

# HOUSE . . . . . No. 3072

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## The Commonwealth of Massachusetts

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PRESENTED BY:

***Russell E. Holmes***

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*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 providing community-based sentencing alternatives for primary caretakers of dependent children convicted of non-violent crimes.

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PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Russell E. Holmes</i>	<i>6th Suffolk</i>	<i>1/20/2017</i>
<i>Jonathan Hecht</i>	<i>29th Middlesex</i>	
<i>Carlos González</i>	<i>10th Hampden</i>	
<i>Solomon Goldstein-Rose</i>	<i>3rd Hampshire</i>	
<i>Denise Provost</i>	<i>27th Middlesex</i>	
<i>Bud Williams</i>	<i>11th Hampden</i>	
<i>Jay R. Kaufman</i>	<i>15th Middlesex</i>	
<i>Mary S. Keefe</i>	<i>15th Worcester</i>	
<i>Alice Hanlon Peisch</i>	<i>14th Norfolk</i>	
<i>David M. Rogers</i>	<i>24th Middlesex</i>	

# HOUSE . . . . . No. 3072

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By Mr. Holmes of Boston, a petition (accompanied by bill, House, No. 3072) of Russell E. Holmes and others relative to providing community-based sentencing alternatives for primary caretakers of dependent children convicted of non-violent crimes. The Judiciary.

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[SIMILAR MATTER FILED IN PREVIOUS SESSION  
SEE HOUSE, NO. 1382 OF 2015-2016.]

## The Commonwealth of Massachusetts

\_\_\_\_\_  
In the One Hundred and Ninetieth General Court  
(2017-2018)  
\_\_\_\_\_

An Act providing community-based sentencing alternatives for primary caretakers of dependent children convicted of non-violent crimes.

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

1           Chapter 279 of the General Laws is hereby amended by inserting after section 6A, as  
2   appearing in the 2012 Official Edition, the following section:-

3           Section 6B. (a) As used in this section the following terms shall, unless the context  
4   clearly requires otherwise, have the following meanings:-

5           "Dependent child", a person who is less than 18 years of age.

6           "Non-violent offense", any conviction for a crime punishable by imprisonment, except a  
7   crime punishable by imprisonment that: (i) has as an element the use, attempted use or threatened  
8   use of physical force or a deadly weapon against the person of another; (ii) is burglary, extortion,

arson or kidnapping; (iii) involves the use of explosives; or (iv) otherwise involves conduct that presents a serious risk of physical injury to another.

“Primary caretaker of a dependent child”, a parent who has consistently assumed responsibility for the housing, health, and safety of a child prior to incarceration; or a woman who has given birth to a child after or while awaiting her sentencing hearing and who expresses a willingness to assume responsibility for the housing, health, and safety of that child. A parent who, in the best interest of the child, has arranged for the temporary care of the child in the home of a relative or other responsible adult shall not for that reason be excluded from the definition of "primary caretaker of a dependent child".

(b) Notwithstanding any general or special law to the contrary, as soon as is possible and practicable after the conviction of a person for a non-violent offense, the sentencing court shall determine if the person so convicted is a primary caretaker of a dependent child. If the court determines that a person convicted of a non-violent offense is a primary caretaker of a dependent child, the court shall impose an individually assessed sentence, without imprisonment, based on community rehabilitation, with a focus on parent-child unity and support. In imposing the individually assessed sentence, the court may require the person to meet certain conditions that the court considers appropriate, including but not limited to:

(i) Drug and alcohol treatment;

(ii) Domestic violence education and prevention;

(iii) Physical and sexual abuse counseling;

(iv) Anger management;

- (v) Vocational and educational services;
- (vi) Job training and placement;
- (vii) Affordable and safe housing assistance;
- (viii) Financial literacy;
- (ix) Parenting classes;
- (x) Family and individual counseling; and
- (xi) Family case management services.

(c) (1) The court may require any person serving an individually assessed sentence pursuant to this section to appear in court any time during his or her sentence to evaluate the person's progress in treatment or rehabilitation, or to determine if the person has violated any condition of the sentence.

(2) Upon an appearance in court made pursuant to paragraph (1), the court may: (i) modify the conditions of a sentence imposed pursuant to this section; (ii) decrease the duration of a sentence imposed pursuant to this section based on the person's successful advancement; or (iii) sanction the person for each detected violation of any condition of the sentence imposed pursuant to this section, including but not limited to, requiring the person to serve a term of imprisonment within the range of the offense for which the person was originally convicted, notwithstanding the determination made pursuant to subsection (b) that the person is a primary caretaker of a dependent child.