

HOUSE No. 00434

The Commonwealth of Massachusetts

PRESENTED BY:

Bradford Hill

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 relative to the punishment of habitual offenders.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Bradford Hill</i>	<i>4th Essex</i>
<i>Bradley H. Jones, Jr.</i>	<i>20th Middlesex</i>
<i>James J. Dwyer</i>	<i>30th Middlesex</i>
<i>George N. Peterson, Jr.</i>	<i>9th Worcester</i>
<i>Elizabeth Poirier</i>	<i>14th Bristol</i>
<i>Viriato Manuel deMacedo</i>	<i>1st Plymouth</i>
<i>David Vieira,</i>	<i>3rd Barnstable</i>
<i>Richard Bastien</i>	<i>2nd Worcester</i>
<i>Peter J. Koutoujian</i>	<i>10th Middlesex</i>
<i>Bruce E. Tarr</i>	<i>First Essex and Middlesex</i>
<i>James E. Timilty</i>	<i>Bristol and Norfolk</i>
<i>Donald F. Humason, Jr.</i>	<i>4th Hampden</i>
<i>Marc Lombardo</i>	<i>22nd Middlesex</i>
<i>Theodore C. Speliotis</i>	<i>13th Essex</i>
<i>Donald Wong</i>	<i>9th Essex</i>
<i>Richard J. Ross</i>	<i>Norfolk, Bristol, and Middlesex</i>
<i>Lori A. Ehrlich</i>	<i>8th Essex</i>

<i>Jennifer E. Benson</i>	<i>37th Middlesex</i>
<i>Daniel K. Webster</i>	<i>6th Plymouth</i>
<i>George Ross</i>	<i>2nd Bristol</i>
<i>Bruce J. Ayers</i>	<i>1st Norfolk</i>
<i>Nicholas Boldyga</i>	<i>3rd Hampden</i>
<i>John D. Keenan</i>	<i>7th Essex</i>
<i>Geoff Diehl</i>	<i>7th Plymouth</i>
<i>Ryan Fattman</i>	<i>18th Worcester</i>
<i>Kevin Kuros</i>	<i>8th Worcester</i>
<i>Todd M. Smola</i>	<i>1st Hampden</i>
<i>Matthew Beaton</i>	<i>11th Worcester</i>
<i>Angelo D'Emilia</i>	<i>8th Plymouth</i>
<i>Sheila Harrington</i>	<i>1st Middlesex</i>
<i>Steven Howitt</i>	<i>4th Bristol</i>
<i>Steven L. Levy</i>	<i>4th Middlesex</i>
<i>James Lyons, Jr.</i>	<i>18th Essex</i>
<i>Shaunna O'Connell</i>	<i>3rd Bristol</i>
<i>Stephen L. DiNatale</i>	<i>3rd Worcester</i>
<i>Dennis A. Rosa</i>	<i>4th Worcester</i>
<i>Angelo J. Puppolo, Jr.</i>	<i>12th Hampden</i>
<i>Michael F. Rush</i>	<i>Suffolk and Norfolk</i>
<i>Thomas M. Stanley</i>	<i>9th Middlesex</i>
<i>Kimberly Ferguson</i>	<i>1st Worcester</i>
<i>Daniel Winslow</i>	<i>9th Norfolk</i>
<i>Edward Coppinger</i>	<i>10th Suffolk</i>
<i>Susan Williams Gifford</i>	<i>2nd Plymouth</i>
<i>Geraldo Alicea</i>	<i>6th Worcester</i>
<i>F. Jay Barrows</i>	<i>1st Bristol</i>
<i>Linda Dean Campbell</i>	<i>15th Essex</i>
<i>Colleen M. Garry</i>	<i>36th Middlesex</i>
<i>Michael O. Moore</i>	<i>Second Worcester</i>
<i>Cleon H. Turner</i>	<i>1st Barnstable</i>
<i>Christine E. Canavan</i>	<i>10th Plymouth</i>
<i>Christopher G. Fallon</i>	<i>33rd Middlesex</i>
<i>Randy Hunt</i>	<i>5th Barnstable</i>
<i>Walter F. Timitly</i>	<i>7th Norfolk</i>
<i>Geraldine Creedon</i>	<i>11th Plymouth</i>
<i>James Arciero</i>	<i>2nd Middlesex</i>
<i>Paul Adams</i>	<i>17th Essex</i>

<i>Kate Hogan</i>	<i>3rd Middlesex</i>
<i>James J. O'Day</i>	<i>14th Worcester</i>
<i>Paul K. Frost</i>	<i>7th Worcester</i>
<i>Nick Collins</i>	<i>4th Suffolk</i>
<i>David M. Torrasi</i>	<i>14th Essex</i>
<i>John F. Keenan</i>	<i>Norfolk and Plymouth</i>
<i>Gerard Leone</i>	<i>District Attorney, Middlesex County</i>

HOUSE No. 00434

By Mr. Bradford Hill of Ipswich, petition (accompanied by bill, House, No. 00434) of James J. O'Day and others relative to the punishment of habitual offenders convicted in the courts of the Commonwealth. Joint Committee on the Judiciary.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE
□ HOUSE
□ , NO. 1423 OF 2009-2010.]

