

# SENATE . . . . . No. 170

By Mr. Jajuga, a petition (accompanied by bill, Senate, No. 170) of James P. Jajuga, the Massachusetts Chiefs of Police Association, by Paul L. Doherty, executive director, James M. Barry, Brian S. Dempsey and Jane M. Swift for legislation to provide for mandatory sentences for persons who commit certain crimes against the elderly. Criminal Justice.

## The Commonwealth of Massachusetts

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

### AN ACT PROVIDING FOR MANDATORY SENTENCES FOR PERSONS WHO COMMIT CERTAIN CRIMES AGAINST THE ELDERLY.

*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. Chapter 265 of the General Laws, as appearing in  
2 the 1992 Official Edition, is hereby amended by striking out  
3 sections 15A and 15B and inserting in place thereof the following  
4 two sections: —

5 Section 15A. (a) Whoever commits assault and battery upon a  
6 person of sixty-five years or older by means of a dangerous  
7 weapon shall be punished by imprisonment in the state prison for  
8 not more than ten years or by a fine of not more than one thousand  
9 dollars or imprisonment in jail for not more than two and one-half  
10 years, and whoever, after having been convicted of the crime of  
11 assault and battery upon a person sixty-five years or older, by  
12 means of a dangerous weapon, commits a second or subsequent  
13 such crime, shall be punished by imprisonment in the state prison  
14 for not less than fifteen years.

15 Said sentences shall not be reduced nor shall the person con-  
16 victed be eligible for probation, parole, furlough, work release or  
17 receive any deduction from his sentence for good conduct; pro-  
18 vided, however, that the commissioner of correction may, on the  
19 recommendation of the warden, superintendent, or other person in  
20 charge of a correctional institution, or the administrator of a

21 county correctional institution, grant to said offender a temporary  
22 release in the custody of an officer of such institution for the fol-  
23 lowing purposes only: to attend the funeral of next of kin or  
24 spouse; to visit a critically ill close relative or spouse; or to obtain  
25 emergency medical services unavailable at said institution. The  
26 provisions of section eighty-seven of Chapter 276 relative to the  
27 power of the court to place certain offenders on probation shall  
28 not apply to any person seventeen years of age or over charged  
29 with a violation of this subsection.

30 (b) Whoever commits an assault and battery upon another by  
31 means of a dangerous weapon shall be punished by imprisonment  
32 in the state prison for not more than ten years or by a fine of not  
33 more than one thousand dollars or imprisonment in jail for not  
34 more than two and one-half years.

35 Section 15B. (a) Whoever, by means of a dangerous weapon,  
36 commits an assault upon a person sixty-five years or older, shall  
37 be punished by imprisonment in the state prison for not more than  
38 five years or by a fine of not more than one thousand dollars or  
39 imprisonment in jail for not more than two and one-half years;  
40 and whoever, after having been convicted of the crime or assault  
41 upon a person sixty-five years or older, by means of a dangerous  
42 weapon, commits a second or subsequent such crime, shall be  
43 punished by imprisonment for not less than two years.

44 Said sentences shall not be reduced nor shall the person con-  
45 victed be eligible for probation, parole, furlough, work release or  
46 receive any deduction from his sentence for good conduct;  
47 provided, however, that the commissioner of correction may, on  
48 the recommendation of the warden, superintendent, or other per-  
49 son in charge of a correctional institution, or the administrator of a  
50 county correctional institution, grant to said offender a temporary  
51 release in the custody of an officer of such institution for the fol-  
52 lowing purposes only: to attend the funeral of next of kin or  
53 spouse; to visit a critically ill close relative or spouse; or to obtain  
54 emergency medical services unavailable at said institution. The  
55 provisions of section eighty-seven of Chapter 276 relative to the  
56 power of the court to place certain offenders on probation shall  
57 not apply to any person seventeen years of age or over charged  
58 with a violation of this subsection.

59 For the purposes of prosecution, a conviction obtained under  
60 subsection (a) of section fifteen A or paragraph (a) of section  
61 eighteen shall count as a prior criminal conviction for the purpose  
62 of prosecution and sentencing as a second or subsequent  
63 conviction.

