HOUSE . . . . . No. 4011

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, November 6, 2017.

The committee on Ways and Means, to whom was referred the Senate Bill relative to criminal justice reform (Senate, No. 2200), reports recommending that the same ought to pass with an amendment striking all after the enacting clause and inserting in place thereof the text contained in House document numbered 4011.

For the committee,

JEFFREY SÁNCHEZ.

HOUSE . . . . . No. 4011

Text of an amendment, recommended by the committee on Ways and Means, to the Senate Bill relative to criminal justice reform (Senate, No. 2200). November 6, 2017.

The Commonwealth of Massachusetts

In the One Hundred and Ninetieth General Court
(2017-2018)

By striking out all after the enacting clause and inserting in place thereof the following:–

SECTION 1. Section 7 of chapter 4 of the General Laws, as appearing in the 2016 Official Edition, is hereby amended by adding the following 2 clauses:-

Sixtieth, The "age of criminal majority" shall mean the age of 18.

Sixty-first, "Substantial financial hardship" shall mean an inability to meet the minimum basic human needs of food, shelter and clothing for an individual, an individual's immediate family or an individual's dependents.

SECTION 2. Section 167A of chapter 6 of the General Laws, as so appearing, is hereby amended by adding the following subsection:-

(i)(1) The department shall quarterly obtain arrest data, consistent with the National Incident-Based Reporting System of the Uniform Crime Reporting Program of the United States Department of Justice Federal Bureau of Investigation, from criminal justice agencies including, without limitation: the Massachusetts state police; the Massachusetts Bay Transportation Authority police force; any police department in the commonwealth or any of its political subdivisions; any law enforcement council, as defined in section 4J of chapter 40, created by

contract between or among cities and towns, pursuant to section 4A of said chapter 40 ; and any entity employing 1 or more special state police officers, as defined in section 63 of chapter 22C.

(2) The department shall quarterly post the data collected pursuant to paragraph (1) of this subsection on its webpage. All criminal justice agencies shall submit arrest data consistent with the National Incident-Based Reporting System to the department. The department shall promulgate regulations for the administration and enforcement of this section including regulations establishing: (i) schedules for the submission, transmission, and publication of the data and regulations; (ii) the format for the submission of arrest data; (iii) the categories and types of arrest data required to be submitted; and (iv) a description of categories of data which constitute personally identifiable information, including but not limited to names and dates of birth of individual arrestees; provided, however, that the arrest data, shall include for each arrest (i) the name of the arresting authority, (ii) the incident number, (iii) the alleged offense, (iv) the date and time of the arrest, (v) the location of the arrest, and (vi) the race, gender and age of the arrestee. Categories of data which constitute personally identifiable information shall not be posted or made available to the public and shall not be public records as defined in section 7 of chapter 4.

SECTION 3. Section 3 of chapter 7D of the General Laws, as amended by section 13 of chapter 64 of the acts of 2017, is hereby further amended by striking out the words “and (xii) adapt standards as necessary for individual agencies to comply with federal law” and inserting in place thereof the following words:- (xii) adapt standards as necessary for individual agencies to comply with federal law; and

(xiii) maintain a page on the commonwealth's official website, open to the public through the Massachusetts open data portal, providing data, as transmitted by the department of criminal justice information services pursuant to subsection (i) of section 167A of chapter 6, concerning arrests; provided, however, that categories of data which constitute personally identifiable information shall not be posted or made available to the public.

SECTION 4. Chapter 12 of the General Laws is hereby amended by adding the following section:-

Section 34. (a) The district attorneys shall, within their respective districts, establish a pre-arraignment diversion program which may be used to divert a veteran or person who is in active service in the armed forces, a person with a substance abuse disorder or a person with mental illness if such veteran or person is charged with an offense or offenses against the commonwealth.

SECTION 5. Chapter 18C of the General Laws is hereby amended by adding the following section:-

Section 14. The office shall convene a childhood trauma task force made up of members of the juvenile justice policy and data commission established pursuant to section 86 of chapter 119 to study, report and make recommendations on gender responsive and trauma-informed approaches to treatment services for juveniles and youthful offenders in the juvenile justice system. Said task force shall review the current means of (i) identifying school-aged children who have experienced trauma, particularly undiagnosed trauma, and (ii) providing services to help child recover from the psychological damage caused by such exposure to violence, crime or maltreatment. The task force shall consider the feasibility of providing school-based trainings on

early, trauma-focused interventions, trauma-informed screenings and assessments, and the recognition of reactions to victimization, as well as the necessity for diagnostic tools. A priority shall be placed on juvenile or youthful offender's pathways into the juvenile justice system with the goal of reducing the likelihood of recidivism by addressing the unique issues associated with juvenile or youthful offenders including emotional abuse, physical abuse, sexual abuse, emotional neglect, physical neglect, family violence, household substance abuse, household mental illness, parental absence, and household member incarceration.

The childhood trauma task force shall annually report its findings and recommendations by December 31 of each year to the governor, the house and senate chairs of the joint committee on the judiciary, the house and senate chairs of the joint committee on public safety and homeland security and the chief justice of the trial court.

SECTION 6. Chapter 22E of the General Laws is hereby amended by striking out section 3, as appearing in the 2016 Official Edition, and inserting in place thereof of the following section:-

Section 3. (a) Any person who is convicted of an offense that is punishable by imprisonment in the state prison and any person adjudicated a youthful offender by reason of an offense that would be punishable by imprisonment in the state prison if committed by an adult shall submit a DNA sample to the department within 1 year of such conviction or adjudication or, if incarcerated, the DNA sample shall be collected upon intake or return to the correctional facility to which the inmate has been sentenced, or as a condition of probation for any sentence which does not include incarceration at a correctional facility. No person required to submit a

DNA sample pursuant to this section shall be released from a correctional facility until a DNA sample has been collected.

(b) The trial court, the commissioner of probation and the department shall establish and implement a system for the electronic notification to the department whenever a person is convicted of an offense that requires the submission of a DNA sample under subsection (a). The sample shall be collected by a person authorized under section 4, in accordance with regulations or procedures established by the director. The results of such sample shall become part of the state DNA database. The submission of such DNA sample shall not be stayed pending a sentence appeal, motion for new trial, appeal to an appellate court or other post conviction motion or petition.

SECTION 7. Said chapter 22E is hereby further amended by striking out section 3, inserted by section 6 of this act, and inserting in place thereof of the following section:-

Section 3. (a) Any person who is convicted of an offense that is punishable by imprisonment in the state prison and any person adjudicated a youthful offender by reason of an offense that would be punishable by imprisonment in the state prison if committed by an adult shall submit a DNA sample to the department or the commissioner of probation forthwith upon conviction or, if sentenced to a term of imprisonment , the DNA sample shall be collected upon intake or return to the correctional facility to which the inmate has been sentenced. No person required to submit a DNA sample pursuant to this section shall be released from a correctional facility until a DNA sample has been collected.

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(b) The trial court, the commissioner of probation and the department shall establish and implement a system for the electronic notification to the department whenever a person is convicted of an offense that requires the submission of a DNA sample under subsection (a). The sample shall be collected by a person authorized under section 4, in accordance with regulations or procedures established by the director. The results of such sample shall become part of the state DNA database. The submission of such DNA sample shall not be stayed pending a sentence appeal, motion for new trial, appeal to an appellate court or other post conviction motion or petition.

SECTION 8. Section 4 of said chapter 22E of the General Laws, as appearing in the 2016 Official Edition, is hereby amended by inserting after the word “training”, in line 5, the following words:- , a probation officer.

SECTION 9. Said section 4 of said chapter 22E, as so appearing, is hereby amended by inserting after the word “personnel”, in lines 14 and 18, in each instance, the following words:- , including a probation officer,.

SECTION 10. Said chapter 22E is hereby amended by striking out section 11, as so appearing, and inserting in place thereof the following section:-

Section 11. Any person required to provide a DNA sample pursuant to this chapter and who, after receiving written notice, fails to provide such DNA as required by section 3 shall be punished by a fine of not more than $1,000 or imprisonment in a jail or house of correction for not more than 6 months, or both.

SECTION 11. Subparagraph (1) of paragraph (a) of subdivision (1) of section 24 of chapter 90, as so appearing, is hereby amended by striking out the seventh paragraph and inserting in place thereof the following 5 paragraphs:-

If the defendant has been previously convicted or assigned to an alcohol or controlled substance education, treatment or rehabilitation program by a court of the commonwealth or any other jurisdiction because of a like offense 4 times preceding the date of the commission of the offense for which he has been convicted, the defendant shall be punished by a fine of not less than $2,000 nor more than $50,000 and by imprisonment for not less than 2 and 1/2 years or by a fine of not less than $2,000 nor more than $50,000 and by imprisonment in the state prison for not less than 2 and 1/2 years nor more than 5 years; provided, however, that the sentence imposed upon such person shall not be reduced to less than 24 months, nor suspended, nor shall any such person be eligible for probation, parole, or furlough or receive any deduction from his sentence for good conduct until he shall have served 24 months of such sentence; provided, further, that the commissioner of correction may, on the recommendation of the warden, superintendent, or other person in charge of a correctional institution, or the administrator of a county correctional institution, grant to an offender committed under this subdivision a temporary release in the custody of an officer of such institution for the following purposes only: to attend the funeral of a relative; to visit a critically ill relative; to obtain emergency medical or psychiatric services unavailable at said institution; to engage in employment pursuant to a work release program; or for the purposes of an aftercare program designed to support the recovery of an offender who has completed an alcohol or controlled substance education, treatment or rehabilitation program operated by the department of correction; and provided, further, that the defendant may serve all or part of such 24 months sentence to the extent that resources are

available in a correctional facility specifically designated by the department of correction for the incarceration and rehabilitation of drinking drivers.

If the defendant has been previously convicted or assigned to an alcohol or controlled substance education, treatment or rehabilitation program by a court of the commonwealth or any other jurisdiction because of a like offense 5 times preceding the date of the commission of the offense for which he has been convicted, the defendant shall be punished by a fine of not less than $2,000 nor more than $50,000 and by imprisonment for not less than 2 and 1/2 years or by a fine of not less than $2,000 nor more than $50,000 and by imprisonment in the state prison for not less than 2 and 1/2 years nor more than 5 years; provided, however, that the sentence imposed upon such person shall not be reduced to less than 24 months, nor suspended, nor shall any such person be eligible for probation, parole, or furlough or receive any deduction from his sentence for good conduct until he shall have served 24 months of such sentence; provided, further, that the commissioner of correction may, on the recommendation of the warden, superintendent, or other person in charge of a correctional institution, or the administrator of a county correctional institution, grant to an offender committed under this subdivision a temporary release in the custody of an officer of such institution for the following purposes only: to attend the funeral of a relative; to visit a critically ill relative; to obtain emergency medical or psychiatric services unavailable at said institution; to engage in employment pursuant to a work release program; or for the purposes of an aftercare program designed to support the recovery of an offender who has completed an alcohol or controlled substance education, treatment or rehabilitation program operated by the department of correction; and provided, further, that the defendant may serve all or part of such 24 months sentence, to the extent that resources are

available, in a correctional facility specifically designated by the department of correction for the incarceration and rehabilitation of drinking drivers.

If the defendant has been previously convicted or assigned to an alcohol or controlled substance education, treatment or rehabilitation program by a court of the commonwealth or any other jurisdiction because of a like offense 6 times preceding the date of the commission of the offense for which he has been convicted, the defendant shall be punished by a fine of not less than $2,000 nor more than $50,000 and by imprisonment in the state prison for not less than 3 and 1/2 years nor more than 8 years; provided, however, that the sentence imposed upon such person shall not be reduced to less than 36 months, nor suspended, nor shall any such person be eligible for probation, parole, or furlough or receive any deduction from his sentence for good conduct until he shall have served 36 months of such sentence; provided, further, that the commissioner of correction may, on the recommendation of the warden, superintendent, or other person in charge of a correctional institution, or the administrator of a county correctional institution, grant to an offender committed under this subdivision a temporary release in the custody of an officer of such institution for the following purposes only: to attend the funeral of a relative; to visit a critically ill relative; to obtain emergency medical or psychiatric services unavailable at said institution; to engage in employment pursuant to a work release program; or for the purposes of an aftercare program designed to support the recovery of an offender who has completed an alcohol or controlled substance education, treatment or rehabilitation program operated by the department of correction; and provided, further, that the defendant may serve all or part of such 36 months sentence, to the extent that resources are available, in a correctional facility specifically designated by the department of correction for the incarceration and rehabilitation of drinking drivers.

If the defendant has been previously convicted or assigned to an alcohol or controlled substance education, treatment or rehabilitation program by a court of the commonwealth or any other jurisdiction because of a like offense 7 times preceding the date of the commission of the offense for which he has been convicted, the defendant shall be punished by a fine of not less than $2,000 nor more than $50,000 and by imprisonment in the state prison for not less than 3 and 1/2 years nor more than 8 years; provided, however, that the sentence imposed upon such person shall not be reduced to less than 36 months, nor suspended, nor shall any such person be eligible for probation, parole, or furlough or receive any deduction from his sentence for good conduct until he shall have served 36 months of such sentence; provided, further, that the commissioner of correction may, on the recommendation of the warden, superintendent, or other person in charge of a correctional institution, or the administrator of a county correctional institution, grant to an offender committed under this subdivision a temporary release in the custody of an officer of such institution for the following purposes only: to attend the funeral of a relative; to visit a critically ill relative; to obtain emergency medical or psychiatric services unavailable at said institution; to engage in employment pursuant to a work release program; or for the purposes of an aftercare program designed to support the recovery of an offender who has completed an alcohol or controlled substance education, treatment or rehabilitation program operated by the department of correction; and provided, further, that the defendant may serve all or part of such 36 months sentence, to the extent that resources are available, in a correctional facility specifically designated by the department of correction for the incarceration and rehabilitation of drinking drivers.

