

By Mr. Chiocca of Bridgewater, petition of Allan R. Chiocca and Arthur Joseph Lewis, Jr., for legislation to further define prison furlough eligibility. Human Services and Elderly Affairs.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Eighty-Two.

AN ACT FURTHER DEFINING PRISON FURLOUGH ELIGIBILITY.

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 striking out section 90A, as most recently amended by sec-
3 tion 18 of chapter 777 of the acts of 1972, and inserting in
4 place thereof the following section: —

5 *Section 90A.* The commissioner may extend the limits of
6 the place of confinement of a responsible and deserving
7 committed offender sentenced to or housed in any state cor-
8 rectional facility by authorizing such committed offender
9 under prescribed conditions to be away from such correctional
10 facility but within the commonwealth for a specified period
11 of time, not to exceed fourteen days during any twelve-month
12 period nor more than seven days at any one time; provided,
13 that no committed offender who is serving an uncommuted
14 life sentence, or a sentence to a state prison for violation of
15 sections thirteen, thirteen B, fourteen, fifteen, fifteen A,
16 fifteen B, sixteen, seventeen, eighteen, eighteen A, nineteen,
17 twenty, twenty-one, twenty-two, twenty-two A, twenty-three,
18 twenty-four, twenty-four B, twenty-five or twenty-six of
19 chapter two hundred and sixty-five, or sections seventeen,
20 thirty-four, thirty-five or thirty-five A of chapter two hundred
21 and seventy-two, or for violations relative to controlled sub-
22 stances in class A, class B, class C, as specified in section
23 thirty-two of chapter ninety-four C, or for an attempt to
24 commit any crime referred to in said sections shall be eligible
25 for temporary release under the provisions of this section

26 except after such committed offender has served that portion
27 of his sentence required by this act and on the recommenda-
28 tion of the superintendent on behalf of a particular committed
29 offender and upon the approval of the commissioner with the
30 advice and consent of the special furlough panel. The adminis-
31 trator of a county correctional facility may grant like authori-
32 zation to a committed offender sentenced to and housed in such
33 a facility.

34 Extension of the limits of place of confinement may be
35 granted for any of the following purposes: (a) to attend the
36 funeral of a relative; (b) to visit a critically ill relative; (c)
37 to obtain medical, psychiatric, psychological or other social
38 services when adequate services are not available at the
39 facility and cannot be obtained by temporary placement in a
40 hospital under sections one hundred and seventeen, one hun-
41 dred and seventeen A, and one hundred and eighteen; (d) to
42 contact prospective employers; (e) to secure a suitable resi-
43 dence for use upon release on parole or discharge; (f) for any
44 other reason consistent with the reintegration of a committed
45 offender into the community. For the purposes of this section
46 the word "relative" shall mean the committed offender's
47 father, mother, child, brother, sister, husband or wife and, if
48 his grandparent, uncle, aunt or foster parent acted as his
49 parent in rearing such committed offender, it shall also mean
50 such grandparent, uncle, aunt or foster parent.

51 Before any committed offender may be considered for par-
52 ticipation in this program, said committed offender shall first
53 demonstrate that he is responsible and deserving of this
54 opportunity. It shall be required that a committed offender
55 requesting a furlough shall, unless precluded by medical rea-
56 son, be an active regular participant on a work assignment or
57 in a program approved by the commissioner or the adminis-
58 trator of a county correctional facility.

59 The commissioner shall establish in each state correctional
60 facility one or more furlough committees. Said committee
61 shall consist of five correctional staff members appointed by
62 the superintendent of that facility, at least two of whom shall
63 be correctional officers, who shall recommend to the super-
64 intendent and commissioner action of approval, rejection or

65 deferral of a furlough application. The commissioner shall
66 cause to be posted in each correctional facility the names of
67 the furlough committee.