64 (b) Whoever, by means of a dangerous weapon, commits an  
65 assault upon another shall be punished by imprisonment in the  
66 state prison for not more than five years or by a fine of not more  
67 than one thousand dollars or imprisonment in jail for not more  
68 than two and one-half years.

69 (c) Whoever fraudulently induces a person sixty-five years or  
70 older to give or pay money for goods or services at such person's  
71 residence in excess of one hundred dollars shall be punished by  
72 imprisonment in the jail or house of correction for not more than  
73 two and one-half years and for a fine of not more than one thou-  
74 sand dollars.

1 SECTION 2. Said Chapter 265 is hereby further amended by  
2 striking out section 18 and inserting in place thereof the following  
3 section: —

4 Section 18. (a) Whoever, being armed with a dangerous  
5 weapon, assaults a person sixty-five years or older with intent to  
6 rob or murder shall be punished by imprisonment in the state  
7 prison for not more than twenty years; and whoever, after having  
8 been convicted of the crime of assault upon a person sixty-five  
9 years or older with intent to rob or murder while being armed with  
10 a dangerous weapon, commits a second or subsequent such crime,  
11 shall be punished by imprisonment for not less than twenty-five  
12 years. Said sentences shall not be reduced nor shall the person  
13 convicted be eligible for probation, parole, furlough, work release  
14 or receive any deduction from his sentence for good conduct; pro-  
15 vided, however, that the commissioner of correction may, on the  
16 recommendation of the warden, superintendent, or other person in  
17 charge of a correctional institution, or the administrator of a  
18 county correctional institution, grant to said offender a temporary  
19 release in the custody of an officer of such institution for the fol-  
20 lowing purposes only: to attend the funeral of next of kin or  
21 spouse; to visit a critically ill close relative or spouse; or to obtain  
22 emergency medical services unavailable at said institution. The  
23 provisions of section eighty-seven of Chapter 276 relative to the

24 power of the court to place certain offenders on probation shall  
25 not apply to any person seventeen years of age or over charged  
26 with a violation of this subsection.

27 (b) Whoever, being armed with a dangerous weapon, assaults  
28 another with the intent to rob or murder shall be punished by  
29 imprisonment in the state prison for not more than twenty years.

1 SECTION 3. Said Chapter 265 is hereby further amended by  
2 striking out section 19 and inserting in place thereof the following  
3 section: —

4 Section 19. (a) Whoever, not being armed with a dangerous  
5 weapon, by force and violence, or by assault and putting in fear,  
6 robs, steals or takes from the person of a person sixty-five years or  
7 older, or from his immediate control, money or other property  
8 which may be the subject of larceny, shall be punished by impris-  
9 onment in the state prison for life or for any term of years, and  
10 whoever, after having been convicted of said crime, commits  
11 another, a second or subsequent such crime, shall be punished by  
12 imprisonment for life. Said sentence shall not be reduced nor shall  
13 the person convicted be eligible for probation, parole, furlough,  
14 work release or receive any deduction from his sentence for good  
15 conduct; provided, however, that the commissioner of correction  
16 may, on the recommendation of the warden, superintendent, or  
17 other person in charge of a correctional institution, or the adminis-  
18 trator of a county correctional institution, grant to said offender a  
19 temporary release in the custody of an officer of such institution  
20 for the following purposes only: to attend the funeral of next of  
21 kin or spouse; to visit a critically ill close relative or spouse; or to  
22 obtain emergency medical services unavailable at said institution.  
23 The provisions of section eighty-seven of Chapter 276 relative to  
24 the power of the court to place certain offenders on probation shall  
25 not apply to any person seventeen years of age or over charged with  
26 a violation of this subsection.

27 (b) Whoever, not being armed with a dangerous weapon, by  
28 force or violence, or by assault and putting in fear, robs, steals or  
29 takes from the person of a person sixty-five years or older, or from  
30 his immediate control, money or other property which may be the  
31 subject of larceny, shall be punished by imprisonment in the state  
32 prison for life or for any term of years.