

SENATE No. 755

The Commonwealth of Massachusetts

PRESENTED BY:

Michael J. Barrett

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 restricting fine time sentences.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Michael J. Barrett</i>	<i>Third Middlesex</i>	
<i>Marjorie C. Decker</i>	<i>25th Middlesex</i>	<i>1/24/2017</i>
<i>John W. Scibak</i>	<i>2nd Hampshire</i>	<i>1/24/2017</i>
<i>Jason M. Lewis</i>	<i>Fifth Middlesex</i>	<i>1/25/2017</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>	<i>1/26/2017</i>
<i>Jay R. Kaufman</i>	<i>15th Middlesex</i>	<i>1/26/2017</i>
<i>Cynthia S. Creem</i>	<i>First Middlesex and Norfolk</i>	<i>1/27/2017</i>
<i>Linda Dorcena Forry</i>	<i>First Suffolk</i>	<i>1/27/2017</i>
<i>Chris Walsh</i>	<i>6th Middlesex</i>	<i>1/30/2017</i>
<i>Jack Lewis</i>	<i>7th Middlesex</i>	<i>1/31/2017</i>
<i>David Paul Linsky</i>	<i>5th Middlesex</i>	<i>2/1/2017</i>
<i>Mary S. Keefe</i>	<i>15th Worcester</i>	<i>2/1/2017</i>
<i>Kenneth I. Gordon</i>	<i>21st Middlesex</i>	<i>2/1/2017</i>
<i>Denise Provost</i>	<i>27th Middlesex</i>	<i>2/2/2017</i>
<i>Aaron Vega</i>	<i>5th Hampden</i>	<i>2/2/2017</i>
<i>Paul R. Heroux</i>	<i>2nd Bristol</i>	<i>2/2/2017</i>
<i>Kenneth J. Donnelly</i>	<i>Fourth Middlesex</i>	<i>2/2/2017</i>
<i>Elizabeth A. Malia</i>	<i>11th Suffolk</i>	<i>2/3/2017</i>

<i>Patricia D. Jehlen</i>	<i>Second Middlesex</i>	<i>2/3/2017</i>
<i>Carmine L. Gentile</i>	<i>13th Middlesex</i>	<i>2/3/2017</i>
<i>William N. Brownsberger</i>	<i>Second Suffolk and Middlesex</i>	<i>2/3/2017</i>
<i>Michelle M. DuBois</i>	<i>10th Plymouth</i>	<i>2/3/2017</i>
<i>Sal N. DiDomenico</i>	<i>Middlesex and Suffolk</i>	<i>2/6/2017</i>

SENATE No. 755

By Mr. Barrett, a petition (accompanied by bill, Senate, No. 755) of Michael J. Barrett, Marjorie C. Decker, John W. Scibak, Jason M. Lewis and other members of the General Court for legislation to restrict fine time sentences. The Judiciary.

The Commonwealth of Massachusetts

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

An Act restricting fine time sentences.

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 24(1)(a)(1) of chapter 90 of the General Laws, as appearing in the
2 2014 Official Edition, is hereby amended by striking out the third sentence and inserting in place
3 thereof the following sentence:-

4 The assessment shall be waived or reduced if it will cause a substantial financial hardship
5 to the person or the family or dependents thereof.

6 SECTION 2. Section 24(1)(a)(1) of chapter 90 of the General Laws, as so appearing, is
7 hereby further amended by striking out the fifth sentence and inserting in place thereof the
8 following sentence:-

9 The assessment shall be waived or reduced if it will cause a substantial financial hardship
10 to the person or the family or dependents thereof.

11 SECTION 3. Section 24(2)(a) of chapter 90 of the General Laws, as so appearing, is
12 hereby amended by striking out the fourth sentence and inserting in place thereof the following
13 sentence:-

14 The assessment shall be waived or reduced if it will cause a substantial financial hardship
15 to the person or the family or dependents thereof.

