

SENATE No. 895

The Commonwealth of Massachusetts

PRESENTED BY:

James E. Timilty

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 creating separate criminal offenses for assault committed with a firearm.

PETITION OF:

| NAME: | DISTRICT/ADDRESS: |
|-----------------------------|--------------------|
| <i>James E. Timilty</i> | |
| <i>Michael J. Rodrigues</i> | |
| <i>David B. Sullivan</i> | <i>6th Bristol</i> |
| <i>Mark C. Montigny</i> | |

SENATE No. 895

By Mr. Timilty, a petition (accompanied by bill, Senate, No. 895) of James E. Timilty, Michael J. Rodrigues, David B. Sullivan and Mark C. Montigny for legislation to create separate criminal offenses for assault committed with a firearm. The Judiciary.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 1680 OF 2009-2010.]

The Commonwealth of Massachusetts

—————
In the Year Two Thousand Eleven
—————

An Act creating separate criminal offenses for assault committed with a firearm.

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. Chapter 265 of the General Laws, as appearing in the 2004 Official
2 Edition, is hereby amended by inserting after section 15B the following new sections:-

3 Section 15C: Assault and Battery by means of a firearm; penalties.

4 (a) Whoever commits an assault and battery upon another by discharging a
5 firearm, large capacity weapon, rifle, shotgun, sawed-off shotgun, or machine gun as defined by
6 G.L. c. 140 §121 shall be punished.

7 (b) A person found guilty of section (a) above, shall be sentenced to the
8 state prison for a maximum penalty of life or no less than ten (10) years. The sentence imposed
9 on such person shall not be reduced to less than ten (10) years, nor suspended, nor shall any
10 person convicted under this subsection be eligible for probation, parole, work release, or

11 furlough or receive any deduction from his sentence for good conduct until he shall have served
12 ten (10) years of such sentence; provided, however, that the commissioner of correction may on
13 the recommendation of the warden, superintendent, or other person in charge of a correctional
14 institution, grant to an offender committed under this subsection a temporary release in the
15 custody of an officer of such institution for the following purposes only: to attend the funeral of a
16 relative; to visit a critically ill relative; or to obtain emergency medical or psychiatric service
17 unavailable at said institution. Prosecutions commenced under this subsection shall neither be
18 continued without a finding nor placed on file.

19 Section 15D: Attempted Assault and Battery by means of a firearm;
20 penalties.

21 (a) Whoever attempts to commit an assault and battery upon another by
22 means of discharging a firearm, large capacity weapon, rifle, shotgun, sawed-off shotgun, or
23 machine gun as defined by G.L. c. 140 §121 shall be punished.

24 (b) A person found guilty of section (a) above, shall be sentenced to the
25 state prison for a maximum penalty of twenty (20) years but no less than seven (7) years. The
26 sentence imposed on such person shall not be reduced to less than seven years, nor suspended,
27 nor shall any person convicted under this subsection be eligible for probation, parole, work
28 release, or furlough or receive any deduction from his sentence for good conduct until he shall
29 have served seven years of such sentence; provided, however, that the commissioner of
30 correction may on the recommendation of the warden, superintendent, or other person in charge
31 of a correctional institution, grant to an offender committed under this subsection a temporary
32 release in the custody of an officer of such institution for the following purposes only: to attend

33 the funeral of a relative; to visit a critically ill relative; or to obtain emergency medical or
34 psychiatric service unavailable at said institution. Prosecutions commenced under this subsection
35 shall neither be continued without a finding nor placed on file.