If the defendant has been previously convicted or assigned to an alcohol or controlled substance education, treatment or rehabilitation program by a court of the commonwealth or any

other jurisdiction because of a like offense 8 or more times preceding the date of the commission of the offense for which he has been convicted, the defendant shall be punished by a fine of not less than $2,000 nor more than $50,000 and by imprisonment in the state prison for not less than 4 and 1/2 years nor more than 10 years; provided, however, that the sentence imposed upon such person shall not be reduced to less than 48 months, nor suspended, nor shall any such person be eligible for probation, parole, or furlough or receive any deduction from his sentence for good conduct until he shall have served 48 months of such sentence; provided, further, that the commissioner of correction may, on the recommendation of the warden, superintendent, or other person in charge of a correctional institution, or the administrator of a county correctional institution, grant to an offender committed under this subdivision a temporary release in the custody of an officer of such institution for the following purposes only: to attend the funeral of a relative; to visit a critically ill relative; to obtain emergency medical or psychiatric services unavailable at said institution; to engage in employment pursuant to a work release program; or for the purposes of an aftercare program designed to support the recovery of an offender who has completed an alcohol or controlled substance education, treatment or rehabilitation program operated by the department of correction; and provided, further, that the defendant may serve all or part of such 48 months sentence, to the extent that resources are available, in a correctional facility specifically designated by the department of correction for the incarceration and rehabilitation of drinking drivers.

SECTION 12. Section 24D of said chapter 90, as so appearing, is hereby amended by striking out, in lines 138 and 139, the words “grave and serious hardship to such individual or to the family of such individual”, and inserting in place thereof the following words:- substantial financial hardship to the individual, the individual’s immediate family or dependents.

SECTION 12A. Said section 24D of said chapter 90, as so appearing, is hereby further amended by striking out, in lines 173 and 174, the words “grave and serious hardship to such individual or to the family thereof” and inserting in place thereof the following words:- substantial financial hardship to the individual, the individual’s immediate family or dependents.

SECTION 13. Section 31 of chapter 94C of the General Laws, as so appearing, is hereby amended by striking out, in line 86, the words “(3) Ketamine.” and inserting in place thereof the following words:-

(3) Ketamine

(4) Carfentanil

(5) Fentanyl

(6) Acetyl fentanyl

SECTION 14. Subsection (b) of Class B of said section 31 of said chapter 94C, as so appearing, is hereby amended by striking out clauses (1) to (21)and inserting in place thereof the following 20 clauses:-

(1) Alphaprodine

(2) Anileridine

(3) Bezitramide

(4) Dihydrocodeine

(5) Diphenoxylate

(6) Isomethadone

(7) Levomethorphan

(8) Levorphanol

(9) Metazocine

(10) Methadone

(11) Methadone-Intermediate, 4-cyano-2-dimethylamino-4, 4-diphenyl butane

(12) Moramide-Intermediate, 2-methyl-3 morpholine-1, 1-diphenyl-propane carboxylic acid

(13) Pethidine

(14) Pethidine-Intermediate-A, 4-cyano-1-methyl-4-phenylpiperidine

(15) Pethidine-Intermediate-B, ethyl-4-phenylpiperidine-4-carboxylate

(16) Pethidine-Intermediate-C, 1-methyl-4-phenylpiperidine-4-carboxylic acid

(17) Phenazocine

(18) Piminodine

(19) Racemethorphan

(20) Racemorphan

SECTION 15. Said chapter 94C is hereby further amended by striking out sections 32A and 32B and inserting in place thereof the following 2 sections:-

Section 32A. (a) Any person who knowingly or intentionally manufactures, distributes, dispenses, or possesses with intent to manufacture, distribute or dispense a controlled substance in Class B of section 31 shall be punished by imprisonment in the state prison for not more than 10 years, or in a jail or house of correction for not more than two and one-half years, or by a fine of not less than $1,000 nor more than $10,000, or both such fine and imprisonment.

(b) Any person convicted of violating this section after 1 or more prior convictions of manufacturing, distributing, dispensing, or possessing with the intent to manufacture, distribute or dispense a controlled substance as defined by section 31 under this or any other prior law of this jurisdiction or of any offense of any other jurisdiction, federal, state, or territorial, which is the same as or necessarily includes the elements of said offense shall be punished by a term of imprisonment in the state prison for not more than 10 years, by a term of imprisonment in the state prison for not more than 10 years and by a fine of not less than $2,500 and not more than $25,000, or by a fine of not more than $25,000.

(c) Any person who knowingly or intentionally manufactures, distributes, dispenses or possesses with intent to manufacture, distribute or dispense phencyclidine or a controlled substance defined in clause (4) of paragraph (a) or in clause (2) of paragraph (c) of class B of section 31 shall be punished by a term of imprisonment in the state prison for not more than 10 years, a term of imprisonment in the state prison for not more than 10 years and a fine of not less than $1,000 and not more than $10,000, by imprisonment in a jail or house of correction for not more than two and one-half years, by imprisonment in a jail or house of correction for not more than two and one-half years and a fine of not less than $1,000 and not more than $10,000, or by a fine of not more than $10,000.

(d) Any person convicted of violating the provisions of subsection (c) after 1 or more prior convictions of manufacturing, distributing, dispensing or possessing with the intent to manufacture, distribute, or dispense a controlled substance, as defined in section 31 or of any offense of any other jurisdiction, either federal, state or territorial, which is the same as or necessarily includes, the elements of said offense, shall be punished by a term of imprisonment in the state prison for not more than 15 years, a term of imprisonment in the state prison for not more than 15 years and a fine of not less than $2,500 nor more than $25,000 or a fine of not more than $25,000.

Section 32B (a) Any person who knowingly or intentionally manufactures, distributes, dispenses, or possesses with intent to manufacture, distribute, or dispense a controlled substance in Class C of section 31 shall be imprisoned in state prison for not more than 5 years or in a jail or house of correction for not more than two and one-half years, or by a fine of not less than $500 nor more than $5,000, or both such fine and imprisonment.

(b) Any person convicted of violating this section after 1 or more prior convictions of manufacturing, distributing, dispensing or possessing with the intent to manufacture, distribute or dispense a controlled substance as defined by section 31 under this or any prior law of this jurisdiction or of any offense of any other jurisdiction, federal, state, or territorial, which is the same as or necessarily includes the elements of said offense shall be punished by a term of imprisonment in the state prison for not more than 10 years, a term of imprisonment in the state prison for not more than 10 years and a fine of not less than $1,000 nor more than $10,000, a term of imprisonment in a jail or house of correction for not more than two and one-half years, a term of imprisonment in a jail or house of correction for not more than two and one-half years and a fine of not less than $1,000 nor more than $10,000, or and a fine of not more than $10,000.

SECTION 16. Section 32C of said chapter 94C, as appearing in the 2016 Official Edition, is hereby amended by striking out, in lines 15 and 16, the words “less than one nor”.

SECTION 17. Section 32E of said chapter 94C, as so appearing, is hereby amended by inserting after the words “heroin or any salt thereof” in lines 80, 85, 87 and 89, in each instance, the words:- , fentanyl or any derivative thereof.

SECTION 18. Said section 32E of said chapter 94C is hereby further amended by striking out subsection (c½), as so appearing, and inserting in place thereof the following subsection:-

(c½) Any person who trafficks in fentanyl or any derivative of fentanyl by knowingly or intentionally manufacturing, distributing, dispensing or possessing with intent to manufacture, distribute, or dispense or by bringing into the commonwealth a net weight of 10 grams or more of fentanyl or any derivative of fentanyl, or a net weight of 10 grams or more of any mixture containing fentanyl or any derivative of fentanyl, shall be punished by a term of imprisonment in state prison for not less than 3 and 1/2 nor more than 20 years. No sentence imposed under the provisions of this subsection shall be for less than a mandatory minimum term of imprisonment of 3 and ½ years.

SECTION 19. Said section 32E of said chapter 94C, as so appearing, is hereby further amended by inserting after subsection (c½) the following subsection:-

(c ¾) Any person who trafficks in carfentanil, including without limitation, any derivative of carfentanil and any mixture containing carfentanil or a derivative of carfentanil, by knowingly or intentionally manufacturing, distributing, dispensing or possessing with intent to manufacture, distribute or dispense or by bringing into the commonwealth carfentanil shall be

punished by a term of imprisonment in state prison for not less than 3 and 1/2 nor more than 20 years. No sentence imposed under the provisions of this subsection shall be for less than a mandatory minimum term of imprisonment of 3 and ½ years.

SECTION 20. Section 32I of said chapter 94C, as so appearing, is hereby amended by striking out, in line 10, the words “less than one nor”.

SECTION 21. Section 52 of chapter 119 of the General Laws, as so appearing, is hereby amended by inserting before the definition of “Court” the following definition:-

“Civil Infraction”, a violation for which a civil proceeding is allowed, and for which the court shall not sentence any term of incarceration and therefore not appoint counsel.

SECTION 22. Said section 52 of said chapter 119, as so appearing, is hereby further amended by striking out the definition of “Delinquent child” and inserting in place thereof the following definition:-

“Delinquent child”, a child between 10 and 18 years of age who commits any offense against a law of the commonwealth; provided however, that such offense shall not include a civil infraction, a violation of any municipal ordinance or town by-law, or a first offense of a misdemeanor for which the punishment is a fine, imprisonment in a jail or house of correction for not more than 6 months, or both such fine and imprisonment.

SECTION 23. Section 54 of said chapter 119, as so appearing, is hereby amended by striking out, in line 2, the word “seven” and inserting in place thereof the following figure:- 10.

SECTION 24. Section 67 of said chapter 119, as so appearing, is hereby amended by striking out, in line 2, the word “seven” and inserting in place thereof the following figure:- 10.

SECTION 25. Section 68 of said chapter 119, as so appearing, is hereby amended by striking out, in line 1, the word “seven” and inserting in place thereof the following figure:- 10.

SECTION 26. Section 68A of said chapter 119, as so appearing, is hereby amended by striking out, in line 1, the word “seven” and inserting in place thereof the following word:- 10.

SECTION 27. Section 84 of said chapter 119, as so appearing, is hereby amended by striking out, in line 12, the word “seven” and inserting in place thereof the following figure:- 10.

SECTION 28. Said chapter 119 is hereby further amended by adding the following 3 sections:-

Section 86. (a) As used in this section the following words shall, unless the context clearly requires otherwise, have the following meanings:-

“Alternative lock-up program”, a facility or program that provides for the physical care and custody of a juvenile being held by a criminal justice agency after an arrest and before an arraignment, and shall include a program provided by the police, municipal, county or state government, as well as any contractor, vendor or service-provider working with such agencies.

“Child advocate”, the child advocate appointed pursuant to section 3 of chapter 18C.

"Contact", any action or decision by criminal justice agencies or by any other official of the commonwealth or private service provider under contract or other agreement with the commonwealth, involving a juvenile at any stage of the juvenile justice system which causes such juvenile to enter or exit the juvenile justice system or which will change the custodial status, liberty, case processing, or status of the juvenile within the juvenile justice system.

"Criminal justice agencies", those agencies at all levels of government which perform as their principal function, activities relating to: (a) crime prevention, including research or the sponsorship of research; (b) the apprehension, prosecution, adjudication, incarceration, or rehabilitation of criminal offenders; or (c) the collection, storage, dissemination or usage of criminal offender record information.

"Juvenile", a child under the age of 18; provided, however, that the term juvenile shall include a person under the age of 22 if the person remains within the jurisdiction of the juvenile court or juvenile justice system and a child between the ages of 14 to 18, inclusive, who is charged with first or second degree murder pursuant to section 74.

"Office", the office of the child advocate.

"Racial or ethnic category", the socio-cultural racial and ethnic category of an individual as categorized in a manner that is consistent with the categories established and utilized by the federal Office of Juvenile Justice and Delinquency Prevention.

"Type of crime", the category of crime consistent with the categories established and utilized by the National Incident-Based Reporting System.

(b) The office shall create and annually update an instrument to record aggregate statistical data for every contact a juvenile has with criminal justice agencies, any contractor, vendor or service-provider working with said agencies, and any alternative lock-up programs. This instrument shall include, without limitation, age, gender, racial or ethnic category, and type of crime. The child advocate shall give due regard to the census of juveniles in the commonwealth when setting forth the racial or ethnic categories in the instrument. The child advocate shall provide guidance about the manner in which the racial or ethnic information is

designated and collected, with consideration of the juveniles' self-reporting of such categories. The office shall provide the instrument to all offices and departments subject to this law and all such offices and departments shall use this instrument to record contacts.

(c) The executive office of public safety and security shall be responsible for assembling and submitting to the office the data required by this section collected by (1) the department of correction; (2) the sheriffs of each county; (3) the parole board; (4) the department of the state police; (5) municipal police departments; (6) the Massachusetts bay transportation authority police; (7) school-based police; (8) alternative lock-up programs; and (9) any contractor, vendor or service provider working with school-based or other police officers.

(d) The attorney general shall be responsible for assembling and submitting to the office the data collected by the district attorney of each county as required by this section.

(e) The chief justice of the trial court shall be responsible for assembling and submitting to the office the data collected by judicial officers and court personnel including the commissioner of probation and the executive director of the office of community corrections as required by this section.

(f) The executive office for health and human services shall be responsible for assembling and submitting to the office the data collected by the department of youth services as required by this section.

(g) Data compiled, assembled or submitted by criminal justice agencies to the office shall be used only for statistical or research purposes. All criminal justice agencies compiling, assembling or submitting data to the office shall remove any personal information which could directly or indirectly identify a particular individual. Data compiled, assembled or submitted by

criminal justice agencies to the office shall not be public records as defined in section 7 of chapter 4.

(h) Criminal justice agencies shall annually submit the data required by this section to the office no later than March 31 for the preceding calendar year. The child advocate shall annually file a report which shall include, without limitation, an analysis of the data to the co-chairs of the joint committee on the judiciary, the co-chairs of the joint committee on public safety and homeland security, the secretary of public safety and security and the chief justice of the trial court no later than July 1.

(i) There shall be a juvenile justice policy and data commission, referred to in this section as the commission. The commission shall evaluate policies and procedures related to the juvenile justice system, advise the child advocate on the collection and dissemination of data regarding juvenile contact with criminal justice agencies, and study the implementation of any statutory changes to the juvenile justice system.

The commission shall consist of 19 members, 1 of whom shall be a member of the house of representatives appointed by the speaker of the house of representatives, 1 of whom shall be a member of the senate appointed by the president of the senate; 1 of whom shall be the child advocate; 1 of whom shall be the chief justice of the juvenile court, or a designee; 1 of whom shall be the commissioner of probation, or a designee; 1 of whom shall be the commissioner of youth services or a designee; 1 of whom shall be the commissioner of children and families, or a designee; 1 of whom shall be the commissioner of mental health, or a designee; 1 of whom shall be the commissioner of public health, or a designee; 1 of whom shall be the secretary of education, or a designee; 1 of whom shall be the chief counsel of the committee for public

counsel services, or a designee; 1 of whom shall be the president of the Massachusetts District Attorneys Association, or a designee; 1 of whom shall be the chair of the Massachusetts juvenile justice advisory committee, or a designee; and 6 of whom shall be appointed by the governor, provided that: 1 of whom shall be from a list provided by Citizens for Juvenile Justice, Inc. ; 1 of whom shall be from a list provided by the Children's League of Massachusetts, Inc.; 1 of whom shall be from a list provided by the Massachusetts Chiefs of Police Association Incorporated; 2 of whom shall be parents whose children have been subject to juvenile court jurisdiction; and 1 of whom shall have experience or expertise related to the design and implementation of state administrative data systems. Members of the commission shall serve without compensation. The child advocate shall serve as chair of the commission.

