Recess.

Recess.

At twenty-four minutes before seven o'clock P.M., on motion of Ms. Cronin of Easton (Mrs. Haddad of Somerset being in the Chair), the House recessed until the following day at twelve o'clock noon; and at that time the House was called to order with Mr. Donato of Medford in the Chair.

Tuesday, November 14, 2017 (at 12:00 o'clock noon).

Pledge of allegiance.

At the request of the Chair (Mr. Donato), the members, guests and employees joined with him in reciting the pledge of allegiance to the flag.

Resolutions.

The following resolutions (filed with the Clerk) were referred, under Rule 85, to the committee on Rules:

William Scoble.

Resolutions (filed by Mr. McMurtry of Dedham) honoring Chief William P. Scoble on his service as a firefighter in the Commonwealth of Massachusetts;

Dominican Republic.

Resolutions (filed by Mr. Moran of Lawrence) promoting the relationship between the Dominican Republic and the Commonwealth of Massachusetts;

Anthony Czubarow.

Resolutions (filed by Ms. Peisch of Wellesley) honoring Anthony Nicholas Czubarow on receiving the Eagle Award of the Boy Scouts of America;

Jacob Einbinder.

Resolutions (filed by Ms. Peisch of Wellesley) honoring Jacob Hill Einbinder on receiving the Eagle Award of the Boy Scouts of America;

Glen Manglapus.

Resolutions (filed by Ms. Peisch of Wellesley) honoring Glen Kelly Manglapus on receiving the Eagle Award of the Boy Scouts of America;

Barrett Roman.

Resolutions (filed by Ms. Peisch of Wellesley) honoring Barrett Harrision Roman on receiving the Eagle Award of the Boy Scouts of America;

Zane Salameh.

Resolutions (filed by Ms. Peisch of Wellesley) honoring Zane Asad Salameh on receiving the Eagle Award of the Boy Scouts of America;

Andrew Scherrer.

Resolutions (filed by Ms. Peisch of Wellesley) honoring Andrew Cook Scherrer on receiving the Eagle Award of the Boy Scouts of America; and

Clostridium Difficile Infection.

Resolutions (filed by Mr. Sánchez of Boston) recognizing the month of November 2017 as Clostridium Difficile Infection Awareness Month;

Mr. Galvin of Canton, for the committee on Rules, reported, in each instance, that the resolutions ought to be adopted. Under suspension of the rules, in each instance, on motion of Mr. Garballey of Arlington, the resolutions (reported by the committee on Bills in the Third Reading to be correctly drawn) were considered forthwith; and they were adopted.

Petition.

Rebecca Owumi,—sick leave.

Mr. Wong of Saugus presented a petition (subject to Joint Rule 12) of Donald H. Wong, Thomas M. McGee and Brendan P. Crighton for legislation to establish a sick leave bank for Rebecca Owumi, an employee of the Essex County Sheriff's Department; and the same was referred, under Rule 24, to the committee on Rules.

Mr. Galvin of Canton, for the committee on Rules and the committees on Rules of the two branches, acting concurrently, then reported recommending that Joint

Rule 12 be suspended. Under suspension of the rules, on motion of Mr. Garballey of Arlington, the report was considered forthwith. Joint Rule 12 was suspended; and the petition (accompanied by bill) was referred to the committee on Public Service. Sent to the Senate for concurrence.

Papers from the Senate.

Contraceptive coverage.

The House Bill relative to advancing contraceptive coverage and economic security in our state (House, No. 4009) (its title having been changed by the Senate committee on Bills in the Third Reading), came from the Senate passed to be engrossed, in concurrence, with amendments striking out all after the enacting clause and inserting in place thereof the text of Senate document numbered 2210; and inserting before the enacting clause the following emergency preamble:

"*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to provide forthwith contraceptive coverage and economic security in the commonwealth, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public health and convenience.".

The amendments were referred, under Rule 35, to the committee on Bills in the Third Reading. Said committee then reported that the amendments were correctly drawn; and they were adopted, in concurrence.

Mary Faulkner,— sick leave.

A petition of Richard J. Ross and Shawn Dooley for legislation to establish a sick leave bank for Mary Faulkner, an employee of the Department of Correction, came from the Senate referred, under suspension of Joint Rule 12, to the committee on Public Service.

The House then concurred with the Senate in the suspension of said rule; and the petition (accompanied by bill, Senate, No. 2212) was referred, in concurrence, to the committee on Public Service.

Reports of Committees.

Language opportunity.

The committee of conference on the disagreeing votes of the two branches, with reference to the Senate amendment (striking out all after the enacting clause and inserting in place thereof the text contained in Senate document numbered 2134) of the House Bill relative to language opportunity for our kids (House, No. 3740), reported recommending passage of a bill with the same title (House, No. 4032). Referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Middleton,— charter.

