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**LEGISLATIVE TESTIMONY**

To: Members of the Joint Committee on the Judiciary  
From: Kathryn M. Davis, M.Ed., Public Policy Coordinator  
Re: Support for *House 2173, "An Act Authorizing Criteria for the Compassionate Release of Terminally Ill Inmates in Massachusetts Correctional Institutions"* and *Section 11 of House 40, "An Act Relative to Criminal Sentencing"*  
Date: September 20, 2011

The Massachusetts Catholic Conference ("Conference") respectfully submits this testimony in support of legislation to provide compassionate release of terminally ill inmates in Massachusetts.

"Compassionate Release" also known as "Medical Release" has been available in the United States since 1984. Currently, all but five states have some form of early release for eligible inmates who are dying.<sup>1</sup> Massachusetts is one of the five states that have not adopted Compassionate Release legislation.

Legislation has been filed by the Governor (House 40, section 11), the Senate (Senate 1213) and the House of Representatives (House 2173) that could bring Massachusetts in line with the forty-seven other states who have some version of "Medical Release" available for dying prisoners. The "Conference" supports the advancement of legislation that would allow inmates who pose no threat to society the option to die at home with family members or in another appropriate facility better equipped to address the individual and familiar challenges that arise as a person approaches the final stage of life.

Negative attitudes towards prisoners may be an obstacle to the implementation of medical parole policies.<sup>2</sup> However, negative attitudes need not stop the Commonwealth of Massachusetts from passing legislation intended to better prepare human beings for their last moment on earth.

As stated by Pope John Paul II, "human dignity is an undeserved gift, not an earned status." And, human dignity must be protected at all times, especially during periods of high vulnerability. Approaching death is a decisive, yet fragile time period for a person and their family.

"[T]he moment of death is always accompanied by particularly intense human sentiments: an earthy life is ending, the emotional, generational, and social ties that are part of the person's inner self are dissolving; people who are dying and those who assist them are aware of the conflict between hope and immortality and the unknown which troubles even the most

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<sup>1</sup> Fernandez, E., "Reforms Needed for Compassionate Release of Prison Inmates." [www.ucsf.edu](http://www.ucsf.edu), June 2, 2011.

<sup>2</sup> Boothby, J. and L. Overduin, "Attitudes Regarding the Compassionate Release of Terminally Ill Offenders." *The Prison Journal*, vol. 87 no. 4, December, 2007.

enlightened minds.”<sup>3</sup> “The awareness that the dying person will soon meet God for all eternity should impel his or her relatives, loved ones, the medical, health-care and religious personnel, to help him or her in this decisive phase of life, with concern that pays attention to every aspect of existence, including spiritual.”<sup>4</sup> The terminally ill need the solidarity, communion and affection of those around them. These urgent needs often cannot be addressed fully in a prison setting.

“Treating a terminally ill individual in prison is difficult at best. Inmates are usually isolated from their friends and family on the outside precisely when they need them the most. In addition, compassion for the dying means that correctional health care staff, as well as other correctional staff, must make a change in the way they relate to the terminally ill – one that transforms them from inmates to patients to human beings.”<sup>5</sup> The reality of the correctional facility setting coupled with the basic needs of a person approaching death could motivate the Commonwealth to become the forty-sixth state to offer some version of “Compassionate Release” to dying inmates.

The policy of “Compassionate/Medical Release” of terminally ill inmates is important public policy from a humane standpoint. This legislation is also fiscally responsible. Once released from prison, inmates are cared for by either a family member or placed in nursing homes or hospice programs covered mostly by Medicare or Medicaid.<sup>6</sup> Cost must never be the sole factor influencing life and death decisions; however, good stewardship of state funds can provide additional motivation to act on morally responsible legislation.

For these reasons, the “Conference” urges the Committee to report favorably a bill that provides terminally ill inmates in Massachusetts with a humane and just form of compassionate, medical release.

The Massachusetts Catholic Conference is the public policy office of the Roman Catholic Bishops in the Commonwealth, representing the Archdiocese of Boston and the Dioceses of Fall River, Springfield, and Worcester.

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<sup>3</sup> “Love and Solidarity for the Dying.” Pope John Paul II, Address to the Pontifical Academy for Life, February 27, 1999.

<sup>4</sup> “Faith responds to fears about death.” Pope John Paul II, Address to an international congress on the care of the dying, March 17, 1992.

<sup>5</sup> Thigpen, M., L. Solomon, S. Hunter, and M. Ortiz, “Addressing the Needs of Elderly, Chronically Ill, and Terminally Ill Inmates.” U. S. Department of Justice National Institute of Corrections, Washington, DC, February, 2004.

<sup>6</sup> Buckley, C., “Law Has Little Effect on Early Release for Inmates” The New York Times, January 30, 2010.