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HOUSE . . . . . No. 4043

Text of an amendment, as recommended by the House committee on Ways and Means, as changed by the House committee on Bills in the Third Reading, and as adopted by the House, to the Senate Bill relative to criminal justice reform (Senate, No. 2200). November 13 and 14, 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 appointed pursuant to 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 2A. Section 167 of chapter 6 of the General Laws, as appearing in the 2016 Official Edition, is hereby amended by inserting in line 5, after the word “conviction,” the following words:- including a finding of guilty or not guilty by reason of insanity,.

SECTION 2B. Section 18 ¾ of chapter 6A of the General Laws, as appearing in the 2016 Official Edition, is hereby amended by adding the following 4 paragraphs:-

(11) (i) to establish data collection and reporting standards for criminal justice agencies and the trial court to enable the submission of data by the department of correction, houses of correction and county jails to capture and report information on their populations, including recording all applicable charges and convictions. The secretary shall require that the department, houses of correction and county jails promulgate regulations regarding: (i) the format for the submission of the data and (ii) the categories and types of data required to be submitted, including, but not limited to: (A) the unique statewide identification number assigned to each person who enters the criminal justice system known as the probation central file number, (B) the offense for which the person has been incarcerated; (C) the date and time of the offense, (D) the location of the offense, (E) the race, ethnicity, gender, age of the person, whether the person is a primary caretaker of a child and the status of the person's reproductive health needs; (F) risk and needs assessment scores; (G) participation and completion of evidence-based programs; and (H) dates entering and exiting the jail or the date entering the department or house of correction custody, wrap-up release date and actual release date.

(ii) the data collected pursuant to clause (i) shall be in the form of a cross-tracking system for data collection and reporting standards for criminal justice agencies and the trial court, including houses of correction and county jails. The cross-tracking system shall require all criminal justice agencies and the judiciary to use the probation central file number assigned to each person who enters the criminal justice system. All criminal justice agencies and the trial court shall incorporate the probation central file number into their data systems upon a person's initial transfer to their jurisdiction. Anonymized cross-agency data shall be made available to the

public for analysis through an application programming interface which allows access to all electronically available records.

(12) to establish data collection and reporting standards for criminal justice agencies and the trial court relative to recidivism rates for rearraignment, reconviction and reincarceration. Recidivism rates, determined by the data collected, shall be reported annually to the secretary. The data shall be submitted by each criminal justice agency and the judiciary to the secretary who shall subsequently publish the information quarterly on the executive office of public safety and security website. Reported data shall be tracked over 1, 2 and 3 year periods and include categorizations by race, ethnicity, gender and age.

(13) to establish data collection and reporting standards for criminal justice agencies and the trial court to standardize methods of reporting of race and ethnicity data to facilitate assessment of the racial and ethnic composition of the criminal justice population of the commonwealth. The criminal justice agencies and the trial court, including houses of correction and county jails, shall coordinate to ensure that racial and ethnic data related to populations, trends and outcomes is reported accurately to the secretary of the executive office of public safety and security and the public.

(14) The data collection and reporting standards established in paragraphs 11, 12 and 13 shall be developed in consultation with the executive office of technology services and security.

SECTION 2C. Chapter 7D of the General Laws, as appearing in the 2016 Official Edition, is amended by adding the following section:-

Section 11. There shall be an inter-branch, interagency oversight board to monitor and ensure that the justice reinvestment policies relative to data collection and its availability to the

public achieve anticipated goals. The board shall consist of 16 members: the secretary of the executive office of technology services and security, who shall serve as chairperson; the attorney general or a designee; the chief justice of the trial court or a designee; the secretary of the executive office of public safety and security or a designee; the commissioner of probation or a designee, the chief counsel of the committee for public counsel services or a designee; the commissioner of correction or a designee; a member of the Massachusetts District Attorneys Association; a member of the Massachusetts Sheriffs Association, Inc.; the senate chair of the joint committee on the judiciary or a designee; the house chair of the joint committee on the judiciary or a designee; the chief legal counsel of the Massachusetts Bar Association or a designee; the executive director of the American Civil Liberties Union of Massachusetts, Inc. or a designee; and 3 members appointed by the governor: 1 of whom shall be an expert in addressing racial, ethnic, gender or age bias and 2 of whom shall be experts in data collection and analysis.

The board shall meet quarterly to review the compliance of : (i) criminal justice agencies and the trial court, including the probation service, the parole board, the executive office of public safety and security, the department of correction, houses of correction and county jails in: (1) collecting and submitting data required by paragraphs 11, 12 and 13 of section 18¾ of chapter 6A; (2) making said data available to the public as required by said paragraphs 11, 12 and 13 of said section 18¾ through the development of data portals to make data without personally identifiable information so available; and (ii) criminal justice agencies and the trial court, including the department of correction, houses of correction and county jails, with polices ensuring risk assessment accurately predict outcomes across racial, ethnic, and gender classifications; provided, that compliance shall include a review of whether the tools are

appropriately screening for gender-specific risk or needs that may be addressed by evidence-based programs. A report on the collection of data and the compliance with justice reinvestment policies shall be submitted annually to the clerks of the house of representatives and the senate on or before July 1.

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 3A. Section 66A of Chapter 10 of the General Laws, as appearing in the 2016 Official Edition, is hereby amended by inserting after the words “chapter 265”, in line 6, the following words:- and section 107 of chapter 272.

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 use 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.

(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, 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 further 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 further 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 the defendant 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 one-half 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 one-half 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 or her sentence for good conduct until he or she 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 the defendant 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 one-half 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 one-half 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 or her sentence for good conduct until he or she 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 defendant 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 one-half 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 or her sentence for good conduct until he or she 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 the defendant 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 one-half 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 or her

sentence for good conduct until he or she 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 the defendant 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 one-half 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 or her sentence for good conduct until he or she 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 the individual’s 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 the individual’s 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, as so appearing, 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 so appearing, 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, as so appearing, is hereby further amended by striking out subsection (c½) 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 one-half 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 one-half 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 one-half 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 one-half 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, except for offenses in subsection (a) of section 53 of chapter 272 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. The data to be recorded on the 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 gender, racial or ethnic categories in the instrument. The child advocate shall provide guidance about the manner in which the gender, 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 section 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 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, 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 21 members, 1 of whom shall be a member of the house of representatives appointed by the speaker of the house of representatives, 1 member of the house of representatives to be appointed by the minority leader of the house; 1 of whom shall be a member of the senate appointed by the president of the senate; 1 member of the senate to be appointed by the senate minority leader; 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 gender, 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 hereby 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.

"Clinical Standards", standards which shall be promulgated by the Department of Correction in consultation with the Department of Mental Health.

"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.

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

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

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

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

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

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

"Serious mental illness", a current or recent diagnosis by a qualified mental health professional of 1 or 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; (iii) all types of bipolar disorders; (iv) a neurodevelopmental disorder, dementia or other cognitive disorder; (v) any disorder commonly characterized by breaks with reality or perceptions of reality; (vi) all types of anxiety disorders; (vii) trauma and stressor related disorders; or (viii) severe personality disorders; or a finding by a qualified mental health professional 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 120 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 120 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 15 days and shall be placed in a secure treatment unit. A correctional facility may house an inmate diagnosed with a serious mental illness in a segregated unit for no more than 15 days while waiting for a bed in a secure treatment unit. If the department fails to transfer the inmate to a secure treatment bed by day 15, the correctional facility shall submit a report to the segregation oversight 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 the following information: : (1) The reason segregation was instituted for the inmate named in the report; (2) The reason transfer has not occurred 3) Changes to the inmate's mental state; and 4) Efforts that have been undertaken to find appropriate housing, the status of such efforts and an estimated date for removal from segregation "; and provided further that the inmate shall be evaluated by a qualified mental health professional in accordance with clinical standards adopted by the department and the department of mental health. 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. In instances where no secure treatment bed is available and an inmate diagnosed with a serious mental illness is housed in a segregated unit for more than 30 days the correction facility where the inmate is housed shall submit to the segregation oversight 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 every 7 days a report that includes: (1) The reason segregation was instituted for the inmate named in the report; (2) The reason transfer has not occurred 3) Changes to the inmate's mental state; and 4) Efforts that have been undertaken to find appropriate housing, the status of such efforts and an estimated date for removal from segregation "; and provided further that the inmate shall be evaluated by a qualified mental health professional in accordance with clinical standards adopted by the department and the department of mental health.