The commission shall annually report to the governor, the house and senate chairs of the joint committee on the judiciary, the house and senate chairs of the joint committee on public safety and homeland security and the chief justice of the trial court regarding the following:

(1) any statutory changes concerning the juvenile justice system that the commission recommends to: (i) improve public safety, (ii) promote the best interests of children and young adults who are under the jurisdiction, supervision, care or custody of the juvenile court, the commissioner of youth services or the commissioner of children and families; (iii) improve transparency and accountability with respect to state-funded services for children and young adults in the juvenile justice system with an emphasis on goals identified by the committee for community-based programs and facility-based interventions; (iv) promote the efficient sharing of information between the executive branch and the judicial branch to ensure the regular collection and reporting of recidivism data; and (v) promote public welfare and public safety outcomes related to the juvenile justice system;

(2) an analysis of the capacities and limitations of the data systems and networks used to collect and report state and local juvenile caseload and outcome data. The analysis shall include, without limitation, the following: (i) a review of the relevant data systems, studies and models from the commonwealth and other states; (ii) identification of changes or upgrades to current data collection processes to remove inefficiencies, track and monitor state agency and court-involved juveniles and facilitate the coordination of information sharing between relevant agencies and the courts, including without limitation, data that is required to be reported under federal law or for purposes of securing federal funding; (iii) the identification and evaluation of any racial and ethnic disparities within the juvenile justice system and recommendations regarding ways to reduce such disparities; (iv) recommendations for the creation of a web-based statewide information center to make relevant juvenile justice information on operations, caseloads, dispositions and outcomes available in a user-friendly, query-based format for stakeholders and members of the public, including a feasibility assessment of implementing such system; (v) a plan for improving the current juvenile justice reporting requirements, including streamlining and consolidating current requirements without impacting data collection and including a detailed analysis of the information technology and other resources necessary to implement improved data collection; and (vi) any other matters which the commission determines may improve the collection and interagency coordination of juvenile justice data;

(3) the impact of any statutory change that expands or alters the jurisdiction or functioning of the juvenile court, as measured by the following: (i) any change in the average age of children and young adults involved in the juvenile justice system; (ii) the types of services used by designated age groups and the outcomes of those services; (iii) the types of delinquent acts or criminal offenses that children and young adults have been charged with since the

enactment and implementation of such statutory change; (iv) the gaps in services identified by the committee with respect to children and young adults involved in the juvenile justice system, including, but not limited to, young adults who have attained the age of 18 after being involved in the juvenile justice system, and recommendations to address such gaps in services; and (v) the strengths and barriers identified by the committee that support or impede the educational needs of children and young adults in the juvenile justice system, with specific recommendations for reforms;

(4) the quality and accessibility of diversion programs available to juveniles;

(5) an assessment of the system of community-based services for children and juveniles who are under the supervision, care or custody of the department of youth services or the juvenile court;

(6) an assessment of the number of juveniles who, after being or while under the supervision or custody of the department of children and families, are adjudicated delinquent or as a youthful offender; and

(7) an assessment of the overlap between the juvenile justice system and the mental health care system for children.

The commission shall establish a timeframe for review and reporting regarding the responsibilities outlined in this section. Each report submitted by the commission shall include specific recommendations to improve outcomes and a timeline by which specific tasks or outcomes shall be achieved.

Section 87. (a) The department of youth services and the department of correction shall not place in secure detention facilities or secure correctional facilities any juvenile who has: (1) been charged with, or who has committed an offense that would not be criminal if committed by an adult, except juveniles who are held in accordance with the interstate compact on juveniles as enacted by the commonwealth; (2) not been charged with any offense; or (3) been alleged to be dependent, neglected, or abused.

(b) The department of youth services and the department of correction shall not detain or confine any juvenile identified subsection (a) or any juvenile alleged to be or found to be delinquent in any institution in which they have contact with adult inmates; and shall require that individuals employed by the department of youth services or the department of corrections who work with both juveniles and adult inmates be trained and certified to work with juveniles by the department of youth services.

The department of youth services and the department of correction shall promulgate regulations and policies for the implementation, administration and enforcement of this section and maintain adequate records to ensure compliance with this section.

Section 88. A child against whom a complaint is brought under this chapter may participate in a community-based restorative justice program pursuant to the requirements of chapter 276B.

SECTION 29. Section 1 of chapter 125 of General Laws, as appearing in the 2016 Official Edition, is here by amended by striking out, in lines 37 and 38, the words "Massachusetts Correctional Institution, Cedar Junction" and inserting in place thereof the following words:- any prison owned, operated, administered or subject to the control of the

department of correction, including but not limited to: Massachusetts Correctional Institution, Cedar Junction; Massachusetts Correctional Institution, Norfolk; Massachusetts Correctional Institution, Concord; Massachusetts Correctional Institution, Framingham; Massachusetts Correctional Institution, Bridgewater; Massachusetts Correctional Institution, Plymouth; Massachusetts Correctional Institution, Warwick; Massachusetts Correctional Institution, Monroe.

SECTION 30. Chapter 126 of the General Laws is hereby amended by adding the following section:-

Section 40. The sheriff shall record, without limitation, the following data for each person committed to a jail or house of correction: (i) probation central file number; (ii) race and ethnicity; (iii) offense information with standard definitions, including level and type of offense; (iv) type of release; (v) type of admission; (vi) length of sentence; (vii) jail credit from pretrial incarceration; (viii) earned time; (ix) program participation and outcome during incarceration; (x) case disposition; and (xi) bail amount or reason if no bail set.

Aggregate data on the population of each jail and house of correction shall be assembled into a quarterly report with the reported data covering the entire quarterly period. The reports prepared by the sheriff shall contain no identifying information relating to an individual inmate or detainee.

Each quarter the sheriff shall deliver the report from each jail and house of correction to the secretary of public safety and security, the house and senate chairs of the joint committee on the judiciary, the house and senate chairs of the joint committee on public safety and homeland security and the clerks of the house of representatives and the senate.

SECTION 31. Chapter 127 of the General Laws is hereby amended by striking out section 1, as appearing in the 2016 Official Edition, and inserting in place thereof the following section:-

Section 1. As used in this chapter the following words shall, unless the context clearly requires otherwise, have the following meanings:

"Administrative and disciplinary segregation review board", a board, which shall consist of 5 members, 1 of whom is the commissioner of the department of correction, or designee; 1 of whom is the president of the Massachusetts Sheriffs Association, Inc., or designee; 1 of whom is the commissioner of mental health, or a designee; 1 of whom is a retired judge appointed by the chief justice of the supreme judicial court; and 1 of whom is the executive director of the mental health legal advisors committee, or designee.

"Administrative segregation", the segregation of a prisoner from the general population, in a segregation unit or other housing unit for: (i) investigative, protective, or preventative reasons posed by a substantial and immediate threat; or (ii) transitional reasons, including a pending transfer, pending classification or other temporary administrative matter unrelated to the enforcement of discipline. Administrative segregation shall not include segregation for documented medical reasons or mental health emergencies.

"Administrator", the chief administrative officer of a county correctional facility.

"Committed offender", a person convicted of a crime and committed, under sentence, to a correctional facility.

"Commissioner", the commissioner of correction.

"Correctional facility", "correctional institution", "penal institution" or "prison", any building, enclosure, space or structure used for the custody, control and rehabilitation of committed offenders and of such other persons as may be placed in custody therein in accordance with law.

"County correctional facility", any correctional facility owned, operated, administered or subject to the control of a county of the commonwealth.

"Department", the department of correction.

"Disciplinary segregation", the segregation of a prisoner from the general population in a segregation unit or other housing unit for the purpose of disciplining the prisoner.

"Inmate", a committed offender or such other person as is placed in custody in a correctional facility in accordance with law.

"Medical parole plan", a comprehensive written medical and psychosocial care plan specific to a prisoner and including , but not limited to: (i) the proposed course of treatment; (ii) the proposed site for treatment and post-treatment care; (iii) documentation that medical providers qualified to provide the medical services identified in the medical parole plan are prepared to provide such services; and (iv) the financial program in place to cover the cost of the plan for the duration of the medical parole, which shall include eligibility for enrollment in commercial insurance, Medicare or Medicaid or access to other adequate financial resources for the duration of the medical parole.

"Parole board", the parole board of the department of correction.

598 “Permanent incapacitation”, as determined by a physician licensed to practice medicine
599 in the commonwealth, an irreversible physical incapacitation as a result of a medical condition
600 that was unknown at the time of sentencing, diagnosed after the time of sentencing or, since the
601 time of sentencing, has progressed such that the prisoner does not pose a public safety risk.

602 “Prisoner”, a committed offender and such other person as is placed in custody in a
603 correctional facility in accordance with law.

604 “Qualified mental health professional”, a treatment provider who is a psychiatrist,
605 psychologist, psychiatric social worker or psychiatric nurse and other professionals who by
606 virtue of education, credentials and experience are permitted by law to evaluate and care for the
607 mental health needs of patients.

608 “Residential treatment unit”, a general population housing unit within a state or county
609 correctional facility that is operated for the purpose of providing treatment and rehabilitation for
610 inmates with mental illness.

611 “Secure treatment unit”, a maximum security residential treatment program designed to
612 provide an alternative to segregation for inmates diagnosed with serious mental illness in
613 accordance with clinical standards adopted by the department of correction.

614 “Segregation,” a housing placement where a prisoner is separated from the general
615 population and confined to a cell for not less than 22 hours per day.

616 “Serious mental illness”, shall include a current diagnosis or significant history of 1 or
617 more of the following disorders described in the most recent edition of the Diagnostic and

Statistical Manual of Mental Disorders: (i) schizophrenia and other psychotic disorders; (ii) major depressive disorders; or (iii) all types of bipolar disorders.

"Significant history", a diagnosis of 1 or more of the following disorders, as described in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders: (i) a neurodevelopmental disorder, dementia or other cognitive disorder; (ii) any disorder commonly characterized by breaks with reality, or perceptions of reality; (iii) a severe personality disorder that is manifested by episodes of psychosis or depression; (iv) all types of anxiety disorders; (v) trauma and stressor related disorders; (vi) severe personality disorders; or (vii) a finding that the prisoner is at serious risk of substantially deteriorating mentally or emotionally while confined in segregation, or already has so deteriorated while confined in segregation, such that diversion or removal is deemed to be clinically appropriate by a qualified mental health professional.

"State correctional facility", any correctional facility owned, operated, administered or subject to the control of the department of correction, including but not limited to: Massachusetts Correctional Institution, Cedar Junction; Massachusetts Correctional Institution, Norfolk; Massachusetts Correctional Institution, Concord; Massachusetts Correctional Institution, Framingham; Massachusetts Correctional Institution, Bridgewater; Massachusetts Correctional Institution, Plymouth; Massachusetts Correctional Institution, Warwick; Massachusetts Correctional Institution, Monroe.

"State prison", a prison owned, operated, administered or subject to the control of the department of correction, including but not limited to: Massachusetts Correctional Institution, Cedar Junction; Massachusetts Correctional Institution, Norfolk; Massachusetts Correctional Institution, Concord; Massachusetts Correctional Institution, Framingham; Massachusetts

Correctional Institution, Bridgewater; Massachusetts Correctional Institution, Plymouth; Massachusetts Correctional Institution, Warwick; Massachusetts Correctional Institution, Monroe.

"Superintendent", the chief administrative officer of a state correctional facility.

"Terminal illness", as determined by a physician licensed to practice medicine in the commonwealth, an incurable condition caused by illness or disease that was unknown at the time of sentencing, diagnosed after the time of sentencing or, since the time of sentencing, has progressed, that will likely cause the death of the prisoner within 12 months and that is so debilitating that the prisoner does not pose a public safety risk.

"Victim", (i) a person who has suffered a personal injury, including mental anguish or death, property damage or property loss and (ii) any entity which has suffered property damage or property loss as a direct result of the crime for which the sentence referred to in this chapter was imposed.

SECTION 32. Section 4 of said chapter 127 is hereby repealed.

SECTION 33. Section 23 of said chapter 127, as appearing in the 2016 Official Edition, is hereby amended by inserting after the word "weight", in line 4, the following words:- , probation central file number.

SECTION 34. Said chapter 127 is hereby further amended by striking out sections 39 to 41, inclusive, as so appearing, and inserting in place thereof the following 11 sections:-

Section 39. (a) For the enforcement of discipline, an inmate in a state correctional facility or a county correctional facility may, at the discretion of its superintendent or administrator, be confined, for a period not to exceed 15 days, to a disciplinary segregation unit.

(b) No inmate in a state correctional facility or a county correctional facility shall be placed in disciplinary segregation more than 6 times in any 365 day period without the approval of the administrative and disciplinary segregation review board; provided, however, that a superintendent or administrator may place an inmate in disciplinary segregation pending approval of the administrative and disciplinary segregation review board if, in the discretion of the superintendent or administrator, the inmate poses an immediate risk to himself, others or the security of the institution.

(c) No inmate in a state correctional facility shall be placed in disciplinary segregation for more than 180 days in any 365 day period without the approval of the administrative and disciplinary segregation review board.

(d) No inmate in a county correctional facility shall be placed in disciplinary segregation for more than 180 days in any 365 day period without the approval of the administrative and disciplinary segregation review board.

(e) All disciplinary segregation units shall provide light, ventilation and adequate sanitary facilities; provided, that such units may contain a minimum of furniture.

(f) No juvenile inmate in a state correctional facility, a county correctional facility or department of youth services facility shall be placed in disciplinary segregation or administrative segregation.

(g) No pregnant inmate in a state correctional facility or a county correctional facility shall be placed in disciplinary segregation or administrative segregation.

(h) No inmate with a permanent physical disability shall be placed in disciplinary segregation in a state correctional facility or a county correctional facility without the approval of the administrative and disciplinary segregation review board.

