

**HOUSE . . . . . No. 1620**

The Commonwealth of Massachusetts

PRESENTED BY:

***Benjamin Swan***

*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 eliminating mandatory minimum sentences related to drug offenses.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Benjamin Swan</i>	<i>11th Hampden</i>
<i>Linda Dorcena Forry</i>	<i>First Suffolk</i>
<i>Evandro C. Carvalho</i>	<i>5th Suffolk</i>
<i>Marcos A. Devers</i>	<i>16th Essex</i>
<i>Carlos Gonzalez</i>	<i>10th Hampden</i>
<i>Gloria L. Fox</i>	<i>7th Suffolk</i>
<i>Russell E. Holmes</i>	<i>6th Suffolk</i>
<i>Byron Rushing</i>	<i>9th Suffolk</i>
<i>Tom Sannicandro</i>	<i>7th Middlesex</i>
<i>Jose F. Tosado</i>	<i>9th Hampden</i>
<i>Aaron Vega</i>	<i>5th Hampden</i>
<i>Todd M. Smola</i>	<i>1st Hampden</i>
<i>Michael D. Brady</i>	<i>9th Plymouth</i>
<i>Jay R. Kaufman</i>	<i>15th Middlesex</i>
<i>Chris Walsh</i>	<i>6th Middlesex</i>
<i>Peter V. Kocot</i>	<i>1st Hampshire</i>
<i>Carolyn C. Dykema</i>	<i>8th Middlesex</i>
<i>Jay D. Livingstone</i>	<i>8th Suffolk</i>

<i>Denise Provost</i>	<i>27th Middlesex</i>
<i>Jason M. Lewis</i>	<i>Fifth Middlesex</i>
<i>Daniel M. Donahue</i>	<i>16th Worcester</i>
<i>Louis L. Kafka</i>	<i>8th Norfolk</i>
<i>Marjorie C. Decker</i>	<i>25th Middlesex</i>
<i>Jennifer E. Benson</i>	<i>37th Middlesex</i>
<i>Tricia Farley-Bouvier</i>	<i>3rd Berkshire</i>
<i>Carmine L. Gentile</i>	<i>13th Middlesex</i>
<i>Jonathan Hecht</i>	<i>29th Middlesex</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>
<i>David M. Rogers</i>	<i>24th Middlesex</i>
<i>Kay Khan</i>	<i>11th Middlesex</i>
<i>Ruth B. Balsler</i>	<i>12th Middlesex</i>
<i>Jeffrey N. Roy</i>	<i>10th Norfolk</i>
<i>Paul R. Heroux</i>	<i>2nd Bristol</i>
<i>Danielle W. Gregoire</i>	<i>4th Middlesex</i>
<i>Claire D. Cronin</i>	<i>11th Plymouth</i>
<i>Brendan P. Crighton</i>	<i>11th Essex</i>
<i>Paul McMurtry</i>	<i>11th Norfolk</i>
<i>Kenneth I. Gordon</i>	<i>21st Middlesex</i>
<i>Ellen Story</i>	<i>3rd Hampshire</i>
<i>James J. O'Day</i>	<i>14th Worcester</i>
<i>Mary S. Keefe</i>	<i>15th Worcester</i>
<i>Steven Ultrino</i>	<i>33rd Middlesex</i>
<i>Gailanne M. Cariddi</i>	<i>1st Berkshire</i>
<i>Cory Atkins</i>	<i>14th Middlesex</i>
<i>Frank I. Smizik</i>	<i>15th Norfolk</i>
<i>Michelle M. DuBois</i>	<i>10th Plymouth</i>
<i>John J. Lawn, Jr.</i>	<i>10th Middlesex</i>
<i>Sean Garballey</i>	<i>23rd Middlesex</i>
<i>Christine P. Barber</i>	<i>34th Middlesex</i>
<i>Michael J. Moran</i>	<i>18th Suffolk</i>
<i>John J. Mahoney</i>	<i>13th Worcester</i>
<i>Timothy R. Madden</i>	<i>Barnstable, Dukes and Nantucket</i>
<i>Elizabeth A. Malia</i>	<i>11th Suffolk</i>
<i>Antonio F. D. Cabral</i>	<i>13th Bristol</i>
<i>Leah Cole</i>	<i>12th Essex</i>
<i>John W. Scibak</i>	<i>2nd Hampshire</i>
<i>Brian M. Ashe</i>	<i>2nd Hampden</i>

