

By Mr. Palumbo of Newbury, petition of Thomas G. Palumbo and James P. Jajuga for legislation to provide alternative sentencing or early parole for certain youthful offenders and establishing a basic training program for such offenders. Public Safety.

The Commonwealth of Massachusetts

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

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 G.L. C. 127 is amended by adding the following additional
2 sections: —

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.

16 Section 2. The provisions of this act shall not be used to impose
17 a greater sentence than the maximum sentence provided under
18 the General Laws for the offense for which the youthful offender
19 has been convicted.

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

59 the same deterrent effect. If an offender in the basic training
60 program becomes unmanageable, the Department of Correction
61 may place him in the general population to complete the
62 remainder of his sentence. Any period of time in which the
63 offender is unable to participate in the basic training program
64 activities may be excluded from the specific time requirements in
65 the program. The portion of the sentence served prior to
66 placement in the basic training program shall not be counted
67 toward program completion. Upon the offender's completion of
68 the basic training program, the Department of Correction shall
69 submit a report to the Court that describes the offender's
70 performance. If the offender's performance has been satisfactory,
71 the Court may issue an order modifying the sentence imposed and
72 placing the offender on probation. If the offender violates the
73 conditions of probation, the court may revoke probation and
74 impose any sentence which it might have originally imposed.

75 Section 4. The participating offender shall be evaluated by the
76 program staff on a continual basis throughout the entire period
77 of "shock" incarceration. The evaluation shall include the
78 offender's performance while incarcerated, and the likelihood of
79 successful adjustment on parole, and other factors deemed
80 relevant by the Parole Board or the program staff. The evaluation
81 shall provide the basis for the recommendations by the
82 Department of Correction to the Parole Board upon the offender's
83 completion of "shock" incarceration. Violation of any
84 institutional or program rules or regulations may subject the
85 participant to removal from the program by the Department of
86 Correction.

87 Section 5. Upon completion of "shock" incarceration, the
88 Parole Board shall review the case of the offender and recommend
89 either that the offender be released on intensive parole supervision
90 or that the offender serve the remainder of his sentence as provided
91 by law. When the offender is released to intensive parole
92 supervision by the Parole Board, the Parole Board shall require
93 the offender to comply with the following conditions of intensive
94 parole supervision in addition to any other conditions of parole
95 ordered by the Parole Board: (a) be subject to multiple weekly
96 visits with his supervising officers without prior notice; (b) abide
97 by any curfew set by his supervising officers; (c) perform at least

98 one hundred hours of unpaid community service work during the
99 period of intensive parole supervision and, if unemployed,
100 perform additional hours as instructed by his supervising officers;
101 (d) refrain from using or possessing any controlled substance or
102 alcoholic beverage and submit, at his own expense, to screening,
103 evaluation, and treatment for controlled substance or alcohol
104 abuse as directed by his supervising officers; (e) pay any costs as
105 ordered by the sentencing court or Parole Board.

106 Section 6. The hearing by the Parole Board to consider
107 intensive parole supervision for the offender having successfully
108 completed "shock" incarceration shall be public and conducted
109 in the same manner as parole hearings are otherwise provided.

110 Section 7. The Department of Correction shall provide a
111 special training program for staff selected for the basic training
112 program.

113 Section 8. Due to severe prison overcrowding, the Department
114 of Correction shall be provided with a sufficient funding agent
115 for a feasibility study relating to the cost of implementing the
116 purpose of this act.