

SENATE No. 891

The Commonwealth of Massachusetts

PRESENTED BY:

Bruce E. Tarr

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 reforming the parole system and protecting public safety.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Bruce E. Tarr</i>	
<i>Richard T. Moore</i>	
<i>Michael R. Knapik</i>	
<i>James E. Timilty</i>	
<i>Richard J. Ross</i>	<i>Norfolk, Bristol, and Middlesex</i>
<i>Steven A. Baddour</i>	
<i>Jennifer L. Flanagan</i>	
<i>Michael F. Rush</i>	<i>Suffolk and Norfolk</i>
<i>John Hart, Jr.</i>	
<i>Linda Campbell</i>	<i>15th Essex</i>
<i>James J. Dwyer</i>	<i>30th Middlesex</i>
<i>Christopher G. Fallon</i>	<i>33rd Middlesex</i>
<i>Randy Hunt</i>	<i>5th Barnstable</i>
<i>Bradford Hill</i>	<i>4th Essex</i>
<i>Jennifer E. Benson</i>	<i>37th Middlesex</i>
<i>Stephen L. DiNatale</i>	<i>3rd Worcester</i>
<i>Lori A. Ehrlich</i>	<i>8th Essex</i>
<i>Anne M. Gobi</i>	<i>5th Worcester</i>

<i>John D. Keenan</i>	<i>7th Essex</i>
<i>Steven L. Levy</i>	<i>4th Middlesex</i>
<i>Angelo J. Puppolo, Jr.</i>	<i>12th Hampden</i>
<i>Robert L. Hedlund</i>	
<i>Thomas P. Kennedy</i>	
<i>Michael O. Moore</i>	
<i>Thomas A. Golden, Jr.</i>	<i>16th Middlesex</i>
<i>Kevin J. Kuros</i>	<i>8th Worcester</i>
<i>Benjamin Swan</i>	<i>11th Hampden</i>
<i>Eileen M. Donoghue</i>	

SENATE No. 891

By Mr. Tarr, a petition (accompanied by bill, Senate, No. 891) of Bruce E. Tarr, Richard T. Moore, Michael R. Knapik, James E. Timilty and other members of the General Court for legislation to reform the parole system and protect public safety. The Judiciary.

The Commonwealth of Massachusetts

—————
In the Year Two Thousand Eleven
—————

An Act reforming the parole system and protecting public safety.

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. Definitions

2 (a) “local law enforcement” means the chief or the head of the organized police
3 department of a city or town, any officer, other than an investigator or examiner of the
4 transportation division of the department of telecommunications and energy, who is authorized
5 to make arrests or serve criminal process, and any colonel, commissioned officer,
6 noncommissioned officer, staff officer or uniformed member of the state police, as those terms
7 are defined in Section 1 of Chapter 22C, or anyone holding a similar position in another state,
8 territory or Indian tribe.

9 (b) “federal law enforcement” means any federal agent charged with the
10 investigation, apprehension, or detention of individuals suspected or convicted of offenses
11 against the criminal laws, or who is authorized to make arrests or serve criminal process.

12 SECTION 2. Section 4 of Chapter 27 of the General Laws, as appearing the 2008
13 Official Edition is hereby amended by striking section 4 and inserting in place thereof the
14 following:

15 Section 4. There shall be in the department, but not subject to its jurisdiction, a
16 parole board, consisting of seven members, to be appointed by the governor, with the advice and
17 consent of the council, for terms of five years. No member may serve more than two
18 consecutive terms nor more than ten consecutive years on the parole board. The governor may,
19 with the advice and consent of the council, remove members from the board for cause, upon a
20 written determination of such cause.