<i>Michael S. Day</i>	<i>31st Middlesex</i>
<i>Paul A. Schmid, III</i>	<i>8th Bristol</i>
<i>Aaron Michlewitz</i>	<i>3rd Suffolk</i>
<i>Stephen L. DiNatale</i>	<i>3rd Worcester</i>
<i>Paul Brodeur</i>	<i>32nd Middlesex</i>

**HOUSE . . . . . No. 1620**

By Mr. Swan of Springfield, a petition (accompanied by bill, House, No. 1620) of Benjamin Swan and others relative to eliminating mandatory minimum sentences related to drug offenses. The Judiciary.

**The Commonwealth of Massachusetts**

**In the One Hundred and Eighty-Ninth General Court  
(2015-2016)**

An Act eliminating mandatory minimum sentences related to drug offenses.

*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. Section 32 of chapter 94C of the General Laws, as appearing in the 2012  
2 Official Edition, is hereby amended by

3 (a) Striking out the words “less than one thousand nor” in subsection (a);

4 (b) Striking out the words “less than 3 ½ nor” in subsection (b) and further striking  
5 the second sentence in the said subsection and inserting in place thereof the following sentence:-  
6 No sentence imposed under the provisions of this section shall be punished by a fine of more  
7 than twenty-five thousand dollars;

8 (c) Repealing subsection (c).

9 SECTION 2. Section 32A of said chapter 94C, as so appearing, is hereby amended by

10 (a) Striking out the words “less than one thousand nor” in subsection (a);

11           (b)     Striking out the words “less than 2 nor” in subsection (b) and further striking the  
12 second sentence in the said subsection and inserting in place thereof the following sentence:- No  
13 sentence imposed under the provisions of this section shall be punished by a fine of more than  
14 twenty-five thousand dollars;

15           (c)     Striking out the words “less than two and one-half nor” and the words “less than  
16 one nor” in subsection (c) and further striking the second sentence in the said subsection and  
17 inserting in place thereof the following sentence:- No sentence imposed under the provisions of  
18 this section shall be punished by a fine of more than ten thousand dollars;

19           (d)     Striking out the words “less than 3 ½ nor” and further the words “less than two  
20 thousand five hundred nor” and further the words “but not in lieu of the mandatory minimum  
21 term of imprisonment, as established herein” in subsection (d)

22           (e)     Repealing subsection (e).

23           SECTION 3. Section 32B of said chapter 94C, as so appearing, is hereby amended by

24           (a)     Striking out the words “less than five hundred nor” in subsection (a);

25           (b)     Striking out the words “less than two and one-half nor” and the words “less than  
26 18 months nor” in subsection (b) and further striking the second sentence in the said subsection  
27 and inserting in place thereof the following sentence:- No sentence imposed under the provisions  
28 of this section shall be punished by a fine of more than ten thousand dollars;

29           (c)     Repealing subsection (c).

30           SECTION 4. Section 32C of said chapter 94C, as so appearing, is hereby amended by

31 (a) Striking out the words “less than five hundred nor” in subsection (a);

32 (b) Striking out the words “less than one nor” and further the words “less than one  
33 thousand nor” in subsection (b).

34 SECTION 5. Section 32D of said chapter 94C, as so appearing, is hereby amended by

35 (a) Striking out the words “less than two hundred and fifty nor” in subsection (a);

36 (b) Striking out the words “less than five hundred nor” in subsection (b).

