

By Mr. Mannering of Boston, petition of Vincent G. Mannering relative to the penalty for possession of controlled substances. Criminal Justice.

The Commonwealth of Massachusetts

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

AN ACT FURTHER REGULATING POSSESSION OF CERTAIN CONTROLLED SUBSTANCES.

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 94C of the General Laws is hereby amended by striking
2 out the last sentence of the first paragraph and the second and
3 third paragraphs of Section 34C and inserting in its place the
4 following: — Except for an offense involving a controlled
5 substance class E of section 31, if any person has been previously
6 convicted or assigned to a drug treatment or rehabilitation
7 program by a court of the commonwealth because of a like
8 violation within six years preceding the date of the commission
9 of the offense for which he has been convicted, the defendant shall
10 be punished by a fine of not less than three hundred dollars nor
11 more than two thousand dollars and by imprisonment for not less
12 than fourteen days nor more than two years, provided that the
13 sentence imposed upon such person shall not be reduced to less
14 than fourteen days, nor suspended, nor shall any such person be
15 eligible for parole, probation, or furlough or receive any deduction
16 from his sentence for good conduct until he shall have served
17 fourteen days of such sentence; provided, however, that the
18 commissioner of correction may, on the recommendation of the
19 warden, superintendent, or other person in charge of a
20 correctional institution, or the administrator of a county
21 correctional institution, grant to an offender committed under this
22 subdivision a temporary release in the custody of an officer of such
23 institution for the following purposes only: to attend the funeral

24 of a relative; to visit a critically ill relative; to obtain emergency
25 medical or psychiatric services unavailable at said institution; or
26 to engage in employment pursuant to a work release program.

27 If the defendant has been previously convicted or assigned to
28 a drug treatment or rehabilitation program by a court of the
29 commonwealth because of a like offense two times within six years
30 preceding the date of the commission of the offense for which he
31 has been convicted, the defendant shall be punished by a fine of
32 not less than five hundred nor more than two thousand dollars
33 and by imprisonment for not less than ninety days, nor more than
34 two years, provided that the sentence imposed upon such person
35 shall not be reduced to less than ninety days nor suspended, nor
36 shall any such person be eligible for probation, parole, or furlough
37 or receive any deduction from his sentence for good conduct until
38 he shall have served ninety days of such sentence; provided,
39 however, that the commissioner of correction may, on the
40 recommendation of the warden superintendent, or other person
41 in charge of correctional institution, or the administrator of a
42 county correctional institution, grant to an offender committed
43 under this subdivision a temporary release in the custody of an
44 officer committed under this subsection or a temporary release
45 in the custody of an officer of such institution for the following
46 purposes only: to obtain emergency medical or psychiatric services
47 unavailable at said institution; or to engage in employment
48 pursuant to a work release program.

49 A prosecution commenced under this section may not be placed
50 on file or continued without a finding except for dispositions
51 under section 47B.