



**Testimony submitted to the Joint Committee on the Judiciary  
In Support of H.4652 -- An Act regarding decarceration and COVID-19  
By Colleen Kirby, LWVMA Specialist on Criminal Justice Reform  
May 5, 2020**

By the end of April, 645 individual prisoners or staff tested positive for COVID-19 in Massachusetts prisons, houses of corrections, and jails.<sup>1</sup> There have been at least seven deaths of prisoners attributed to COVID-19 at a rate 73% higher than in Massachusetts overall.<sup>2</sup> The only way to have the social distancing necessary while COVID-19 is spreading through the community is to decrease populations held in these long-term residential facilities. Since the April 3 ruling by the Supreme Judicial Court to release certain inmates awaiting trial, 572 individuals awaiting trial have been released and 109 sentenced individuals have been released.<sup>3</sup> The SJC ruling is limited primarily to pretrial individuals which is why this bill is necessary to deal with people already sentenced. The high rate of infection and difficulty of maintaining social distance indicates that it is essential to release more individuals. It is possible to both protect public safety and increase public health with quicker releases of prisoners by the Department of Corrections and Sheriffs.

This bill would not release individuals without having in place a suitable “home plan” or release to shelters or treatment facilities. Sentenced individuals are particularly vulnerable to COVID-19 as many are elderly and have medical conditions that put them at risk. In Massachusetts, “we have the oldest inmate population in the country, and we are currently under federal investigation for issues related to solitary confinement and the treatment of ill and elderly inmates in the state prison system.”<sup>4</sup> Only certain categories of sentenced individuals would be released, including persons serving time for simple possession of controlled substances; persons who cannot afford bail less than \$10,000; persons over age 50; persons considered medically vulnerable by the Centers for Disease Control; persons incarcerated solely for technical parole or probation violations; persons who qualify for medical parole; persons who only failed to pay fines or fees; persons within 6 months of release; and persons within 6 months of parole eligibility date. For any pretrial detainee in these categories, a District Attorney may request a dangerousness hearing. A Sheriff or the Department of Corrections may hold a qualifying person if there is clear and convincing evidence of an immediate risk to public safety.<sup>5</sup>

With fewer individuals in each facility, it should be possible for the Commissioner and Sheriffs to work with public health officials to implement social distancing and have access to sufficient medical quarantine beds. In addition, the bill specifies provision to prisoners of soap, disinfectants, cleaning supplies, tissues, extra uniforms, and daily access to free phone calls, free emails, and recreation time.

The number of state prisoners held in Massachusetts has increased fourfold since the 1970s (Fig. 1) yet dangerous crimes have not (Fig. 2). It is well documented that people age out of crime (Fig. 3). It is also more difficult and more expensive to care for the aged and seriously ill in custody. All of these considerations indicate that we can safely release individuals during this pandemic to protect public health without diminishing public safety. These individuals were not sentenced to die in prison, like the seven people who have died of COVID-19 in the past two months.

With over 14,000 individuals held in Massachusetts jails and prisons, many more individuals are at risk of contracting COVID-19 and spreading it through the community since most people who enter these facilities do return to their communities. Massachusetts has only tested 1,914 prisoners plus staff.<sup>6</sup> Several states have increased testing in their prisons and jails and have found mass infections. “Rather than waiting to test for

COVID-19 until people are obviously ill—or not testing at all—[Arkansas] says it hopes to reduce the virus’s spread by tracking all cases, even for prisoners or staff who are asymptomatic.”<sup>7</sup>

The League of Women Voters of the United States “believes alternatives to imprisonment should be explored and utilized, taking into consideration the circumstances and nature of the crime” and “supports the abolition of the death penalty.” The League of Women Voters of Massachusetts supports “measures to protect the civil and individual rights of the offender and to promote the offender's rehabilitation through individualized treatment,” “measures that provide sufficient prison space at minimum security and pre-release levels to permit the gradual reintegration of the prisoner into society,” and “sentence lengths that encourage rehabilitation and reintegration into society.” The League “opposes indeterminate sentences and the death penalty.”<sup>8</sup>

The League of Women Voters of Massachusetts, with 47 local Leagues from Cape Cod to the Berkshires, asks that you report this bill favorably out of committee. It is critical that you act quickly on this bill.

