

HOUSE No.

The Commonwealth of Massachusetts

PRESENTED BY:

Lindsay N. Sabadosa and Erika Uytterhoeven

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 Elder and Medical Parole.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Lindsay N. Sabadosa</i>	<i>1st Hampshire</i>	<i>1/14/2025</i>
<i>Erika Uytterhoeven</i>	<i>27th Middlesex</i>	<i>1/14/2025</i>

HOUSE No.

[Pin Slip]

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Fourth General Court
(2025-2026)**

An Act Relative to Elder and Medical 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. Elder Parole

2 Chapter 127 of the General Laws is hereby amended by inserting after Section 133E the
3 following section:-

4 Section 133F: Parole eligibility for people aged 55 and older who have served at least
5 half or 15 years of their sentence

6 When a person serving a sentence of incarceration has reached the age of fifty-five and
7 has served at least (i) one half of the minimum term they are sentenced to serve, accounting for
8 any applicable aggregate sentence or component sentence or (ii) fifteen years, whichever is less,
9 the parole board shall schedule a hearing within sixty days of the person's fifty-fifth birthday or
10 the day that they meet the time served requirement of this section, whichever is later, to
11 determine whether such person should be granted a parole permit under Chapter 127 Section
12 133A of the General Laws, notwithstanding exclusions based on sentence in that section.

13 The board shall also give special consideration to the incarcerated person's advanced age;
14 the impact of their long-term confinement; any age-related medical conditions; any diminished
15 physical or mental capacity; and the Department of Correction's record of providing adequate
16 reasonable accommodations to the individual given these conditions.

17 After such hearing the parole board may, by a vote of two-thirds of its members, grant a
18 permit to be at liberty upon such terms and conditions as it may prescribe for the unexpired term
19 of the sentence. A parole permit shall be granted unless the board determines by clear and
20 convincing evidence that, even if released with appropriate conditions and community
21 supervision, the incarcerated person will not live and remain at liberty without violating the law.
22 Assessment as low risk on a recent validated risk assessment tool, completion of institutional
23 program plans, or a classification score indicating minimum security or prerelease,
24 notwithstanding overrides or restrictions, shall indicate readiness for parole release.

25 The parole board shall issue its decision within two months of the hearing. If such permit
26 is not granted, the parole board shall, at least once in each ensuing two year period for the
27 duration of the sentence, hold a hearing and consider carefully and thoroughly the merits of
28 releasing such prisoner on parole and may, by a vote of two-thirds of its members, grant such
29 parole permit.

30 All decisions to grant or deny parole shall be made without bias pertaining to a person's
31 race, ethnicity, disability, religion, sexual orientation, or gender identity. The parole board shall
32 not deny parole solely or primarily on the basis of the parole applicant's underlying criminal
33 conviction.

34 The hearings required by this section shall be in addition to and not replace other parole
35 or medical parole eligibility.

36 If an incarcerated person is indigent, the incarcerated person shall have the right to
37 appointed counsel at the Elder parole hearing and shall have the right to funds for experts
38 pursuant to chapter 261. Indigent people on parole shall have the right to appointed counsel at
39 any revocation and rescission hearings.

40 No person placed on parole shall be reincarcerated solely for violating a condition of
41 parole that does not result in a new conviction. Once a person has lived on parole for three years
42 without a new criminal conviction, upon application, the Board shall terminate their parole
43 pursuant to MGL c. 127, sec 130A unless there is clear and convincing evidence that it is in the
44 public interest for parole to continue.

45 The Parole Board shall file an annual report not later than March 1 for the prior fiscal
46 year with the clerks of the senate and the house of representatives, the senate and house
47 committees on ways and means, and the joint committee on the judiciary detailing: (i) the
48 number of incarcerated people in the custody of the department of correction or the sheriffs who
49 were eligible for parole under this section and the age, gender, race, ethnicity, and governing
50 offense of each person; (ii) the number of incarcerated people who have been granted parole
51 under this section and the age at the time of the hearing, gender, race and ethnicity, and
52 governing offense of each person; (iii) the number of incarcerated people who have been denied
53 parole under this section, the reason for the denial, and the age, gender, race and ethnicity, and
54 governing offense of each person; (iv) the number of incarcerated people eligible for parole
55 under this section who have had previous elder parole hearings; (vii) the number of incarcerated

56 people released under this section who have been returned to the custody of the department or
57 the sheriff and the reason for each prisoner's return. Nothing in this report shall include
58 personally identifiable information of incarcerated people.

