HOUSE DOCKET, NO. 1794 FILED ON: 1/19/2017

HOUSE . . . . . No. 741

The Commonwealth of Massachusetts

PRESENTED BY:

Evandro C. Carvalho

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 eliminating mandatory minimum sentences related to drug offenses.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
Evandro C. Carvalho	*5th Suffolk*	*1/19/2017*
José F. Tosado	*9th Hampden*	*1/19/2017*
Marjorie C. Decker	*25th Middlesex*	*1/19/2017*
David M. Rogers	*24th Middlesex*	*1/19/2017*
Kenneth I. Gordon	*21st Middlesex*	*1/19/2017*
Carmine L. Gentile	*13th Middlesex*	*1/19/2017*
Ruth B. Balser	*12th Middlesex*	*1/19/2017*
Jack Lewis	*7th Middlesex*	*1/19/2017*
Jason M. Lewis	*Fifth Middlesex*	*1/19/2017*
James B. Eldridge	*Middlesex and Worcester*	*1/19/2017*
Jay R. Kaufman	*15th Middlesex*	*1/19/2017*
Solomon Goldstein-Rose	*3rd Hampshire*	*1/19/2017*
Natalie Higgins	*4th Worcester*	*1/19/2017*
Linda Dorcena Forry	*First Suffolk*	*1/19/2017*
Frank I. Smizik	*15th Norfolk*	*1/19/2017*
Dylan Fernandes	*Barnstable, Dukes and Nantucket*	*1/19/2017*
Mike Connolly	*26th Middlesex*	*1/19/2017*
Christine P. Barber	*34th Middlesex*	*1/19/2017*

Denise Provost	*27th Middlesex*	*1/19/2017*
Carlos González	*10th Hampden*	*1/19/2017*
John J. Lawn, Jr.	*10th Middlesex*	*1/19/2017*
Brian M. Ashe	*2nd Hampden*	*1/19/2017*
Michelle M. DuBois	*10th Plymouth*	*1/19/2017*
Antonio F. D. Cabral	*13th Bristol*	*1/19/2017*
Kay Khan	*11th Middlesex*	*1/19/2017*
Chris Walsh	*6th Middlesex*	*1/19/2017*
Paul R. Heroux	*2nd Bristol*	*1/19/2017*
Byron Rushing	*9th Suffolk*	*1/19/2017*
Gerard Cassidy	*9th Plymouth*	*1/19/2017*
Tricia Farley-Bouvier	*3rd Berkshire*	*1/19/2017*
John J. Mahoney	*13th Worcester*	*1/19/2017*
Jay D. Livingstone	*8th Suffolk*	*1/19/2017*
Daniel Cullinane	*12th Suffolk*	*1/19/2017*
Mary S. Keefe	*15th Worcester*	*1/19/2017*
Sean Garballey	*23rd Middlesex*	*1/19/2017*
Bud Williams	*11th Hampden*	*1/19/2017*
Patricia D. Jehlen	*Second Middlesex*	*1/19/2017*
Daniel J. Ryan	*2nd Suffolk*	*1/19/2017*
Aaron Vega	*5th Hampden*	*1/19/2017*
Michael S. Day	*31st Middlesex*	*1/19/2017*
Daniel J. Hunt	*13th Suffolk*	*1/19/2017*
Jonathan Hecht	*29th Middlesex*	*1/19/2017*
Elizabeth A. Malia	*11th Suffolk*	*1/19/2017*
James J. O'Day	*14th Worcester*	*1/19/2017*
Sonia Chang-Diaz	*Second Suffolk*	*1/19/2017*
Adrian Madaro	*1st Suffolk*	*1/19/2017*
Michael J. Moran	*18th Suffolk*	*1/19/2017*
Peter V. Kocot	*1st Hampshire*	*1/19/2017*
William N. Brownsberger	*Second Suffolk and Middlesex*	*1/19/2017*
Chynah Tyler	*7th Suffolk*	*1/19/2017*

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HOUSE . . . . . No. 741

By Mr. Carvalho of Boston, a petition (accompanied by bill, House, No. 741) of Evandro C. Carvalho and others relative to eliminating mandatory minimum sentences related to drug offenses. The Judiciary.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. *1620* OF 2015-2016.]

The Commonwealth of Massachusetts

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

An Act eliminating mandatory minimum sentences related to drug offenses.

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 32 of chapter 94C of the General Laws, as appearing in the 2012 Official Edition, is hereby amended by

(a) Striking out the words “less than one thousand nor” in subsection (a);

(b) Striking out the words “less than 3 ½ nor” in subsection (b) and further striking the second sentence in the said subsection and inserting in place thereof the following sentence:- No sentence imposed under the provisions of this section shall be punished by a fine of more than twenty-five thousand dollars;

(c) Repealing subsection (c).

