

**SENATE . . . . . No. 00895**

---

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 passage 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>Bristol and Norfolk</i>
<i>Michael J. Rodrigues</i>	<i>First Bristol and Plymouth</i>
<i>David B. Sullivan</i>	<i>6th Bristol</i>
<i>Mark C. Montigny</i>	<i>Second Bristol and Plymouth</i>

**SENATE . . . . . No. 00895**

By Mr. Timilty, petition (accompanied by bill, Senate, No. 895) of Montigny, Sullivan, Rodrigues and other members of the General Court for legislation to create separate criminal offenses for assault committed with a firearm [Joint Committee on 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 state  
8 prison for a maximum penalty of life or no less than ten (10) years. The sentence imposed on  
9 such person shall not be reduced to less than ten (10) years, nor suspended, nor shall any person  
10 convicted under this subsection be eligible for probation, parole, work release, or furlough or  
11 receive any deduction from his sentence for good conduct until he shall have served ten (10)  
12 years of such sentence; provided, however, that the commissioner of correction may on the  
13 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; penalties.

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

23           (b)           A person found guilty of section (a) above, shall be sentenced to the state  
24 prison for a maximum penalty of twenty (20) years but no less than seven (7) years. The  
25 sentence imposed on such person shall not be reduced to less than seven years, nor suspended,  
26 nor shall any person convicted under this subsection be eligible for probation, parole, work  
27 release, or furlough or receive any deduction from his sentence for good conduct until he shall  
28 have served seven years of such sentence; provided, however, that the commissioner of

29 correction may on the recommendation of the warden, superintendent, or other person in charge  
30 of a correctional institution, grant to an offender committed under this subsection a temporary  
31 release in the custody of an officer of such institution for the following purposes only: to attend  
32 the funeral of a relative; to visit a critically ill relative; or to obtain emergency medical or  
33 psychiatric service unavailable at said institution. Prosecutions commenced under this subsection  
34 shall neither be continued without a finding nor placed on file.