

By Mr. Palumbo of Newbury, petition of Thomas G. Palumbo and Larry F. Giordano for legislation to provide alternative sentencing or early parole for certain youthful offenders and establishing a basic training program for such offenders. Human Services and Elderly Affairs.

**The Commonwealth of Massachusetts**

In the Year One Thousand Nine Hundred and Ninety-One.

AN ACT PROVIDING ALTERNATIVE SENTENCING OR EARLY PAROLE FOR CERTAIN YOUTHFUL OFFENDERS AND CREATING A BASIC TRAINING PROGRAM FOR SAME.

*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. G.L. C. 127 is amended by adding the following  
2 additional Section:

3 **Judicial Disposition of Youthful Offenders.**

4 Section 1. Notwithstanding Clause (b) of G.L. c. 127, §133, the  
5 Court may sentence as a youthful offender any person: (a) who  
6 is at least 17 years of age or who has been transferred to be tried  
7 according to the usual course of criminal proceeding pursuant to  
8 G.L. c. 119, §61; (b) who is found guilty of or who has tendered,  
9 and the Court has accepted, a plea of nolo contendere or guilty  
10 to a crime which is, under the laws of this Commonwealth, a felony  
11 if such crime was committed before the defendant's 21st birthday;  
12 (c) who has not previously been classified as a youthful offender  
13 under the provisions of this act; however, no person who has been  
14 found guilty of a capital or life felony may be sentenced as a  
15 youthful offender under this act.

1 SECTION 2. The provisions of this act shall not be used to  
2 impose a greater sentence than the maximum sentence provided  
3 under the General Laws for the offense for which the youthful  
4 offender has been convicted.

1 SECTION 3. The Department of Correction shall develop and  
2 implement a basic training program for youthful offenders  
3 sentenced or classified by the Department of Correction as  
4 youthful offenders pursuant to this section. The program shall  
5 include marching drills, calisthenics, a rigid dress code, manual  
6 labor assignments, physical training with obstacle courses, and  
7 training in decision-making and personal development. The basic  
8 training program shall include drug counseling and rehabilitation  
9 programs. The Department of Correction shall adopt rules  
10 requiring that basic training participants complete a structured  
11 disciplinary program, and allowing for a restriction on general  
12 inmate population privileges. Upon receipt of youthful offenders,  
13 the Department of Correction shall screen offenders for the basic  
14 training program. To participate, an offender must have no  
15 physical limitations which would preclude participation in  
16 strenuous activity, must not be impaired, and must not have been  
17 previously incarcerated in a state or federal correctional facility.  
18 In screening offenders for the basic training program, the  
19 Department of Correction shall consider the offender's criminal  
20 history and the possible rehabilitative benefits of "shock"  
21 incarceration. If an offender meets the specified criteria and space  
22 is available, the Department of Correction shall request, in writing  
23 from the sentencing court, approval to participate in the basic  
24 training program. If the sentencing court notifies the Department  
25 of Correction in writing of placement approval, the offender shall  
26 be placed in the basic training program. The sentencing court shall  
27 notify the Department of Correction within 14 days of receipt of  
28 the Department of Correction's request for placement of the  
29 youthful offender in the boot camp program. Failure to notify  
30 the Department of Correction within 14 days shall be considered  
31 an approval of the sentencing court for placing the youthful  
32 offender in the basic training program. The program shall provide  
33 a short incarceration period of rigorous training to offenders who  
34 require a greater degree of supervision than community control  
35 or probation provides. Basic training programs may be operated  
36 in secure areas in or adjacent to adult institutions. The program  
37 is not intended to divert offenders away from probation or  
38 community control but to divert them from long periods of

39 incarceration when a short "shock" incarceration could produce  
40 the same deterrent effect. If an offender in the basic training  
41 program becomes unmanageable, the Department of Correction  
42 may place him in the general population to complete the  
43 remainder of his sentence. Any period of time in which the  
44 offender is unable to participate in the basic training program  
45 activities may be excluded from the specific time requirements in  
46 the program. The portion of the sentence served prior to  
47 placement in the basic training program shall not be counted  
48 toward program completion. Upon the offender's completion of  
49 the basic training program, the Department of Correction shall  
50 submit a report to the Court that describes the offender's  
51 performance. If the offender's performance has been satisfactory,  
52 the Court may issue an order modifying the sentence imposed and  
53 placing the offender on probation. If the offender violates the  
54 conditions of probation, the court may revoke probation and  
55 impose any sentence which it might have originally imposed.

1 SECTION 4. The participating offender shall be evaluated by  
2 the program staff on a continual basis throughout the entire  
3 period of "shock" incarceration. The evaluation shall include the  
4 offender's performance while incarcerated, and the likelihood of  
5 successful adjustment on parole, and other factors deemed  
6 relevant by the Parole Board or the program staff. The evaluation  
7 shall provide the basis for the recommendations by the  
8 Department of Correction to the Parole Board upon the offender's  
9 completion of "shock" incarceration. Violation of any  
10 institutional or program rules or regulations may subject the  
11 participant to removal from the program by the Department of  
12 Correction.

1 SECTION 5. Upon completion of "shock" incarceration, the  
2 Parole Board shall review the case of the offender and recommend  
3 either that the offender be released on intensive parole supervision  
4 or that the offender serve the remainder of his sentence as provided  
5 by law. When the offender is released to intensive parole  
6 supervision by the Parole Board, the Parole Board shall require  
7 the offender to comply with the following conditions of intensive



8 parole supervision in addition to any other conditions of parole  
9 ordered by the Parole Board: (a) be subject to multiple weekly  
10 visits with his supervising officers without prior notice; (b) abide  
11 by any curfew set by his supervising officers; (c) perform at least  
12 one hundred hours of unpaid community service work during the  
13 period of intensive parole supervision and, if unemployed,  
14 perform additional hours as instructed by his supervising officers;  
15 (d) refrain from using or possessing any controlled substance or  
16 alcoholic beverage and submit, at his own expense, to screening,  
17 evaluation, and treatment for controlled substance or alcohol  
18 abuse as directed by his supervising officers; (e) pay any costs as  
19 ordered by the sentencing court or Parole Board.

1 SECTION 6. The hearing by the Parole Board to consider  
2 intensive parole supervision for the offender having successfully  
3 completed "shock" incarceration shall be public and conducted  
4 in the same manner as parole hearings are otherwise provided.

1 SECTION 7. The Department of Correction shall provide a  
2 special training program for staff selected for the basic training  
3 program.

1 SECTION 8. Due to severe prison overcrowding, the  
2 Department of Correction shall be provided with a sufficient  
3 funding agent for a feasibility study relating to the cost of  
4 implementing the purpose of this act.