By Mr. Murphy of Weymouth, for the committee on Steering, Policy and Scheduling, that the House Bill relative to the Middleton town charter (House, No. 3725) [Local Approval Received], be scheduled for consideration by the House.

Under suspension of Rule 7A, on motion of Mr. O'Day of West Boylston, the bill was read a second time forthwith; and it was ordered to a third reading.

Black men and boys,— commission.

By Ms. Khan of Newton, for the committee on Children, Families and Persons with Disabilities, on House, Nos. 120 and 2797, a Bill establishing a permanent commission on the social status of Black men and boys (House, No. 120). Read; and referred, under Joint Rule 29, to the committees on Rules of the two branches, acting concurrently.

By Ms. Benson of Lunenburg, for the committee on State Administration and Regulatory Oversight, on a petition, a Bill relative to the Fort Devens Museum (House, No. 3370). Fort Devens Museum.

By Mr. Lawn of Watertown, for the committee on Veterans and Federal Affairs, on a petition, a Bill relative to veterans' housing in the town of Agawam (printed as Senate, No. 2014). Agawam,— veterans' housing.

Severally read; and referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Emergency Measure.

The engrossed Bill relative to advancing contraceptive coverage and economic security in our state (see House, No. 4009, amended), having been certified by the Clerk to be rightly and truly prepared for final passage, was considered, the question being on adopting the emergency preamble. Contraception coverage.

A separate vote was taken, as required by the provisions of Article XLVIII (as amended by Article LXVII) of the Amendments to the Constitution; and the preamble was adopted, by a vote of 25 to 0. Sent to the Senate for concurrence.

Subsequently, the Senate having concurred in adoption of the emergency preamble, the bill (which originated in the House) was passed to be enacted; and it was signed by the acting Speaker and sent to the Senate. Bill enacted.

Matter Discharged from the Orders of the Day.

The House Bill authorizing the commissioner of Capital Asset Management and Maintenance to convey certain land in the city of Revere (House, No. 3995), reported by the committee on Bills in the Third Reading to be correctly drawn, was discharged from its position in the Orders of the Day and read a third time forthwith, under suspension of Rule 47, on motion of Ms. Vincent of Revere; and it was passed to be engrossed. Sent to the Senate for concurrence. Revere,— land.

The House Bill relative to criminal justice reform (Senate, No. 2200, amended), was considered. Criminal justice,— reforms.

Ms. Campbell of Methuen then moved that the vote be reconsidered by which the House, at the previous sitting, adopted amendments, offered by her and Ms. Malia of Boston (being the final amendments of yesterday sitting); and the motion to reconsider prevailed.

Pending the recurring question on adoption of the amendments, Ms. Campbell moved that they be amended by striking out [at "A"] the figures: "738" and inserting in place thereof the figures: "809". The further amendment was adopted.

On the recurring question, the amendments, as amended, were also adopted.

Pending the question on passing the bill, as amended, to be engrossed, in concurrence, Mr. Day of Stoneham moved to amend it in section 35, in line 890, by striking out the words "The commissioner" and inserting in place thereof the words "Upon receipt of said petition the commissioner"; and the amendment was adopted.

Mr. Frost of Auburn and other members of the House then moved to amend the bill by adding the following two sections:

"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.".

The amendment was adopted.

Mr. Brodeur of Melrose then moved to amend the bill by adding the following section: Note 3 #32

"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.".

The amendment was adopted.

Mr. Livingstone of Boston and other members of the House then moved to amend the bill by inserting after section 80 the following section: Note 4 #150

"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.”.

The amendment was adopted.

Mr. Garballey of Arlington then moved to amend the bill in section 89, in lines 1735, 1736 and 1737, by striking out the sentences contained in those lines; and the amendment was adopted.

The same member then moved to amend the bill in section 89, in line 1689, by striking out the words “and approved by the restorative justice advisory committee.”; and the amendment was adopted.

Mr. Lyons of Andover and other members of the House then moved to amend the bill by adding the following section:

“SECTION 113. Chapter 276 of the General Laws is hereby amended by inserting after section 28 the following new section:-

Section 28A. Any law enforcement officer shall have authority, with or without warrant, to enforce the criminal laws of the United States, including those enumerated in Title 8 of the United States Code, provided that there is probable cause to believe that a violation of the law has occurred. Such probable cause may be based on the personal observations and belief of the officer, or may be based on information provided by reliable sources, including other federal, state or local law enforcement officers.