Section 39A. Except as provided in sections 39 and 39B, at the request of a superintendent of a state correctional facility the commissioner may order the disciplinary segregation of an inmate whose continued retention in the general institution population is detrimental to the program of the institution.

All inmates in disciplinary segregation shall be provided regular meals, fully furnished cells, limited recreational facilities, rights of visitation and communication by those properly authorized, and such other privileges as may be established by the commissioner. Under the supervision of the department of mental health, all inmates in disciplinary segregation shall be given periodic medical and psychiatric examinations and shall receive such medical and psychiatric treatment as may be indicated.

Section 39B (a) Prior to placement in disciplinary segregation within a state correctional facility an inmate shall be screened by a qualified mental health professional to determine whether the inmate has a serious mental illness and whether there are any acute mental health contraindications to placement in a segregated unit. The screening shall be conducted in accordance with clinical standards adopted by the department.

A qualified mental health professional shall make rounds in each such segregation unit and may conduct an out-of-cell meeting with any inmate for whom a confidential meeting is

warranted in the qualified mental health professional's judgment. Inmates in disciplinary segregation shall be evaluated by a qualified mental health professional in accordance with clinical standards adopted by the department.

(b) Except in exigent circumstances that would create an unacceptable risk to the safety of any person or where no secure treatment unit bed is available, an inmate in disciplinary segregation diagnosed with a serious mental illness in accordance with clinical standards adopted by the department shall not be housed in a segregated unit for more than 30 days and shall be placed in a secure treatment unit. Any inmate in disciplinary segregation awaiting transfer to a secure treatment unit shall be offered additional mental health services in accordance with clinical standards adopted by the department.

Section 39C. Except as provided in sections 39 and 39D, at the request of an administrator of a county correctional facility a sheriff may order the disciplinary segregation of an inmate whose continued retention in the general institution population is detrimental to the program of the institution.

All inmates in disciplinary segregation shall be provided regular meals, fully furnished cells, limited recreational facilities, rights of visitation and communication by those properly authorized, and such other privileges as may be established by the sheriff. Under the supervision of the department of mental health, all inmates in disciplinary segregation shall be given periodic medical and psychiatric examinations and shall receive such medical and psychiatric treatment as may be indicated.

Section 39D. (a) Prior to placement in disciplinary segregation within a county correctional facility an inmate shall be screened by a qualified mental health professional to

determine whether the inmate has a serious mental illness and whether there are any acute mental health contraindications to placement in a segregated unit. The screening shall be conducted in accordance with clinical standards adopted by the sheriff.

A qualified mental health professional shall make rounds in each such segregation unit and may conduct an out-of-cell meeting with any inmate for whom a confidential meeting is warranted in the qualified mental health professional's judgment. Inmates in disciplinary segregation shall be evaluated by a qualified mental health professional in accordance with clinical standards adopted by the sheriff.

(b) Except in exigent circumstances that would create an unacceptable risk to the safety of any person or where no secure treatment unit bed is available, an inmate in disciplinary segregation diagnosed with a serious mental illness in accordance with clinical standards adopted by the sheriff shall not be housed in a segregated unit for more than 30 days and shall be placed in a secure treatment unit. Any inmate in disciplinary segregation awaiting transfer to a secure treatment unit shall be offered additional mental health services in accordance with clinical standards adopted by the sheriff.

Section 40. (a) For purposes of administrative segregation, an inmate in a state correctional facility or a county correctional facility may, at the discretion of its superintendent or administrator, be confined, for a period not to exceed 15 days, to an administrative segregation unit.

(b) No inmate in a state correctional facility or a county correctional facility shall be placed in administrative segregation more than 6 times in any 365 day period without the approval of the administrative and disciplinary segregation review board; provided, however,

that a superintendent or administrator may place an inmate in administrative segregation pending approval of the administrative and disciplinary segregation review board if, in the discretion of the superintendent or administrator, the inmate poses an immediate risk to himself, others or the security of the institution.

(c) No inmate in a state correctional facility shall be placed in administrative segregation for more than 180 days in any 365 day period without the approval of the administrative and disciplinary segregation review board.

(d) No inmate in a county correctional facility shall be placed in administrative segregation for more than 180 days in any 365 day period without the approval of the administrative and disciplinary segregation review board.

(e) All administrative segregation units shall provide light, ventilation and adequate sanitary facilities and may contain a minimum of furniture.

Section 40A. Except as provided in sections 40 and 40B, at the request of a superintendent of a state correctional facility the commissioner may order the administrative segregation of an inmate whose continued retention in the general institution population is detrimental to the program of the institution.

All inmates in administrative segregation shall, to the extent practicable, be provided living conditions approximate to those in general population. Under the supervision of the department of mental health, all inmates in administrative segregation shall be given periodic medical and psychiatric examinations and shall receive such medical and psychiatric treatment as may be indicated.

Section 40B (a) Prior to placement in administrative segregation within a state correctional facility an inmate shall be screened by a qualified mental health professional to determine whether the inmate has a serious mental illness and whether there are any acute mental health contraindications to placement in a segregated unit. The screening shall be conducted in accordance with clinical standards adopted by the department.

A qualified mental health professional shall make rounds in each such segregation unit and may conduct an out-of-cell meeting with any inmate for whom a confidential meeting is warranted in the qualified mental health professional's judgment. Inmates in administrative segregation shall be evaluated by a qualified mental health professional in accordance with clinical standards adopted by the department.

(b) Except in exigent circumstances that would create an unacceptable risk to the safety of any person or where no secure treatment unit bed is available, an inmate in administrative segregation diagnosed with a serious mental illness in accordance with clinical standards adopted by the department shall not be housed in a segregated unit for more than 30 days and shall be placed in a secure treatment unit. Any inmate in administrative segregation awaiting transfer to a secure treatment unit shall be offered additional mental health services in accordance with clinical standards adopted by the department.

Section 40C. Except as provided in sections 40 and 40D, at the request of an administrator of a county correctional facility a sheriff may order the administrative segregation of an inmate whose continued retention in the general institution population is detrimental to the program of the institution.

All inmates in administrative segregation shall to the extent practicable, be provided living conditions approximate to those in general population. Under the supervision of the department of mental health, all inmates in administrative segregation shall be given periodic medical and psychiatric examinations and shall receive such medical and psychiatric treatment as may be indicated.

Section 40D (a) Prior to placement in administrative segregation within a county correctional facility an inmate shall be screened by a qualified mental health professional to determine whether the inmate has a serious mental illness and whether there are any acute mental health contraindications to placement in a segregated unit. The screening shall be conducted in accordance with clinical standards adopted by the sheriff.

A qualified mental health professional shall make rounds in each such segregation unit and may conduct an out-of-cell meeting with any inmate for whom a confidential meeting is warranted in the qualified mental health professional's professional judgment. Inmates in administrative segregation shall be evaluated by a qualified mental health professional in accordance with clinical standards adopted by the sheriff.

(b) Except in exigent circumstances that would create an unacceptable risk to the safety of any person or where no secure treatment unit bed is available, an inmate in administrative segregation diagnosed with a serious mental illness in accordance with clinical standards adopted by the sheriff shall not be housed in a segregated unit for more than 30 days and shall be placed in a secure treatment unit. Any inmate in administrative segregation awaiting transfer to a secure treatment unit shall be offered additional mental health services in accordance with clinical standards adopted by the sheriff.

Section 41. (a) There shall be established a segregation oversight committee, hereinafter in this section referred to as the committee, which shall consist of the commissioner of the department of correction, or a designee; the commissioner of mental health, or a designee; and 5 members appointed by the governor, 1 of whom shall be the president of Massachusetts Sheriffs Association, Inc., or a designee, 1 of whom shall be a former judge designated by the chief justice of the supreme judicial court, 1 of whom shall be the executive director of Disability Law Center, Inc., or a designee, 1 of whom shall be the executive director of Prisoners' Legal Services or a designee, and 1 of whom shall be the executive director of the Massachusetts Association for Mental Health, Inc., or a designee. Members of the committee shall be appointed for a term of 6 years and shall serve without compensation but shall be reimbursed for all reasonable expenses incurred in the performance of their official duties. No member shall serve more than 2 6-year terms. Members of the committee shall be considered special state employees for purposes of chapter 268A.

(b) The committee shall gather information regarding the use of disciplinary segregation and administrative segregation in correctional institutions to determine the impact of such segregation on inmates, rates of violence, recidivism, incarceration costs and self-harm within correctional institutions.

(c) The committee shall be provided full access to all correctional institutions, and shall be allowed to interview prisoners and staff.

(d) The committee shall annually, not later than January 31, submit to the house and senate chairs of the joint committee on the judiciary and the house and senate chairs of the joint committee on public safety and homeland security a report that includes the following

information for each correctional institution: (1) the criteria for placing an inmate in segregation; (2) the extent to which staff who work with prisoners in segregation receive any specialized training; (3) the results of any evaluations of the process of segregation in the commonwealth and other states; (4) the impact of use of segregation on prison order and control in correctional facilities; (5) the cost of housing an inmate in segregation compared with the cost of housing an inmate in general population; and (6) the conditions of segregation in the commonwealth.

(e) Every correctional institution, shall quarterly submit to the committee, the house and senate chairs of the joint committee on the judiciary and the house and senate chairs of the joint committee on public safety and homeland security a report that includes: (1) the name, age and ethnicity of every inmate who was placed in segregation during the previous 3 months, including every inmate who is in segregation at the time the report is submitted; (2) the reason segregation was instituted for each inmate named in the report; and (3) the dates on which each inmate was placed in, and released from, segregation during the previous 3 months.

(f) The committee shall establish policies to ensure that an inmate with an anticipated release date of less than 180 days is not housed in segregation, unless: (i) such segregation is limited to not more than 5 days of administrative segregation relating to the upcoming release of the inmate; or (ii) the inmate poses a substantial and immediate threat.

A superintendent or an administrator of a correctional facility shall submit a written explanation to the committee if an inmate is placed in segregation at any point within the 180 days prior to his or her release from custody.

(g) The committee shall establish policies to establish a transitional process for each inmate with an anticipated release date of 180 days or less who is held in segregation, which

shall include: (i) substantial re-socialization programming in a group setting; (ii) regular mental health counseling to assist with the transition; and (iii) re-entry planning services offered to inmates in a general population setting.

SECTION 35. Said chapter 127 is hereby further amended by inserting after section 119 the following 5 sections:-

Section 119A. (a) For the purposes of this section and sections 119B to 119E, inclusive, the term “medical parole board” shall mean the independent medical parole board.

(b) There shall be established independent medical parole board, hereinafter the medical parole board, which shall be comprised of 5 members appointed by the governor: 1 of whom shall be the chair of the parole board, 1 of whom shall be a retired judge designated by the chief justice of the trial court who shall have served on the Boston municipal court, district court, or superior court, 2 of whom shall be medical doctors designated by the Massachusetts Medical Society and 1 of whom shall be a member of the public with at least 5 years of training and experience in public health, probation, corrections, parole, law, criminal justice, psychiatry, psychology, sociology or social work. The medical parole board shall annually elect a chair; provided, however, that the position of chair shall rotate among the members on an annual basis. There shall be a quorum present for the medical parole board to take any official action.

Members of the medical parole board shall be appointed for a term of 6 years and shall serve without compensation but shall be reimbursed for all reasonable expenses incurred in the performance of their official duties. No member shall serve more than 2 6-year terms. Members of the medical parole board shall be considered special state employees for purposes of chapter 268A.

(c) The medical parole board shall promulgate regulations for the administration and enforcement of this section and sections 119B to 119D, inclusive.

Section 119B. (a) A prisoner with a terminal illness or permanent incapacitation or the prisoner's attorney, the prisoner's immediate family, the prisoner's medical provider or a member of the correctional facility's staff may petition the superintendent of the correctional facility where the prisoner is an inmate for medical parole. The petition shall include an affidavit from a physician licensed to practice medicine in the commonwealth that the prisoner has a terminal illness or permanent incapacitation and remaining as an inmate would be detrimental to, or exacerbate, said illness or incapacitation. Within 21 days of receipt of a petition the superintendent shall make a recommendation to the commissioner. If the superintendent recommends that the commissioner deny medical parole, the commissioner shall notify the prisoner and the petitioner in writing within 30 days of receipt of the petition of the reasons for the denial. If the superintendent recommends that the commissioner grant medical parole, the commissioner shall petition the medical parole board within 10 days of receipt of the recommendation for an order granting the prisoner to medical parole. The commissioner shall notify, in writing, the district attorney for the jurisdiction where the offense resulting in the prisoner being committed to the correctional facility occurred, the petitioner and, if applicable under chapter 258B, the victim or the victim's family, that the prisoner is being considered by the medical parole board for medical parole.

(b) Upon complying with the requirements of subsection (a), the commissioner shall file the petition with the medical parole board. The commissioner shall include with the petition filed with the medical parole board: (1) an affidavit attesting that the commissioner has complied with the notice requirements of subsection (a); (2) a medical parole plan; and (3) an assessment of the

prisoner's medical and psychosocial condition and the risk the prisoner poses to society, including without limitation: (i) an assessment of the risk for violence and recidivism that the prisoner poses to society; and (ii) a written diagnosis by a physician licensed to practice medicine in the commonwealth that includes: (A) a description of the terminal illness or permanent incapacitation; and (B) a prognosis concerning the likelihood of recovery from the terminal illness or permanent incapacitation; provided, however, that the physician shall be employed by the department or shall be a contract provider used by the department for the evaluation and recommended treatment of prisoners.

(c) A prisoner whose petition for medical parole was denied by the superintendent pursuant to subsection (a) may appeal the denial to the commissioner. The appeal shall be in writing and shall be filed within 30 days of receiving notice of the denial. Upon receipt of the appeal, the commissioner shall hold an adjudicatory proceeding pursuant to chapter 30A. The decision of the commissioner after the adjudicatory proceeding on the appeal shall be final and not subject to further appeal or judicial review.

(d) The commissioner shall promulgate regulations for the administration and enforcement of this section and section 119D.

