SENATE . . . . . No. 2200

Senate, October 26, 2017, – Text of the Senate Bill relative to criminal justice reform (being the text of Senate document number 2185, printed as amended)

The Commonwealth of Massachusetts

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

An Act relative to criminal justice reform.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

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

Sixtieth, "The age of criminal majority" shall mean the age of 19.

Sixty-first, "Offense-based tracking number" shall mean a unique number assigned by a criminal justice agency, as defined in section 167 of chapter 6, for an arrest or charge; provided, however, that any such designation shall conform to the policies of the department of state police and the department of criminal justice information services.

SECTION 2. The second paragraph of subsection (a) of section 116A of chapter 6 of the General Laws, as so appearing, is hereby amended by adding the following sentence:- 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, gender, gender identity, religion, mental or physical disability or socioeconomic level.

SECTION 3. Said section 116A of said chapter 6, as so appearing, is hereby further amended by striking out, in line 81, the word “and”.

SECTION 4. Subsection (b) of said section 116A of said chapter 6, as so appearing, is hereby amended by adding the following 3 clauses:-

(16) procedures and techniques to promote bias-free policing;

(17) procedures and techniques for handling complaints involving victims, witnesses or suspects with a mental illness or developmental disability and for handling mental health emergencies; and

(18) procedures and techniques for civilian interaction and to promote procedural justice, which shall emphasize de-escalation and disengagement tactics and techniques.

SECTION 5. Said chapter 6 is hereby further amended by inserting after section 116F the following section: -

Section 116G. (a) The municipal police training committee under the direction of the executive office of public safety and security shall establish and develop an in-service training program designed to train law enforcement officials, including municipal, metropolitan and state police, in the following areas:

(i) practices and procedures relating to unconscious or implicit bias policing which shall include, but not be limited to, training that examines issues of race, ethnicity, gender, religion, sexual orientation and gender identity and socioeconomic and professional status in relation to policing decisions;

(ii) 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; and

(iii) 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 practices and procedures that build community trust and maintain community confidence.

(b) 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.

(c) This section shall apply to law enforcement officials who are employed on a full-time basis as a police officer of the department of state police, a municipal police department and the University of Massachusetts police department and environmental police officers in the office of law enforcement.

(d) The committee, in consultation with the attorney general and other relevant entities, shall promulgate rules and regulations to carry out this section.

SECTION 6. Section 167 of said chapter 6 of the General Laws, as appearing in the 2016 Official Edition, is hereby amended by inserting after the definition of "Commissioner" the following definition:-

"Conviction", a finding of guilty or not guilty by reason of insanity.

SECTION 7. The definition of "Criminal offender record information" in said section 167 of said chapter 6, as so appearing, is hereby amended by striking out the second sentence and inserting in place thereof the following sentence:- Such information shall be restricted to information recorded in criminal proceedings that are not dismissed before arraignment.

SECTION 8. Said section 167 of said chapter 6, as so appearing, is hereby further amended by striking out, in lines 38 and 40, the figure "18" and inserting in place thereof, in each instance, the following words:- criminal majority.

SECTION 9. Said section 167 of said chapter 6, as so appearing, is hereby further amended by striking out, in lines 41 and 42, the words "18 is adjudicated as an adult" and inserting in place thereof the following words:- criminal majority was tried as an adult in superior court or tried as an adult after transfer of a case from a juvenile session to another trial court department.

SECTION 10. Said chapter 6 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 categories of crimes that would disqualify an applicant from eligibility for a license. For the purposes of this section, "licensing authority" shall include an agency, examining board, credentialing board, or other office or

commission with the authority to impose occupational fees or licensing requirements on a profession.

SECTION 11. Said chapter 6 is hereby further amended by striking out section 184A, as so appearing, and inserting in place thereof the following section:-

Section 184A. (a) There shall be a forensic science commission in the executive office of public safety and security. The commission shall provide enhanced, objective and independent auditing and oversight of forensic evidence used in criminal matters and analysis done in state and municipal laboratories.

The commission shall consist of: the undersecretary for forensic sciences or a designee; and 12 members who shall be appointed by the governor, 1 of whom shall have expertise in forensic science, 1 of whom shall have expertise in cognitive bias, 1 of whom shall be 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, 2 of whom shall be nominated by the Massachusetts District Attorneys Association, 1 of whom shall be nominated by the attorney general, 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, Inc. and 1 of whom shall be nominated by the New England Innocence Project, Inc. A member, other than the undersecretary for forensic sciences or a designee and those nominated by the Massachusetts District Attorneys Association, the attorney general, the committee of public council services and the New England Innocence Project, Inc., shall not be employed by or affiliated with any state or municipal forensic laboratory throughout the term of membership.

(b) All appointments shall be for a term of 4 years. A vacancy, other than by expiration of term, shall be filled by the governor for the unexpired term. The chair of the commission shall be elected from among the members appointed. Staff shall be provided by the executive office of public safety and security. The commission shall meet at times and places as is requested by 5 of its members but shall not meet less than quarterly. Members shall not designate a proxy to vote in their absence. Members of the commission shall serve without compensation but shall be reimbursed for reasonable and necessary expenses incurred in the performance of their duties.

(c) The commission shall initiate an investigation into any forensic science, technique or analysis used in a criminal matter upon: (i) application by a person alleging that a forensic technique in common use is not scientifically valid if not less than 5 members of the commission agree; or (ii) not less than 5 members of the commission determine that an investigation of a forensic analysis would advance the integrity and reliability of forensic science in the commonwealth.

The results of an investigation by the commission, with any resulting recommendations, shall be reported to the executive office of public safety and security, the joint committee on public safety and homeland security, the supreme judicial court, the Massachusetts District Attorneys Association, the attorney general, the committee for public counsel services, the Massachusetts Association of Criminal Defense Lawyers, Inc. and the New England Innocence Project, Inc.

(d) The commission shall develop and implement a system for forensic laboratories to report professional negligence or misconduct and any such a facility shall be required to report to the commission such instance of professional negligence and misconduct.

(e) The commission shall actively engage stakeholders in the criminal justice system in forensic development initiatives and shall work with stakeholders to improve education and training in forensic science and the law.

SECTION 12. Chapter 10 of the General Laws is hereby amended by inserting after section 35EEE the following 2 sections:-

Section 35FFF. There shall be established and set up on the books of the commonwealth the Garden of Peace Trust Fund to be used, without further appropriation, for the operation of the Garden of Peace. The fund shall consist of the existing balance held by the Garden of Peace, Inc. and all revenues received by the commonwealth from public and private sources as gifts, grants and donations to support and maintain the Garden of Peace. Any balance in the fund at the end of the fiscal year shall not revert to the General Fund, but shall remain available for expenditure in subsequent years. No expenditure made from the fund shall cause the fund to become deficient at any point during a fiscal year.

Section 35GGG. (a) There shall be a Municipal Police Training Fund which shall consist of amounts credited to the fund in accordance with this section. The fund shall be administered by the state treasurer and held in trust exclusively for the purposes of this section. The state treasurer shall be treasurer-custodian of the fund and shall have the custody of its monies and securities.

(b) The fund shall consist of: (i) funds transferred from the Marijuana Regulation Fund established in section 14 of chapter 94G; (ii) revenue from appropriations or other money authorized by the general court and specifically designated to be credited to the fund; (iii) interest earned on money in the fund; and (iv) funds from private sources including, but not

limited to, gifts, grants and donations received by the commonwealth that are specifically designated to be credited to the fund. Amounts credited to the fund shall not be subject to further appropriation and any money remaining in the fund at the end of a fiscal year shall not revert to the General Fund. The secretary shall annually report the activity of the fund to the clerks of the senate and the house of representatives and the senate and house committees on ways and mean not later than December 31.

(c) Expenditures from the fund shall be made to provide funding for:

(i) the operating expenses of the municipal police training committee;

(ii) basic recruit training for new police officers;

(iii) mandatory in-service training for veteran police officers;

(iv) specialized training for veteran police officers and reserve and intermittent police officers; and

(v) the basic training program for reserve and intermittent police officers.

SECTION 13. Section 59 of said chapter 10 of the General Laws, as appearing in the 2016 Official Edition, is hereby amended by adding the following sentence:- Annually, not later than October 1, the commissioner of rehabilitation shall report to the clerks of the senate and the house of representatives and the senate and house committees on ways and means on the fund's activity and the balance of the fund.

SECTION 14. Section 66 of said chapter 10, as so appearing, is hereby amended by inserting after the words “ways and means”, in line 34, the following words:- and the clerks of the senate and the house of representatives.

SECTION 15. Chapter 17 of the General Laws is hereby amended by adding the following section: -

Section 21. The registry of vital records and the chief medical examiner shall take measures to record the sex of a decedent that corresponds to the decedent’s gender identity. The registry and the examiner shall also take measures to improve the incidence of the collection of information on the gender identity and sexual orientation of a decedent where a death occurs under any of the following circumstances: (i) a hate crime as defined in section 32 of chapter 22C; (ii) death where criminal violence appears to have taken place, regardless of the time interval between the incident and death, and regardless of whether such violence appears to have been the immediate cause of death, or a contributory factor thereto; (iii) suicide, regardless of the time interval between the incident and death; (iv) death under suspicious or unusual circumstances; or (v) death in custody, in a jail or correctional facility.

The registry of vital records and the chief medical examiner may provide in its discretion information collected under this section to a requesting authority compiling statistical data. Such data shall contain only aggregate data and no individual names or other personally identifying information or information that could lead to the identification of an individual decedent, or other information that is protected by statute, regulation or executive order.

SECTION 16. Section 36 of chapter 22C of the General Laws, as appearing in the 2016 Official Edition, is hereby amended by striking out, in line 22, the words “said board” and inserting in place thereof the following words:- the department.

SECTION 17. Said section 36 of said chapter 22C, as so appearing, is hereby further amended by adding the following 3 paragraphs:-

The department shall transmit criminal case disposition information, including any order of dismissal and any order to seal or expunge a record, to the Federal Bureau of Investigation to provide criminal history record information through the bureau's Interstate Identification Index.

The department shall transmit juvenile case disposition information, including any order of dismissal and any order to seal or expunge a record, to the Federal Bureau of Investigation to provide criminal history record information through the bureau's Interstate Identification Index; provided, however, that the department shall include with every transmission of juvenile case disposition information, except those transmitting expungement orders an order to seal such information within the bureau's Interstate Identification Index.

The executive office of public safety and security shall implement a fingerprint-supported criminal history system that utilizes a fingerprint-based state identification number as the unique identifier of a person from the point of arrest or charging through each contact the person has with the criminal justice system or juvenile justice system and that provides criminal case disposition and other relevant information to ensure a complete and accurate criminal history. The executive office of public safety and security may promulgate regulations to implement this paragraph.

SECTION 18. Chapter 22E of the General Laws is hereby amended by striking out section 3, as so appearing, and inserting in place thereof the following section:-

Section 3. (a) A person who is convicted of an offense that is punishable by imprisonment in the state prison and a person adjudicated a youthful offender by reason of an offense that would be punishable by imprisonment in the state prison if committed by an adult

shall submit a DNA sample to the department not more than 6 months after the conviction or adjudication or, if incarcerated, within the first 6 months of the incarceration or before release from custody, whichever occurs first.

(b) A person who is arrested by virtue of process or is taken into custody by an officer and charged with the commission of an offense: (i) listed in clause (i) of subsection (b) of section 25 of chapter 279; or (ii) under section 17 or section 18 of chapter 266, and who upon arrest has been arraigned pursuant to the applicable court rules under the Massachusetts Rules of Criminal Procedure, shall submit a DNA sample to the department.

(c) The trial court and probation department shall work in conjunction with the director to establish and implement a system for the electronic notification to the department whenever a person is required to submit a DNA sample under this section. The sample shall be collected by a person authorized under section 4 of this chapter subsequent to arraignment, in accordance with regulations or procedures established by the director. The results of the sample shall be made part of the state DNA database. If the department is unable to complete DNA analysis on a sample provided pursuant to this section or any sample so provided fails to yield a DNA record, the person required to submit a DNA sample pursuant to this section shall, not more than 6 months after notice from the director, submit additional DNA samples until DNA analysis is completed and results in the production of a DNA record. The submission of such a DNA sample shall not be stayed pending a sentence appeal, motion for new trial, appeal to an appellate court or other post conviction motion or petition.

SECTION 19. Said chapter 22E is hereby further amended by striking out section 5, as appearing in the 2016 Official Edition, and inserting in place thereof the following section:-

Section 5. The department shall provide all collection materials, labels and instructions for the collection of DNA samples pursuant to this chapter.

SECTION 20. Said chapter 22E is hereby further amended by striking out section 11, as so appearing, and inserting in place thereof the following section:-

Section 11. A person required to provide a DNA sample pursuant to this chapter and who, after notice, willfully fails to provide such a DNA sample or the additional DNA samples required by section 3 shall be subject to punishment by a fine of not more than $2,000 or imprisonment in a jail or house of correction for not more than 6 months or both.

SECTION 21. Section 12 of said chapter 22E, as so appearing, is hereby amended by striking out, in line 7, the figure “$1,000” and inserting in place thereof the following figure:- $2,000.

SECTION 22. Said section 12 of said chapter 22E, as so appearing, is hereby further amended by striking out, in line 8, the words “six months” and inserting in place thereof the following words:- 1 year.

SECTION 23. Section 13 of said chapter 22E, as so appearing, is hereby amended by striking out, in line 4, the figure “$1,000” and inserting in its place thereof the following figure:- $2,000.

SECTION 24. Said section 13 of said chapter 22E, as so appearing, is hereby further amended by striking out, in line 5, the words “six months” and inserting in place thereof the following words:- 1 year.

SECTION 25. Section 15 of said chapter 22E, as so appearing, is hereby amended by adding the following 4 paragraphs:-

The department shall destroy the DNA sample and any records of a person related to the sample that were taken in connection with a particular alleged designated crime if the sample was collected post-arraignment under subsection (b) of section 3 and any of the following occurs: (i) the felony charge that required the DNA sample is downgraded to a misdemeanor by the prosecuting attorney upon a plea agreement or the person is convicted of a lesser offense that is a misdemeanor other than an offense that constitutes "abuse" as defined in section 1 of chapter 209A or a sex offense for which registration is required pursuant to sections 178C to 178P, inclusive, of chapter 6; (ii) the person is acquitted after a trial of the charges that required the taking of the DNA sample; or (iii) the charges that required the taking of the DNA sample are dismissed by either the court or the commonwealth after arraignment unless good cause is shown as to why the sample should not be destroyed.

If the person has more than 1 entry in the state DNA database, CODIS or the state DNA data bank, only the entry related to the dismissed case shall be deleted.

The trial court and probation department shall work in conjunction with the director to establish and implement a system for the electronic notification to the department whenever a DNA sample is required to be destroyed pursuant to this section. The department shall notify the person upon destroying the DNA sample and completing its responsibilities under this subsection.

If a DNA sample is matched to another DNA sample during the course of a criminal investigation, the record of the match shall not be expunged even if the sample itself is expunged in accordance with this section.

SECTION 26. Chapter 29 of the General Laws is hereby amended by inserting after section 2XXXX the following 2 sections:-

Section 2YYYY. (a) There is hereby established and set up on the books of the commonwealth a separate fund to be known as the Criminal Justice and Community Support Trust Fund. The fund shall be administered by the executive office of public safety and security, in consultation with the department of mental health, which shall contract with county restoration centers and the center of excellence in community policing and behavioral health, established in section 18L½ of chapter 6A, to administer the fund. There shall be credited to the fund any appropriations, grants, gifts or other monies authorized by the general court or other parties and specifically designated to be credited to the fund. The objectives of the fund shall include, but shall not be limited to: supporting jail diversion programs for persons suffering from a mental illness or substance use disorder who interact with law enforcement or the court system during a pre-arrest investigation or the pre-adjudication process in order to divert individuals from lockup facilities and hospital emergency departments to appropriate treatment; developing and providing training for state and municipal law enforcement in evidence-based mental health and substance use crisis response; creating patient-focused ongoing community services for individuals who are frequent users of emergency departments and suffer from serious and persistent mental illness; and providing funding for multi-year restoration center grants for planning and implementing a restoration center within a county in the commonwealth.

(b) Monies deposited in the fund that are unexpended at the end of the fiscal year shall not revert to the general fund and shall be available for expenditure in the subsequent year.

(c) The fund may apply for and accept subventions, grants, loans, advances and contributions from any source of money, property, labor or other things of value to be held, used and applied in furtherance of this section.

(d) The executive office of public safety and security shall file a report to the joint committee on mental health and substance abuse, the joint committee on public safety and homeland security and the senate and house committees on ways and means that detail the fund's activities not later than March 1. Section 2ZZZZ. (a) There shall be a Strong Communities and Crime Prevention Fund. Monies transferred to the fund shall be continuously expended, without regard for fiscal year, exclusively for carrying out the purposes of this section.

(b)(1) For the purposes of this section, the term "target population" shall mean any person who meets at least 2 of the following characteristics: (i) is under 25 years of age; (ii) is a victim of violence; (iii) is over 18 years of age and does not have a high school diploma; (iv) has been convicted of a felony; (v) has been unemployed or has had family income below 250 per cent of the federal poverty level for not less than 6 months; or (vi) lives in a census tract where over 20 per cent of the population fall below the federal poverty line.

(2) There shall be a board of directors to consist of 13 members to be appointed by the secretary of housing and economic development, with the approval of the governor. The board of directors shall consist of not less than 6 individuals who are, or have been at some time, members of the target population and a combination of appointees with professional case management experience, entrepreneurial or business management experience, professional youth

development experience, experience providing professional or vocational training or experience in labor market analysis. The terms of the initial members shall be: 3 shall be appointed for 1 year, 3 shall be appointed for 2 years, 3 shall be appointed for 3 years and 3 shall be appointed for 4 years. Upon the expiration of the term of a member, a successor shall be appointed for a term of 4 years. The members shall elect a chair and shall meet not less than bi-annually. Members shall serve without compensation, but shall be reimbursed for expenses necessarily incurred in the performance of their duties. Upon notification by the chair that a vacancy exists, the secretary of housing and economic development shall appoint, with the approval of the governor, another member to fill the unexpired term.

(3) The executive office of housing and economic development shall provide staff support to the board of directors. The total expenditure from the fund for administration, including salaries and benefits of supporting staff, shall not exceed 5 per cent of the total amount disbursed by the fund in any given fiscal year.

(c)(1) The executive office of public safety and security shall calculate the aggregate annual population of the department of correction and the houses of correction and calculate annually an average marginal cost rate per inmate among the department of correction and the houses of correction based on the actual marginal cost rates used by the department of correction and the houses of correction for their budgeting purposes.

