

By Mr. Caron of Springfield, petition of Paul E. Caron relative to providing for the issuance of medical parole permits to certain prisoners. Public Safety.

The Commonwealth of Massachusetts

In the Year Two Thousand and One.

AN ACT RELATIVE TO THE ISSUANCE OF MEDICAL PAROLE PERMITS TO CERTAIN PRISONERS.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 Chapter 127 of the General Laws is hereby amended by
2 inserting after section 130A the following section:—
3 Section 130B. A medical parole permit may be granted at any
4 time by the parole board to a prisoner, excepting a prisoner
5 serving a life sentence for murder in the first degree pursuant to
6 section one of chapter two hundred and sixty-five, or serving a
7 sex offender sentence for indecent assault and battery on a child
8 under fourteen under the provisions of section thirteen B of
9 chapter two hundred and sixty-five: indecent assault and battery
10 on a mentally retarded person under the provisions of section thir-
11 teen F of chapter two hundred and sixty-five; indecent assault and
12 battery on a person who has obtained the age of fourteen under the
13 provisions of section thirteen H of chapter two hundred and sixty-
14 five; rape under the provisions of section twenty-two of chapter
15 two hundred and sixty-five; rape of a child under sixteen with
16 force under the provisions of section twenty-two A of chapter two
17 hundred and sixty-five; rape and abuse of a child under the provi-
18 sions of section twenty-three of chapter two hundred and sixty-
19 five; assault with intent to commit rape under the provisions of
20 section twenty-four of chapter two hundred and sixty-five; assault
21 of a child under sixteen with intent to commit rape pursuant to
22 section twenty-four B of chapter two hundred and sixty-five; kid-
23 napping of a child under the age of sixteen under the provisions of

24 section twenty-six of chapter two hundred and sixty-five; and
25 excepting a prisoner serving a sentence for an attempt to commit a
26 violation of any of those sections pursuant to section six of
27 chapter two hundred and seventy-four, or a like violation of the
28 law of another state, who is suffering from an irreversible terminal
29 condition, disease or syndrome, and who is so debilitated or inca-
30 pacitated that such prisoner is physically incapable of presenting a
31 threat to society and is facing imminent death. For the purpose of
32 this section, imminent death shall mean that, according to the
33 medical diagnoses provided in accordance with the provisions of
34 this section, the prisoner is expected to die within six months or
35 less of the application for a medical parole. Such release may be
36 granted if said parole board is of the opinion, in light of the pris-
37 oner's medical condition and considering the seriousness of the
38 crime for which the prisoner is incarcerated, that if such prisoner
39 who is facing imminent death is released, he will remain at liberty
40 without violating the law, and that his release is not incompatible
41 with the welfare of society. The parole board shall promulgate
42 rules and regulations necessary to develop and implement a med-
43 ical parole permit process for the granting of medical parole per-
44 mits, including procedures for revocation of medical parole based
45 upon changed circumstances.

46 An application for a medical parole permit shall be initiated by
47 the prisoner, or a person acting on his behalf, and shall be sub-
48 mitted as required by regulations promulgated by the parole board
49 in accordance with the provisions of this section. An appropriate
50 medical release shall be submitted with such application, which
51 shall release the prisoner's medical records and physicians' med-
52 ical diagnoses to all parties participating in the medical parole
53 application process, including but not limited to the victim, the
54 victim's family or victim's representative and the police, and
55 which shall also provide written consent to release the nature of
56 the prisoner's medical condition for which medical parole is
57 sought to the parole board for inclusion in the record of decision
58 granting medical parole which is a public record of the parole
59 board. Such medical information shall be held confidential by
60 anyone notified pursuant to the medical parole process, except
61 that the parole board shall include the nature of the medical condi-
62 tions for which medical parole is granted in the record of decision
63 which is a public record of the parole board.

64 Upon submission of an application for a medical parole, the
65 parole board shall within fifteen days obtain two physicians' med-
66 ical diagnoses by a department of correction physician, a physi-
67 cian under contract with said department of correction, a Lemuel
68 Shattuck Hospital physician, or other physician providing medical
69 services to the prisoner applicant, which diagnoses shall include a
70 description of the irreversible, terminal condition, disease or syn-
71 drome suffered by the prisoner, a description of the extent of the
72 prisoner's physical or mental incapacity and the continuing nature
73 of the prisoner's physical or mental incapacity, and a prognosis
74 that the prisoner will not recover from such terminal condition,
75 disease or syndrome and will die within six months or less.

76 Upon submission of an application for a medical parole, the
77 parole board shall notify in writing the victims of the crime for
78 which said sentence was imposed, and said victims may review
79 the application and make recommendations to the board. If a
80 victim is deceased at the time of submission of an application for
81 a medical parole, the deceased victim may be represented by his
82 relative in the following order: mother, father, spouse, child,
83 grandchild, brother or sister, niece or nephew.

84 The department of correction and the county sheriffs shall,
85 expeditiously and, in any case, within fifteen days of an applica-
86 tion for a medical parole permit, furnish information as requested
87 by the parole board in connection with an application for a med-
88 ical parole permit. Said parole board shall determine, within thirty
89 days of the application by the prisoner or a person acting on his
90 behalf, whether a medical parole permit shall be granted.

91 A prisoner to whom a medical parole permit is granted shall be
92 released on parole with an approved care and treatment plan upon
93 such terms and conditions as the parole board shall prescribe, but
94 shall remain, while thus on parole, subject to the jurisdiction of
95 said parole board until the expiration of the term of imprisonment
96 to which he has been sentenced or until the date which has been
97 determined by deductions from the maximum term of his sen-
98 tence. The medical parole may be revoked based upon changed
99 circumstances pursuant to procedures set forth in regulations pro-
100 mulgated by the parole board. Upon approval of a medical parole,
101 the parole board shall in all cases notify the police department in
102 the city or town in which the offense occurred and the police

103 department in the city or town in which the prisoner intends to
104 reside upon release that said prisoner is being released on a med-
105 ical parole.

106 Notwithstanding the provisions of any general or special law or
107 rule or regulation to the contrary, no physician or employer of a
108 physician providing a medical diagnosis pursuant to this section
109 shall be held jointly or severally liable, either as an institution or
110 personally, for issuance of a medical diagnosis pursuant to the
111 requirements of this section, if such diagnosis was made in good
112 faith. All such persons acting in good faith shall be afforded
113 immunity from civil or criminal prosecution as a result of their
114 compliance with the provisions of this section or the regulations
115 promulgated hereunder.