37 SECTION 6. Subsection (a) of section 32E of said chapter 94C, as so appearing, is  
38 hereby amended by

39 (a) Striking out the words “less than two and one-half nor” and the words “less than  
40 one nor” in paragraph (1) and further striking the second sentence in the said subsection and  
41 inserting in place thereof the following sentence:- No sentence imposed under the provisions of  
42 this section shall be punished by a fine of more than ten thousand dollars;

43 (b) Striking out the words “less than 2 nor” in paragraph (2) and further striking the  
44 second sentence in the said subsection and inserting in place thereof the following sentence:- No  
45 sentence imposed under the provisions of this section shall be punished by a fine of more than  
46 twenty-five thousand dollars;

47 (c) Striking out the words “less than 3 ½ nor” in paragraph (3) and further striking the  
48 second sentence in the said subsection and inserting in place thereof the following sentence:- No  
49 sentence imposed under the provisions of this section shall be punished by a fine of more than  
50 fifty thousand dollars;

51 (d) Striking out the words “less than 8 nor” in paragraph (4) and further striking the  
52 second sentence in the said subsection and inserting in place thereof the following sentence:- No  
53 sentence imposed under the provisions of this section shall be punished by a fine of more than  
54 two hundred thousand dollars;

55 SECTION 7. Subsection (b) of section 32E of said chapter 94C, as so appearing, is  
56 hereby amended by

57 (a) Striking out the words “less than 2 nor” in paragraph (1) and further striking the  
58 second sentence in the said subsection and inserting in place thereof the following sentence:- No  
59 sentence imposed under the provisions of this section shall be punished by a fine of more than  
60 twenty-five thousand dollars;

61 (b) Striking out the words “less than 3 ½ nor” in paragraph (2) and further striking the  
62 second sentence in the said subsection and inserting in place thereof the following sentence:- No  
63 sentence imposed under the provisions of this section shall be punished by a fine of more than  
64 fifty thousand dollars;

65 (c) Striking out the words “less than 8 nor” in paragraph (3) and further striking the  
66 second sentence in the said subsection and inserting in place thereof the following sentence:- No  
67 sentence imposed under the provisions of this section shall be punished by a fine of more than  
68 one hundred thousand dollars;

69 (d) Striking out the words “less than 12 nor” in paragraph (4) and further striking the  
70 second sentence in the said subsection and inserting in place thereof the following sentence:- No  
71 sentence imposed under the provisions of this section shall be punished by a fine of more than  
72 fifty thousand dollars;

73 SECTION 8. Subsection (c) of section 32E of said chapter 94C, as so appearing, is  
74 hereby amended by

75 (a) Striking out the words “less than 3 ½ nor” in paragraph (1) and further striking the  
76 second sentence in the said subsection and inserting in place thereof the following sentence:- No  
77 sentence imposed under the provisions of this section shall be punished by a fine of more than  
78 fifty thousand dollars;

79 (b) Striking out the words “less than 5 nor” in paragraph (2) and further striking the  
80 second sentence in the said subsection and inserting in place thereof the following sentence:- No  
81 sentence imposed under the provisions of this section shall be punished by a fine of more than  
82 fifty thousand dollars;

83 (c) Striking out the words “less than 8 nor” in paragraph (3) and further striking the  
84 second sentence in the said subsection and inserting in place thereof the following sentence:- No  
85 sentence imposed under the provisions of this section shall be punished by a fine of more than  
86 one hundred thousand dollars;

87 (d) Striking out the words “less than 12 nor” in paragraph (4) and further striking the  
88 second sentence in the said subsection and inserting in place thereof the following sentence:- No  
89 sentence imposed under the provisions of this section shall be punished by a fine of more than  
90 five hundred thousand dollars;

91 SECTION 9. Subsection (d) of section 32E of said chapter 94C is hereby repealed.

92 SECTION 10. Section 32F of said chapter 94C, as so appearing, is hereby amended by



93           (a)     Striking out the words “less than five nor” in subsection (a) and further striking  
94 the second sentence in the said subsection and inserting in place thereof the following sentence:-  
95 No sentence imposed under the provisions of this section shall be punished by a fine of more  
96 than twenty-five thousand dollars;

97           (b)     Striking out the words “less than three nor” in subsection (b) and further striking  
98 the second sentence in the said subsection and inserting in place thereof the following sentence:-  
99 No sentence imposed under the provisions of this section shall be punished by a fine of more  
100 than twenty-five thousand dollars;