(2) The secretary of housing and economic development shall annually determine the difference between the combined population of the department of correction and the houses of correction in fiscal year 2017, multiplied by the rate of total population growth for the commonwealth since fiscal year 2017, and the actual combined population of the department of

correction and the houses of correction in that year. The secretary shall multiply the difference by the average marginal cost rate per inmate. Not later than October 1 of each year, the secretary shall certify this calculation to the joint committee on ways and means, the secretary of administration and finance and the comptroller for the prior fiscal year and shall publish the calculation on a public website. The comptroller shall transfer an amount equal to ½ of the product of this calculation to the fund.

(d) Monies in the fund shall be competitively granted to develop and strengthen communities heavily impacted by crime and the criminal justice system by creating opportunities for job training, job creation and job placement for those who face high barriers to employment.

(e) Eligible grant recipients shall exhibit a model of creating employment opportunities for members of the target population or, in the case of programs serving a target population aged 20 years and under, may instead demonstrate a model of building the skills necessary for future employment within such members. Such a model shall be supported by research and evaluation and may include transitional employment programs, social enterprise, pre-apprenticeship or other training programs, school-based or community-based high school dropout prevention and re-engagement programs, cooperative and small business development programs and community-based workforce development programs. Components of a successful program may include, but shall not be not limited to, job training in both “soft skills” and skills identified as lacking in growth industries, stipends or wage subsidies, serving as employer of record with private employers, case management, cognitive behavioral therapy and supports such as child care vouchers or transportation assistance. The fund may give priority to programs that include access to services such as addiction treatment and trauma-informed mental health care as relevant to the fund’s mission, but such services by themselves shall not be eligible for monies from the fund.

Training programs that do not include a strong presumption of full employment by a specific employer or entry into a bona fide apprenticeship program recognized by the commonwealth upon successful completion by each participant shall not be eligible for funding; provided, however, that high school dropout prevention and re-engagement programs shall not need to include said presumption.

SECTION 27. Section 20 of chapter 31 of the General Laws, as appearing in the 2016 Official Edition, is hereby amended by striking out, in lines 10 and 11, the words “18 years” and inserting in place thereof the following words:- criminal majority.

SECTION 28. Section 24 of chapter 37 of the General Laws, as so appearing, is hereby amended by striking out, in line 14, the words “18 years” and inserting in place thereof the following words:- criminal majority.

SECTION 29. Section 21D of chapter 40 of the General Laws, as so appearing, is hereby amended by striking out the first and second paragraphs and inserting in place thereof the following 3 paragraphs:-

A city or town may, by ordinance or by-law that is not inconsistent with this section, provide for the non-criminal disposition of: (i) a misdemeanor eligible for decriminalization under section 70C of chapter 277; (ii) a matter that has been deemed a civil infraction by a general or special law; and (iii) a violation of an ordinance, by-law, rule or regulation of a municipal officer, board or department that is subject to a specific penalty.

If a city or town has approved such an ordinance or by-law, a police officer who has probable cause to believe that a person has committed a misdemeanor, civil infraction or violation for which the city or town has allowed non-criminal disposition may ask the person to provide the person’s name or address, where applicable. If, having been advised by the officer

that failure to provide the person's name or address may result in the person's arrest, and the person refuses to provide the person's name or address, provides a false name or address or provides a name or address that is not the person's name or address in ordinary use, the person may be arrested without a warrant.

Such an ordinance or by-law shall provide that a police officer who has probable cause to believe that a person has committed a misdemeanor, civil infraction or violation may, as an alternative to initiating criminal proceedings, provide to the person alleged to have committed the misdemeanor, civil infraction or violation a written notice to appear before the clerk of the district court with jurisdiction over the misdemeanor, civil infraction or violation during office hours, not later than 21 days after the date of the notice. The notice shall be produced in triplicate and shall contain the name and address, if known, of the person alleged to have committed the offense, the specific offense charged and the time and place of any required appearance. The notice shall be signed by the issuing police officer. If the person alleged to have committed the offense fails, without good cause, to appear in response to the written notice and the court has satisfactory proof of service of the notice, an arrest warrant may be issued and shall be served by any officer authorized to serve criminal process.

SECTION 30. Section 98 of chapter 41 of the General Laws, as so appearing, is hereby amended by striking out the second paragraph.

SECTION 31. Section 98F of said chapter 41, as so appearing, is hereby amended by striking out, in line 18, the words "or (iii)" and inserting in place thereof the following words:- , (iii).

SECTION 32. Said section 98F of said chapter 41, as so appearing, is hereby further amended by inserting after the figure “209A”, in line 21, the following words:- , or (iv) any entry concerning the arrest of a person who has not yet reached the age of criminal majority.

SECTION 33. Section 1 of chapter 46 of the General Laws, as so appearing, is hereby amended by inserting after the word “sex”, in line 23, the following words:- , gender identity as defined in section 7 of chapter 4.

SECTION 34. Subsection (b) of section 37P of chapter 71 of the General Laws, as so appearing, is hereby amended by striking out the second paragraph and inserting in place thereof the following paragraph:-

In selecting a school resource officer, the chief of police shall consider candidates that the chief believes would strive to foster an optimal learning environment and educational community; provided, however, that the chief of police shall give preference, to the extent practicable, to candidates who have received specialized training in one or more of the following areas: (i) child and adolescent development; (ii) de-escalation and conflict resolution techniques with children and adolescents; (iii) behavioral health disorders in children and adolescents; (iv) alternatives to arrest and other juvenile justice diversion strategies; (v) and behavioral threat assessment methods. The appointment of a school resource officer shall not be based on seniority.

The performance of a school resource officer shall be reviewed annually by the superintendent and the chief of police. The superintendent and the chief of police shall enter into a written memorandum of understanding to clearly define the role and duties of the school resource officers. The memorandum shall be placed on file in the office of the school superintendent and police chief. The memorandum shall: (i) state that school resource officers

may use arrest, citation and court referral only when necessary to address and prevent real and immediate threats to the physical safety of the members of the school and the wider community; (ii) state that it is the responsibility of school officials to impose discipline for non-violent school infractions such as tardiness, loitering, use of profanity, dress code violations and disruptive or disrespectful behaviors; (iii) set forth protocols for utilizing the expertise of mental health professionals in addressing the needs of students with behavioral and emotional difficulties, in crisis situations and otherwise; (iv) require that a school resource officer devote a significant portion of time that the officer devotes to professional development activities and to school-based or other training that promotes heightened awareness of the challenges faced by students in the school to which the officer is assigned, with an emphasis on professional development activities that impart information regarding child development, including the incidence and impact of adverse childhood experiences, de-escalation techniques and implicit or unconscious bias; (v) specify how the school and police departments will regularly monitor and assure that a school resource officer is complying with the terms of the memorandum and avoiding inappropriate arrest, citation or court referral; and (vi) specify the manner and division of responsibility for collecting and reporting the school-based arrests, citations and court referrals of students to the department of elementary and secondary education in accordance with regulations promulgated by the department, which shall collect and publish disaggregated data in a like manner as school discipline data made available for public review.

SECTION 35. 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 36. 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 37. 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 38. Section 22 of chapter 90 of the General Laws, as so appearing, is hereby amended by striking out subsection (i).

SECTION 39. Section 23 of said chapter 90, as so appearing, is hereby amended by inserting after the figure “$500”, in line 53, the following words:- ; provided, however, that a finding of delinquency shall not be entered against such a person in a proceeding for a complaint issued for violation of this section.

SECTION 40. 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 41. Said section 24 of said chapter 90, as so appearing, is hereby further amended by striking out, in lines 22 and 23 and in lines 816 and 817, the words “not be subject to reduction or waiver by the court for any reason” and inserting in place thereof, in each

instance, the following words:- be waived or reduced if it will impose a substantial financial hardship on the person or the person's family or dependents.

SECTION 42. Said section 24 of said chapter 90, as so appearing, is hereby further amended by striking out, in line 32, the words "not be subject to waiver by the court for any reason" and inserting in place thereof the following words:- be waived or reduced if it will impose a substantial financial hardship on the person or the person's family or dependents.

SECTION 43. Said section 24 of said chapter 90, as so appearing, is hereby further amended by striking out, in line 319, the words "or twenty-four E, or" and inserting in place thereof the following word:- or.

SECTION 44. Said section 24 of said chapter 90, as so appearing, is hereby further amended by inserting after the figure "(b)", in line 320, the following words:- for being under the influence of a controlled substance or the vapors of glue.

SECTION 45. Subparagraph (1) of paragraph (c) of subdivision (1) of said section 24 of said chapter 90, as so appearing, is hereby amended by adding the following paragraph:-

Where the license or right to operate of a person has been revoked pursuant to sections 24D or 24E or pursuant to paragraph (b) for operating a motor vehicle with a percentage, by weight, of alcohol in the operator's blood of .08 or greater and the person has not been convicted of a like offense or has not been assigned to an alcohol or controlled substance education, treatment or rehabilitation program because of a like offense by a court of the commonwealth or any other jurisdiction preceding the date of the commission of the offense for which the person was convicted, the registrar shall not restore the license or reinstate the right to operate to the person unless the prosecution of the person has been terminated in favor of the defendant, until 1

year after the date of conviction; provided, however, that such a person may, after receiving notice of the revocation from the registrar, apply for the issuance of an ignition interlock license. Mandatory restrictions on an ignition interlock license granted by the registrar pursuant to this subparagraph shall include, but shall not be limited to: (i) proof in a format determined by the registrar that a functioning certified ignition interlock device is installed on vehicles that will be operated by the person during the term of the ignition interlock license; and (ii) an attestation that ignition interlock devices will be maintained on all vehicles to be operated by the person. A person with an ignition interlock license shall be prohibited from operating vehicles without an ignition interlock device for the duration of the license. Failure of the person to remain in compliance with court probation shall be cause for immediate revocation of the ignition interlock license. The registrar shall provide notice of a revocation to the person issued the ignition interlock license at the address of record at the registry.

SECTION 46. Said section 24 of said chapter 90, as so appearing, is hereby further amended by inserting after the figure “(b)”, in line 347, the following words:- for being under the influence of a controlled substance or the vapors of glue.

SECTION 47. Subparagraph (2) of said paragraph (c) of said subdivision (1) of said section 24 of said chapter 90, as so appearing, is hereby amended by striking out the last sentence.

SECTION 48. Said subparagraph (2) of said paragraph (c) of said subdivision (1) of said section 24 of said chapter 90, as so appearing, is hereby further amended by adding the following paragraph:-

Where the license or the right to operate of a person has been revoked pursuant to paragraph (b) for operating a motor vehicle with a percentage, by weight, of alcohol in the operator's blood of .08 or greater and the person has been previously convicted of a like offense or assigned to an alcohol or controlled substance education, treatment or rehabilitation program by a court of the commonwealth or any other jurisdiction because of a like offense preceding the date of the commission of the offense for which that person has been convicted, the registrar shall not restore the license or reinstate the right to operate of the person unless the prosecution of that person has been terminated in favor of the defendant, until 1 year after the date of conviction; provided, however, that such person may, after receiving notice from the registrar, apply for the issuance of an ignition interlock license. That person shall provide proof in a format acceptable to the registrar that the person has enrolled in and is successfully completing the residential treatment program in subparagraph (4) of paragraph (a) of subdivision (1) or a treatment program mandated by section 24D or has completed the incarcerated portion of the sentence. Mandatory restrictions on an ignition interlock license granted by the registrar pursuant to this subparagraph shall include, but shall not be limited to: (i) proof in a format determined by the registrar that a functioning certified ignition interlock device is installed on vehicles that will be operated by the person during the term of the ignition interlock license; and (ii) an attestation that ignition interlock devices will be maintained on all vehicles to be operated by the person. A person with an ignition interlock license shall be prohibited from operating vehicles without an ignition interlock device for the duration of the license. Failure of the person to remain in compliance with court probation shall be cause for immediate revocation of the ignition interlock license. The registrar shall provide notice of a revocation to the person issued the ignition interlock license at the address of record at the registry.

SECTION 49. Said section 24 of said chapter 90, as so appearing, is hereby further amended by inserting after the figure “(b)”, in line 382, the following words:- for being under the influence of a controlled substance or the vapors of glue.

SECTION 50. Subparagraph (3) of said paragraph (c) of said subdivision (1) of said section 24 of said chapter 90, as so appearing, is hereby amended by striking out the last sentence.

SECTION 51. Said subparagraph (3) of said paragraph (c) of said subdivision (1) of said section 24 of said chapter 90, as so appearing, is hereby further amended by adding the following paragraph:-

Where the license or right to operate of a person has been revoked pursuant to paragraph (b) for operating a motor vehicle with a percentage, by weight, of alcohol in the operator’s blood of .08 or greater and the person has been previously convicted of a like offense or assigned to an alcohol or controlled substance education, treatment or rehabilitation program because of a like offense by a court of the commonwealth or any other jurisdiction 2 times preceding the date of the commission of the offense for which that person has been convicted or where the license or right to operate has been revoked due to a violation section 23 and such revocation was made pursuant to paragraph (b) or section 24D or 24E, the registrar shall not restore the license or reinstate the right to operate to the person, unless the prosecution of the person has terminated in favor of the defendant, until 8 years after the date of conviction; provided, however, that such a person may, after completion of the incarcerated portion of the sentence, apply for an ignition interlock license for the balance of the 8 year revocation period. The person shall provide proof in a format acceptable to the registrar that the person has enrolled in and is successfully

completing the residential treatment program in subparagraph (4) of paragraph (a) of subdivision (1) or such treatment program mandated by section 24D. Mandatory restrictions on an ignition interlock license granted by the registrar pursuant to this subparagraph shall include, but shall not be limited to: (i) proof in a format determined by the registrar that a functioning certified ignition interlock device is installed on vehicles that will be operated by the person during the term of the ignition interlock license; and (ii) an attestation that ignition interlock devices will be maintained on all vehicles to be operated by the person. A person with an ignition interlock license shall be prohibited from operating vehicles without an ignition interlock device for the duration of the license. Failure of the person to remain in compliance with court probation shall be cause for immediate revocation of the ignition interlock license. The registrar shall provide notice of a revocation to the person issued the ignition interlock license at the address of record at the registry.

SECTION 52. Said section 24 of said chapter 90, as so appearing, is hereby further amended by inserting after the figure “(b)”, in line 417, the following words:- for being under the influence of a controlled substance or the vapors of glue.

SECTION 53. Subparagraph (3½) of said paragraph (c) of said subdivision (1) of said section 24 of said chapter 90, as so appearing, is hereby amended by striking out the last sentence.

SECTION 54. Said subparagraph (3½) of said paragraph (c) of said subdivision (1) of said section 24 of said chapter 90, as so appearing, is hereby further amended by adding the following paragraph:-

Where the license or the right to operate of a person has been revoked pursuant to subsection (b) for operating a motor vehicle with a percentage, by weight, of alcohol in the operator's blood of .08 or greater and the person has been previously convicted of a like offense or assigned to an alcohol or controlled substance education, treatment or rehabilitation program by a court of the commonwealth or any other jurisdiction because of a like offense 3 times preceding the date of the commission of the offense for which the person has been convicted, the registrar shall not restore the license or reinstate the right to operate of that person unless the prosecution of that person has been terminated in favor of the defendant, until 10 years after the date of the conviction; provided, however, that such a person may, after the completion of the incarcerated portion of the sentence, apply for the issuance of an ignition interlock license. The person shall provide proof in a format acceptable to the registrar that the person has enrolled in and is successfully completing the residential treatment program in subparagraph (4) of paragraph (a) of subdivision (1) or a treatment program mandated by section 24D. The ignition interlock license shall not be removed for the life of the person; provided, however, that the person may petition the registrar for removal not less than 10 years after the issuance of the ignition interlock license and not less than every 5 years thereafter. Mandatory restrictions on an ignition interlock license granted by the registrar pursuant to this subparagraph shall include, but shall not be limited to: (i) proof in a format determined by the registrar that a functioning certified ignition interlock device is installed on vehicles that will be operated by the person during the term of the ignition interlock license; and (ii) an attestation that ignition interlock devices will be maintained on all vehicles to be operated by the person. A person with an ignition interlock license shall be prohibited from operating vehicles without an ignition interlock device for the duration of the license. Failure of the person to remain in compliance with probation shall

be cause for immediate revocation of the ignition interlock license. The registrar shall provide notice of a revocation to the person issued the ignition interlock license at the address of record at the registry. An aggrieved party may appeal, in accordance with chapter 30A, from an order of the registrar of motor vehicles pursuant to this subparagraph.

SECTION 55. Said paragraph (c) of said subdivision (1) of said section 24 of said chapter 90, as so appearing, is hereby further amended by striking out subparagraph (3¾) and inserting in place thereof the following subparagraph:-

(3¾) Where the license or the right to operate of a person has been revoked pursuant to paragraph (b) and that person was previously convicted of a like offense or assigned to an alcohol or controlled substance education, treatment or rehabilitation program by a court of the commonwealth or any other jurisdiction because of a like offense not less than 4 times preceding the date of the commission of the offense for which the person has been convicted, that person's license or right to operate a motor vehicle shall be revoked for the life of that person; provided, however, that such a person may, after completion of the incarcerated portion of the sentence, apply for an ignition interlock license. The person shall provide proof in a format acceptable to the registrar that the person has enrolled in and has successfully completed or is successfully completing the residential treatment program in subparagraph (4) of paragraph (a) of subdivision (1) or a treatment program mandated by section 24D and has completed the incarcerated portion of the sentence. The ignition interlock license shall not be removed for the life of the person; provided, however, that the person may petition the registrar for removal not less than 10 years after the issuance of the ignition interlock license and not less than every 5 years thereafter. Mandatory restrictions on an ignition interlock license granted by the registrar pursuant to this subparagraph shall include, but shall not be limited to: (i) proof in a format determined by the

registrar that a functioning certified ignition interlock device is installed on vehicles that will be operated by the person during the term of the ignition interlock license; and (ii) an attestation that ignition interlock devices will be maintained on all vehicles to be operated by the person. A person with an ignition interlock license shall be prohibited from operating vehicles without an ignition interlock device for the duration of the license. Failure of the person to remain in compliance with probation shall be cause for immediate revocation of the ignition interlock license. An aggrieved party may appeal, in accordance with chapter 30A, from an order of the registrar of motor vehicles pursuant to this subparagraph.

SECTION 56. Said section 24 of said chapter 90, as so appearing, is hereby further amended by striking out, in line 575, the word “restistrar” and inserting in place thereof the following word:- registrar.