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 15 days and shall be placed in a secure treatment unit. A correctional facility may house an inmate diagnosed with a serious mental illness in a segregated unit for no more than 15 days while waiting for a bed in a secure treatment unit. If the sheriff fails to transfer the inmate to a secure treatment bed by day 15, the correctional facility shall submit a report to the segregation oversight 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 the following information: : (1) The reason segregation was instituted for the inmate named in the report; (2) The reason transfer has not occurred 3) Changes to the inmate's mental state; and 4) Efforts that have been undertaken to find appropriate housing, the status of such efforts and an estimated date for removal from segregation "; and provided further that the inmate shall be evaluated by a qualified mental health professional in accordance with clinical standards adopted by the sheriff and the department of mental health. 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. In instances where no secure treatment bed is available and an inmate diagnosed with a serious mental illness is housed in a segregated unit for more than 30 days the correction facility where the inmate is housed shall submit to the segregation oversight 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 every 7 days a report that includes: (1) The reason segregation was instituted for the inmate named in the report; (2) The reason transfer has not occurred 3) Changes to the inmate's mental state; and 4) Efforts that have been undertaken to find appropriate housing, the status of such efforts and an estimated date for removal from segregation "; and provided further that the inmate shall be evaluated by a qualified mental health professional in accordance with clinical standards adopted by the sheriff and the department of mental health.

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 120 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 120 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 15 days and shall be placed in a secure treatment unit. A correctional facility may house an inmate diagnosed with a serious mental illness in a segregated unit for no more than 15 days while waiting for a bed in a secure treatment unit. If the department fails to transfer the inmate to a secure treatment bed by day 15, the correctional facility shall submit a report to the segregation oversight 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 the following information: : (1) The reason segregation was instituted for the inmate named in the report; (2) The reason transfer has not occurred 3) Changes to the inmate's mental state; and 4) Efforts that have been undertaken to find appropriate housing, the status of such efforts and an estimated date for removal from segregation "; and provided further that the inmate shall be evaluated by a qualified mental health professional in accordance with clinical standards adopted by the department and the department of mental health. 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. In instances where no secure

treatment bed is available and an inmate diagnosed with a serious mental illness is housed in a segregated unit for more than 30 days the correction facility where the inmate is housed shall submit to the segregation oversight 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 every 7 days a report that includes: (1) The reason segregation was instituted for the inmate named in the report; (2) The reason transfer has not occurred 3) Changes to the inmate's mental state; and 4) Efforts that have been undertaken to find appropriate housing, the status of such efforts and an estimated date for removal from segregation "; and provided further that the inmate shall be evaluated by a qualified mental health professional in accordance with clinical standards adopted by the department and the department of mental health.

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

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

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

953 (b) Except in exigent circumstances that would create an unacceptable risk to the safety
954 of any person or where no secure treatment unit bed is available, an inmate in administrative
955 segregation diagnosed with a serious mental illness in accordance with clinical standards adopted
956 by the sheriff shall not be housed in a segregated unit for more than 15 days and shall be placed
957 in a secure treatment unit. A correctional facility may house an inmate diagnosed with a serious
958 mental illness in a segregated unit for no more than 15 days while waiting for a bed in a secure
959 treatment unit. If the sheriff fails to transfer the inmate to a secure treatment bed by day 15, the
960 correctional facility shall submit a report to the segregation oversight committee, the house and
961 senate chairs of the joint committee on the judiciary and the house and senate chairs of the joint
962 committee on public safety and homeland security a report that includes the following
963 information: : (1) The reason segregation was instituted for the inmate named in the report; (2)
964 The reason transfer has not occurred 3) Changes to the inmate's mental state; and 4) Efforts that
965 have been undertaken to find appropriate housing, the status of such efforts and an estimated
966 date for removal from segregation "; and provided further that the inmate shall be evaluated by a
967 qualified mental health professional in accordance with clinical standards adopted by the sheriff

and the department of mental health. 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. In instances where no secure treatment bed is available and an inmate diagnosed with a serious mental illness is housed in a segregated unit for more than 30 days the correction facility where the inmate is housed shall submit to the segregation oversight 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 every 7 days a report that includes: (1) The reason segregation was instituted for the inmate named in the report; (2) The reason transfer has not occurred 3) Changes to the inmate's mental state; and 4) Efforts that have been undertaken to find appropriate housing, the status of such efforts and an estimated date for removal from segregation "; and provided further that the inmate shall be evaluated by a qualified mental health professional in accordance with clinical standards adopted by the sheriff and the department of mental health.

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 age, race, ethnicity, gender, mental health diagnoses, and known disabilities of every prisoner who

was placed in administrative or disciplinary segregation during the previous 3 months; (2) the reason segregation was instituted for each instance identified in the report; (3) the dates on which each prisoner was placed in and released from segregation during the previous 3 months; (4) the number of mental health professionals who work directly with prisoners in segregation; (5) the number of transfers to outside hospitals directly from segregation; and (6) the number of suicides and, separately, acts of non-lethal self-harm committed by prisoners held in segregation.

(f) The committee shall establish policies to ensure that an inmate with an anticipated release date of less than 120 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 120 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 120 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 an independent 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 medical parole. Upon receipt of said petition 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. (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 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 the sheriff 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. (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 sections 119B or 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 medical parolee's care be consistent with the care specified in the medical parole plan approved by the medical parole board; (2) the medical 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; and (3) the medical 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 the 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) 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, Inc., 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 chairs of the house and senate 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 such returns.

SECTION 36. Section 144 of said chapter 127, 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. A person deemed indigent for the purpose of being offered counsel and who is assigned counsel for the commitment portion of a proceeding solely for the nonpayment of money owed shall not be assessed a fee for such counsel

(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 43A. Section 1 of chapter 263A of the General Laws, as appearing in the 2016 Official Edition, is hereby amended by striking out the definition of “Critical witness” and inserting in place thereof the following definition:-

“Critical witness”, any person who is participating, has participated, or is reasonably expected to participate in a criminal investigation, motion hearing, trial, show cause hearing, or

other criminal proceeding, or a proceeding involving an alleged violation of conditions of probation or parole, or the commitment of a sexually dangerous person pursuant to chapter 123A; or who has received a subpoena requiring such participation; who is, or was, in the judgment of the prosecuting officer, a necessary witness at one or more of the aforementioned types of proceedings, and who is or may be endangered by such person's participation in the aforementioned proceeding; or such person's relatives, guardians, friends or associates, who are or may be endangered by such person's participation in the aforementioned proceeding;

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 45A. Chapter 268 of the General Laws is hereby amended by striking out section 13B, as so appearing, and inserting in place thereof the following section:-

Section 13B. (a) As used in this section, the following words shall have the following meanings unless the context clearly requires otherwise:

"Investigator", an individual or group of individuals lawfully authorized by a department or agency of the federal government or any political subdivision thereof or a department or agency of the commonwealth or any political subdivision thereof to conduct or engage in an investigation of, prosecution for, or defense of a violation of the laws of the United States or of the commonwealth in the course of such individual's or group's official duties.

"Harass", to engage in an act directed at a specific person or group of persons that seriously alarms or annoys such person or group of persons and would cause a reasonable person or group of persons to suffer substantial emotional distress including, but not limited to, an act conducted by mail or by use of a telephonic or telecommunication device or electronic communication device including, but not limited to, a device that transfers signs, signals, writing,images, sounds, data or intelligence of any nature, transmitted in whole or in part by a wire,radio, electromagnetic, photoelectronic or photo-optical system including, but not limited to, electronic mail, internet communications, instant messages and facsimile communications.

(b) Whoever willfully, either directly or indirectly: (i) threatens, attempts or causes physical, emotional or economic injury or property damage to; (ii) conveys a gift, offer or promise of anything of value to; or (iii) misleads, intimidates or harasses another person who is a: (A) witness or potential witness; (B) person who is or was aware of information, records, documents or objects that relate to a violation of a criminal law or a violation of conditions of probation, parole, bail or other court order; (C) judge, juror, grand juror, attorney, victim witness advocate, police officer, correction officer, federal agent, investigator, clerk, court officer, court

reporter, court interpreter, probation officer or parole officer; (D) person who is or was attending or a person who had made known an intention to attend a proceeding described in this section; or (E) family member of a person described in this section, with the intent to or with reckless disregard for the fact that it may: (1) impede, obstruct, delay, prevent or otherwise interfere with: (I) a criminal investigation at any stage, a grand jury proceeding, a dangerousness hearing, a motion hearing, a trial or other criminal proceeding of any type or a parole hearing, parole violation proceeding or probation violation proceeding; or (II) an administrative hearing or a probate or family court proceeding, juvenile proceeding, housing proceeding, land proceeding, clerk's hearing, court-ordered mediation or any other civil proceeding of any type; or (2) punish, harm or otherwise retaliate against any such person described in this section for such person or such person's family member's participation in any of the proceedings described in this section, shall be punished by imprisonment in the state prison for not more than 10 years or by imprisonment in the house of correction for not more than 2 ½ years or by a fine of not less than $1,000 or more than $5,000 or by both such fine and imprisonment. If the proceeding in which the misconduct is directed at is the investigation or prosecution of a crime punishable by life imprisonment or the parole of a person convicted of a crime punishable by life imprisonment, such person shall be punished by imprisonment in the state prison for not more than 20 years or by imprisonment in the house of corrections for not more than 2 ½ years or by a fine of not more than $10,000 or by both such fine and imprisonment.