59 SECTION 2. Medical Parole

60 Section 119A of Chapter 127 of the General Laws, as so appearing, is hereby amended
61 by striking out the definitions of "Permanent incapacitation" and "Terminal illness" in subsection
62 (a) and replacing with the following:

63 "Permanent incapacitation", a medical determination of a physical or cognitive
64 incapacitation that appears irreversible, as determined by a licensed physician.

65 "Terminal illness", a medical determination of a condition that appears incurable, as
66 determined by a licensed physician, that is reasonably likely to cause the death of the prisoner in
67 not more than 18 months.

68 SECTION 2A. Section 119A is further amended by striking clauses (i) through (iii) of
69 paragraph (1) of subsection (c) and inserting the following:

70 The superintendent of a correctional facility shall consider a prisoner for medical parole
71 upon a written petition filed with the superintendent and the Commissioner by the prisoner, the
72 prisoner's advocate, the prisoner's next of kin, a medical provider of the correctional facility or a
73 member of the department's staff. The superintendent shall review the petition and develop a
74 recommendation as to the release of the prisoner. Whether or not the superintendent recommends
75 in favor of medical parole, the superintendent shall, not more than 21 days after the receipt of the
76 petition, transmit the recommendation to the commissioner. (i) a proposed medical parole plan;

77 (ii) a written diagnosis by a physician licensed to practice medicine under section 2 of chapter
78 112; and (iii) an assessment of the current risk for violence that the prisoner poses to society. The
79 risk assessment shall be based on a consideration of the prisoner's current cognitive and physical
80 ability to violently recidivate, considering the probability that violence will actually occur, in
81 light of the person's documented current medical condition. Where the person's disability-related
82 behaviors contribute to current risk, the department shall also consider whether reasonable
83 accommodations in a community setting could mitigate risk. Such assessment shall be supported,
84 if requested by the petitioner, by 24 continuous hours of video surveillance of the prisoner,
85 demonstrating the prisoner's level of incapacity.

86 SECTION 2B. Section 119A is further amended by paragraph (2) of subsection (c) and
87 inserting the following paragraphs:

88 (c)(2) The department shall, and all other parties may, submit written petitions on behalf
89 of permanently cognitively incapacitated prisoners. The department shall first contact the
90 prisoner's next of kin, advocate, or Prisoners' Legal Services, and notify them of the opportunity
91 to file a petition in lieu of the department. The department shall accept release of information
92 forms signed by the prisoner if no guardian has been appointed.

93 (c)(3) The department shall ensure that all prisoners aged 55 and older shall be assessed
94 for cognitive decline at least annually by a qualified medical provider administering a
95 standardized cognitive assessment tool in their preferred language. Any cognitive assessment
96 shall, at the prisoner's request, include a collateral interview with the persons who most closely
97 interact with the prisoner, including prisoner companions. This collateral interview shall be
98 documented in the prisoner's medical record. Prisoners who are terminally ill, permanently

99 incapacitated, or whose cognitive assessment score falls within a range indicating “moderate” or
100 “severe” cognitive decline shall be referred to Prisoners’ Legal Services and the prisoners’ next
101 of kin. The prisoner, or the prisoner’s family or advocate may request additional assessments at
102 any time by a qualified medical provider.

103 (c)(4) Upon the commissioner’s receipt of the recommendation pursuant to paragraph
104 (c)(1), the commissioner shall notify, in writing, the district attorney for the jurisdiction where
105 the offense resulting in the prisoner being committed to the correctional facility occurred, the
106 prisoner, the person who petitioned for medical parole, if not the prisoner and, if applicable
107 under chapter 258B, the victim or the victim's family that the prisoner is being considered for
108 medical parole. The parties who receive the notice shall have an opportunity to submit written
109 statements; provided, however, that if the prisoner was convicted and is serving a sentence under
110 section 1 of chapter 265, the district attorney or victim's family may request a hearing.

111 Where the prisoner meets the medical criteria for medical parole, the department shall
112 submit a medical parole plan meeting the prisoner’s needs to the Parole Board no later than 35
113 days after the department’s receipt of the petition. Where a medical parole plan to a private home
114 that can be made appropriate to the person’s care is available, that home shall be the proposed
115 plan unless the department produces documentation of specific reasons the home placement
116 would cause a risk to public safety.