Any law enforcement officer shall additionally have the authority to arrest and detain a person, without having a warrant for such arrest in his possession, if the officer making such arrest and detention, or the agency or department in which the officer serves, possesses an Immigration Detainer lawfully issued by the United States Department of Homeland Security whereby said federal agency has indicated that it has determined that probable cause exists that that person is a removable alien. Any detention under this section shall not exceed 48 hours beyond the time that the person would otherwise be released from custody or admitted to bail. Said

person must be served with a copy of the Immigration Detainer for such arrest and detention to be lawful.”.

Point of order.

Mr. Mariano of Quincy thereupon raised a point of order that the amendment offered by the gentleman from Andover was improperly before the House for the reason that it went beyond the scope of the pending bill.

The Chair (Mr. Donato of Medford) stated that there were no provisions amending Chapter 32 of the General Laws in the bill currently being considered by the House, and therefore ruled that the point of order was well taken; and the amendment was laid aside accordingly.

Mr. Cahill of Lynn then moved to amend the bill by adding the following section:

“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.”.

The amendment was adopted.

Mr. Crighton of Lynn then moved to amend the bill in section 22, in line 355, by inserting after the word “misdemeanor” the following: “, except for offenses in subsection (a) of section 53 of chapter 272.

Mr. Cullinane of Boston then moved to amend the bill by adding the following section:

“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.".

The amendment was adopted.

Mr. Naughton of Clinton then moved to amend the bill by adding the following section:

"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.".

The amendment was adopted.

Mr. Vega of Holyoke and other members of the House then moved to amend the bill by adding the following section:

"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.".

After remarks the amendment was adopted.

Mr. Jones of North Reading and other members of the House then moved to amend the bill by inserting after section 63 the following eight sections:

"SECTION 63A. Paragraph A of section 99 of chapter 272 of the General Laws, as appearing in the 2014 Official Edition, is hereby amended by striking out the third subparagraph and inserting in place thereof the following 2 subparagraphs:-

The general court further finds that in certain circumstances normal investigative procedures may not be effective in the investigation of specific illegal acts not associated with organized crime as enumerated in clause (b) of subparagraph 7 of paragraph B of this section. Therefore, law enforcement officials may be permitted to use modern methods of electronic surveillance, under strict judicial supervision, when investigating these specific enumerated crimes.

The general court further finds that the uncontrolled development and unrestricted use of modern electronic surveillance devices pose grave dangers to the privacy of all citizens of the commonwealth. Therefore, the secret use of such devices by private individuals must be prohibited. The use of such devices by law enforcement officials must be conducted under strict judicial supervision and must be limited to the investigation of designated offenses as defined in subparagraph 7 of paragraph B of this section. Because the commonwealth has a substantial interest in the investigation and prosecution of designated offenses committed within its borders, this section shall authorize, under appropriate judicial supervision, the interception of electronic communications between parties located outside the commonwealth, so long as the designated offense under investigation is one over which the commonwealth has jurisdiction, and the listening post is within the commonwealth.

SECTION 63B. Paragraph B of said section 99 of said chapter 272, as so

appearing, is hereby amended by striking out the first subparagraph and inserting in place thereof the following subparagraph:-

1. The term ‘wire communication’ means any transfer made in whole or in part through the use of facilities which allow for the transmission of communications by the aid of wire, cable, wireless, electronic, digital, radio, electromagnetic, satellite, cellular, optical or other technological means in order to achieve a connection between the point of origin and the point of reception, regardless of whether or not such communication travels in part within a switching station or other facility. The term ‘wire communication’ shall also include: any transfer of signs, signals, writing, images, photographs, videos, texts, sounds, data or intelligence of any nature transmitted in whole or in part by using a cellular telephone, smartphone , personal data assistant or similar device, but shall not include: (i) any communication made through a tone-only paging device; (ii) any communication from a tracking device, defined as an electronic or mechanical device which permits the tracking of the movement of a person or object; or (iii) electronic funds transfer information stored by a financial institution in a communications system used for the electronic storage and transfer of funds .

SECTION 63C. Said paragraph B of said section 99 of said chapter 272, as so appearing, is hereby further amended by striking out the third, fourth and fifth subparagraphs and inserting in place thereof the following 3 subparagraphs:-

3. The term ‘intercepting device’ means any device or apparatus which is capable of transmitting, receiving, amplifying, or recording a wire or oral communication other than a hearing aid or similar device which is being used to correct subnormal hearing to normal; and other than any telephone or telegraph instrument, equipment, facility, or a component thereof, (a) furnished to the subscriber or user by a communications common carrier in the ordinary course of business under its tariff and being used by the subscriber or user in the ordinary course of its business; or (b) being used by a communications common carrier in the ordinary course of its business. No body-mounted camera with an audio recording feature shall be considered an intercepting device when such an instrument is worn openly by a uniformed investigative or law enforcement officer or one conspicuously displaying his or her badge of authority or other visible indicator of his or her status as an investigative or law enforcement officer. No vehicle-mounted camera with an audio recording feature shall be considered an intercepting device when it is mounted on a marked law enforcement vehicle, or when such an instrument is used to record a motor vehicle stop or other encounter involving a uniformed law enforcement officer, or one conspicuously displaying his or her badge of authority or other visible indicator of his or her status as a law enforcement officer.

