SENATE DOCKET, NO. 1998 FILED ON: 1/16/2009

SENATE . . . . . No. 1678

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

An Act relative to post release supervision and community reintegration..

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Section 32H of chapter 94C, as appearing in the 2004 Official Edition, is hereby amended by striking out, in line 13, the word "parole," and is hereby further amended by inserting at the end of said section the following paragraph:-

Notwithstanding any general or special law to the contrary, a person convicted of violating any provisions of sections 32, 32A, 32B, 32E, 32F, and 32J of chapter 94C of the General, who is serving a sentence where two-thirds of the maximum term of imprisonment imposed is less than the mandatory minimum sentence required under that section shall be eligible for parole after serving two-thirds of the maximum term of imprisonment imposed.

SECTION 2. Notwithstanding the provisions of sections 32, 32A, 32B, 32E, 32F, and 32J of chapter 94C of the General Laws, or any other general or special law to the contrary, persons serving mandatory minimum sentences for violations of the above referenced sections as of July 1, 2007 shall be eligible for parole after serving two-thirds of their maximum sentence.

SECTION 3. Chapter 279 of the General Laws, as so appearing, is hereby amended by inserting after section 27 the following section following section:—

Section 28. For all sentences to incarceration for a period of twelve months or more which are imposed in accordance with the sentencing guidelines as established in this chapter, there shall be imposed a period of postincarceration supervision. The period of postincarceration supervision shall be imposed as follows: a period of 6 months for a sentence with a maximum term greater than or equal to 12 months but less than 30 months; a period of 12 months for a sentence with a maximum greater than or equal to 30 months but less than 60 months; and a period of 24 months for a sentence with a maximum greater than 60 months. The total term of incarceration for the offense plus any additional commitment for a violation of a condition of postincarceration supervision that does not otherwise constitute a new offense, shall not be greater than the maximum term fixed by statute for the governing offense. During the period of postincarceration supervision, the prisoner shall be subject to the supervision of the Parole Board under such terms and conditions as established by the Board.

The postincarceration supervision period shall be deemed completed if the prisoner completes the sentence to incarceration while on parole, if the prisoner is granted a certificate of termination of sentence pursuant to G.L. c. 127, § 130A, if the prisoner is subject upon release from custody to lifetime parole pursuant to section 133C of chapter 127, or if upon completion of the sentence the prisoner is immediately committed to a sentence of incarceration, to the custody of any other state or federal authority, or to the custody of immigration authorities. The postincarceration supervision shall be stayed for any period the prisoner is in custody pursuant to any order of custody under chapter 123A. The postincarceration supervision period shall be deemed completed upon commitment pursuant to section 14 of chapter 123A. In all other

circumstances, the period of postincarceration supervision shall commence upon discharge from the sentence.

During the period of postincarceration supervision, the prisoner shall be subject to the jurisdiction of the parole board in accordance with section 130 of chapter 127. The prisoner may be supervised in another jurisdiction in accordance with sections 151A through 151L of chapter 127 and shall be considered on parole for the purposes of such supervision. By a majority vote of a panel of the parole board after a hearing and for good cause, the parole board may terminate the period of postincarceration supervision at any time before completion.

An individual who violates a condition of postincarceration supervision shall be subject to the provisions of section 149 of chapter 127. Upon a first violation, the prisoner may be incarcerated for a period no greater than two months or the maximum remaining period of postincarceration supervision, whichever is less, if such violation does not otherwise constitute a criminal offense. Upon a second violation, the prisoner may be incarcerated for a period no greater than six months or the maximum remaining period of postincarceration supervision, whichever is less, if such violation does not otherwise constitute a criminal offense. Upon a third or subsequent violation the prisoner, may be incarcerated for a period no greater than twelve months or the maximum remaining period of postincarceration supervision, whichever is less, if such violation does not otherwise constitute a criminal offense. If such violation otherwise constitutes a criminal offense, said period of incarceration shall be served on and after any sentence received for commission of the new offense. In the event that the prisoner has been convicted of more than one offense, postincarceration supervision may be imposed if the maximum sentence on all offenses has not been served.

Notwithstanding Section 23 of Chapter 279, where the defendant is sentenced to the house of correction, the total term of incarceration for any offense plus any additional commitment for violation of a condition or conditions of postincarceration supervision pursuant to section 17 of chapter 211G shall not exceed the longest term fixed by law for the punishment of the crime of which the prisoner has been convicted or if the defendant is serving a sentence after being convicted of only one offense, two and one half years, whichever is less.

SECTION 4. Section 25 of chapter 279, as so appearing, is hereby amended by inserting after the word "sentenced" in line 8 the following words:— in addition to two years of post-release supervision to be served when the habitual offender is released from prison, notwithstanding that the combined total of years of the term of imprisonment and the post-release supervision exceeds the maximum term fixed by law. During the period of post-release supervision, the offender shall be under the jurisdiction and supervised by the parole board pursuant to the provisions of sections 128 through 151 of chapter 127.

SECTION 5. Section 130 of chapter 127 of the General Laws, as so appearing is hereby amended by striking out the first sentence and inserting in place thereof the following three sentences:— No prisoner shall be granted a parole permit merely as a reward for good conduct but only if the parole board is of the opinion that there is a reasonable probability that, if such prisoner is released, in light of appropriate conditions and community supervision, he will live and remain at liberty without violating the law and that his release is compatible with the welfare of society. In making this determination, the board shall consider whether, during the period of incarceration, the prisoner has participated in available work opportunities and education or treatment programs, and demonstrated good behavior. The board shall also consider whether risk

reduction programs made available through collaboration with criminal justice agencies would minimize the probability of the prisoner reoffending once released.