course of a pretrial treatment program assessment shall not be disclosed at any time to the
162 commonwealth or other law enforcement officer in connection with the investigation or
163 prosecution of any charges against the person or a codefendant.