4. The term ‘interception’ means to secretly hear, secretly record, or aid another to secretly hear or secretly record the contents of any wire or oral communication through the use of any intercepting device by any person other than a person given prior authority by all parties to such communication; provided that it shall not constitute an interception (a) for an investigative or law enforcement officer to obtain information in real time concerning the existence of a communication and the identity of the parties to a communication, but not the contents of the communication itself, where such action has been specifically authorized by the order of a court of competent jurisdiction pursuant to the procedure prescribed by 18 U.S.C. § 3123; or (b) for an investigative or law enforcement officer, as defined in this section, to record or transmit a wire or oral communication if the officer is a party to such communication or has been given

prior authorization to record or transmit the communication by such a party and if recorded or transmitted in the course of an investigation of a designated offense as defined herein.

5. The term ‘contents’, when used with respect to any wire or oral communication, means any information concerning the contents, substance, purport, or meaning of that communication, including any spoken words, visual images or written material.

SECTION 63D. Said paragraph B of said section 99 of said chapter 272, as so appearing, is hereby further amended by striking out the seventh subparagraph and inserting in place thereof the following subparagraph:-

7. The term ‘designated offense’ shall include (a) the following offenses in connection with organized crime as defined in the preamble:

; the illegal use, possession, theft, transfer or trafficking of one or more firearms, rifles, shotguns, sawed-off shotguns, machine guns, assault weapons, large capacity weapons, covert weapons as defined by section 121 of chapter 140, or silencers; any arson; assault and battery with a dangerous weapon; bribery; any felony burglary; money laundering in violation of chapter 267A; enterprise crime in violation of chapter 271A; extortion; forgery; gaming in violation of sections 38, 39, 40, 41 and 43 of chapter 23K and sections 16A and 17 of chapter 271; kidnapping; any felony larceny; lending of money or things of value in violation of the general laws; perjury; any felony involving prostitution; robbery; subornation of perjury; any violation of section 13B of chapter 268; any violation of sections 29A, 29B and 105 of chapter 272; any violation of this section; being an accessory to any of the foregoing offenses; and conspiracy, attempt or solicitation to commit any of the foregoing offenses; and (b) the following offenses, whether or not in connection with organized crime, as referenced in paragraph 3 of the preamble: any murder or manslaughter, except under section 13 ½ of chapter 265; rape as defined in sections 22, 22A, 22B, 22C, 23, 23A, 23B, 24 and 24B of chapter 265; human trafficking in violation of sections 50 through 53 of chapter 265; any violation of chapter 94C involving the trafficking, manufacture, distribution of, or intent to distribute controlled substances; illegal trafficking in weapons; the illegal use or possession of explosives or chemical, radiological or biological weapons; civil rights violation causing bodily injury; intimidation of a witness or potential witness, or a judge, juror, grand juror, prosecutor, defense attorney, probation officer or parole officer; being an accessory to any of the foregoing offenses; and conspiracy, attempt or solicitation to commit any of the foregoing offenses.

SECTION 63E. Paragraph I of said section 99 of said chapter 272, as so appearing, is hereby amended by striking out the second subparagraph and inserting in place thereof the following subparagraph:-

2. The date of issuance, the date of effect, and termination date which in no event shall exceed 40 days from the date of effect. The warrant shall permit interception of oral or wire communications for a period not to exceed 30 days. If physical installation of a device is necessary, the 40 day period shall begin upon the date of installation. If the effective period of the warrant is to terminate upon the acquisition of particular evidence or information or oral or wire communication, the warrant shall so provide; and

SECTION 63F. Said paragraph I of said section 99 of said chapter 272, as so appearing, is hereby further amended by striking out the sixth subparagraph and inserting in place thereof the following 3 subparagraphs:-

6. The identity of the agency authorized to intercept the communications, and of the person authorizing the application; and

7. A statement providing for service of the warrant pursuant to paragraph L except that if there has been a finding of good cause shown requiring the postponement of such service, a statement of such finding together with the basis therefor must be included and an alternative direction for deferred service pursuant to paragraph L, subparagraph 2.