Section 119C. (a) A prisoner with a terminal illness or permanent incapacitation or the prisoner's attorney, the prisoner's immediate family, the prisoner's medical provider or a member of the correctional facility's staff may petition the administrator of the correctional facility where the prisoner is an inmate for medical parole. The petition shall include an affidavit from a physician licensed to practice medicine in the commonwealth that the prisoner has a terminal illness or permanent incapacitation and remaining as an inmate would be detrimental to,

or exacerbate, said illness or incapacitation. Within 21 days of receipt of a petition the administrator shall make a recommendation to the sheriff. If the administrator recommends that the sheriff deny medical parole, the sheriff shall notify the prisoner and the petitioner in writing within 30 days of receipt of the petition of the reasons for the denial. If the administrator recommends that the sheriff grant medical parole, the sheriff shall petition the medical parole board within 10 days of receipt of the recommendation for an order granting the prisoner to medical parole. The sheriff shall notify, in writing, the district attorney for the jurisdiction where the offense resulting in the prisoner being committed to the correctional facility occurred, the petitioner and, if applicable under chapter 258B, the victim or the victim's family, that the prisoner is being considered by the medical parole board for medical parole.

(b) Upon complying with the requirements of subsection (a), the sheriff shall file the petition with the medical parole board. The sheriff shall include with the petition filed with the medical parole board: (1) an affidavit attesting that he or she has complied with the notice requirements of subsection (a); (2) a medical parole plan; and (3) an assessment of the prisoner's medical and psychosocial condition and the risk the prisoner poses to society, including without limitation: (i) an assessment of the risk for violence and recidivism that the prisoner poses to society; and (ii) a written diagnosis by a physician licensed to practice medicine in the commonwealth that includes: (A) a description of the terminal illness or permanent incapacitation; and (B) a prognosis concerning the likelihood of recovery from the terminal illness or permanent incapacitation; provided, however, that the physician shall be employed by the department or shall be a contract provider used by the department for the evaluation and recommended treatment of prisoners.

(c) A prisoner whose petition for medical parole was denied by the administrator pursuant to subsection (a) may appeal the denial to the sheriff. The appeal shall be in writing and shall be filed within 30 days of receiving notice of the denial. Upon receipt of the appeal, the sheriff shall hold an adjudicatory proceeding pursuant to chapter 30A. The decision of the sheriff after the adjudicatory proceeding on the appeal shall be final and not subject to further appeal or judicial review.

(d) Each sheriff shall promulgate regulations for the administration and enforcement of this section and section 119D.

Section 119D. (a) Within 21 days of receipt of a petition for medical parole pursuant to section 119B or section 119C, the medical parole board shall conduct an adjudicatory proceeding pursuant to chapter 30A on the petition. Within 30 days of the adjudicatory proceeding the medical parole board shall vote to grant or deny the petition for medical parole; provided, however, that any vote to grant a petition for medical parole shall require the affirmative vote of no less than 4 members of the medical parole board. If the medical parole board votes to deny medical parole, the medical parole board shall notify the prisoner and the petitioner in writing within 30 days of the decision of the reasons for the denial. If the medical parole board votes to approve the petition for medical parole, the medical parole board shall: (1) notify in writing the district attorney for the jurisdiction where the offense resulting in the prisoner being committed to the correctional facility occurred, the petitioner and, if applicable under chapter 258B, the victim or the victim's family, that the medical parole board has approved the prisoner for medical parole; and (2) refer the matter to the parole board established pursuant to section 4 of chapter 27 within 5 days.

(b) Upon receipt of a recommendation for medical parole by the medical parole board pursuant to subsection (a), the parole board shall conduct an adjudicatory proceeding pursuant to chapter 30A within 10 days. Unless the parole board votes unanimously to reject the approval of the medical parole board, the prisoner shall be granted medical parole. A prisoner granted medical parole shall be under the jurisdiction, supervision and control of the parole board. The parole board shall impose terms and conditions for the medical parole that shall apply through the date upon which the prisoner's sentence would have expired. These conditions shall require, without limitation that: (1) the parolee's care be consistent with the care specified in the medical parole plan approved by the medical parole board; (2) the parolee cooperate with and comply with the prescribed medical parole plan and with reasonable requirements of medical providers to whom the prisoner is to be referred for continued treatment; (3) the parolee comply with the conditions of medical parole set by the medical parole board.

(c) Not less than 5 days before the date of a prisoner's release due to medical parole, the parole board shall notify, in writing, the district attorney, the department of state police, the police department in the city or town in which the medically paroled prisoner shall reside and, if applicable under chapter 258B, the victim or the victim's family of prisoner's release date and the terms and conditions of the prisoner's medical parole.

(d) The parole board may revise, alter or amend the terms and conditions of a medical parole at any time. A parole officer may arrest, without warrant, a medical parolee and bring the medical parolee before the parole board for a medical parole violation hearing if the parole board has reasonable suspicion that a medical parolee has failed to comply with any condition of said medical parolee's medical parole. If the parole board determines that the medical parolee violated a condition of the medical parole or that the terminal illness or permanent incapacitation

has improved to the extent that the medical parolee would no longer be eligible for medical parole pursuant sections 119B or 119C, the parole board may revoke the medical parole and order the medical parolee to surrender forthwith. Upon revocation of the medical parole, the medical parolee shall resume serving the sentence with credit given only for the duration of the medical parolee's medical parole served in compliance with all conditions imposed by the parole board. Unless the medical parole was granted based on a fraud perpetrated upon a superintendent, an administrator, the medical parole board or the parole board, by the prisoner or petitioner, a revocation of a medical parole due to a change in medical condition shall not preclude a prisoner's eligibility for medical parole in the future.

(e) (1) A decision by the parole board pursuant to subsection (b) shall be final and not subject to further appeal or judicial review.

(2) A decision by the parole board to revise, alter or amend the terms and conditions of a medical parole or to revoke a grant of medical parole pursuant to subsection (d) shall be final and not subject to further appeal or judicial review.

(f) The parole board shall promulgate regulations for the administration and enforcement of this section and sections 119B and 119C.

Section 119E. The commissioner of the department of correction, Massachusetts sheriffs association, and the medical parole board shall together file an annual report not later than March 1 with the clerks of the house of representatives and the senate, the house and senate chairs of the senate and house committees on ways and means and the house and senate chairs of the joint committee on the judiciary detailing: (i) each prisoner in the custody of the department or sheriffs who is receiving treatment for a terminal illness and each prisoner in the custody of the

department or sheriffs who is receiving treatment for a permanent incapacitation, including the race and ethnicity of the prisoner, the offense for which the prisoner was sentenced and a detailed description of the prisoner's physical and mental condition; provided, however, that identifying information shall be withheld from the report; (ii) the number of prisoners in the custody of the department or the sheriffs who applied for medical parole pursuant to sections 119B and 119C and the race and ethnicity of each applicant; (iii) the number, race and ethnicity of prisoners who have been granted medical parole for the prior fiscal year and total to date; (iv) the nature of the illness of the applicants for medical parole; (v) the counties to which the prisoners have been medically paroled; (vi) the nature of the placement pursuant to the medical parole plan; (vii) the categories of reasons for denial for prisoners who have been denied medical parole; (viii) the number of prisoners petitioning for medical parole on more than 1 occasion; and (ix) the number of prisoners medically paroled who have been returned to the custody of the department or sheriffs and the reasons for those returns.

SECTION 36. Section 144 of said chapter 127 of the General Laws, as appearing in the 2016 Official Edition, is hereby amended by striking out, in line 3, the words "thirty dollars" and inserting in place thereof the following figure:- $90.

SECTION 37. Said chapter 127 is hereby further amended by striking out section 145, as so appearing, and inserting in place thereof the following section:-

Section 145. (a) No court shall commit a person to a correctional facility solely for non-payment of monies owed if such person has established, by a preponderance of the evidence, that the person is unable to pay the fine without causing substantial financial hardship to the person or their immediate family or dependents. A court shall determine whether the payment of a fine

would cause such substantial financial hardship after a hearing, and, in making such determination, shall consider the person's employment status, income, financial resources, living expenses, number of dependents, and any special circumstances that may affect a person's ability to pay.

(b) No court shall commit a person to a correctional facility for non-payment of monies owed if such a person was not represented by counsel for the commitment proceeding.

(c) Courts may consider alternatives to incarceration before committing a person to a prison or place of confinement solely for non-payment of a fine or a fine and expenses.

(d) If a court determines that the payment of a fine would cause a substantial financial hardship pursuant to subsection (a), the court shall impose an alternative to a fine or sentence to a correctional facility including, without limitation, community service.

(e) A person confined to a correctional facility for non-payment of monies owed may petition the court for discharge from such correctional facility for an inability to pay such monies owed due to a substantial financial hardship. If, after a hearing pursuant to subsection (a), the court determines that said person is not able to pay the monies owed without causing a substantial financial hardship to the person, or the person's immediate family or dependents, the court shall discharge said person from such correctional facility. No filing fee shall be charged for the filing of the petition.

SECTION 38. Section 1 of chapter 138 of the General Laws, as so appearing, is hereby amended by inserting after the definition of "Alcoholic beverages" the following definition:

"Alcohol-related incapacitation", the condition of an intoxicated person who, by reason of the consumption of intoxicating liquor, is: (a) unconscious; (b) in need of medical attention; or (c) likely to suffer or cause physical harm or damage property.

SECTION 39. Said chapter 138 is hereby further amended by inserting after section 34D the following section:-

Section 34E. (a) A person under 21 years of age who, in good faith, seeks medical assistance for someone experiencing alcohol-related incapacitation shall not be charged or prosecuted under sections 34 or 34A if the evidence for the charge of purchase or possession of alcohol was gained as a result of seeking medical assistance.

(b) A person under 21 years of age who experiences alcohol-related incapacitation and is in need of medical assistance and, in good faith, seeks such medical assistance, or is the subject of such a good faith request for medical assistance, shall not be charged or prosecuted under sections 34 or 34A if the evidence for the charge of purchase or possession of alcohol was gained as a result of seeking medical assistance.

SECTION 40. Section 4 of chapter 151B of the General Laws, as appearing in the 2016 Official Edition, is hereby amended by striking out, in line 408, the word "five" and inserting in place thereof the following figure:- 3.

SECTION 41. Said section 4 of said chapter 151B, as so appearing, is hereby further amended by inserting after the word "information", in line 412, the following words:- , or (iv) a criminal record, or anything related to a criminal record, that has been sealed or expunged pursuant to chapter 276.

SECTION 42. Section 10 of chapter 209A of the General Laws, as so appearing, is hereby amended by striking out, in lines 7 and 8, the words “the person, or the dependents of such person, severe financial hardship” and inserting in place thereof the following words:- substantial financial hardship to the person or the person’s immediate family or the person’s dependents.

SECTION 43. Section 8 of chapter 258B of the General Laws, as so appearing, is hereby amended by striking out, in lines 38 to 40, inclusive, the words “would impose a severe financial hardship upon the person against whom the assessment is imposed” and inserting in place thereof the following words:- would cause a substantial financial hardship to the person against whom the assessment is imposed or the person’s immediate family or the person’s dependents.

SECTION 44. Section 13 of chapter 265 of the General Laws, as so appearing, is hereby amended by adding the following paragraph:-

Any business organization including, without limitation, a corporation, association, partnership, or other legal entity that commits manslaughter shall be punished by a fine of not more than $250,000. If a business organization is found guilty under this section, the appropriate commissioner or secretary may debar the corporation, under section 29F of chapter 29, for a period not to exceed 10 years.

SECTION 45. The second paragraph of section 47 of said chapter 265, as so appearing, is hereby amended by striking out the last sentence and inserting in place thereof the following sentence:- If the court finds that such fees would cause a substantial financial hardship to the offender or the person’s immediate family or the person’s dependents, the court may waive such fees.

SECTION 46. Section 27A of chapter 266 of the General Laws, as so appearing, is hereby amended by striking out, in lines 32 to 34, inclusive, the words “impose an undue financial hardship on the defendant or his family, the court may modify the amount, time or method of payment, but may not grant complete remission from payment of restitution” and inserting in place thereof the following words:- cause a substantial financial hardship to the defendant or the defendant’s immediate family or the defendant’s dependents, the court may grant remission from any payment of restitution or modify the amount, time or method of payment.

SECTION 47. Section 28 of said chapter 266, as so appearing, is hereby amended by inserting after the word “thereof”, in line 40, the following words- , except for a conviction or adjudication for malicious damage to a motor vehicle or trailer,.

SECTION 48. Section 29 of said chapter 266, as so appearing, is hereby amended by striking out, in lines 45 to 47, inclusive, the words “impose an undue financial hardship on the defendant or his family, the court may modify the amount, time or method of payment, but may not grant complete remission from payment of restitution” and inserting in place thereof the following words:- cause a substantial financial hardship to the defendant or the defendant’s immediate family or the defendant’s dependents, the court may grant remission from any payment of restitution or modify the amount, time or method of payment.

SECTION 49. Section 30 of said chapter 266, as so appearing, is hereby amended by striking out, in line 9 and lines 13 and 14, the words “two hundred and fifty dollars” and inserting in place thereof, in each instance, the following figure:- $750.

SECTION 50. Said section 30 of said chapter 266, as so appearing, is hereby further amended by striking out, in lines 15 to 23, inclusive, the words “three hundred dollars; or, if the property was stolen from the conveyance of a common carrier or of a person carrying on an express business, shall be punished for the first offence by imprisonment for not less than six months nor more than two and one half years, or by a fine of not less than fifty nor more than six hundred dollars, or both, and for a subsequent offence, by imprisonment for not less than eighteen months nor more than two and one half years, or by a fine of not less than one hundred and fifty nor more than six hundred dollars, or both” and inserting in place thereof the following figure:- $900.

SECTION 51. Section 37B of said chapter 266, as so appearing, is hereby amended by striking out, in lines 24 and 25, 29 and 30, 37 and 38, and lines 45 and 46, the words “two hundred and fifty dollars” and inserting in place thereof, in each instance, the following figure:- $750.

SECTION 52. Said section 37B of said chapter 266, as so appearing, is hereby further amended by striking out, in lines 49 and 50, the words “five hundred dollars” and inserting in place thereof the following figure:-$1,500.

SECTION 53. Section 37C of said chapter 266, as so appearing, is hereby amended by striking out, in lines 12, 17, 23 and lines 31 and 32, the words “two hundred and fifty dollars” and inserting in place thereof, in each instance, the following figure:-$750.

SECTION 54. Said section 37C of said chapter 266, as so appearing, is hereby further amended by striking out, in lines 39 and 40, the words “two thousand dollars” and inserting in place thereof the following figure:-$6,000.

SECTION 55. Section 60 of said chapter 266, as so appearing, is hereby amended by striking out, in lines 13, 16 and 20, the figure “$250” and inserting in place thereof, in each instance, the following figure:- $750.

