

HOUSE No. 2173

The Commonwealth of Massachusetts

PRESENTED BY:

Colleen M. Garry

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act authorizing criteria for the compassionate release of terminally ill inmates in Massachusetts Correctional Institutions.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Jay R. Kaufman</i>	<i>15th Middlesex</i>	<i>2/4/2011</i>
<i>Thomas P. Kennedy</i>		<i>2/4/2011</i>
<i>Frank I. Smizik</i>	<i>15th Norfolk</i>	<i>2/4/2011</i>
<i>Louis L. Kafka</i>	<i>8th Norfolk</i>	<i>2/4/2011</i>

HOUSE No. 2173

By Ms. Garry of Dracut, a petition (accompanied by bill, House, No. 2173) of Jay R. Kaufman and others relative to establishing criteria for the compassionate release of terminally ill inmates from correctional institutions. The Judiciary.

The Commonwealth of Massachusetts

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In the Year Two Thousand Eleven
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An Act authorizing criteria for the compassionate release of terminally ill inmates in Massachusetts Correctional Institutions.

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 127 of the General Laws, as appearing in the 2008 Official Edition,
2 is hereby amended by inserting after section 117A, the following new section:

3 117B. Terminally Ill Inmates.

4 (a)Whenever the physician or director of medical care at a state correctional facility
5 certifies that any inmate held therein is determined to be terminally ill and expected to die while
6 in custody, or whenever the physician or director of medical care at a jail or house of correction
7 certifies that any inmate held therein is determined to terminally ill, the Commissioner of the
8 Department of Correction or a Sheriff may petition the Court of jurisdiction which issued the
9 inmate’s original and or subsequent term(s) of incarceration for an Order permitting the
10 Compassionate Release of the inmate.

11 (b)Compassionate Release shall mean release to a community confinement monitoring
12 program in which the terminally ill inmate continues to receive medically appropriate care
13 outside the correctional facility, jail or house of correction that is medically appropriate. Except
14 as set out in this section, the inmate shall live in a hospital or other appropriate care facility, such
15 as a nursing facility, residential care facility or facility that is a licensed hospice program
16 pursuant to section 57d, chapter 111, MGL. As approved by the Commissioner of the
17 Department of Correction or a Sheriff, the inmate may receive hospice services from an entity
18 licensed pursuant to said section 57d, chapter 111 MGL and may live at home while receiving
19 these services.

20 (c)The Commissioner of the Department of Correction, or a Sheriff, shall receive regular
21 reports on the condition and status of the otherwise terminally ill inmate from the inmate's
22 direct-care provider(s). If the Commissioner or a Sheriff determines that the inmate has failed to
23 fully comply with a request, or if at any time the physician or director of medical services at a
24 state correctional facility or a jail or house of correction subsequently determines that the inmate
25 does not have a terminal medical condition, or that care outside the jail is not medically
26 appropriate, the Commissioner or a Sheriff shall terminate the inmate's participation in the
27 community confinement monitoring program and order the return of the inmate to the releasing
28 facility

29 (d)Effective date: This section shall take effect on July 01, 2011