

HOUSE No. 3457

The Commonwealth of Massachusetts

PRESENTED BY:

Andres X. Vargas and Liz Miranda

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 relative to parole.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Andres X. Vargas</i>	<i>3rd Essex</i>	<i>1/17/2019</i>
<i>Liz Miranda</i>	<i>5th Suffolk</i>	<i>1/18/2019</i>
<i>Marjorie C. Decker</i>	<i>25th Middlesex</i>	<i>1/30/2019</i>
<i>Mary S. Keefe</i>	<i>15th Worcester</i>	<i>1/30/2019</i>
<i>Mike Connolly</i>	<i>26th Middlesex</i>	<i>1/30/2019</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>	<i>1/30/2019</i>
<i>Carlos González</i>	<i>10th Hampden</i>	<i>1/30/2019</i>
<i>Russell E. Holmes</i>	<i>6th Suffolk</i>	<i>1/31/2019</i>
<i>Harriette L. Chandler</i>	<i>First Worcester</i>	<i>2/1/2019</i>
<i>Sonia Chang-Diaz</i>	<i>Second Suffolk</i>	<i>2/1/2019</i>
<i>Nick Collins</i>	<i>First Suffolk</i>	<i>2/1/2019</i>
<i>Daniel R. Cullinane</i>	<i>12th Suffolk</i>	<i>1/31/2019</i>
<i>Mindy Domb</i>	<i>3rd Hampshire</i>	<i>1/31/2019</i>
<i>Nika C. Elugardo</i>	<i>15th Suffolk</i>	<i>2/1/2019</i>
<i>Tami L. Gouveia</i>	<i>14th Middlesex</i>	<i>2/1/2019</i>
<i>James K. Hawkins</i>	<i>2nd Bristol</i>	<i>1/31/2019</i>
<i>Patricia D. Jehlen</i>	<i>Second Middlesex</i>	<i>1/31/2019</i>
<i>Kay Khan</i>	<i>11th Middlesex</i>	<i>2/1/2019</i>

<i>Christina A. Minicucci</i>	<i>14th Essex</i>	<i>1/31/2019</i>
<i>Denise Provost</i>	<i>27th Middlesex</i>	<i>1/31/2019</i>
<i>Rebecca L. Rausch</i>	<i>Norfolk, Bristol and Middlesex</i>	<i>2/1/2019</i>
<i>David M. Rogers</i>	<i>24th Middlesex</i>	<i>1/31/2019</i>
<i>Jon Santiago</i>	<i>9th Suffolk</i>	<i>1/31/2019</i>

HOUSE No. 3457

By Representatives Vargas of Haverhill and Miranda of Boston, a petition (accompanied by bill, House, No. 3457) of Andres X. Vargas, Liz Miranda and others relative to parole. The Judiciary.

The Commonwealth of Massachusetts

In the One Hundred and Ninety-First General Court
(2019-2020)

An Act relative to parole.

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 4 of chapter 27 of the General Laws, as appearing in the 2016
2 Official Edition, is hereby amended by striking out the first paragraph and inserting in place
3 thereof the following paragraph:-

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

10 SECTION 2. Section 4 of said chapter 27, as so appearing, is hereby amended by
11 inserting after the second paragraph the following paragraph:-

12 "At all times, at least three members of the parole board shall have at least five years of
13 experience in fields of psychiatry, psychology, social work, or the treatment of substance use
14 disorder. One of those three members must be a licensed mental health professional, as defined
15 in G.L. c. 123, § 1. If, at any time, the parole board does not have three such members, then, until
16 the board composition complies with this requirement, every candidate recommended for a
17 parole board position must possess at least one of the qualifications listed above. This provision
18 applies notwithstanding any other provision of law."

19 SECTION 3. Section 130 of chapter 127 of the General Laws, as amended by St.2018, c.
20 72, § 6, eff. Jan. 13, 2019, is hereby amended by striking the third and fourth sentences and
21 inserting in place thereof the following paragraphs:-

22 "The parole board shall make this determination using structured, actuarially-based
23 parole guidelines and the findings of a validated risk and needs assessment tool, both of which
24 must consider the prisoner's participation in available work opportunities, educational
25 opportunities and treatment programs and the prisoner's demonstrated good behavior. The board
26 shall also consider whether risk reduction programs, made available through collaboration with
27 criminal justice agencies or with the Department of Mental Health or Department of Public
28 Health, and other aspects of the prisoner's parole plan would minimize the probability of the
29 prisoner re-offending once released.

30 For any prisoner with a disability, the parole board must consider whether provision of
31 reasonable accommodations will enable the prisoner to live and remain at liberty without
32 violating the law. If a prisoner has a disability that may impair the ability of the prisoner to be
33 successful on parole, the board shall schedule a psychological or medical examination to

34 ascertain and evaluate the nature of the risk posed by the disability and to identify any services,
35 supports, or programs that might mitigate the risk. The board shall consider the evaluation in
36 making its decision.