101          (c)     Striking out the words “less than two and one-half nor” and the words “less than  
102 two nor” in subsection (c) and further striking the second sentence in the said subsection and  
103 inserting in place thereof the following sentence:- No sentence imposed under the provisions of  
104 this section shall be punished by a fine of more than twenty-five thousand dollars;

105          (d)     Striking out the words “less than five nor” in subsection (d) and further striking  
106 the second sentence in the said subsection and inserting in place thereof the following sentence:-  
107 No sentence imposed under the provisions of this section shall be punished by a fine of more  
108 than twenty-five thousand dollars;

109           SECTION 11. Section 32G of said chapter 94C, as so appearing, is hereby amended by  
110 striking out the words “less than two hundred and fifty nor.”

111           SECTION 12. Section 32 H of said chapter 94C, as so appearing, is hereby amended by  
112 striking this section in its entirety.

113           SECTION 13. Section 32I of said chapter 94C, as so appearing, is hereby amended by

114 (a) Striking out the words “less than one nor” and the words “less than five hundred  
115 nor” in subsection (a);

116 (b) Striking out the words “less than three nor” and the words “less than one thousand  
117 nor” in subsection (b);

118 (c) Striking out the words “less than fifty nor” in subsection (c).

119 SECTION 14. Section 32J of said chapter 94c, as so appearing, is hereby amended by  
120 striking out the section in its entirety and replacing it with the following:-

121 Section 32J. Any person who violates the provisions of section thirty-two, thirty-two A,  
122 thirty-two B, thirty-two C, thirty-two D, thirty-two E, thirty-two F or thirty-two I while in or on,  
123 or within 300 feet of the real property comprising a public or private accredited preschool,  
124 accredited headstart facility, elementary, vocational, or secondary school if the violation occurs  
125 between 5:00 a.m. and midnight, whether or not in session, or within one hundred feet of a  
126 public park or playground shall be punished by a term of imprisonment in the state prison for not  
127 more than fifteen years or by imprisonment in a jail or house of correction for not more than two  
128 and one-half years. A fine of not more than ten thousand dollars may be imposed. In accordance  
129 with the provisions of section eight A of chapter two hundred and seventy-nine such sentence  
130 shall begin from and after the expiration of the sentence for violation of section thirty-two, thirty-  
131 two A, thirty-two B, thirty-two C, thirty-two D, thirty-two E, thirty-two F or thirty-two I. Lack of  
132 knowledge of school boundaries shall not be a defense to any person who violates the provisions  
133 of this section.

134 SECTION 15. Section 32K of said chapter 94C, as so appearing, is hereby amended by  
135 striking out the words “less than five years nor” and further striking the second sentence in said

136 section and inserting in place thereof the following sentence:- No sentence imposed under the  
137 provisions of this section shall be punished by a fine of more than one hundred thousand dollars.

138 SECTION 16. Section 34 of said chapter 94C, as so appearing, is hereby amended by  
139 striking out the words “less than two and one-half years nor” in the third sentence of the first  
140 paragraph.

141 SECTION 17. Notwithstanding any general or special law to the contrary, a person  
142 serving a sentence for violating any provisions of Chapter 94C or charged with such a violation  
143 but a guilty plea has not been accepted nor a conviction entered as of the effective date of this act  
144 shall be eligible to receive deductions from his sentence for good conduct under Sections 129C  
145 and 129D of Chapter 127.

146 SECTION 18. Notwithstanding any general or special law to the contrary, a person  
147 serving a sentence for violating any provisions of Chapter 94C or charged with such a violation  
148 but a guilty plea has not been accepted nor a conviction entered as of the effective date of this  
149 section shall be eligible to participate in education, training, employment or work release  
150 programs established pursuant to Sections 49, 49B, 49C, 86F and 86G of Chapter 127.

151 SECTION 19. Notwithstanding any general or special law to the contrary, a person  
152 serving a sentence for violating any provisions of Chapter 94C or charged with such a violation  
153 but a guilty plea has not been accepted nor a conviction entered as of the effective date of this  
154 section shall not be eligible for parole until he or she has served 1/2 of the mandatory minimum  
155 sentence.