16 SECTION 4. Section 24D of chapter 90 of the General Laws, as so appearing, is hereby
17 amended by striking out, in lines 173 and 174, the words “cause a grave and serious hardship to
18 such individual or to the family thereof,”, and inserting in place thereof the following words:-
19 “cause a substantial financial hardship to the individual or the family or dependents thereof,”.

20 SECTION 5. Section 8(a) of chapter 90B of the General Laws, as so appearing, is hereby
21 amended by striking out the sentence beginning on line 513 and inserting in place thereof the
22 following sentence:-

23 The assessment shall be waived or reduced if it will cause a substantial financial hardship
24 to the person or the family or dependents thereof.

25 SECTION 6. Section 144 of chapter 127 of the General Laws, as so appearing, is hereby
26 amended by striking out, in line 3, the word “thirty”, and inserting in place thereof, the following
27 word:- “ninety”.

28 SECTION 7. Chapter 127 of the General Laws is hereby amended by striking out section
29 145, as appearing in the 2014 Official Edition, and inserting in place thereof the following
30 section:-

31 Section 145. Commitment of persons for nonpayment of monies

32 (a) Justices of trial courts shall not commit a person to a prison or place of confinement
33 solely for non-payment of monies owed if such person has shown by a preponderance of the
34 evidence that the person is not able to pay without causing substantial financial hardship to the
35 person or the family or dependents thereof. A court shall determine if a substantial financial
36 hardship exists at a hearing, where it shall consider the person's employment status, earning
37 ability, financial resources, living expenses, number of dependents, and any special
38 circumstances that may have bearing on ability to pay.

39 (b) Justices of trial courts shall not commit a person to a prison or place of confinement
40 solely for non-payment of monies owed if such a person was not offered counsel for the
41 commitment portion of the case. A person deemed indigent for the purpose of the offer of
42 counsel shall not be assessed a fee for such assistance.

43 (c) Justices of the trial courts shall consider alternatives to incarceration before
44 committing a person to a prison or place of confinement solely for non-payment of a fine or a
45 fine and expenses.

46 SECTION 8. Section 10 of chapter 209A of the General Laws, as so appearing, is hereby
47 amended by striking out, in lines 6 through 8, the words "when the court finds that the person is
48 indigent or that payment of the assessment would cause the person, or the dependents of such
49 person, severe financial hardship.", and inserting in place thereof the following words: "when the
50 court finds that the person is indigent or that payment of the assessment would cause substantial
51 financial hardship to the person or the family or dependents thereof".

52 SECTION 9. Section 2A of chapter 211D of the General Laws, as so appearing, is
53 hereby amended by striking out subsections (f), (g), and (h).

54 SECTION 10. Section 8 of chapter 258B of the General Laws, as so appearing, is hereby
55 amended by striking out, in lines 38 through 40, the words “would impose a severe financial
56 hardship upon the person against whom the assessment is imposed,”, and inserting in place
57 thereof the following words: “would cause a substantial financial hardship to the person, or the
58 family or dependents thereof, against whom the assessment is imposed.”.

59 SECTION 11. Section 47 of chapter 265 of the General Laws, as so appearing, is hereby
60 amended by striking out the seventh sentence and inserting in place thereof the following
61 sentence:-

62 If an offender establishes that such fees would cause a substantial financial hardship to
63 the offender or the family or dependents thereof, the court may waive them.

64 SECTION 12. Section 30 of chapter 276 of the General Laws, as so appearing, is hereby
65 amended by striking out, in lines 5 and 6, the words “except that upon a finding of good cause by
66 the court the fee may be waived,”, and inserting in place thereof the following words: “except
67 that the court may waive the fee upon a finding of good cause or a finding that such a fee would
68 cause a substantial financial hardship to the person or the family or dependents thereof.”.

69 SECTION 13. Section 30 of chapter 276 of the General Laws, as so appearing, is hereby
70 further amended by striking out, in line 11, the words “unless the judge finds that such person is
71 indigent,”, and inserting in place thereof the following words: “unless the judge finds that the fee
72 would cause a substantial financial hardship to the person or the family or dependents thereof.”.