68 There shall be a special furlough panel consisting of three
69 members, one member of the department of correction who
70 shall serve as chairperson designated by the commissioner;
71 one member of the parole board; the commissioner of public
72 safety or his designate, provided that said designee is an
73 employee of the department of public safety. The special fur-
74 lough panel shall be responsible for the approval of the
75 initial furlough granted to committed offenders and may re-
76 view and reject the furlough privilege of committed offenders
77 who are serving uncommuted life sentences and those commit-
78 ted offenders in a state correctional facility for violation of sec-
79 tions thirteen, thirteen B, fourteen, fifteen, fifteen A, fifteen
80 B, sixteen, seventeen, eighteen, eighteen A, nineteen, twenty,
81 twenty-one, twenty-two, twenty-two A, twenty-three, twenty-
82 four, twenty-four B, twenty-five or twenty-six of chapter two
83 hundred and sixty-five, or sections seventeen, thirty-four,
84 thirty-five or thirty-five A of chapter two hundred and
85 seventy-two or for violations relative to controlled substances
86 in class A, class B, class C, as specified in section thirty-two
87 of chapter ninety-four C, of for an attempt to commit any
88 crime referred to in said sections and who have received
89 approval from the commissioner. A decision by the special
90 furlough panel shall require a majority vote of a quorum of
91 the panel; said quorum shall comprise not less than three
92 members. The findings and deliberations of the panel shall be
93 maintained as a confidential record and the provisions of
94 section eleven A of chapter thirty A shall not apply.

95 No inmate of a state correctional facility may participate
96 in a furlough program until qualified under the eligibility
97 provisions of this section.

98 A committed offender shall be eligible to be considered for
99 a furlough under the following conditions: (a) committed
100 offenders serving a life sentence for first-degree murder shall
101 not be eligible for participation in a furlough program. The
102 inmate would become eligible if the life sentence were to be
103 commuted by the governor and upon compliance with all other

104 provisions of this section; (b) committed offenders serving a
105 life sentence for second-degree murder of other crimes shall
106 be eligible to apply for or to receive a furlough only upon
107 serving twelve years of their life sentence. The inmate would
108 become eligible if the life sentence were to be commuted by
109 the governor and upon compliance with all other provisions of
110 this section; (c) repeat offenders, those with a prior commit-
111 ment to a correctional institution or house of correction of
112 the Commonwealth, another state or the Federal prison
113 system, must be within four months of the time required to be
114 eligible for parole before becoming eligible to apply or receive
115 a furlough; (d) committed offenders with a from and after
116 sentence must be serving the time required on their second
117 sentence before they are eligible for participation in a furlough
118 program and in compliance with all other provisions of this
119 section; (e) committed offenders, with no prior commit-
120 ment to a correction institution or house of correction of the
121 Commonwealth, another state or the Federal prison system,
122 of serious, violent crimes, violations of sections thirteen,
123 thirteen B, fourteen, fifteen, fifteen A, fifteen B, sixteen,
124 seventeen, eighteen, eighteen A, nineteen, twenty, twenty-one,
125 twenty-two, twenty-two A, twenty-three, twenty-four, twenty-
126 five, or twenty-six of chapter two hundred and sixty-five or
127 sections seventeen, thirty-four, thirty-five, or thirty-five A of
128 chapter two hundred and seventy-two, and for violations
129 relative to controlled substances in class A, class B, class C,
130 as specified in section thirty-two of chapter ninety-four C, or
131 any violation for which if held under a sentence containing a
132 minimum sentence the offender would be eligible to receive
133 parole after serving two-thirds of that minimum sentence,
134 shall be required to serve fifty per cent of the time required
135 to be eligible for a parole before becoming eligible to apply
136 or receive a furlough; and (f) all other committed offenders,
137 with no prior commitments to a correctional institution or
138 house of correction, sentenced for any violaton for which if
139 held under a sentence containing a minimum sentence, the
140 offender would be eligible to receive a parole after serving
141 one-third of that minimum sentence, shall be required to serve
142 twenty per cent of the time required to be eligible for parole

143 before becoming eligible to apply or receive a furlough.

144 At least ten days prior to the release of a committed
145 offender on an approved furlough, the commissioner, or his
146 designee, shall notify the office of the chief of police of the
147 community which is the approved destination of the fur-
148 loughed individual and the commissioner of public safety, the
149 chief of police of the community where the crime or crimes
150 was committed, the district attorney from the county or
151 counties where the crime or crimes was committed, the pre-
152 siding judge or the chief justice of the superior court on a
153 form approved by the commissioner.