SECTION 56. Said section 60 of said chapter 266, as so appearing, is hereby further amended by striking out, in line 15, the figure “$1,000” and inserting in place thereof the following figure:- $3,000.

SECTION 57. The second paragraph of section 108 of said chapter 266, as so appearing, is hereby amended by striking out the third sentence and inserting in place thereof the following sentence:- If the defendant is indigent or if the court finds that ordering such restitution would cause a substantial financial hardship to the defendant or the defendant’s immediate family or the defendant’s dependents, the court may determine that the interests of the victim and of justice would not be served by ordering such restitution.

SECTION 58. Said section 108 of said chapter 266, as so appearing, is hereby further amended by striking out, in lines 28 and 29, the words “an undue financial hardship on the defendant or his family” and inserting in place thereof the following words:- a substantial financial hardship on the defendant or the defendant’s immediate family or the defendant’s dependents.

SECTION 59. Section 111B of said chapter 266, as so appearing, is hereby amended by striking out, in lines 45 to 47, inclusive, the words “impose an undue financial hardship on the defendant or his family, the court may modify the amount, time or method of payment, but may not grant complete remission from payment of restitution” and inserting in place thereof the following words:- cause a substantial financial hardship to the defendant or the defendant’s

immediate family or the defendant's dependents, the court may grant remission from any payment of restitution or modify the amount, time or method of payment.

SECTION 60. Section 126A of said chapter 266, as so appearing, is hereby amended by striking out the second paragraph.

SECTION 61. Section 126B of said chapter 266, as so appearing, is hereby amended by striking out the second paragraph.

SECTION 62. Section 127 of said chapter 266, as so appearing, is hereby amended by striking out, in line 13, the words "two hundred and fifty dollars" and inserting in place thereof the following figure:- $750.

SECTION 63. Section 14B of chapter 269 of the General Laws, as so appearing, is hereby amended by striking out subsection (b) and inserting in place thereof the following subsection:-

(b) Upon any conviction under this section, the court shall conduct a hearing to ascertain the extent of costs incurred, and damages and financial loss sustained by any emergency response services provider as a result of the violation and shall order the defendant to make restitution to the emergency response services provider or providers for any such costs, damages or loss. The court shall consider the defendant's present and future ability to pay restitution in its determinations relative to the imposition of a fine. In determining the amount, time and method of payment of restitution, the court shall consider the defendant's employment status, earning ability, financial resources, living expenses, dependents, and any special circumstances that may have bearing on their ability to pay. The court may waive restitution or modify the amount, time

or method of payment if such restitution payment would cause a substantial financial hardship to the defendant or the defendant's immediate family or the defendant's dependents.

SECTION 64. Chapter 274 of the General Laws is hereby amended by adding the following section:-

Section 8. Whoever solicits, counsels, advises, or otherwise entices another to commit a crime that may be punished by imprisonment in the state prison, with the intent that the person, in fact, commit or procure the commitment of such crime shall, except as otherwise provided, be punished as follows:

First, by imprisonment for not more than 20 years in the state prison or for not more than 2½ years in a jail or house of correction, or by a fine of not more than $10,000, or by both such fine and imprisonment, if the intent of the solicitation, counsel, advice or enticement was for the person to commit a crime punishable by imprisonment for life.

Second, by imprisonment for not more than 10 years in the state prison or for not more than 2½ years in a jail or house of correction, or by a fine of not more than $10,000, or by both such fine and imprisonment, if the intent of the solicitation, counsel, advice or enticement was for the person to commit a crime punishable by imprisonment in the state prison for 10 years or more.

Third, by imprisonment for not more than 5 years in the state prison or for not more than 2½ years in a jail or house of correction, or by a fine of not more than $5,000, or by both such fine and imprisonment, if the intent of the solicitation, counsel, advice or enticement was for the person to commit a crime punishable by imprisonment in the state prison for 5 years or more.

Fourth, by imprisonment for not more 2½ years in a jail or house of correction, or by a fine of not more than $2,000, or by both such fine and imprisonment, if the intent of the solicitation, counsel, advice or enticement was for the person to commit a crime punishable by imprisonment in the state prison for less than 5 years.

If a person is convicted of solicitation, counsel, advice or enticement for which crime the penalty is expressly set forth in any other section of the General Laws, the provisions of this section shall not apply to said crime and the penalty in the applicable section of the General Laws shall be imposed pursuant to the provisions of such other section.

SECTION 65. Section 30 of chapter 276 of the General Laws, as appearing in the 2016 Official Edition, is hereby amended by striking out, in lines 5 and 6, the words " upon a finding of good cause by the court the fee may be waived" and inserting in place thereof the following words:- the court may waive the fee upon a finding of good cause or upon a finding that such a fee would cause a substantial financial hardship to the person, the person's immediate family or the person's dependents.

SECTION 66. Said section 30 of said chapter 276, as so appearing, is hereby further amended by inserting after the word "indigent", in line 11, the following words:- or that such fee would cause a substantial financial hardship to the person, the person's immediate family or the person's dependents.

SECTION 67. Section 31 of said chapter 276, as so appearing, is hereby amended by inserting after the word "cause", in line 6, the following words:- or upon a finding that such an assessment would cause a substantial financial hardship to the person, the person's immediate family or the person's dependents.

SECTION 68. Section 57 of said chapter 276, as so appearing, is hereby amended by inserting after the first sentence the following sentence:- Except in cases where the person is determined to pose a danger to the safety of any other person or the community under section 58A, bail shall be set in an amount no higher than what would reasonably assure the appearance of the person before the court after taking into account the person's financial resources; provided, however, that a higher bail may be set if neither alternative nonfinancial conditions nor a bail amount which the person could likely afford would adequately assure the person's appearance before the court.

SECTION 69. Said section 57 of said chapter 276, as so appearing, is hereby further amended by inserting after the word "ties", in line 50, the following words:- , the person's financial resources and financial ability to give bail.

SECTION 70. Said section 57 of said chapter 276, as so appearing, is hereby further amended by inserting after the second paragraph the following paragraph:-

If bail is set at an amount that is likely to result in the person's long-term pretrial detention because he or she lacks the financial resources to post said amount, an authorized person setting bail must provide written or orally recorded findings of fact and a statement of reasons as to why, under the relevant circumstances, neither alternative nonfinancial conditions nor a bail amount that the person can afford will reasonably assure his or her appearance before the court, and further, must explain how the bail amount was calculated.

SECTION 71. Section 58 of said chapter 276, as so appearing, is hereby amended by inserting after the first sentence the following sentence:- Except in cases where the person is determined to pose a danger to the safety of any other person or the community under section

58A, bail shall be set in an amount no higher than what would reasonably assure the appearance of the person before the court after taking into account the person's financial resources; provided, however, that a higher bail may be set if neither alternative nonfinancial conditions nor a bail amount which the person could likely afford would adequately assure the person's appearance before the court.

SECTION 72. Said section 58 of said chapter 276, as so appearing, is hereby further amended by inserting after the word "resources", in line 20, the following words:- and financial ability to give bail.

SECTION 73. Said section 58 of said chapter 276, as so appearing, is hereby further amended by inserting after the first paragraph the following paragraph:-

If bail is set at an amount that is likely to result in the person's long-term pretrial detention because he or she lacks the financial resources to post said amount, an authorized person setting bail must provide written or orally recorded findings of fact and a statement of reasons as to why, under the relevant circumstances, neither alternative nonfinancial conditions nor a bail amount that the person can afford will reasonably assure his or her appearance before the court, and further, must explain how the bail amount was calculated.

SECTION 74. Section 87A of said chapter 276, as so appearing, is hereby amended by inserting after the fourth paragraph the following 2 paragraphs:-

The court shall not assess said monthly probation fee or said administrative probation fee upon any person placed on supervised probation or administrative supervised probation after release from prison or a house of correction for said person's first 6 months of such probation if

it determines, after a hearing and upon written findings, that said fees would constitute a substantial financial hardship to the person, the person's immediate family or dependents.

If the court determines after said hearing and upon such written findings that said fees would constitute a substantial financial hardship to said person, the person's immediate family or dependents, the court shall waive payment of either or both said fees. No later than 6 months after the waiver, and every 6 months thereafter, the chief probation officer or the officer's designee shall conduct a further reassessment of the financial circumstances of said person to ensure that the person continues to meet the definition of substantial financial hardship. The chief probation officer or the officer's designee shall prepare, sign and file with the court a written report certifying that the person continues to meet, or no longer meets, the definition of substantial financial hardship. Upon receipt of the report, if such report certifies that the person no longer meets the definition of substantial financial hardship, the court shall hold a hearing, and shall revoke the waiver and impose either or both said fees if the court finds after said hearing that the person no longer meets the definition of substantial financial hardship.

SECTION 75. Said section 87A of said chapter 276, as so appearing, is hereby further amended by striking out, in lines 42 to 44, inclusive, the words "an undue hardship on said person or his family due to limited income, employment status, or any other factor" and inserting in place thereof the following words:- a substantial financial hardship for the person, the person's immediate family or dependents.

SECTION 76. Said section 87A of said chapter 276, as so appearing, is hereby further amended by striking out, in line 45, the word "undue" and inserting in place thereof the following words:- substantial financial.

SECTION 77. The sixth paragraph of said section 87A of said chapter 276, as so appearing, is hereby amended by adding the following sentence:- Said person shall pay said administrative victims service surcharge once each month during such time as said person remains on administrative supervised probation.

SECTION 78. The seventh paragraph of said section 87A of said chapter 276, as so appearing, is hereby amended by striking out the first sentence.

SECTION 79. Said section 87A of said chapter 276, as so appearing, is hereby further amended by striking out, in lines 86 to 88, inclusive, the words “an undue hardship on said person or his family due to limited income, employment status, or any other factor” and inserting in place thereof the following words:- a substantial financial hardship for the person, the person’s immediate family or dependents.

SECTION 80. The third paragraph of section 92A of said chapter 276, as so appearing, is hereby amended by striking out the second sentence and inserting in place thereof the following sentence:- If the court finds that the payment of restitution due will cause a substantial financial hardship to the defendant, the defendant’s immediate family or the defendant’s dependents, the court may grant remission from any payment of restitution, or modify the amount, time or method of payment.

SECTION 81. Section 100A of said chapter 276, as so appearing, is hereby amended by striking out, in lines 9, 14 and 21 the figure “5” and inserting in place thereof, in each instance, the following figure:- 3.

SECTION 82. Said section 100A of said chapter 276, as so appearing, is hereby further amended by striking out, in lines 12, 15 and 22 the figure “10” and inserting in place thereof, in each instance, the following figure:- 7.

SECTION 83. Said section 100A of said chapter 276, as so appearing, is hereby further amended by inserting after the words “268A”, in line 28, the following words- , except for convictions for resisting arrest.

SECTION 84. Said section 100A of said chapter 276, as so appearing, is hereby further amended by striking out the fifth paragraph and inserting in place thereof the following 2 paragraphs:-

No county, municipal or state agency shall deny an application for a license to practice any trade or profession or an application for any occupational license solely because of the existence of a sealed record unless the county, municipal or state agency has conducted an adjudicatory proceeding pursuant to chapter 30A. A county, municipal or state agency denying an application for a license to practice any trade or profession or denying an application for any occupational license shall enter written findings as to the basis of its denial. A person whose application for a license to practice any trade or profession or for any occupational license has been denied solely because of the existence of a sealed record may appeal said denial pursuant to chapter 30A.

An application for employment or housing which seeks information concerning prior arrests or convictions of the applicant shall include the following statement: “An applicant for employment or housing with a sealed record on file with the commissioner of probation may answer ‘no record’ with respect to an inquiry herein relative to prior arrests, criminal court

appearances or convictions. An applicant for employment or housing with a sealed record on file with the commissioner of probation may answer ‘no record’ to an inquiry herein relative to prior arrests or criminal court appearances. In addition, any applicant for employment or housing may answer ‘no record’ with respect to any inquiry relative to prior arrests, court appearances or adjudications in all cases of delinquency or as a child in need of services which did not result in a complaint transferred to the superior court for criminal prosecution.” The attorney general may enforce the provisions of this paragraph by a suit in equity commenced in the superior court.

SECTION 85. Section 100C of said chapter 276, as so appearing, is hereby amended by striking out, in line 23, the words “used by an employer” and inserting in place thereof the following words:- , housing or an occupational license.

SECTION 86. Said section 100C of said chapter 276, as so appearing, is hereby further amended by inserting after the word “employment”, in line 26, the following words:- , housing or an occupational license.

SECTION 87. Chapter 276 of the General Laws is hereby amended by inserting after section 100D the following 17 sections:-

Section 100E. As used in sections 100E through 100U of this chapter, the following words shall, unless the context clearly requires otherwise, have the following meanings:-

“Attorney general”, the attorney general of the commonwealth.

“Chief of police”, the administrative head of the police department where the matter resulting in a criminal record that is the subject of a petition originated.

“Commissioner”, the commissioner of probation.

"Consumer reporting agency", any person or organization which, for monetary fees, dues, or on a cooperative, not-for-profit basis, regularly engages in whole, or in part, in the practice of assembling or evaluating criminal history, credit or other information on consumers for the purpose of furnishing consumer reports to third parties, and which uses any means or facility of interstate commerce for the purpose of preparing or furnishing consumer reports.

"County agency", any department or office of county government and any division, board, bureau, commission, institution, tribunal or other instrumentality thereof or thereunder.

"Court", the trial court of the commonwealth established pursuant to section 1 of chapter 211B and any departments or offices established within the trial court.

"Criminal court appearance", an arraignment on, all pre-trial and other post arraignment judicial proceedings related to and the disposition of, a criminal offense.

"Criminal justice agencies", those agencies at all levels of government, which perform as their principal function, activities relating to: (i) crime prevention, including research or the sponsorship of research; (ii) the apprehension, prosecution, adjudication, incarceration or rehabilitation of criminal offenders; or (iii) the collection, storage, dissemination or usage of criminal offender record information.

"Department", the department of criminal justice information services established pursuant to section 167A of chapter 6.

"Disabled person", a person with an intellectual disability, as defined by section 1 of chapter 123B, or who is otherwise mentally or physically disabled and, as a result of such mental or physical disability, is wholly or partially dependent on others to meet daily living needs.

"Disposition", the final conclusion of a charge during or after the initial criminal court appearance or juvenile court appearance; provided, however, that disposition shall not include criminal offenses for which the dispositions were: (i) not guilty; (ii) dismissed for want of prosecution; (iii) dismissed at request of complainant; (iv) nol prossed; or (v) no bill.