(c) A prosecution under this section may be brought in the county in which the criminal investigation, trial or other proceeding was being conducted or took place or in the county in which the alleged conduct constituting the offense occurred.

SECTION 45B. Section 54 of chapter 265, as so appearing, is hereby amended by striking out, in line 4, the words “sections 50 and 51”, and inserting in place thereof the following words:- subsection (c) and subsection (d) of section 26D and sections 50 and 51.

SECTION 45C. Section 57 of said chapter 265 of the General Laws, as so appearing, is hereby amended by striking out, in lines 5 and 6, the words “a violation of section 53A of said chapter 272 that,” and inserting in place thereof the following words:- charges of violating sections 26 and 53A of chapter 272 that,;

SECTION 45D. Said chapter 265 of the General Laws, as so appearing, is hereby amended by inserting after section 58 the following section:-

Section 59: (a) At any time after the entry of a judgment of disposition on an indictment or criminal or delinquency complaint for an offense under section 26, subsection (a) of section 53, or subsection (a) of section 53A of chapter 272 or under section 34 of chapter 94C for simple possession of a controlled substance, the court in which it was entered shall, upon motion of the defendant, vacate any conviction, adjudication of delinquency, or continuance without a finding and permit the defendant to withdraw any plea of guilty, plea of nolo contendere, plea of delinquent, or factual admission tendered in association therewith upon a finding by the court of a reasonable probability that the defendant’s participation in the offense was a result of having been a victim of human trafficking as defined by section 20M of chapter 233 or a victim of trafficking in persons under 22 U.S.C. 7102 provided that:

(1) Except as provided in paragraphs (2) and (3) of this subsection, the defendant shall have the burden to establish a reasonable probability that the defendant’s participation in the offense was the result of having been a victim of human trafficking;

(2) Where a child under the age of eighteen was adjudicated delinquent for an offense under section 26, subsection (a) of section 53, or subsection (a) of section 53A of chapter 272, based on allegations of prostitution, there shall be a rebuttable presumption that the child's participation in the offense was a result of having been a victim of human trafficking or trafficking in persons;

(3) Where the conviction, adjudication of delinquency, or continuance without a finding was for an offense under section 26, subsection (a) of section 53, or subsection (a) of section 53A of chapter 272 committed when the defendant was 18 years of age or older, official documentation from any local, state, or federal government agency of the defendant's status as a victim of human trafficking or trafficking in persons at the time of the offense shall create a rebuttable presumption that the defendant's participation in the offense was a result of having been a victim of human trafficking or trafficking in persons, but shall not be required for granting a motion under this paragraph;

(4) For purposes of paragraph (3) of this subsection, "official documentation" shall be defined as any document issued by a local, state, or federal government agency in the agency's official capacity;

(5) The rules concerning the admissibility of evidence at criminal trials shall not apply to the presentation and consideration of information at a hearing conducted pursuant to this section, and the court shall consider hearsay contained in official documentation from any local, state, or federal government agency of the defendant's status as a victim of human trafficking or trafficking in persons offered in support of a motion pursuant to this section; and

(6) A motion pursuant to this section may be heard by any sitting justice of a court of competent jurisdiction.

(b) Upon vacatur of a conviction, adjudication of delinquency, or continuance without a finding, the court shall enter a plea of not guilty. It shall be an affirmative defense to the charges against the defendant that, while a human trafficking victim, such person was under duress or coerced into committing the offenses for which such person is being prosecuted or against whom juvenile delinquency proceedings have commenced.

(c) The administrative justices of the superior court, district court, juvenile court and the Boston municipal court departments shall jointly promulgate a motion form for use under this section.

SECTION 45E. Chapter 265 of the General Laws is hereby amended by adding the following section:-

Section 59. Any person who, in violation of chapter 94C, manufactures, distributes, or dispenses heroin, fentanyl, methamphetamine, lysergic acid diethylamide, phencyclidine (PCP) or any other controlled substance in Class A, Class B, or Class C, as set forth at section 31 of chapter 94C, is strictly liable for a death which results from the injection, inhalation or ingestion of that substance, and shall be punished by imprisonment for life or for any term of years as the court may order, and by a fine of not more than $25,000; provided, however, that the sentence of imprisonment imposed upon such person shall not be reduced to less than 5 years, nor suspended, nor shall any such person be eligible for probation, parole or furlough or receive a deduction from his or her sentence for good conduct until such person shall have served 5 years of such sentence.

For purposes of this section, a person's act of manufacturing, distributing, or dispensing a substance is the cause of a death when:

(a) The injection, inhalation or ingestion of the substance is an antecedent but for which the death would not have occurred; and

(b) The death was proximately caused by a person who manufactured, distributed, or dispensed such substance.

It shall not be a defense to a prosecution under this section that the decedent contributed to his or her own death by such decedent's purposeful, knowing, reckless or negligent injection, inhalation or ingestion of the substance or by such decedent's consenting to the administration of the substance by another. Nothing in this section shall be construed to preclude or limit any other prosecution for homicide.

SECTION 45F. Notwithstanding any general or special law to the contrary, the provisions of section 45E shall not take effect until such time as the executive office for administration and finance, in conjunction with the executive office of public safety and security, has furnished a study of the legislation's impact on public safety and its impact on the economy of the commonwealth and its municipalities, including, but not limited to, a distributional analysis of the impact to taxpayers of varying income levels, the current practice of other states, anticipated changes in employment levels and other ancillary economic activity to the joint committee on public safety and homeland security, and until legislation has been filed and enacted pursuant to Part 2, Chap. 1, Sec. 1, Art. II of the Constitution.

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:- $1,000.

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:- $1,200.

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:- $1,000.

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:-$2,000.

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:-$1,000.

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:-$8,000.

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:- $1,000.

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:- $1,000.

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 63A. Chapter 272 of the General Laws, as appearing in the 2016 Official Edition, is hereby amended by inserting after section 106 the following section:-

Section 107. The court shall transmit fines collected pursuant to section 8 and subsection (b) and subsection (c) of section 53A to the state treasurer. The treasurer shall deposit such fines into the Victims of Human Trafficking Trust Fund established pursuant to section 66A of chapter 10.

SECTION 63B. Chapter 268 of the General Laws, as appearing in the 2016 Official Edition, is hereby amended by striking out section 13B, as so appearing, and inserting in place thereof the following section:-

Section 13B.

(1) Whoever, directly or indirectly, willfully

(a) threatens, or attempts or causes physical injury, emotional injury, economic injury or property damage to,

(b) conveys a gift, offer or promise of anything of value to, or

(c) misleads, intimidates or harasses;

(2) another person who is

(a) a witness or potential witness,

(b) a person who is or was aware of information, records, documents or objects that relate to a violation of a criminal statute, or a violation of conditions of probation, parole, bail, or other court order,

(c) a judge, juror, grand juror, attorney, victim witness advocate, police officer, federal agent, investigator, clerk, court officer, court reporter, court interpreter, probation officer or parole officer,

(d) a person who is or was attending, or had made known his or her intention to attend a proceeding described in subsection (3)(a), or

(e) a family member of a person described in subsections 2(a) through 2(d);

(3) with the intent to, or with reckless disregard that it may,

(a) impede, obstruct, delay, prevent or otherwise interfere with

(i) a criminal investigation at any stage, a grand jury proceeding, a dangerousness hearing, a motion hearing, a trial or other criminal proceeding of any type, or a parole hearing, or parole violation proceeding, or probation violation proceeding; or

(ii) an administrative hearing, or a probate and family proceeding, juvenile proceeding, housing proceeding, land proceeding, clerk's hearing, court-ordered mediation, or any other civil proceeding of any type; or

(b) punish, harm or otherwise retaliate against any person described in subsection (2) for such person’s or such person’s family member’s participation in any of the proceedings described in subsection (3)(a) shall be punished by imprisonment in the state prison for not more than ten years, or by imprisonment in the 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 $5,000, or by both such fine and imprisonment; or, if the proceeding which the misconduct is directed at is the investigation or prosecution of a crime punishable by life imprisonment, or the parole of a person convicted of a

crime punishable by life imprisonment, shall be punished by imprisonment in the state prison for life or for any term of years.

(4) As used in this section, “investigator” shall mean an individual or group of individuals lawfully authorized by a department or agency of the federal government, or any political subdivision thereof, or a department or agency of the commonwealth, or any political subdivision thereof, to conduct or engage in an investigation of, prosecution for, or defense of a violation of the laws of the United States or of the commonwealth in the course of his official duties.