154 The superintendent of each state correctional facility is
155 hereby authorized to arrange for supporting social services
156 at no cost to the commonwealth for any inmate participating
157 in a furlough program under the provisions of this section,
158 and to supply the inmate and his immediate family, or the
159 persons with whom he will be residing while on furlough,
160 with the names and telephone numbers of two responsible
161 persons designated by the superintendent of such institution
162 who can be contacted for emergency assistance while the
163 inmate is on furlough.

164 In the event of emergency furloughs, emergency furloughs
165 under escort, or in any other case where time does not
166 permit, notification shall be made by telephone and followed
167 by written notice on a form approved by the commissioner.

168 A periodic review shall be made when furlough considera-
169 tion is denied.

170 An offender sentenced or committed to any facility or insti-
171 tution pursuant to chapter one hundred and twenty-three A
172 shall not be eligible for an unescorted furlough until that
173 offender has been declared to be not a sexually dangerous
174 person.

175 Any committed offender may be considered for an emer-
176 gency escorted furlough; (a) to attend the funeral of a rela-
177 tive; (b) to visit a critically ill relative; or (c) to obtain
178 medical, psychiatric, psychological or other social services
179 when adequate services are not available at the facility and
180 cannot be obtained by temporary placement in a hospital
181 under sections one hundred and seventeen, one hundred and

182 seventeen A and one hundred and eighteen of chapter one
183 hundred and twenty-seven provided that notice is given by
184 telephone to the office of the chief of police in the city or
185 town which is the approved destination of the furloughed indi-
186 vidual. An inmate who is eligible for a furlough under all
187 requirements of this section may apply for and receive an
188 emergency furlough for those reasons expressly stated in
189 clauses (a) or (b) of this paragraph.

190 If any inmate participating in a furlough program under
191 the provisions of this section fails to return to the state or
192 county correctional facility at his designated time, it shall
193 require the filing by the superintendent of a disciplinary
194 report for being out of place, regardless of prior notification
195 to the facility by the inmate of his reasons for being late.

196 Any inmate participating in a furlough program under the
197 provisions of this section who fails to return to the state or
198 county correctional facility within two hours of his designated
199 time of return, shall be considered an escapee regardless of
200 prior notification to the facility by the inmate of his reasons
201 for being late. The superintendent or his designee shall notify,
202 forthwith, appropriate law enforcement officials of the escape.
203 The escapee shall be subject to all disciplinary action of the
204 department of correction and judicial action pursuant to sec-
205 tion sixteen of chapter two hundred and sixty-eight. Any
206 inmate participating in a furlough program under the pro-
207 visions of this section who fails to return to the state or
208 county correctional facility, or in an emergency any other
209 official law enforcement body, within six hours of his desig-
210 nated time of return, shall upon conviction of escape be
211 sentenced to a from and after sentence at a state correctional
212 facility for a term of not less than three years and not more
213 than ten years and all deductions from the sentence or sen-
214 tences he was serving at the time of such escape, authorized
215 by section one hundred and twenty-nine of chapter one hun-
216 dred and twenty-seven, shall be forfeited, but said inmate
217 shall be entitled to a deduction of sentence on any sentence
218 imposed for said escape.

219 When apprehended or returned to the jurisdiction of the
220 department of correction, said escapee shall not be eligible for

221 any furlough or release program for the remainder of the
222 sentence for which he was committed, provided, however,
223 that when a furloughed inmate, while on return to the cor-
224 rectional facility within the time limit granted, is injured or
225 delayed by circumstances beyond his control, the furlough
226 board committee shall cause the incident to be investigated
227 and they shall determine if the delay was so warranted, and
228 provided, further, that, if such delay is found to be warranted
229 such inmate shall continue to be eligible for furlough.

230 In the absence of escape, a committed offender shall, during
231 his absence from a correctional facility under this section, be
232 considered as in the custody of the correctional facility and
233 the time of such absence shall be considered as part of the
234 term of sentence.

235 A person away from a correctional facility pursuant to this
236 section may be accompanied by an employee of the depart-
237 ment, in the discretion of the commissioner, or an officer of
238 a county correctional facility, in the discretion of the adminis-
239 trator.