"District attorney", the district attorney in the jurisdiction where the matter resulting in a record that is the subject of a petition originated.

"Elderly person", a person who is 60 years of age or older.

"Expunge, expunged, or expungement", the permanent erasure or destruction of a record so that the record is no longer accessible to, or maintained by, the court, any criminal justice agencies or any other state agency, municipal agency or county agency.

"Judicial proceedings", any proceedings before the court resulting in a record.

"Juvenile court appearance", an arraignment on, all pre-trial and other post arraignment judicial proceedings related to and the disposition of, an offense in the juvenile court.

"Municipal agency", any department or office of a city or town government and any council, division, board, bureau, commission, institution, tribunal or other instrumentality thereof or thereunder.

"Offense", a violation of a criminal law for which a person has been charged and has made a criminal court appearance or a juvenile court appearance for which there is a disposition and a record.

"Office", the office of the commissioner of probation.

"Order", an order of expungement.

"Person", a natural person, corporation, association, partnership, or other legal entity.

"Petition", a petition to expunge a criminal record.

"Petitioner", a natural person with a criminal record who has filed a petition.

"Public records", shall have the same meaning as the definition of public records in clause twenty-sixth of section 7 of chapter 4.

"Record", public records including, without limitation, paper or electronic records or data in any communicable form compiled by, on file with or in the care custody or control of, without limitation, the court, the office, the department or criminal justice agencies, which concern a person and relate to the nature or disposition of an offense, including, without limitation, an arrest, a criminal court appearance, a juvenile court appearance, a pre-trial proceeding, other judicial proceedings, disposition, sentencing, incarceration, rehabilitation or release; provided, however, that the term record shall not include evaluative information, intelligence information or statistical and analytical reports and files in which persons are not directly or indirectly identifiable.

"State agency", any department of state government including the executive, legislative or judicial, and all councils thereof and thereunder, and any division, board, bureau, commission, institution, tribunal or other instrumentality within such department, and any independent state authority, district, commission, instrumentality or agency, but not an agency of a county, city or town.

Section 100F. (a) A petitioner who has a record as an adjudicated delinquent or adjudicated youthful offender may, on a form furnished by the commissioner and signed under the penalties of perjury, petition that the commissioner expunge the record. Upon receipt of a petition for an expungement, the commissioner shall certify whether the petitioner is eligible for an expungement under sections 100I and 100J. If the petitioner is not eligible for an expungement under sections 100I and 100J the commissioner shall, within 60 days of the request, deny the request in writing. If the petitioner is eligible for an expungement under sections 100I and 100J the commissioner shall, within 60 days of the petition, notify in writing the chief of police and the district attorney of the petition and that the petitioner is eligible for an expungement under sections100I and 100J. Within 60 days of receipt of notification from the commissioner of the filing of the petition and that petitioner is eligible for an expungement pursuant to sections 100I and 100J, the chief of police and the district attorney shall notify the commissioner in writing of their objections, if any, to the petition.

(b) Upon receipt of a response from the chief of police and the district attorney, if any, or within 65 days of the commissioner's notification to the chief of police and the district attorney pursuant to subsection (a), whichever occurs first, the commissioner shall forthwith forward the petition, along with the objections of the chief of police and the district attorney, if any, to the court wherein the petitioner was adjudicated delinquent or adjudicated a youthful offender.

(c) If the chief of police or the district attorney files an objection with the commissioner within 60 days of receipt of notification as provided in subsection (a) the court shall, within 21 days of receipt of the petition pursuant to subsection (b), conduct a hearing on the petition. The court shall have the discretion to grant or deny the petition based on what is in the best interests

of justice and shall enter written findings as to the basis of its order. The court shall deny any petition that does not meet the requirements of sections 100I and 100J.

(d) If the chief of police or the district attorney does not file an objection with the commissioner within 60 days of receipt of notification as provided in subsection (a) the court may approve the petition without a hearing. The court shall have the discretion to grant or deny the petition based on what is in the best interests of justice and shall enter written findings as to the basis of its order. The court shall deny any petition that does not meet the requirements of sections 100I and 100J.

(e) The court shall forward an order for expungement pursuant to this section forthwith to the clerk of the court where the criminal record was created, to the commissioner and to the commissioner of criminal justice information services appointed pursuant to section 167A of chapter 6.

Section 100G. (a) A petitioner who has a record of conviction may, on a form furnished by the commissioner and signed under the penalties of perjury, petition that the commissioner expunge the record. Upon receipt of a petition, the commissioner shall certify whether the petitioner is eligible for an expungement under sections 100I and 100J. If the petitioner is not eligible for an expungement under sections 100I and100J the commissioner shall, within 60 days of the request, deny the request in writing. If the petitioner is eligible for an expungement under sections 100I and 100J the commissioner shall, within 60 days of the petition, notify in writing the chief of police and the district attorney of the petition and that the petitioner is eligible for an expungement under sections100I and 100J. Within 60 days of receipt of notification from the commissioner of the filing of the petition and that petitioner is eligible for an expungement

pursuant to sections 100I and 100J, the chief of police and the district attorney shall notify the commissioner in writing of their objections, if any, to the petition for the expungement.

(b) Upon receipt of a response from the chief of police and the district attorney, if any, or within 65 days of the commissioner's notification to the chief of police and the district attorney pursuant to subsection (a), whichever occurs first, the commissioner shall forthwith forward the petition, along with the objections of the chief of police and the district attorney, if any, to the court wherein the petitioner was convicted.

(c) If the chief of police or the district attorney files an objection with the commissioner within 60 days of receipt of notification as provided in subsection (a) the court shall, within 21 days of receipt of the petition pursuant to subsection (b), conduct a hearing on the petition. The court shall have the discretion to grant or deny the petition based on what is in the best interests of justice and shall enter written findings as to the basis of its order. The court shall deny any petition that does not meet the requirements of sections 100I and 100J.

(d) If the chief of police or the district attorney does not file an objection with the commissioner within 60 days of receipt of notification as provided in subsection (a) the court may approve the petition without a hearing. The court shall have the discretion to grant or deny the petition based on what is in the best interests of justice and shall enter written findings as to the basis of its order. The court shall deny any petition that does not meet the requirements of sections 100I and 100J.

(e) The court shall forward an order for expungement pursuant to this section forthwith to the clerk of the court where the criminal record was created, to the commissioner and to the

commissioner of criminal justice information services appointed pursuant to section 167A of chapter 6.

Section 100H. (a) A petitioner who has a record that does not include an adjudication as a delinquent, an adjudication as a youthful offender or a conviction may, on a form furnished by the commissioner and signed under the penalties of perjury, petition that the commissioner expunge the record. Upon receipt of a petition, the commissioner shall certify whether the petitioner is eligible for an expungement under sections 100I and 100J. If the petitioner is not eligible for an expungement under sections 100I and 100J the commissioner shall, within 30 days of the request, deny the request in writing. If the petitioner is eligible for an expungement under sections 100I and 100J the commissioner shall, within 30 days of the request, notify in writing the chief of police and the district attorney. Within 30 days of receipt of notification from the commissioner that the petitioner is eligible for an expungement pursuant to sections 100I and 100J, the chief of police or the district attorney shall notify the commissioner in writing of their objections, if any, to the request for the expungement.

(b) If the chief of police or the district attorney files an objection to the petition with the commissioner within 30 days of receipt of notification as provided in subsection (a) the court shall, within 21 days of receipt of the petition pursuant to subsection (b), conduct a hearing on the petition. The court shall have the discretion to grant or deny the petition based on what is in the best interests of justice and shall enter written findings as to the basis of its order. The court shall deny any petition that does not meet the requirements of sections 100I and 100J.

(c) If the chief of police or the district attorney does not file an objection with the commissioner within 30 days of receipt of notification as provided in subsection (a) the court

may approve the petition without a hearing. The court shall have the discretion to grant or deny the petition based on what is in the best interests of justice and shall enter written findings as to the basis of its order. The court shall deny any petition that does not meet the requirements of sections 100I and 100J.

(d) The court shall forward an order for expungement pursuant to this section forthwith to the clerk of the court where the criminal record was created, to the commissioner and to the commissioner of criminal justice information services appointed pursuant to section 167A of chapter 6.

Section 100I. (a) The commissioner shall certify that a petition filed pursuant to section 100F, section 100G or section 100H is eligible for expungement provided that:

(1) the offense resulting in the record that is the subject of the petition is not a criminal offense included in section 100J;

(2) the offense that is the subject of the petition to expunge the record occurred before the petitioner's twenty-first birthday;

(3) the offense that is the subject of the petition to expunge the record, including any period of incarceration, custody or probation, occurred not less than 10 years before the date on which the petition was filed;

(4) other than motor vehicle offenses in which the penalty does not exceed a fine of $50 and the offense that is the subject of the petition to expunge, the petitioner does not have any other criminal court appearances, juvenile court appearances or dispositions on file with the commissioner;

(5) other than motor vehicle offenses in which the penalty does not exceed a fine of $50, the petitioner does not have any criminal court appearances, juvenile court appearances or dispositions on file in any other state, United States possession or in a court of federal jurisdiction; and

(6) the petition includes a certification by the petitioner that, to the petitioner's knowledge, the petitioner is not currently the subject of an active criminal investigation by any criminal justice agency.

Section 100J. (a) No criminal record, which includes a disposition related to the following offenses, shall be eligible for expungement pursuant to section 100F, section 100G or section 100H:

(1) any offense resulting in death or serious bodily injury;

(2) any offense committed with the intent to cause death or serious bodily injury;

(3) any offense committed while armed with a dangerous weapon;

(4) any offense against an elderly person;

(5) any offense against a disabled person;

(6) any sex offense as defined in section 178C of chapter 6;

(7) any sex offense involving a child as defined in section 178C of chapter 6;

(8) any sexually violent offense as defined in section 178C of chapter 6;

(9) any offense in violation of section 24 of chapter 90;

(10) any sexual offense as defined in section 1 of chapter 123A;

(11) any offense in violation of sections 121 to 131Q of chapter 140;

(12) any offense in violation of an order issued pursuant to chapter 209A;

(13) any offense in violation of an order issued pursuant to chapter 258E;

(14) any offense in violation of paragraph (a), (c) or (d) of section 10 of chapter 269; or

(15) any offense in violation of section 10E of chapter 269.

Section 100K. (a) Notwithstanding the requirements of section 100I and section 100J, a court may order the expungement of a record created as a result of criminal court appearance, juvenile court appearance or dispositions if the court determines that the record was created as a result of:

(1) an offense the outcome of which was “not guilty”, “dismissed for want of prosecution”, “dismissed at request of complainant”, “nol prossed”, or “no bill”;

(2) an offense the disposition of which was a dismissal by the court after a conviction had been overturned by the appeals court;

(3) an offense the disposition of which was a dismissal with prejudice by the court;

(4) false identification of the petitioner or the unauthorized use or theft of the petitioner’s identity;

(5) an offense at the time of the creation of the record which at the time of expungement is no longer a crime, except in cases where the elements of the original criminal offense continue to be a crime under a different designation.

(6) demonstrable errors by law enforcement;

(7) demonstrable errors by civilian or expert witnesses;

(8) demonstrable errors by court employees; or

(9) demonstrable fraud perpetrated upon the court.

(b) The court shall have the discretion to order an expungement pursuant to this section based on what is in the best interests of justice. Prior to entering an order of expungement pursuant to this section, the court shall hold a hearing if requested by the petitioner or the district attorney. Upon an order of expungement, the court shall enter written findings of fact.

(c) The court shall forward an order for expungement pursuant to this section forthwith to the clerk of the court where the record was created, to the commissioner and to the commissioner of criminal justice information services appointed pursuant to section 167A of chapter 6.

Section 100L. (a) Upon receipt of an order by a court pursuant to section 100F, section 100G, section 100H or section 100K the commissioner, the clerk of court where the record was created and the commissioner of criminal justice information services appointed pursuant to section 167A of chapter 6 shall:

(1) expunge the record within the care, custody or control of the office, clerk's office or department;

(2) order all criminal justice agencies to expunge the record within their care, custody or control;

(3) order the attorney general to expunge the record within her care, custody or control;

(4) order the chief of police and the district attorney to expunge the record within their care, custody or control; and

(5) upon request of the petitioner who is the subject of the order, order any county agency, municipal agency or state agency identified by said petitioner to expunge any records within their care, custody or control that pertain to, or would otherwise identify, disclose or reference the expunged record.

(b) Any criminal justice agencies receiving an order from the commissioner or the commissioner of criminal justice information services appointed pursuant to section 167A of chapter 6 pursuant to subsection (a), shall forthwith expunge any records within their care, custody or control. Upon receipt of the order all criminal justice agencies shall, upon inquiry from any party, including without limitation, criminal justice agencies, a county agency, a municipal agency or a state agency, inform said party that no record exists.

(c) Upon receipt of an order from the commissioner or the commissioner of criminal justice information services appointed pursuant to section 167A of chapter 6 pursuant to subsection (a), the attorney general shall forthwith expunge any records within her care, custody

or control. Upon receipt of the order the attorney general shall, upon inquiry from any party, including without limitation, criminal justice agencies, a county agency, a municipal agency or a state agency, inform said party that no record exists.

(d) Any chief of police or district attorney receiving an order from the commissioner or the commissioner of criminal justice information services appointed pursuant to section 167A of chapter 6 pursuant to subsection (a), shall forthwith expunge any records within their care, custody or control. Upon receipt of the order all chiefs of police and district attorneys shall, upon inquiry from any party, including without limitation, criminal justice agencies, a county agency, a municipal agency or a state agency, inform said party that no record exists.

(e) Any county agency, municipal agency or state agency receiving an order from the commissioner or the commissioner of criminal justice information services appointed pursuant to section 167A of chapter 6 pursuant to subsection (a), shall forthwith expunge any criminal records within their care, custody or control. Upon receipt of the order a county agency, a municipal agency or a state agency shall, upon inquiry from any party, including without limitation, criminal justice agencies, a county agency, a municipal agency or a state agency, inform said party that no record exists.

Section 100M. No person whose record was expunged pursuant to section 100F, section 100G, section 100H or section 100K shall be held under any provision of any law to be guilty of perjury or otherwise giving a false statement by reason of the person's failure to recite or acknowledge such record, or portion thereof, in response to any inquiry made of him or her for any purpose.