8. Every order and extension thereof shall contain a provision that the authorization to intercept shall be executed as soon as practicable, shall be conducted in such a way as to minimize the interception of communications not otherwise subject to interception under this chapter, and must terminate upon attainment of the authorized objective, or in any event in 30 days.

SECTION 63G. Paragraph J of said section 99 of said chapter 272, as so appearing, is hereby amended by striking out the second subparagraph and inserting in place thereof the following subparagraph:-

2. Upon such application, the judge may issue an order renewing the warrant and extending the authorization for a period not exceeding 30 days from the entry thereof. Such an order shall specify the grounds for the issuance thereof. The application and an attested copy of the order shall be retained by the issuing judge to be transported to the chief justice in accordance with the provisions of paragraph N of this section. In no event shall a renewal be granted which shall terminate later than 2 years following the effective date of the warrant.

SECTION 63H. Said section 99 of said chapter 272, as so appearing, is hereby further amended by striking out paragraph K and inserting in place thereof the following paragraph:-

K. Warrants: manner and time of execution

1. A warrant may be executed pursuant to its terms anywhere in the commonwealth, or any other place that facilitates a wire communication to which at least 1 party is within the commonwealth; or which otherwise involves a communication regarding a criminal offense for which criminal jurisdiction would exist in the commonwealth.

2. Such warrant may be executed by the authorized applicant personally or by any investigative or law enforcement officer of the commonwealth designated by him for the purpose, or by any designated individual operating under a contract with the Commonwealth or its subdivisions, acting under the supervision of an investigative or law enforcement officer authorized to execute the warrant.

3. The warrant may be executed according to its terms during the hours specified therein, and for the period therein authorized, or a part thereof. The authorization shall terminate upon the acquisition of the oral or wire communications, evidence or information described in the warrant. Upon termination of the authorization in the warrant and any renewals thereof, the interception must cease at once, and any device installed for the purpose of the interception must be removed as soon thereafter as practicable. Entry upon private premises for the removal of such device is deemed to be authorized by the warrant.

4. In the event the intercepted communication is in a code or foreign language, and an expert in that foreign language or code is not reasonably available during the interception period, minimization may be accomplished as soon as practicable after such interception.

5. Upon request of the applicant, the issuing judge may direct that a provider of wire or electronic communications service, landlord, custodian, or other person shall furnish the applicant forthwith all information, facilities, and technical assistance necessary to accomplish the interception unobtrusively and with a minimum of interference with the services that the person so ordered by the court accords the

party whose communications are to be intercepted. Any provider of wire or electronic communications service, landlord, custodian or other person furnishing such facilities or technical assistance shall be compensated therefore by the applicant for reasonable expenses incurred in providing such facilities or assistance.”.

Point of order.

Mr. Mariano of Quincy thereupon raised a point of order that the amendment offered by the gentlemen from North Reading was improperly before the House for the reason that it was beyond the scope of the pending bill.

In answer to the point of order, the Chair (Mr. Donato of Medford) stated that the subject-matter of the amendment offered by the gentleman from North Reading introduces the subject of wiretaps, which is a new topic that is not contained in either the House or Senate versions of the bill currently before the House; nor was the subject of wiretaps contained in any of the petitions that make up the basis of the report from the committee on the Judiciary. Offering such new subject-matter in the form of an amendment from the floor of the House and thereby by-passing the deliberative steps required under our rules for the passage of a bill, would violate the essence of the legislative process. The Chair is therefore compelled to rule that the amendment is beyond the scope of the measure before the House; and it was laid aside accordingly.

Appeal from decision of Chair.

Mr. Jones of North Reading thereupon appealed from the decision of the Chair; and the appeal was seconded by Mr. Frost of Auburn.

The question then was put “Shall the decision of the Chair stand as the judgment of the House?”.

Decision of Chair sustained,—yea and nay No. 287.

After remarks, the sense of the House then was taken by yeas and nays, at the request of Mr. Jones of North Reading; and on the roll call 123 members voted in the affirmative and 34 in the negative.

[See Yea and Nay No. 287 in Supplement.]

Therefore the decision of the Chair was sustained.

Changed doubles inside quotes to singles.

Mr. Jones of North Reading and other members of the House then moved to amend the bill by adding the following section:

“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.”.

The amendment was adopted.

Mr. Jones of North Reading and other members of the House then moved to amend the bill by adding the following section:

“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.".

The amendment was adopted.

Mr. Jones of North Reading and other members of the House then moved to amend the bill in section 28, in line 438, by striking out the figures: "19" and inserting in place thereof the figures: "21", in line 439 by inserting after the word "representatives" the following: "; 1 member of the house of representatives to be appointed by the minority leader of the house", and in line 440 by inserting after the words "; president of the senate" the following: "; 1 member of the senate to be appointed by the senate minority leader".

