

HOUSE No. 3453

The Commonwealth of Massachusetts

PRESENTED BY:

Nika C. Elugardo

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 to eliminate debt-based incarceration and suspensions.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Nika C. Elugardo</i>	<i>15th Suffolk</i>	<i>2/18/2021</i>
<i>Kay Khan</i>	<i>11th Middlesex</i>	<i>2/23/2021</i>
<i>Patricia A. Duffy</i>	<i>5th Hampden</i>	<i>2/24/2021</i>
<i>Lindsay N. Sabadosa</i>	<i>1st Hampshire</i>	<i>2/24/2021</i>
<i>Joanne M. Comerford</i>	<i>Hampshire, Franklin and Worcester</i>	<i>2/24/2021</i>
<i>Jack Patrick Lewis</i>	<i>7th Middlesex</i>	<i>2/24/2021</i>
<i>Peter Capano</i>	<i>11th Essex</i>	<i>2/24/2021</i>
<i>Danillo A. Sena</i>	<i>37th Middlesex</i>	<i>2/24/2021</i>
<i>Mindy Domb</i>	<i>3rd Hampshire</i>	<i>2/24/2021</i>
<i>Orlando Ramos</i>	<i>9th Hampden</i>	<i>2/24/2021</i>
<i>Jason M. Lewis</i>	<i>Fifth Middlesex</i>	<i>2/24/2021</i>
<i>Christina A. Minicucci</i>	<i>14th Essex</i>	<i>2/24/2021</i>
<i>David M. Rogers</i>	<i>24th Middlesex</i>	<i>2/24/2021</i>
<i>Frank A. Moran</i>	<i>17th Essex</i>	<i>2/24/2021</i>
<i>Sarah K. Peake</i>	<i>4th Barnstable</i>	<i>2/24/2021</i>
<i>Maria Duaine Robinson</i>	<i>6th Middlesex</i>	<i>2/24/2021</i>
<i>Rebecca L. Rausch</i>	<i>Norfolk, Bristol and Middlesex</i>	<i>2/24/2021</i>
<i>Steven C. Owens</i>	<i>29th Middlesex</i>	<i>2/24/2021</i>

<i>Tricia Farley-Bouvier</i>	<i>3rd Berkshire</i>	<i>2/24/2021</i>
<i>Brendan P. Crighton</i>	<i>Third Essex</i>	<i>2/25/2021</i>
<i>Dylan A. Fernandes</i>	<i>Barnstable, Dukes and Nantucket</i>	<i>2/25/2021</i>
<i>Tram T. Nguyen</i>	<i>18th Essex</i>	<i>2/25/2021</i>
<i>Adrian C. Madaro</i>	<i>1st Suffolk</i>	<i>2/26/2021</i>
<i>Carlos González</i>	<i>10th Hampden</i>	<i>2/26/2021</i>
<i>Mary S. Keefe</i>	<i>15th Worcester</i>	<i>2/26/2021</i>
<i>Christine P. Barber</i>	<i>34th Middlesex</i>	<i>2/26/2021</i>
<i>Chynah Tyler</i>	<i>7th Suffolk</i>	<i>2/26/2021</i>
<i>Michael J. Barrett</i>	<i>Third Middlesex</i>	<i>2/26/2021</i>
<i>Vanna Howard</i>	<i>17th Middlesex</i>	<i>2/26/2021</i>
<i>Erika Uytterhoeven</i>	<i>27th Middlesex</i>	<i>2/26/2021</i>
<i>David Henry Argosky LeBoeuf</i>	<i>17th Worcester</i>	<i>2/26/2021</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>	<i>2/26/2021</i>
<i>Sean Garballey</i>	<i>23rd Middlesex</i>	<i>2/26/2021</i>
<i>Michelle M. DuBois</i>	<i>10th Plymouth</i>	<i>2/26/2021</i>
<i>Michelle L. Ciccolo</i>	<i>15th Middlesex</i>	<i>2/26/2021</i>
<i>Tami L. Gouveia</i>	<i>14th Middlesex</i>	<i>3/3/2021</i>
<i>Liz Miranda</i>	<i>5th Suffolk</i>	<i>3/19/2021</i>
<i>Julian Cyr</i>	<i>Cape and Islands</i>	<i>3/22/2021</i>
<i>Kate Lipper-Garabedian</i>	<i>32nd Middlesex</i>	<i>3/25/2021</i>
<i>Ruth B. Balsler</i>	<i>12th Middlesex</i>	<i>4/2/2021</i>