SECTION 2. Section 32A of said chapter 94C, as so appearing, is hereby amended by

(a) Striking out the words “less than one thousand nor” in subsection (a);

(b) Striking out the words “less than 2 nor” in subsection (b) and further striking the second sentence in the said subsection and inserting in place thereof the following sentence:- No sentence imposed under the provisions of this section shall be punished by a fine of more than twenty-five thousand dollars;

(c) Striking out the words “less than two and one-half nor” and the words “less than one nor” in subsection (c) and further striking the second sentence in the said subsection and inserting in place thereof the following sentence:- No sentence imposed under the provisions of this section shall be punished by a fine of more than ten thousand dollars;

(d) Striking out the words “less than 3 ½ nor” and further the words “less than two thousand five hundred nor” and further the words “but not in lieu of the mandatory minimum term of imprisonment, as established herein” in subsection (d)

(e) Repealing subsection (e).

SECTION 3. Section 32B of said chapter 94C, as so appearing, is hereby amended by

(a) Striking out the words “less than five hundred nor” in subsection (a);

(b) Striking out the words “less than two and one-half nor” and the words “less than 18 months nor” in subsection (b) and further striking the second sentence in the said subsection and inserting in place thereof the following sentence:- No sentence imposed under the provisions of this section shall be punished by a fine of more than ten thousand dollars;

(c) Repealing subsection (c).

SECTION 4. Section 32C of said chapter 94C, as so appearing, is hereby amended by

(a) Striking out the words “less than five hundred nor” in subsection (a);

(b) Striking out the words “less than one nor” and further the words “less than one thousand nor” in subsection (b).

SECTION 5. Section 32D of said chapter 94C, as so appearing, is hereby amended by

(a) Striking out the words “less than two hundred and fifty nor” in subsection (a);

(b) Striking out the words “less than five hundred nor” in subsection (b).

SECTION 6. Subsection (a) of section 32E of said chapter 94C, as so appearing, is hereby amended by

(a) Striking out the words “less than two and one-half nor” and the words “less than one nor” in paragraph (1) and further striking the second sentence in the said subsection and inserting in place thereof the following sentence:- No sentence imposed under the provisions of this section shall be punished by a fine of more than ten thousand dollars;

(b) Striking out the words “less than 2 nor” in paragraph (2) and further striking the second sentence in the said subsection and inserting in place thereof the following sentence:- No sentence imposed under the provisions of this section shall be punished by a fine of more than twenty-five thousand dollars;

(c) Striking out the words “less than 3 ½ nor” in paragraph (3) and further striking the second sentence in the said subsection and inserting in place thereof the following sentence:- No

sentence imposed under the provisions of this section shall be punished by a fine of more than fifty thousand dollars;

(d) Striking out the words “less than 8 nor” in paragraph (4) and further striking the second sentence in the said subsection and inserting in place thereof the following sentence:- No sentence imposed under the provisions of this section shall be punished by a fine of more than two hundred thousand dollars;

SECTION 7. Subsection (b) of section 32E of said chapter 94C, as so appearing, is hereby amended by

(a) Striking out the words “less than 2 nor” in paragraph (1) and further striking the second sentence in the said subsection and inserting in place thereof the following sentence:- No sentence imposed under the provisions of this section shall be punished by a fine of more than twenty-five thousand dollars;

(b) Striking out the words “less than 3 ½ nor” in paragraph (2) and further striking the second sentence in the said subsection and inserting in place thereof the following sentence:- No sentence imposed under the provisions of this section shall be punished by a fine of more than fifty thousand dollars;

(c) Striking out the words “less than 8 nor” in paragraph (3) and further striking the second sentence in the said subsection and inserting in place thereof the following sentence:- No sentence imposed under the provisions of this section shall be punished by a fine of more than one hundred thousand dollars;

(d) Striking out the words “less than 12 nor” in paragraph (4) and further striking the second sentence in the said subsection and inserting in place thereof the following sentence:- No sentence imposed under the provisions of this section shall be punished by a fine of more than fifty thousand dollars;

SECTION 8. Subsection (c) of section 32E of said chapter 94C, as so appearing, is hereby amended by

(a) Striking out the words “less than 3 ½ nor” in paragraph (1) and further striking the second sentence in the said subsection and inserting in place thereof the following sentence:- No sentence imposed under the provisions of this section shall be punished by a fine of more than fifty thousand dollars;

(b) Striking out the words “less than 5 nor” in paragraph (2) and further striking the second sentence in the said subsection and inserting in place thereof the following sentence:- No sentence imposed under the provisions of this section shall be punished by a fine of more than fifty thousand dollars;

(c) Striking out the words “less than 8 nor” in paragraph (3) and further striking the second sentence in the said subsection and inserting in place thereof the following sentence:- No sentence imposed under the provisions of this section shall be punished by a fine of more than one hundred thousand dollars;

(d) Striking out the words “less than 12 nor” in paragraph (4) and further striking the second sentence in the said subsection and inserting in place thereof the following sentence:- No sentence imposed under the provisions of this section shall be punished by a fine of more than five hundred thousand dollars;

SECTION 9. Subsection (d) of section 32E of said chapter 94C is hereby repealed.

