

**SENATE . . . . . No. 897**

**The Commonwealth of Massachusetts**

PRESENTED BY:

***Cynthia Stone Creem***

*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 to eliminate mandatory minimum sentences related to drug offenses.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Cynthia Stone Creem</i>	<i>First Middlesex and Norfolk</i>	
<i>Jack Patrick Lewis</i>	<i>7th Middlesex</i>	<i>1/23/2019</i>
<i>Jason M. Lewis</i>	<i>Fifth Middlesex</i>	<i>1/23/2019</i>
<i>Ruth B. Balsler</i>	<i>12th Middlesex</i>	<i>1/29/2019</i>
<i>Michael J. Barrett</i>	<i>Third Middlesex</i>	<i>1/29/2019</i>
<i>Joanne M. Comerford</i>	<i>Hampshire, Franklin and Worcester</i>	<i>1/29/2019</i>
<i>Sal N. DiDomenico</i>	<i>Middlesex and Suffolk</i>	<i>1/29/2019</i>
<i>Tommy Vitolo</i>	<i>15th Norfolk</i>	<i>1/30/2019</i>
<i>Mary S. Keefe</i>	<i>15th Worcester</i>	<i>1/30/2019</i>
<i>Denise Provost</i>	<i>27th Middlesex</i>	<i>1/30/2019</i>
<i>Cindy F. Friedman</i>	<i>Fourth Middlesex</i>	<i>1/30/2019</i>
<i>Liz Miranda</i>	<i>5th Suffolk</i>	<i>1/31/2019</i>
<i>Patricia D. Jehlen</i>	<i>Second Middlesex</i>	<i>1/31/2019</i>
<i>Lindsay N. Sabadosa</i>	<i>1st Hampshire</i>	<i>1/31/2019</i>
<i>Marjorie C. Decker</i>	<i>25th Middlesex</i>	<i>2/1/2019</i>
<i>Mindy Domb</i>	<i>3rd Hampshire</i>	<i>2/1/2019</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>	<i>2/1/2019</i>
<i>Joseph A. Boncore</i>	<i>First Suffolk and Middlesex</i>	<i>2/1/2019</i>

<i>Kay Khan</i>	<i>11th Middlesex</i>	<i>2/1/2019</i>
<i>David M. Rogers</i>	<i>24th Middlesex</i>	<i>2/1/2019</i>
<i>Michelle L. Ciccolo</i>	<i>15th Middlesex</i>	<i>2/1/2019</i>
<i>Sean Garballey</i>	<i>23rd Middlesex</i>	<i>2/1/2019</i>
<i>Elizabeth A. Malia</i>	<i>11th Suffolk</i>	<i>2/1/2019</i>
<i>Carlos González</i>	<i>10th Hampden</i>	<i>2/4/2019</i>
<i>Tami L. Gouveia</i>	<i>14th Middlesex</i>	<i>5/8/2019</i>

**SENATE . . . . . No. 897**

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By Ms. Creem, a petition (accompanied by bill, Senate, No. 897) of Cynthia Stone Creem, Jack Patrick Lewis, Jason M. Lewis, Ruth B. Balser and other members of the General Court for legislation to eliminate mandatory minimum sentences related to drug offenses. The Judiciary.

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**The Commonwealth of Massachusetts**

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**In the One Hundred and Ninety-First General Court  
(2019-2020)**  
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An Act to eliminate 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:*

1 SECTION 1. Chapter 94C of the General Laws, as appearing in the 2016 Official Edition  
2 as most recently amended by Chapter 69 of the Acts of 2018, is hereby amended by striking out  
3 section 32 and inserting in place thereof the following section:-

4 Section 32. (a) Any person who knowingly or intentionally manufactures, distributes,  
5 dispenses, or possesses with intent to manufacture, distribute or dispense a controlled substance  
6 in Class A of section 31 shall be punished by imprisonment in the state prison for not more than  
7 10 years or in a jail or house of correction for not more than 2½ years or by a fine of not more  
8 than \$10,000, or by both such fine and imprisonment.