HOUSE No. 3453

By Ms. Elugardo of Boston, a petition (accompanied by bill, House, No. 3453) of Nika C. Elugardo and others relative to debt-based incarceration and suspensions of certain motor vehicle and parking violations. Transportation.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Second General Court
(2021-2022)**

An Act to eliminate debt-based incarceration and suspensions.

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 2A of chapter 60A, as appearing in the 2018 Official Edition, is
2 hereby amended in the second paragraph after the word “renew”, in lines 31-32, by striking out
3 the words “the license to operate a motor vehicle of the registered owner of said vehicle or”.

4 SECTION 2. Section 47B of chapter 62C is hereby repealed.

5 SECTION 3. Section 20A of chapter 90, as appearing in the 2018 Official Edition, is
6 hereby amended by striking out at the end of the third paragraph the words:-

7 “Failure to obey this notice within twenty-one days after the date of violation may result
8 in the non-renewal of the license to drive and the certificate of registration of the registered
9 owner.”

10 SECTION 4. Said section 20A, of said chapter 90, as so appearing, is hereby further
11 amended by striking out the seventh and eighth paragraphs.

12 SECTION 5. Said section 20A, of said chapter 90, as so appearing, is hereby further
13 amended in the eleventh paragraph after the words “violation by mail,” in line 183, by inserting
14 the words:-

15 and the procedure to request a noncriminal hearing to determine an assessment reduction
16 or waiver based on financial hardship

17 SECTION 6. Said section 20A, of said chapter 90, as so appearing, is hereby further
18 amended by inserting at the end the following paragraphs:-

19 Any person notified to appear before the parking clerk, as provided herein, may appear
20 before such parking clerk or his designee and request a noncriminal hearing to determine an
21 assessment reduction based on hardship, either personally or through an agent duly authorized in
22 writing or by mailing to such parking clerk a signed request. The parking clerk shall notify the
23 clerk-magistrate of the district court for the judicial district in which the parking violation
24 occurred of such request for a noncriminal hearing, in such manner as the chief justice of the
25 district court department and the parking clerk shall jointly determine. The assessment shall be
26 reduced or waived if the magistrate or justice determines that the assessment will cause
27 substantial financial hardship to the violator or the family or dependents thereof.

28 If the violator is a recipient of any needs-based public assistance or meets the definition
29 of “indigency” under section 2 of chapter 211D, or earns no more than 400% of the U.S.
30 Department of Housing and Urban Development (HUD) very low income limit, all fees,
31 including but not limited to administrative and late fees, shall be waived and the remaining
32 assessment shall be reduced according to the schedule set forth in subsection (A)(4) of section 3
33 of chapter 90C of the General Laws.

34 SECTION 7. Section 22 of said chapter 90, as so appearing, is hereby amended by
35 striking out paragraph (h).

36 SECTION 8. Section 22G of said chapter 90, as so appearing, is hereby repealed.

37 SECTION 9. Section 23 of said chapter 90, as so appearing, is hereby amended by
38 striking the first paragraph and inserting in place thereof the following paragraphs:-

39 Any person convicted of operating a motor vehicle after his license to operate has been
40 suspended or revoked, or after notice of the suspension or revocation of his right to operate a
41 motor vehicle without a license has been issued by the registrar and received by such person or
42 by his agent or employer, and prior to the restoration of such license or right to operate or to the
43 issuance to him of a new license to operate, and any person convicted of operating or causing or
44 permitting any other person to operate a motor vehicle after the certificate of registration for such
45 vehicle has been suspended or revoked and prior to the restoration of such registration or to the
46 issuance of a new certificate of registration for such vehicle , or whoever exhibits to an officer
47 authorized to make arrests, when requested by said officer to show his license, a license issued to
48 another person with intent to conceal his identity, shall, except as provided by section twenty-
49 eight of chapter two hundred and sixty-six, be punished by a fine of not more than five hundred
50 dollars, and any person who attaches or permits to be attached to a motor vehicle or trailer a
51 number plate assigned to another motor vehicle or trailer, or who obscures or permits to be
52 obscured the figures on any number plate attached to any motor vehicle or trailer, or who fails to
53 display on a motor vehicle or trailer the number plate and the register number duly issued
54 therefor, with intent to conceal the identity of such motor vehicle or trailer, shall be punished by
55 a fine of not more than one hundred dollars. Any person convicted of operating a motor vehicle

