

HOUSE No. 1412

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>Bradford R. Hill</i>	<i>4th Essex</i>
<i>Elizabeth A. Poirier</i>	<i>14th Bristol</i>
<i>Susan Williams Gifford</i>	<i>2nd Plymouth</i>
<i>Todd M. Smola</i>	<i>1st Hampden</i>
<i>Paul K. Frost</i>	<i>7th Worcester</i>
<i>F. Jay Barrows</i>	<i>1st Bristol</i>
<i>Sheila C. Harrington</i>	<i>1st Middlesex</i>
<i>Shawn Dooley</i>	<i>9th Norfolk</i>
<i>David K. Muradian, Jr.</i>	<i>9th Worcester</i>
<i>Kimberly N. Ferguson</i>	<i>1st Worcester</i>

HOUSE No. 1412

By Mr. Jones of North Reading, a petition (accompanied by bill, House, No. 1412) of Bradley H. Jones, Jr. and others relative to parole supervision for life. The Judiciary.

The Commonwealth of Massachusetts

In the One Hundred and Eighty-Ninth General Court
(2015-2016)

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 is hereby amended by striking out section
2 133D and inserting in place thereof the following section:-

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

8 Except as otherwise provided in this section, a person serving such sentence of
9 community supervision for life shall be subject to the provisions of law governing parole. The
10 parole board shall impose terms and conditions for such sentence within 30 days prior to the
11 commencement of community supervision. Such terms and conditions may be revised, altered
12 and amended by the parole board at any time.

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

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

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

27 (b)(1) Notwithstanding the board's authority to issue a certificate of termination of
28 sentence under section 130A, after a person sentenced to community supervision has been on
29 such supervision for a period of 15 years, such person may petition the board for termination of
30 community supervision. Such termination may only occur by a majority vote of all the members.
31 Upon receiving such a petition, the board shall, within 60 days, conduct a hearing before the full
32 membership. At least 30 days prior to a hearing on the petition, the board shall cause a criminal
33 history check to be conducted and notify in writing the victims of the crime for which the
34 sentence was imposed, the attorney general, the district attorney in whose district the sentence

35 was imposed, the chief of police or head of the organized police department of the municipality
36 in which the crime was committed and the chief of police or head of the organized police
37 department of the municipality in which the parolee resides, of the person's petition for release
38 from supervision. Such officials and victims shall be provided the opportunity to respond to such
39 petition. Such officials and victims may appear in person or be represented or make written
40 recommendations to the board, but failure of any or all of such officials to appear or make
41 recommendations shall not delay the termination procedure.

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

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

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

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

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

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

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

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

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

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

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

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

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

97 (e) If the parole board has probable cause to believe that a person sentenced to
98 community supervision for life pursuant to section 45 of chapter 265 violated a condition set by

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