The amendments were adopted.

The same members then moved to amend the bill in section 96, in line 1792, by inserting after the word "house" the following: "; 1 member of the house of representatives to be appointed by the minority leader of the house" and in line 1793 by inserting after the word "president" the following: "; 1 member of the senate to be appointed by the senate minority leader;".

The amendments were adopted.

Mr. Jones and other members of the House then moved to amend the bill in section 97, in line 1812, by inserting after the words "speaker of the house" the following: "; 1 member of the house of representatives to be appointed by the minority leader of the house" and in line 1813 by inserting after the word "president" the following: "; 1 member of the senate to be appointed by the senate minority leader".

The amendments were adopted.

Mr. Jones of North Reading and other members of the House then moved to amend the bill by adding the following thirteen sections:—

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.’; and

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.’.

The amendment was adopted.

Mr. Carvalho of Boston and other members of the House then moved to amend the bill by adding the following two sections:

“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.".

The amendment was adopted.

Representatives O'Connell of Taunton and Lombardo of Billerica then moved to amend the bill by adding the following section:

"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.".

The amendment was adopted.

The Speaker being in the Chair,—

Mr. González of Springfield and other members of the House then moved to amend the bill by adding the following section:

"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.".

Amendment adopted,— yea and nay No. 288.

After remarks on the question on adoption of the amendment, the sense of the House was taken by yeas and nays at the request of the same member; and on the roll call 156 members voted in the affirmative and 0 in the negative.

[See Yea and Nay No. 288 in Supplement.]

Therefore the amendment was adopted.

Representatives Jones of North Reading, Higgins of Leominster and Gentile of Sudbury then moved to amend the bill by adding the following six sections:

"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 139 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.".

After debate on the question on adoption of the amendment, the sense of the House was taken by yeas and nays at the request of Mr. Jones of North Reading; and on the roll call (Mr. Donato of Medford being in the Chair) 156 members voted in the affirmative and 0 in the negative.

Amendment adopted,— yea and nay No. 289.

[See Yea and Nay No. 289 in Supplement.]

Therefore the amendment was adopted.

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Mr. Muradian of Grafton then moved to amend the bill by adding the following section:

"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.".

The amendment was adopted.

Messrs. Muradian of Grafton, Whelan of Brewster and Muratore of Plymouth 95
then moved to amend the bill by inserting after section 45 the following:

"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.".

The amendment was adopted.

Mr. O'Day of West Boylston and other members of the House then moved to amend the bill by adding he following four sections:

"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.".

The amendment was adopted.

Ms. Malia of Boston then moved to amend the bill in section 4, in line 45, by striking out the word "abuse" and inserting in place thereof the word "use"; and the amendment was adopted.

Mr. Kafka of Stoughton then moved to amend the bill by inserting after section 3 the following section:

"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.";

By inserting after section 45A (inserted by amendment) the following section:

"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.”; and

By inserting after section 63 the following section:

“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.”.

The amendments were adopted.

Mr. Garballey of Arlington then moved to amend the bill in section 89, in line 1702, by inserting after the word “proceedings.” the following sentence: “Nothing in this chapter shall be construed to prohibit pre-arraignment law enforcement based programs.”. The amendment was adopted.

Ms. Khan of Newton and other members of the House then moved to amend the bill by adding the following section:

“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.”.

The amendment was adopted.

Mr. Hecht of Watertown then moved to amend the bill by inserting after section 87 the following section: 97

“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,”; and

By inserting after section 88 the following section:

"SECTION 88A. Sections 8 and 9 of said chapter 276A are hereby repealed.".

The amendments were adopted.

After remarks on the question on passing the bill, as amended, to be engrossed, in concurrence, Messrs. McKenna of Webster and Zlotnik of Gardner moved to amend it by inserting after section 2 the following section: 31

"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,".

After remarks the amendment was adopted.

Messrs. Pignatelli of Lenox and Holmes of Boston then moved to amend the bill by inserting after section 89 the following section: 178

"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 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 law enforcement agencies throughout the commonwealth shall implement in their practices and training of law enforcement officials.".

The amendment was adopted.

Mr. Cabral of New Bedford and other members of the House then moved to amend the bill by adding the following section:

"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.".

The amendment was adopted.

Mr. Jones of North Reading and other members of the House then moved to amend the bill by inserting after section 74 the following section:

"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'.".

The amendment was adopted.

Mr. Jones of North Reading then moved to amend the bill by adding the following section:

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

The amendment was adopted.

Mr. Jones of North Reading and other members of the House then moved to amend the bill by adding the following section:

"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.'.".