73 SECTION 14. Section 87A of chapter 276 of the General Laws, as so appearing, is
74 hereby amended by striking out the second paragraph and inserting in place thereof the following
75 paragraph:-

76 The court shall assess upon every person placed on supervised probation, including all
77 persons placed on probation for offenses under section 24 of chapter 90, but not including any
78 person placed on supervised probation after release from prison or a house of correction, a
79 monthly probation supervision fee, hereinafter referred to as "probation fee", in the amount of
80 \$60 per month. Said person shall pay said probation fee once each month during such time as
81 said person remains on supervised probation. The court shall assess upon every person placed on
82 administrative supervised probation, except for persons placed on administrative supervised
83 probation after release from a prison or a house of correction, a monthly administrative probation
84 supervision fee, hereinafter referred to as "administrative probation fee", in the amount of \$45
85 per month. Said person shall pay said administrative probation fee once each month during such
86 time as said person remains on administrative supervised probation. Notwithstanding the
87 foregoing, said fees shall not be assessed upon any person accused or convicted of a violation of
88 section 1 or 15 of chapter 273, where compliance with an order of support for a spouse or minor
89 child is a condition of probation.

90 SECTION 15. Section 87A of chapter 276 of the General Laws, as so appearing, is
91 hereby amended by striking out, in lines 42 through 44, the words "undue hardship on said
92 person or his family due to limited income, employment status, or any other factor.", and
93 inserting in place thereof the following words: "substantial financial hardship for the person or
94 the family or dependents thereof".

95 SECTION 16. Said section 87A of chapter 276 of the General Laws, as so appearing, is
96 hereby further amended by striking out the sixth paragraph and inserting in place thereof the
97 following paragraph:-

98 The court shall also assess upon every person assessed a supervised probation fee,
99 including all persons placed on probation for offenses under section 24 of chapter 90, a monthly
100 probationers' victim services surcharge, hereinafter referred to as "victim services surcharge", in
101 the amount of \$5 per month. Said person shall pay said victim services surcharge once each
102 month during such time as said person remains on supervised probation. The court shall assess
103 upon every person assessed an administrative probation fee a monthly administrative
104 probationer's victim services surcharge, hereinafter referred to as "administrative victim services
105 surcharge" in the amount of \$5 per month. Said person shall pay said victim services surcharge
106 once each month during such time as said person remains on administrative probation.

107 SECTION 17. Section 87A of chapter 276 of the General Laws, as so appearing, is
108 hereby amended by striking out, in lines 86 through 88, the words "undue hardship on said
109 person or his family due to limited income, employment status, or any other factor.", and
110 inserting in place thereof the following words: "substantial financial hardship for the person or
111 the family or dependents thereof".

112 SECTION 18. Section 1 of chapter 279 of the General Laws, as so appearing, is hereby
113 amended by inserting after the fourth sentence, the following sentence:

114 When a person is sentenced to pay a fine of any amount, or is assessed fines, fees, costs,
115 civil penalties, or other expenses at disposition of a case, the court shall inform that person that:
116 (i) nonpayment of the fines, fees, costs, civil penalties, or expenses may result in commitment to
117 a prison or place of confinement; (ii) payment must be made by a date certain; (iii) failure to
118 appear at such date certain or failure to make the payment may result in the issuance of a default;

119 and (iv) if an inability to pay exists as the result of a change in financial circumstances or for any
120 other reason, the person has a right to address the court on inability to pay.

121 SECTION 19. Section 6A of chapter 280 of the General Laws, as so appearing, is hereby
122 amended by striking out the fourth sentence and inserting in place thereof the following
123 sentence:-

124 The court or justice may in his discretion waive all or any part of said cost assessment,
125 the payment of which would cause a substantial financial hardship to the person convicted or the
126 family or dependents thereof.