

HOUSE No. 02173

The Commonwealth of Massachusetts

PRESENTED BY:

Colleen M. Garry

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 authorizing criteria for the compassionate release of terminally ill inmates in Massachusetts Correctional Institutions.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Jay Kaufman</i>	<i>15th Middlesex</i>
<i>Thomas P. Kennedy</i>	<i>Second Plymouth and Bristol</i>
<i>Frank I. Smizik</i>	<i>15th Norfolk</i>
<i>Louis L. Kafka</i>	<i>8th Norfolk</i>

HOUSE No. 02173

By Ms. Garry of Dracut, a petition (accompanied by bill, House, No. 2173) of Kafka and others relative to establishing criteria for the compassionate release of terminally ill inmates from correctional institutions Joint Committee on the Judiciary.

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

An Act authorizing criteria for the compassionate release of terminally ill inmates in Massachusetts Correctional Institutions.

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: Chapter 127 of the General Laws, as appearing in the 2008 Official Edition, is
- 2 hereby amended by inserting after section 117A, the following new section:
- 3 117B. Terminally Ill Inmates.
- 4 (a)Whenever the physician or director of medical care at a state correctional facility certifies that
- 5 any inmate held therein is determined to be terminally ill and expected to die while in custody, or
- 6 whenever the physician or director of medical care at a jail or house of correction certifies that
- 7 any inmate held therein is determined to be terminally ill, the Commissioner of the Department of
- 8 Correction or a Sheriff may petition the Court of jurisdiction which issued the inmate's original
- 9 and or subsequent term(s) of incarceration for an Order permitting the Compassionate Release of
- 10 the inmate.

11 (b)Compassionate Release shall mean release to a community confinement monitoring program
12 in which the terminally ill inmate continues to receive medically appropriate care outside the
13 correctional facility, jail or house of correction that is medically appropriate. Except as set out in
14 this section, the inmate shall live in a hospital or other appropriate care facility, such as a nursing
15 facility, residential care facility or facility that is a licensed hospice program pursuant to section
16 57d, chapter 111, MGL. As approved by the Commissioner of the Department of Correction or
17 a Sheriff, the inmate may receive hospice services from an entity licensed pursuant to said
18 section 57d, chapter 111 MGL and may live at home while receiving these services.

19 (c)The Commissioner of the Department of Correction, or a Sheriff, shall receive regular reports
20 on the condition and status of the otherwise terminally ill inmate from the inmate's direct-care
21 provider(s). If the Commissioner or a Sheriff determines that the inmate has failed to fully
22 comply with a request, or if at any time the physician or director of medical services at a state
23 correctional facility or a jail or house of correction subsequently determines that the inmate does
24 not have a terminal medical condition, or that care outside the jail is not medically appropriate,
25 the Commissioner or a Sheriff shall terminate the inmate's participation in the community
26 confinement monitoring program and order the return of the inmate to the releasing facility

27 (d)Effective date: This section shall take effect on July 01, 2011