

SENATE No. 00891

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 passage 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>First Essex and Middlesex</i>
<i>Richard T. Moore</i>	<i>Worcester and Norfolk</i>
<i>Michael R. Knapik</i>	<i>Second Hampden and Hampshire</i>
<i>James E. Timilty</i>	<i>Bristol and Norfolk</i>
<i>Richard J. Ross</i>	<i>Norfolk, Bristol, and Middlesex</i>
<i>Steven A. Baddour</i>	<i>First Essex</i>
<i>Jennifer L. Flanagan</i>	<i>Worcester and Middlesex</i>
<i>Michael F. Rush</i>	<i>Suffolk and Norfolk</i>
<i>John Hart, Jr.</i>	<i>First Suffolk</i>
<i>Linda Dean 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>Plymouth and Norfolk</i>
<i>Thomas P. Kennedy</i>	<i>Second Plymouth and Bristol</i>
<i>Michael O. Moore</i>	<i>Second Worcester</i>
<i>Thomas A. Golden, Jr.</i>	<i>16th Middlesex</i>
<i>Kevin Kuros</i>	<i>8th Worcester</i>
<i>Benjamin Swan</i>	<i>11th Hampden</i>
<i>Eileen M. Donoghue</i>	<i>First Middlesex</i>

SENATE No. 00891

By Mr. Tarr, petition (accompanied by bill, Senate, No. 891) of Swan, Puppolo, Levy and other members of the General Court for legislation to reform the parole system and protect public safety [Joint Committee on 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 investigation,
10 apprehension, or detention of individuals suspected or convicted of offenses against the criminal
11 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 Official
13 Edition is hereby amended by striking section 4 and inserting in place thereof the following:

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

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

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

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

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

55 The positions of chairman and each of the other members shall be classified in
56 accordance with section forty-five of chapter thirty and the salaries shall be determined in

57 accordance with section forty-six C of said chapter thirty. Members shall devote full time to their
58 duties, and no member shall hold any other salaried public office or engage in any activity which
59 is in violation of any law or which interferes or conflicts with his full time service as a member
60 during his incumbency.

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

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

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

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

92 Section 133A. Every prisoner who is serving a sentence for life in a correctional
93 institution of the commonwealth, except prisoners confined to the hospital at the Massachusetts
94 Correctional Institution, Bridgewater, except prisoners serving a life sentence for murder in the
95 first degree, and except prisoners serving more than one life sentence, shall be eligible for parole,
96 and the parole board shall, within 60 days before the expiration of twenty five years of such
97 sentence, conduct a public hearing before the full membership unless a member of the board is
98 determined to be unavailable as provided in this section. Notwithstanding the previous sentence,
99 the board may dispense with the 60 days hearing requirement and postpone a hearing until a
100 reasonable period after the expiration of twenty five years of such sentence, upon publishing a
101 written finding of the necessity for such suspension. For the purposes of this section, the term
102 unavailable shall mean that a board member has a conflict of interest to the extent that he cannot

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

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

119 If the board is in compliance with the membership requirements of Section 4 of Chapter
120 27, then after such hearing the parole board may, by a vote of 2/3 of its members, grant to such
121 prisoner a parole permit to be at liberty upon such terms and conditions as it may prescribe for
122 the unexpired term of his sentence. If such permit is not granted, the parole board may, not more
123 than once in each ensuing five year period, except upon a written finding that a genuine change
124 of circumstances necessitates an earlier hearing, consider carefully and thoroughly the merits of

125 each such case on the question of releasing such prisoner on parole, and may, by a vote of 2/3 of
126 its members, grant such parole permit.

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

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

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

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

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

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