

HOUSE No. 1804

The Commonwealth of Massachusetts

PRESENTED BY:

Andres X. Vargas

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 standard conditions in probation.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Andres X. Vargas</i>	<i>3rd Essex</i>	<i>1/9/2023</i>

HOUSE No. 1804

By Representative Vargas of Haverhill, a petition (accompanied by bill, House, No. 1804) of Andres X. Vargas for legislation to eliminate standard conditions in probation. The Judiciary.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Third General Court
(2023-2024)**

An Act to eliminate standard conditions in probation.

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. Section 87A of Chapter 276 of the General Laws is hereby amended by
2 inserting after the first paragraph the following paragraph:-

3 All probation shall be presumed administrative and no condition of probation shall be
4 ordered unless that condition specifically addresses the particular characteristics of the person
5 and the crime for which probation is ordered. The judge must consider whether any condition
6 ordered would have a rehabilitative effect or serve a legitimate public safety goal based on
7 current criminal recidivism and rehabilitation research with clear and convincing evidence.

8 SECTION 2. Chapter 276 of the General Laws is hereby amended by inserting after
9 section 87B the following section:-

10 Section 87BB. (a) The period of probation or suspension of sentence under section 87 of
11 Chapter 276 shall be fixed by the court subject to the provisions of this section. Any probation or

12 suspension of sentence may be terminated by the court at any time and upon such termination or
13 upon termination by expiration of the term, an order to this effect shall be entered by the court.

14 (b) The maximum length of any period of probation or suspension of sentence shall be
15 limited to:

16 (1) Three years, for any felony;

17 (2) One year, for any misdemeanor.

18 (c) Any offender who is serving more than 1 sentence of probation or suspension of
19 sentence imposed following convictions in more than 1 case shall not serve a consecutive period
20 of probation or suspension of sentence that is in excess of the limitations imposed by subsection
21 (b) of this section. Any sentence of probation or suspension of sentence (or any portion thereof)
22 which, if served consecutively to another such sentence, would result in an aggregate sentence of
23 probation or suspension of sentence in excess of the limitations imposed by subsection (b) of this
24 section shall be deemed to be concurrent to such other sentence. The provisions of this
25 subsection shall not apply to a sentence imposed for a conviction involving an offense committed
26 while the offender was serving a period of probation or suspension of sentence. Periods of
27 committed time shall not count toward the aggregate time limit on probation or suspension of
28 sentence supervision.

29 (d) The limitations set forth in subsections (b) and (c) of this section shall not apply:

30 (1) To any sentence imposed for a conviction of any sex offense under G.L. c. 6 178C if
31 the sentencing court determines on the record that a longer period of probation or suspension of

32 sentence will reduce the likelihood that the offender will commit a sex offense or other violent
33 offense in the future; and best meets public safety and individual rehabilitative needs.

34 (2) To any sentence imposed for any offense if the sentencing court determines on the
35 record that a longer period of probation or suspension of sentence is necessary to ensure the
36 collection of any restitution ordered, except that any period of probation ordered pursuant to this
37 paragraph that is in excess of the limitations set forth in subsections (b) and (c) of this section
38 shall be administrative only.

39 (e) The limitations set forth in subsection (b) and (c) of this section may be exceeded by
40 up to 90 days by the sentencing court if it determines that the defendant has not yet completed a
41 substance use treatment program ordered by the court, provided, that each extension of sentence
42 ordered pursuant to this subsection shall be preceded by a hearing, and by a finding on the
43 record, that such extension of sentence is necessary to facilitate the completion of the substance
44 abuse treatment program. Nothing in this section shall prohibit a court from terminating
45 probation without completion of a substance use treatment program.

46 (f) Except as provided by subsection (g) of this section, in no event shall the total period
47 of probation or suspension of sentence exceed the maximum term of commitment provided by
48 law.

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