

HOUSE No. 4184

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, June 16, 2014.

The committee on the Judiciary to whom were referred the petition (accompanied by bill, Senate, No. 2008) of Bruce E. Tarr, Richard J. Ross, Donald F. Humason, Jr., James E. Timilty and other members of the General Court for legislation relative to juvenile life with parole and the petition (accompanied by bill, House, No. 1426) of John D. Keenan and others relative to juvenile life sentences, reports recommending that the accompanying bill (House, No. 4184) ought to pass.

For the committee,

CHRISTOPHER M. MARKEY.

HOUSE No. 4184

The Commonwealth of Massachusetts

In the Year Two Thousand Fourteen

An Act relative to juvenile life sentences.

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. Section 130 of chapter 127 of the General Laws, as appearing in the 2012
2 Official Edition, is hereby amended by striking out, in line 6 the words “violating the law” and
3 inserting in place thereof the following words:- committing a violent offense.

4 SECTION 2. Section 133A of chapter 127 of the General Laws is hereby amended by
5 striking out section 133A, as so appearing, and inserting in place thereof the following section:-

6 Section 133A. (a) Every prisoner who is serving a sentence for life in a correctional
7 institution of the commonwealth, except prisoners confined to the hospital at the Massachusetts
8 Correctional Institution, Bridgewater, except prisoners serving a life sentence for murder in the
9 first degree and except prisoners serving more than one life sentence arising out of separate and
10 distinct incidents that occurred at different times, where the second offense occurred subsequent
11 to the first conviction, shall be eligible for parole at the expiration of the minimum term fixed by
12 the court under section 24 of chapter 279. The parole board shall, within 60 days before the
13 expiration of such minimum term, conduct a public hearing before the full membership unless a
14 member of the board is determined to be unavailable as provided in this section. Notwithstanding
15 the previous sentence, the board may postpone a hearing until 30 days before the expiration of
16 such minimum term, if the interests of justice so require and upon publishing written findings of
17 the necessity for such postponement. For the purposes of this section, the term unavailable shall
18 mean that a board member has a conflict of interest to the extent that he cannot render a fair and
19 impartial decision or that the appearance of a board member would be unduly burdensome
20 because of illness, incapacitation, or other circumstance. Whether a member is unavailable for
21 the purposes of this section shall be determined by the chair. Board members shall appear unless
22 said chair determines them to be unavailable. Under no circumstances shall a parole hearing
23 proceed pursuant to this section unless a majority of the board is present at the public hearing.

24 Unless a board member is unavailable due to a conflict of interest, any board member who was
25 not present at the public hearing shall review the record of the public hearing and shall vote in
26 the matter.

27 Said board shall at least thirty days before such hearing notify in writing the attorney
28 general, the district attorney in whose district sentence was imposed, the chief of police or head
29 of the organized police department of the municipality in which the crime was committed and
30 the victims of the crime for which sentence was imposed, and said officials and victims may
31 appear in person or be represented or make written recommendations to the board, but failure of
32 any or all of said officials to appear or make recommendations shall not delay the paroling
33 procedure; provided, however, that no hearing shall take place until the parole board has certified
34 in writing that it has complied with the notification requirements of this paragraph, a copy of
35 which shall be included in the record of such proceeding; and provided further, that this
36 paragraph shall also apply to any parole hearing for an applicant who was convicted of a crime
37 listed in clause (i) of subsection (b) of section 25 of chapter 279 and sentenced and committed to
38 prison for 5 or more years for such crime and does not show that a pardon has been issued for the
39 crime.

40 After such hearing the parole board may, by a vote of two-thirds of its members, grant to
41 such prisoner a parole permit to be at liberty upon such terms and conditions as it may prescribe
42 for the unexpired term of his sentence. If such permit is not granted, the parole board shall, at
43 least once in each ensuing ten year period, consider carefully and thoroughly the merits of each
44 such case on the question of releasing such prisoner on parole, and may, by a vote of two-thirds
45 of its members, grant such parole permit. If the parole board extends the parole period beyond
46 five years, the prisoner shall have the right to petition the chairman for reconsideration of the
47 period of time before the prisoner is presented before the full board for a hearing.

48 Such terms and conditions may be revised, altered and amended, and may be revoked, by
49 the parole board at any time. The violation by the holder of such permit or any of its terms or
50 conditions, or of any law of the commonwealth, may render such permit void, and thereupon, or
51 if such permit has been revoked, the parole board may order his arrest and his return to prison, in
52 accordance with the provisions of section one hundred and forty-nine.

53 (b) Every prisoner who is serving a life sentence for murder in the first degree who
54 committed such offense on or after his fourteenth birthday and before his eighteenth birthday
55 shall be eligible for parole at the expiration of the minimum term fixed by the court under section
56 24 of chapter 279. The parole board shall, within 60 days before the expiration of such minimum
57 term, conduct a public hearing before the full membership unless a member of the board is
58 determined to be unavailable as provided in this section. Notwithstanding the previous sentence,
59 the board may postpone a hearing until 30 days before the expiration of such minimum term, if
60 the interests of justice so require and upon publishing written findings of the necessity for such
61 postponement. For the purposes of this section, the term unavailable shall mean that a board

62 member has a conflict of interest to the extent that he cannot render a fair and impartial decision
63 or that the appearance of a board member would be unduly burdensome because of illness,
64 incapacitation, or other circumstance. Whether a member is unavailable for the purposes of this
65 section shall be determined by the chair. Board members shall appear unless said chair
66 determines them to be unavailable. Under no circumstances shall a parole hearing proceed
67 pursuant to this section unless a majority of the board is present at the public hearing. Unless a
68 board member is unavailable due to a conflict of interest, any board member who was not
69 present at the public hearing shall review the record of the public hearing and shall vote in the
70 matter.