The amendment was adopted.

The same members then moved to amend the bill by adding the following section:

"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.".

The amendment was adopted.

Mr. Jones of North Reading then moved to amend the bill by adding the following section:

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

The amendment was adopted.

The same member then moved to amend the bill by adding the following section:

"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.".

The amendment was adopted.

Mr. Day of Stoneham then moved to amend the bill by inserting after section 45B (inserted by amendment) the following two sections:

"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.".

The amendment was adopted.

Messrs. Markey of Dartmouth and Hecht of Watertown then moved to amend the bill by adding the following section:— Note 42 99

SECTION 154. Section 24 of Chapter 279 of the General Laws, as so appearing, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:- 'If a convict is sentenced to the state prison, except as a habitual criminal under section 25 of this chapter, the court shall not fix the term of imprisonment, but shall fix a maximum and a minimum term for which he may be imprisoned. The maximum term imposed shall not be longer than the longest term fixed by law for the punishment of the crime of which he has be convicted, and the minimum term imposed shall be a term at least twenty five percent less than the maximum term imposed by the court, except that, where an alternative sentence to a house of correction is imposed for the offense, a minimum state prison term may not be less than one year. In the case of a sentence to life imprisonment, except in the case of a sentence for murder in the first degree, and in the case of multiple life sentences arising out of separate and distinct incidents that occurred at different times, where the second offense occurred subsequent to the first conviction, the court shall fix a minimum term which shall be not less than 15 years nor more than 25 years.'.

After remarks the amendment was rejected.

Ms. Khan of Newton then moved to amend the bill in section 87, in lines 1349 and 1350, by striking out the paragraph contained in those lines,

In lines 1421, 1424, 1426, 1427, 1429, 1454, 1457, 1459, 1460, 1462 and 1488 by striking out, in each instance, the words "the chief of police and",

In lines 1431, 1437, 1464, 1470, 1490, 1492 and 1498 by striking out, in each instance, the words "the chief of police or", and

In lines 1515 and 1516 by striking out the following: "occurred not less than 10 years before the date on which the petition was filed;" and inserting in place thereof the following: "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;".

After remarks on the question on adoption of the amendment, the sense of the Amendment

House was taken by yeas and nays at the request of the same member; and on the roll call 128 members voted in the affirmative and 27 in the negative. adopted,— yea and nay No. 290.

[See Yea and Nay No. 290 in Supplement.]

Therefore the amendment was adopted.

Messrs. Day of Stoneham and Cassidy of Brockton then moved to amend the bill in section 49, in line 1115, by striking out the figures: "750" and inserting in place thereof the figures: "1,000";

In section 50, in line 1124, by striking out the figures: "900" and inserting in place thereof the figures: "1,200";

In section 51, in line 1128, by striking out the figures: "750" and inserting in place thereof the figures: "1,000";

In section 52, in line 1131, by striking out the figures: "1,500" and inserting in place thereof the figures: "2,000";

In section 53, in line 1134, by striking out the figures: "750" and inserting in place thereof the figures: "1,000";

In section 54, in line 1137, by striking out the figures: "6,000" and inserting in place thereof the figures: "8,000";

In section 55, in line 1140, by striking out the figures: "750" and inserting in place thereof the figures: "1,000"; and

In section 62, in line 1168, by striking out the figures: "750" and inserting in place thereof the figures: "1,000".

On the question on adoption of the amendments, the sense of the House was taken by yeas and nays at the request of Mr. Day of Stoneham; and on the roll call 118 members voted in the affirmative and 37 in the negative. Amendments adopted,— yea and nay No. 291.

[See Yea and Nay No. 291 in Supplement.]

Therefore the amendments were adopted.

Mr. Jones of North Reading and other members of the House then moved to amend the bill by inserting after section 43 the following section:

"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."; and

by inserting after section 63A (inserted by amendment) the following section:

"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.".

The amendments were adopted.".

After remarks on the question on adoption of the amendment, the sense of the House was taken by yeas and nays at the request of the same member; and on the roll call 136 members voted in the affirmative and 18 in the negative.

Amendment adopted,— yea and nay No. 292.

[See Yea and Nay No. 292 in Supplement.]

Therefore the amendment was adopted.

A statement of Mr. Fernandes of Falmouth was spread upon the records of the House, as follows:

Statement of Mr. Fernandes of Falmouth.

MR. SPEAKER: I would like to call to the attention of the House the fact that on the previous roll call it was my intention to vote in the affirmative. I now find, however, that due to some inexplicable reason I was recorded as voting in the negative.

