SENATE DOCKET, NO. 1475 FILED ON: 1/16/2025

SENATE . . . . . No. 1179

The Commonwealth of Massachusetts

PRESENTED BY:

Liz Miranda

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:	
Liz Miranda	*Second Suffolk*	
Mary S. Keefe	*15th Worcester*	*4/28/2025*
Erika Uyterhoeven	*27th Middlesex*	*5/22/2025*

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SENATE . . . . . No. 1179

By Ms. Miranda, a petition (accompanied by bill, Senate, No. 1179) of Liz Miranda for legislation relative to proportionality in joint venture sentencing for accessory to murder. The Judiciary.

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:

SECTION 1. The first sentence of section 2 of chapter 274 of the General Laws, as appearing in the 2022 Official Edition, is hereby amended by inserting after the word “felon” the following words:- except as provided in M.G.L. Ch. 274 § 2A.

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

Section 2A. Accomplice Murder

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

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

Section 2B. Notification and Petition for Accomplice Murder

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) the number of petitions filed;

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

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

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

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

(7) the race and ethnicity of the petitioner;

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

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

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

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

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

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