SENATE DOCKET, NO. 752 FILED ON: 1/18/2023

SENATE . . . . . No. 1045

The Commonwealth of Massachusetts

PRESENTED BY:

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 to reduce mass incarceration.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
Liz Miranda	*Second Suffolk*	
Adam Gomez	*Hampden*	*2/13/2023*
Patricia D. Jehlen	*Second Middlesex*	*2/21/2023*
Joanne M. Comerford	*Hampshire, Franklin and Worcester*	*2/21/2023*
Lydia Edwards	*Third Suffolk*	*3/2/2023*
Rebecca L. Rausch	*Norfolk, Worcester and Middlesex*	*4/27/2023*
Patricia A. Duffy	*5th Hampden*	*5/18/2023*
Jason M. Lewis	*Fifth Middlesex*	*12/21/2023*

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SENATE . . . . . No. 1045

By Ms. Miranda, a petition (accompanied by bill, Senate, No. 1045) of Liz Miranda, Adam Gomez, Patricia D. Jehlen, Joanne M. Comerford and others for legislation to reduce mass incarceration. The Judiciary.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. *1797* OF 2021-2022.]

The Commonwealth of Massachusetts

In the One Hundred and Ninety-Third General Court
(2023-2024)

An Act to reduce mass incarceration.

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 133A of chapter 127 of the General Laws as it appears in the 2020 Official Edition, is hereby amended by striking, in the first sentence of the first paragraph, the phrases: “except prisoners confined to the hospital at the Massachusetts Correctional Institution, Bridgewater, except prisoners serving a life sentence for murder in the first degree who had attained the age of 18 years at the time of the murder 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,”; and by inserting in the first paragraph after the phrase “of the minimum term fixed by the court under section 24 of chapter 279.” the following sentence:- Provided, however, that in the case of a prisoner 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, such prisoner shall be eligible for parole 25 years after the start of the second or most recent sentence.

SECTION 2. Amend Section 133C of chapter 127 of the General Laws at it appears in the 2020 Official Edition, is hereby amended by striking, in the first paragraph, the phrase: "except prisoners serving a life sentence for murder in the first degree who had attained the age of 18 years at the time of the murder and prisoners confined to the hospital at the Massachusetts Correctional Institution, Bridgewater."

SECTION 3. Subsection (a) of section 2 of chapter 265 of the General Laws as it appears in the 2020 Official Edition, is hereby amended by striking the phrase: "not be eligible for parole pursuant to section 133A of Chapter 127.", and inserting in place thereof the phrase:- shall be eligible for parole after a term of years fixed by the court pursuant to section 24 of chapter 279.

SECTION 4. Amend subsection (b) of section 2 of Chapter 265 of the General Laws as it appears in the 2020 Official Edition, by inserting in the fourth line, after the words "term of years" :- but no more than 25 years, as.

SECTION 5. Section 24 of chapter 279 of the General Laws as it appears in the 2014 Official Edition, is hereby amended by striking, in the first paragraph, the phrase: "which shall be not less than 15 years nor more than 25 years," and insert in place thereof the phrase:- of 15 years; and by striking out the second paragraph in its entirety and inserting in place thereof the following paragraph:-

In the case of a sentence to life imprisonment for murder in the first degree, the court shall fix a minimum term of 25 years; provided, however, that in the case of a person who committed the murder on or after the person's fourteenth birthday and before the person's

eighteenth birthday, the court shall fix a minimum term of not less than 15 years nor more than 20 years, after consideration of relevant mitigating and exacerbating circumstances; and provided, however, that in the case of a person sentenced to life imprisonment for murder in the first degree adjudicated solely by a verdict of felony murder or joint venture and where the offender is not the actual killer, committed on or after the person's fourteenth birthday and before the person's eighteenth birthday, the court shall fix a minimum term of not less than 10 years nor more than 12 years.

SECTION 6. Notwithstanding any other provision of law, section 24 of chapter 279 of the General Laws as it appears in the 2014 Official Edition shall apply to any person found guilty of murder pursuant to subsections (a), (b) or (c) of section 2 of chapter 265 prior to or after the effective date of this act.

SECTION 7. Subsection (b) of section 25 of chapter 279 of the General Laws as it appears in the 2020 Official Edition is hereby amended by inserting in the first paragraph after the words "for good conduct", the following phrase:- provided, however, that in the case of a person so serving a life sentence, parole eligibility will commence after serving 25 years of said sentence. And by inserting after the last paragraph of subsection (b) of section 25 the following sentence:- Notwithstanding any other provision of law, section 25(b) shall apply to any person convicted as a habitual offender pursuant to subsection (a) or (b) of section 25 of chapter 279 prior to or after the effective date of this act.

SECTION 8. Notwithstanding any other provision of the law, except as provided by SECTION 1 of this act, no person shall be imprisoned for more than 25 years without a parole hearing at 25 years.

SECTION 9. The Department of Corrections shall establish a Restorative Justice program within its prisons that is available to anyone sentenced to more than 25 years in prison in order to develop a plan of reconciliation.

(a) The Restorative Justice program will allow the interaction between the prisoner and victims, family of the victims, the parties to a crime, and community members within the prison with the goal to identify and address harms and needs and obligations resulting from an offense in order to understand and reconcile the impact of that offense.

(b) Participation in a prison-based restorative justice program shall be voluntary for offenders, victims, and surviving family and community members affected by the crime.

(c) Participation in a prison-based restorative justice program shall not be used as evidence or as an admission of guilt, delinquency or civil liability in current or subsequent legal proceedings against any participant. Any statement made by an incarcerated person during the course of an assignment within a prison-based restorative justice program shall be confidential and shall not be subject to disclosure in any judicial or administrative proceeding and no information obtained during the course of such assignment shall be used in any stage of a criminal investigation or prosecution or civil or administrative proceeding; provided, however, that nothing in this section shall preclude any evidence obtained through an independent source or that is inevitably discovered by lawful means from being admitted at such proceeding.

(d) The Department of Corrections shall annually, not later than December 31, submit a report to the clerks of the House of Representatives and of the Senate, and the House and Senate chairs of the Joint Committee on the Judiciary and of Public Safety and Homeland Security regarding the implementation and operation of the program, the number of prisoners to which it

is available, the number of prisoners that have participated, and any recommendations for change to the program.