SECTION 10. Section 32F of said chapter 94C, as so appearing, is hereby amended by

(a) Striking out the words “less than five nor” in subsection (a) and further striking the second sentence in the said subsection and inserting in place thereof the following sentence:- No sentence imposed under the provisions of this section shall be punished by a fine of more than twenty-five thousand dollars;

(b) Striking out the words “less than three nor” in subsection (b) and further striking the second sentence in the said subsection and inserting in place thereof the following sentence:- No sentence imposed under the provisions of this section shall be punished by a fine of more than twenty-five thousand dollars;

(c) Striking out the words “less than two and one-half nor” and the words “less than two nor” in subsection (c) and further striking the second sentence in the said subsection and inserting in place thereof the following sentence:- No sentence imposed under the provisions of this section shall be punished by a fine of more than twenty-five thousand dollars;

(d) Striking out the words “less than five nor” in subsection (d) and further striking the second sentence in the said subsection and inserting in place thereof the following sentence:- No sentence imposed under the provisions of this section shall be punished by a fine of more than twenty-five thousand dollars;

SECTION 11. Section 32G of said chapter 94C, as so appearing, is hereby amended by striking out the words “less than two hundred and fifty nor.”

SECTION 12. Section 32 H of said chapter 94C, as so appearing, is hereby amended by striking this section in its entirety.

SECTION 13. Section 32I of said chapter 94C, as so appearing, is hereby amended by

(a) Striking out the words “less than one nor” and the words “less than five hundred nor” in subsection (a);

(b) Striking out the words “less than three nor” and the words “less than one thousand nor” in subsection (b);

(c) Striking out the words “less than fifty nor” in subsection (c).

SECTION 14. Section 32J of said chapter 94c, as so appearing, is hereby amended by striking out the section in its entirety and replacing it with the following:-

Section 32J. Any person who violates the provisions of section thirty-two, thirty-two A, thirty-two B, thirty-two C, thirty-two D, thirty-two E, thirty-two F or thirty-two I while in or on, or within 300 feet of the real property comprising a public or private accredited preschool, accredited headstart facility, elementary, vocational, or secondary school if the violation occurs between 5:00 a.m. and midnight, whether or not in session, or within one hundred feet of a public park or playground shall be punished by a term of imprisonment in the state prison for not more than fifteen years or by imprisonment in a jail or house of correction for not more than two and one-half years. A fine of not more than ten thousand dollars may be imposed. In accordance with the provisions of section eight A of chapter two hundred and seventy-nine such sentence shall begin from and after the expiration of the sentence for violation of section thirty-two, thirty-two A, thirty-two B, thirty-two C, thirty-two D, thirty-two E, thirty-two F or thirty-two I. Lack of

knowledge of school boundaries shall not be a defense to any person who violates the provisions of this section.

SECTION 15. Section 32K of said chapter 94C, as so appearing, is hereby amended by striking out the words “less than five years nor” and further striking the second sentence in said section and inserting in place thereof the following sentence:- No sentence imposed under the provisions of this section shall be punished by a fine of more than one hundred thousand dollars.

SECTION 16. Section 34 of said chapter 94C, as so appearing, is hereby amended by striking out the words “less than two and one-half years nor” in the third sentence of the first paragraph.

SECTION 17. Notwithstanding any general or special law to the contrary, a person serving a sentence for violating any provisions of Chapter 94C or charged with such a violation but a guilty plea has not been accepted nor a conviction entered as of the effective date of this act shall be eligible to receive deductions from his sentence for good conduct under Sections 129C and 129D of Chapter 127.

SECTION 18. Notwithstanding any general or special law to the contrary, a person serving a sentence for violating any provisions of Chapter 94C or charged with such a violation but a guilty plea has not been accepted nor a conviction entered as of the effective date of this section shall be eligible to participate in education, training, employment or work release programs established pursuant to Sections 49, 49B, 49C, 86F and 86G of Chapter 127.

SECTION 19. Notwithstanding any general or special law to the contrary, a person serving a sentence for violating any provisions of Chapter 94C or charged with such a violation but a guilty plea has not been accepted nor a conviction entered as of the effective date of this

section shall not be eligible for parole until he or she has served 1/2 of the mandatory minimum sentence.