

**SENATE . . . . . No. 666**

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The Commonwealth of Massachusetts

PRESENTED BY:

*Cynthia S. Creem*

*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:

An Act relative to probation surrender and bail revocation.

PETITION OF:

NAME:

*Cynthia S. Creem*

DISTRICT/ADDRESS:

*First Middlesex and Norfolk*

**SENATE . . . . . No. 666**

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By Ms. Creem, a petition (accompanied by bill, Senate, No. 666) of Cynthia S. Creem for legislation relative to probation surrender and bail revocation. The Judiciary.

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[SIMILAR MATTER FILED IN PREVIOUS SESSION  
SEE  
□ SENATE  
□ , NO. 706 OF 2011-2012.]

**The Commonwealth of Massachusetts**

An Act relative to probation surrender and bail revocation.

*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 279, as appearing in the 2004 Official Edition, is hereby amended  
2 by inserting in section 3, after the first sentence of the first paragraph, the following sentence:—

3 A probationer charged with violating the terms of his probation shall be admitted to bail  
4 pending a final surrender hearing in the same manner and under the same conditions as other  
5 prisoners, pursuant to sections fifty-eight and fifty-eight A of chapter two hundred seventy-six.

6 SECTION 2. Chapter 276, as appearing in the 2004 Official Edition, is hereby amended  
7 by striking out section 57 and inserting in place thereof the following section:—

8 Section 57. A justice of the supreme judicial court or superior court, a clerk of courts or  
9 the clerk of the superior court for criminal business in the county of Suffolk, a standing or special  
10 commissioner appointed by either of said courts, or in the county of Suffolk, by the sheriff of  
11 said county with the approval of the superior court, a justice or clerk of a district court, a master  
12 in chancery, upon application of a prisoner or witness or probationer held under arrest or  
13 committed, either with or without a warrant, or held in the custody of an officer under a  
14 mittimus, may inquire into the case and admit such prisoner or witness or probationer to bail if  
15 he determines that such release will reasonably assure the appearance of the person before the  
16 court and will not endanger the safety of any other person or the community; and may admit to  
17 bail any person committed for not finding sureties to recognize for him. All persons authorized to  
18 take bail under this section shall be governed by the rules established by the supreme judicial

19 court or superior court. No person offering himself as surety shall be deemed insufficient if he  
20 deposits money of an amount equal to the amount of the bail required of him in such  
21 recognizance, or a bank book of savings bank, credit union or of a savings account in a trust  
22 company or national bank, or a passbook or paid-up shares of a cooperative bank doing business  
23 in the commonwealth, properly assigned to the clerk with whom the same is or is to be  
24 deposited, and his successors, and satisfactory to the person so authorized to take bail, or  
25 deposits non-registered bonds of the United States or of the commonwealth or of any county, city  
26 or town within the commonwealth equal at their face value to the amount of the bail required of  
27 him in such recognizance. The sheriff of Suffolk county may, with the approval of the superior  
28 court, appoint standing or special commissioners to take bail to a number not exceeding twenty  
29 and may, with like approval, remove them.

30 Notwithstanding the foregoing, a person arrested and charged with a violation of an order  
31 or judgment issued pursuant to section eighteen, thirty-four B or thirty-four C of chapter two  
32 hundred and eight, section thirty-two of chapter two hundred and nine, section three, four or five  
33 of chapter two hundred and nine A, or section fifteen or twenty of chapter two hundred and nine  
34 C, or arrested and charged with a misdemeanor or felony involving abuse as defined in section  
35 one of said chapter two hundred and nine A while an order of protection issued under said  
36 chapter two hundred and nine A was in effect against said person, shall not be released out of  
37 court by a clerk of courts, clerk of a district court, bail commissioner or master in chancery.

38 Before the amount of the bail of a prisoner charged with an offense punishable by  
39 imprisonment for more than one year is fixed in court, the court shall obtain from its probation  
40 officer all available information relative to prior criminal prosecutions, if any, of the prisoner or  
41 probationer and the disposition of each of such prosecutions. If the offense with which such a  
42 prisoner is charged is a violation of any provision of sections twenty-two to twenty-four,  
43 inclusive, of chapter two hundred and seventy-two, and it appears from such information or  
44 otherwise that he had been previously prosecuted for a violation of any such provision, the court  
45 shall, before the amount of bail is fixed, obtain from the department of mental health a report  
46 containing all information in its possession relative to the prisoner, particularly with respect to  
47 any mental disease or defect with which he may have been afflicted; and said department shall  
48 furnish any such report to the court promptly upon its request.

49 No person arrested for violating any provision of section thirty-three or thirty-five of  
50 chapter fifty-six shall be admitted to bail unless there is deposited not less than five hundred  
51 dollars in cash, or there is offered real estate of the fair market value of not less than one  
52 thousand dollars, over and above all encumbrances, as security.

53 SECTION 3. Section 58 of Chapter 276, as appearing in the 2004 Official Edition, is  
54 hereby amended by striking the first sentence in the first paragraph and inserting in place thereof  
55 the following sentence:— A justice or a clerk or assistant clerk of the district court, a bail  
56 commissioner or master in chancery, in accordance with the applicable provisions of section

57 fifty-seven, shall, when a person is held under arrest or committed either with or without a  
58 warrant for an offense other than an offense punishable by death, or, upon the motion of the  
59 commonwealth, for an offense enumerated in section fifty-eight A or for any offense on which a  
60 warrant of arrest has been issued by the superior court, or for violating the terms of his probation,  
61 hold a hearing in which the defendant and his counsel, if any, may participate and inquire into  
62 the case and shall admit such person to bail on his personal recognizance without surety unless  
63 said justice, clerk or assistant clerk, bail commissioner or master in chancery determines, in the  
64 exercise of his discretion, that such a release will not reasonably assure the appearance of the  
65 person before the court.