9 (b) Any person convicted of violating this section after 1 or more prior convictions of  
10 manufacturing, distributing, dispensing or possessing with the intent to manufacture, distribute or  
11 dispense a controlled substance as defined by section 31 of this chapter under this or any prior  
12 law of this jurisdiction or of any offense of any other jurisdiction, federal, state or territorial,

13 which is the same as or necessarily includes the elements of said offense shall be punished by a  
14 term of imprisonment in the state prison for not more than 15 years. No sentence imposed under  
15 the provisions of this section shall be punished by a fine of more than \$25,000.

16 SECTION 2. Section 32A of Chapter 94C of the General Laws, as so appearing, is  
17 hereby further amended by striking out in the paragraph (a) the words “less than \$1,000 nor” an  
18 said section is further amended by striking in paragraph (b) the words “not less than \$2,500 and”  
19 and in paragraph (c) by striking each time they appear, the words “not less than \$1,000 and” in  
20 paragraph (d) by string the words “less than \$2,500 nor”.

21 SECTION 3. Chapter 94C of the General Laws, as so appearing, is hereby further  
22 amended by striking out in section 32B paragraph (a) the words “less than \$500 nor” and in  
23 paragraph (b) by striking out, each time they appear, the words “less than \$1,000 nor”.

24 SECTION 4. Section 32C of Chapter 94C of the General Laws, as so appearing, is  
25 hereby further amended by striking out in paragraph (a) the words “less than \$500 nor” and in  
26 paragrapgh (b) by striking the words “less than one thousand nor”.

27 SECTION 5. Chapter 94C of the General Laws, as so appearing, is hereby further  
28 amended by striking out section 32E and inserting in place thereof the following section:-

29 Section 32E. (a) Any person who trafficks in marihuana by knowingly or intentionally  
30 manufacturing, distributing, dispensing or cultivating or possessing with intent to manufacture,  
31 distribute, dispense or cultivate, or by bringing into the commonwealth a net weight of 50  
32 pounds or more of marihuana or a net weight of 50 pounds or more of any mixture containing  
33 marihuana shall, if the net weight of marihuana or any mixture thereof is:

34 (1) Fifty pounds or more, but less than 100 pounds, be punished by a term of  
35 imprisonment in the state prison for more than 15 years or by imprisonment in a jail or house of  
36 correction for not more than 2½ years. No sentence imposed under the provisions of this section  
37 shall be punished by a fine of more than \$10,000.

38 (2) One hundred pounds or more, but less than 2,000 pounds, be punished by a term of  
39 imprisonment in the state prison for not more than 15 years. No sentence imposed under the  
40 provisions of this section shall be punished by a fine of more than \$25,000.

41 (3) Two thousand pounds or more, but less than 10,000 pounds, be punished by a term of  
42 imprisonment in the state prison for not more than 15 years. No sentence imposed under the  
43 provisions of this section shall be punished by a fine of more than \$50,000.

44 (4) Ten thousand pounds or more, be punished by a term of imprisonment in the state  
45 prison for not more than 15 years. No sentence imposed under the provisions of this section shall  
46 be punished by a fine of more than \$200,000.

47 (b) Any person who trafficks in a controlled substance defined in clause (4) of paragraph  
48 (a) or in clause (3) of paragraph (c) of Class B of section 31 by knowingly or intentionally  
49 manufacturing, distributing or dispensing or possessing with intent to manufacture, distribute or  
50 dispense or by bringing into the commonwealth a net weight of 18 grams or more of a controlled  
51 substance as so defined, or a net weight of 18 grams or more of any mixture containing a  
52 controlled substance as so defined shall, if the net weight of a controlled substance as so defined,  
53 or any mixture thereof is:

54 (1) Eighteen grams or more but less than 36 grams, be punished by a term of  
55 imprisonment in the state prison for not more than 15 years. No sentence imposed under the  
56 provisions of this section shall be punished by a fine of more than \$25,000.

57 (2) Thirty-six grams or more, but less than 100 grams, be punished by a term of  
58 imprisonment in the state prison for not more than 20 years. No sentence imposed under the  
59 provisions of this section shall be punished by a fine of more than \$50,000.

60 (3) One hundred grams or more, but less than 200 grams, be punished by a term of  
61 imprisonment in the state prison for not more than 20 years. No sentence imposed under the  
62 provisions of this section shall be punished by a fine of more than \$100,000.

63 (4) Two hundred grams or more, be punished by a term of imprisonment in the state  
64 prison for not more than 20 years. No sentence imposed under the provisions of this section  
65 shall be punished by a fine of more than \$500,000.

