

HOUSE No. 3127

The Commonwealth of Massachusetts

PRESENTED BY:

Chynah Tyler

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 criminal procedure; creating the Justice Safety Valve Act.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Chynah Tyler</i>	<i>7th Suffolk</i>
<i>Mike Connolly</i>	<i>26th Middlesex</i>
<i>Sal N. DiDomenico</i>	<i>Middlesex and Suffolk</i>
<i>William Driscoll</i>	<i>7th Norfolk</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>
<i>Carmine L. Gentile</i>	<i>13th Middlesex</i>
<i>Carlos Gonzalez</i>	<i>10th Hampden</i>
<i>Paul R. Heroux</i>	<i>2nd Bristol</i>
<i>Elizabeth A. Malia</i>	<i>11th Suffolk</i>
<i>Juana Matias</i>	<i>16th Essex</i>
<i>Brian Murray</i>	<i>10th Worcester</i>
<i>Chris Walsh</i>	<i>6th Middlesex</i>
<i>Bud Williams</i>	<i>11th Hampden</i>

HOUSE No. 3127

By Ms. Tyler of Boston, a petition (accompanied by bill, House, No. 3127) of Chynah Tyler and others relative to mandatory minimum sentences. The Judiciary.

The Commonwealth of Massachusetts

**In the One Hundred and Ninetieth General Court
(2017-2018)**

An Act relative to criminal procedure; creating the Justice Safety Valve Act.

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.

2 Chapter 211E of the General Laws, as appearing in the 2014 Official Edition, is hereby
3 amended by inserting after said chapter the following new chapter: -

4 Chapter 211E ½.

5 Section 1. SHORT TITLE

6 This act may be cited as the “Justice Safety Valve Act.”

7 Section 2. Notwithstanding and general or special law to the contrary, when sentencing a
8 person convicted of a criminal offense for which there is a mandatory minimum sentence of
9 imprisonment, the court may depart from the applicable sentence if the court finds substantial
10 and compelling reasons on the record, after giving due regard to the nature of the crime, history
11 and character of the defendant and his or her chances of successful rehabilitation, that:

12 (a) The mandatory minimum sentence of imprisonment is not necessary for the protection
13 of the public and imposition of the mandatory minimum sentence of imprisonment would result
14 in substantial injustice to the defendant; or

15 (b) The mandatory minimum sentence of imprisonment is not necessary for the
16 protection of the public and the defendant, based on a risk and needs assessment, is eligible for a
17 sentence that is not a mandatory minimum, an alternative court, a diversion program or
18 community sentencing, without regard to exclusions because of previous convictions, and has
19 been accepted to the same, pending sentencing.

20 Section 3.

21 (a) As used in this section the following term shall, unless the context clearly requires
22 otherwise, have the following meaning:-

23 “Non-violent offense”, any conviction for a crime punishable by imprisonment, except a
24 crime punishable by imprisonment that: (i) has as an element the use, attempted use or threatened
25 use of physical force or a deadly weapon against the person of another; (ii) is burglary, extortion,
26 arson or kidnapping; (iii) involves the use of explosives; or (iv) otherwise involves conduct that
27 presents a serious risk of physical injury to another.

28 (b) The court shall have the discretion to depart from the applicable mandatory
29 minimum sentence of imprisonment for which the defendant was convicted of a “non violent
30 offense”.

31 Section 4. This subsection does not limit any right to appeal that would otherwise exist in
32 its absence.

33 Section 5. The district court clerk of each county shall submit a report of the departures
34 in sentencing to the Massachusetts Sentencing Commission and the clerks of the Senate and
35 House of Representatives on or before the first day of February of each year. On or before the
36 first day of March of each year the Massachusetts Sentence