

By Mr. Granara of Medford, petition of John R. Granara relative to the jurisdiction of the courts to suspend further execution of sentences and place defendants on probation and providing for certain conditions which may be required for the granting of felony probation. The Judiciary.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Seventy-Eight.

AN ACT RELATIVE TO THE JURISDICTION OF THE COURTS TO SUSPEND FURTHER EXECUTION OF SENTENCES AND PLACE DEFENDANTS ON PROBATION AND PROVIDING FOR CERTAIN CONDITIONS WHICH MAY BE REQUIRED FOR THE GRANTING OF FELONY PROBATION.

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

1 Chapter 279 of the General Laws is hereby amended by inserting
2 after section 1A the following section:—

3 *Section 1B.* (a) Notwithstanding any other provision of this
4 chapter, for the purposes of this section, the jurisdiction of the
5 courts in which a sentence requiring imprisonment is imposed for
6 conviction of a felony shall continue for 120 days from the date the
7 execution of the sentence actually begins. After the expiration of
8 60 days but prior to the expiration of 120 days from the date the
9 execution of the sentence actually begins, the judge of the court
10 that imposed such sentence may, on his own motion or on written
11 motion of the defendant, suspend further execution of the sentence
12 imposed and place the defendant on probation under the terms and
13 conditions of this section, if such sentence is otherwise eligible for
14 probation under this section and prior to the execution of such
15 sentence, the defendant had never been incarcerated for a felony
16 and in the opinion of the judge the defendant would not benefit
17 from further incarceration. Probation may be granted under this
18 section only if the offense for which the defendant was sentenced
19 was an offense other than criminal homicide, rape, or robbery.

20 When the defendant files a written motion requesting suspen-
21 sion by the court of further execution of the sentence and
22 placement on probation, or when requested to do so by the judge,
23 the clerk of the court shall request a copy of the defendant's record
24 while incarcerated from the department of corrections. Upon
25 receipt of such request, the department of corrections shall
26 forward to the court, as soon as possible, a full and complete copy
27 of the defendant's record while incarcerated.

28 The court having jurisdiction of the case shall determine the
29 terms and conditions of probation and may, at any time, during the
30 period of probation alter or modify the conditions; provided,
31 however, that the clerk of the court shall furnish a copy of such
32 terms and doncitions to the probationer, and shall note the date of
33 delivery of such copy on the docket. Terms and conditions of
34 probation may include, but shall not be limited to, the conditions
35 that the probationer shall:

36 "a. Commit no offense against the laws of this Commonwealth
37 or of any other State or of the United States;

38 "b. Avoid injurious or vicious habits;

39 "c. Avoid persons or places of disreputable or harmful
40 character;

41 "d. Report to the probation officer as directed;

42 "e. Permit the probation officer to visit him at his home or
43 elsewhere;

44 "f. Work faithfully at suitable employment as far as possible;

45 "g. Remain within a specified place;

46 "h. Pay his fine, if one be assessed, and all court costs whether
47 a fine be assessed or not, in one or several sums, and make
48 restitution or reparation in any sum that the court shall determine;

49 "i. Support his dependents;

50 "j. Participate in any community-based program;

51 "k. Remain under custodial supervision in a community-based
52 facility, obey all rules and regulations of such facility, and pay a
53 percentage of his income to the facility for room and board;

54 "l. Pay a percentage of his income to his dependents for their
55 support while under custodial suspension in a community-based
56 facility; and

57 "m. Pay a percentage of his income to the victim of the offense,
58 if any, to compensate the victim for any property damage or
59 medical expenses sustained by the victim as a direct result of the
60 commission of the offense."

61 (b) For the purposes of this section, the jurisdiction of the
62 courts in which a sentence requiring confinement in a jail is
63 imposed for conviction of a misdemeanor shall continue for a
64 period of 90 days from the date the execution of the sentence
65 actually begins. After the expiration of 10 days but prior to the
66 expiration of 90 days from the date the execution of the sentence
67 actually begins, the judge of the court that imposed such sentence
68 may, on his own motion or on the motion of the defendant,
69 suspend further execution of the sentence imposed and place the
70 defendant on probation under the terms and conditions of this
71 section if, prior to the execution of that sentence, the defendant
72 had never been incarcerated for a felony or misdemeanor and in
73 the opinion of the judge the defendant would not benefit from
74 further incarceration in a jail.

75 When the defendant files a written motion with the court
76 requesting suspension of further execution of the sentence and
77 placement on probation, or when requested to do so by the judge,
78 the clerk of the court shall request a copy of the defendant's record
79 while incarcerated from the jail where the defendant is
80 incarcerated. Upon receipt of such request, the jail where the
81 defendant is incarcerated shall forward to the court, as soon as
82 possible, a full and complete copy of the defendant's record while
83 incarcerated.

