HOUSE DOCKET, NO. 2677 FILED ON: 1/18/2013

HOUSE . . . . . No. 1195

The Commonwealth of Massachusetts

PRESENTED BY:

Ruth B. Balser

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 providing for enhancing public safety by reforming the Parole Board.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Ruth B. Balser	*12th Middlesex*
Denise Andrews	*2nd Franklin*
Patricia D. Jehlen	*Second Middlesex*
Jonathan Hecht	*29th Middlesex*
Ellen Story	*3rd Hampshire*
David M. Rogers	*24th Middlesex*

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HOUSE . . . . . No. 1195

By Ms. Balser of Newton, a petition (accompanied by bill, House, No. 1195) of Ruth B. Balser and others relative to the membership of the Parole Board. The Judiciary.

The Commonwealth of Massachusetts

In the Year Two Thousand Thirteen

An Act providing for enhancing public safety by reforming the Parole Board.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Section 4 of chapter 27 of the General Laws, as recently amended by sections 6 to 10 of chapter 192 of the Acts of 2012, is hereby further amended by striking it out in its entirety and replacing it with the following:

There shall be in the department, but not subject to its jurisdiction, a parole board, consisting of nine members, to be appointed by the governor, with the advice and consent of the council, for terms of five years. The governor may, with the advice and consent of the council, remove members from the board for cause, upon a written certification of such cause; provided, that such member shall have the right to notice and the opportunity for a public hearing before the council relative to such removal.

Whenever a vacancy occurs in the membership of the board the governor shall appoint a panel of 9 persons consisting of the administrative justice for the superior court department, the president of the state parole officers association, 1 person chosen from a list of 3 nominees submitted by the Massachusetts District Attorneys Association, 1 person chosen from a list of 3 nominees submitted by the committee for public counsel services, 1 person chosen from a list of 3 nominees submitted by the Prisoners' Legal Services and 1 member from local law enforcement, the chairman of the advisory committee on correction, the president of the Massachusetts bar association or his designee, and the secretary of the executive office of public safety who shall serve as chairman of said panel. Said panel shall submit to the governor, within sixty days of the establishment of said panel, a list of not less than six nor more than nine persons, or not more than twelve persons in the event there should be two or more vacancies to fill, who are qualified by knowledge, education or experience in the administration of criminal justice or in the behavioral sciences as hereinafter provided. Such persons shall be graduates of

23 an accredited four-year college or university and shall have had at least five years of training and
24 experience in one or more of the following fields:-- parole, probation, corrections, law, law
25 enforcement, psychology, psychiatry, sociology and social work; provided, however, that the
26 panel may, by unanimous vote, submit the name of a person who has demonstrated exceptional
27 qualifications and aptitude for carrying out the duties required of a parole board member, if such
28 person substantially, although not precisely, meets the above qualifications. At least 1 person on
29 said list shall be a professional with not less than 5 years of experience and training in adolescent
30 development and psychology, and shall be selected from a list of proposed nominees provided by
31 the following organizations: the Massachusetts Chapter of the American Academy of Pediatrics,
32 Inc.; the New England Council of Child and Adolescent Psychiatry, Inc.; the Massachusetts
33 Psychological Association, Inc.; and the Massachusetts Psychiatric Society, Inc. The list of
34 names of such persons for each vacancy shall include one or more of the following, insofar as it
35 is possible to select such persons who are willing and able to fill promptly the existing vacancy
36 or vacancies:-- an attorney admitted to practice in Massachusetts, an M.D. with a board
37 certification in psychiatry and a license in good standing with the Board of Registration in
38 Medicine, a victim witness advocate; provided, that such victim representative is otherwise
39 qualified as provided for above, a psychologist with a license in good standing with the Board of
40 Registration in Psychology, a social worker with a PhD in social work or a license as a
41 LICSW/LCSW in good standing with the Board of Registration in Social Work or a PhD in
42 socialogy, and a member of the Massachusetts parole staff. No fewer than 3 members of said
43 board shall be selected from fields of psychiatry, psychology, social work, or sociology.

44 The governor shall designate one of the members as chairman, said member to serve as
45 chairman at the will of the governor. The chairman shall be the executive and administrative
46 head of said board, shall have the authority and responsibility of directing assignments of
47 members of said board and shall be the appointing and removing authority for parole agents and
48 other members of the parole staff. In the case of the absence or disability of the chairman, the
49 governor may designate one of the members to act as chairman during such absence or disability.

50 The positions of chairman and each of the other members shall be classified in
51 accordance with section forty-five of chapter thirty and the salaries shall be determined in
52 accordance with section forty-six C of said chapter thirty. Members shall devote full time to their
53 duties, and no member shall hold any other salaried public office or engage in any activity which
54 is in violation of any law or which interferes or conflicts with his full time service as a member
55 during his incumbency.

56 SECTION 2: Section 133A of chapter 127 of the General Laws, as recently amended by
57 sections 37 and 39 of chapter 192 of the Acts of 2012, is hereby further amended by striking it
58 out the first paragraph in its entirety and replacing it with the following:

59 Every prisoner who is serving a sentence for life in a correctional institution of the
60 commonwealth, except prisoners confined to the hospital at the Massachusetts Correctional

Institution, Bridgewater, except prisoners serving a life sentence for murder in the first degree and except prisoners serving more than 1 life sentence arising out of separate and distinct incidents that occurred at different times, where the second offense occurred subsequent to the first conviction, shall be eligible for parole at the expiration of the minimum term fixed by the court under section 24 of chapter 279 . The parole board shall, within 60 days before the expiration of such minimum term, conduct a public hearing before any six members appointed by the chairman to act as the parole board for purposes of granting or revocation of paroles. Notwithstanding the previous sentence, the board may postpone a hearing until 30 days before the expiration of such minimum term, if the interests of justice so require and upon publishing written findings of the necessity for such postponement If a board member has a conflict of interest to the extent that he cannot render a fair and impartial decision or that the appearance of a board member would be unduly burdensome because of illness, incapacitation, or other circumstance, the chair shall appoint another member of the board to the hearing panel. Whether a member is unavailable for the purposes of this section shall be determined by the chair. Board members shall appear unless said chair determines them to be unavailable. Under no circumstances shall a parole hearing proceed pursuant to this section unless a majority of the board is present at the public hearing.

SECTION 3: Section 133A of chapter 127 of the General Laws, as recently amended by sections 37 and 39 of chapter 192 of the Acts of 2012, is hereby further amended by striking it out the third paragraph in its entirety and replacing it with the following:

After such hearing the parole board may, by a vote of two-thirds of the hearing panel, grant to such prisoner a parole permit to be at liberty upon such terms and conditions as it may prescribe for the unexpired term of his sentence. If such permit is not granted, the parole board shall, at least once in each ensuing five year period, consider carefully and thoroughly the merits of each such case on the question of releasing such prisoner on parole, and may, by a vote of two-thirds of the hearing panel, grant such parole permit. By request of the hearing panel, any case may be referred to the full membership of the board for further consideration.