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

An Act relative to the punishment of habitual offenders.

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 133A of chapter 127 of the General Laws, as appearing in the 2006
- 2 Official Edition, is hereby amended by inserting after the word "Bridgewater" in line 4, the
- 3 following:-
- 4 except prisoners serving a life sentence imposed pursuant to section twenty-five of
- 5 chapter two hundred and seventy-nine,
- 6 SECTION 2. Section 133B of chapter 127 of the General Laws is hereby repealed.

7 SECTION 3. Section 25 of chapter 279 of the General Laws, as appearing in the 2006 Official
8 Edition, is hereby amended by striking section 25 in its entirety and inserting in place there of the
9 following section:-

10 Section 25. (a) Whoever has been twice convicted of crime and sentenced and committed to
11 prison in this or another state or by the Federal government, or once in this and once or more in
12 another state or by the Federal government, for terms of not less than three years each, and does
13 not show that he has been pardoned for either crime on the ground that he was innocent, shall,
14 upon conviction of a felony, be considered an habitual criminal and be punished by
15 imprisonment in the state prison for the maximum term provided by law as a penalty for the
16 felony for which he is then to be sentenced.

17 (b) Whoever has been twice convicted in the Superior Court of a felony, and does not show that
18 he has been pardoned for either crime on the ground that he was innocent, shall, upon conviction
19 in the Superior Court of a felony, be considered an habitual criminal and be punished by
20 imprisonment in the state prison for the maximum term provided by law as a penalty for the
21 felony for which he is then to be sentenced.

22 (c) Whoever has been twice convicted of a felony punishable by more than ten years in the state
23 prison, and does not show that he has been pardoned for either crime on the ground that he was
24 innocent, shall, upon conviction of any felony, either in the Boston Municipal Court, District
25 Court, or Superior Court be considered an habitual criminal and be punished by imprisonment
26 for the maximum term provided by law as a penalty for the felony for which he is then to be
27 sentenced.

28 (d) A prosecution commenced under this section shall not be continued without a finding or
29 placed on file and all offenders sentenced under this section shall be ineligible for probation,
30 parole, work release or furlough or receive any deduction from his sentence for good conduct.

31 (e) In any prosecution commenced pursuant to this section, introduction into evidence of a prior
32 conviction by either certified attested copies of original court papers, or certified attested copies
33 of the defendant's biographical and informational data from records of the department of
34 probation, any jail or house of correction or the department of correction showing that defendant
35 served a sentence or probationary term for the offense in question, shall be prima facie evidence
36 that the defendant before the court has been convicted previously by a court of the
37 commonwealth or any other jurisdiction. Such documentation shall be self-authenticating and
38 admissible, after the commonwealth has established the defendant's guilt on the primary offense,
39 as evidence in any court of the commonwealth to prove the defendant's commission of any prior
40 conviction described therein. The commonwealth shall not be required to introduce any
41 additional corroborating evidence or live witness testimony to establish the validity of such prior
42 conviction.

43 SECTION 4. Section 1 of chapter 279 of the General Laws, as appearing in the 2006 Official
44 Edition, is hereby amended by inserting in the second paragraph after the first sentence the
45 following new sentence:-

46 A probationer whose sentence has been suspended shall be revoked and committed on the
47 suspended sentence where it is established by a preponderance of the evidence that the
48 probationer committed a felony while on probation.

49 SECTION 5. Section 1A of chapter 279 of the General Laws, as appearing in the 2006 Official
50 Edition, is hereby amended by inserting, after the first paragraph, the following new paragraph:-

51 A probationer whose sentence has been suspended shall be revoked and committed on the
52 suspended sentence where it is established by a preponderance of the evidence that the
53 probationer committed a felony while on probation.

54 SECTION 6. Section 3 of chapter 279 of the General Laws, as appearing in the 2006 Official
55 Edition, is hereby amended in the first paragraph by striking the words “If such suspension is
56 revoked, the sentence shall be in full force and effect.” and inserting in place thereof the
57 following:- If such suspension is revoked, the sentence shall be in full force and effect, and such
58 suspension must be revoked where it is established by a preponderance of the evidence that the
59 probationer committed a felony while on probation. The pendency of a criminal action on a
60 charge which also constitutes an alleged violation of probation shall not be grounds for a
61 continuance of the probation violation hearing and such probation violation hearing shall be
62 conducted promptly.

63 SECTION 7. Chapter 279 of the General Laws, as appearing in the 2006 Official Edition, is
64 hereby amended by striking out section 8B in its entirety and inserting in place thereof the
65 following section:-

66 Section 8B. If a defendant on release subject to the provisions of sections 42A, 58, 58A, or 87 of
67 chapter 276 or any other statute that allows the court to set conditions of release during the
68 pendency of a criminal case, commits a crime, the sentences ultimately imposed on the pending
69 crime and the new crime shall run consecutively to each other, without regard to the order or
70 sequence in which those cases are adjudicated.