56 after his license to operate has been revoked by reason of his having been found to be an habitual
57 traffic offender, as provided in section twenty-two F, or after notice of such revocation of his
58 right to operate a motor vehicle without a license has been issued by the registrar and received by
59 such person or by his agent or employer, and prior to the restoration of such license or right to
60 operate or the issuance to him of a new license to operate shall be punished by a fine of not less
61 than five hundred nor more than five thousand dollars or by imprisonment for not more than two
62 years, or both. In no case shall a person be prosecuted for operating after suspension or
63 revocation of a license upon a failure to pay an administrative reinstatement fee.

64 SECTION 10. Said section 23, of said section 90, as so appearing, is hereby further
65 amended by striking the second paragraph and inserting in place thereof the following
66 paragraph:-

67 Notwithstanding the preceding paragraph or any other general or special law to the
68 contrary, whoever has been found responsible for or convicted of, or against whom a finding of
69 delinquency or a finding of sufficient facts to support a conviction has been rendered on, a
70 complaint charging a violation of operating a motor vehicle after his license to operate has been
71 suspended or revoked, or after notice of the suspension or revocation of his right to operate a
72 motor vehicle without a license has been issued by the registrar and received by such person or
73 by his agent or employer, and prior to the restoration of such license or right to operate or to the
74 issuance to him of a new license to operate shall be punished by a fine of not more than \$500.

75 This paragraph shall not apply to any person who is charged with operating a motor vehicle after
76 his license to operate has been suspended or revoked pursuant to a violation of paragraph (a) of
77 subdivision (1) of section 24, or section 24D, 24E, 24G, 24L or 24N, of this chapter, subsection
78 (a) of section 8 or section 8A or 8B of chapter 90B, section 8, 9 or 11 of chapter 90F or after

79 notice of such suspension or revocation of his right to operate a motor vehicle without a license
80 has been issued and received by such person or by his agent or employer, and prior to the
81 restoration of such license or right to operate or the issuance to him of a new license or right to
82 operate because of any such violation.

83 SECTION 11. Said section 23, of said section 90, as so appearing, is hereby further
84 amended by striking out the sixth paragraph.

85 SECTION 12. Said section 23, of said section 90, as so appearing, is hereby further
86 amended by striking out the seventh paragraph.

87 SECTION 13. Section 26A of said chapter 90, as so appearing, is hereby amended by
88 striking out the last sentence of paragraph (a).

89 SECTION 14. Section 27 of said chapter 90, as so appearing, is hereby amended by
90 inserting at the end the following paragraphs:

91 In any case where a violator owes an assessment, such violator may request a waiver or
92 reduction of the assessment. The assessment shall be reduced or waived if the magistrate or
93 justice determines that the assessment will cause substantial financial hardship to the violator or
94 the family or dependents thereof.

95 If the violator is a recipient of any needs-based public assistance or meets the definition
96 of “indigency” under section 2 of chapter 211D, or earns no more than 400% of the U.S.
97 Department of Housing and Urban Development (HUD) very low income limit, all fees,
98 including but not limited to administrative and late fees, shall be waived and the remaining

99 assessment shall be reduced according to the schedule set forth in subsection (A)(4) of section 3
100 of chapter 90C of the General Laws.

101 SECTION 15. Section 33 of said chapter 90, as so appearing, is hereby amended by
102 striking out paragraph thirty-six.