66 (c) Any person who trafficks in , a controlled substance defined in paragraph (d) of Class  
67 A of section 31, morphine or any salt thereof, opium or any derivative thereof by knowingly or  
68 intentionally manufacturing, distributing or dispensing or possessing with intent to manufacture,  
69 distribute or dispense or by bringing into the commonwealth a net weight of 18 grams or more of  
70 , a controlled substance defined in paragraph (d) of Class A of section 31, morphine or any salt  
71 thereof, opium or any derivative thereof or a net weight of 18 grams or more of any mixture  
72 containing , a controlled substance defined in paragraph (d) of Class A of section 31, morphine  
73 or any salt thereof, opium or any derivative thereof shall, if the net weight of , a controlled  
74 substance defined in paragraph (d) of Class A of section 31, morphine or any salt thereof, opium  
75 or any derivative thereof or any mixture thereof is:

76 (1) Eighteen grams or more but less than 36 grams, be punished by a term of  
77 imprisonment in the state prison for not more than 20 years. No sentence imposed under the  
78 provisions of this section shall be punished by a fine of more than \$50,000.

79 (2) Thirty-six grams or more but less than 100 grams, be punished by a term of  
80 imprisonment in the state prison for not more than 20 years. No sentence imposed under the  
81 provisions of this section shall be punished by a fine of more than \$50,000.

82 (3) One hundred grams or more but less than 200 grams, be punished by a term of  
83 imprisonment in the state prison for not more than 20 year. No sentence imposed under the  
84 provisions of this section shall be punished by a fine of more than \$100,000.

85 (4) Two hundred grams or more, be punished by a term of imprisonment in the state  
86 prison for not more than 20 years. No sentence imposed under the provisions of this section  
87 shall be punished by a fine of more than \$500,000.

88 (c<sup>1/2</sup>) Any person who trafficks in fentanyl or any derivative of fentanyl by knowingly or  
89 intentionally manufacturing, distributing, dispensing or possessing with intent to manufacture,  
90 distribute or dispense or by bringing into the commonwealth a net weight of 10 grams or more of  
91 fentanyl or any derivative of fentanyl, or a net weight of 10 grams or more of any mixture  
92 containing fentanyl or any derivative of fentanyl, shall be punished by a term of imprisonment in  
93 state prison for not more than 20 years.

94 (c<sup>3/4</sup>) Any person who trafficks in carfentanil, including without limitation, any  
95 derivative of carfentanil by knowingly or intentionally manufacturing, distributing, dispensing or  
96 possessing with intent to manufacture, distribute or dispense or by bringing into the  
97 commonwealth carfentanil or any derivative of carfentanil, any mixture containing carfentanil or

98 a derivative of carfentanil, provided, that such person had specific knowledge that such mixture  
99 contained carfentanil or any derivative of carfentanil, shall be punished by a term of  
100 imprisonment in state prison for not more than 20 years.

101 SECTION 6. Chapter 94C of the General Laws, as so appearing, is hereby further  
102 amended by striking out section 32F and inserting in place thereof the following section:-

103 Section 32F. (a) Any person who knowingly or intentionally manufactures, distributes,  
104 dispenses, or possesses with intent to manufacture, distribute, or dispense a controlled substance  
105 in Class A of section thirty-one to a person under the age of eighteen years shall be punished by  
106 a term of imprisonment in the state prison for not more than fifteen years. No sentence imposed  
107 under the provisions of this section shall be punished by a fine of more than \$25,000.

108 (b) Any person who knowingly or intentionally manufactures, distributes, dispenses, or  
109 possesses with intent to manufacture, distribute, or dispense a controlled substance in Class B of  
110 section thirty-one to a person under the age of eighteen years shall be punished by a term of  
111 imprisonment in the state prison for not more than fifteen years. No sentence imposed under the  
112 provisions of this section shall be punished by a fine of more than \$25,000.

113 (c) Any person who knowingly or intentionally manufactures, distributes, dispenses, or  
114 possesses with intent to manufacture, distribute, or dispense a controlled substance in Class C of  
115 section thirty-one to a person under the age of eighteen years shall be punished by a term of  
116 imprisonment in the state prison for not more than fifteen years or in a jail or house of correction  
117 for not more than two and one-half years. No sentence imposed under the provisions of this  
118 section shall be punished by a fine of more than \$25,000.



