

HOUSE No.

The Commonwealth of Massachusetts

PRESENTED BY:

Lindsay N. Sabadosa

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 Proportionality in Joint Venture Sentencing.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Lindsay N. Sabadosa</i>	<i>1st Hampshire</i>	<i>1/13/2025</i>

HOUSE No.

[Pin Slip]

The Commonwealth of Massachusetts

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

An Act relative to Proportionality in Joint Venture Sentencing.

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. The first sentence of section 2 of chapter 274 of the General Laws, as
2 appearing in the 2022 Official Edition, is hereby amended by inserting after the word “felon” the
3 following words:- except as provided in M.G.L. Ch. 274 § 2A.

4 SECTION 2. Chapter 274 of the General Laws is hereby amended by inserting after
5 section 8 the following section:-

6 Section 2A. Accomplice Murder

7 Whoever aids in the commission of a killing or is accessory thereto before the fact by
8 counseling, hiring, or otherwise procuring such killing to be committed but is not a principal
9 perpetrator who is personally and directly responsible for committing the killing, shall be
10 punished by imprisonment in the state prison for a period of not less than 2 and 1/2 years nor
11 more than 25 years.

12 SECTION 3. Chapter 274 of the General Laws is hereby amended by inserting after
13 section 8 the following section:-

14 Section 2B. Notification and Petition for Accomplice Murder

15 (a) All incarcerated individuals shall be provided reasonable notice of potential eligibility
16 for resentencing due to the change in law resulting from M.G.L. Ch. 274 § 2A. Prosecutors must
17 provide such notification within 90 days of the passage of this law via first class postage. This
18 deadline may be extended for good cause but shall not exceed 120 days.

19 (b) A person convicted of murder under a theory of joint venture may file a petition with
20 the court that sentenced the petitioner to have the petitioner's murder conviction vacated and to
21 be resentenced on any remaining counts when all of the following conditions apply:

22 (1) A complaint, information, or indictment was filed against the petitioner that allowed
23 the prosecution to proceed under a theory of joint venture.

24 (2) The petitioner was convicted of first degree or second degree murder following a trial
25 or accepted a plea offer in lieu of a trial at which the petitioner could be convicted for first
26 degree or second degree murder.

27 (c) The administrative justices of the superior court, district court, juvenile court and the
28 Boston municipal court departments shall jointly promulgate a petition form for use under this
29 section that allows petitioners to provide: a declaration by the petitioner that they are eligible for
30 relief under this Act; the petitioner's superior court case number and year of conviction; and
31 whether the petitioner requests appointment of counsel.

32 (d) (1) The petition shall be filed with the court that sentenced the petitioner. If the judge
33 that originally sentenced the petitioner is not available to resentence the petitioner, the presiding
34 judge shall designate another judge to rule on the petition.

35 (2) If the court finds that the petitioner has alleged the factors listed in subsection (c) of
36 this section, the court shall: notify the petitioner that they may submit a motion to be
37 resentenced; send the petition to the district attorney where the petitioner was convicted or on the
38 agency that prosecuted the petitioner, and on the attorney who represented the petitioner in the
39 trial court; appoint counsel, if petitioner requested appointment of counsel, and issue an order to
40 show cause why the petitioner should not be resentenced.

41 (3) If any of the information required by this subdivision is missing from the petition and
42 is not readily ascertainable by the court, the court may deny the petition without prejudice to the
43 filing of another petition and advise the petitioner that the matter cannot be considered without
44 the missing information.

45 (e) The prosecutor shall file and serve a response within 60 days of service of the petition
46 and the petitioner may file and serve a reply within 30 days after the prosecutor response is
47 served. These deadlines shall be extended for good cause

48 (f) (1) Within 60 days after the order to show cause has issued, the court shall hold a
49 hearing to determine whether to vacate the murder conviction and to recall the sentence and
50 resentence the petitioner pursuant to Section 2A of this Act This deadline may be extended for
51 good cause.

52 (2) The parties may waive a resentencing hearing and stipulate that the petitioner is
53 eligible to have his or her murder conviction vacated and for resentencing. If there was a prior

54 finding by a court or jury that the petitioner did not act as the principal perpetrator in a killing,
55 the court shall vacate the petitioner's conviction and resentence the petitioner.

56 (3) At the hearing to determine whether the petitioner is entitled to relief, the burden of
57 proof shall be on the prosecution to prove, beyond a reasonable doubt, that the petitioner is
58 ineligible for resentencing. If the prosecution fails to sustain its burden of proof, the prior
59 conviction, and any allegations and enhancements attached to the conviction, shall be vacated
60 and the petitioner shall be resented on the remaining charges. The prosecutor and the
61 petitioner may rely on the record of conviction or offer new or additional evidence to meet their
62 respective burdens.

63 (g) If petitioner is entitled to relief pursuant to this section, murder was charged
64 generically, and the target offense was not charged, the petitioner's conviction shall be
65 redesignated as accomplice murder as defined under M.G.L. Ch. 274 § 2A for resentencing
66 purposes. Any applicable statute of limitations shall not be a bar to the court's redesignation of
67 the offense for this purpose.

68 (h) This section does not diminish or abrogate any rights or remedies otherwise available
69 to the petitioner.

70 (i) A person who is resented pursuant to this section shall be given credit for time
71 served. The judge may order the petitioner to be subject to parole supervision for up to three
72 years following the completion of the sentence. This limitation only applies to parole supervision
73 imposed as a result of this section.

74 (j) All granted petitions will provide notification to all interested parties under M.G.L.
75 Ch. 258B.

76 (k) The Office of the Attorney General shall collect information from each individual
77 petition. The Office of the Attorney General shall annually, not later than December 31, report to
78 the joint committee on the judiciary. The report must include the following information:

79 (1) the number of petitions filed;

80 (2) the number of petitions that result in resentencing;

81 (3) the number of petitions that are heard but not granted;

82 (4) the sentence requested by the prosecuting agency at resentencing; (5) the sentence
83 imposed at resentencing;

84 (6) the county in which the petitioner is incarcerated;

85 (7) the race and ethnicity of the petitioner;

86 (8) the gender and gender identity of the petitioner;

87 SECTION 4. The first sentence of section 1 of chapter 265 of the General Laws, as so
88 appearing, is hereby amended by inserting after the word “degree” the following words:- “except
89 as provided in M.G.L. Ch. 274 § 2A.”

90 SECTION 5. The first sentence of section 3 of chapter 274 of the General Laws, as so
91 appearing, is hereby amended by inserting after the word “fact” the following words:- “except as
92 provided in M.G.L. Ch. 274 § 2A.”

93 SECTION 6. Notwithstanding any other provision of law, sections 1, 2 and 3 shall apply
94 to any person charged or convicted with aiding in the commission of a killing or who is

95 accessory thereto before the fact by counseling, hiring, or otherwise procuring such killing to be
96 committed prior to, on or after the effective date of this act.

97 SECTION 7. Notwithstanding any other provision of law, section 3 shall apply to any
98 person charged or convicted with murder prior to, on or after the effective date of this act.