SECTION 57. The fourth paragraph of subparagraph (1) of paragraph (f) of said subdivision (1) of said section 24 of said chapter 90, as so appearing, is hereby further amended by striking out the first sentence and inserting in place thereof the following 4 sentences:- A person who refuses to submit to a chemical test or analysis of breath or blood may apply for the issuance of an ignition interlock license, on or after the effective date of the suspension, for the balance of the suspension period imposed by this paragraph. A mandatory restriction on an ignition interlock license granted by the registrar pursuant to this subparagraph shall include, but shall not be limited to: (i) proof in a format determined by the registrar that a functioning certified ignition interlock device is installed on vehicles that will be operated by the person during the term of the ignition interlock license; and (ii) an attestation that ignition interlock devices will be maintained on all vehicles to be operated by the person. A person with an ignition interlock license shall be prohibited from operating vehicles without an ignition interlock device

for the duration of the license. A person issued an ignition interlock license pursuant to this subparagraph shall not receive credit against an additional ignition interlock requirement arising from the same incident or from another incident. A defendant, during the suspension period imposed by this paragraph, may immediately, upon the entry of a not guilty finding or dismissal of all charges under this section, section 24G, section 24L or section 13½ of chapter 265, and in the absence of any other alcohol related charges pending against the defendant, apply for and be immediately granted a hearing before the court that took final action on the charges to request the restoration of the person's license.

SECTION 58. Subparagraph (2) of said paragraph (f) of said subdivision (1) of said section 24 of said chapter 90, as so appearing, is hereby amended by inserting after the second paragraph the following paragraph:-

A person may apply in advance of or after the effective date of a suspension under this subparagraph for the issuance of an ignition interlock license for the balance of the suspension period listed in this paragraph. Mandatory restrictions on an ignition interlock license granted by the registrar pursuant to this subparagraph shall include, but shall not be limited to: (i) proof in a format determined by the registrar that a functioning certified ignition interlock device is installed on vehicles that will be operated by the person during the term of the ignition interlock license; and (ii) an attestation that ignition interlock devices will be maintained on all vehicles to be operated by the person. A person with an ignition interlock license shall be prohibited from operating vehicles without an ignition interlock device for the duration of the license. A suspension for failure of a chemical test or analysis of breath or blood shall run consecutively, both as to any additional suspension periods arising from the same incident and as to each other.

A person issued an ignition interlock license pursuant to this subparagraph shall receive day for day credit against an additional ignition interlock requirement arising from the same incident.

SECTION 59. Paragraph (g) of said subdivision (1) of said section 24 of said chapter 90, as so appearing, is hereby amended by inserting after the first paragraph the following paragraph:-

The application for the issuance of an ignition interlock license for the period during which a person's license, permit or right to operate is suspended pursuant to subparagraph (1) of paragraph (f) shall waive the person's right to a hearing pursuant to this subparagraph.

SECTION 60. Said chapter 90 is hereby further amended by striking out section 24½, as so appearing, and inserting in place thereof the following section:-

Section 24½. (a) A person whose license has been suspended in the commonwealth or any other jurisdiction by reason of an assignment to an alcohol education, treatment or rehabilitation program or because of a conviction for a violation of subsection (a) of section 24G, or operating a motor vehicle with a percentage by weight of blood alcohol of .08 or greater or while under the influence of intoxicating liquor in violation of paragraph (a) of subdivision (1) of section 24, subsection (b) of said section 24G, section 24L, section 13½ of chapter 265, subsection (a) of section 8 of chapter 90B, section 8A or 8B of said chapter 90B or, in the case of another jurisdiction, for any like offense, shall not be issued a new license or right to operate or have such a license or right to operate restored if the person has previously been so assigned or convicted unless the person provides proof in a format acceptable to the registrar that the person has a functioning certified ignition interlock device installed on all vehicles to be operated by that person as a precondition for the issuance, reissuance or restoration of a license or right to

operate. A functioning certified ignition interlock device shall be installed and maintained on all vehicles operated by any such person for a period of 2 years.

(b) A person whose license or right to operate is restricted to operating vehicles equipped with a functioning certified ignition interlock device shall have such a device inspected, maintained and monitored in accordance with regulations that shall be promulgated by the registrar. The ignition interlock device shall be calibrated to prevent the motor vehicle from being started with the breath sample provided has an alcohol concentration of 0.025 or more. The ignition interlock device shall remain in place until the registrar receives a declaration from the person's ignition interlock device vendor, in a form provided or approved by the registry, certifying that there have been none of the following incidents in the 6 consecutive months prior to the date the person seeks removal of the device: (i) any attempt to start the vehicle with a breath alcohol concentration of 0.04 or more unless a subsequent test performed within ten minutes registers a breath alcohol concentration lower than 0.04; (ii) failure to take any random test; (iii) failure to pass any random retest with a breath alcohol concentration of 0.025 or lower; (iv) any attempt to remove, tamper or circumvent the proper operation of the device; or (v) failure of the person to appear at the ignition interlock device vendor when required for maintenance, repair, calibration, monitoring, inspection, or replacement of the device.

SECTION 61. 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 62. Said section 24D of said chapter 90, as so appearing, is hereby further amended by inserting after the word “defendant”, in line 65, the following words:- whose disposition resulted from the use of a controlled substance or the vapors of glue.

SECTION 63. The fourth paragraph of said section 24D of said chapter 90, as so appearing, is hereby amended by inserting after the fifth sentence the following sentence:- Notwithstanding subparagraph (1) of paragraph (c) of subdivision (1) of section 24, subparagraph (1) of paragraph (f) of subdivision (1) of said section 24 and section 24P, a defendant whose disposition resulted from a conviction or charge of alcohol in their blood of .08 or greater or while under the influence of intoxicating liquor may immediately upon entering a program pursuant to this section apply to the registrar for issuance of an ignition interlock license for the probation period. A mandatory restriction on an ignition interlock license granted by the registrar pursuant to this paragraph shall include, but shall not be limited to: (i) proof in a format determined by the registrar that a functioning certified ignition interlock device is installed on vehicles that will be operated by the person during the term of the ignition interlock license; and (ii) an attestation that ignition interlock devices will be maintained on all vehicles to be operated by the person. A person with an ignition interlock license shall be prohibited from operating vehicles without an ignition interlock device for the duration of the license.

SECTION 64. Said section 24D of said chapter 90, as so appearing, is hereby further amended by inserting after the word “hardship”, in lines 76 and 81, each time it appears, the following words:- or ignition interlock

SECTION 65. Said section 24D of said chapter 90, as so appearing, is hereby further amended by striking out, in lines 138 and 139, the words “cause a grave and serious hardship to such individual or to the family of such individual” and inserting in place thereof the following

words:- impose a substantial financial hardship on the person or the person's family or dependents.

SECTION 66. Said section 24D of said chapter 90, as so appearing, is hereby further amended by striking out, in lines 173 and 174, the words "cause a grave and serious hardship to such individual or to the family thereof" and inserting in place thereof the following words:- impose a substantial financial hardship on the person or the person's family or dependents.

SECTION 67. Section 24E of said chapter 90, as so appearing, is hereby amended by inserting after the word "program", in line 38, the following words:- and may include a written statement by the supervisor of the ignition interlock provider used by the person detailing the person's compliance with the ignition interlock requirement.

SECTION 68. Said section 24E of said chapter 90, as so appearing, is hereby further amended by inserting after the word "operate", in lines 66 and 67, each time it appears, the following words:- or an ignition interlock license.

SECTION 69. 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 70. Section 24G of said chapter 90, as so appearing, is hereby amended adding the following subsection:-

(d) Upon completion of the period of imprisonment prescribed in subsection (a) or (b) for an offense involving operating a motor vehicle with a percentage, by weight, of alcohol in the

blood of .08 or greater or while under the influence of intoxicating liquor, a person may apply to the registrar for the issuance of an ignition interlock license for the remainder of the revocation period designated in subsection (c). The registrar may issue such a license under such terms and conditions as appropriate and necessary for the balance of the revocation period listed in this subsection. Mandatory restrictions on an ignition interlock license granted by the registrar pursuant to this subsection shall include, but shall not be limited to: (i) proof in a format determined by the registrar that a functioning certified ignition interlock device is installed on vehicles that will be operated by the person during the term of the ignition interlock license; and (ii) an attestation that ignition interlock devices will be maintained on all vehicles to be operated by the person. A person with an ignition interlock license shall be prohibited from operating vehicles without an ignition interlock device for the duration of the license. Failure of the person to remain in compliance with the sentence or court probation shall be cause for immediate revocation of the ignition interlock license. The registrar shall provide notice a revocation to the person issued the ignition interlock license at the address of record at the registry.

SECTION 71. Chapter 90 of the General Laws is hereby amended by striking out section 24G, as so appearing, and inserting in place thereof the following section:-

Section 24G. (a) Whoever, upon any way or in any place to which the public has a right of access, or upon any way or in any place to which members of the public have access as invitees or licensees, operates a motor vehicle with a percentage, by weight, of alcohol in their blood of .08 or greater, or while under the influence of intoxicating liquor, or of marijuana, narcotic drugs, depressants or stimulant substances, all as defined in section 1 of chapter 94C, or 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 so operates a motor vehicle recklessly or

negligently so that the lives or safety of the public might be endangered, and by any such operation so described causes the death of another person, shall be guilty of homicide by a motor vehicle while under the influence of an intoxicating substance, and shall be punished by imprisonment in the state prison for not less than 2 ½ years or more than 15 years and a fine of not more than $5,000, or by imprisonment in a jail or house of correction for not less than 1 year nor more than 2 ½ years and a fine of not more than $5,000. The sentence imposed upon such person shall not be reduced to less than 1 year, nor suspended, nor shall any person convicted under this subsection be eligible for probation, parole, or furlough or receive any deduction from a sentence until such person has served at least 1 year of such sentence; provided, however, that the commissioner of correction may, on the recommendation of the warden, superintendent or other person in charge of a correctional institution or the administrator of a county correctional institution grant to an offender committed under this subsection a temporary release in the custody of an officer of such institution for the following purposes only: (i) to attend the funeral of a relative; (ii) to visit a critically ill relative; (iii) to obtain emergency medical or psychiatric services unavailable at said institution; or (iv) to engage in employment pursuant to a work release program. Prosecutions commenced under this section shall neither be continued without a finding nor placed on file.

Section 87 of chapter 276 shall not apply to any person charged with a violation of this subsection.

(b) Whoever, upon any way or in any place to which the public has a right of access or upon any way or in any place to which members of the public have access as invitees or licensees, operates a motor vehicle with a percentage, by weight, of alcohol in their blood of .08 or greater, or while under the influence of intoxicating liquor, or of marijuana, narcotic drugs,

depressants or stimulant substances, all as defined in section 1 of chapter 94C, or from smelling or inhaling the fumes of any substance having the property of releasing toxic vapors as defined in section 18 of chapter 270, or whoever operates a motor vehicle negligently so that the lives or safety of the public might be endangered and by any such operation causes the death of another person, shall be guilty of homicide by a motor vehicle and shall be punished by imprisonment in a jail or house of correction for not less than 30 days nor more than 2 ½ years, or by a fine of not less than $300 nor more than $3,000 dollars, or both.

(c) Whoever, upon any way or in any place to which the public has a right of access or upon any way or in any place to which members of the public have access as invitees or licensees, operates a motor vehicle recklessly so that the lives or safety of the public might be endangered and by any such operation causes the death of another person, shall be guilty of reckless homicide by a motor vehicle and shall be punished by imprisonment in a jail or house of correction for not more than 2 ½ years, or by imprisonment in the state prison for not more than 5 years, or by a fine of not more than $3,000 dollars, or by both such fine and imprisonment. For the purpose of this section, a person operates recklessly when that person consciously disregards a substantial and unjustifiable risk that the lives or safety of the public might be endangered.

(d) When a motor vehicle is the instrument of the offense, the registrar shall revoke the license or right to operate of a person convicted of a violation of subsection (a), (b) or (c), or punished under section 13 of chapter 265, for a period of 10 years after the date of conviction for a first offense. The registrar shall revoke the license or right to operate of a person convicted for a subsequent violation of this section for the life of such person. No appeal, motion for a new trial or exceptions shall operate to stay the revocation of the license or of the right to operate;

provided, however, such license shall be restored or such right to operate shall be reinstated if the prosecution of such person ultimately terminates in favor of the defendant.

SECTION 72. 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 73. Section 24L of said chapter 90, as so appearing, is hereby amended by adding the following subdivision:-

(5) Upon completion of the period of imprisonment prescribed in subdivision (1) or (2) for an offense involving operating a motor vehicle with a percentage, by weight, of alcohol in the blood of .08 or greater or while under the influence of intoxicating liquor, a person may apply to the registrar for the issuance of an ignition interlock license for the remainder of the revocation period designated in subdivision (4). The registrar may issue such a license under such terms and conditions as appropriate and necessary for the balance of the revocation period listed in this subsection. Mandatory restrictions on an ignition interlock license granted by the registrar pursuant to this subdivision shall include, but shall not be limited to: (i) proof in a format determined by the registrar that a functioning certified ignition interlock device is installed on vehicles that will be operated by the person during the term of the ignition interlock license; and (ii) an attestation that ignition interlock devices will be maintained on all vehicles to be operated by the person. A person with an ignition interlock license shall be prohibited from operating vehicles without an ignition interlock device for the duration of the license. Failure of the person to remain in compliance with the sentence or court probation shall be cause for immediate

revocation of the ignition interlock license. The registrar shall provide notice of a revocation to the person issued the ignition interlock license at the address of record at the registry.

SECTION 74. Section 24N of said chapter 90, as so appearing, is hereby amended by inserting after the word “days”, in line 38, the following words:- ; provided, however, that such a person may apply, on or after the effective date of the suspension, for the issuance of an ignition interlock license for the balance of the suspension period listed in this subsection; provided further, that mandatory restrictions on an ignition interlock license granted by the registrar pursuant to this section shall include, but shall not be limited to: (i) proof in a format determined by the registrar that a functioning certified ignition interlock device is installed on vehicles that will be operated by the person during the term of the ignition interlock license; and (ii) an attestation that ignition interlock devices will be maintained on all vehicles to be operated by the person. A person with an ignition interlock license shall be prohibited from operating vehicles without an ignition interlock device for the duration of the license. A suspension for failure of a chemical test or analysis of breath or blood shall run consecutively, both as to any additional suspension periods arising from the same incident and as to each other. A person issued an ignition interlock license pursuant to this section shall receive day-for-day credit against any additional ignition interlock requirement arising from the same incident.

SECTION 75. Said section 24N of said chapter 90, as so appearing, is hereby further amended by striking out, in lines 58 to 61, inclusive, the words “refusal. No license shall be restored under any circumstances and no restricted or hardship permits shall be issued during the suspension period imposed by this paragraph; provided, however, that the” and inserting in place thereof the following words:- refusal; provided further, that a person who refused to submit to such test or analysis may apply, on or after the effective date of the suspension, for the issuance

of an ignition interlock license for the balance of the suspension period listed in this section; provided further, that mandatory restrictions on an ignition interlock license granted by the registrar pursuant to this paragraph shall include, but shall not be limited to: (i) proof in a format determined by the registrar that a functioning certified ignition interlock device is installed on vehicles that will be operated by the person during the term of the ignition interlock license; and (ii) an attestation that ignition interlock devices will be maintained on all vehicles to be operated by the person. A person with an ignition interlock license shall be prohibited from operating vehicles without an ignition interlock device for the duration of the license; provided however, that a suspension for a refusal of either a chemical test or analysis of breath or blood shall run consecutively, both as to any additional suspension periods arising from the same incident and as to each other; provided further, that a person issued an ignition interlock license pursuant to this section shall not receive credit against any additional ignition interlock requirement arising from the same incident; provided further, that a.

SECTION 76. Said section 24N of said chapter 90, as so appearing, is hereby further amended by adding the following paragraph:- The application for the issuance of an ignition interlock license for the period during which a person's license, permit or right to operate is suspended pursuant to this section shall waive the person's right to a hearing pursuant to this section.

SECTION 77. Section 24W of said chapter 90, as so appearing, is hereby amended by inserting after the words "ways and means", in line 85, the following words:- and the clerks of the senate and the house of representatives.

SECTION 78. Section 34J of said chapter 90, as so appearing, is hereby amended by inserting after the figure "$500", in line 59, the following words:- ; provided, however, that a

finding of delinquency shall not be entered against such a person in a proceeding for a complaint issued for violation of this section.

SECTION 79. 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 80. Said section 8 of said chapter 90B, as so appearing, is hereby amended by striking out, in lines 513 and 514, the words “not be subject to reduction or waiver by the court for any reason” and inserting in place thereof the following words:- be waived or reduced if it will impose a substantial financial hardship on the person or the person’s family or dependents.

SECTION 81. 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 82. 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 83. 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 84. Section 26A of said chapter 90B, as so appearing, is hereby amended by striking out, in line 8 and 17, the words “the vapors of glue” and inserting in place thereof, in each instance, the following words:- from smelling or inhaling the fumes of any substance having the property of releasing toxic vapors as defined in section 18 of chapter 270.

SECTION 85. Paragraph (6) of subsection (A) of section 3 of chapter 90C of the General Laws, as so appearing, is hereby amended by adding the following subparagraph:-

(d) A violator may request a payment plan for the payment of the violator’s assessment to the registrar or the registrar’s authorized agent. If the violator requests a payment plan, the registrar shall determine a monthly payment plan that takes the violator’s ability to pay into consideration; provided, however, that a monthly payment shall not be less than $25. The payment plan shall be sufficient to discharge the violator of all reinstatement fees and underlying fines assessed to the violator. The term of a payment plan under this section shall be not more than 12 months. During the period of the payment plan, the registrar shall defer any suspension otherwise required by this section as a result of the civil motor vehicle infraction.

If a violator signs a payment plan approved by the registrar and fails to make payments on the plan, the registrar may suspend the violator’s license, learner’s permit or right to operate without further notice or hearing. The registrar shall promulgate regulations to govern the determination and use of payment plans.

SECTION 86. Class A of section 31 of chapter 94C of the General Laws, as so appearing, is hereby amended by adding the following paragraph:-

(d) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation that contains any quantity of the following substances

including its salts, isomers and salts of isomers whenever the existence of such salts, isomers and salts of isomers is possible within the specific chemical designations:

(1) Acetyl Fentanyl

(2) Carfentanil

(3) Fentanyl

(4) Cyclopropyl fentanyl

(5) Furanyl fentanyl

(6) 3-methylfentanyl

(7) 3,4-Dichloro-*N*-[2-(dimethylamino)cyclohexyl]-*N*-methylbenzamide also known as u-47700

(8) Any synthetic opioid controlled in Schedule I of Title 21 of the Code of Federal Regulations Part 1308.11 or Schedule II of Title 21 of the Code of Federal Regulations Part 1308.12, unless specifically excepted or unless listed in another class in this section.

