SENATE DOCKET, NO. 716 FILED ON: 1/20/2011

SENATE . . . . . No. 858

The Commonwealth of Massachusetts

PRESENTED BY:

Michael F. Rush

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 to require mandatory post release supervision and assistance for all offenders released from state and county incarceration..

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Michael F. Rush	*Suffolk and Norfolk*

SENATE DOCKET, NO. 716 FILED ON: 1/20/2011

SENATE . . . . . No. 858

By Mr. Rush, a petition (accompanied by bill, Senate, No. 858) of Michael F. Rush for legislation to require mandatory post release supervision and assistance for all offenders released from state and county incarceration. The Judiciary.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE
HOUSE
, NO. *1707* OF 2009-2010.]

The Commonwealth of Massachusetts

An Act to require mandatory post release supervision and assistance for all offenders released from state and county incarceration..

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

Section 28 of Chapter 279 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by deleting "Section 28. Repealed, 1993, 432, Sec. 17", inserting in its place the following:-

"Section 28. Post release supervision.

(a) All sentences of incarceration to a correctional facility shall include a period of mandatory post-release supervision and assistance, except where mandated by section 133A of chapter 127, where an individual has successfully completed a period of probation imposed by the court, or where an individual is sentenced to lifetime community parole pursuant to section 45 of chapter 265 and section 133D of chapter 127. For those not subject to parole or probation, the period of mandatory post-release supervision and assistance shall be 25 percent of the maximum term of incarceration imposed at sentencing, or nine months, whichever is greater. Where an individual is convicted of multiple offenses, the offense with the greatest term of incarceration shall be used to determine the length of the post-release supervision period.

(b) Upon release, an individual subject to post-release supervision and assistance per section 1 shall be under the jurisdiction of and supervised by the parole board. The chairman of the parole board shall establish uniform regulations for mandatory post-release supervision

17 consistent with the applicable provisions of chapter 127 and 276. All persons under such
18 supervision shall be subject to the provisions of law, rules and regulations governing parole. The
19 parole board will actively work either the department of social services or the department of
20 youth services, or both, where applicable, to provide assistance to the releasee in areas including,
21 but not limited to, housing, education, employment training and employment opportunity.
22 Nothing in this section shall limit the authority of the superior, municipal, district or juvenile
23 court to impose conditions of probation supervision to protect the public or promote the
24 rehabilitation of any person.

25 (c) An individual who violates a condition of mandatory post-release supervision shall be
26 subject to modification or revocation proceedings initiated by the parole board. In all
27 proceedings under this section, upon a violation, the individual may be placed under increased
28 supervision, subjected to other conditions, or incarcerated for not more than the maximum
29 remaining unserved portion of their sentence. In the case of any violation for use of controlled
30 substances or an offense for operating under the influence of drugs or alcohol, the period of
31 mandatory post-release supervision shall be extended to accommodate an appropriate substance
32 abuse program. For any violation of the conditions of mandatory post-release supervision, the
33 period of supervision shall be stayed during a period of incarceration and it shall be resumed
34 upon release. If such violation constitutes a criminal offense, said period of incarceration shall
35 be served on and after any sentence received as a result of the new offense. Upon subsequent
36 release, the greater of the maximum sentences of the original offense and subsequent offense
37 shall be used to calculate the new mandatory post-release supervision period.

38 (d) Where any provision of this chapter or the application thereof shall, for any reason, be
39 held invalid, the remainder of this chapter or the application of such provision other than those as
40 to which it is held invalid shall not be affected thereby."