Thank you for your consideration.

1. <https://data.aclum.org/sjc-12926-tracker/>
2. <https://www.themarshallproject.org/2020/05/01/a-state-by-state-look-at-coronavirus-in-prisons>
3. <https://data.aclum.org/sjc-12926-tracker/>
4. <https://www.gazettenet.com/Column-Lindsay-Sabadosa-26434739>
5. Decarceration Fact Sheet – Prisoners Legal Services  
<https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&ved=2ahUKEwjV64-sIZbpAhXJXIEHZr3C-wQFjAAegQIARAB&url=http%3A%2F%2Fplsma.org%2Fwp-content%2Fuploads%2F2020%2F03%2FDecarceration-Fact-Sheet.pdf&usq=AOvVaw11QicAyYTTd6o22TS0BuGa>
6. <https://data.aclum.org/sjc-12926-tracker/>
7. <https://www.themarshallproject.org/2020/04/24/these-prisons-are-doing-mass-testing-for-covid-19-and-finding-mass-infections>
8. <https://lwwma.org/advocacy/league-positions/>

Figure I. Those serving life sentences has increased over the past 40 years. Data collated by Sen. Brownsberger <https://willbrownsberger.com/lifer-population-has-kept-incarceration-rates-high/>

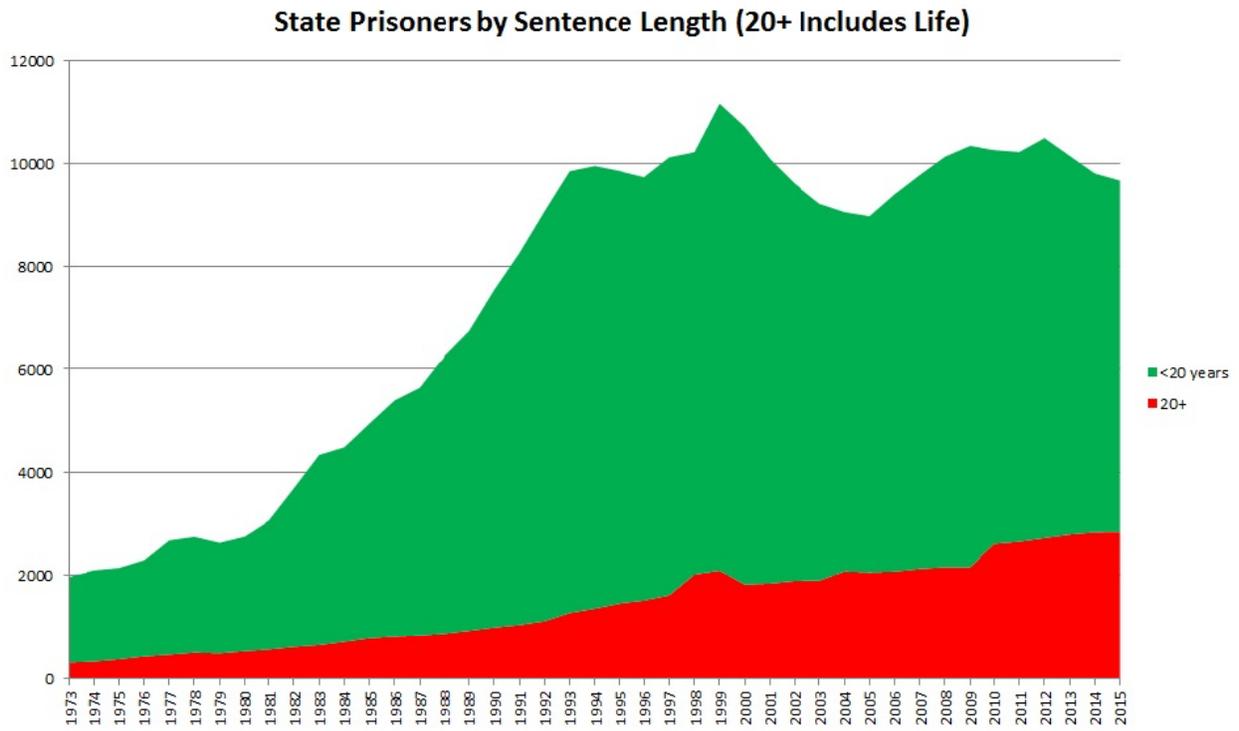


Figure 2. Violent crimes, including murder have decreased or stayed the same. See <https://willbrownsberger.com/50-years-of-crime-and-punishment-in-massachusetts-1965-2015/> for the actual data.

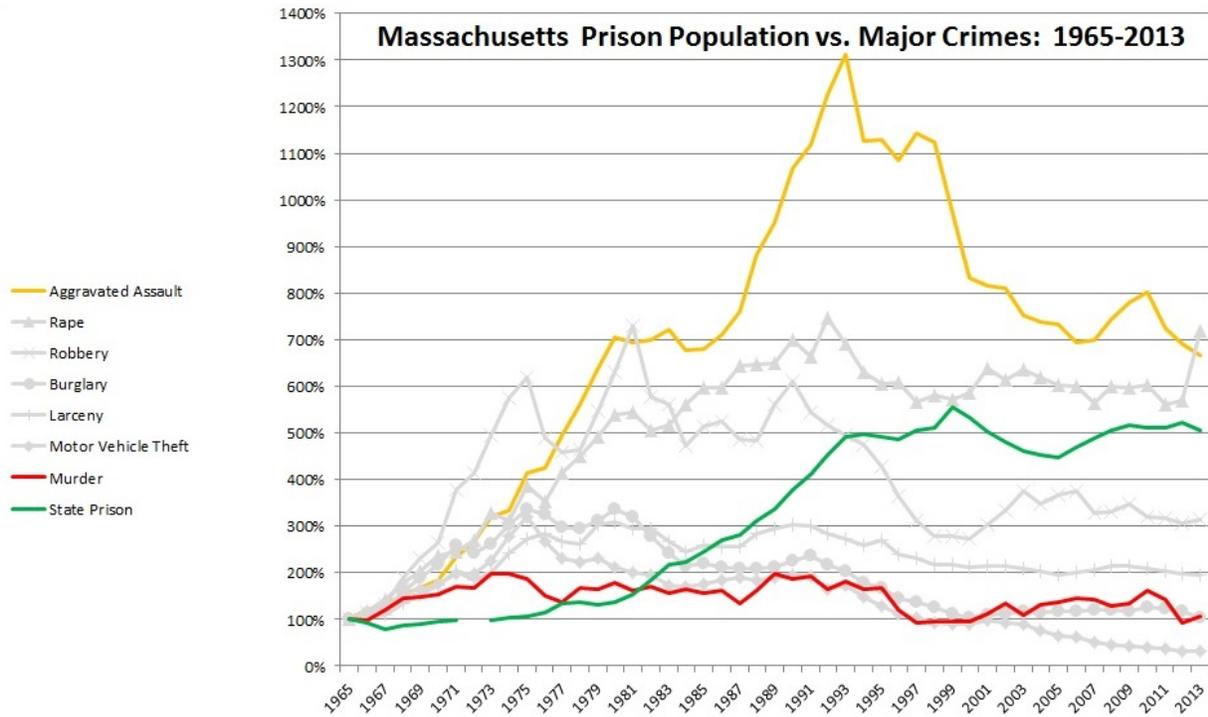


Figure 3. People age out of crime. <https://endlifeimprisonment.org/news-events/the-case-for-capping-all-prison-sentences-at-20-years/> Graph from the book “The Meaning of Life” by Marc Mauer and Ashley Nellis, p. 134.

### Arrest Rates by Age for Robbery, 2014