(5) As used in this section, “harass” shall mean to engage in any act directed at a specific person or persons, which act seriously alarms or annoys such person or persons and would cause a reasonable person to suffer substantial emotional distress. Such act shall include, but not be limited to, an act conducted by mail or by use of a telephonic or telecommunication device or electronic communication device including but not limited to any device that transfers signs, signals, writing, images, sounds, data, or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photo-electronic or photo-optical system, including, but not limited to, electronic mail, internet communications, instant messages or facsimile communications.

(6) A prosecution under this section may be brought in the county in which the criminal investigation, trial, or other proceeding is being conducted or took place, or in the county in which the alleged conduct constituting an offense occurred.

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 74A. Section 58A of chapter 276 of the General Laws, as so appearing, is hereby amended by striking out, in lines 16 to 17, the words "third or subsequent conviction for a violation of section 24 of chapter 90", and inserting the words: "charge of a third or subsequent violation of section 24 of chapter 90 within 10 years of the previous conviction for such violation"

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 80A. There shall be a bail reform commission, referred to in this section as the commission. The commission shall evaluate policies and procedures related to the current bail system and recommend improvements or changes.

The commission shall consist of 19 members, 2 of whom shall be members of the house of representatives appointed by the speaker of the house of representatives; 1 of whom shall be a member of the house of representatives appointed by the minority leader of the house of representatives; 2 of whom shall be members of the senate appointed by the president of the senate; 1 of whom shall be a member of the senate appointed by the minority leader of the senate; 1 of whom shall be the chief justice of the supreme judicial court, or a designee; 1 of whom shall be the chief justice of the superior court, or a designee; 1 of whom shall be the chief administrative justice of the district court, or a designee; 1 of whom shall be the commissioner of probation, 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 appointed by the ACLU of Massachusetts; 1 of whom shall be appointed by Massachusetts Association of Criminal Defense Lawyers; 1 of whom shall be the attorney general, or designee; 2 of whom shall be members of the Massachusetts District Attorneys Association, including 1 of whom shall be the President, or their designees, and; 1 of whom shall the governor, or designee.

Members of the commission shall serve without compensation. The speaker of the house of representatives and the president of the Senate shall each appoint one co-chair of the commission from among its members.

The commission shall report by December 1, 2018 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 band homeland security and the chief justice of the trial court regarding the following: (1) an evaluation of the potential to use risk assessment factors as part of the pretrial system regarding bail decisions, including the potential to use risk assessment factors to determine when defendants should be released with or without conditions without bail and when bail should be set; (2) an evaluation of the impact of eliminating cash bail and recommendations, if any, for doing so; (3) an evaluation of the setting of conditions on defendants when they are released with or without bail and if changes should be made to the setting of conditions; (4) evaluate any disparate impact on defendants because of gender, race, gender identity, or other protected class status in the pretrial system and recommend any changes that could be made to minimize any such impact that is found; and (5) any statutory changes concerning the pretrial system that the commission recommends.

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.

“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 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 district attorney shall notify the commissioner in writing of their objections, if any, to the petition.

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

(c) If 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 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 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 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 district attorney, if any, or within 65 days of the commissioner's notification to the district attorney pursuant to subsection (a), whichever occurs first, the commissioner shall forthwith forward the petition, along with the objections of the district attorney, if any, to the court wherein the petitioner was convicted.

(c) If 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 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 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 district

attorney shall notify the commissioner in writing of their objections, if any, to the request for the expungement.

(b) If 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 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 7 years before the date on which the petition was filed if the offense that is the subject of the petition is a felony, and not less than 3 years before the date on which the petition was filed if the offense that is subject of the petition is a misdemeanor;

(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 87A. Section 1 of chapter 276A, as so appearing, is hereby amended by striking out, in lines 20 and 21, the words “certified or approved by the commissioner of probation under the provisions of section eight,”

SECTION 88. Section 2 of chapter 276A, as appearing in the 2016 Official Edition, 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 88A. Sections 8 and 9 of said chapter 276A are hereby repealed.

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 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. Nothing in this chapter shall be construed to prohibit pre-arraignment law enforcement based programs.

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.

(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 gender, 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 89A. Chapter 6 of the General Laws, as appearing in the 2016 Official Edition, is hereby amended by inserting, after section 116F, the following new section:-

Section 116G. (a) As used in this section, “bias-free policing” shall mean decisions made by law enforcement officers that shall not consider a person’s race, ethnicity, sex, gender identity, religion, mental or physical disability, immigration status or socioeconomic or professional level.

(b) The municipal police training committee, in consultation with the executive office of public safety and security, shall establish and develop an in-service training program designed to train local law enforcement officials in the following areas:

(i) practices and procedures related to bias-free policing which shall include, but not be limited to, examining attitudes and stereotypes that affect the actions and decisions of law enforcement officers;

(ii) practices and techniques for law enforcement officers in civilian interaction and to promote procedural justice, which shall emphasize de-escalation and disengagement tactics and techniques and procedures that build community trust and maintain community confidence; and

(iii) handling mental health emergencies and complaints involving victims, witnesses or suspects with a mental illness or developmental disability, which shall include training related to common behaviors and actions exhibited by such individuals, strategies law enforcement officers may use for reducing or preventing the risk of harm and strategies that involve the least intrusive means of addressing such incidences and individuals while protecting the safety of the law enforcement officer and other persons; provided, however, that training presenters shall include certified mental health practitioners with expertise in the delivery of direct services to individuals experiencing mental health emergencies and victims, witnesses and suspects with a mental illness or developmental disability.

(c) The committee shall determine training requirements and minimum standards of the program that all local law enforcement agencies throughout the commonwealth shall implement in their practices and training of law enforcement officials.

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 word “, 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 house of representatives to be appointed by the minority leader of the house; 1 member of the senate to be appointed by the senate president; 1 member of the senate to be appointed by the senate minority leader; 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 member of the house of representatives to be appointed by the minority leader of the house; 1 of whom shall be a member of the senate appointed by the senate president; 1 member of the senate to be appointed by the senate minority leader; 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 97A. Notwithstanding any special or general law to the contrary, there shall be a special commission established to investigate and study the integrity of forensic analysis performed in state and municipal laboratories. The commission shall consist of 11 members who shall be appointed by the governor as follows: 1 of whom shall have expertise in forensic science; 1 of whom shall have expertise in cognitive bias; 1 of whom shall work in academia in a research field adjacent to forensic science; 1 of whom shall have expertise in statistics; 1 of whom shall have expertise in forensic laboratory management; 1 of whom shall have expertise in clinical quality management; 1 of whom shall be nominated by the Massachusetts District Attorneys Association; 1 of whom shall be nominated by the Attorney General of Massachusetts, who shall serve as chair; 1 of whom shall be nominated by the Committee of Public Counsel Services; 1 of whom shall be nominated by the Massachusetts Association of Criminal Defense Lawyers; and 1 of whom shall be nominated by the New England Innocence Project. No member, other than those nominated by the Massachusetts District Attorneys Association, the Attorney General of Massachusetts, the Committee of Public Council Services or the New England Innocence Project shall be employed by or affiliated with any state or municipal forensic laboratory throughout the term of membership.

The investigation shall include, but not be limited to:

(a) evaluating the manner in which forensic laboratories report professional negligence or misconduct;

(b) identifying professional negligence or misconduct that could affect the integrity or results of forensic analysis;

(c) evaluating laboratory accreditation and professional licensing processes;

(d) identifying measures to improve the quality of forensic analysis performed in laboratories; and

(e) recommending improvements to education and training in forensic science.

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.

SECTION 107. Notwithstanding any general or special law to the contrary, there shall be established a panel on justice-involved women to review and report on the impact of this act and other criminal statutes on women in the Commonwealth and make recommendations on gender-responsive and trauma-informed approaches to address the pre-trial, incarceration, and rehabilitation needs of justice-involved women. The task force shall review and consider improvements including, but not limited to, family visitation policies, available reproductive health care, gender-specific pre-trial services and programming offered within correctional institutions, and post-release transitional assistance and supports for women.

Said panel shall be chaired by the commissioner of the department of corrections or a designee, and shall consist of the commissioner of the department of children and families or a designee, the commissioner of the department of mental health or a designee, the commissioner of the department of public health or a designee, the commissioner of the office of probation, a

member of the house of representatives appointed by the speaker of the house, a member of the senate appointed by the senate president, a member of the Massachusetts' sheriffs association, and persons representing justice-involved women, re-entry programs, trauma-informed programs and training, domestic violence prevention, and an individual who has been formally incarcerated. Members of the board shall be appointed no later than 60 days after enactment of this act. The policy review panel shall meet at least 2 times annually and review reports, data and other information related to justice-involved women in the Commonwealth.

The panel shall annually, on or before December 31st, issue a report of its review and recommendations to the chairs of the joint committee on the judiciary, house and senate clerks, and the Chairs of the Women's Caucus Task Force on Justice Involved Women.