119 (d) Any person who knowingly or intentionally manufactures, distributes, dispenses, or  
120 possesses with intent to manufacture, distribute or dispense a controlled substance as defined in  
121 clause (4) of paragraph (a) of class B of section thirty-one, to a person under the age of eighteen  
122 years shall be punished by a term of imprisonment in the state prison for not more than fifteen  
123 years. No sentence imposed under the provisions of this section shall be punished by a fine of  
124 more than \$25,000.

125 SECTION 7. Chapter 94C of the General Laws, as so appearing, is hereby further  
126 amended by striking out section 32G and inserting in place thereof the following section:-

127 Section 32G. Any person who knowingly or intentionally creates, distributes, dispenses  
128 or possesses with intent to distribute or dispense a counterfeit substance shall be punished by  
129 imprisonment in a jail or house of correction for not more than one year or by a fine of not more  
130 than two thousand and five hundred dollars, or both such fine and imprisonment.

131 SECTION 8. Chapter 94C of the General Laws, as so appearing, is hereby further  
132 amended by striking out section 32H in its entirety.

133 SECTION 9. Chapter 94C of the General Laws, as so appearing, is hereby further  
134 amended by striking out section 32J and inserting in place thereof the following section:-

135 Section 32J. Any person who violates the provisions of section 32, 32A, 32B, 32C, 32D,  
136 32E, 32F or 32I while in, on or within 300 feet of the real property comprising a public or private  
137 accredited preschool, accredited headstart facility, elementary, vocational or secondary school if  
138 the violation occurs between 5:00a.m. and midnight, whether or not in session, or within 100 feet  
139 of a public park or playground and who during the commission of the offense: (i) used violence  
140 or threats of violence or possessed a firearm, rifle, shotgun, machine gun or a weapon described

141 in paragraph (b) of section 10 of chapter 269, or induced another participant to do so during the  
142 commission of the offense; or (ii) engaged in a course of conduct whereby the person directed  
143 the activities of another person who committed any felony in violation of this chapter; or (iii)  
144 committed or attempted to commit a violation of section 32F or section 32K shall be punished by  
145 a term of imprisonment in the state prison for not more than 15 years or by imprisonment in a jail  
146 or house of correction for not more than 21/2 years. A fine of not more than \$10,000 may be  
147 imposed. In accordance with section 8A of chapter 279 such sentence shall begin from and after  
148 the expiration of the sentence for violation of section 32, 32A, 32B, 32C, 32D, 32E, 32F or 32I.

149 Lack of knowledge of school boundaries shall not be a defense to any person who  
150 violates this section.

151 SECTION 10. Chapter 94C of the General Laws, as so appearing, is hereby further  
152 amended by striking out section 32K and inserting in place thereof the following section:-  
153 Section 32K. Any person who knowingly causes, induces or abets a person under the age of  
154 eighteen to distribute, dispense or possess with the intent to distribute or dispense any controlled  
155 substance as defined herein, or to accept, deliver or possess money used or intended for use in  
156 the procurement, manufacture, compounding, processing, delivery, distribution or sale of any  
157 such controlled substance shall be punished by imprisonment in the state prison for not more  
158 than fifteen years. No sentence imposed under the provisions of this section shall be punished by  
159 a fine of more than \$100,000.

160 SECTION 11. Section 34 of said chapter 94C, as so appearing, is hereby amended by  
161 striking out the words “less than two and one-half years nor” in the third sentence of the first  
162 paragraph.

163           SECTION 12. Notwithstanding any general or special law to the contrary, a person  
164 serving a sentence for violating any provisions of chapter 94C or charged with such a violation  
165 but a guilty plea has not been accepted nor a conviction entered as of the effective date of this  
166 act:

167           (a) shall be eligible for parole after serving one-half of the minimum term of the sentence,

168           (b) shall be eligible to participate in education, training, employment, or work release  
169 programs established pursuant to Sections 49, 49B, 49C, 86F and 86G of Chapter 127; and

170           (c) shall be eligible to receive deductions from his sentence for good conduct under  
171 Sections 129C and 129D of Chapter 127, provided that such deductions shall accrue as of the  
172 effective date of this section.