Mr. Sánchez of Boston and other members of the House then moved to amend the bill in section 31, after line 574, by inserting at the end thereof the following paragraph:—

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

In lines 616 to 628, inclusive, by striking out the two paragraphs contained in those lines and inserting in place thereof the following paragraph:—

"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.

In lines 670, 673, 751, 754, 846, 850 and 853 by striking out, in each instance, the figures: "180" and inserting in place thereof the figures: "120",

In lines 838 to 844, inclusive, by striking out the paragraph contained in those lines and inserting in place thereof the following paragraph:

"(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.".

After debate on the question on adoption of the amendments, the sense of the House was taken by yeas and nays, as required under the provisions of House Rule 33F; and on the roll call 154 members voted in the affirmative and 0 in the negative.

Consolidated amendments adopted,— yea and nay No. 293.

[See Yea and Nay No. 293 in Supplement.]

Therefore the consolidated amendments were adopted.

Mr. Linsky of Natick and other members of the House then moved to amend the bill by adding the following section:

"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.".

After remarks on the question on adoption of the amendment, the sense of the House was taken by yeas and nays at the request of the same member; and on the roll call 118 members voted in the affirmative and 36 in the negative.

Amendment adopted,— yea and nay No. 294.

[See Yea and Nay No. 294 in Supplement.]

Therefore the amendment was adopted.

Mr. Jones of North Reading and other members of the House then moved to amend the bill by inserting, after section 45D (inserted by amendment) the following 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.".

Ms. Cronin of Easton then moved that the amendment be amended by adding the following section:

"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.".

Further amendment adopted,—yea and nay No. 295.

After debate on the question on adoption of the further amendment (Mr. Mariano of Quincy being in the Chair), the sense of the House was taken by yeas and nays at the request of Mr. Jones of North Reading; and on the roll call 110 members voted in the affirmative and 41 in the negative.

[See Yea and Nay No. 295 in Supplement.]

Therefore the amendment was adopted.

The amendment, as amended, then also was adopted.

Mr. Linsky of Natick then moved to amend the bill by inserting after section 97 the following section:

"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.".

The amendment was adopted.

Mr. Donato of Medford being in the Chair,—

Rule 1A.

The Chair (Mr. Donato) then placed before the House the question on suspension of Rule 1A in order that the House might continue to meet beyond the hour of nine o'clock P.M.

Rule 1A suspended,— yea and nay No. 296.

On the question on suspension of Rule 1A, the sense of the House was taken by yeas and nays, as required under the provisions of said rule; and on the roll 121 members voted in the affirmative and 32 in the negative.

[See Yea and Nay No. 296 in Supplement.]

Therefore Rule 1A was suspended.

Note 50 78, chg

Mr. Rushing of Boston and other members of the House then moved to amend the bill by inserting after section 2A (inserted by amendment) the following two sections:

"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.”.

The amendment was adopted.

Mr. Sánchez of Boston then moved to amend the bill in section 11, in lines 128, 150, 172, 193, and 214 by striking out, in each instance, the word “he” and inserting in place thereof the words “the defendant”;

In lines 133, 155, 176, 197, and 218 by inserting after the word “his”, in each instance, the words “or her”,

In lines 134, 156, 177, 198, and 219 by inserting after the word “he” the following words “or she”;

In section 28, in line 401, by inserting after the words “forth the”, the word “, gender”, in line 402 by inserting after the words “which the” the word “, gender”;

In line 478 by inserting after the word “any” the word “, gender”;

And in lines 910, 911 and 912, and also in lines 946, 947 and 948 by striking out, in each instance, the sentences contained in those lines;

In lines 997 through 1002, inclusive, by striking out the text contained in those lines, in line 1002 by striking out the following: “(f)” and inserting in place thereof the following: “(e)”; and

In section 85, in line 1743, by inserting after the words “data on” the word “, gender”.

The amendments were adopted.

Bill passed to be engrossed,—yea and nay No. 297.

On the question on passing the bill, as amended, to be engrossed, in concurrence, the sense of the House taken by yeas and nays, at the request of Ms. Cronin of Easton; and on the roll call 144 members voted in the affirmative and 9 in the negative.

[See Yea and Nay No. 297 in Supplement.]

Therefore the bill (Senate, No. 2200, amended) was passed to be engrossed, in concurrence. Sent to the Senate for concurrence in the amendment adopted by the House (see House document numbered 4043, published as amended].

Recess.

Recess.

At nine minutes after nine o’clock P.M., on motion of Mr. Mariano of Quincy (Mr. Donato of Medford being in the Chair), the House recessed until the following day at twelve o’clock noon; and prior to the hour of adjournment at three minutes before twelve o’clock noon the House was called to order with the Speaker in the Chair.

Wednesday, November 15, 2017 (at 11:57 o’clock noon).