SECTION 108. Chapter 94C, section 32E of the General Laws is hereby amended by inserting, after subsection (c) (4), the following section:- (5) Any persons found guilty of trafficking heroin or fentanyl that results in the death of the user is to be punished by the terms set forth in Chapter 265, Section 13 of the Massachusetts General Laws.

SECTION 109. Notwithstanding any general or special law to the contrary, the provisions of section 108 shall not take effect until such time as the executive office for administration and finance, in conjunction with the executive office of public safety and security, has furnished a study of the legislation's impact on public safety and its impact on the economy of the commonwealth and its municipalities, including, but not limited to, a distributional analysis of the impact to taxpayers of varying income levels, the current practice of other states, anticipated changes in employment levels and other ancillary economic activity to the joint

committee on public safety and homeland security, and until legislation has been filed and enacted pursuant to Part 2, Chap. 1, Sec. 1, Art. II of the Constitution.

SECTION 110. Section 26 of Chapter 218 of the General Laws, as appearing in the 2016 Official Edition, is hereby amended by striking out, in line 18, the words ”thirteen K” and inserting in place thereof the following two figures:- 13D, 13K.

SECTION 111. Section 13D of Chapter 265 of the General Laws, as so appearing, is hereby amended by adding the following paragraph:-

Whoever commits an assault and battery upon a police officer when such person is engaged in the performance of his duties at the time of such assault and battery, causing serious bodily injury, shall be punished by a term of imprisonment in the state prison for not less than 1 year nor more than 10 years, or house of correction for not less than 1 year nor more than 2 ½ years. No sentence imposed under the provisions of this section shall be for less than a mandatory minimum term of imprisonment of one year and a fine of not less than $500 nor more than $10,000 may be imposed but not in lieu of the mandatory minimum term of imprisonment. A prosecution commenced under this paragraph shall not be placed on file or continued without a finding and a sentence imposed upon a person convicted of violating this paragraph shall not be suspended or reduced, nor shall such person be eligible for probation, parole, work release, furlough or receive any deduction from his sentence for good conduct until such person shall have served said mandatory minimum term of imprisonment.

SECTION 112. The secretary of elder affairs and the secretary of the executive office of public safety and security, in consultation with the Attorney General, the Massachusetts chapter of AARP, the Massachusetts chapter of the National Academy of Elder Law Attorneys, and a

representative from an Aging Services Access Point, shall report to the general court on elder protection laws in the commonwealth. The report shall include, but not be limited to: (i) the effectiveness of existing elder protection laws; (ii) the preservation of the autonomy of elders in the context of elder protection laws; (iii) additional legislative or regulatory changes that would further strengthen elder protection laws; and (iv) opportunities presented by the Elder Abuse Prevention and Prosecution Act, Public Law No. 115-70. The report shall be submitted with drafts of any recommended legislation to the clerks of the house of representatives and the senate and the chairs of the joint committee on elder affairs and the joint committee on the judiciary not later than July 31, 2018.

SECTION 113. Notwithstanding any special or general law to the contrary, there shall be a special commission established to investigate and study the statutory authority, operations, and training of constables. 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 a member of the Massachusetts trial court; 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 Massachusetts sheriffs association; 1 of whom shall be a member e appointed by the Massachusetts bar association; 1 of whom shall be a member appointed by the Massachusetts chiefs of police association; 1 of whom shall be a member appointed by the Massachusetts constables coalition; 1 of whom shall be a member appointed by the Massachusetts bay constables association; 1 person appointed by the governor who shall be a member of the public with experience in civil process.

The commission shall file the findings of its study by May 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 114. Section 18 3/4 of chapter 6A of the General Laws, as appearing in the 2016 Official Edition, is hereby amended by adding the following subsection:-

(11) to create a uniform booklet of informational material, which shall be provided to persons, including juvenile offenders, committed to the custody of the department of correction and the sheriffs upon their release from a correctional facility. The booklet shall contain, at a minimum: (i) a summary of how and by whom the committed person's criminal offender record information may be accessed and distributed pursuant to sections 167 to 178B, inclusive, of chapter 6; (ii) an explanation of the process for filing a complaint with the department of criminal justice information services regarding the content of, dissemination of or access to criminal offender record information; (iii) an explanation of the right to have certain records sealed pursuant to section 100A of chapter 276 and a step by step explanation of the process for sealing such records; (iv) an explanation of the duration of criminal offender record information; (v) contact information for relevant employees and offices of the department; (vi) a list of websites with important background on, and explanations of, criminal offender record information; and (vi) a list of answers to frequently asked questions about criminal offender record information.

SECTION 115. Section 172A of chapter 6 of the General Laws, as appearing in the 2016 Official Edition, is hereby amended by inserting after the figure "18031(i)", in line 9, the

following words:- , or veterans organizations requesting information relative to employees, volunteers and veterans that such organizations shall provide housing for.

SECTION 116. "Section 34A of chapter 268 of the General Laws, as appearing in the 2012 Official Edition, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- Whoever knowingly and willfully furnishes a false name, Social Security number, date of birth, home address, mailing address or phone number, or other information as may be requested for the purposes of establishing the person's identity, to a law enforcement officer or law enforcement official following an arrest shall be punished by a fine of not more than $1,000 or by imprisonment in a house of correction for not more than 1 year or by both such fine and imprisonment.

SECTION 117. Said chapter 6 of the General Laws, as so appearing in the 2016 Official Edition, is hereby further amended by inserting after section 172M the following section:-

Section 172N. State and political subdivision licensing authorities shall provide in the licensing requirements for a professional license a list of the specific criminal convictions that are directly related to the duties and responsibilities for the licensed occupation that would disqualify an applicant from eligibility for a license. For the purposes of this section, "licensing authority" shall include an agency, examining board, credentialing board, or other office or commission with the authority to impose occupational fees or licensing requirements on a profession.

SECTION 118. Section 37E of said chapter 266, as appearing in the 2016 Official Edition, is hereby amended by inserting after subsection (c) the following subsection:-

(c ½) Whoever possesses a tool, instrument or other article adapted, designed or commonly used for accessing a person's financial services account number or code, savings account number or code, checking account number or code, brokerage account number or code, credit card account number or code, debit card number or code, automated teller machine number or code, personal identification number, mother's maiden name, computer system password, electronic signature or unique biometric data that is a fingerprint, voice print, retinal image or iris image of another person under circumstances evincing an intent to use or knowledge that some person intends to use the same in the commission of larceny shall be guilty of identity fraud and shall be punished by a fine of not more than $5,000 or imprisonment in a house of correction for not more than 2 1/2 years, or by both such fine and imprisonment.

SECTION 119. Section 8A of chapter 90 of the General Laws, as so appearing, is hereby amended by striking out, in line 33, the words "of the vapors of glue" and inserting in place thereof the following words:- "from smelling or inhaling the fumes of any substance having the property of releasing toxic vapors as defined in section 18 of chapter 270".

SECTION 120. Section 8A ½ of said chapter 90, as so appearing, is hereby amended by striking out, in lines 29 and 30, the words "the vapors of glue" and inserting in place thereof the following words:- "from smelling or inhaling the fumes of any substance having the property of releasing toxic vapors as defined in section 18 of chapter 270."

SECTION 121. Section 21 of said chapter 90, as so appearing, is hereby amended by striking out, in line 27, the words "under the influence of the vapors of glue" and inserting in place thereof the following words:- "while under the influence from smelling or inhaling the

fumes of any substance having the property of releasing toxic vapors as defined in section 18 of chapter 270.";

SECTION 122. Section 24 of said chapter 90, as so appearing, is hereby amended by striking out, in lines 8 and 759, the words "the vapors of glue" and inserting in place thereof, in each instance, the following words:- "while under the influence from smelling or inhaling the fumes of any substance having the property of releasing toxic vapors as defined in section 18 of chapter 270.

SECTION 123. Section 24D of said chapter 90, as so appearing, is hereby amended by striking out, in lines 4 and in lines 17 and 18, the words "the vapors of glue" and inserting in place thereof, in each instance, the following words:- "while under the influence from smelling or inhaling the fumes of any substance having the property of releasing toxic vapors as defined in section 18 of chapter 270.

SECTION 124. Section 24G of said chapter 90, as so appearing, is hereby amended by striking out, in lines 8 and 43, the words "vapors of glue" and inserting in place thereof, in each instance, the following words:- while under the influence from smelling or inhaling the fumes of any substance having the property of releasing toxic vapors as defined in section 18 of chapter 270.

SECTION 125. Section 24L of said chapter 90, as so appearing, is hereby amended by striking out, in lines 8 and 43, the words "vapors of glue" and inserting in place thereof, in each instance, the following words:- while under the influence from smelling or inhaling the fumes of any substance having the property of releasing toxic vapors as defined in section 18 of chapter 270.

