

# SENATE . . . . . No. 1178

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## The Commonwealth of Massachusetts

PRESENTED BY:

*James E. Timilty*

*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 creating separate criminal offenses for assault committed with a firearm.

PETITION OF:

NAME:

*James E. Timilty*

DISTRICT/ADDRESS:

*Bristol and Norfolk*

# SENATE . . . . . No. 1178

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By Mr. Timilty, a petition (accompanied by bill, Senate, No. 1178) of James E. Timilty for legislation to create separate criminal offenses for assault committed with a firearm. Public Safety and Homeland Security.

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[SIMILAR MATTER FILED IN PREVIOUS SESSION  
SEE SENATE, NO. 895 OF 2011-2012.]

## The Commonwealth of Massachusetts

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In the Year Two Thousand Thirteen  
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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 2010 Official  
2 Edition, is hereby 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  
5 capacity weapon, rifle, shotgun, sawed-off shotgun, or machine gun as defined by G.L. c. 140  
6 §121 shall be punished.

7       (b) A person found guilty of section (a) above, shall be sentenced to the state prison for a  
8 maximum penalty of life or no less than ten (10) years. The sentence imposed on such person  
9 shall not be reduced to less than ten (10) years, nor suspended, nor shall any person convicted  
10 under this subsection be eligible for probation, parole, work release, or furlough or receive any  
11 deduction from his sentence for good conduct until he shall have served ten (10) years of such  
12 sentence; provided, however, that the commissioner of correction may on the recommendation of  
13 the warden, superintendent, or other person in charge of a correctional institution, grant to an  
14 offender committed under this subsection a temporary release in the custody of an officer of such  
15 institution for the following purposes only: to attend the funeral of a relative; to visit a critically  
16 ill relative; or to obtain emergency medical or psychiatric service unavailable at said institution.

Prosecutions commenced under this subsection shall neither be continued without a finding nor placed on file.

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

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

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