

HOUSE No. 3453

The Commonwealth of Massachusetts

PRESENTED BY:

Chynah Tyler

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 creating the justice safety valve.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Chynah Tyler</i>	<i>7th Suffolk</i>	<i>1/18/2019</i>
<i>Bud L. Williams</i>	<i>11th Hampden</i>	<i>1/28/2019</i>
<i>Carlos González</i>	<i>10th Hampden</i>	<i>2/1/2019</i>
<i>Russell E. Holmes</i>	<i>6th Suffolk</i>	<i>2/1/2019</i>
<i>Liz Miranda</i>	<i>5th Suffolk</i>	<i>1/31/2019</i>

HOUSE No. 3453

By Ms. Tyler of Boston, a petition (accompanied by bill, House, No. 3453) of Chynah Tyler and others relative to mandatory minimum sentences. The Judiciary.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-First General Court
(2019-2020)**

An Act creating the justice safety valve.

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.

2 Chapter 211E of the General Laws, as appearing in the 2014 Official Edition, is hereby
3 amended by inserting after said chapter the following new chapter: -

4 Chapter 211E ½.

5 Section 1. SHORT TITLE

6 This act may be cited as the “Justice Safety Valve Act.”

7 Section 2. Notwithstanding and general or special law to the contrary, when sentencing a
8 person convicted of a criminal offense for which there is a mandatory minimum sentence of
9 imprisonment, the court may depart from the applicable sentence if the court finds substantial
10 and compelling reasons on the record, after giving due regard to the nature of the crime, history
11 and character of the defendant and his or her chances of successful rehabilitation, that:

12 (a) The mandatory minimum sentence of imprisonment is not necessary for the protection
13 of the public and imposition of the mandatory minimum sentence of imprisonment would result
14 in substantial injustice to the defendant; or

15 (b) The mandatory minimum sentence of imprisonment is not necessary for the protection
16 of the public and the defendant, based on a risk, needs and responsivity assessment, is eligible
17 for a sentence that is not a mandatory minimum, an alternative court, a diversion program or
18 community sentencing, without regard to exclusions because of previous convictions, and has
19 been accepted to the same, pending sentencing.

20 Section 3.

21 (a) As used in this section the following term shall, unless the context clearly requires
22 otherwise, have the following meaning:-

23 “Non-violent offense”, any conviction for a crime punishable by imprisonment, except a
24 crime punishable by imprisonment that: (i) has as an element the use, attempted use or threatened
25 use of physical force or a deadly weapon against the person of another; (ii) is burglary, extortion,
26 arson or kidnapping; or (iii) involves the use of explosives;

27 (b) The court shall have the discretion to depart from the applicable mandatory minimum
28 sentence of imprisonment for which the defendant was convicted of a “non violent offense”.

29 Section 4. This subsection does not limit any right to appeal that would otherwise exist in
30 its absence.

31 Section 5. The Executive Office of the Massachusetts Trial Court shall submit a report to
32 include age, gender, racial or ethnicity category, zip code, type of crime and departures in

- 33 sentencing to the clerks of the Massachusetts House and Senate, Executive Office of Public
- 34 Safety, District Attorneys for each county, Committee for Public Counsel Services,
- 35 Massachusetts Sentencing Commission on or before the first day of March of each year.