SECTION 87. Paragraph (a) of Class B of said section 31 of said chapter 94C, as so appearing, is hereby amended by striking out clause (4) and inserting in place thereof the following clause:-

(4) Coca leaves, and their salts, optical and geometric isomers and salts of isomers, excluding coca leaves and extracts of coca leaves from which cocaine, ecgonine and derivatives of ecgonine or their salts have been removed; or cocaine, ecgonine, pseudococaine, allococaine and pseudoallococaine, their derivatives, their salts, isomers and salts of their isomers; or any compound, mixture or preparation which contains any quantity of any substances referred to in this paragraph.

SECTION 88. Paragraph (b) of said Class B of said section 31 of said chapter 94C, as so appearing, is hereby amended by striking out clauses (1) to (21), inclusive, and inserting in place thereof the following 20 clauses:-

(1) Alphaprodine

(2) Anileridine

(3) Bezitramide

(4) Dihydrocodeine

(5) Diphenoxylate

(6) Isomethadone

(7) Levomethorphan

(8) Levorphanol

(9) Metazocine

(10) Methadone

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

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

(13) Pethidine

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

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

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

(17) Phenazocine

(18) Piminodine

(19) Racemethorphan

(20) Racemorphan

SECTION 89. Said chapter 94C is hereby further amended by striking out sections 32 to 32C, inclusive, as so appearing, and inserting in place thereof the following 4 sections:-

Section 32. A person who knowingly or intentionally manufactures, distributes, dispenses or possesses with intent to manufacture, distribute or dispense a controlled substance in Class A of section 31 shall be punished by imprisonment in the state prison for not more than 10 years or in a jail or house of correction for not more than 2½ years, by a fine of not less than $1,000 nor more than $10,000 or by both such fine and imprisonment.

Section 32A. A person who knowingly or intentionally manufactures, distributes, dispenses or possesses with intent to manufacture, distribute or dispense a controlled substance in Class B of section 31 shall be punished by imprisonment in the state prison for not more than 10 years or in a jail or house of correction for not more than 2½ years, by a fine of not less than $1,000 nor more than $10,000 or by both such fine and imprisonment.

Section 32B. A person who knowingly or intentionally manufactures, distributes, dispenses or possesses with intent to manufacture, distribute or dispense a controlled substance in Class C of section 31 shall be imprisoned in state prison for not more than 5 years or in a jail or house of correction for not more than 2½ years, by a fine of not less than $500 nor more than $5,000 or by both such fine and imprisonment.

Section 32C. A person who knowingly or intentionally manufactures, distributes, dispenses or cultivates, or possesses with intent to manufacture, distribute, dispense or cultivate a controlled substance in Class D of section 31 shall be imprisoned in a jail or house of correction for not more than 2 years or by a fine of not less than $500 nor more than $5,000, or by both such fine and imprisonment.

SECTION 90. Section 32E of said chapter 94C, as so appearing, is hereby amended by striking out, in lines 46 and 47, the figure “18” and inserting in place thereof, in each instance, the following figure:- 100.

SECTION 91. Subsection (b) of said section 32E of said chapter 94C, as so appearing, is hereby amended by striking out clauses (1) to (4), inclusive, and inserting in place thereof the following 2 clauses:-

(1) Not less than 100 grams but less than 200 grams, be punished by a term of imprisonment in the state prison for not less than 8 nor more than 20 years and by a fine of not less than $10,000 nor more than $100,000; provided, however, that a sentence imposed under this clause shall not be for less than a mandatory minimum term of imprisonment of 8 years; provided further, that a fine shall not be imposed in lieu of the mandatory minimum term of imprisonment established in this clause.

(2) Not less than 200 grams, be punished by a term of imprisonment in the state prison for not less than 12 nor more than 20 years and by a fine of not less than $50,000 nor more than $500,000; provided, however, that a sentence imposed under this clause shall not be for less than a mandatory minimum term of imprisonment of 12; provided further, that a fine shall not be imposed in lieu of the mandatory minimum term of imprisonment established in this clause.

SECTION 92. Said section 32E of said chapter 94C, as so appearing, is hereby further amended by inserting after the word “thereof”, in line 80, the following words:- , a controlled substance defined in paragraph (d) of Class A of section 31.

SECTION 93. Said section 32E of said chapter 94C, as so appearing, is hereby further amended by inserting after the word “thereof”, in line 85, the first time it appears, the following words:- , a controlled substance defined in paragraph (d) of Class A of section 31.

SECTION 94. Said section 32E of said chapter 94C, as so appearing, is hereby further amended by inserting after the word “thereof”, in line 87, the following words:- , a controlled substance defined in paragraph (d) of Class A of section 31.

SECTION 95. Said section 32E of said chapter 94C, as so appearing, is hereby further amended by inserting after the word “thereof”, in line 89, the first time it appears, the following words:- , a controlled substance defined in paragraph (d) of Class A of section 31.

SECTION 96. Said section 32E of said chapter 94C, as so appearing, is hereby further amended by striking out subsection (c½).

SECTION 97. Section 32H of said chapter 94C, as so appearing, is hereby amended by striking out, in lines 1 to 3, inclusive, the words “paragraph (b) of section thirty-two, paragraphs (b), (c) and (d) of section thirty-two A, paragraph (b) of section thirty-two B, sections” and inserting in place thereof the following word:- sections.

SECTION 98. Said section 32H of said chapter 94C, as so appearing, is hereby further amended by striking out, in lines 3 and 4, the words “thirty-two E thirty-two F and thirty-two J” and inserting in place thereof the following words:- 32E and 32F.

SECTION 99. Said section 32H of said chapter 94C, as so appearing, is hereby further amended by striking out, in lines 16 to 18, inclusive, the words “subsection (c) of Section 32, subsection (e) of section 32A, subsection (c) of section 32B, subsection (d) of section 32E, or section 32J” and inserting in place thereof the following words:- subsection (d) of section 32E.

SECTION 100. Said section 32H of said chapter 94C, as so appearing, is hereby further amended by striking out, in line 33, the words “18 years of age or older” and inserting in place thereof the following words:- having attained the age of criminal majority.

SECTION 101. Said section 32H of said chapter 94C, as so appearing, is hereby further amended by striking out, in line 34, the figure “18” and inserting in place thereof the following words:- the age of criminal majority.

SECTION 102. Section 32I of said chapter 94C, as so appearing, is hereby amended by striking out, in line 10, the words “less than one nor”.

SECTION 103. Said section 32I of said chapter 94C, as so appearing, is hereby further amended by striking out, in line 11, the words “less than five hundred nor”.

SECTION 104. Said section 32I of said chapter 94C, as so appearing, is hereby further amended by striking out, in line 24, the words “less than fifty nor”.

SECTION 105. Section 32J of said chapter 94C is hereby repealed.

SECTION 106. Section 32M of said chapter 94C, as amended by section 19 of chapter 55 of the acts of 2017, is hereby further amended by striking out, in line 1, the word “eighteen” and inserting in place thereof the following words:- criminal majority.

SECTION 107. Said section 32M of said chapter 94C, as so amended, is hereby further amended by striking out, in line 6, the figure “18” and inserting in place thereof the following words:- criminal majority.

SECTION 108. Chapter 94C of the General Laws is hereby amended by inserting after section 32N the following section:-

Section 32O. (a) A person who, while in the course of trafficking or unlawfully distributing a controlled substance as defined in section 32E, knowingly or intentionally manufactures, distributes, dispenses, delivers, gives away, barters, administers or provides any amount of a controlled substance or counterfeit substance which results in death shall be punished as murder in the second degree as defined by section 1 of chapter 265.

(b) Lack of knowledge of a previous health condition shall not be a defense to a violation of this section.

SECTION 109. Section 34 of said chapter 94C, as appearing in the 2016 Official Edition, is hereby amended by striking out, in lines 14 and 15, the words “less than two and one-half years nor”.

SECTION 110. Said section 34 of said chapter 94C, as so appearing, is hereby further amended by striking out, in lines 42 to 44, inclusive, the words “departmental records which are not public records, maintained by police and other law enforcement agencies, shall not be sealed; and provided further, that”.

SECTION 111. Section 34A of said chapter 94C, as so appearing, is hereby amended by striking out, in lines 4 and 11, the words “sections 34 or 35” and inserting in place thereof, in each instance, the following words:- section 34 or found in violation of a condition of probation or pretrial release as determined by the courts or a condition of parole as determined by the parole board.

SECTION 112. Said section 34A of said chapter 94C, as so appearing, is hereby further amended by striking out, in lines 5 and 12, the word “substance” and inserting in place thereof, in each instance, the following words:- substance or violation.

SECTION 113. Section 35 of said chapter 94C is hereby repealed.

SECTION 114. Section 36 of said chapter 94C, as appearing in the 2016 Official Edition, is hereby amended by striking out, in lines 6 and 7, the words “his eighteenth birthday” and inserting in place thereof the following words:- the age of criminal majority.

SECTION 115. Section 44 of said chapter 94C, as so appearing, is hereby amended by striking out, in lines 5 to 8, inclusive, the words “; provided, however, that departmental records

maintained by police and other law enforcement agencies which are not public records shall not be sealed".

SECTION 116. Section 45 of said chapter 94C is hereby repealed.

SECTION 117. Section 47 of said chapter 94C, as appearing in the 2016 Official Edition, is hereby amended by adding the following subsection:-

(k) (1) The attorney general, each district attorney, and each police department for which the state treasurer has established a special law enforcement trust fund pursuant to subsection (d) shall file an annual report with the treasurer regarding all assets, monies, and proceeds from assets seized pursuant to this section and held by such fund. The report shall provide itemized accounting for all assets, monies and proceeds from assets within the following asset categories: cash, personal property, conveyances, and real property, including any property disposed of by the office of seized property management within the division of capital asset management and maintenance. Such reports shall be filed not later than January 31 for the preceding calendar year and shall be public records.

(2) The attorney general, each district attorney, and each police department for which the state treasurer has established a special law enforcement trust fund pursuant to subsection (d) shall file an annual report with the treasurer regarding all expenditures therefrom, which shall include, but not be limited to, the following expense categories: personnel; contractors; equipment; training; private-public partnerships; inter-agency collaborations; and community grants. Such reports shall be filed not later than January 31 for the preceding calendar year and shall be public records.

(3) On or before March 15, the state treasurer shall file a report with the executive office of administration and finance and the house and senate committees on ways and means regarding the aggregate deposits and expenditures, and the ending balances, for each special law enforcement trust fund during the preceding calendar year. Such reports shall be public records.

SECTION 118. Subsection (b) of section 14 of chapter 94G of the General Laws, as appearing in section 40 of chapter 55 of the acts of 2017, is hereby amended by striking out clause (iii) and inserting in place thereof the following clause:- (iii) the Municipal Police Training Fund established in section 35FFF of chapter 10 for the municipal police training committee established in section 116 of chapter 6.

SECTION 119. Section 1 of chapter 111E of the General Laws, as appearing in the 2016 Official Edition, is hereby amended by striking out the definition of "Administrator" and inserting in place thereof the following 2 definitions:-

"Addiction specialist", a licensed physician who specializes in the practice of psychiatry or addiction medicine, a licensed psychologist, a licensed independent social worker, a licensed mental health counselor, a licensed psychiatric clinical nurse specialist, a licensed alcohol and drug counselor I as defined in section 1 of chapter 111J or any other professional considered qualified by the department to evaluate whether an individual is a drug dependent person.

"Administrator", the person in charge of the operation of a facility or a penal facility, or the person's designee.

SECTION 120. Said section 1 of said chapter 111E, as so appearing, is hereby further amended by striking out the definitions of "Independent psychiatrist" and "Independent physician" and inserting in place thereof the following definition:-

“Independent addiction specialist”, an addiction specialist, other than one holding an office or appointment in a department, board or agency of the commonwealth or in a public facility or penal facility.

SECTION 121. Section 10 of said chapter 111E, as so appearing, is hereby amended by striking out, in lines 18 and 19, the words “a psychiatrist, or if it is, in the discretion of the court, impracticable to do so, a physician,” and inserting in place thereof the following words:- an addiction specialist.

SECTION 122. Said section 10 of said chapter 111E, as so appearing, is hereby further amended by striking out, in lines 23, 25, 31, 35, 93 and 104 the words “psychiatrist or physician” and inserting in place thereof, in each instance, the following words:- addiction specialist.

SECTION 123. Said section 10 of said chapter 111E, as so appearing, is hereby further amended by striking out, in lines 60 and 61 and in line 71 the words “for the first time”.

SECTION 124. Said section 10 of said chapter 111E, as so appearing, is hereby further amended by striking out, in lines 61 and 62 and in lines 72 and 73, the words “not involving the sale or manufacture of dependency related drugs,”.

SECTION 125. Said section 10 of said chapter 111E, as so appearing, is hereby further amended by striking out, in lines 98 and 99, the words “independent psychiatrist, or if it is impracticable to do so, an independent physician” and inserting in place thereof the following words:- independent addiction specialist.

SECTION 126. Said section 10 of said chapter 111E, as so appearing, is hereby further amended by striking out, in lines 124 and 125, the words “independent psychiatrist, or, if none is available, an independent physician” and inserting in place thereof the following words:- independent addiction specialist.

SECTION 127. Said section 10 of said chapter 111E, as so appearing, is hereby further amended by striking out, in line 184, the words “thirty-two to thirty-two G” and inserting in place thereof the following words:- 32E to 32G.

SECTION 128. Section 11 of said chapter 111E, as so appearing, is hereby amended by striking out, in lines 4 and 5, the words “a psychiatrist, or, if, in the discretion of the court, it is impracticable to do so, by a physician,” and inserting in place thereof the following words:- an addiction specialist.

SECTION 129. Said section 11 of said chapter 111E, as so appearing, is hereby further amended by striking out, in line 11, lines 16 and 17 and line 18, the words “physician or psychiatrist” and inserting in place thereof, in each instance, the following words:- addiction specialist.

SECTION 130. Section 13A of said chapter 111E, as so appearing, is hereby amended by striking out, in lines 9 and 12 the word “physician” and inserting in place thereof, in each instance, the following words:- addiction specialist.

SECTION 131. Section 52 of chapter 119 of the General Laws, as so appearing, is hereby amended by striking out the definitions of “Court” and “Delinquent Child” and inserting in place thereof the following 3 definitions:-

“Civil infraction”, a violation for which a civil proceeding is allowed, for which the court shall not appoint counsel nor impose a sentence of incarceration and for which a civil penalty may be imposed.

“Court”, a division of the juvenile court department.

"Delinquent child", a child between the age of 12 and the age of criminal majority who commits any offense against a law of the commonwealth; provided, however, that such an offense shall not include a civil infraction.

SECTION 132. Said section 52 of said chapter 119, as so appearing, is hereby further amended by striking out, in line 15, the figure "18" and inserting in place thereof the following words:- the age of criminal majority.

SECTION 133. Section 54 of said chapter 119, as so appearing, is hereby amended by striking out, in line 2, the words "seven and 18 years of age" and inserting in place thereof the following words:- 12 and the age of criminal majority.

SECTION 134. Said section 54 of said chapter 119, as so appearing, is hereby further amended by striking the second paragraph and inserting in place thereof the following paragraph:-

An application for such a complaint submitted to the juvenile court by a police department against a child arrested for an offense shall be accompanied by an offense-based tracking number. An application's failure to include the arrestee's offense-based tracking number shall not preclude the issuance of a complaint where there is otherwise a valid application submitted by a police department against a child. If a complaint is issued based on an application for a complaint submitted by a police department against a child that did not include the child's offense-based tracking number, the prosecutor shall submit the offense-based tracking number of the child to the court to be included in the case file.

SECTION 135. Said section 54 of said chapter 119, as so appearing, is hereby further amended by striking out, in line 21, the words "ages of fourteen and 18" and inserting in place thereof the following words:- age of 14 and the age of criminal majority.

SECTION 136. Said chapter 119 is hereby further amended by inserting after section 54 the following section:-

Section 54A. (a) A juvenile court shall have jurisdiction to divert from further court processing a child who is subject to the jurisdiction of the juvenile court as the result of an application for complaint brought under section 54. The court may divert a child to a program as defined in section 1 of chapter 276A or elsewhere.

(b) A child complained of as a delinquent child may, upon the request of the child, undergo an assessment prior to arraignment to enable the judge to consider the suitability of the child for diversion. If a child chooses to request a continuance for the purpose of such an assessment, the child shall notify the judge prior to arraignment. Upon receipt of such notification, the judge may grant a 14-day continuance. The department of probation may conduct such assessment prior to arraignment to assist the judge in making that decision. If the judge determines it is appropriate, a determination of eligibility by the personnel of a program may substitute for an assessment. If a case is continued under this subsection, the child shall not be arraigned and an entry shall not be made into the criminal offender record information system until a judge issues an order to resume the ordinary processing of a delinquency proceeding. A judge may order diversion without first ordering an assessment in any case in which the court finds that sufficient information is available without an assessment.

(c)(1) After the completion of the assessment, the probation officer or, where applicable, the director of a program to which the child has been referred shall submit to the court and to the counsel for the child a recommendation as to whether the child would benefit from diversion.

Upon receipt of the recommendation, the judge shall provide an opportunity for both the commonwealth and counsel for the child to be heard regarding diversion of the child. The judge shall then make a final determination as to the eligibility of the child for diversion. There shall be a rebuttable presumption that a child who is otherwise eligible for diversion under subsection (g) and who is charged with a misdemeanor for which the punishment is a fine, imprisonment in a jail or house of correction for not more than 6 months or both such fine and imprisonment shall be eligible for diversion if such child has no outstanding warrants, continuances, appeals or juvenile court cases pending. The proceedings of a child who is found eligible for diversion shall be stayed for 90 days unless the judge determines that the interest of justice would best be served by a lesser period of time or unless extended under subsection (f).

(2) A stay of proceedings shall not be granted under this section unless the child consents in writing to the terms and conditions of the stay of proceedings and knowingly executes a waiver of the child's right to a speedy trial on a form approved by the chief justice of the juvenile court department. Consent shall be given only upon the advice of counsel.

(3) The following shall not be admissible against the child in any proceedings: (i) a request for assessment; (ii) a decision by the child not to enter a program; (iii) a determination by probation or by a program that the child would not benefit from diversion; and (iv) any statement made by the child or the child's family during the course of assessment. Any consent by a child to a stay of proceedings or any act done or statement made in fulfillment of the terms and conditions of a stay of proceedings shall not be admissible as an admission, implied or otherwise, against the child if the stay of proceedings was terminated and proceedings were resumed on the original complaint. A statement or other disclosure or a record thereof made by a child during the course of assessment or during the stay of proceedings shall not be disclosed at any time to a

commonwealth or other law enforcement officer in connection with the investigation or prosecution of any charges against the child or a codefendant.

