

By Mr. Fitzgerald of Boston, petition of Kevin W. Fitzgerald for legislation to provide for the commitment of certain serious or violent juvenile offenders. Criminal Justice.

---

---

**The Commonwealth of Massachusetts**

---

In the Year One Thousand Nine Hundred and Eighty-Two.

---

AN ACT PROVIDING FOR THE COMMITMENT OF CERTAIN SERIOUS OR VIOLENT JUVENILE OFFENDERS.

*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 119 of the General Laws is hereby amended by inserting  
2 after section 58B, the following new section: —

3 *Section 58C.* If a juvenile is adjudicated delinquent and ordered  
4 committed under the provisions of section 58, the court may enter  
5 any order permitted by section 58 or may order such a juvenile  
6 committed to a secure treatment facility for a determinate term not  
7 to exceed the maximum term prescribed in each of the following  
8 classes:

9 *Class A—Juvenile.* For a maximum term of commitment of two  
10 years for an adjudication of delinquency based on the commission  
11 of a crime that if committed by an adult would be punishable by  
12 death or imprisonment for life or if the juvenile has committed  
13 armed assault with intent to rob or murder, arson of a dwelling  
14 house, attempted murder, manslaughter, mayhem or rape all being  
15 in violation of sections 13, 14, 16, 17, 18, 22 (b) of chapter 265 or  
16 section 1 of chapter 266.

17 *Class B—Juvenile.* For a maximum term of commitment of one  
18 year and six months for an adjudication of delinquency based on  
19 the commission of a crime which falls within the following catego-  
20 ries: (1) the commission of any crime not contained in *Class*  
21 *A—Juvenile* in which the victim has sustained serious physical,  
22 mental or emotional injury or property loss or damage in excess of

23 five thousand dollars; or (2) when juvenile has previously been  
24 committed to the department of youth services at least three times,  
25 and commits an act which, if committed by an adult, would be  
26 punishable by imprisonment in the state prison.

27 *Class C—Juvenile.* For a maximum term of commitment of one  
28 year for an adjudication of delinquency based on the juvenile  
29 having previously been committed to the department of youth  
30 services or having committed an act that if the juvenile were an  
31 adult would be punishable by imprisonment in the state prison.

32 *Class D—Juvenile.* For a maximum term of commitment of six  
33 months for an adjudication of delinquency based on violating the  
34 provisions of sections 32 or 32E of chapter 94C or any of the  
35 following crimes when committed upon a person sixty-five years or  
36 older: sections 15A, or 15B of chapter 265, or section 25 of chapter  
37 266.

38 *Class E—Juvenile.* For a maximum term of commitment of  
39 thirty days for a juvenile who, having been adjudicated delinquent  
40 at least twice for violating the provisions of section 24 (2) (a) of  
41 chapter ninety or section 27A or 28 of chapter 266, commits a third  
42 or subsequent such offense.

43 If a juvenile is committed to the department of youth services  
44 pursuant to this section, the court may suspend the sentence and  
45 place the juvenile on probation on such conditions as it may seem  
46 proper for a specified period of time not to exceed the juvenile's  
47 19th birthday.

48 The determinate term to be imposed under the provisions of this  
49 section shall be proportionate to the seriousness of the crime, the  
50 juvenile's criminal history, if any, the age and maturity of the  
51 juvenile, and for the need to protect the community. In exercising  
52 its authority under this section, the court shall also consider the  
53 individual needs of the juvenile, the nature and effectiveness of any  
54 past treatment efforts for the juvenile and the programs and facili-  
55 ties available to the juvenile within the juvenile justice system.

56 Prior to entering an order of commitment for secure care and  
57 treatment under this section, the court shall hear any recommenda-  
58 tions that may be offered by a parent or parents or guardian of a  
59 juvenile or his or her representative and by the district attorney or  
60 his representative. Upon the petition of any interested party, includ-

61 ing the district attorney or his representative the court may inquire  
62 after the condition and review the status of such juvenile and  
63 monitor compliance by the department with the terms of the order  
64 of commitment.

65 If the court commits a juvenile under this section for the speci-  
66 fied period of time to a secure treatment facility, the department  
67 shall not release the juvenile from such facility unless such release is  
68 authorized after a hearing before the committing court. Said hear-  
69 ing may be held upon the recommendation of the department of  
70 youth services or on the petition of the juvenile or his or her  
71 representative, or the district attorney or his representative, or by  
72 the court upon its own motion. The hearing shall be held with each  
73 of the afore-mentioned parties represented, and shall be held on the  
74 question of whether the juvenile has progressed toward a non-  
75 criminal way of life such that the protection of the public no longer  
76 warrants the juvenile to be held for commitment. The burden of  
77 proof shall be on the juvenile or his representative and must be  
78 demonstrated by clear and convincing evidence.

79 After the expiration or revocation of any term of commitment  
80 ordered by the court under this section, the department of youth  
81 services may exercise any powers it enjoys under other provisions  
82 of the general laws.