21 Whenever a vacancy occurs in the membership of the board the governor shall
22 appoint a panel of seven persons consisting of the administrative justice for the superior court
23 department, the president of the state parole officers association, the chairman of the advisory
24 committee on correction, the president of the Massachusetts bar association or his designee, the
25 secretary of the executive office of public safety who shall serve as chairman of said panel, one
26 member of local law enforcement, and one person chosen from a list of three nominees
27 submitted by the Massachusetts District Attorneys Association. Said panel shall submit to the
28 governor, within sixty days of the establishment of said panel, a list of not less than six nor more
29 than nine persons, or, in the event there should be two or more vacancies to fill, not more than
30 six persons per vacancy, who are qualified by knowledge, education or experience in the
31 administration of criminal justice or in the behavioral sciences as hereinafter provided. Such
32 persons shall have had at least five years of training and experience in one or more of the
33 following fields:— parole, probation, corrections, law, law enforcement, psychology, psychiatry,
34 sociology and social work; provided, however, that the panel may, by unanimous vote, submit

35 the name of a person who has demonstrated exceptional qualifications and aptitude for carrying
36 out the duties required of a parole board member, if such person substantially, although not
37 precisely, meets the above qualifications. The list of names of such persons for each vacancy
38 shall include one or more of the following, insofar as it is possible to select such persons who are
39 willing and able to fill promptly the existing vacancy or vacancies:— an attorney admitted to
40 practice in Massachusetts, a psychiatrist who is a member in good standing of the American
41 Psychiatric Association, a psychologist certified by the Massachusetts Board of Certification in
42 Psychology, Inc., and a member of the Massachusetts parole staff.

43 Notwithstanding the provisions of this section, three members of the board shall
44 have at least five years experience in local law enforcement within the last 10 calendar years,
45 except that one such member may have federal law enforcement experience en lieu of local
46 experience. All law enforcement members shall have been in good standing with their law
47 enforcement agencies at the termination of their service. If at any time, due to a vacancy or
48 otherwise, the board does not contain at least two members with law enforcement experience as
49 provided above, the board shall not grant any parole permits until the board contains such
50 members.

51 The governor shall designate one of the members as chairman, said member to
52 serve as chairman at the will of the governor. The chairman shall be the executive and
53 administrative head of said board, shall have the authority and responsibility of directing
54 assignments of members of said board and shall be the appointing and removing authority for
55 parole agents and other members of the parole staff. In the case of the absence or disability of the
56 chairman, the governor may designate one of the members to act as chairman during such
57 absence or disability.

58 The positions of chairman and each of the other members shall be classified in
59 accordance with section forty-five of chapter thirty and the salaries shall be determined in
60 accordance with section forty-six C of said chapter thirty. Members shall devote full time to their
61 duties, and no member shall hold any other salaried public office or engage in any activity which
62 is in violation of any law or which interferes or conflicts with his full time service as a member
63 during his incumbency.

64 SECTION 3. Section 130 of Chapter 127 is hereby amended by striking the
65 entire text and replacing it with the following:

66 Section 130. No prisoner shall be granted a parole permit merely as a reward for
67 good conduct but only if the parole board is of the opinion that there is a reasonable probability
68 that, if such prisoner is released, he will live and remain at liberty without violating the law, and
69 that his release is not incompatible with the welfare of society. The record of the decision of the
70 board shall contain a summary statement of the case indicating the reasons for said decision as
71 well as the final tally of votes. Said record of decision shall become a public record, shall be
72 available to the public, and shall, to the extent reasonably practicable, be available for public
73 inspection on the internet, except for such portion thereof which contains information upon
74 which said decision was made which said information the board determines is actually necessary
75 to keep confidential to protect the security of a criminal or civil investigation, to protect anyone
76 from physical harm or to protect the source of any information; provided, however, that it was
77 obtained under a promise of confidentiality. All such confidential information shall be
78 segregated from the record of decision and shall not be available to the public. Said confidential
79 information may remain secret only as long as publication may defeat the lawful purposes of this
80 section for confidentiality hereunder, but no longer. A prisoner to whom a parole permit is

81 granted shall be allowed to go upon parole outside prison walls and inclosure upon such terms
82 and conditions as the parole board shall prescribe, but shall remain, while thus on parole, subject
83 to the jurisdiction of such board until the expiration of the term of imprisonment to which he has
84 been sentenced or until the date which has been determined by deductions from the maximum
85 term of his sentence or sentences for good conduct or until such earlier date as the board shall
86 determine that it is in the public interest for such prisoner to be granted a certificate of
87 termination of sentence. In every case, such terms and conditions shall include payment of any
88 child support due under a support order, as defined in section 1A of chapter 119A, including
89 payment toward any arrearage of support that accrues or has accrued or compliance with any
90 payment plan between the prisoner and the IV-D agency as set forth in chapter 119A, provided,
91 however, that the board shall not revise, alter, amend or revoke any term or condition related to
92 payment of child support unless the parole permit itself is revoked.

