

SENATE No. 1722

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 relative to elder and medical parole.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Liz Miranda</i>	<i>Second Suffolk</i>	
<i>Joanne M. Comerford</i>	<i>Hampshire, Franklin and Worcester</i>	<i>1/27/2025</i>
<i>Adam Gómez</i>	<i>Hampden</i>	<i>2/10/2025</i>
<i>Patricia D. Jehlen</i>	<i>Second Middlesex</i>	<i>2/26/2025</i>
<i>Mike Connolly</i>	<i>26th Middlesex</i>	<i>4/8/2025</i>
<i>Erika Uytterhoeven</i>	<i>27th Middlesex</i>	<i>4/9/2025</i>
<i>Jason M. Lewis</i>	<i>Fifth Middlesex</i>	<i>4/16/2025</i>
<i>William J. Driscoll, Jr.</i>	<i>Norfolk, Plymouth and Bristol</i>	<i>6/3/2025</i>
<i>Pavel M. Payano</i>	<i>First Essex</i>	<i>7/1/2025</i>
<i>Joan B. Lovely</i>	<i>Second Essex</i>	<i>10/21/2025</i>
<i>Michael O. Moore</i>	<i>Second Worcester</i>	<i>10/24/2025</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>	<i>12/1/2025</i>

SENATE No. 1722

By Ms. Miranda, a petition (accompanied by bill, Senate, No. 1722) of Liz Miranda, Joanne M. Comerford, Adam Gomez and Patricia D. Jehlen for legislation to grant elder and medical parole. Public Safety and Homeland Security.

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

Chapter 127 Section 133A of the General Laws, notwithstanding exclusions based on sentence in that section.

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

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

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

e) All decisions to grant or deny parole shall be made without bias pertaining to a person's race, ethnicity, disability, religion, sexual orientation, or gender identity. The parole

board shall not deny parole solely or primarily on the basis of the parole applicant's underlying criminal conviction.

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

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

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

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

governing offense of each person; (iv) the number of incarcerated people eligible for parole under this section who have had previous elder parole hearings; (vii) the number of incarcerated people released under this section who have been returned to the custody of the department or the sheriff and the reason for each prisoner's return. Nothing in this report shall include personally identifiable information of incarcerated people.

SECTION 2. Medical Parole

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

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

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

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

The superintendent of a correctional facility shall consider a prisoner for medical parole upon a written petition filed with the superintendent and the Commissioner by the prisoner, the prisoner's advocate, the prisoner's next of kin, a medical provider of the correctional facility or a member of the department's staff. The superintendent shall review the petition and develop a recommendation as to the release of the prisoner. Whether or not the superintendent recommends

in favor of medical parole, the superintendent shall, not more than 21 days after the receipt of the petition, transmit the recommendation to the commissioner. (i) a proposed medical parole plan; (ii) a written diagnosis by a physician licensed to practice medicine under section 2 of chapter 112; and (iii) an assessment of the current risk for violence that the prisoner poses to society. The risk assessment shall be based on a consideration of the prisoner's current cognitive and physical ability to violently recidivate, considering the probability that violence will actually occur, in light of the person's documented current medical condition. Where the person's disability-related behaviors contribute to current risk, the department shall also consider whether reasonable accommodations in a community setting could mitigate risk. Such assessment shall be supported, if requested by the petitioner, by 24 continuous hours of video surveillance of the prisoner, demonstrating the prisoner's level of incapacity.

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

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

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

98 interact with the prisoner, including prisoner companions. This collateral interview shall be
99 documented in the prisoner's medical record. Prisoners who are terminally ill, permanently
100 incapacitated, or whose cognitive assessment score falls within a range indicating "moderate" or
101 "severe" cognitive decline shall be referred to Prisoners' Legal Services and the prisoners' next
102 of kin. The prisoner, or the prisoner's family or advocate may request additional assessments at
103 any time by a qualified medical provider.

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

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

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

(d)(1) A sheriff shall consider a prisoner for medical parole upon a written petition filed with the sheriff and the commissioner by the prisoner, the prisoner's advocate, the prisoner's next of kin, a medical provider of the house of correction or jail or a member of the sheriff's staff. The sheriff shall review the petition and develop a recommendation as to the release of the prisoner. Whether or not the sheriff recommends in favor of medical parole, the sheriff shall, not more than 21 days after receipt of the petition, transmit the recommendation to the commissioner. The sheriff shall transmit with the petition: (i) a proposed medical parole plan; (ii) a written diagnosis by a physician licensed to practice medicine under section 2 of chapter 112; and (iii) an assessment of the current risk for violence that the prisoner poses to society. The risk assessment shall be based on a consideration of the prisoner's current cognitive and physical ability to violently recidivate, considering the probability that violence will actually occur, in light of the person's documented current medical condition. Where the person's disability-related behaviors contribute to current risk, the sheriff shall also consider whether reasonable accommodations in a community setting could mitigate risk. Such assessment shall be supported, if requested by the petitioner, by 24 continuous hours of video surveillance of the prisoner, demonstrating the prisoner's level of incapacity.

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

(d)(3) The sheriff shall ensure that all prisoners aged 55 and older shall be assessed for cognitive decline at least annually by a qualified medical provider administering a standardized

cognitive assessment tool in their preferred language. Any cognitive assessment shall, at the prisoner's request, include a collateral interview with the persons who most closely interact with the prisoner, including prisoner companions. This collateral interview shall be documented in the prisoner's medical record. Prisoners who are terminally ill, permanently incapacitated, or whose cognitive assessment score falls within a range indicating "moderate" or "severe" cognitive decline shall be referred to Prisoners' Legal Services and the prisoners' next of kin. The prisoner, or the prisoner's family or advocate may request additional assessments at any time by a qualified medical provider.

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

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

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

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

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

Release after a grant of medical parole shall occur within 7 days of the grant, absent documented extraordinary circumstances preventing such timely release. A prisoner for whom the department cannot identify appropriate post-release placement shall be referred to the Department of Public Health (“DPH”) for placement in an appropriate DPH facility pursuant to section 151 of chapter 127. Not less than 24 hours before the date of a prisoner's release on medical parole, the commissioner shall notify, in writing, the district attorney for the jurisdiction where the offense resulting in the prisoner being committed to the correctional facility occurred, the department of state police, the police department in the city or town in which the prisoner shall reside and, if applicable under chapter 258B, the victim or the victim's family of the prisoner's release and the terms and conditions of the release.

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

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

If a parole officer receives credible information that the individual’s terminal illness or permanent incapacitation has reversed to the extent that the individual would no longer be eligible for medical parole under this section, the board shall obtain a medical assessment by a licensed physician of the individual’s current medical condition. If the medical assessment concludes that the individual has reversed to the extent that they no longer qualify for medical parole, the parole officer shall bring the individual before the board for a parole revocation

209 hearing. The individual shall remain at liberty during the pendency of the revocation
210 proceedings, barring a substantial and immediate risk to public safety.

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

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

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

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

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

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

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