37 Upon issuance of a grant of parole to anyone who needs specialized care due to bodily
38 infirmity or disease and who is unable to secure a home plan, the parole board shall notify the
39 Commissioner of the Department of Public Health who shall secure a medically appropriate
40 placement for such prisoner within 60 days. No individual who has been granted parole shall
41 remain incarcerated for failure to secure an appropriate home plan.

42 The parole guidelines must be publicly available. The guidelines must be based on
43 empirical data and be evidence based. The validated risk and needs assessment tool must be an
44 actuarial tool verified by empirical data. All risk and needs assessment factors considered by the
45 tool and the scoring method must be publicly available; a prisoner shall be entitled to review the
46 complete assessment and findings of the tool regarding his or her risk and needs prior to the
47 parole hearing. The board shall validate the guidelines and risk and needs assessment tool every
48 five years to ensure they accurately reflect the risk of recidivism. The board shall also make
49 adjustments to prevent systemic disparate impact based solely on prisoners' socio-economic
50 characteristics. The board shall produce a public report detailing its assessment of the guidelines
51 and the risk and needs assessment tool and adjustments made to each as a result thereof.

52 The record of the board's decision shall contain a summary statement of the case and
53 include written certification that each board member voting on the issue of granting a parole
54 permit has reviewed the entire criminal record of the applicant, as well as the number of
55 members voting in favor of granting a parole permit and the number of members voting against

56 granting a parole permit. Any record of decision denying parole shall also specify, in detail and
57 not in conclusory terms, the reasons why the denial was appropriate based on the structured
58 parole guidelines and the findings of the validated risk and needs assessment tool, and shall
59 identify the particular tasks the applicant must complete prior to the next parole hearing in order
60 to gain a parole permit. Any minority or dissenting opinions shall be included in the record of
61 decision . The record of the board's decision shall contain a summary statement of the case
62 indicating the reasons for the decision, including written certification that each board member
63 voting on the issue of granting a parole permit has reviewed the entire criminal record of the
64 applicant, as well as the number of members voting in favor of granting a parole permit and the
65 number of members voting against granting a parole permit. Said record of decision shall
66 become a public record and shall be available to the public except for such portion thereof which
67 contains information upon which said decision was made which said information the board
68 determines is actually necessary to keep confidential to protect the security of a criminal or civil
69 investigation, to protect anyone from physical harm or to protect the source of any information;
70 provided, however, that it was obtained under a promise of confidentiality. All such confidential
71 information shall be segregated from the record of decision and shall not be available to the
72 public. Said confidential information may remain secret only as long as publication may defeat
73 the lawful purposes of this section for confidentiality hereunder, but no longer.

74 SECTION 4: Section 133A of chapter 127 of the General Laws, as appearing in the 2016
75 Official Edition, is hereby amended by striking out the first paragraph in its entirety and
76 replacing it with the following paragraph:

77 "Every prisoner who is serving a sentence for life in a correctional institution of the
78 Commonwealth, except prisoners serving a life sentence for murder in the first degree who had

79 attained the age of 18 years at the time of the murder and except prisoners serving more than one
80 life sentence arising out of separate and distinct incidents that occurred at different times, where
81 the second offense occurred subsequent to the first conviction, shall be eligible for parole at the
82 expiration of the minimum term fixed by the court under section 24 of chapter 279 . The parole
83 board shall, for every person who is eligible for parole, conduct a public hearing before a panel
84 of at least six members of the board for purposes of granting parole and issue a decision no later
85 than 30 days before the parole eligibility date. If a board member has a conflict of interest to the
86 extent that he or she cannot render a fair and impartial decision or that the appearance of a board
87 member would be unduly burdensome because of illness, incapacitation, or other circumstance,
88 the chair shall appoint another member of the board to the hearing panel. Whether a member is
89 unavailable for the purposes of this section shall be determined by the chair. Board members
90 shall appear unless said chair determines them to be unavailable. Under no circumstances shall a
91 parole hearing proceed pursuant to this section unless a majority of the board is present at the
92 public hearing."

93 SECTION 5. Section 133A of chapter 127 of the General Laws, as so appearing, is
94 hereby further amended by striking out the third paragraph and inserting in place thereof the
95 following paragraph:-

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

101 two-thirds of the hearing panel, grant such parole permit. By request of the hearing panel, any
102 case may be referred to the full membership of the board for further consideration."

103 SECTION 6: Section 136 of chapter 127 of the General Laws, as appearing in the 2016
104 Official Edition, is hereby amended by adding after the first paragraph the following:-

105 "Any information provided to the board shall also be made available to the prisoner or the
106 prisoner's representative except for such portion thereof which contains information the board
107 determines is actually necessary to keep confidential to protect the security of a criminal or civil
108 investigation, to protect anyone from physical harm or to protect the source of any information;
109 provided, however, that it was obtained under a promise of confidentiality."