71 Said board shall at least thirty days before such hearing notify in writing the attorney
72 general, the district attorney in whose district sentence was imposed, the chief of police or head
73 of the organized police department of the municipality in which the crime was committed and
74 the victims of the crime for which sentence was imposed, and said officials and victims may
75 appear in person or be represented or make written recommendations to the board, but failure of
76 any or all of said officials to appear or make recommendations shall not delay the paroling
77 procedure; provided, however, that no hearing shall take place until the parole board has certified
78 in writing that it has complied with the notification requirements of this paragraph, a copy of
79 which shall be included in the record of such proceeding; and provided further, that this
80 paragraph shall also apply to any parole hearing for an applicant who was convicted of a crime
81 listed in clause (i) of subsection (b) of section 25 of chapter 279 and sentenced and committed to
82 prison for 5 or more years for such crime and does not show that a pardon has been issued for the
83 crime.

84 After such hearing the parole board may, by a vote of two-thirds of its members, grant to
85 such prisoner a parole permit to be at liberty upon such terms and conditions as it may prescribe
86 for the unexpired term of his sentence. If such permit is not granted, the parole board shall, at
87 least once in each ensuing ten year period, consider carefully and thoroughly the merits of each
88 such case on the question of releasing such prisoner on parole, and may, by a vote of two-thirds
89 of its members, grant such parole permit. If the parole board extends the parole period beyond
90 five years, the prisoner shall have the right to petition the chairman for reconsideration of the
91 period of time before the prisoner is presented before the full board for a hearing.

92 Such terms and conditions may be revised, altered and amended, and may be revoked, by
93 the parole board at any time. The violation by the holder of such permit or any of its terms or
94 conditions, or of any law of the commonwealth, may render such permit void, and thereupon, or
95 if such permit has been revoked, the parole board may order his arrest and his return to prison, in
96 accordance with the provisions of section one hundred and forty-nine.

97 SECTION 3. Section 133C of chapter 127 of the General Laws, as appearing in the 2012
98 Official Edition, is hereby amended, in line 6, by inserting after the word "degree" the following
99 words:-

100 who committed such offense on or after their eighteenth birthday

101 SECTION 4. Section 2 of chapter 265 of the General Laws is hereby amended by striking
102 out section 265, as so appearing, and inserting in place thereof the following section:-

103 Section 2. (a) Except as provided in subsection (b) , any person who is found guilty of
104 murder in the first degree shall be punished by imprisonment in the state prison for life, and such
105 person shall not be eligible for parole under subsection (a) of section one hundred and thirty-
106 three A of chapter one hundred and twenty-seven.

107 (b) Any person who is found guilty of murder in the first degree who committed such
108 offense on or after his fourteenth birthday and before his eighteenth birthday shall be punished
109 by imprisonment in the state prison for life and, notwithstanding any provision of subsection (b)
110 of section one hundred and thirty-three A of chapter one hundred and twenty-seven to the
111 contrary, may be designated by the court as eligible for parole at the expiration of the minimum
112 term fixed by the court under section twenty-four of chapter two hundred and seventy-nine.

113 (c) Whoever is found guilty of murder in the second degree shall be punished by
114 imprisonment in state prison for life.

115 (d) Any person whose sentence for murder is commuted by the governor and council
116 under the provisions of section one hundred and fifty-two of said chapter one hundred and
117 twenty-seven shall thereafter be subject to the provisions of law governing parole.

118 SECTION 5. Section 24 of chapter 279 of the General Laws, as most recently amended
119 by Chapter 192 of the Acts of 2012, is hereby amended by striking out section 24 and inserting
120 in place thereof following section:-

121 Section 24. If a person is sentenced to the state prison, except as a habitual criminal, the
122 court shall not fix the term of imprisonment, but shall fix a maximum and a minimum term for
123 which he may be imprisoned. The maximum term shall not be longer than the longest term fixed
124 by law for the punishment of the crime of which he has been convicted, and the minimum term
125 shall be a term set by the court, except that, where an alternative sentence to a house of
126 correction is permitted for the offense, a minimum state prison term may not be less than one
127 year. In the case of a sentence to life imprisonment, except in the case of a sentence for murder
128 in the first degree, and in the case of multiple life sentences arising out of separate and distinct
129 incidents that occurred at different times, where the second offense occurred subsequent to the
130 first conviction, the court shall fix a minimum term which shall be not less than 15 years nor
131 more than 25 years.

132 In the case of a sentence to life imprisonment for murder in the first degree with either
133 deliberately premeditated malice aforethought or with extreme atrocity or cruelty committed by a

134 person on or after his fourteenth birthday and before his eighteenth birthday, the court shall fix a
135 minimum term of not less than 25 years nor more than 30 years.

136 In the case of a sentence to life imprisonment for a murder in the first degree that resulted
137 exclusively from the commission or attempted commission of a crime punishable with death or
138 imprisonment for life committed by a person on or after his fourteenth birthday and before his
139 eighteenth birthday, the court shall fix a minimum term of not less than 20 years nor more than
140 25 years.