

By Mr. Lambert of Fall River, petition of Edward M. Lambert, Jr., for legislation to authorize the transfer to the Department of Correction of sexually dangerous persons refusing certain treatment. Human Services and Elderly Affairs.

**The Commonwealth of Massachusetts**

In the Year One Thousand Nine Hundred and Ninety.

AN ACT RELATIVE TO THE TRANSFER OF CERTAIN SEXUALLY DANGEROUS PERSONS TO CORRECTIONAL FACILITIES.

*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 123A of the General Laws is hereby amended by adding  
2 the following section: —

3 Section 12. The department of mental health or the depart-  
4 ment of correction may file a petition with the court to suspend  
5 the commitment of any person to the center pursuant to this  
6 chapter if the department determines such person to be dangerous;  
7 provided, however, that such person has also been sentenced for  
8 a criminal offense and said sentence has not expired. The  
9 department shall further request the court to transfer such person  
10 to the custody of the commissioner of correction to serve the time  
11 remaining on said sentence.

12 The petition shall be filed in the division of the superior court  
13 department in which such person was committed to the center.  
14 The hearing may be held in any court or any place designated for  
15 such purpose by the administrative justice of the superior court  
16 department. Upon the motion of the person concerning whom the  
17 hearing is to be held or upon its own motion, the court shall, if  
18 necessary to protect the rights of such person, appoint counsel  
19 for him. Such person shall be entitled to have process issued from  
20 the court to compel the attendance of witnesses in his behalf. The  
21 court shall issue whatever process is necessary to assure the  
22 presence in court of the committed person.

23 If the court finds upon such hearing that the person is

24 dangerous, it shall suspend the commitment to the center and  
25 order the person to be committed to the custody of the  
26 commissioner of correction and to be removed to the appropriate  
27 correctional facility to serve the remainder of the original  
28 sentence. A person so removed shall be subject to the terms of  
29 his original sentence.

30 If the court finds upon such hearing that the person is not  
31 dangerous, it shall order him to be reconveyed to the center subject  
32 to the terms of his commitment thereto. The commissioner of  
33 correction, in consultation with the commissioner of mental  
34 health, may promulgate rules and regulations in accordance with  
35 the provisions of this section.