SENATE DOCKET, NO. 426 FILED ON: 1/14/2023

SENATE . . . . . No. 1129

The Commonwealth of Massachusetts

PRESENTED BY:

Bruce E. Tarr

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 relative to protecting the residents of the Commonwealth from dangerous persons.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Bruce E. Tarr	*First Essex and Middlesex*

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SENATE . . . . . No. 1129

By Mr. Tarr, a petition (accompanied by bill, Senate, No. 1129) of Bruce E. Tarr for legislation relative to protecting the residents of the Commonwealth from dangerous persons. The Judiciary.

The Commonwealth of Massachusetts

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

An Act relative to protecting the residents of the Commonwealth from dangerous persons.

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. Chapter 268 of the General Laws, as so appearing, is hereby amended by inserting after section 13E the following section:-

Section 13F. Whoever unlawfully removes, destroys, damages, or interferes with the proper functioning of a geolocation monitoring device, breath-testing instrument, or other mechanism intended to facilitate recognizance or compliance with conditions of pretrial release, probation or parole, shall be punished by imprisonment in the state prison for not more than 10 years or imprisonment in a house of correction for not more than 2 and ½ years. In any proceeding under section 57, 58, 58A, or 58B of chapter 276, the fact of a person's prior conviction pursuant to this section shall be prima facie evidence that there is no financial condition or other condition of release that will reasonably assure the presence of the person so convicted.

SECTION 2. Section 58A of said chapter 276, as so appearing, is hereby amended by striking subsection (1) and inserting in place thereof the following subsection:- (1) The commonwealth may move, based on dangerousness, for an order of pretrial detention or release on conditions when a person has been charged with any of the following offenses:

(A) a felony that has as an element of the offense the use, attempted use or threatened use of physical force against the person of another;

(B) the offenses of burglary or arson;

(C) a violation of an order pursuant to section 18, 34B or 34C of chapter 208, section 32 of chapter 209, section 3, 3B, 3C, 4 or 5 of chapter 209A or section 15 or 20 of chapter 209C;

(D) a misdemeanor or felony involving abuse as defined in section 1 of chapter 209A;

(E) a sex offense involving a child as defined in section 178C of chapter 6;

(F) a violation of section 13B of chapter 268;

(G) a violation of section 13, 13 ½, 13B, 13B ½, 13 B ¾, 13F, 13M, 15D, 18B, 22, 22A, 22B, 22C, 23, 23A, 23B, 24, 25, 26B, 26C, 37, 43A, 50 or 51 of chapter 265 or a violation of section 13D of said chapter 265 in which the public employee is a police officer;

(H) a violation of section 4A, 4B, 16, 29A, 29B, 29C, 77, 94 or 105 of chapter 272;

(I) a violation of section 24G of chapter 90 which occurs under the influence of alcohol or drugs, or a violation of section 8B of chapter 90B; or a third or subsequent violation of section 24 of chapter 90 or section 8 of chapter 90B;

(J) an offense under chapter 94C for which the maximum term of imprisonment is more than 10 years;

(K) any violation of sections 102 or 102A, or a malicious violation of section 127 of chapter 266;

(L) a violation of section 131N of chapter 140 or subsection (a), (b), (c), (d), (h), (j) or (m) of section 10 or section 11C of chapter 269;

(M) a violation of section 10A, 10E, or 10G of chapter 269;

(N) threats to kill, rape, or cause serious bodily injury; or

(O) conspiracy or solicitation to commit any of the above enumerated offenses.

SECTION 3. Said section 58A of said chapter 276, as so appearing, is hereby further amended by striking out, in lines 102 to 108, the second sentence of subsection (3) and inserting in place thereof the following two sentences:- A person detained under this subsection shall be detained until the disposition of the case; provided that the person shall be entitled to a speedy trial and shall be brought to trial as soon as reasonably possible and in any case within the time limit mandated pursuant to Massachusetts Rules of Criminal Procedure Rule 36 (b); and further provided that the person's case shall be given priority over other cases, as required by Massachusetts Rules of Criminal Procedure Rule 36(a)(1). Nothing in this section shall be construed as modifying or limiting the requirements and provisions of Massachusetts Rules of Criminal Procedure Rule 36.

SECTION 4. Said section 58A of said chapter 276, as so appearing, is hereby further amended by striking out, in lines 113-to 124, the first four sentences of subsection (4) and inserting in place thereof the following five sentences:-

(4) When a person is charged with an offense listed in subsection (1) and upon a motion by the commonwealth, the judge shall hold a hearing to determine whether conditions of release will reasonably assure the safety of any other person or the community.

If the commonwealth moves for a hearing at the time of arraignment, the hearing shall be held immediately upon the person's first appearance before the court unless that person, or the attorney for the commonwealth, seeks a continuance. Except for good cause, a continuance on motion of the person may not exceed seven days, and a continuance on motion of the attorney for the commonwealth may not exceed three business days. During a continuance, the individual shall be detained upon a showing that there existed probable cause to arrest the person.

If the attorney for the commonwealth files a motion seeking to detain the person under this section at any time after the time of arraignment or the person’s first appearance before the court, the court shall order that the hearing shall occur as soon as possible and within the time periods and as otherwise set forth in this section.

SECTION 5. Said chapter 276 is hereby further amended by inserting after section 58B the following section:-

Section 58C. No person who has attained the age of 18 years and who has been charged with any act that would constitute abuse, as defined in section 1 of chapter 209A, or a violation of sections 13M or 15D of chapter 265, or any offense enumerated in subsection 1 of section 58A that involves an identified victim shall be admitted to bail before the alleged victim is

notified of the person's imminent release; provided, however, that the person charged shall not be held more than 6 hours in order to permit prior notice to the alleged victim.

When a person so charged is to be released from the custody of a police department, such notice shall be provided by the police department. When a person so charged is to be released from a courthouse, such notice shall be provided by the commonwealth. When a person so charged is to be released from a jail or correctional facility, such notice shall be provided by the superintendent or superintendent's designee. The person or agency responsible for providing notice shall undertake to provide notice promptly.