HOUSE DOCKET, NO. 3330 FILED ON: 1/17/2025

HOUSE . . . . . No. 1642

The Commonwealth of Massachusetts

PRESENTED BY:

Michael S. Day

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 concerning the arrest without a warrant of persons on probation and temporary custody.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
Michael S. Day	*31st Middlesex*	*1/17/2025*

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HOUSE . . . . . No. 1642

By Representative Day of Stoneham, a petition (accompanied by bill, House, No. 1642) of Michael S. Day relative to arrests without a warrant of persons on probation and temporary custody. The Judiciary.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. *4322* OF 2023-2024.]

The Commonwealth of Massachusetts

In the One Hundred and Ninety-Fourth General Court
(2025-2026)

An Act concerning the arrest without a warrant of persons on probation and temporary custody.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

Chapter 279 is hereby amended by striking out section 3 and inserting in place thereof the following section:

Section 3. For the purposes of this section, probation officer shall include all personnel directed by the commissioner of probation, including but not limited to a chief probation officer, a regional probation supervisor, a statewide probation supervisor, the director of the ELMO center and the deputy commissioner of field services. At any time before final disposition of the case of a person placed under probation supervision or in the custody or care of a probation officer, the probation officer may arrest them without a warrant and take them before the court, or the court may issue a warrant for their arrest. When taken before the court, it may, if they have not been sentenced, sentence them or make any other lawful disposition of the case, and if they

have been sentenced, it may continue or revoke the suspension of the execution of their sentence; provided however, that in all cases where the probationer is served with notice of surrender and at least one of the underlying crimes for which they are on probation is a felony, then the probation officer shall provide a duplicate copy of the notice of surrender to the district attorney, and the court shall provide to the district attorney the opportunity to be heard and present evidence at the surrender hearing. If such suspension is revoked, the sentence shall be in full force and effect. If a warrant has been issued by the court for the arrest of such a person and they are a prisoner in any correctional institution, jail or house of correction, the commissioner of correction, the sheriff, master or keeper of said house of correction, or in Suffolk county, the penal institutions commissioner of the city of Boston, as the case may be, having such prisoner under their supervision or control, upon receiving notice of such warrant, shall notify such prisoner that they have the right to apply to the court for prompt disposition thereof. Such an application shall be in writing and given or sent by such prisoner to the commissioner of correction, or such sheriff, master, keeper, or penal institutions commissioner, who shall promptly forward it to the court from which the warrant issued, by certified mail, together with a certificate of said commissioner of correction, sheriff, master, keeper, or penal institutions commissioner, stating (a) the term of commitment under which such prisoner is being held, (b) the amount of time served, (c) the amount of time remaining to be served, (d) the amount of good time earned, (e) the time of parole eligibility of such prisoner, and (f) any decisions of the board of parole relating to such prisoner. Said commissioner of correction, sheriff, master, keeper, or penal institutions commissioner shall notify the appropriate district attorney by certified mail of such application to the court. Any such prisoner shall, within six months after such application is

received by the court, be brought into court for sentencing or other lawful disposition of their case as hereinbefore provided.

In no case where a provision of this chapter provides for a finding, disposition or other order to be made by the court, or for a warrant to be issued, shall such be made or issued by any person other than a justice, special justice or other person exercising the powers of a magistrate.

Notwithstanding any restriction in the preceding paragraph, if a probation officer has probable cause to believe that a person placed under probation supervision or in the custody or care of a probation officer pursuant to sections 42A, 58A or 87 of chapter 276 or any other statute that allows the court to set conditions of release, has violated the conditions set by the court, the probation officer may arrest the probationer or may issue a warrant for the custody of the probationer. The probation officer shall arrange for the appearance of the probationer before the next sitting of the court pursuant to the first paragraph of this section. Such warrant shall constitute sufficient authority to a probation officer and to the superintendent, jailer, or any other person in charge of any jail, house of correction, lockup, or place of detention to whom it is exhibited, to hold in custody the probationer detained pursuant thereto. The probationer shall be brought before the next session of the court having jurisdiction over the place where the person is held or to the court that set the condition of release.