

HOUSE No. 864

The Commonwealth of Massachusetts

PRESENTED BY:

Bradley H. Jones, Jr.

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 parole supervision for life.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Bradley H. Jones, Jr.</i>	<i>20th Middlesex</i>
<i>Susan Williams Gifford</i>	<i>2nd Plymouth</i>
<i>Paul K. Frost</i>	<i>7th Worcester</i>
<i>Todd M. Smola</i>	<i>1st Hampden</i>
<i>F. Jay Barrows</i>	<i>1st Bristol</i>
<i>Sheila C. Harrington</i>	<i>1st Middlesex</i>
<i>Steven S. Howitt</i>	<i>4th Bristol</i>
<i>Nicholas A. Boldyga</i>	<i>3rd Hampden</i>

HOUSE No. 864

By Mr. Jones of North Reading, a petition (accompanied by bill, House, No. 864) of Bradley H. Jones, Jr. and others relative to parole supervision for life. The Judiciary.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 1412 OF 2015-2016.]

The Commonwealth of Massachusetts

**In the One Hundred and Ninetieth General Court
(2017-2018)**

An Act relative to parole supervision for life.

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 2014 Official Edition,
2 is hereby amended by striking out section 133D and inserting in place thereof the following
3 section:-

4 Section 133D. (a) A person upon whom a sentence of community supervision for life has
5 been imposed under section 45 of chapter 265 shall be subject to the jurisdiction and supervision
6 of the parole board for the term of such sentence. The court, at a sentencing hearing at which a
7 sentence of community supervision for life is given, shall explicitly state the consequences of
8 violating community supervision for life as set forth in subsection (c).

9 Except as otherwise provided in this section, a person serving such sentence of
10 community supervision for life shall be subject to the provisions of law governing parole. The

11 parole board shall impose terms and conditions for such sentence within 30 days prior to the
12 commencement of community supervision. Such terms and conditions may be revised, altered
13 and amended by the parole board at any time.

14 A person under community supervision for life shall be under the jurisdiction,
15 supervision and control of the parole board for life. The board is authorized to establish such
16 conditions of community supervision for life, on an individual basis, as may be necessary to
17 ensure public safety. Such conditions may include protecting the public from such person
18 committing a sex offense or kidnapping as well as promoting the rehabilitation of such person.
19 Such conditions shall include sex offender treatment with a recognized treatment provider in the
20 field for as long as the board deems necessary, and compliance with the requirements of sections
21 178C to 178P, inclusive, of chapter 6.

22 The board is authorized to impose and enforce a supervision and rehabilitation fee upon a
23 person on community supervision. To the extent possible, without reducing a parolee's income
24 to such an extent that the potential for successful community reintegration is diminished, the
25 board shall set such fee in an amount that will substantially defray the cost of the community
26 supervision program.

27 The board shall also establish a fee waiver procedure for hardship and indigency cases.

28 (b)(1) Notwithstanding the board's authority to issue a certificate of termination of
29 sentence under section 130A, after a person sentenced to community supervision has been on
30 such supervision for a period of 15 years, such person may petition the board for termination of
31 community supervision. Such termination may only occur by a majority vote of all the members.
32 Upon receiving such a petition, the board shall, within 60 days, conduct a hearing before the full

33 membership. At least 30 days prior to a hearing on the petition, the board shall cause a criminal
34 history check to be conducted and notify in writing the victims of the crime for which the
35 sentence was imposed, the attorney general, the district attorney in whose district the sentence
36 was imposed, the chief of police or head of the organized police department of the municipality
37 in which the crime was committed and the chief of police or head of the organized police
38 department of the municipality in which the parolee resides, of the person's petition for release
39 from supervision. Such officials and victims shall be provided the opportunity to respond to such
40 petition. Such officials and victims may appear in person or be represented or make written
41 recommendations to the board, but failure of any or all of such officials to appear or make
42 recommendations shall not delay the termination procedure.

43 If a victim is deceased at the time the hearing on termination of said sentence is
44 scheduled, the deceased victim may be represented by his relatives in the following order:
45 mother, father, spouse, child, grandchild, brother or sister, niece or nephew.