SECTION 126. Section 8 of chapter 90B of the General Laws, as so appearing, is hereby amended by striking out, in lines 6 and 508, the words “the vapors of glue” and inserting in place thereof, in each instance, the following words:- from smelling or inhaling the fumes of any substance having the property of releasing toxic vapors as defined in section 18 of chapter 270.

SECTION 127. Section 8A of said chapter 90B, as so appearing, is hereby amended by striking out, in lines 5 and 6, the words “the vapors of glue” and inserting in place thereof the following words:- from smelling or inhaling the fumes of any substance having the property of releasing toxic vapors as defined in section 18 of chapter 270.

SECTION 128. Said section 8A of said chapter 90B, as so appearing, is hereby further amended by striking out, in line 36, the words “vapors of glue” and inserting in place thereof the following words:- from smelling or inhaling the fumes of any substance having the property of releasing toxic vapors as defined in section 18 of chapter 270.

SECTION 129. Section 8B of said chapter 90B, as so appearing, is hereby amended by striking out, in lines 5 and 6 and 38 and 39, the words “the vapors of glue” and inserting in place thereof, in each instance, the following words:- from smelling or inhaling the fumes of any substance having the property of releasing toxic vapors as defined in section 18 of chapter 270.

SECTION 130. Section 26A of said chapter 90B, as so appearing, is hereby amended by striking out, in line 8 and 17, the words “the vapors of glue” and inserting in place thereof, in each instance, the following words:- from smelling or inhaling the fumes of any substance having the property of releasing toxic vapors as defined in section 18 of chapter 270.

SECTION 131. Section 10H of said chapter 269, as so appearing, is hereby amended by striking out, in line 7, the words “the vapors of glue” and inserting in place thereof the following

words:- from smelling or inhaling the fumes of any substance having the property of releasing toxic vapors as defined in section 18 of chapter 270.

SECTION 132. Said section 2 of said chapter 258C, as so appearing, is hereby further amended by striking out, in line 27, the word “shall” and inserting in place thereof the following word:- may.

SECTION 133. Subsection (e) of said section 2 of said chapter 258C, as so appearing, is hereby amended by inserting after the second sentence the following sentence:- In the event of a victim’s death by homicide, an award may be reduced except the costs for appropriate and modest funeral, burial or cremation services shall be paid by the fund.

SECTION 134. Section 14B of chapter 269 of the General Laws, as appearing in the 2014 Official Edition, is hereby amended by adding after paragraph (b) the following paragraph:—

(c) whoever makes or causes to be made 3 or more non-emergency calls as determined by the PSAP shall be punished by a fine of not more than 250 dollars. Whoever commits a subsequent violation of this section shall be punished by a fine of not less than 500 dollars.

SECTION 135. The department of correction, in consultation with the department of telecommunications and cable shall study and report on: (i) the cost of local and long distance telephone service provided to prisoners in department of correction facilities and county houses of correction; (ii) a comparison of the rates with comparable residential telephone service; and (iii) information relative to commissions and revenue collected as part of telephone services provided to prisoners in department of correction facilities and county houses of correction. The report shall be filed with 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 security, and the house and senate chairs of the joint committee on telecommunications, utilities and energy on or before July 1, 2018.

SECTION 136. Chapter 6A of the General Laws, as appearing in the 2016 Official Edition, is hereby amended by inserting after section 18V the following section:-

Section 18W. (a) There shall be within the executive office of public safety and security a statewide sexual assault evidence kit tracking system. The secretary of public safety and security, hereinafter referred to as the secretary, shall convene a multidisciplinary task force composed of members that include law enforcement professionals, crime lab personnel, prosecutors, victim advocates, victim attorneys, survivors, and sexual assault nurse examiners or sexual assault forensic examiners to help develop recommendations for a tracking system and identify funding sources. The secretary may contract with state or non-state entities including, but not limited to, private software and technology providers, for the creation, operation, and maintenance of the system. A sexual assault evidence kit shall include the standardized kit for the collection and preservation of evidence in sexual assault or rape cases as designed by the municipal police training committee pursuant to section 97B of chapter 41.

(b) The statewide sexual assault evidence kit tracking system shall:

(i) track the location and status of sexual assault evidence kits throughout the criminal justice process, including; (1) the initial collection in examinations performed at hospitals or medical facilities, (2) receipt and storage at a governmental entity, including a local law enforcement agency, the department of state police, a district attorney's office or any other official body of the commonwealth or of a county, city or town, (3) a hospital or medical facility

that is in possession of forensic evidence pursuant to section 97B, (4) receipt and analysis at forensic laboratories, and (5) storage and any destruction after completion of analysis;

(ii) allow hospitals or medical facilities performing sexual assault forensic examinations, law enforcement agencies, prosecutors, the crime laboratory within the department of state police, the crime laboratory within the Boston police department, and other entities in the custody of sexual assault kits to update and track the status and location of sexual assault kits;

(iii) allow victims of sexual assault to anonymously track and receive updates regarding the status of their sexual assault kits; and

(iv) use electronic technology or technologies allowing continuous access.

(c) The secretary may use a phased implementation process in order to launch the system and facilitate entry and use of the system for required participants. The secretary may phase initial participation according to region, volume or other appropriate classifications. All entities in the custody of sexual assault evidence kits shall fully participate in the system no later than December 1, 2019.

(d) The secretary shall submit a report on the current status and plan for launching the system, including the plan for phased implementation, to the general court's joint committee on the judiciary, and the governor no later than June 30, 2018.

(e) For the purpose of reports under this section, a sexual assault evidence kit shall be assigned to the jurisdiction associated with the law enforcement agency anticipated to receive the sexual assault evidence kit or otherwise in the custody of the sexual assault evidence kit.

(f) Any public agency or entity, including its officials and employees, and any hospital and its employees providing services to victims of sexual assault may not be held civilly liable for damages arising from any release of information or the failure to release information related to the statewide sexual assault evidence kit tracking system, so long as the release was without gross negligence.

(g) Local law enforcement agencies shall participate in the statewide sexual assault evidence kit tracking system established in this section for the purpose of tracking the status of all sexual assault evidence kits in the custody of local law enforcement agencies and other entities contracting with local law enforcement agencies. Local law enforcement agencies shall begin full participation in the system according to the implementation schedule established by the secretary, but not later than one year from the effective date of this act.

(h) The director of the crime laboratory within the department of state police shall participate in the statewide sexual assault evidence kit tracking system established in this section for the purpose of tracking the status of all sexual assault evidence kits in the custody of the department of state police and other entities contracting with the department of state police. The department of state police shall begin full participation in the system according to the implementation schedule established by the secretary, but not later than one year from the effective date of this act.

(i) A hospital or medical facility licensed pursuant to chapter 111 shall participate in the statewide sexual assault evidence kit tracking system established in this section for the purpose of tracking the status of all sexual assault evidence kits collected by or in the custody of hospitals and other entities contracting with hospitals. Hospitals shall begin full participation in the system

according to the implementation schedule established by the secretary, but not later than one year from the effective date of this act.

(j) District attorney offices shall participate in the statewide sexual assault evidence kit tracking system established in this section for the purpose of tracking the status of all sexual assault evidence kits. District attorney offices shall begin full participation in the system according to the implementation schedule established by the secretary.

(k) A victim connected to a sexual assault evidence kit must be provided notice, in writing, by the executive office of public safety and security, 60 days prior to the planned destruction of such sexual assault evidence kit.

Section 18X. Annually, on or before September 1st, the following reports regarding the previous fiscal year, shall be submitted to the executive office of public safety and security by law enforcement agencies, medical facilities, crime laboratories, and any other facilities that receive, maintain, store, or preserve sexual assault evidence kits:

A. total number of all kits containing forensic samples collected or received

B. for each kit:

a. date of collection or receipt;

b. category of the kit:

i. sexual assault was reported to law enforcement,

ii. victim chose not to file a report with law enforcement (non-investigatory);

c. status of the kit:

i. medical facilities: date the kit was collected, date the kit was reported to law enforcement, and date the kit was picked up by law enforcement;

ii. law enforcement: date the kit was picked up from a medical facility and date the kit was delivered to the crime laboratory;

1. For kits belonging to another jurisdiction: the date that the jurisdiction was notified and the date it was picked up;

iii. crime laboratories: date the kit was received, from which agency the kit was received, date the kit was tested, date the resulting information was entered into CODIS and the state DNA databases, and all reasons a kit was not tested or a DNA profile was not created.

C. total number of all kits remaining in possession of the medical facility, law enforcement, or laboratory, and all reasons for any kit in possession for more than 30 days.

D. total number of kits destroyed by medical facilities, law enforcement, or laboratories, and reason for destruction.

E. The executive office of public safety and security shall compile the information in a summary report that includes a list of all agencies or facilities that failed to participate in the audit. The annual summary report shall be made publicly available on the executive office of public safety and security's website, and shall be submitted to the Governor, the Attorney General, and legislative leadership.