117 SECTION 2C. Section 119A is further amended by striking subsection (d) and replacing
118 with the following subsections:

119 (d)(1) A sheriff shall consider a prisoner for medical parole upon a written petition filed
120 with the sheriff and the commissioner by the prisoner, the prisoner's advocate, the prisoner's next

121 of kin, a medical provider of the house of correction or jail or a member of the sheriff's staff. The
122 sheriff shall review the petition and develop a recommendation as to the release of the prisoner.
123 Whether or not the sheriff recommends in favor of medical parole, the sheriff shall, not more
124 than 21 days after receipt of the petition, transmit the recommendation to the commissioner. The
125 sheriff shall transmit with the petition: (i) a proposed medical parole plan; (ii) a written diagnosis
126 by a physician licensed to practice medicine under section 2 of chapter 112; and (iii) an
127 assessment of the current risk for violence that the prisoner poses to society. The risk assessment
128 shall be based on a consideration of the prisoner's current cognitive and physical ability to
129 violently recidivate, considering the probability that violence will actually occur, in light of the
130 person's documented current medical condition. Where the person's disability-related behaviors
131 contribute to current risk, the sheriff shall also consider whether reasonable accommodations in a
132 community setting could mitigate risk. Such assessment shall be supported, if requested by the
133 petitioner, by 24 continuous hours of video surveillance of the prisoner, demonstrating the
134 prisoner's level of incapacity.

135 (d)(2) The sheriff shall, and all other parties may, submit written petitions on behalf of
136 permanently cognitively incapacitated prisoners. The sheriff shall first contact the prisoner's next
137 of kin, advocate, or Prisoners' Legal Services, and notify them of the opportunity to file a
138 petition in lieu of the sheriff. The sheriff shall accept release of information forms signed by the
139 prisoner if no guardian has been appointed.

140 (d)(3) The sheriff shall ensure that all prisoners aged 55 and older shall be assessed for
141 cognitive decline at least annually by a qualified medical provider administering a standardized
142 cognitive assessment tool in their preferred language. Any cognitive assessment shall, at the
143 prisoner's request, include a collateral interview with the persons who most closely interact with

144 the prisoner, including prisoner companions. This collateral interview shall be documented in the
145 prisoner’s medical record. Prisoners who are terminally ill, permanently incapacitated, or whose
146 cognitive assessment score falls within a range indicating “moderate” or “severe” cognitive
147 decline shall be referred to Prisoners’ Legal Services and the prisoners’ next of kin. The prisoner,
148 or the prisoner’s family or advocate may request additional assessments at any time by a
149 qualified medical provider.

150 (d)(4) Upon the commissioner’s receipt of the recommendation pursuant to paragraph
151 (d)(1), the commissioner shall notify, in writing, the district attorney for the jurisdiction where
152 the offense resulting in the prisoner being committed to the correctional facility occurred, the
153 prisoner, the person who petitioned for medical parole, if not the prisoner and, if applicable
154 under chapter 258B, the victim or the victim's family that the prisoner is being considered for
155 medical parole. The parties who receive the notice shall have an opportunity to submit written
156 statements.

157 Where the prisoner meets the medical criteria for medical parole, the department shall
158 submit a medical parole plan meeting the prisoner’s needs to the Parole Board no later than 35
159 days after the sheriff’s receipt of the petition. Where a medical parole plan to a private home that
160 can be made appropriate to the parolee’s care is available, that home shall be the proposed plan
161 unless the department produces documentation of specific reasons the home placement would
162 cause a risk to public safety.

163 SECTION 2D. Section 119A is further amended by striking subsection (e) and replacing
164 with the following:

165 (e) The commissioner shall issue a written decision not later than 45 days after the
166 department's receipt of a petition, which shall be accompanied by a statement of reasons for the
167 commissioner's decision that addresses all of the record evidence. The department shall also
168 establish a policy implementing a further expedited process for decision and release of a person
169 on medical parole whose death by terminal illness is found to be likely in less than 6 months.
170 Medical parole shall be granted to a terminally ill or permanently incapacitated prisoner unless
171 the Commissioner determines by clear and convincing evidence that, if the prisoner is released
172 with appropriate conditions, community supervision, and reasonable accommodations, the
173 prisoner will not live and remain at liberty without violently recidivating. The assessment of
174 terminal illness or permanent incapacitation by a medical provider shall be separate from the
175 public safety risk assessment. Any denial of medical parole shall include a written explanation of
176 the clear and convincing evidence relied upon to determine that the prisoner would not remain at
177 liberty without violently recidivating. No petition shall be denied on medical grounds without a
178 current, in-person evaluation of the prisoner by the licensed physician who is opining that the
179 person is not medically eligible. Petitioners shall have a right to funds for experts pursuant to
180 chapter 261. The parole board shall impose terms and conditions for medical parole that shall
181 apply through the date upon which the prisoner's sentence would have expired and which shall
182 be no more restrictive than the parolee's current medical condition necessitates.