46 (2) Prior to the hearing, the petitioner shall be examined, personally interviewed and
47 evaluated by a psychiatrist or licensed psychologist who is an expert in the field of sex offender
48 treatment and who is approved by the board. The psychiatrist or psychologist shall file with the
49 board written reports of his examinations and diagnosis and his recommendation for the
50 disposition of such petitioner. The petitioner's treatment while on community supervision shall
51 be examined and considered by such psychiatrist or psychologist in such recommendation. Such
52 reports shall be admissible in a hearing conducted pursuant to this section. If such petitioner
53 refuses to be personally interviewed by such psychiatrist or psychologist, without good cause,
54 such petitioner shall be deemed to have waived his right to a hearing on the petition and the
55 petition shall be dismissed by the board. The cost of such examination and evaluation shall be

56 the responsibility of the petitioner; provided, however, that the board shall establish procedures
57 for cases of hardship or indigency.

58 (3) At the hearing, the board shall call such witnesses as it deems necessary, including the
59 examining psychiatrist or psychologist, the appropriate district attorney, the attorney general, the
60 police chief or the victims of the crime or such crime victims' family members, as the board
61 deems necessary. The petitioner may offer such witnesses and other proof at the hearing as is
62 relevant to the petition.

63 (4) The board shall terminate community supervision for life if the petitioner
64 demonstrates, by clear and convincing evidence, that he has not committed a sex offense or a
65 kidnapping since his conviction, that he is not likely to pose a threat to the safety of others and
66 that the public interest is not served by further community supervision over the petitioner.

67 (5) If a petition for release from supervision is denied by the board, such petitioner may
68 not file another such petition for a period of 3 years.

69 (c) Upon a finding by the court that a person sentenced to community supervision for life
70 violated a condition thereof set by the parole board pursuant to subsection (a), the court shall
71 order the person to a term of imprisonment in a house of correction as follows:

72 (i) Upon a first violation, the court shall order the person to a term of imprisonment in a
73 house of correction for up to 30 days.

74 (ii) Upon a second violation, the court shall order the person to a term of imprisonment in
75 a house of correction for up to 180 days.

76 (iii) Upon a third or subsequent violation, the court shall order the person to a term of
77 imprisonment in the house of correction for up to 1 year.

78 (iv) If such violation otherwise constitutes a criminal offense, the court shall order the
79 defendant to serve the term of imprisonment imposed under this subsection and any other
80 sentence imposed for such criminal offense consecutively.

81 No penalty imposed for a violation of community supervision for life shall be discharged.

82 (d) A court shall order a term of imprisonment pursuant to subsection (c) if it determines
83 by a preponderance of the evidence that a person sentenced to community supervision for life
84 violated a condition set by the parole board. Such a determination shall only be made after a
85 notice of and opportunity to be heard in open court is provided to the alleged violator. The
86 alleged violator may present evidence to dispute the claim and shall be entitled to the assistance
87 of counsel, including the appointment of counsel for persons determined by the court to be
88 indigent.

89 If an alleged violation is the result of an otherwise alleged criminal offense, the court may
90 hear evidence from the district attorney or parole board demonstrating that the defendant violated
91 a condition set by the parole board pursuant to subsection (a) in a proceeding before the court for
92 the otherwise alleged criminal offense. As a result of the evidence presented at such proceeding,
93 the court shall order a term of imprisonment pursuant to subsection (c) if it determines by a
94 preponderance of the evidence that a person sentenced to community supervision for life violated
95 a condition set by the parole board; provided, however, the court shall not make such
96 determination unless notice of and an opportunity to be heard in open court were provided to the
97 defendant.

98 (e) If the parole board has probable cause to believe that a person sentenced to
99 community supervision for life pursuant to section 45 of chapter 265 violated a condition set by
100 the parole board pursuant to subsection (a), it may: (i) order the arrest of the person by any
101 officer qualified to serve civil or criminal process in any county; or (ii) cause a warrant to be
102 issued for temporary custody of the parolee for a period not to exceed 72 hours or until the next
103 sitting of the court, during which period the parole board shall arrange for the appearance of the
104 person before the court. The court shall determine if a violation occurred in accordance with the
105 procedures set forth in subsection (d) or make a determination as to probable cause. If the court
106 finds that probable cause exists, the court shall determine whether the person should be held in
107 custody until a final determination is made pursuant to subsection (d). A warrant issued pursuant
108 to this subsection shall constitute sufficient authority to a parole officer and to the
109 superintendent, jailer or any other person in charge of any jail, house of correction, lockup, or
110 place of detention to whom it is exhibited, to hold in temporary custody the person detained
111 pursuant thereto.