93 SECTION 4. Section 133A of Chapter 127 is hereby amended by striking section
94 133A and inserting in place thereof the following:

95 Section 133A. Every prisoner who is serving a sentence for life in a correctional
96 institution of the commonwealth, except prisoners confined to the hospital at the Massachusetts
97 Correctional Institution, Bridgewater, except prisoners serving a life sentence for murder in the
98 first degree, and except prisoners serving more than one life sentence, shall be eligible for parole,
99 and the parole board shall, within 60 days before the expiration of twenty five years of such
100 sentence, conduct a public hearing before the full membership unless a member of the board is
101 determined to be unavailable as provided in this section. Notwithstanding the previous sentence,
102 the board may dispense with the 60 days hearing requirement and postpone a hearing until a
103 reasonable period after the expiration of twenty five years of such sentence, upon publishing a

104 written finding of the necessity for such suspension. For the purposes of this section, the term
105 unavailable shall mean that a board member has a conflict of interest to the extent that he cannot
106 render a fair and impartial decision or that the appearance of a board member would be unduly
107 burdensome because of illness, incapacitation, or other circumstance. Whether a member is
108 unavailable for the purposes of this section shall be determined by the chair. Board members
109 shall appear unless said chair determines them to be unavailable. Under no circumstances shall a
110 parole hearing proceed pursuant to this section unless a majority of the board is present at the
111 public hearing. Unless a board member is unavailable due to a conflict of interest, any board
112 member who was not present at the public hearing shall review the record of the public hearing
113 and shall vote in the matter.

114 Said board shall, at least 60 days before such hearing, notify in writing the
115 attorney general, the district attorney(s) in whose district(s) sentence was imposed, the chief of
116 police or head of the organized police department of the municipality(s) in which the crime was
117 committed and the victims or victims' next of kin of the crime for which sentence was imposed,
118 and said officials and victims may appear in person or be represented or make written
119 recommendations to the board. No hearing shall take place until the parole board has received
120 written confirmation of receipt of notice by the officials and victims or, in the case of victims,
121 written evidence that a reasonable effort was made to contact such victims or next of kin.

122 If the board is in compliance with the membership requirements of Section 4 of
123 Chapter 27, then after such hearing the parole board may, by a vote of 2/3 of its members, grant
124 to such prisoner a parole permit to be at liberty upon such terms and conditions as it may
125 prescribe for the unexpired term of his sentence. If such permit is not granted, the parole board
126 may, not more than once in each ensuing five year period, except upon a written finding that a

127 genuine change of circumstances necessitates an earlier hearing, consider carefully and
128 thoroughly the merits of each such case on the question of releasing such prisoner on parole, and
129 may, by a vote of 2/3 of its members, grant such parole permit.

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

135 SECTION 5. Section 133B of Chapter 127 is hereby repealed.

136 SECTION 6. Section 136 of Chapter 127 is hereby amended by adding after
137 “granted to such prisoner.” the following:

138 Notwithstanding the previous sentence, the board may dispense with the 60 days hearing
139 requirement and postpone a hearing until a reasonable period after the date when such prisoner
140 first becomes eligible for parole, upon publishing a written finding of the necessity for such
141 suspension.

142 SECTION 7. Section 25 of Chapter 279 is hereby amended by adding the
143 following at the end thereof:

144 The sentence imposed on such person shall not be reduced or suspended, nor shall any
145 person convicted under this section be eligible for probation, parole, work release or furlough or
146 receive any deduction from his sentence for good conduct.