183 All decisions to grant or deny medical parole, and the creation of a medical parole plan
184 shall be made without bias pertaining to a person's race, ethnicity, disability, religion, sexual
185 orientation, or gender identity.

186 Release after a grant of medical parole shall occur within 7 days of the grant, absent
187 documented extraordinary circumstances preventing such timely release. A prisoner for whom

188 the department cannot identify appropriate post-release placement shall be referred to the
189 Department of Public Health (“DPH”) for placement in an appropriate DPH facility pursuant to
190 section 151 of chapter 127. Not less than 24 hours before the date of a prisoner's release on
191 medical parole, the commissioner shall notify, in writing, the district attorney for the jurisdiction
192 where the offense resulting in the prisoner being committed to the correctional facility occurred,
193 the department of state police, the police department in the city or town in which the prisoner
194 shall reside and, if applicable under chapter 258B, the victim or the victim's family of the
195 prisoner's release and the terms and conditions of the release.

196 SECTION 2E. Section 119A is further amended by striking subsection (f) and replacing
197 with the following:

198 (f) For all purposes, including revocation, a prisoner granted release under this section
199 shall be under the jurisdiction, supervision and control of the parole board, as if the prisoner had
200 been paroled pursuant to section 130 of chapter 127. The parole board may revise, alter or amend
201 the terms and conditions of a medical parole at any time.

202 If a parole officer receives credible information that the individual’s terminal illness or
203 permanent incapacitation has reversed to the extent that the individual would no longer be
204 eligible for medical parole under this section, the board shall obtain a medical assessment by a
205 licensed physician of the individual’s current medical condition. If the medical assessment
206 concludes that the individual has reversed to the extent that they no longer qualify for medical
207 parole, the parole officer shall bring the individual before the board for a parole revocation
208 hearing. The individual shall remain at liberty during the pendency of the revocation
209 proceedings, barring a substantial and immediate risk to public safety.

210 If the board establishes at the parole hearing that the terminal illness or permanent
211 incapacitation has reversed to the extent that the individual is no longer eligible for medical
212 parole pursuant to this section, the board shall order the return of the individual to incarceration,
213 or, subject to appropriate terms and conditions set by the board, order his release to parole
214 supervision under another form of parole permitted by law. If the board orders revocation and
215 reincarceration pursuant to this subsection, the individual shall return to custody in accordance
216 with the terms of their original sentence with credit given only for the duration of the prisoner's
217 medical parole that was served in compliance with all conditions of their medical parole pursuant
218 to subsection (e).

219 Revocation of an individual's medical parole for any reason shall not preclude their
220 eligibility for medical parole in the future or for another form of release permitted by law.

221 SECTION 2F. Section 119A is further amended by striking the first sentence of
222 subsection (g) and replacing with the following two sentences:

223 A reviewing court may affirm or reverse the commissioner's decision and grant or deny
224 the prisoner's release. Petitions for certiorari shall be handled by the judiciary with due haste
225 considering the urgent nature of medical parole.

226 SECTION 2G. Section 119A is further amended by striking the word "fiscal" from the
227 first sentence of subsection (f).

228 SECTION 2H. Section 119A is further amended by striking clauses (i) through (v) of
229 subsection (f) and replacing with the following:

230 (i) the number of prisoners in the custody of the department or of the sheriffs who applied
231 for medical parole under this section and the race, ethnicity, gender, and age of each applicant at
232 the time of the petition; (ii) the number of prisoners who have been granted medical parole and
233 the race, and ethnicity, gender, and age of each prisoner at the time of the petition; (iii) the
234 nature of the illness of the applicants for medical parole; (iv) the counties to which the prisoners
235 have been released; (v) the number of prisoners who have been denied medical parole, the reason
236 for the denial and the race, ethnicity, gender, and age of each prisoner at the time of the petition;