103 SECTION 16. Section 34J of said chapter 90, as so appearing, is hereby amended by
104 striking out the third paragraph and inserting in place thereof the following paragraph:-

105 Any person who is convicted of, or who enters a plea of guilty to a violation of this
106 section shall be liable to the plan organized pursuant to section one hundred and thirteen H of
107 chapter one hundred and seventy-five in the amount of the greater of five hundred dollars or one
108 year's premium for compulsory motor vehicle insurance for the highest rated territory and class
109 or risk in effect at the time of the commission of the offense. Said liability shall be in addition to
110 all other liabilities imposed on the person so convicted or so pleading whether civil or criminal.
111 The said plan shall apply any sums collected hereunder, to defray its costs of collection and to
112 defray in whole or in part its expenses for preventing fraud and arson. Furthermore, any person
113 who is convicted of, or enters a plea of guilty to a violation of this section shall have his or her
114 motor vehicle registration suspended upon the registrar's receipt of notification from the clerk of
115 any court which enters any conviction hereunder or which accepts such plea of guilty until said
116 person provides the registrar with proof of a motor vehicle liability policy in accordance with the
117 provisions of this chapter. The clerk of any court which enters any conviction hereunder or
118 which accepts such plea shall promptly notify the registrar of motor vehicles and the
119 Commonwealth Auto Reinsurers pursuant to section one hundred and thirteen of chapter one
120 hundred and seventy-five or any successor thereto of such entry of acceptance of such plea.

121 SECTION 17. Section 3 of chapter 90C, as appearing in the 2018 Official Edition, is
122 hereby amended by inserting in the second paragraph after the words “contest responsibility for
123 the infraction,”, in lines 11-12, the following words:-

124 or request an assessment reduction or waiver based on financial hardship

125 SECTION 18. Said section 3 of said chapter 90C , as so appearing, is hereby further
126 amended by striking out the first paragraph of (A)(4) and inserting in place thereof the following
127 paragraph:

128 (4) A violator may request an assessment reduction or waiver or contest responsibility for
129 the infraction by making a signed request for a noncriminal hearing on the citation and mailing
130 such citation, together with a \$25 court filing fee, to the registrar at the address indicated on the
131 citation within 20 days of the citation. The court filing fee shall be waived if the violator is
132 requesting an assessment reduction. Notwithstanding any general or special law to the contrary,
133 the registrar, in cooperation with the state comptroller, upon receipt of the \$25 court filing fee,
134 shall immediately cause the court filing fee to be transferred to the trial court department to be
135 held as retained revenue; provided, however, that the registrar may retain from the court filing
136 fees an amount not greater than \$200,000 for fiscal year 2011 for information technology
137 associated with the implementation of this section; and provided, further that the registrar may
138 retain an amount not greater than \$100,000 annually for personnel costs associated with the
139 processing of those filing fees.

140 SECTION 19. Said section 3 of said chapter 90C, as so appearing, is hereby further
141 amended by inserting at the end of the second paragraph of (A)(4) after the sentence “The
142 registrar’s determination of such issue shall be final” the following sentence:-

143 This paragraph shall not apply to a violator requesting an assessment reduction or waiver.

144 SECTION 20. Said section 3 of said chapter 90C, as so appearing, is hereby further
145 amended by inserting at in the eighth paragraph of (A)(4) after the words “imposed assessment”,
146 in line 1010, the following words:-

147 or the violator requests an assessment reduction or waiver.

148 SECTION 21. Said section 3 of said chapter 90C , as so appearing, is hereby further
149 amended by inserting at the end of (A)(4) the following paragraphs:-

150 In any case where a violator owes an assessment, such violator may request a
151 noncriminal hearing to determine a reduction or waiver of the assessment. In any such hearing,
152 the magistrate or justice shall reduce or waive the assessment if the assessment will cause
153 substantial financial hardship to the violator or the family or dependents thereof.

154 If the violator is a recipient of any needs-based public assistance or meets the definition
155 of “indigency” under section 2 of chapter 211D, or earns no more than 400% of the U.S.
156 Department of Housing and Urban Development (HUD) very low income limit, all fees,
157 including but not limited to administrative and late fees, shall be waived and the remaining
158 assessment shall be reduced according to the following schedule:

159 (a) If the violator is currently in receipt of any needs-based public assistance or benefit or
160 meets the definition of “indigency” under section 2 of chapter 211D, the remaining assessment
161 shall be reduced to no more than 1% of said violator’s monthly income or \$5, whichever is
162 lower.