(4) If a child is found eligible for diversion under this section, the child shall not be arraigned and an entry shall not be made into the criminal offender record information system unless a judge issues an order to resume the ordinary processing of a delinquency proceeding. If a child is found eligible under this section, the eligibility shall not be considered an issuance of a criminal complaint for the purposes of section 37H½ of chapter 71.

(d) A district attorney may divert any child for whom there is probable cause to issue a complaint, either before or after the assessment procedure set forth in subsection (b), with or without the permission of the court and without regard to the limitations in subsection (g). A district attorney who diverts a case pursuant to this subsection may request a report from a program regarding the child's status in and completion of the program.

(e) If during the stay of proceedings a child is charged with a subsequent offense, a judge in the court that entered the stay of proceedings may issue such process as is necessary to bring the child before the court. When the child is brought before the court, the judge shall afford the child an opportunity to be heard. If the judge finds probable cause to believe that the child has committed a subsequent offense, the judge may order that the stay of proceedings be terminated and that the commonwealth be permitted to proceed on the original complaint as provided by law.

(f)(1) Upon the expiration of the initial 90-day stay of proceedings, the probation officer or the program director shall submit to the court a report indicating the successful completion of

diversion by the child or recommending an extension of the stay of proceedings for not more than an additional 90 days so that the child may complete the diversion program successfully.

(2) If the probation officer or the program director indicates the successful completion of diversion by a child, the judge may dismiss the original complaint pending against the child. If the report recommends an extension of the stay of proceedings, the judge may, on the basis of the report and any other relevant evidence, take such action as the judge deems appropriate, including the dismissal of the complaint, the granting of an extension of the stay of proceedings or the resumption of proceedings.

(3) If the conditions of diversion have not been met, the child's attorney shall be notified prior to the termination of the child from diversion and the judge may grant an extension to the stay of proceedings if the child provides good cause for failing to comply with the conditions of diversion.

(4) If the judge dismisses a complaint under this subsection, the court shall, unless the child objects, enter an order directing expungement of any records of the complaint and related proceedings maintained by the clerk, the court, the department of criminal justice information services and the court activity record index.

(g) A child otherwise eligible for diversion under this section shall not be eligible for diversion if the child charged with a violation of any of the offenses enumerated in section 70C of chapter 277 other than an offense under: (i) subsection (a) of section 13A of chapter 265; (ii) sections 13J and 13M of said chapter 265; (iii) sections 13A and 13C of chapter 268; and (iv) sections 1, 16, 28, 29, 29A and 29B of chapter 272 or if the child is indicted as a youthful offender.

SECTION 137. Section 58 of said chapter 119, as appearing in the 2016 Official Edition, is hereby amended by striking out, in line 73, the words “his eighteenth birthday” and inserting in place thereof the following words:- the age of criminal majority.

SECTION 138. Said section 58 of said chapter 119, as so appearing, is hereby further amended by striking out, in line 79, the words “his eighteenth birthday” and inserting in place thereof the following words:- attaining the age of criminal majority.

SECTION 139. Section 60A of said chapter 119, as so appearing, is hereby amended by striking out, in line 17, the words “his fourteenth and eighteenth birthdays” and inserting in place thereof the following words:- the age of 14 and the age of criminal majority.

SECTION 140. Said section 60A of said chapter 119, as so appearing, is hereby further amended by striking out, in line 20, the words “been age 18 or older” and inserting in place thereof the following words:- attained the age of criminal majority.

SECTION 141. Said section 60A of said chapter 119, as so appearing, is hereby further amended by striking out, in line 22, the words “were age 18 or older” and inserting in place thereof the following words:- had attained the age of criminal majority.

SECTION 142. Section 62 of said chapter 119 is hereby repealed.

SECTION 143. Section 63A of said chapter 119, as appearing in the 2016 Official Edition, is hereby amended by striking out, in line 1, the words “is 19 years of age or older” and inserting in place thereof the following words:- has attained the age of criminal majority.

SECTION 144. Said section 63A of said chapter 119, as so appearing, is hereby further amended by striking out, line 2, the figure “18” and inserting in place thereof the following words:- criminal majority.

SECTION 145. Section 65 of said chapter 119, as so appearing, is hereby amended by striking out, in line 2, the words “18 years of age” and inserting in place thereof the following words:- the age of criminal majority.

SECTION 146. Section 66 of said chapter 119, as so appearing, is hereby amended by striking out, in lines 3 and 5, the words “18 years of age” and inserting in place thereof, in each instance, the following words:- the age of criminal majority.

SECTION 147. Said chapter 119, as so appearing, is hereby amended by striking out section 67 and inserting in place thereof the following section:-

Section 67. (a) Whenever a child between the age of 12 and the age of criminal majority is arrested with or without a warrant, as provided by law, and the court or courts having jurisdiction over the offense are not in session, the officer in charge shall immediately notify at least one of the child’s parents, or, if there is no parent, the guardian or custodian with whom the child resides, or the department of children and families if the child is in the custody and care of the department. Pending such notice, such child shall be detained under subsection (c).

(b) Upon the acceptance by the officer in charge of said police station or town lockup of the written promise of said parent, guardian, custodian or representative of the department of children and families to be responsible for the presence of the child in court at the time and place when the child is ordered to appear, the child shall be released to said person giving such promise; provided, however, that if the arresting officer requests in writing that a child between the age 14 and the age of criminal majority be detained, and if the court issuing a warrant for the arrest of a child between the age of 14 and the age of criminal majority directs in the warrant that such child shall be held in safekeeping pending his appearance in court, the child shall be detained in a police station or town lockup, or a place of temporary custody commonly referred

to as a detention home of the department of youth services, or any other home approved by the department of youth services pending the child's appearance in court; provided further, that in the event any child is so detained, the officer in charge of the police station or town lockup shall notify the parents, guardian, custodian or representative of the department of children and families of the detention of the child. If a child is detained overnight, the child shall receive a bail hearing in accordance with section 59 of chapter 276, if applicable.

(c) No child between the age of 14 and the age of criminal majority shall be detained in a police station or town lockup under (a) or (b) unless the detention facilities for children at such police station or town lockup have received the approval in writing of the commissioner of youth services. The department of youth services shall make inspection at least annually of police stations and town lockups wherein children are detained. If no such approved detention facility exists in any city or town, the city or town may contract with an adjacent city or town for the use of approved detention facilities in order to prevent children who are detained from coming in contact with adult prisoners. A separate and distinct place shall be provided in police stations, town lockups or places of detention for such children. Nothing in this section shall permit a child between 14 and the age of criminal majority to be detained in a jail or house of correction.

(d) When a child is arrested who is in the care and custody of the department of children and families, the officer in charge of the police station or town lockup where the child has been taken shall immediately contact the department's emergency hotline and notify the on-call worker of the child's arrest. The on-call worker shall notify the social worker assigned to the child's case who shall make arrangement for the child's release as soon as practicable if it has been determined that the child will not be detained.

SECTION 148. Section 68 of said chapter 119, as so appearing, is hereby further amended by striking out, in lines 1 and 34, the word “seven” and inserting in place thereof, in each instance, the following figure:- 12.

SECTION 149. Said section 68 of said chapter 119, as so appearing, is hereby further amended by striking out, in lines 2 and 52, the figure “18” and inserting in place thereof, in each instance, the following words:- criminal majority.

SECTION 150. Said section 68 of said chapter 119, as so appearing, is hereby further amended by striking out, in line 3, the words “if unable to furnish bail” and inserting in place thereof the following words:- if detained pretrial pursuant to paragraph (3) of subsection (e) of section 58 of chapter 276.

SECTION 151. Said section 68 of said chapter 119, as so appearing, is hereby further amended by striking out, in line 34, the words “and 18 years of age” and inserting in place thereof the following words:- years of age and the age of criminal majority.

SECTION 152. Section 68A of said chapter 119, as so appearing, is hereby amended by striking out, in line 1, the words “seven and 18 years of age” and inserting in place thereof the following words:- 12 years of age and the age of criminal majority.

SECTION 153. Section 70 of said chapter 119, as so appearing, is hereby amended by striking out, in line 2, the words “18 years of age” and inserting in place thereof the following words:- the age of criminal majority.

SECTION 154. Section 72 of said chapter 119, as so appearing, is hereby amended by striking out, in lines 2 and 3, the words “their eighteenth birthday” and inserting in place thereof the following words:- the age of criminal majority.

SECTION 155. Said section 72 of said chapter 119, as so appearing, is hereby further amended by striking out, in lines 10 to 13, inclusive, the words “his eighteenth birthday, and is not apprehended until between such child’s eighteenth and nineteenth birthday, the court shall deal with such child in the same manner as if he has not attained his eighteenth birthday” and inserting in place thereof the following words:- attaining the age of criminal majority and is not apprehended until between the birthday at which the child attained the age of criminal majority and the child’s subsequent birthday, the court shall deal with the child in the same manner as if the child had not attained the age of criminal majority.

SECTION 156. Said section 72 of said chapter 119, as so appearing, is hereby further amended by striking out, in line 18, the words “their eighteenth birthday” and inserting in place thereof the following words:- the age of criminal majority.

SECTION 157. Section 72A of chapter 119, as so appearing, is hereby amended by striking out, in lines 2 and 3, the words “his eighteenth birthday, and is not apprehended until after his nineteenth birthday, the” and inserting in place thereof the following words:- attaining the age of criminal majority, and is not apprehended until after attaining the first birthday following the birthday at which the person attained the age of criminal majority, the.

SECTION 158. Section 72B of said chapter 119, as so appearing, is hereby amended by striking out, in lines 2 and 3 and 7 and 8, the words “his eighteenth birthday” and inserting in place thereof, in each instance, the following words:- the person attains the age of criminal majority.

SECTION 159. Said section 72B of said chapter 119, as so appearing, is hereby further amended by striking out, in line 25, the words “his eighteenth birthday” and inserting in place thereof the following words:- the age of criminal majority.

SECTION 160. Said section 72B of said chapter 119, as so appearing, is hereby further amended by striking out, in line 31, the words “his eighteenth birthday” and inserting in place thereof the following words:- attaining the age of criminal majority.

SECTION 161. Section 74 of said chapter 119, as so appearing, is hereby amended by striking out, in lines 3 and 4, the words “his eighteenth birthday” and inserting in place thereof the following words:- the person attaining the age of criminal majority.

SECTION 162. Said section 74 of said chapter 119, as so appearing, is hereby further amended by striking out, in line 10, the words “sixteen and 18 years of age” and inserting in place thereof the following words:- 16 years of age and the age of criminal majority.

SECTION 163. Said section 74 of said chapter 119, as so appearing, is hereby further amended by striking out, in line 14, the figure “18” and inserting in place thereof the following words:- criminal majority.

SECTION 164. Section 84 of said chapter 119, as so appearing, is hereby amended by striking out, in lines 12 and 13, the word “seven and eighteen (or nineteen)” and inserting in place thereof the following figure:- 12 and 19 (or 20).

SECTION 165. Said chapter 119 is hereby further amended by adding the following 2 sections:-

Section 86. (a) For the purposes of this section and section 87, the following words shall have the following meanings unless the context clearly requires otherwise:

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

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

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

(c) The court officer charged with custody of a juvenile shall report any security concern to the presiding justice. On the issue of courtroom or courthouse security, the presiding justice may receive information from the court officer charged with custody of a juvenile, a probation officer or any other source determined by the court to be credible.

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

Section 87. A child against whom a complaint is brought under this chapter may participate in a community-based restorative justice program pursuant to the requirements of chapter 276B.

SECTION 166. Section 16 of chapter 119A of the General Laws, as appearing in the 2016 Official Edition, is hereby amended by inserting after the word "obligor", in line 44, the following words:- ; provided, however, that the IV-D agency has no evidence of the obligor

residing at an address other than the address last known by the IV-D agency; provided further, that the IV-D agency shall not notify a licensing authority unless the child support arrearage exceeds an amount equal to 8 weeks obligation or $500, whichever is greater.

SECTION 167. Chapter 120 of the General Laws is hereby amended by inserting after section 10 the following section:-

Section 10B. A person detained by and committed to the department of youth services shall not be placed in involuntary room confinement as a consequence for noncompliance, punishment or harassment or in retaliation for any conduct.

SECTION 168. Section 15 of said chapter 120, as appearing in the 2016 Official Edition, is hereby amended by striking out, in line 3 and line 4, the figure “18” and inserting in place thereof, in each instance, the following words:- the age of criminal majority.

SECTION 169. Section 21 of said chapter 120, as so appearing, is hereby amended by striking out, in line 17, the words “seven and 18 years of age” and inserting in place thereof the following words:- 7 years of age and the age of criminal majority.

SECTION 170. Section 1 of chapter 127 of the General Laws, as so appearing, is hereby amended by inserting after the definition of “Commissioner” the following 2 definitions:

“Disciplinary restrictive housing”, a placement in restrictive housing in a state correctional facility for disciplinary purposes after a finding has been made that the prisoner has committed a breach of discipline.

“Exigent circumstances”, circumstances that create an unacceptable risk to the safety of any person.

SECTION 171. Said section 1 of said chapter 127, as so appearing, is hereby further amended by inserting after the definition of “Parole board” the following definition:-

"Placement review", a multidisciplinary examination to determine whether, notwithstanding any previous finding of a disciplinary breach or exigent circumstances or other circumstances supporting a placement in restrictive housing, restrictive housing is still necessary to reasonably manage risks of harm; when conducted pursuant to clause (iv) or (v) of subsection (a) of section 39B, examiners performing a placement review shall include, but not be limited to, 1 member of the security staff, 1 member of the programming staff, and 1 member of the mental health staff.

SECTION 172. Said section 1 of said chapter 127, as so appearing, is hereby further amended by inserting after the definition of "Residential treatment unit" the following definition:-

"Restrictive Housing", a housing placement where a prisoner is confined to a cell for over 22 hours per day; provided, however, that mental health watch shall not be considered restrictive housing.

SECTION 173. Section 4 of said chapter 127 is hereby repealed.

SECTION 174. Section 16 of said chapter 127, as appearing in the 2016 Official Edition, is hereby amended by inserting after the word "tuberculosis", in line 9, the following words:- "and the presence of drug dependency to be made by the physician or another addiction specialist, as defined in chapter 111E, including, but not limited to, a determination of whether or not opioid substitution or medication assisted treatment for opioid addiction is appropriate for the inmate. An examination pursuant to section 10 of said chapter 111E shall satisfy this requirement if the examination includes a determination whether opioid substitution or medication assisted treatment for opioid addiction is appropriate for the inmate. To the extent practicable, the department of correction shall prioritize placement of inmates that were

receiving opioid substitution or medication assisted treatment for opioid addiction immediately preceding their incarceration within a facility that provides the same opioid substitution or medication assisted treatment.

SECTION 175. Section 28 of said chapter 127, as so appearing, is hereby amended by striking out, in line 4, the word “twenty-three” and inserting in place thereof the following words:- 23, a record of the fingerprint-based state identification number.

SECTION 176. Said chapter 127 is hereby further amended by inserting after section 32 the following section:-

Section 32A. A prisoner of a correctional institution, jail or house of correction that has a gender identity, as defined in section 7 of chapter 4, that differs from the prisoner’s sex assigned at birth, with or without a diagnosis of gender dysphoria or any other physical or mental health diagnosis, shall be: (i) addressed in a manner consistent with the prisoner’s gender identity; (ii) provided with access to commissary items, clothing, programming, educational materials and personal property that is consistent with the prisoner’s gender identity; (iii) searched by an officer of the same gender identity if the search requires an inmate to remove all clothing or includes a visual inspection of the anal cavity or genitals; provided, however, that the officer’s gender identity is consistent with the prisoner’s request; and provided further, that such a search shall not be conducted for the sole purpose of determining genital status; and (iv) housed in a correctional facility with inmates with the same gender identity, provided that the placement is consistent with the prisoner’s request.

SECTION 177. Said chapter 127 is hereby further 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 a 7-day period. A correctional institution, jail or house of correction that elects to use video or other types of electronic devices for inmate communications with visitors shall not make such communications available in lieu of in-person visits prescribed in this section. 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.

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.

SECTION 178. Said chapter 127 is hereby amended by striking out sections 39 and 39A, as so appearing, and inserting in place thereof the following 8 sections:-

Section 39. (a) Subject to the limits of this section and section 39A, the superintendent of a state correctional facility or the administrator of a county correctional facility may authorize the confinement of a prisoner in a restrictive housing unit to discipline the prisoner or if the prisoner's retention in general population poses an unacceptable risk: (i) to the safety of others; (ii) of damage or destruction of property; or (iii) to the operation of a correctional facility.

(b) In addition to meeting all standards defined by the department of public health, restrictive housing units shall provide: (i) meals that meet the same standards defined by the

commissioner as for general population prisoners; (ii) access to showers not less than 3 days per week; (iii) rights of visitation and communication by those properly authorized; provided, however, that the authorization may be diminished for the enforcement of discipline for a period not to exceed 15 days in a state correctional facility or 10 days in a county correctional facility for any given offense; (iv) access to reading and writing materials unless clinically contraindicated; (v) access to a radio or television if confinement exceeds 30 days; (vi) periodic mental and psychiatric examinations under the supervision of the department of mental health; (vii) medical and psychiatric treatment that may be clinically indicated under the supervision of the department of mental health; (viii) the same access to canteen purchases and privileges to retain property in a prisoner's cell as prisoners in the general population at the same facility; provided, however, that such access and privileges may be diminished for the enforcement of discipline for a period not to exceed 15 days in a state correctional facility or 10 days in a county correctional facility for any given offense or where inconsistent with the security of the unit; (ix) the same access to disability accommodations as prisoners in general population, except where inconsistent with the security of the unit; and (x) other rights and privileges as may be established or recognized by the commissioner.

(c) Before placement in restrictive housing, a prisoner shall be screened by a qualified mental health professional to determine whether the prisoner has a serious mental illness or restrictive housing is otherwise clinically contraindicated based on clinical standards adopted by the department of correction and clinical judgment, provided that clinical standards shall be promulgated by the department of correction in consultation with the department of mental health.

(d) A qualified mental health professional shall make rounds in every restrictive housing unit and may conduct an out-of-cell meeting with a prisoner for whom a confidential meeting is warranted in the clinician's professional judgment. Prisoners shall be evaluated by a qualified mental health professional in accordance with clinical standards adopted by the department of correction and clinical judgment to determine whether the prisoner has a serious mental illness or restrictive housing is otherwise clinically contraindicated, provided that clinical standards shall be promulgated by the department of correction in consultation with the department of mental health.

