

H O U S E No. _____

THE COMMONWEALTH OF MASSACHUSETTS

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In The Year Two Thousand Fourteen

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"An Act For The Medical Release Of Prisoners"

Chapter 127 of the Massachusetts General Laws is hereby amended by inserting, after section 119, the following section:

119A. (1) The Commissioner of the Department of Correction (hereafter Commissioner) may grant a prisoner held in a state correctional facility a medical release upon the Commissioner's designation that:

(a) if the prisoner is released, he will live and remain at liberty without violating the law or being a danger to the safety of any person or the community and his release will not be incompatible with the welfare of society; and

(b) there exist any of the following extraordinary and compelling reasons that warrant such release:

(i) the prisoner is suffering from a terminal illness;

(ii) the prisoner is suffering from a permanent physical or medical condition, or is experiencing deteriorating physical or mental health because of the aging process, that substantially diminishes the ability of the prisoner to provide self-care within the environment of a correctional facility for which conventional treatment promises no substantial improvement;

(iii) the prisoner is greatly endangered by confinement or confinement will substantially shorten the prisoner's life;

(iv) there exists in the prisoner's case an extraordinary and compelling reason other than, or in combination with, the reasons described herein in subdivisions (i), (ii), and (iii).

(c) Rehabilitation of the prisoner is not, by itself, an extraordinary and compelling reason for purpose of medical release under subdivision (1)(b).

(2) The request for medical release may be initiated by the primary care physician (hereafter PCP) or the superintendent of a state correctional facility, or the prisoner or his/her legal representative. Upon such a request:

(a) the PCP will examine the prisoner and assemble the medical record, including existing pertinent assessments, if any, by medical consultants and specialists;

(b) the PCP will summarize and describe the medical condition and prognosis in layman's terms, or to a reasonable degree of medical certainty, and document his/her findings in the prisoner's medical record;

(c) the PCP will forward the record so compiled for consideration of medical release to the Commissioner.

(3) The authority to grant a medical release rests within the discretion of the Commissioner. No prisoner has the right to medical release or to an additional medical evaluation to determine eligibility for such release. The Commissioner shall adopt policies and procedures necessary to implement the medical release of the prisoner in a timely and efficient manner.

(4) In the event that the Commissioner determines that the prisoner is not eligible for medical release, the prisoner (or his/her legal representative) may appeal that decision to the Undersecretary For Criminal Justice in the Executive Office of Public Safety for reconsideration.

(5) Except as otherwise provided in this section, a person granted medical release shall be subject to the laws governing parole as if such a person were at parolee. The parole board shall impose terms and conditions for such release within 30 days before the commencement of the release. The parole board may revise, alter or amend such terms and conditions at any time.

(6) A person granted medical release under this section shall be

under the jurisdiction, supervision, and control of the parole board in the same manner as a person under parole supervision. The parole board may establish conditions of release, on an individual basis, to ensure public safety. A person granted medical release who violates a condition of parole supervision shall be subject to section 149.

(7) Notwithstanding any general law or special law to the contrary, no physician or employer of a physician providing medical diagnosis pursuant to this section shall be held liable, either as an institution or personally, for issuance of a medical diagnosis under this section, if the diagnosis was made in good faith. All such parties, if they have operated in good faith, shall be totally immune from civil or criminal liability as a result of fulfilling this section.

Drafted By:

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