HOUSE DOCKET, NO. 3059 FILED ON: 2/18/2021

HOUSE . . . . . No. 1700

The Commonwealth of Massachusetts

PRESENTED BY:

Bradley H. Jones, Jr.

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 establishing mandatory post release supervision in the Commonwealth.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
Bradley H. Jones, Jr.	*20th Middlesex*	*2/18/2021*
Susan Williams Gifford	*2nd Plymouth*	*2/25/2021*
Paul K. Frost	*7th Worcester*	*3/11/2021*
Mathew J. Muratore	*1st Plymouth*	*3/22/2021*
Steven S. Howitt	*4th Bristol*	*3/30/2021*

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HOUSE . . . . . No. 1700

By Mr. Jones of North Reading, a petition (accompanied by bill, House, No. 1700) of Bradley H. Jones, Jr., and others for legislation to establish mandatory post release supervision. The Judiciary.

The Commonwealth of Massachusetts

In the One Hundred and Ninety-Second General Court
(2021-2022)

An Act establishing mandatory post release supervision in the Commonwealth.

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 5 of chapter 27, as appearing in the 2018 Official Edition, is hereby amended by adding at the end of the last sentence of the first paragraph the following:—

The parole board shall administer and oversee mandatory post-release supervision functions as set forth in section 133D of chapter 127 and chapter 127A.

SECTION 2. The General Laws are hereby amended by inserting after chapter 127 the following chapter:—

CHAPTER 127A.

MANDATORY POST-RELEASE SUPERVISION.

Section 1. All sentences to incarceration in a house of correction, jail or state prison shall include a period of post-release supervision, excluding those for whom parole eligibility is determined by section 133A of chapter 127. Except as provided in this chapter, for individuals

who complete the incarceration portion of their sentences without supervised release or are re-incarcerated for the remainder of the sentence for violating the terms of parole or probation, the period of mandatory post-release supervision shall be 25 percent of the maximum term of incarceration imposed at sentencing but in no case shall be less than nine months. Where an individual is sentenced to incarceration on multiple offenses, the greater of the maximum terms imposed at sentencing shall be used to calculate the mandatory post-release supervision period. Mandatory post-release supervision as established in this chapter shall not be imposed upon any individual who successfully completes a period of probation imposed by a court at sentencing, upon an individual who is granted a parole permit under chapter 127 and successfully completes a period of parole supervision, or upon an individual sentenced to lifetime community parole under the provisions of section 45 of chapter 265 and section 133D of chapter 127. An individual subject to the provisions of this chapter may be supervised in another jurisdiction in accordance with sections 151A through 151L of chapter 127 and shall be considered on parole for the purposes of supervision.

Section 2. Upon release, an individual sentenced to a term of incarceration for not more than one year in a house of corrections or jail shall be subject to the supervision and jurisdiction of the office of the commissioner of probation during the period of mandatory post-release supervision. Upon release, an individual sentenced to a term of incarceration in a house of corrections or jail for more than one year, or in a state prison for any length of time shall be subject to the supervision and jurisdiction of the parole board during the period of mandatory post-release supervision. All persons under such supervision of the office of the commissioner of probation shall be subject to the provisions of law, rules and regulations governing probation. All persons under such supervision of the parole board shall be subject to the provisions of law, rules

and regulations governing parole. The commissioner of probation and the chairman of the parole board shall establish uniform regulations for post-release supervision consistent with applicable provisions of chapter 127 and chapter 276. Nothing in this section or within said regulations shall limit the authority of the superior, municipal, district or juvenile court to impose conditions of probation supervision to protect the public or promote the rehabilitation of any person.