Section 39A. (a) A prisoner shall not be held in restrictive housing if the prisoner has a serious mental illness or a finding has been made, pursuant to subsections (c) or (d) of section 39 or otherwise, that restrictive housing is clinically contraindicated unless, not later than 72 hours after the finding, the commissioner, the sheriff or a designee of the commissioner or sheriff certifies in writing: (i) the reason why the prisoner may not be safely held in the general population; (ii) that there is no available placement in a secure treatment unit; (iii) efforts that are being undertaken to find appropriate housing and the status of the efforts; and (iv) the anticipated time frame for resolution. A copy of the written certification shall be provided to the prisoner. Such a prisoner in restrictive housing shall be offered additional mental health treatment in accordance with clinical standards adopted by the department.

(b) If a prisoner needs to be separated from general population to protect the prisoner from harm by others, the prisoner shall not be placed in restrictive housing, but shall be placed in a housing unit that provides approximately the same conditions, privileges, amenities and opportunities as in general population; provided, however, that the prisoner may be placed in restrictive housing for not more than 72 hours while suitable housing is located. A prisoner shall

not be held in restrictive housing to protect the prisoner from harm by others for more than 72 hours unless the commissioner, the sheriff or a designee of the commissioner or sheriff certifies in writing: (i) the reason why the prisoner may not be safely held in the general population; (ii) that there is no available placement in a unit comparable to general population; (iii) efforts that are being undertaken to find appropriate housing and the status of the efforts; and (iv) the anticipated time frame for resolution. A copy of the written certification shall be provided to the prisoner.

(c) A prisoner who is or is perceived to be lesbian, gay, bisexual, transgender, queer or intersex or has or is perceived to have a gender identity or expression or sexual orientation uncommon in general population shall not be grounds for placement in restrictive housing.

(d) A prisoner shall not be confined to restrictive housing except pursuant to section 39 or this section.

Section 39B. (a) All prisoners confined to restrictive housing shall receive placement reviews at the following intervals and may receive them more frequently:

(i) If a prisoner is being held pursuant to subsection (a) of section 39A, every 72 hours;

(ii) If a prisoner is being held pursuant to subsection (b) of section 39A, every 72 hours;

(iii) If a prisoner is awaiting adjudication of an alleged disciplinary breach, every 15 days;

(iv) If a prisoner has been committed to disciplinary restrictive housing, no later than 6 months and every 90 days thereafter; and

(v) If a prisoner is being held for any other reason, every 90 days.

(b) After a placement review, the prisoner shall be retained in restrictive housing only if the prisoner is determined to pose an unacceptable risk as provided in subsection (a) of section

39 or if the commissioner, the sheriff or a designee of the commissioner or sheriff re-certifies, in writing, the findings required by subsections (a) or (b) of section 39A.

(c) If a prisoner's placement in restrictive housing may reasonably be expected to last more than 60 days, the prisoner shall: (i) have 24 hours written notice of placement reviews; (ii) have the opportunity to participate in reviews in person or in writing; (iii) upon review, if no placement change is ordered, be provided a written statement as to the evidence relied on and the reasons for the placement decision; and (iv) not more than 15 days after the initial placement and upon placement review, if no placement change is ordered, be advised as to behavior standards and program participation goals that will increase the prisoner's chances of a less restrictive placement upon next placement review.

(d) A prisoner who is committed to a secure treatment unit following an allegation or finding of a disciplinary breach shall receive placement reviews at intervals not less than as frequently as if the prisoner were confined to restrictive housing.

(e) The commissioner shall promulgate regulations to define standards and procedures to maximize out-of-cell activities in restrictive housing and to maximize outplacements from restrictive housing consistent with the safety of all persons.

Section 39C. The commissioner, after consultation with the sheriffs and the department of mental health, shall promulgate regulations governing the training and qualifications of correction officers, supervisors and managers deployed to restrictive housing.

Section 39D. (a) The commissioner shall publish monthly the number of prisoners held in each restrictive housing unit within each state and county correctional facility.

(b) The commissioner shall publish quarterly, as to each restrictive housing unit within each state correctional facility, and annually, as to each restrictive housing unit within each

county correctional facility: (i) the number of prisoners as to whom a finding of serious mental illness has been made and the number of such prisoners held for more than 30 days; (ii) the number of prisoners who have committed suicide or committed non-lethal acts of self-harm; (iii) the number of prisoners according to the reason for their restrictive housing; (iv) as to prisoners in disciplinary restrictive housing, a listing of prisoners with names redacted, including an anonymized identification number that shall be consistent across reports, age, race, gender and ethnicity, whether the prisoner has an open mental health case, the date of the prisoner's commitment to discipline, the length of the prisoner's term and a summary of the reason for the prisoner's commitment; (v) the number of placement reviews conducted under clause (iv) and (v) of subsection (a) of section 39B and the number of prisoners released from restrictive housing as a result of such placement reviews; (vi) the length of original assignment to and total time served in disciplinary restrictive housing for each prisoner released from disciplinary restrictive housing as a result of a placement review; (vii) the count of prisoners released to the community directly or within 30 days of release from restrictive housing; and (vii) such additional information as the commissioner may determine.

Such information shall be published in a commonly available electronic, machine readable format.

(c) The administrators of county correctional facilities shall furnish to the commissioner all information that the commissioner deems necessary to support reporting under this section.

Section 39E. Prisoners held in restrictive housing for a period of more than 60 days shall have access to vocational, educational and rehabilitative programs to the extent consistent with the safety and security of the unit and shall receive good time for participation at the same rates as the general population.

Section 39F. A prisoner who has less than 180 days until that prisoner's mandatory release date or parole release date and who is held in restrictive housing shall be offered reentry programming that shall include, but shall not limited to housing assistance, assistance obtaining state and federal benefits, employment readiness training and programming designed to help the person rebuild interpersonal relationships, which may include, but shall not be limited to, anger management and parenting courses.

Section 39G. The commissioner shall promulgate regulations to implement sections 39 to 39G, inclusive.

SECTION 179. Sections 40 and 41 of said chapter 127 are hereby repealed.

SECTION 180. Section 48 of said chapter 127, as appearing in the 2016 Official Edition, is hereby amended by inserting after the first paragraph the following paragraph:-

The commissioner shall ensure that at least 1 educational program leading to the award of a high school equivalency certificate is available to persons who are committed to the custody of the department or to a county correctional facility for not less than 6 months and who have not obtained a high school degree or equivalency. Pursuant to section 129D of chapter 127, good conduct credit of 10 days shall be granted to a person who satisfactorily completes an educational program leading to the award of a high school equivalency certificate under this paragraph.

SECTION 181. Said chapter 127 is hereby further amended by inserting after section 117A the following section:-

Section 117B. A prisoner who requests to initiate treatment related to gender transition or gender dysphoria and is denied treatment shall be offered an opportunity to be referred to an

independent healthcare provider with expertise in transgender health care for consultation. A prisoner who previously received a diagnosis of gender dysphoria while in the custody of the department of correction shall not require a new diagnosis to obtain treatment related to gender transition.

SECTION 182. Said chapter 127 is hereby further amended by inserting after section 119 the following section:-

Section 119A. (a) As used in this section, the following words shall have the following meanings unless the context clearly requires otherwise:

"Conditional medical parole plan", a comprehensive written medical and psychosocial care plan that is specific to the prisoner and includes the proposed course of treatment and post-treatment care.

"Department", the department of correction.

"Permanent incapacitation", a physical or cognitive incapacitation that appears irreversible, as determined by a licensed physician, and that is so debilitating that the prisoner does not pose a public safety risk.

"Secretary", the secretary of the executive office of public safety and security.

"Terminal illness", a condition that appears incurable, as determined by a licensed physician, that will likely cause the death of the prisoner in not more than 18 months and that is so debilitating that the prisoner does not pose a public safety risk.

(b) Notwithstanding any general or special law to the contrary, a prisoner may be eligible for conditional medical parole due to a terminal illness or permanent incapacitation pursuant to subsections (c) and (d).

(c)(1)The superintendent of a correctional facility shall consider a prisoner for conditional medical parole upon a written petition by the prisoner, the prisoner's attorney, the prisoner's next of kin, the commissioner's medical provider or a member of the department's staff. The superintendent shall review the petition and develop a recommendation as to the release of the prisoner. Whether or not the superintendent recommends in favor of conditional medical parole, the superintendent shall, not more than 21 days after receipt of the petition, transmit the petition and the recommendation to the commissioner. The superintendent shall submit with the recommendation: (i) a conditional medical parole plan; (ii) a written diagnosis by a physician licensed to practice medicine under section 2 of chapter 112; and (iii) an assessment of the risk for violence that the prisoner poses to society.

(2) Upon receipt of the petition and recommendation under paragraph (1), the commissioner shall notify, in writing, the district attorney, the prisoner, the person who requested the release, if not the prisoner, and, if applicable under chapter 258B, the victim or the victim's family that the prisoner is being considered for conditional medical parole. The parties who receive the notice shall have an opportunity to provide written statements; provided, however, that if the prisoner was convicted and is serving a sentence under section 1 of chapter 265, the district attorney or victim's family may request a hearing.

(d)(1) A sheriff shall consider a prisoner for conditional medical parole upon a written petition filed by the prisoner, the prisoner's attorney, the prisoner's next of kin, the sheriff's medical provider or a member of the sheriff's staff. The sheriff shall review the request and develop a recommendation as to the release of the prisoner. Whether or not the sheriff recommends in favor of conditional medical parole, the sheriff shall, not more than 21 days after receipt of the petition, transmit with the petition and the recommendation to the commissioner.

The sheriff shall transmit with the petition: (i) a conditional medical parole plan; (ii) a written diagnosis by a physician licensed to practice medicine under section 2 of chapter 112; and (iii) an assessment of the risk for violence that the prisoner poses to society.

(2) Upon receipt of the petition and recommendation under paragraph (1), the commissioner shall notify, in writing, the district attorney, the prisoner, the person who requested the release, if not the prisoner and, if applicable under chapter 258B, the victim or the victim's family that the prisoner is being considered for conditional medical parole. The parties who receive the notice shall have an opportunity to submit written statements.

(e) The commissioner shall issue a written decision not later than 45 days after receipt of a petition, which shall be accompanied by a statement of reasons for the commissioner's decision. If the commissioner determines that a prisoner is terminally ill or permanently incapacitated such that if the prisoner is released the prisoner will live and remain at liberty without violating the law and that the release will not be incompatible with the welfare of society, the prisoner shall be released on conditional medical parole. The parole board shall impose terms and conditions for conditional medical parole that shall apply through the date upon which the prisoner's sentence would have expired.

Not less than 24 hours before the date of a prisoner's release on conditional medical parole, the commissioner shall notify, in writing, the district attorney, the department of state police, the police department in the city or town in which the prisoner shall reside and, if applicable under chapter 258B, the victim or the victim's family of the prisoner's release and the terms and conditions of the release.

(f) A prisoner granted release under this section shall be under the jurisdiction, supervision and control of the parole board, as if the prisoner had been paroled pursuant to

section 130 of chapter 127. The parole board may revise, alter or amend the terms and conditions of a conditional medical parole at any time. If a parole officer receives credible information that a prisoner has failed to comply with a condition of the prisoner's release or upon discovery that the terminal illness or permanent incapacitation has improved to the extent that the prisoner would no longer be eligible for conditional medical parole under this section, the parole officer shall immediately arrest the prisoner and bring the prisoner before the board for a hearing. If the board determines that the prisoner violated a condition of the prisoner's conditional medical parole or that the terminal illness or permanent incapacitation has improved to the extent that the prisoner would no longer be eligible for conditional medical parole pursuant to this section, the prisoner shall resume serving the balance of the sentence with credit given only for the duration of the prisoner's conditional medical parole that was served in compliance with all conditions set pursuant to this subsection. Revocation of a prisoner's conditional medical parole due to a change in the prisoner's medical condition shall not preclude a prisoner's eligibility for conditional medical parole in the future or for another form of release permitted by law.

(g) A prisoner or sheriff aggrieved by a decision denying or granting conditional medical parole made under this section may petition for relief pursuant to section 4 of chapter 249. A decision by the court affirming or reversing the commissioner's grant or denial of conditional medical parole shall not affect a prisoner's eligibility for any other form of release permitted by law. A decision under this subsection shall not preclude a prisoner's eligibility for conditional medical parole in the future.

(h) The commissioner and the secretary shall promulgate rules and regulations necessary to implement this section.

(i) The commissioner and the secretary shall file an annual report not later than March 1 with the clerks of the senate and the house of representatives, the senate and house committees on ways and means and the joint committee on the judiciary detailing, for the prior fiscal year: (i) the number of prisoners in the custody of the department or of the sheriffs who applied for conditional medical parole under this section and the race and ethnicity of each applicant; (ii) the number of prisoners who have been granted conditional medical parole and the race and ethnicity of each prisoner; (iii) the nature of the illness of the applicants for conditional medical parole; (iv) the counties to which the prisoners have been released; (v) the number of prisoners who have been denied conditional medical parole, the reason for the denial and the race and ethnicity of each prisoner; (vi) the number of prisoners who have petitioned for conditional medical parole more than once; (vii) the number of prisoners released who have been returned to the custody of the department or the sheriff and the reason for each prisoner's return; and (viii) the number of petitions for relief sought pursuant to subsection (g).

SECTION 183. Section 130 of said chapter 127, as appearing in the 2016 Official Edition, is hereby amended by inserting after the word "that", in line 47, the following words :- the terms and conditions shall not include payment of a supervision fee; provided further, that.

SECTION 184. Section 133A of said chapter 127, as so appearing, is hereby amended by striking out, in line 5, the words "18 years" and inserting in place thereof the following words:- criminal majority.

SECTION 185. Said section 133A of said chapter 127, as so appearing, is hereby further amended by adding the following paragraph:-

If a prisoner is indigent and is serving a life sentence for an offense that was committed before the prisoner reached the age of criminal majority, the prisoner shall have the right to have

appointed counsel at the parole hearing and shall have the right to funds for experts as determined by the standards in chapter 261.

SECTION 186. Section 133C of said chapter 127, as so appearing, is hereby amended by striking out, in line 7, the words “18 years” and inserting in place thereof the following words:- criminal majority.

SECTION 187. Section 144 of said chapter 127, as so appearing, is hereby amended by striking out, in line 3, the words “thirty dollars” and inserting in place thereof the following figure:- $90.

SECTION 188. Said chapter 127 is hereby further amended by striking out section 145, as so appearing, and inserting in place thereof the following section:-

Section 145. (a) A justice of a trial court shall not commit a person to a prison or place of confinement solely for the nonpayment of money owed if the person has shown by a preponderance of the evidence that the person is not able to pay without imposing substantial financial hardship on the person or the person’s family or dependents. A court shall determine if a substantial financial hardship exists at a hearing where it shall consider the person’s employment status, earning ability, financial resources, living expenses and any special circumstances that may affect the person’s ability to pay.

(b) A justice of trial court shall not commit a person to a prison or place of confinement solely for the nonpayment of money owed if the person was not offered counsel for the commitment portion of the case. A person deemed indigent for the purpose of being offered counsel and who is assigned counsel for the commitment portion of a proceeding solely for the nonpayment of money owed shall not be assessed a fee for such counsel.

(c) A justice of the trial court shall consider alternatives to incarceration before committing a person to a prison or place of confinement solely for nonpayment of a fine or any expenses.

(d) A justice of the trial court shall not commit a person who has not reached the age of criminal majority to a prison, place of confinement or the department of youth services solely for the nonpayment of money.

SECTION 189. Chapter 138 of the General Laws is hereby amended by inserting after section 34A the following section:-

Section 34A ½. (a) A person under 21 years of age who, in good faith, seeks medical assistance for someone experiencing an alcohol-related overdose shall not be charged or prosecuted for possession of alcohol under section 34C if the evidence for the charge of possession of alcohol was gained as a result of seeking medical assistance.

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

(c) Nothing in this section shall be construed to limit any seizure of evidence or contraband otherwise permitted by law. Nothing in this section shall be construed to limit or abridge the authority of a law enforcement officer to detain or take into custody a person in the course of an investigation or to effectuate an arrest for any offense.

SECTION 190. Section 10 of chapter 209A of the General Laws, as appearing in the 2016 Official Edition, is hereby amended by striking out the third sentence and inserting in place thereof the following sentence:- The court may reduce or waive the assessment if the court finds that the person is indigent or that payment of the assessment would cause substantial financial hardship to the person or the person's family or dependents.

SECTION 191. Chapter 211B of the General Laws is hereby amended by adding the following section:-

Section 22. For the purposes of updating the criminal history record, the trial court shall electronically send to the department of state police all criminal case disposition information for the offender, including sealing and expungement orders and dismissals, together with the corresponding offense-based tracking number and fingerprint-based state identification number, to the extent that the offender has been assigned such numbers and the numbers have been provided to the court.

SECTION 192. Section 2A of chapter 211D of the General Laws, as appearing in the 2016 Official Edition, is hereby amended by striking out, in line 105, the word "A" and inserting in place thereof the following words:- Except for a person under the age of criminal majority, a.

SECTION 193. Said section 2A of said chapter 211D, as so appearing, is hereby further amended by striking out, in lines 106, 108, 110 and 112, the figure "$150" and inserting in place thereof, in each instance, the following figure:- $100.

SECTION 194. Subsection (f) of said section 2A of said chapter 211D, as amended by section 193, is hereby further amended by striking out, each time it appears, the figure "$100" and inserting in place thereof, in each instance, the following figure:- $50.

SECTION 195. Said section 2A of said chapter 211D, as so appearing, is hereby amended by striking out subsection (f), as so appearing, and inserting in place thereof the following subsection:-

(f) Notwithstanding any general or special law to the contrary, no person determined to be indigent shall be assessed a counsel fee.

SECTION 196. Said section 2A of said chapter 211D is hereby amended by striking out subsection (i), as appearing in the 2016 Official Edition, and inserting in place thereof the following subsection:-

(i) The trial court shall submit an annual report to the senate and house committees on ways and means that shall include, but not be limited to: (i) the number of individuals claiming indigency who are determined to be indigent for the purposes of appointment of counsel; (ii) the number of individuals claiming indigency who are determined not to be indigent for the purposes of appointment of counsel; (iii) the total number of times that an indigent but able to contribute counsel fee was collected or waived and the aggregate amount of indigent but able to contribute counsel fees collected and waived; (iv) the average indigent but able to contribute counsel fee that each court division collects; (v) the total number of times that an indigent but able to contribute fee was collected or waived and the aggregate amount of indigent but able to contribute fees collected and waived; and (vi) other pertinent information to ascertain the effectiveness of indigency verification procedures. The information in the report shall be delineated by court division and delineated further by month.

SECTION 197. Section 7 of chapter 212 of the General Laws, as appearing in the 2016 Official Edition, is hereby amended by inserting after the first sentence the following sentence:- An indictment for an offense shall be accompanied by the offense-based tracking number and

fingerprint-based state identification number of the defendant when the corresponding charges result from an arrest.