163 (b) If the violator earns 101-200% of the HUD very low income limit, the remaining
164 assessment shall be reduced by 75%.

165 (c) If the violator earns 201-300% of the HUD very low income limit, the remaining
166 assessment shall be reduced by 50%.

167 (d) If the violator earns 301-400% of the HUD very low income limit, the remaining
168 assessment shall be reduced by 25%.

169 If the violator earns over 400% of the HUD very low income limit and the magistrate or
170 justice finds that imposing the original assessment would cause financial hardship to the violator
171 or the family or dependents thereof, all fees, including but not limited to administrative and late
172 fees, shall be waived or reduced and the remaining assessment may be reduced by an amount
173 determined by the magistrate or justice.

174 In determining the violator's earnings, the magistrate or justice shall calculate the
175 violator's current total monthly income, including wages and excluding any child support or
176 Supplemental Security Income (SSI), and determine the number of persons in the family. In
177 making these determinations, the magistrate or justice shall use the information provided by the
178 violator.

179 SECTION 22. Said section 3 of said chapter 90C, as so appearing, is hereby further
180 amended in (A)(6)(a)(ii) after the words "unless and until the violator", in line 129, the following
181 words:-

182 appears for a noncriminal hearing before a magistrate or justice or

183 SECTION 23. Said section 3 of said chapter 90C, as so appearing, is hereby further
184 amended in (A)(6)(a)(ii) by striking out subsection (i) and (ii) and inserting in place thereof the
185 following paragraphs:

186 (AA) in the case of an operator violation, any license to operate a motor vehicle issued to
187 such violator by the registrar will not be renewed upon or after the expiration date of such
188 license; or

189 (BB) in the case of an owner violation, any registration of a motor vehicle issued to such
190 violator by the registrar will not be renewed upon or after the expiration date of such registration.

191 Unless such notice is sooner cancelled by the registrar, in the case of an operator
192 violation, such violator's operators license, learners permit or right to operate, or in the case of an
193 owner violation any registration of a motor vehicle issued to such violator by the registrar, shall
194 be renewed by the registrar upon payment of the scheduled or imposed assessments for such civil
195 motor vehicle infractions, plus any late fees or other administrative fees which the registrar is
196 required or authorized by law or regulation to impose, unless such fees are waived in whole or in
197 part by the registrar or a magistrate or justice.

198 The registrar shall waive all late fees and administrative fees, including reinstatement
199 fees, for any violator who is a recipient of any needs-based public assistance or meets the
200 definition of "indigency" under section 2 of chapter 211D, or earns no more than 400% of the
201 U.S. Department of Housing and Urban Development (HUD) very low income limit.

202 SECTION 24. Said section 3 of said chapter 90C , as so appearing, is hereby further
203 amended by striking out paragraph (A)(6)(b).

204 SECTION 25. Said section 3 of chapter 90C is hereby further amended by striking out
205 the paragraph after (B)(3)(c) and inserting in place thereof the following paragraph:-

206 Upon receipt of such notice, the registrar shall send a notice to the violator's mail address
207 or last known address notifying the violator that said violator may not renew, apply for or receive
208 any operators license, learners permit, certificate of registration or title, number plate, sticker,
209 decal or other item issued by the registrar unless and until the violator presents the registrar with
210 a certificate of the clerk-magistrate of the court that the matter has been fully disposed of in
211 accordance with law or, in the case of a matter still pending before the court, that the violator is
212 attending to the matter to the satisfaction of the court. The court shall not unreasonably withhold
213 such certificate. The registrar shall cancel such revocation, and so notify the court, if satisfied
214 that it resulted through error of the registrar or the court.

215 SECTION 26. Section 2A of chapter 211D, as appearing in the 2018 Official Edition, is
216 hereby amended by striking out paragraph (h) and inserting in place thereof the following
217 paragraph:-

218 (h) The clerk of the court shall, within 60 days of appointment of counsel, report to the
219 department of revenue and the department of transitional assistance the amount of any legal
220 counsel fee owed by the person for whom counsel was appointed under this chapter. The
221 department of revenue shall intercept payment of such fee from tax refunds due to persons who
222 owe all or a portion of s