

HOUSE No. 1359

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 release of terminally ill inmates to alternative locations of confinement.

PETITION OF:

| NAME: | DISTRICT/ADDRESS: | DATE ADDED: |
|-------------------------|-----------------------|------------------|
| <i>Colleen M. Garry</i> | <i>36th Middlesex</i> | <i>1/18/2013</i> |

HOUSE No. 1359

By Ms. Garry of Dracut, a petition (accompanied by bill, House, No. 1359) of Colleen M. Garry relative to the criteria for the release of terminally ill inmates to alternative locations of confinement. The Judiciary.

The Commonwealth of Massachusetts

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In the Year Two Thousand Thirteen
—————

An Act authorizing criteria for the release of terminally ill inmates to alternative locations of confinement.

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 release
10 of the inmate to an appropriate alternative location of confinement outside of the correctional
11 facility, jail or house of correction.

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

19 a Sheriff, the inmate may receive hospice services from an entity licensed pursuant to said
20 section 57d, chapter 111 MGL and may live at home while receiving these services.

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

30 (d)Effective date: This section shall take effect on July 01, 2013