SECTION 198. Section 26 of chapter 218 of the General Laws, as so appearing, 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 199. Said section 26 of said chapter 218, as so appearing, is hereby amended by striking out, in line 27, the words “two hundred and sixty-eight” and inserting in place thereof the following words:- 268, conspiracy under section 7 of chapter 274, solicitation to commit a felony under section 8 of said chapter 274.

SECTION 200. Said section 26 of said chapter 218, as so appearing, is hereby further amended by striking out, in lines 26 to 27, the words “intimidation of a witness or juror under section thirteen B” and inserting in place thereof the following words:- section 13B.

SECTION 201. Said chapter 218 is hereby further amended by inserting after section 32 the following section:-

Section 32A. An application for a criminal complaint submitted to the district court by a police department against a person arrested for an offense shall be accompanied by an offense-based tracking number.

An otherwise valid application for a complaint submitted by a police department against a person arrested shall not preclude the issuance of a complaint merely because the application does not include an arrestee’s offense-based tracking number. If a complaint is issued based on an application for a complaint submitted by a police department against a person arrested that did not include the arrestee’s offense-based tracking number, the prosecutor shall submit the offense-based tracking number of the defendant to the court to be included in the case file.

SECTION 202. Section 20 of chapter 233 of the General Laws, as appearing in the 2016 Official Edition, is hereby amended by striking out clause Fourth and inserting in place thereof the following clause:-

Fourth, A parent shall not testify against the parent's minor child and a minor child shall not testify against the child's parent in a proceeding before an inquest, grand jury, trial of an indictment or complaint or any other criminal, delinquency or youthful offender proceeding in which the victim in the proceeding is not a family member and does not reside in the family household; provided, however, that for the purposes of this clause, "parent" shall mean the biological or adoptive parent, stepparent, foster parent, legal guardian or other person who has the right to act in loco parentis for the child; provided further, that in a case in which the victim is a family member and resides in the family household, the parent shall not testify as to any communication with the minor child that was for the purpose of seeking advice regarding the child's legal rights.

SECTION 203. Section 13 of chapter 250 of the General Laws, as so appearing, is hereby amended by striking out, in line 3, the figure "18" and inserting in place thereof the following words:- criminal majority.

SECTION 204. The fifth paragraph of section 4 of chapter 258B of the General Laws, as so appearing, is hereby amended by adding the following clause:-

(e) assume the management and administration of the Garden of Peace, a public memorial garden located on the plaza of 100 Cambridge street in the city of Boston to honor victims of homicide, receive any gifts or grants of money or property for the purpose of assisting the board in the maintenance and operation of the memorial and establish an advisory committee which shall consist of individuals who have served on the board of directors of the Garden of

Peace or other interested citizens appointed by the victim witness assistance board to provide ongoing advice to the board.

SECTION 205. Section 8 of said chapter 258B, as so appearing, is hereby amended by striking out, in lines 38 to 40, inclusive, the words “severe financial hardship upon the person against whom the assessment is imposed” and inserting in place thereof the following words:- substantial financial hardship upon the person against whom the assessment is imposed or upon the person’s family or dependents.

SECTION 206. Section 2 of chapter 258C of the General Laws, as so appearing, is hereby amended by inserting after the word “crime”, in line 11, the following words:- ; provided, however, that a claimant who was a victim under the age of criminal majority shall not be required to file such report within 5 days.

SECTION 207. 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 208. Subsection (e) of said section 2 of said chapter 258C, as so appearing, is hereby amended by inserting after the second sentence the following sentence:- In the event of a victim’s death by homicide, an award may be reduced except the costs for appropriate and modest funeral, burial or cremation services shall be paid by the fund.

SECTION 209. Section 1 of chapter 258D of the General Laws, as so appearing, is hereby amended by striking out, in line 10, the words “which tend to establish” and inserting in place thereof the following words:- consistent with.

SECTION 210. Said section 1 of said chapter 258D, as so appearing, is hereby further amended by adding the following subsection:-

(G) A claimant shall be entitled to entitled to preliminary relief under section subsection (E) of section 5 upon an initial showing that there is a substantial likelihood of success on the merits of the case.

SECTION 211. Section 3 of said chapter 258D, as so appearing, is hereby amended by inserting after the second sentence the following sentence:- Upon motion of the claimant, the court shall advance the proceeding for expedited discovery and a speedy trial so that it may be heard and determined with as little delay as possible.

SECTION 212. Subsection (A) of section 5 of said chapter 258D, as so appearing, is hereby amended by striking out the fourth to sixth sentences, inclusive, and inserting in place thereof the following sentence:- The court may include, as part of its judgment against the commonwealth, an order requiring the commonwealth to provide the claimant with services that are reasonable and necessary to address any deficiencies in the individual's physical and emotional condition and waive tuition and fees for the claimant for any educational services from a state or community college in the commonwealth including, but not limited to, the University of Massachusetts at Amherst and its satellite campuses.

SECTION 213. Said subsection (A) of said section 5 of said chapter 258D, as so appearing, is hereby further amended by striking out, in line 43, $500,000, and inserting in place thereof the following figure:- $2,000,000.

SECTION 214. Said section 5 of said chapter 258D, as so appearing, is hereby further amended by adding the following subsection:-

(E) Upon a ruling in favor of a claimant moving for preliminary relief under subsection (G) of section 1, the court shall enter an order requiring the commonwealth to provide the claimant with services that are reasonable and necessary to address any deficiencies in the individual's physical and emotional condition and waive tuition and fees for the claimant for any educational services from a state or community college in the commonwealth including, but not limited to, the University of Massachusetts at Amherst and its satellite campuses.

SECTION 215. Said chapter 258D is hereby further amended by striking out section 6, as so appearing, and inserting in place thereof the following section:-

Section 6. A claimant who prevails in an action under this chapter shall be entitled to an award of the costs of the litigation and reasonable attorneys' fees in an amount to be fixed by the court.

SECTION 216. Section 7 of said chapter 258D, as appearing in the 2016 Official Edition, is hereby amended by adding the following 2 subsections:-

(E) A settlement agreement under this chapter may include a stipulation or agreement to an order of expungement or sealing to be entered by the court. Such stipulation or agreement shall be filed with the court and the court shall enter an order directing the expungement or sealing of those records of the claimant maintained by the department of criminal justice information services, the probation department and the sex offender registry that directly pertain to the claimant's erroneous felony conviction, including documents and other materials and any biological samples or other materials obtained from the claimant. If the settlement does not include an agreement to an order of expungement or sealing, the claimant is entitled to seek expungement or sealing from the court.

(F) For the purposes of this chapter, expungement shall mean the permanent erasure and destruction of records.

SECTION 217. Section 8 of said chapter 258D, as so appearing, is hereby amended by striking out, in lines 2 and 6, the figure “2” and inserting in place thereof, in each instance, the following figure:- 3.

SECTION 218. Section 9 of said chapter 258D, as so appearing, is hereby amended by striking out subsection (C).

SECTION 219. Section 2 of chapter 258E of the General Laws, as so appearing, is hereby amended by striking out, in line 7, the figure “18” and inserting in place thereof the following words:- criminal majority.

SECTION 220. Chapter 263 of the General Laws is hereby amended by striking out section 1A, as so appearing, and inserting in place thereof the following section:-

Section 1A. Whoever is arrested by virtue of process or is taken into custody by an officer and is charged with the commission of a felony or misdemeanor shall be fingerprinted according to the system of the department of state police and photographed. The fingerprints and photographs shall be immediately forwarded to the department of state police to allow a biometric positive identification. The fingerprint record shall be suitable for comparison and shall include an offense-based tracking number, completed description of the offenses charged and other descriptors as required.

The executive office of public safety and security may audit police departments for compliance with this section.

SECTION 221. Section 1 of chapter 263A of the General Laws, as so appearing, is hereby amended by striking out the definition of "Critical witness" and inserting in place thereof the following definition:-

"Critical witness", a 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 and who is, or was, in the judgment of the prosecuting officer, a necessary witness at any of the aforementioned proceedings; provided, however, that "critical witness" shall also include such a person's relatives, guardians, friends or associates who are or may be endangered by the person's participation in any of the aforementioned proceedings.

SECTION 222. Section 2 of chapter 265 of the General Laws, as so appearing, is hereby amended by striking out, in line 7, the words "person's eighteenth birthday" and inserting in place thereof the following words:- person has attained the age of criminal majority.

SECTION 223. Said chapter 265 is hereby further amended by striking out section 13, as so appearing, and inserting in place thereof the following section:-

Section 13. (a) Except as hereinafter provided, whoever is found guilty of manslaughter shall be punished by imprisonment in the state prison for not more than 20 years or by a imprisonment in a house of correction for not more than 2½ years and a fine of not more than $1,000. Whoever is found guilty of manslaughter while committing a violation of sections 102 to 102C, inclusive, of chapter 266 shall be punished by imprisonment in the state prison for life or for any term of years.

(b) A corporation that is found guilty of manslaughter shall be punished by a fine of not less than $250,000. If a corporation is found guilty under this section, the appropriate commissioner or secretary may debar the corporation under section 29F of chapter 29 for not more than 10 years.

SECTION 224. Said chapter 265 is hereby further amended by striking out section 13B, as so appearing, and inserting in place thereof the following section:-

Section 13B. Whoever is found guilty of indecent assault and battery on a minor under the age of 14 shall be punished by imprisonment in the state prison for not more than 10 years or by imprisonment in a house of correction for not more than 2½ years. A prosecution commenced under this section shall not be continued without a finding or placed on file. In a prosecution under this section, a minor under the age of 14 years shall be deemed incapable of consenting to any conduct of the defendant for which the defendant is being prosecuted unless: (i) the defendant is not more than 2 years older than the minor; or (ii) the defendant is not more than 1 years older than the minor if the minor is under 12 years of age.

SECTION 225. Section 13D of said chapter 265, 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 the person's duties at the time of the 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 2½ years. A sentence imposed under this section shall not be for less than a mandatory minimum term of imprisonment of 1 year. 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 a person be eligible for probation, parole, work release, furlough or receive any deduction from the person's sentence for good conduct until the person shall have served the mandatory minimum term of imprisonment.

SECTION 226. Section 15A of said chapter 265, as so appearing, is hereby amended by striking out, in line 24, the words "18 years of age or over" and inserting in place thereof the following words:- who has attained the age of criminal majority.

SECTION 227. Said section 15A of said chapter 265, as so appearing, is hereby further amended by striking out, in line 46, the words "is 18 years of age or older" and inserting in place thereof the following words:- has attained the age of criminal majority.

SECTION 228. Section 15B of said chapter 265, as so appearing, is hereby amended by striking out, in line 24, the words "18 years of age or over" and inserting in place thereof the following words:- who has attained the age of criminal majority.

SECTION 229. Section 18 of said chapter 265, as so appearing, is hereby amended by striking out, in line 26 and 27, the words "18 years of age or over" and inserting in place thereof the following words:- who has attained the age of criminal majority.

SECTION 230. Section 18B of said chapter 265, as so appearing, is hereby amended by striking out, in lines 43 and 44, the figure "18 years of age or over" and inserting in place thereof the following words:- who has attained the age of criminal majority.

SECTION 231. Section 19 of said chapter 265, as so appearing, is hereby amended by striking out, in lines 23 and 24, the words "18 years of age or over" and inserting in place thereof the following words:-who has attained the age of criminal majority.

SECTION 232. Said chapter 265 is hereby further amended by striking out section 23, as so appearing, and inserting in place thereof the following section:-

Section 23. Whoever has sexual intercourse with a minor under 16 years of age and: (i) the defendant is more than 2 years older than the minor; or (ii) the minor is under 13 years of age, shall be punished by imprisonment in the state prison for life or for any term of years or, except as otherwise provided, for any term of years in a jail or house of correction; provided, however, that a prosecution commenced under this section shall not be placed on file or continued without a finding.

Notwithstanding section 54 of chapter 119 or any other general or special law to the contrary, in a prosecution under this section in which the defendant is under the age of criminal majority at the time of the offense, the commonwealth shall only proceed by a complaint in juvenile court or in a juvenile session of a district court.

SECTION 233. Section 43 of said chapter 265, as so appearing, is hereby amended by striking out, in lines 56 and 89, the words “18 years of age or over” and inserting in place thereof, in each instance, the following words:- who has attained the age of criminal majority.

SECTION 234. The second paragraph of section 47 of said chapter 265, as so appearing, is hereby amended by striking out the last sentence and inserting in place thereof the following sentence:- The court may waive the fees if an offender establishes that the fees would impose a substantial financial hardship upon the offender or the offender’s family or dependents.

SECTION 235. Said chapter 265 of the General Laws, as so appearing, is hereby further amended by adding 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, excluding a felony offense, 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 with one or more pleas upon a finding by the court, established by a preponderance of the evidence, 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.

(b) For the purposes of this subsection, "official documentation" shall mean a document issued by a local, state or federal government agency in the agency's official capacity.

Except as provided in this section, the defendant shall have the burden of establishing by a preponderance of the evidence that the defendant's participation in the offense was the result of having been a victim of human trafficking. If the conviction, adjudication of delinquency, or continuance without a finding was for an offense under sections 8, 26 or 53A of chapter 272 or common nightwalking or common streetwalking under section 53 of chapter 272, official documentation 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; provided, however, that such documentation shall not be required for granting a motion under this section.

(c) In determining whether the defendant's participation in the offense was a result of having been a victim of human trafficking, the court may consider any evidence it deems appropriate in determining whether the person was a victim of human trafficking.

(d) The rules concerning the admissibility of evidence at criminal trials shall not apply to the presentation and consideration of evidence at a hearing conducted pursuant to this section. The court may, in its discretion, consider any evidence it deems relevant, including, but not limited to, hearsay evidence.

(e) Where a child under the age of 18 was adjudicated delinquent for an offense under sections 8, 26, 53 or 53A of chapter 272, based on allegations of prostitution, there shall be an irrebuttable presumption that the child's participation in the offense was a result of having been a victim of human trafficking or trafficking in persons.

(f) A motion pursuant to this section may be heard by the justice that originally heard the matter or any sitting justice of the court that originally heard the matter.

(g) Upon vacatur of a conviction, adjudication of delinquency, or continuance without a finding, the court shall enter a plea of not guilty, except if the vacated conviction, adjudication of delinquency, or continuance without a finding was for an offense under sections 8, 26 or 53A of chapter 272 or for common nightwalking or common streetwalking under section 53 of chapter 272, in which case the court shall dismiss the indictment or criminal or delinquency complaint with prejudice. Upon vacatur of a conviction, adjudication of delinquency, or continuance without a finding and the entrance of a plea of not guilty pursuant to this section, it shall be an affirmative defense to the charges against the defendant that the defendant's participation in the offense was a result of having been a victim of human trafficking or trafficking in persons.

(h) The chief justice of the trial court shall prescribe the form in which a motion may be filed under this section.

(i) A conviction, adjudication of delinquency, or continuance without a finding vacated under this section shall be deemed to have been vacated on the merits.

SECTION 236. Section 30 of chapter 266 of the General Laws, as so appearing, is hereby amended by striking out, in lines 9, 13 and 14, 77 and 82, the words “two hundred and fifty dollars” and inserting in place thereof, in each instance, the following figure:- $1,500.

SECTION 237. Said section 30 of said chapter 266, as so appearing, is hereby further amended by striking out, in lines 16 to 23, the words “property was stolen from the conveyance of a common carrier or of a person carrying on an express business, shall be punished for the first offence by imprisonment for not less than six months nor more than two and one half years, or by a fine of not less than fifty nor more than six hundred dollars, or both, and for a subsequent offence, by imprisonment for not less than eighteen months nor more than two and one half years, or by a fine of not less than one hundred and fifty nor more than six hundred dollars, or both” and inserting in place thereof the following words:- value of the property stolen is more than $250 but not more than $500, shall be punished by imprisonment in a jail or house of correction for not more than 1 year or by a fine of not more than $500; or, if the value of the property stolen is more than $500 but not more than $1,000, shall be punished by imprisonment in a jail or house of correction for not more than 1 year or by a fine of not more than $1,000; or, if the value of the property stolen is more than $1,000 but not more than $1,500, shall be punished by imprisonment in a jail or house of correction for not more than 1 year or by a fine of not more than $2,500.

SECTION 238. Said section 30 of said chapter 266, as so appearing, is hereby further amended by adding the following paragraph:-

(6) A law enforcement officer may arrest a person without a warrant that the officer has probable cause to believe has committed an offense under this section and the value of the property stolen is more than $250.

SECTION 239. Section 30A of said chapter 266, as so appearing, is hereby amended by striking out, in lines 35 and 42 and in lines 46 and 47, the words “one hundred dollars” and inserting in place thereof, in each instance, the following figure:- $250.

SECTION 240. Section 37A of said chapter 266, as so appearing, is hereby amended by striking out the definition of “Credit card” and inserting in place thereof the following definition:-

“Credit card”, an instrument or device, whether known as a credit card, credit plate or other name, or the code of number used to identify that instrument or device or an account of credit or cash accessed by that instrument or device, issued with or without a fee by an issuer for the use of the cardholder in obtaining money, goods, services or anything else of value on credit or by debit from a cash account.

SECTION 241. Section 37B of said chapter 266, as so appearing, is hereby amended by striking out, in lines 24 and 25, 29 and 30, 37 and 38 and 45 and 46, the words “two hundred and fifty dollars” and inserting in place thereof, in each instance, the following figure:- $1,500.

SECTION 242. Said section 37B of said chapter 266, as so appearing, is hereby further amended by striking out, in lines 49 and 50, the words “five hundred dollars” and inserting in place thereof the following figure:- $3,000.

SECTION 243. Said section 37B of said chapter 266, as so appearing, is hereby further amended by striking out the last paragraph and inserting in place thereof the following paragraph:-

A law enforcement officer may arrest any person without a warrant that the officer has probable cause to believe has committed an offense under this section and the value of the property stolen exceeds $250.

SECTION 244. Section 37C of said chapter 266, as so appearing, is hereby amended by striking out, in lines 12, 17 and 23, and in lines 31 and 32, the words “two hundred and fifty dollars” and inserting in place thereof, in each instance, the following figure:- $1,500.

SECTION 245. Said section 37C of said chapter 266, as so appearing, is hereby further amended by striking out, in lines 39 and 40, the words “two thousand dollars” and inserting in place thereof the following figure:- $5,000.

SECTION 246. Said section 37C of said chapter 266, as so appearing, is hereby further amended by striking out the last paragraph and inserting in place thereof the following paragraph:-

A law enforcement officer may arrest any person without warrant that the officer has probable cause to believe has committed an offense under this section and the value of the property stolen exceeds $250.

