SENATE DOCKET, NO. 1117 FILED ON: 1/18/2013

SENATE . . . . . No. 52

The Commonwealth of Massachusetts

PRESENTED BY:

James B. Eldridge

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 promoting restorative justice practices.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
James B. Eldridge	*Middlesex and Worcester*
Denise Andrews	*2nd Franklin*
Mary S. Keefe	*15th Worcester*
Jay R. Kaufman	*15th Middlesex*
Ruth B. Balser	*12th Middlesex*
Jonathan Hecht	*29th Middlesex*
Kenneth I. Gordon	*21st Middlesex*
Michael J. Barrett	*Third Middlesex*
Patricia D. Jehlen	*Second Middlesex*

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SENATE . . . . . No. 52

By Mr. Eldridge, a petition (accompanied by bill, Senate, No. 52) of James B. Eldridge, Denise Andrews, Mary S. Keefe, Jay R. Kaufman and other members of the General Court for legislation to promote restorative justice practices. Children, Families and Persons with Disabilities.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. *41* OF 2011-2012.]

The Commonwealth of Massachusetts

In the Year Two Thousand Thirteen

An Act promoting restorative justice practices.

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 52 of Chapter 119 of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by adding the following definitions:

"Restorative justice," a comprehensive approach to community harm up to and including criminal justice that emphasizes repairing the harm or crime caused by the event. It is a set of principles that supports an offender, hereinafter referred to as the "responsible party," to accept responsibility for his/her actions and prioritizes repairing the harm done to the victim, hereinafter referred to as the "impacted party," and community caused by wrongdoing or criminal acts. As a result, restorative justice seeks to engage the impacted party, the responsible party, and community members in order to respond to a harm or crime, and repair the injuries caused to all parties and the community.

"Restorative justice meeting," includes but is not limited to responsible party-impacted party conferences, restorative dialogues, family group conferences, restorative circles of accountability and support, community group conferences, solution circles, peace circles, restorative circles, restorative mediation. Restorative justice meetings are attended voluntarily by the impacted party or impacted party's representatives, the impacted party's supporters, the responsible party, and the responsible party's supporters, should include community members

and may include a representative of the referring agency. The restorative justice meeting is facilitated by a trained and impartial restorative justice facilitator. In referring participation to a restorative justice process, the court or referring agency must consider the following criteria: a responsible party's willingness to take responsibility; an impacted party's willingness to engage the responsible party; and reasonable assurances for physical and emotional safety of all in the process. Completion of the restorative justice process is marked by a constructive and confidential plan of repair agreed upon by all participating parties. The plan of repair must contain a specific, monitored timeline for completion and must be signed by all participants. The community-based restorative justice program shall monitor the plan of repair, and must return the case to the referring source if the parties do not comply by the plan of repair. Participation in a community-based restorative justice program shall not be used as evidence of admission of guilt in current or subsequent legal proceedings nor shall that participation be used for other purposes in a court of law.

"Community-based restorative justice program," a program established on restorative justice principles, as defined by this section, within the community in which the offense occurred and which partners with police, courts, and the community to offer impartial facilitators trained in restorative justice practices, as defined in this section, to facilitate the participation of responsible parties and impacted parties in a restorative justice meeting.

SECTION 2. Section 55B of said chapter 119, as so appearing, is hereby amended in lines 12-13 by inserting after the words "upon compliance with specific terms and conditions" the following:- , including an established community-based restorative justice program, except that the court may not refer participation in restorative justice process if the responsible party was adjudicated for unlawful sexual behavior or a crime in which the underlying factual basis involves domestic or family violence,

SECTION 3. Section 39H of said chapter 119, as so appearing, is hereby amended after the second paragraph by inserting the following paragraph:-

The law enforcement officer may refer such child to an established community-based restorative justice program, as defined in Section 1 of this Act, except that participation in a restorative justice process shall not be recommended if the responsible party was arrested for unlawful sexual behavior or a crime in which the underlying factual basis involves domestic or family violence.

SECTION 4. Section 3 of Chapter 276A is hereby amended after the third paragraph by inserting the following paragraph:-

Such programs may include an established community-based restorative justice program, as defined in Section 1 of this Act, except that the court may not refer participation in restorative justice process if the responsible party was adjudicated for unlawful sexual behavior or a crime in which the underlying factual basis involves domestic or family violence.

SECTION 5. Section 87A of Chapter 276 is hereby amended in line 5 by inserting after the words “specified rehabilitative programs” the following:- including an established community-based restorative justice program, as defined in Section 1 of this Act, except that the court may not refer participation in restorative justice process if the responsible party was adjudicated for unlawful sexual behavior or a crime in which the underlying factual basis involves domestic or family violence,

SECTION 6. Notwithstanding the provisions of any general or special law to the contrary, there shall be established an advisory committee to study and track the use of and referral to community-based restorative programs, as defined in Section 1 of this Act, in juvenile and adult criminal proceedings in the Commonwealth. The advisory committee shall consist of 17 members, 1 of whom shall be the secretary of public safety and security, or a designee, who shall serve as chair of the task force; 1 of whom shall be the secretary of health and human services, or a designee, 1 of whom shall be a representative of the Massachusetts District Attorneys Association; 1 of whom shall be a representative from the Massachusetts Committee for Public Counsel Services; 2 of whom shall be the chairs of the joint committee on judiciary, or their designees; 2 of whom shall be the chairs of the joint committee on children, families, and persons with disabilities, or their designee, 2 of whom shall be appointed by the governor, of which one shall be a representative of the Massachusetts Police Association or law enforcement community; 3 of whom shall be representatives of a community-based restorative justice program, as defined by Section 52 of Chapter 119, of which 1 of whom shall be from a school-based restorative justice program, 1shall be from a program that accepts police referrals, and 1shall be from a program that accept court referrals; 1 of whom shall be a representative from an organization that serves or advocates for victims of domestic violence, rape, or sexual assault; and 1 of whom shall be a professor with expertise in restorative justice or criminal justice diversion programs. The advisory committee shall track the use of restorative justice, as allowed for under this Act and Section 38 of Chapter 240 of the Acts of 2012, and shall make legislative and regulatory recommendations to aid in the administration of restorative justice programs, including but not limited to: qualitative and quantitative outcomes for participants, recidivism rates of responsible parties, criteria for youth involvement and training where appropriate, outline cost savings for the Commonwealth, establish training guidelines for restorative justice facilitators and criteria for state certified programs, publish guidelines for restorative justice best practices in Massachusetts, create recommendations for identifying appropriate training and funding sources for community-based restorative programs, as defined by SECTION of this Act, as well as draft a strategic plan for the expansion of restorative justice programs and opportunities throughout the Commonwealth. The advisory committee shall file a report of its findings and recommendations with the Governor, clerks of the house of representatives and senate no later than December 31, 2015.