

SENATE No. 941

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

An Act punishing assault and battery by means of a bodily substance upon correctional facility employees..

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 127 of the General Laws, as appearing in the 2004 Official
2 Edition, is hereby amended by striking out section 38B and inserting in place thereof the
3 following section:-

4 Section 38B. (a) For the purposes of this section, “bodily substance” shall mean any
5 human secretion, discharge or emission including, but not limited to, blood, saliva, mucous,
6 semen, urine or feces.

7 (b) Any person in the custody of a correctional facility, including any jail, house of
8 correction or state prison, who commits an assault or an assault and battery upon an officer or
9 other employee, any volunteer or employee of a contractor in any such facility or any duly
10 authorized officer or other employee of any such facility engaged in the transportation of a
11 prisoner for any lawful purpose shall be punished by imprisonment in the house of correction for
12 not more than 2½ years or in state prison for not more than 10 years. Such sentence shall begin
13 from and after the expiration of any outstanding and unserved sentences.

14 (c) Any person in the custody of a correctional facility, including any jail, house of
15 correction or state prison, who commits an assault or an assault and battery by means of a bodily
16 substance upon an officer or other employee, any volunteer or employee of a contractor in any
17 such facility or any duly authorized officer or other employee of any such facility engaged in the
18 transportation of a prisoner for any lawful purpose shall be punished by imprisonment in the
19 house of correction for not more than 2 ½ years or in state prison for not less than 5 years nor
20 more than 15 years. Such sentence shall begin from and after the expiration of any outstanding
21 and unserved sentences.