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For Immediate Release

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Representative Kane supports criminal justice reform legislation
Omnibus legislation includes major bill filed by Representative Kane on supervised medical parole for terminal and extraordinarily incapacitated inmates

BOSTON – The Massachusetts House of Representatives has approved a sweeping criminal justice bill that provides for bail and minimum mandatory sentencing reforms, the reclassification of fentanyl as a Class A substance, and the establishment of a special commission to study the operations of the state crime lab.

State Representative Hannah Kane, (R-Shrewsbury), supported the omnibus bill, which was approved on a vote of 144-9 on November 14th following two days of debate in the House.

Under the House bill, fentanyl – which is now present in 81 percent of all opioid-related deaths in Massachusetts – would be added to the list of Class A substances, along with acetyl fentanyl and carfentanyl. The House bill also creates a fentanyl trafficking penalty for 10 grams of fentanyl or any of its derivatives, punishable by a 3 ½ year mandatory minimum sentence with a maximum of 20 years.

The House bill also adopts a major piece of bi-partisan legislation Representative Kane jointly filed this legislative session with her colleague, House Chair of the Judiciary Committee, State Representative Claire Cronin (D-Easton). The original bill H3494, An Act relative to supervised medical parole for terminal and extraordinarily incapacitated inmates, was backed by the Massachusetts Sheriff's Association. While forty-seven of fifty-two correction systems in the United States offer some legal procedure for incarcerated persons to petition for release based on health, Massachusetts has not.

Correctional facilities in the Commonwealth are unable to provide appropriate medical care for some terminally ill or extraordinarily incapacitated prisoners, necessitating frequent trips to outside medical facilities that are costly, not just in terms of direct treatment expense, but also in transportation costs and staff time. The total expenses can cost many tens or hundreds of thousands of dollars.

The legislation calls for the establishment of an independent, five-member medical parole board that will review, based on a Sheriff's or Superintendent's request, and recommend to the parole board, inmates eligible for supervised medical parole. Under the legislation, the process can begin only if an inmate is deemed terminally ill and their condition will likely cause their death within twelve months, and is so debilitating that they do not pose a public safety risk. Similarly, the medical parole board must determine that an irreversible physical incapacitation, resulting in the elimination of a public safety threat, be present in an inmate to qualify as permanently incapacitated.

The medical parole board would include two doctors, a retired judge, the chair of the parole board, and a designee of the Governor. The parole board is also explicitly granted the authority to unilaterally revise, amend, revoke or alter the terms of the inmates supervised medical parole.

"I am pleased that the House's omnibus criminal justice reform bill included one of my priority pieces of legislation that I filed with my democratic colleague Representative Claire Cronin", stated Representative Kane. "This legislation offers a practical and compassionate solution to the serious financial burden imposed on the Commonwealth to care for terminally ill and permanently incapacitated prisoners. By diminishing the cost of care associated with these inmates, the Commonwealth can more equitably distribute resources to other prisoners, and invest in programs aimed at reducing prison recidivism and aiding in successful re-introduction to society."

The House has also proposed creating a special commission to study the operation and management of the Massachusetts state police crime laboratory. In addition to establishing professional qualifications for the head of the crime laboratory, the commission will also consider transferring oversight of the lab to another executive agency or to an independent executive director.

Representative Kane also co-sponsored several other amendments adopted as part of the final House bill, including language offered by Representative Paul Frost (R-Auburn) mandating a minimum prison sentence of one year and as many as 10 years for committing assault and battery on a police officer. Offenders would also face a potential fine of between \$500 and \$10,000. Another successful amendment co-sponsored by Representative Kane was Representative Joseph McKenna (R-Webster) amendment adding "a finding of guilty or not guilty by reason of insanity" to the definition of what is required to be disclosed on a Criminal Offender Record Information (CORI) report.

The House bill also directs the Executive Office of Public Safety and Security (EOPSS) to establish a statewide sexual assault evidence kit tracking system, which will allow victims of sexual assault to anonymously track their kits. The amendment, sponsored by House Minority Leader Bradley H. Jones, Jr. (R-North Reading), also requires that evidence kits be retained for 50 years and mandates that EOPSS conduct an audit of all existing untested kits associated with a reported crime to determine the existing backlog.

Other Republican initiatives contained in the bill include:

- Allowing judges to hold individuals facing a third OUI charge if it occurs within 10 years of a prior OUI conviction, a change that was made after a recent SJC case declared the wording of the existing law to be ambiguous;

- Establishing a \$250 fine for making 3 non-emergency 911 calls, and a \$500 fine for all subsequent offenses;
- Expanding witness intimidation protections to include victim witness advocates, correction officers, court reporters and court interpreters; and
- Requiring outstanding Sex Offender Registry Board (SORB) fees to be reported to the Department of Revenue (DOR), Department of Transitional Assistance (DTA) and Registry of Motor Vehicles (RMV) within 60 days of an offender's initial and annual registration date, while also authorizing the interception of tax payments by DOR and prohibiting license or registration renewals by the RMV until the fees have been paid.

The Senate approved its own criminal justice reform bill in October. A six-member Conference Committee will soon be appointed to work out the differences between the two versions of the bill.

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