This annual report can obtain information from the tracking system established in section 18W and additional means, such as manual counts and review of records such as case files.

SECTION 137. Section 97B of chapter 41 of the General Laws, as appearing in the 2016 Official Edition, is hereby amended by striking in line, 41, the words “15 years” and inserting in place thereof, the words, “50 years”.

SECTION 138. Chapter 41 of the General Laws, as appearing in the 2016 Official Edition, is hereby amended by inserting after section 97B, the following new section:—

Section 97B ½. (a) Any hospital licensed pursuant to chapter 111 and all other medical facilities that conduct medical forensic examinations shall notify a local law enforcement agency at the time the evidence is obtained and no later than 24 hours after the collection of a new sexual assault evidence kit.

(a) Local law enforcement agencies shall:

(1) Take possession of the sexual assault evidence kit from hospitals and other medical facilities that conduct medical forensic examinations within 3 business days of notification.

(2) Submit new sexual assault evidence kits to the crime laboratory within the department of the state police or the crime laboratory within the Boston police department within 7 business days of taking possession, except that non-investigatory sexual assault evidence kits associated with a victim who has not yet filed a report with law enforcement shall not be subject to the 7 day requirement. Non-investigatory kits shall be safely stored by law enforcement in a manner that preserves evidence for a duration of 50 years or the statute of limitations, whichever is longer.

(b) The crime laboratory within the department of the state police shall test all sexual assault evidence kits within 30 days of receipt from local law enforcement.

(c) In cases where testing results in a DNA profile, the crime laboratory shall enter the full profile into CODIS and the state DNA database.

(d) Each sexual assault evidence kit should be entered into the statewide sexual assault evidence kit tracking system pursuant to section 18X of chapter 6A.

SECTION 139. Notwithstanding any special or general law to the contrary, within 180 days of the enactment of this act, all previously unsubmitted sexual assault evidence kits containing forensic samples collected during a medical forensic exam in medical facilities or other facilities that collect kits, shall be submitted to law enforcement. Non-investigatory kits shall be safely stored by a governmental entity in a manner that preserves evidence for a duration of 50 years or the statute of limitations, whichever is longer. Non-investigatory kits shall not be transferred to the crime laboratory. Within 180 days of enactment, each law enforcement agency shall submit all previously unsubmitted sexual assault evidence kits, including those past the state of limitations, to the crime laboratory within the department of the state police. The crime laboratory within the department of the state police or an accredited private crime laboratory designated by the secretary of public safety and security shall test all previously unsubmitted sexual assault kits within180 days of receipt from local law enforcement. In cases where testing results in a DNA profile, the crime laboratory shall enter the full profile into CODIS and the state DNA database.

SECTION 140. No later than December 1, 2019, the executive office of public safety and security shall ensure that statewide policies and procedures for law enforcement shall be adopted

concerning contact with victims and notification concerning sexual assault evidence kits. The policies and procedures shall be evidence-based and survivor-focused and shall require:

A. Each agency to designate at least one person, who is trained in trauma and victim response, to receive all inquiries concerning sexual assault evidence kits and to serve as a liaison between the agency and the victim.

B. Victims of sexual assault be provided with the contact information for the designated liaison(s) at the time that a sexual assault evidence kit is collected.

In advance or at the time of the medical forensic examination or law enforcement interview, medical professionals, victim advocates, law enforcement officers, and district attorneys shall provide victims of sexual assault with a physical document developed by the executive office of public safety and security identifying their rights under law.

Under this section all victims of sexual assault shall have the right to:

C. Consult with a sexual assault victim advocate who has confidentiality and privilege; waiving the right to a victim advocate in one instance does not negate this right. The medical facility, law enforcement officer, and prosecutor shall inform the victim of this right prior to commencement of a medical forensic examination or law enforcement interview, and shall not continue unless such right is knowingly and voluntarily waived.

D. Information, upon request, of the location, testing date and testing results of a kit, whether a DNA sample was obtained from the kit, whether or not there are matches to DNA profiles in state and federal databases and the estimated destruction date for the kit, if applicable, in a manner of communication designated by the victim.

E. Be informed when there is any change in the status of their case, including if the case has been closed or reopening of the case.

F. Designate a person of the victim's choosing to act as a recipient of the information provided under this subsection.

G. Be informed about how to file a report with law enforcement and have their sexual assault evidence kit tested in the future, if the victim chose not to file a report or have the kit tested at the time the kit was collected.

H. Be informed about the right to apply for victim compensation.

SECTION 141. Notwithstanding any general or special law to the contrary, the multidisciplinary task force established by section 136 of this act shall consider available funding opportunities, including, but not limited to the following grant programs: Bureau of Justice Sexual Assault Kit Initiative (SAKI) grant program; the Sexual Assault Forensic Evidence-Inventory, Tracking and Reporting Program (SAFE-ITR) grant; the DNA Capacity Enhancement and Backlog Reduction (Debbie Smith) grant; the Edward Byrne Memorial Justice Assistance Grant (JAG) Program; and the Victims of Crime Act Victim Assistance grant. The multidisciplinary task force shall also investigate opportunities to utilize software from outside jurisdictions, including, but not limited to the Idaho State Police and the city of Portland, Oregon’s free tracking software.

SECTION 142. There shall be a special commission to study the prevention of suicide among correction officers in Massachusetts correctional facilities. The commission shall consist of the secretary of the executive office of public safety or the secretary’s designee who shall serve as chair; the commissioner of the department of correction or the commissioner’s designee;

the commissioner of the department of public health or the commissioner's designee; the commissioner of the department of mental health or the commissioner's designee; one person appointed by the speaker of the house of representatives; one person appointed by the minority leader in the house of representatives; one person appointed by the president of the senate; one person appointed by the minority leader of the senate; one person appointed by the president of the Massachusetts correction officers federated union or their designee; one person appointed by the president of the Massachusetts Psychological Society or their designee; one person appointed by the president of the new England police benevolent association or their designee; 2 persons to be appointed by the governor; 1 of whom shall be a representative of an organization that specializes in suicide prevention; 1 of whom shall be a representative of an organization that represents Massachusetts sheriffs. Each member shall serve without compensation.

The commission shall review the state of suicide prevention programs in Massachusetts' correctional facilities and develop model plans, recommend program changes, highlight budget priorities and recommend best practices that could be utilized to reduce instances of correction officer suicide, and attempted suicide. The commission shall: (i) examine and evaluate the state of jail and prison suicide prevention policies in the commonwealth; (ii) examine and evaluate suicide prevention training for correctional facility staff in the commonwealth; (iii) provide recommendations for improving suicide identification and intervention for correctional facility staff in the commonwealth; (iv) develop recommendations for the provision of mental health counseling services to correction officers that have a need for such services; (v) examine ways in which correctional facilities can reduce stress, anxiety, and depression among correction officers; and (vi) examine training programs for incoming correction officers and develop recommendations for programs to include a discussion of mental preparedness.

The commission may hold public hearings to assist in the collection and evaluation of data and testimony.

The commission shall submit its findings and recommendations relative to suicide prevention, together with drafts of legislation necessary to carry those recommendations into effect, by filing the same with the clerks of the house of representatives and senate, the house and senate committees on ways and means, the joint committee on public safety and homeland security, and the joint committee on mental health and substance abuse not later than September 30, 2018.

SECTION 143. Section 1 of Chapter 127 of the General Laws, as appearing in the 2016 Official Edition, is hereby amended by inserting before the definition of "Commissioner" the following definition:

"Behavioral health counseling," any non-pharmacological intervention carried out by a qualified behavioral health professional in a therapeutic context at an individual, family, or group level. Interventions may include structured, professionally administered interventions delivered in person or interventions delivered remotely via telemedicine.

SECTION 144. Section 1 of said chapter 127, as so appearing, is hereby amended by inserting after the definition of "Parole board" the following definition:

"Qualified addiction specialist," a treatment provider who is a physician licensed by the board of registration of medicine, a licensed advanced practice registered nurse, or a licensed physician assistant, and who has a minimum of 6 months experience treating individuals with substance use disorder or is a licensed DATA-waiver practitioner under the federal Comprehensive Addiction and Recovery Act of 2016, Public Law 114-198.

SECTION 145. Section 16 of said chapter 127, as so appearing, is hereby amended by inserting at the end thereof the following new paragraph:-

The superintendents of the correctional institutions of the commonwealth, and the keepers and superintendents of jails and houses of correction shall also cause an examination for drug use disorder to be made by a qualified addiction specialist of each inmate in their respective institutions committed for a term of thirty days' imprisonment or more; provided, that if an inmate is diagnosed with drug use disorder, the report of such examination shall include a determination of whether or not opioid substitution or medication assisted treatment for opioid addiction are appropriate for the inmate; and provided further, that this requirement may be satisfied by relying on the report of an examination made pursuant to section 10 of chapter 111E, if said report includes a determination of whether or not opioid substitution or medication assisted treatment for opioid addiction are appropriate for the inmate.

