

**HOUSE . . . . . No. 434**

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**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 adoption of the accompanying bill:

An Act relative to the punishment of habitual offenders.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Bradford Hill</i>	<i>4th Essex</i>	<i>3/18/2011</i>
<i>Bradley H. Jones, Jr.</i>	<i>20th Middlesex</i>	<i>3/18/2011</i>
<i>James J. Dwyer</i>	<i>30th Middlesex</i>	<i>3/18/2011</i>
<i>George N. Peterson, Jr.</i>	<i>9th Worcester</i>	<i>3/18/2011</i>
<i>Elizabeth A. Poirier</i>	<i>14th Bristol</i>	<i>3/18/2011</i>
<i>Viriato Manuel deMacedo</i>	<i>1st Plymouth</i>	<i>3/18/2011</i>
<i>David T. Vieira</i>	<i>3rd Barnstable</i>	<i>3/18/2011</i>
<i>Richard Bastien</i>	<i>2nd Worcester</i>	<i>3/18/2011</i>
<i>Peter J. Koutoujian</i>	<i>10th Middlesex</i>	<i>3/18/2011</i>
<i>Bruce E. Tarr</i>		<i>3/18/2011</i>
<i>James E. Timilty</i>		<i>3/18/2011</i>
<i>Donald F. Humason, Jr.</i>	<i>4th Hampden</i>	<i>3/18/2011</i>
<i>Marc T. Lombardo</i>	<i>22nd Middlesex</i>	<i>3/18/2011</i>
<i>Theodore C. Speliotis</i>	<i>13th Essex</i>	<i>3/18/2011</i>
<i>Donald H. Wong</i>	<i>9th Essex</i>	<i>3/18/2011</i>
<i>Richard J. Ross</i>	<i>Norfolk, Bristol and Middlesex</i>	<i>3/18/2011</i>
<i>Lori A. Ehrlich</i>	<i>8th Essex</i>	<i>3/18/2011</i>
<i>Jennifer E. Benson</i>	<i>37th Middlesex</i>	<i>3/18/2011</i>

<i>Daniel K. Webster</i>	<i>6th Plymouth</i>	<i>3/18/2011</i>
<i>George T. Ross</i>	<i>2nd Bristol</i>	<i>3/18/2011</i>
<i>Bruce J. Ayers</i>	<i>1st Norfolk</i>	<i>3/18/2011</i>
<i>Nicholas A. Boldyga</i>	<i>3rd Hampden</i>	<i>3/18/2011</i>
<i>John D. Keenan</i>	<i>7th Essex</i>	<i>3/18/2011</i>
<i>Geoff Diehl</i>	<i>7th Plymouth</i>	<i>3/18/2011</i>
<i>Ryan C. Fattman</i>	<i>18th Worcester</i>	<i>3/18/2011</i>
<i>Kevin J. Kuros</i>	<i>8th Worcester</i>	<i>3/18/2011</i>
<i>Todd M. Smola</i>	<i>1st Hampden</i>	<i>3/18/2011</i>
<i>Matthew A. Beaton</i>	<i>11th Worcester</i>	<i>3/18/2011</i>
<i>Angelo L. D'Emilia</i>	<i>8th Plymouth</i>	<i>3/18/2011</i>
<i>Sheila C. Harrington</i>	<i>1st Middlesex</i>	<i>3/18/2011</i>
<i>Steven S. Howitt</i>	<i>4th Bristol</i>	<i>3/18/2011</i>
<i>Steven L. Levy</i>	<i>4th Middlesex</i>	<i>3/18/2011</i>
<i>James J. Lyons, Jr.</i>	<i>18th Essex</i>	<i>3/18/2011</i>
<i>Shaunna O'Connell</i>	<i>3rd Bristol</i>	<i>3/18/2011</i>
<i>Stephen L. DiNatale</i>	<i>3rd Worcester</i>	<i>3/18/2011</i>
<i>Dennis A. Rosa</i>	<i>4th Worcester</i>	<i>3/18/2011</i>
<i>Angelo J. Puppolo, Jr.</i>	<i>12th Hampden</i>	<i>3/18/2011</i>
<i>Michael F. Rush</i>	<i>Norfolk and Suffolk</i>	<i>3/18/2011</i>
<i>Thomas M. Stanley</i>	<i>9th Middlesex</i>	<i>3/18/2011</i>
<i>Kimberly N. Ferguson</i>	<i>1st Worcester</i>	<i>3/18/2011</i>
<i>Daniel B. Winslow</i>	<i>9th Norfolk</i>	<i>3/18/2011</i>
<i>Edward F. Coppinger</i>	<i>10th Suffolk</i>	<i>3/18/2011</i>
<i>Susan Williams Gifford</i>	<i>2nd Plymouth</i>	<i>3/18/2011</i>
<i>Geraldo Alicea</i>	<i>6th Worcester</i>	<i>3/18/2011</i>
<i>F. Jay Barrows</i>	<i>1st Bristol</i>	<i>3/18/2011</i>
<i>Linda Campbell</i>	<i>15th Essex</i>	<i>3/18/2011</i>
<i>Colleen M. Garry</i>	<i>36th Middlesex</i>	<i>3/18/2011</i>
<i>Michael O. Moore</i>		<i>3/18/2011</i>
<i>Cleon H. Turner</i>	<i>1st Barnstable</i>	<i>3/18/2011</i>
<i>Christine E. Canavan</i>	<i>10th Plymouth</i>	<i>3/18/2011</i>
<i>Christopher G. Fallon</i>	<i>33rd Middlesex</i>	<i>3/18/2011</i>
<i>Randy Hunt</i>	<i>5th Barnstable</i>	<i>3/18/2011</i>
<i>Walter F. Timilty</i>	<i>7th Norfolk</i>	<i>3/18/2011</i>
<i>Geraldine M. Creedon</i>	<i>11th Plymouth</i>	<i>3/18/2011</i>
<i>James Arciero</i>	<i>2nd Middlesex</i>	<i>3/18/2011</i>
<i>Paul Adams</i>	<i>17th Essex</i>	<i>3/18/2011</i>
<i>Kate Hogan</i>	<i>3rd Middlesex</i>	<i>3/18/2011</i>

<i>James J. O'Day</i>	<i>14th Worcester</i>	<i>3/18/2011</i>
<i>Paul K. Frost</i>	<i>7th Worcester</i>	<i>3/18/2011</i>
<i>Nick Collins</i>	<i>4th Suffolk</i>	<i>3/18/2011</i>
<i>David M. Torrasi</i>	<i>14th Essex</i>	<i>3/18/2011</i>
<i>John F. Keenan</i>		<i>7/22/2011</i>
<i>Gerard Leone</i>	<i>District Attorney, Middlesex County</i>	

**HOUSE . . . . . No. 434**

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By Mr. Hill of Ipswich, a petition (accompanied by bill, House, No. 434) of Bradford Hill and others relative to the punishment of habitual offenders convicted in the courts of the Commonwealth. The Judiciary.

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

**The Commonwealth of Massachusetts**

\_\_\_\_\_  
**In the Year Two Thousand Eleven**  
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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  
8 Official Edition, is hereby amended by striking section 25 in its entirety and inserting in place  
9 there of the following section:-

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

28           (d) A prosecution commenced under this section shall not be continued without a finding  
29 or 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  
32 a prior conviction by either certified attested copies of original court papers, or certified attested  
33 copies 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  
44 Official Edition, is hereby amended by inserting in the second paragraph after the first sentence  
45 the 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  
50 Official Edition, is hereby amended by inserting, after the first paragraph, the following new  
51 paragraph:-

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

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

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

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