

SENATE No. 1213

The Commonwealth of Massachusetts

PRESENTED BY:

Patricia D. Jehlen

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 to provide for medical release of inmates.

PETITION OF:

| NAME: | DISTRICT/ADDRESS: |
|-------------------------------|-----------------------|
| <i>Patricia D. Jehlen</i> | |
| <i>Gloria L. Fox</i> | <i>7th Suffolk</i> |
| <i>Kay Khan</i> | <i>11th Middlesex</i> |
| <i>Carl M. Sciortino, Jr.</i> | <i>34th Middlesex</i> |
| <i>Benjamin Swan</i> | <i>11th Hampden</i> |
| <i>Timothy J. Toomey, Jr.</i> | <i>26th Middlesex</i> |

SENATE No. 1213

By Ms. Jehlen, petition (accompanied by bill, Senate, No. 1213) of Toomey, Swan, Sciortino and other members of the General Court for legislation to provide for medical release of inmates [Joint Committee on Public Safety and Homeland Security].

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

An Act to provide for medical release of inmates.

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 is hereby amended by inserting after
2 section 119 the following section:-

3 Section 119A. (a) Whenever the physician of a state correctional facility certifies that a
4 prisoner held therein is suffering from an irreversible or terminal medical condition, disease or
5 syndrome, whether due to advanced age or otherwise, and is so debilitated or physically
6 incapacitated that the prisoner is incapable of presenting a threat to himself or others to a
7 reasonable degree of medical certainty, the commissioner may grant the prisoner a medical
8 release upon the commissioner’s determination that if the prisoner is released, he will live and
9 remain at liberty without violating the law and his release will not be incompatible with the
10 welfare of society. The commissioner shall facilitate appropriate community placement for
11 prisoners granted a medical release.

12 (b) The authority to grant a medical release rests solely within the discretion of the
13 commissioner. No prisoner has the right to medical release or to a medical evaluation to
14 determine eligibility for such release. The commissioner shall adopt policies and procedures
15 necessary to implement the medical release of prisoners.

16 (c) Except as otherwise provided in this section, a person granted a medical release shall
17 be subject to the laws governing parole as if such person were a parolee. The parole board shall
18 impose terms and conditions for such release within 30 days before the commencement of the
19 release. The parole board may revise, alter or amend such terms and conditions at any time.

20 (d) A person granted medical release under this section shall be under the jurisdiction,
21 supervision and control of the parole board in the same manner as a person under parole
22 supervision. The parole board may establish conditions of release, on an individual basis, to
23 ensure public safety. A person granted medical release who violates a condition of parole
24 supervision shall be subject to section 149 of chapter 127 of the General Laws.

25 (e) Notwithstanding any general law or special law to the contrary, no physician or
26 employer of a physician providing a medical diagnosis pursuant to this section shall be held
27 liable, either as an institution or personally, for issuance of a medical diagnosis under this
28 section, if the diagnosis was made in good faith. All such parties, if they have operated in good
29 faith, shall be totally immune from civil or criminal liability as a result of fulfilling this section.