SECTION 146. Chapter 127, as so appearing, is hereby amended by inserting after section 224 the following section:—

Section 224A. The commissioner of correction, in consultation with the Department of Public Health, Bureau of Substance Addiction Services, shall develop criteria for the selection of houses of correction and state prisons to participate in a pilot program to investigate the broader provision of opioid substitution therapies for addiction in correction facilities, and shall select houses of correction and state prisons to participate in said pilot program according to these criteria. Selected facilities shall maintain or provide for the capacity to possess, dispense, and administer all drugs approved by the federal Food and Drug Administration for use in opioid substitution therapy for addiction, and shall make such treatment available to any inmate for

whom such treatment is found to be appropriate pursuant to section 16. Treatment established under this section shall include behavioral health counseling for individuals diagnosed with drug use disorder and said counseling services shall be consistent with current therapeutic standards for these therapies in a community setting. A facility selected under this section shall not be required to maintain or provide an opioid substitution therapy that is not included in the MassHealth drug list and is not a MassHealth covered benefit. A facility must ensure access to a qualified addiction specialist who is a licensed DATA-waiver practitioner under the federal Comprehensive Addiction and Recovery Act of 2016, Public Law 114-198.

The pilot shall also ensure that an inmate receiving opioid substitution or medication assisted treatment for opioid addiction immediately preceding their incarceration, shall continue the treatment unless the inmate voluntarily discontinues the treatment or unless an addiction specialist, as defined in chapter 111E of the General Laws, determines that the treatment is no longer appropriate.

Not later than November 1, 2018, and by November 1 of each subsequent year that the pilot program is in place, selected facilities shall report to the commissioner of correction the following information: (i) the cost of the pilot program to the facility related; (ii) the type and prevalence of opioid substitutions and medication assisted treatments provided through the pilot program; (iii) the number of inmates who continued to receive the same opioid substitution or medication assisted treatment as they received prior to incarceration; (iv) the number of inmates who voluntarily discontinued the opioid substitution or medication assisted treatment that they received prior to incarceration; (v) the number of inmates who discontinued the opioid substitution or medication assisted treatment that they received prior to incarceration due to a determination by an addiction specialist; (vi) a review of the facility's practices related to opioid

substitution and medication assisted treatment prior to inclusion in the pilot program; and (vii) any other information requested by the department of correction related to the administration of the pilot program.

The department of correction, in consultation with the department of public health, shall provide a report of the findings collected from selected facilities to the chairs of the joint committee on mental health and substance abuse and the house and senate committees on ways and means not later than January 1 of each year of the pilot program detailing: (i) the cost of the pilot program in the prior year; (ii) the projected cost associated with expanding the pilot program to additional houses of correction and correctional institutions for the coming year of the pilot program based on prior year costs; (iii) the type and prevalence of opioid substitutions and medication assisted treatments provided through the pilot program; (v) a summary of changes to facility practices related to opioid substitution and medication assisted treatment related to the pilot program; and (v) the aggregated results of: (A) the number of inmates who continued to receive the same opioid substitution or medication assisted treatment as they received prior to incarceration; (B) the number of inmates who voluntarily discontinued the opioid substitution or medication assisted treatment that they received prior to incarceration; and (C) the number of inmates who discontinued the opioid substitution or medication assisted treatment that they received prior to incarceration due to a determination by an addiction specialist.

The department of correction shall select facilities for participation in the pilot program in the following manner: (i) for the first year, the Massachusetts alcohol and substance abuse center and at least 2 houses of correction and 2 state prisons shall be included in the pilot program; (ii) for the second year, at least 30 per cent of houses of correction and state prisons

shall be included in the pilot program; (iii) for the third year, at least 60 per cent of houses of correction and state prisons shall be included in the pilot program; and (iv) for the fourth year, all houses of correction and state prisons shall be included in the pilot program.

SECTION 147. Said 119 is hereby further amended by adding the following section:-

Section 86. (a) For the purposes of this section the following words shall have the following meanings unless the context clearly requires otherwise:

"Juvenile", a person appearing before a division of the juvenile court department who is subject to a delinquency, child requiring assistance or care and protection case or a person under the age of 21 in a youthful offender case.

"Restraints", devices that limit voluntary physical movement of an individual, including leg irons and shackles, which have been approved by the trial court department.

(b) A juvenile shall not be placed in restraints during court proceedings and any restraints shall be removed prior to the appearance of a juvenile before the court at any stage of a proceeding unless the justice presiding in the courtroom issues an order and makes specific findings on the record that: (i) restraints are necessary because there is reason to believe that a juvenile presents an immediate and credible risk of escape that cannot be curtailed by other means; (ii) a juvenile poses a threat to the juvenile's own safety or to the safety of others; or (iii) restraints are reasonably necessary to maintain order in the courtroom.

(c) The court officer charged with custody of a juvenile shall report any security concern to the presiding justice. On the issue of courtroom or courthouse security, the presiding justice

may receive information from the court officer charged with custody of a juvenile, a probation officer or any other source determined by the court to be credible.

The authority to use restraints shall reside solely within the discretion of the presiding justice at the time that a juvenile appears before the court. A juvenile court justice shall not impose a blanket policy to maintain restraints on all juveniles or a specific category of juveniles who appear before the court.

SECTION 148. Chapter 127 of the General Laws is hereby amended by inserting after section 36B the following section:-

Section 36C. A correctional institution, jail, or house of correction shall not prohibit, eliminate, or unreasonably limit in-person visitation of inmates; or coerce, compel, or otherwise pressure an inmate to forego or limit in-person visitation. For the purposes of this section, an unreasonable limit shall include, but not be limited to, providing an eligible inmate fewer than 2 opportunities for in-person visitation during any 7-day period.

A correctional institution, jail, or house of correction may use video or other types of electronic devices for inmate communication with visitors; provided that such communications shall be in addition to, and may not replace, in-person visitation, as prescribed in this section.

A correctional institution, jail, or house of correction may charge a fee for video visitation communication for inmate communications not occurring on site; provided, however, that the fee shall not exceed the operating cost of the communication. Fees collected in excess of operating costs shall be allocated to the fund established under chapter 258C.

Nothing in this section shall prohibit the temporary suspension of visitation privileges for good cause including, but not limited to, misbehavior or during a bonafide emergency.

SECTION 149. Sections 40 and 41 of this act shall take effect 6 months after the effective date of this act.

SECTION 150. Section 2 of Chapter 258C of the General Laws, as appearing in the 2014 Official Edition, is hereby amended by inserting after the word “crime”, in line 11, the following words:- ; “provided, however, that a claimant who was a victim under the age of criminal majority shall not be required to file such report within 5 days.

SECTION 151. Section 178Q of chapter 6 of the General Laws, as appearing in the 2016 Official Edition, is hereby amended by inserting at the end thereof, the following:- The sex offender registry board shall, within 60 days of initial sex offender registration and annual sex offender registration, report to the department of revenue, the department of transitional assistance and the registry of motor vehicles the amount of any sex offender registration fee owed by the sex offender. The department of revenue shall intercept payment of such fee from tax refunds due to persons who owe all or a portion of such fee. The registry of motor vehicles shall not issue or renew a person’s driver’s license or motor vehicle registration for any vehicle subsequently purchased by such person until it receives notification from the sex offender registry board that the fee has been collected.

SECTION 152. Sections 84 and 87 of this act shall take effect 6 months after the effective date of this act.

SECTION 153. Sections 81, 82, 83, 84, 85 and 86 of this act shall take effect 6 months after the effective date of this act.

SECTION 154. Section 127 in chapter 266 is hereby amended by striking out the section in its entirety and replacing it with the following:

Section 127. Whoever destroys or injures the personal property, dwelling house or building of another in any manner or by any means not particularly described or mentioned in this chapter shall, if such destruction or injury is willful and malicious, be punished by imprisonment in the state prison for not more than ten years or by a fine of three thousand dollars or three times the value of the damage caused to the property so destroyed or injured, whichever is greater and imprisonment in jail for not more than two and one-half years; or if such destruction or injury is wanton, shall be punished by a fine of one thousand dollars or three times the value of the damage to the property so destroyed or injured, whichever is greater, or by imprisonment for not more than two and one-half years; if the value of the damage to the property so destroyed or injured is not alleged to exceed one thousand dollars, the punishment shall be by a fine of three times the value of the damage to property or by imprisonment for not more than two and one-half years; provided, however, that where a fine is levied pursuant to the value of the damage to the property destroyed or injured, the court shall, after conviction, conduct an evidentiary hearing to ascertain the value of the damage to the property so destroyed or injured. The words "personal property", as used in this section, shall also include electronically processed or stored data, either tangible or intangible, and data while in transit.