

By Mr. Galvin of Canton, petition of William C. Galvin for legislation to establish community parole supervision for life for certain sex offenders. Public Safety.

The Commonwealth of Massachusetts

In the Year Two Thousand and Three.

AN ACT ESTABLISHING COMMUNITY PAROLE SUPERVISION FOR LIFE FOR CERTAIN SEX OFFENDERS.

*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  
2 the 1996 Official Edition, is hereby amended by inserting, after  
3 section 133B, the following new section:—

4 Section 133C. (1) Notwithstanding any general or special law  
5 to the contrary, a person upon whom a sentence of community  
6 parole supervision for life has been imposed under the provisions  
7 of section 45 of chapter 265, shall be subject to the jurisdiction of  
8 the parole board for the entire term of such sentence.

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

16 A person under community parole supervision for life shall be  
17 under the jurisdiction, supervision and control of the Parole Board  
18 in the same manner as a person under parole supervision. The  
19 board is authorized on an individual basis to establish such condi-  
20 tions of community parole supervision for life as may be neces-  
21 sary to ensure public safety, which may include protecting the  
22 public from such person committing a sex offense or kidnapping  
23 as well as promoting the rehabilitation of such person. Such con-

24 ditions shall include sex offender treatment with a recognized  
25 treatment provider in the field for as long as the board deems  
26 necessary, and compliance with the requirements of sections 178C  
27 to 178O of chapter 6.

28 The board is authorized to impose and enforce a supervision  
29 and rehabilitation fee upon a person on community parole supervi-  
30 sion. To the extent possible the board shall set such fee in an  
31 amount that will substantially defray the cost of the community  
32 parole supervision program.

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

35 (2)(a) Notwithstanding the board's authority to issue a certifi-  
36 cate of termination of sentence under section 130A, after a person  
37 sentenced to community parole supervision has been on such  
38 supervision for a period of fifteen years, such person may petition  
39 the board for termination of community parole supervision. Such  
40 termination may only occur by a majority vote of all the members.  
41 Upon receiving such a petition, the board shall, within 60 days,  
42 conduct a hearing before the full membership. At least 30 days  
43 prior to a hearing on the petition, the board shall cause a criminal  
44 history check to be conducted, and notify in writing the victims of  
45 the crime for which the sentence was imposed, the attorney  
46 general, the district attorney in whose district the sentence was  
47 imposed, and the chief of police or head of the organized police  
48 department of the municipality in which the crime was committed,  
49 and the chief of police or head of the organized police department  
50 of the municipality in which the parolee resides, of the person's  
51 petition for release from supervision. Said officials and victims  
52 shall be provided the opportunity to respond to such petition. Said  
53 officials and victims may appear in person or be represented or  
54 make written recommendations to the board, but failure of any or  
55 all of said officials to appear or make recommendations shall not  
56 delay the termination procedure.

57 If a victim is deceased at the time the hearing is scheduled on  
58 termination of said sentence, the deceased victim may be repre-  
59 sented by his relatives in the following order: mother, father,  
60 spouse, child, grandchild, brother or sister, niece or nephew.

61 (b) Prior to the hearing, the petitioner shall be examined, per-  
62 sonally interviewed and evaluated by a psychiatrist or licensed  
63 psychologist, who is an expert in the field of sex offender treat-

64 ment and approved by the board. Said psychiatrist or psychologist  
65 shall file with the board written reports of their examinations and  
66 diagnoses, and their recommendation for the disposition of such  
67 person. The petitioner's treatment while on community parole  
68 supervision shall be examined and considered by said psychiatrist  
69 or psychologist in said recommendation. Said reports shall be  
70 admissible in a hearing pursuant to this section. If such person  
71 refuses, without good cause, to be personally interviewed by said  
72 psychiatrist or psychologist, such person shall be deemed to have  
73 waived his right to a hearing on the petition and the petition shall  
74 be dismissed by the board. The cost of such examination and  
75 evaluation shall be the responsibility of the person petitioning for  
76 release from supervision provided, however, that procedures shall  
77 be established for cases of hardship or indigency.

78 (c) At the hearing, the board shall call such witnesses as it deems  
79 necessary, including the examining psychiatrist or psychologist,  
80 the district attorney, the attorney general, the police chief or the  
81 victims of the crime or his family member, as the board deems  
82 necessary. The petitioner may offer such witnesses and other  
83 proof at the hearing as is relevant to the petition.

84 (d) The board shall terminate community parole supervision for  
85 life if the petitioner demonstrates, by clear and convincing evi-  
86 dence, that he has not committed a sex offense or kidnapping  
87 since his conviction that he is not likely to pose a threat to the  
88 safety of others, and that the public interest is not served by fur-  
89 ther community parole supervision.

90 (e) If a petition for release from supervision is denied by the  
91 board, such person may not file another such petition for a period  
92 of three years.

93 (3) An individual who violates a condition of community parole  
94 supervision shall be subject to the provisions of section 149; pro-  
95 vided, however, that if the parolee has served the entire period of  
96 confinement under his original sentence, then the original term of  
97 imprisonment shall, upon a first violation, be increased to impris-  
98 onment in a house of correction for not more than 30 days, if such  
99 violation does not otherwise constitute a criminal offense, and  
100 upon a second and subsequent violation, said original term of  
101 imprisonment shall be increased to imprisonment for not less than  
102 ninety days nor more than two and one-half years in a house

103 of correction, if such violation does not otherwise constitute a  
104 criminal offense; and provided, further, that if such violation  
105 otherwise constitutes a criminal offense, then said increased term  
106 of imprisonment shall be served on and after any sentence  
107 received for commission of the new offense.

1 SECTION 2. Chapter 265 of the General Laws, as appearing in  
2 the 1996 Official Edition, is hereby amended by adding, at the end  
3 thereof, the following section:—

4 Section 45. Any person who commits indecent assault and  
5 battery on a child under fourteen under the provisions of sec-  
6 tion 13B of chapter 265, indecent assault and battery on a  
7 mentally retarded person under the provisions of the first para-  
8 graph of section 13F of chapter 265, indecent assault and battery  
9 on a person who has obtained the age of fourteen under the provi-  
10 sions of section 13H of chapter 265, rape under the provisions of  
11 section 22 of chapter 265, rape of a child under sixteen with force  
12 under the provisions of section 22A of chapter 265, rape and  
13 abuse of a child under the provisions of section 23 of chapter 265,  
14 assault with intent to commit rape under the provisions of sec-  
15 tion 24 of chapter 265, assault of a child under sixteen with intent  
16 to commit rape under the provisions of section 24B of chap-  
17 ter 265, kidnapping a child under the age of 16 under the provi-  
18 sions of section 26 of chapter 265 of the General Laws, or com-  
19 mits an attempt to violate any such section, pursuant to section 6  
20 of chapter 274, shall, in addition to the punishment authorized by  
21 such statute, receive a sentence of community parole supervision  
22 for life, to be served under the jurisdiction of the parole board, as  
23 set forth in section 133C of chapter 127. The sentence of commu-  
24 nity parole supervision for life shall commence immediately upon  
25 the expiration of the term of imprisonment imposed upon such  
26 person by the court or upon such person's release from probation  
27 supervision whichever first occurs.

1 SECTION 3. This act shall take effect on March 1, 2001 and  
2 shall apply to applicable offenses committed on or after such date.