Section 100N. (a) A record expunged pursuant to section 100F, section 100G, section 100H or section 100K shall not operate to disqualify a person in any examination, appointment or application for employment with any county agency, municipal agency or state agency nor shall such expunged records be admissible in evidence or used in any way in any court proceedings or hearings before any boards or commissions or in determining suitability for the practice of any trade or profession requiring licensure. No county agency, municipal agency or state agency shall, directly or indirectly, when determining a person's eligibility for examination, appointment or employment with any county agency, municipal agency or state agency require the disclosure of a criminal record expunged pursuant to section 100F, section 100G, section 100H or section 100K. An applicant for examination, appointment or employment with any county agency, municipal agency or state agency whose record was expunged pursuant to section 100F, section 100G, section 100H or section 100K may answer 'no record' with respect to an inquiry herein relative to prior arrests, criminal court appearances, juvenile court appearances, adjudications, or convictions. An applicant for examination, appointment or employment with any county agency, municipal agency or state agency whose record was expunged pursuant to section 100F, section 100G, section 100H or section 100K may answer 'no record' to an inquiry herein relative to prior arrests or criminal court appearances.

(b) An application for employment used by any employer which seeks information concerning prior arrests or convictions of the applicant shall include the following statement: "An applicant for employment with a record expunged pursuant to section 100F, section 100G, section 100H or section 100K of chapter 276 of the General Laws may answer 'no record' with respect to an inquiry herein relative to prior arrests, criminal court appearances or convictions. An applicant for employment with a record expunged pursuant to section 100F, section 100G,

section 100H or section 100K of chapter 276 of the General Laws may answer ‘no record’ to an inquiry herein relative to prior arrests, criminal court appearances, juvenile court appearances, adjudications or convictions.

Section 100O. A petition for an expungement, any records related to a petition for an expungement, records related to judicial proceedings required to hear the petition for an expungement or an order of expungement pursuant to section 100F, section 100G, section 100H or section 100K shall not be a public records. Any information obtained by a county, municipal or state employee acting in their official capacity and related to a petition for or order for an expungement shall be confidential information. Within 60 days of ordering an expungement pursuant to section 100F, section 100G, section 100H or section 100K the court and the commissioner shall expunge all records of the petition, the order and any related proceedings within their care, custody or control.

Section 100P. The court shall exclude the general public from any judicial proceeding where the court will be hearing a petition for an expungement admitting only such persons as may have a direct interest in the case.

Section 100Q. No person shall make records sealed pursuant to section 100A or section 100B or expunged pursuant to section 100F, section 100G, section 100H or section 100K available for inspection in any form by any person.

Section 100R. It shall be a violation of public policy for a district attorney to make plea deal contingent on waiving a right to expunge.

Section 100S. In a claim for negligence, an employer or landlord shall be presumed to have no notice or ability to know of a record that: (i) has been sealed or expunged; (ii) the

employer is prohibited from inquiring about pursuant to subsection 9 of section 4 of chapter 151B; or (iii) concerns crimes that the department of criminal justice information services cannot lawfully disclose to an employer or landlord.

Section 100T. Upon sealing a record pursuant to section 100A or section 100B or upon receipt of an order of expungement pursuant to section 100F, section 100G, section 100H or section 100K the commissioner shall notify the Federal Bureau of Investigation and the United States Department of Justice of said sealing or expungement and shall request said Federal Bureau of Investigation and the United States Department of Justice seal or expunge the record.

Section 100U. The court, the office and the department may promulgate regulations for the administration and enforcement of sections 100E through 100T.

SECTION 88. Section 2 of chapter 276A, as so appearing, is hereby amended by striking out, in lines 6 and 7, inclusive, the words “who has reached the age of 18 years but has not reached the age of twenty-two,”.

SECTION 89. The General Laws are hereby amended by inserting after chapter 276A the following chapter:-

CHAPTER 276B.

RESTORATIVE JUSTICE.

Section 1. As used in this chapter the following words shall, unless the context clearly requires otherwise, have the following meanings:

“Restorative justice”, a voluntary process whereby the offenders, victims and members of the community collectively identify and address harms, needs and obligations resulting from an

offense, in order to understand the impact of that offense. An offender shall accept responsibility for their actions and the program shall support the offender as they make repair to the victim or community in which the harm occurred.

"Community-based restorative justice program", a voluntary program established on restorative justice principles and approved by the restorative justice advisory committee that engages parties to a crime or members of the community in order to develop a plan of repair that addresses the needs of the parties and the community. Programs may include the parties to a case, their supporters, and community members or one-on-one dialogues between a victim and offender.

Section 2. Participation in a community-based restorative justice program shall be voluntary and may be available to both a juvenile and adult defendant. A juvenile or adult defendant may be diverted to a community-based restorative justice program pre-arraignment or at any stage of a case with the consent of the district attorney and the victim. Restorative justice may be a final case disposition, with judicial approval. If a juvenile or adult defendant successfully completes the community-based restorative justice program, the charge shall be dismissed. If a juvenile or adult defendant does not successfully complete the program or is found to be in violation of program requirements, the case shall be returned to the court in which it was arraigned in order to commence with proceedings.

Section 3. A person shall not be eligible to participate in a community-based restorative justice program if that person is charged with: (i) a sexual offense as defined by section 1 of chapter 123A; (ii) an offense against a family or household member as defined by section 13M of chapter 265; or (iii) an offense resulting in serious bodily injury or death.

Section 4. Participation in a community-based restorative justice program shall not be used as evidence or as an admission of guilt, delinquency or civil liability in current or subsequent legal proceedings against any participant. Any statement made by a juvenile or adult defendant during the course of an assignment to a community-based restorative justice program shall be confidential and shall not be subject to disclosure in any judicial or administrative proceeding; and no information obtained during the course of such assignment shall be used in any stage of a criminal investigation or prosecution, or civil or administrative proceeding; provided, however, that nothing in this section shall preclude any evidence obtained through an independent source or that would have been inevitably discovered by lawful means from being admitted at such proceedings.

Section 5. (a) There shall be established a restorative justice advisory committee to review community-based restorative justice programs. The advisory committee shall consist of 17 members: 1 of whom shall be the secretary of public safety and security, or a designee, who shall serve as chair; 1 of whom shall be the secretary of health and human services, or a designee; 1 of whom shall be a member of the house of representatives appointed by the speaker; 1 of whom shall be a member of the senate appointed by the senate president; 1 of whom shall be the president of the Massachusetts district attorneys association, or a designee; 1 of whom shall be the chief counsel of the committee for public counsel services, or a designee; 1 of whom shall be the commissioner of probation, or a designee; 1 of whom shall be the president of the Massachusetts chiefs of police association, or a designee; 1 of whom shall be the executive director of the Massachusetts office for victim assistance, or a designee; 1 of whom shall be the executive director of the Massachusetts sheriff's association, or a designee; and 7 of whom shall be appointed by the governor, 2 of whom shall be a retired trial court judge and 5 of whom shall

be representatives of community-based restorative justice programs or a member of the public with expertise in restorative justice. Each member of the advisory committee shall serve a 6-year term.

(b) The advisory committee may monitor and assist all community-based restorative justice programs to which a juvenile or adult defendant may be diverted pursuant to this chapter. The committee shall issue approval of new and existing programs for a term of 2 years, and may renew approval for additional 2-year terms, subject to revocation for cause. The committee shall establish criteria to determine approval of a program.

(c) The advisory committee shall track the use of community-based restorative justice programs through a partnership with an educational institution and may make legislative, policy and regulatory recommendations to aid in the use of community-based restorative justice programs, including but not limited to: qualitative and quantitative outcomes for participants; recidivism rates of responsible parties; criteria for youth involvement and training; cost savings for the commonwealth; training guidelines for restorative justice facilitators; data on racial socioeconomic and geographic disparities in the use of community-based restorative justice programs; guidelines for restorative justice best practices; and appropriate training for community-based restorative programs.

(d) The advisory committee shall annually submit a report with findings and recommendations to the governor, the clerks of the house of representatives and senate, and the joint committees on the judiciary and public safety and homeland security annually, no later than December 31.

SECTION 90. Section 70C of chapter 277 of the General Laws, as appearing in the 2016 Official Edition, is hereby amended by striking out, in line 8, the words “, chapter 119”.

SECTION 91. Section 1 of chapter 279 of the General Laws, as so appearing, is hereby amended by adding the following paragraph:-

When a person is sentenced to pay a fine of any amount, or is assessed fines, fees, costs, civil penalties, or other expenses at disposition of a case, the court shall inform that person that: (i) nonpayment of the fines, fees, costs, civil penalties or expenses may result in commitment to a correctional facility; (ii) payment must be made by a date certain; (iii) failure to appear at such date certain or failure to make the payment may result in the issuance of a default; and (iv) if an inability to pay exists as the result of a change in financial circumstances or for any other reason, the person has a right to address the court if the person alleges that such assessed fines, fees, costs, civil penalties or other expenses would cause a substantial financial hardship to the person, the person’s immediate family or the person’s dependents.

SECTION 92. The second paragraph of section 6A of chapter 280 of the General Laws, as so appearing is hereby amended by striking out the second sentence and inserting in place thereof the following sentence:- The court or justice may waive all or any part of said cost assessment upon a finding that such payment would cause a substantial financial hardship to the person, the person’s immediate family or the person’s dependents.

SECTION 93. The first paragraph of section 6B of said chapter 280, as so appearing, is hereby amended by striking out the fourth sentence and inserting in place thereof the following sentence:-The court or justice may waive all or any part of said assessment upon a finding that

such payment would cause a substantial financial hardship to the person, the person's immediate family or the person's dependents.

SECTION 94. The first paragraph of section 368 of chapter 26 of the acts of 2003 is hereby amended by striking out the fourth and fifth sentences and inserting in place thereof the following 2 sentences:- The parole board shall waive payment of said parole fee for the first 6 months of parole if it determines that such payment would constitute a substantial financial hardship to said person or the person's immediate family or the person's dependents. Any such waiver so granted shall continue to be in effect during the period of time that said person is determined to be unable to pay the monthly parole fee.

SECTION 95. The second paragraph of said section 368 of said chapter 26 is hereby amended by striking out the third and fourth sentences and inserting in place thereof the following 2 sentences:- The parole board shall waive payment of said surcharge for the first 6 months of parole if it determines that such payment would constitute a substantial financial hardship to said person or the person's immediate family or the person's dependents. Any such waiver so granted shall continue to be in effect during the period of time that said person is determined to be unable to pay the monthly parolee victim services surcharge.

SECTION 96. Notwithstanding any special or general law to the contrary, there shall be a special commission established to conduct a study on the ability of a defendant to pay fines and fees. The commission shall consist of: commissioner of the department of probation, or designee; commissioner of the department of revenue, or designee; 1 member of the house of representatives to be appointed by the speaker of the house; 1 member of the senate to be appointed by the senate president; 1 member to be appointed by the parole board; 1 member to

be appointed by the committee for public counsel services; and 1 member to be appointed by the executive director of the American Civil Liberties Union of Massachusetts, Inc.

That study shall include, but not be limited to:

(a) the establishment of a uniform definition and standards for evaluating indigency;

(b) the establishment of a uniform definition and standards for evaluating a substantial financial hardship; and

(c) the feasibility of enabling the department of probation and the parole board to access department of revenue records for the purposes of ascertaining whether a defendant is indigent or would suffer a substantial financial hardship if ordered to pay fines or fees.

The department shall file the findings of its study by December 31, 2018, with the clerks of the house and the senate, who shall forward the report to the chairmen of the house committee on ways and means, the senate committee on ways and means, and the joint committee on the judiciary.

SECTION 97. Notwithstanding any special or general law to the contrary, there shall be a special commission established to investigate and study the operation and management of the Massachusetts state police crime laboratory. The commission shall consist 11 members: 1 of whom shall be the secretary of public safety and security or the secretary's designee; 1 of whom shall be the secretary of health and human services or the secretary's designee; 1 of whom shall be a member of the house of representatives appointed by the speaker of the house; 1 of whom shall be a member of the senate appointed by the senate president; 1 of whom shall be a member appointed by the Massachusetts district attorney association; 1 of whom shall be a member

appointed by the committee for public counsel services; 1 of whom shall be a member e appointed by the Massachusetts bar association; 1 person appointed by the governor who shall be a member of the public with expertise in scientific research on or technological development in testing capabilities of substances; 1 person appointed by the speaker of the house who shall be a member of the public with expertise in scientific research on, or technological development in, testing capabilities of substances; 1 person appointed by the senate president who shall be a member of the public with expertise in scientific research on or technological development in testing capabilities of substances; and 1person appointed by the attorney general who shall be a member of the public with expertise in social welfare or social justice.

The investigation shall include, but not be limited to:

(a) evaluating the capabilities of the crime laboratory and its ability to process evidence necessary to comply with the Massachusetts general laws;

(b) establishing professional qualifications necessary to serve as the head of the crime laboratory;

(c) determining the proper entity to oversee the crime laboratory and whether it would be appropriate to transfer such oversight to another executive agency or to an independent executive director;

(d) the feasibility of creating a board to select an independent executive director of the crime laboratory;

(e) setting term limits and reappointment standards applicable to the head of the crime laboratory.

The commission shall file the findings of its study by December 31, 2018, with the clerks of the house and the senate, who shall forward the report to the chairmen of the house committee on ways and means, the senate committee on ways and means, and the joint committee on the judiciary.

SECTION 98. All appointments to the advisory committee established pursuant to section 5 of chapter 276B of the General Laws shall be made not later than October 1, 2018 and the first meeting of the advisory committee shall be held not later than December 1, 2018.

SECTION 99. All appointments to the juvenile justice policy and data commission established pursuant to section 86 of chapter 119 of the General Laws shall be made not less than 90 days after the enactment of this legislation.

SECTION 100. All reports established pursuant to subsection (e) of section 41 of chapter 127 of the General Laws shall be filed beginning July 1, 2019.

SECTION 101. Notwithstanding any general or special law to the contrary, any person who has failed to provide a DNA sample as required by section 3 of the chapter 22E of the General Laws shall not be subject to section 11 of said chapter 22E; provided said person provides the required DNA sample within 6 months of the effective date of this act.

SECTION 102. Section 7 shall take effect 6 months after the effective date of this act.

SECTION 103. Sections 13, 14, 15, 16 and 20 shall apply to convictions occurring on or after the effective date of this act.

SECTION 104. Section 87 shall take effect 6 months after the effective date of this act.

SECTION 105. Section 101 of this act is hereby repealed.

SECTION 106. Section 105 of this act shall take effect 6 months after the effective date of this act.