Section 3. An individual subject to mandatory post-release supervision and who has successfully completed 9 months of supervision shall be eligible for early termination of such supervision. In the case of a person under the supervision of the office of the commissioner of probation, early termination may only occur upon an order of a court of competent jurisdiction. In the case of a person under the supervision of the parole board, early termination may only occur in accordance with procedure to be promulgated in the regulations of the parole board. In all proceedings under this section, the uniform criteria for early termination of mandatory post-release supervision shall be established jointly by the commissioner of probation and the chairman of the parole board and shall include, but not be limited to, the amount of time the individual has successfully spent under post-release supervision, success in finding permanent employment, success in establishing adequate housing, completing all counseling or substance abuse treatment programs and successful passing of all mandated post-release testing programs.

Section 4. An individual who violates a condition of mandatory post-release supervision shall be subject to the provisions of this section and subject to modification or revocation proceedings initiated by the agency responsible for the violator’s supervision. The laws and judicial rules governing probation violation proceedings shall govern such modification or revocation proceedings for an individual subject to the jurisdiction of the office of the commissioner of probation. The laws and regulations governing parole violation proceedings

shall govern such modification or revocation proceedings for an individual subject to the jurisdiction of the parole board. In all proceedings under this section, upon a violation, the individual may be placed under increased supervision, subjected to other conditions and intermediate sanctions, or incarcerated for not more than the maximum remaining period of post-release supervision or the remaining unserved portion of the sentence, whichever is greater, if such violation does not otherwise constitute a criminal offense. In all cases where the individual is not being incarcerated for a violation, such individual shall participate in an intermediate sanction through the office of community corrections as established in chapter 211F, the level of which is to be determined by the commissioner of probation or the chairman of the parole board, whoever has supervision authority over the individual. In the case of any violation for use of controlled substances or an offense for operating under the influence of drugs or alcohol, the period of mandatory post-release supervision shall be extended to accommodate an appropriate substance abuse program, but the total shall not exceed the maximum supervisory period permitted by section 1 of chapter 127A. For any violation of the conditions of mandatory post-release supervision, the period of supervision shall be stayed during a period of incarceration and it shall be resumed upon release. If such violation constitutes a criminal offense, said period of incarceration shall be served on and after any sentence received as a result of the new offense. Upon subsequent release, the greater of the maximum sentences of the original offense and subsequent offense shall be used to calculate the new mandatory post-release supervision period.

Section 5. All mandatory post-release supervision shall be deemed completed if any of the following conditions are met: except as provided in section 4 of this chapter, the individual serves a post-release supervision period of 25 percent of the maximum term of incarceration imposed at sentencing, or nine months, whichever is greater; the individual is granted early

termination under section 3 of this chapter; or if upon completion of the sentence, the individual is immediately committed to the custody of any other state to serve a period of incarceration greater than or equal to the post-release supervision period required under this chapter; or if upon completion of the sentence, the individual is immediately committed to the custody of any federal or immigration authority. Mandatory post-release supervision shall be stayed for any period an individual is in custody pursuant to any order of custody under chapter 123A.

Section 6. Where any provision of this chapter or the application thereof to any person or circumstance, shall, for any reason, be held invalid, the remainder of this chapter or the application of such provision to persons or circumstances other than those as to which it is held invalid shall not be affected thereby.

SECTION 3. Section 85 of chapter 276, as so appearing, is hereby amended by adding the following at the end of the last sentence:—

Probation officers powers and duties shall include mandatory post-release supervision as set forth in chapter 127A.

SECTION 4. Section 99 of chapter 276 is hereby amended by adding the following new clause:—

(11) Oversee mandatory post-release supervision functions as set forth in chapter 127A.

SECTION 5. Section 24 of chapter 279, as so appearing , is hereby amended in line 14 by striking the words “shall be not less than 15 years” and inserting after the words the following words:—

must be at least 20 percent greater than the minimum term.

SECTION 6. The provisions of this chapter shall take effect on January 1, 2022 and the provisions contained herein shall apply to all felonies and misdemeanors committed on or after that date. All offenses committed prior to January 1, 2022 shall be governed by the laws, including but not limited to those on sentencing, parole, and probation, in effect at the time the offense is committed.