SECTION 247. Section 37E of said chapter 266, as so appearing, 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 2½ years or by both such fine and imprisonment.

SECTION 248. Section 60 of said chapter 266, as so appearing, is hereby amended by striking out, in lines 13, 16 and 20, the figure "$250" and inserting in place thereof, in each instance, the following figure:- $1,500.

SECTION 249. Said section 60 of said chapter 266, as so appearing, is hereby further amended by striking out, in line 15, the figure "$1,000" and inserting in place thereof the following figure:- $2,500.

SECTION 250. Said section 60 of said chapter 266, as so appearing, is hereby further amended by adding the following paragraph:-

A law enforcement officer may arrest any person without warrant that the officer has probable cause to believe has committed an offense under this section and the value of the property stolen exceeds $250.

SECTION 251. Section 126A of said chapter 266, as so appearing, is hereby amended by striking out the second paragraph.

SECTION 252. Section 126B of said chapter 266, as so appearing, is hereby amended by striking out the second paragraph.

SECTION 253. Section 127 of said chapter 266, as so appearing, is hereby amended by striking out, in line 13, the words “two hundred and fifty dollars” and inserting in place thereof the following figure:- $1,500.

SECTION 254. 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, federal agent, investigator, clerk, court officer, court reporter, court interpreter, correction officer, probation officer or parole officer; (D) person who is or was attending or a person who had made known an intention to attend a proceeding described in this section; or (E) family member of a person described in this section, with the intent to or with reckless disregard for the fact that it may: (1) impede, obstruct, delay, prevent or otherwise interfere with: (I) a criminal investigation at any stage, a grand jury proceeding, a dangerousness hearing, a motion hearing, a trial or other criminal proceeding of any type or a parole hearing, parole violation proceeding or probation violation proceeding; or (II) an administrative hearing or a probate or family court proceeding, juvenile proceeding, housing proceeding, land proceeding, clerk's hearing, court-ordered mediation or any other civil proceeding of any type; or (2) punish, harm or otherwise retaliate against any such person described in this section for such person or such person's family member's participation in any of the proceedings described in this section, shall be punished by imprisonment in the state prison for not more than 10 years or by imprisonment in the house of correction for not more than 2 ½ years or by a fine of not less than $1,000 or more than $5,000 or by both such fine and imprisonment. If the proceeding in which the misconduct is directed at is the investigation or prosecution of a crime punishable by life imprisonment or the parole of a person convicted of a crime punishable by life imprisonment, such person shall be punished by imprisonment in the state prison for not more than 20 years or by imprisonment in the house of corrections for not more than 2 ½ years or by a fine of not more than $10,000 or by both such fine and imprisonment.

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

SECTION 255. Said chapter 268 is hereby further amended by inserting after section 21A the following section:-

Section 21B. A person over the age of 21 who is employed by or contracts with a public or private school, the department of youth services, the department of children and families, the department of mental health, the department of developmental services or a private institution that provides services to clients of such departments, who is a teacher, administrator or a person in a similar position of authority in the school, department or institution and, in the course of such employment or contract or as a result thereof, engages in, within or outside of the school, department or institution, sexual relations with a person who is: (i) under the age of 19, has not received a high school diploma, general educational development certificate or equivalent document and is served by the school, department or institution; or (ii) under the age of 22, has special needs under chapter 71B, has not received a high school diploma, general educational development certificate or equivalent document and is served by the school, department or institution, shall be punished by imprisonment in a state prison for not more than 5 years or in a jail or house of corrections for not more than 2½ years, by a fine of $10,000 or by both such fine and imprisonment. In a prosecution commenced under this section, an individual served by such a school, department or institution shall be deemed incapable of consent to sexual relations with the person.

SECTION 256. Section 10 of chapter 269 of the General Laws, as appearing in the 2016 Official Edition, is hereby amended by striking out, in line 53, the words “18 years of age or

older” and inserting in place thereof the following words:- who has attained the age of criminal majority.

SECTION 257. Said section 10 of said chapter 269, as so appearing, is hereby further amended by striking out, in line 55, the words “ages fourteen and 18” and inserting in place thereof the following words:- age 14 and the age of criminal majority.

SECTION 258. Said section 10 of said chapter 269, as so appearing, is hereby further amended by striking out, in lines 223 and 255, the words “18 years of age or over” and inserting in place thereof the following words:- who has attained the age of criminal majority.

SECTION 259. Section 10E of said chapter 269, as so appearing, is hereby amended by striking out, in lines 40 and 41, the words “18 years of age or over” and inserting in place thereof the following words:- who has attained the age of criminal majority.

SECTION 260. Said section 10E of said chapter 269, as so appearing, is hereby further amended by striking out, in line 42, the figure “18” and inserting in place thereof the following words:- the age of criminal majority.

SECTION 261. Section 10F of said chapter 269, as so appearing, is hereby amended by striking out, in lines 4 and 28, the words “18 years of age or over” and inserting in place thereof the following words:- who has attained the age of criminal majority.

SECTION 262. Said section 10F of said chapter 269, as so appearing, is hereby further amended by striking out, in line 32, the figure “18”and inserting in place thereof the following words:- criminal majority.

SECTION 263. Said section 10F of said chapter 269, as so appearing, is hereby further amended by striking out, in line 50, the words “17 years of age” and inserting in place thereof the following words:- who has attained the age of criminal majority

SECTION 264. Section 10G of said chapter 269, as so appearing, is hereby amended by striking out, in lines 34 and 35, the words “18 years of age or over” and inserting in place thereof the following words:- who has attained the age of criminal majority.

SECTION 265. Section 10H of said chapter 269, as so appearing, is hereby amended by striking out, in line 7, the words “the vapors of glue” and inserting in place thereof the following words:- from smelling or inhaling the fumes of any substance having the property of releasing toxic vapors as defined in section 18 of chapter 270.

SECTION 266. Section 4 of chapter 272 of the General Laws is hereby repealed.

SECTION 267. Said chapter 272 is hereby further amended by striking out section 40, as appearing in the 2016 Official Edition, and inserting in place thereof the following section:-

Section 40. Whoever willfully interrupts or disturbs an assembly of people meeting for a lawful purpose shall be punished by imprisonment for not more than 1 month or by a fine of not more than $50; provided, however, that an elementary or secondary school student shall not be charged, adjudicated delinquent or convicted for an alleged violation of this section for such conduct within school buildings or on school grounds or in the course of school-related events.

SECTION 268. Section 53 of said chapter 272, as so appearing, is hereby amended by striking out subsection(b) and inserting in place thereof the following subsection:-

(b) Disorderly persons and disturbers of the peace shall, for a first offense, be punished by a fine of not more than $150; provided, however, that no such person who violates this subsection shall have a finding of delinquency entered against that person for a first offense. For a second or subsequent offense, disorderly persons and disturbers of the peace shall be punished by imprisonment in a jail or house of correction for not more than 6 months or by a fine of not more than $200 or by both such fine and imprisonment; provided, however, that an elementary

or secondary school student shall not be charged, adjudicated delinquent or convicted for an alleged violation of this subsection for such conduct within school buildings or on school grounds or in the course of school-related events.

SECTION 269. Section 6 of chapter 274 of the General Laws, as so appearing, is hereby amended by striking out, in lines 1 to 3, inclusive, the words "by doing any act toward its commission, but fails in its perpetration, or is intercepted or prevented in its perpetration," and inserting in place thereof the following:- as defined in section 6A.

SECTION 270. Said chapter 274 is hereby further amended by inserting after section 6 the following section:-

Section 6A. (a) A person shall be guilty of an attempt to commit a crime if, acting with the intent otherwise required for commission of the crime, such person:

(i) purposely engages in conduct that would constitute the crime if the attendant circumstances were as the person believes them to be;

(ii) when causing a particular result is an element of the crime, does or omits to do anything with the purpose of causing or with the belief that it will cause such result without further conduct on the person's part; or

(iii) purposely does or omits to do anything that, under the circumstances as the person believes them to be, is an act or omission constituting a substantial step in a course of conduct planned to culminate in that person's commission of the crime.

(b) Conduct shall not be held to constitute a substantial step under clause (iii) of subsection (a) unless it is strongly corroborative of the actor's criminal purpose.

(c) A person who engages in conduct designed to aid another to commit a crime that would establish such person's complicity if the crime were committed by such other person,

shall be guilty of an attempt to commit a crime whether or not the crime is committed or attempted by such other person.

(d) When the actor's conduct would otherwise constitute an attempt under clause (ii) or (iii) of subsection (a), it shall be an affirmative defense that the actor abandoned the effort to commit the crime or otherwise prevented its commission under circumstances which clearly demonstrate a complete and voluntary renunciation of the actor's criminal purpose. The establishment of such a defense shall not affect the liability of an accomplice who did not join in such abandonment or prevention.

Renunciation of criminal purpose shall not be deemed voluntary if it is motivated, in whole or in part, by circumstances not present or apparent at the inception of the actor's course of conduct, that increase the probability of detection or apprehension or that make more difficult the accomplishment of the criminal purpose. Renunciation shall not be complete if it is motivated by a decision to postpone the criminal conduct until a more advantageous time or to transfer the criminal effort to another but similar objective or victim.

SECTION 271. Said chapter 274 is hereby further amended by adding the following section:-

Section 8. Whoever solicits, counsels, advises or otherwise entices another to commit a crime that may be punished by imprisonment in the state prison and who intends that the person, in fact, commit or procure the commission of the crime alleged shall, except as otherwise provided, be punished:

(i) by imprisonment in the state prison for not more than 20 years or in a jail or house of correction for not more than 2½ half years or by a fine of not more than $10,000 or by both such

fine and imprisonment if the intent of the solicitation, counsel, advice or enticement is a crime punishable by imprisonment for life;

(ii) by imprisonment in the state prison for not more than 10 years or in a jail or house of correction for not more than 2½ years or by a fine of not more than $10,000 or by both such fine and imprisonment if the intent of the solicitation, counsel, advice or enticement is a crime punishable by imprisonment in the state prison for at least 10 years but not punishable by imprisonment for life;

(iii) by imprisonment in the state prison for not more than 5 years or in a jail or house of correction for not more than 2½ years or by a fine of not more than $5,000 or by both such fine and imprisonment if the intent of the solicitation, counsel, advice or enticement is a crime punishable by imprisonment in the state prison for at least 5 years but not more than 10 years; or

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

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

SECTION 272. Section 2 of chapter 275 of the General Laws, as appearing in the 2016 Official Edition, is hereby amended by inserting after the word “subscribed”, in line 5, the following words:- electronically or in person.

SECTION 273. Section 2A of chapter 276 of the General Laws, as so appearing, is hereby amended by striking out, in line 1, the word “The” and inserting in place thereof the following words:- The signature on the warrant may be made by electronic signature. The.

SECTION 274. Section 2B of said chapter 276, as so appearing, is hereby amended by inserting after the word “personally”, in lines 1 and 2, the following words:- or through wire or electronic means.

SECTION 275. Said section 2B of said chapter 276, as so appearing, is hereby further amended by inserting after the word “form”, in line 13, the following words:- and the signature therein may be made by electronic signature.

SECTION 276. Section 22 of said chapter 276, as so appearing, is hereby amended by inserting after the word “subscribed”, in line 4, the following words:- electronically or in person.

SECTION 277. Section 30 of said chapter 276, as so appearing, is hereby amended by striking out, in lines 5 and 6, the words “upon a finding of good cause by the court the fee may be waived” and inserting in place thereof the following words:- the court may waive the fee upon a finding of good cause or upon a finding that such fee would impose a substantial financial hardship on the person or the person’s family or dependents.

SECTION 278. Said section 30 of said chapter 276, as so appearing, is hereby further amended by striking out, in line 11, the words “such person is indigent” and inserting in place thereof the following words:- the fee would impose a substantial financial hardship on the person or the person’s family or dependents.

SECTION 279. Section 42A of said chapter 276, as so appearing, is hereby amended by striking out the first 6 paragraphs and inserting in place thereof the following paragraph:-

As part of the disposition of a criminal complaint involving a crime of abuse as defined in section 57, the court may establish such terms and conditions of probation as will insure the safety of the person who has suffered such abuse or threat thereof and will prevent the recurrence of such abuse or the threat thereof.

SECTION 280. Said chapter 276 is hereby further amended by striking out sections 57 to 59, inclusive, as so appearing, and inserting in place thereof the following 8 sections:-

Section 57. (a) The following words, as used in section 42A and sections 57 to 59, inclusive, shall have the following meanings unless the context clearly requires otherwise:

"Bail commissioner", a person other than a statutorily-authorized magistrate or an assistant clerk of the superior court department appointed by the trial court of the commonwealth to admit to bail outside of court hours.

"Bail magistrate", a clerk magistrate or assistant clerk magistrate of the district court department, Boston municipal court department, juvenile court department or housing court department or a clerk of court of the superior court department or an assistant clerk of the superior court department who has been approved by the trial court of the commonwealth to admit people to bail.

"Controlled substance", the same meaning as ascribed to it in section 1 of chapter 94C;

"Crime of abuse", a crime or complaint that involves the infliction, or the imminent threat of infliction, of physical harm upon a person by such person's family or household member as defined in section 1 of chapter 209A, which may include assault and battery, trespass and threat to commit a crime or any violation of an order issued pursuant to section 18, 34B or 34C of chapter 208, section 32 of chapter 209, section 3, 4 or 5 of chapter 209A or section 15 or 20 of

chapter 209C or any act that would constitute abuse as defined in said section 1 of said chapter 209A or a violation of section 13M or 15D of chapter 265;

"Dangerous crime", (i) a felony offense that has as an element of the offense, the use, attempted use or threatened use of physical force against the person of another; (ii) burglary and arson; (iii) any other felony that, by its nature, involves a substantial risk that physical force against the person of another may result; (iv) a violation of an order pursuant to section 18, 34B or 34C of chapter 208, section 32 of chapter 209, section 3, 4 or 5 of chapter 209A or section 15 or 20 of chapter 209C; (v) a misdemeanor or felony involving abuse as defined in section 1 of said chapter 209A; (vi) a violation of section 13B of chapter 268; (vii) a third or subsequent violation of section 24 of chapter 90; (viii) a violent crime as defined in section 121 of chapter 140 for which a term of imprisonment may be served; (ix) a second or subsequent offense of felony possession of a weapon or machine gun as defined in said section 121 of said chapter 140; (x) a violation of subsection (a), (c) or (m) of section 10 of chapter 269, except for a violation based on possession of a large capacity feeding device without simultaneous possession of a large capacity weapon; and (xi) a violation of section 10G of chapter 269; and (xii) a violation of section 13D of chapter 265 in which the public employee is alleged to be a police officer.

"Financial condition", a secured or unsecured bond.

"Judicial officer", a judge or a clerk or assistant clerk of the superior, district, Boston municipal, juvenile, probate and family or housing court.

"Personal surety", a person who agrees, to the satisfaction of the judicial officer, to ensure the appearance of a juvenile defendant.

"Pretrial services", the pretrial services initiative established in section 58D.

"Release order", an order releasing a defendant on personal recognizance or on conditions, regardless of whether the defendant has satisfied any financial condition.

"Risk assessment tool", an empirically-developed uniform tool validated in the commonwealth that analyzes risk factors, created or chosen and implemented by pretrial services to produce a risk assessment classification for a defendant that will aid the judicial officer in making determinations under sections 58 to 58C, inclusive; provided, however, that a separate, empirically-developed tool may be used for juveniles.

"Secured bond", payment to the court of a specified amount of money which, in the discretion of the judicial officer, would reasonably assure the presence of a criminal defendant as required, taking into consideration the defendant's ability to pay.

"Unsecured bond", a defendant's promise to pay to the court a specified amount of money if the defendant does not appear before the court on a date certain; provided, however, that the unsecured bond shall be in an amount that, in the discretion of the judicial officer, would reasonably assure the presence of a defendant as required, taking into consideration the defendant's ability to pay.

(b) Upon the appearance before a judicial officer of a defendant charged with an offense, the judicial officer shall hold a hearing, at which the defendant and defendant's counsel, if any, may participate and inquire into the case to determine whether the defendant shall be released or detained pending trial of the case as provided in this section and sections 58 to 58B, inclusive. At the hearing, the judicial officer shall have immediate access to all pending and prior criminal offender record information, board of probation records and police and incident reports related to the defendant, upon oral, telephonic, facsimile or electronic mail request, to the extent

practicable. At the conclusion of the hearing, the judicial officer shall issue an order that, pending trial, the defendant shall be:

(i) released on personal recognizance under subsection (a) of section 58;

(ii) released on conditions under subsection (b) of said section 58;

(iii) detained or released on a condition or combination of conditions under section 58A; or

(iv) temporarily detained for not more than 5 business days to permit revocation of conditional release under section 58B.;

(c)(1) A hearing under section 58 shall take place not later than the next day that the superior, district, Boston municipal or juvenile court in the appropriate jurisdiction is in session following the defendant's arrest; provided, however, that if a case involves a crime of abuse, the commonwealth shall be the only party that may move for arraignment within 3 hours of a complaint being signed by a clerk magistrate or a clerk magistrate's designee; and provided further, that a defendant arrested for a crime of abuse who has attained the age of criminal majority shall not be admitted to bail sooner than 6 hours after arrest except by a judge in open court.

(2) A hearing under section 58A shall be held immediately upon the first appearance of the defendant and upon the motion of the commonwealth unless the defendant, or an attorney for the commonwealth, seeks a continuance. Except for good cause shown, a continuance on motion of the defendant shall not exceed 5 business days and a continuance on motion of the commonwealth shall not exceed 3 business days. During a continuance, the individual shall be detained upon a showing that there existed probable cause to arrest the defendant. Once a hearing

under said section 58A has been commenced, the defendant shall be detained pending completion of the hearing.

(3) In any pending case where the defendant has been initially arraigned in the district, Boston municipal or juvenile court and is being subsequently arraigned in superior court for the same or related offenses arising out of the same incident, the superior court may conduct a new hearing under section 58 or, upon motion of the commonwealth, under section 58A; provided, however, that any order of the district, Boston municipal or juvenile court concerning the defendant issued under said section 58 or 58A shall remain in effect until the superior court issues a new order under said section 58 or 58A. In any new hearing in the superior court, the judicial officer shall consider the defendant's compliance with any previously-ordered conditions of release or probation.

If a defendant has posted bail in the district court or Boston municipal court and has subsequently been arraigned in the superior court for the same offense, the superior court clerk shall notify the district court or Boston municipal court clerk holding the defendant's bail of such arraignment. Upon such notification, any amount tendered by a defendant in satisfaction of a financial condition in the district court or Boston municipal court shall be carried over to satisfy a financial condition required by the superior court. The judicial officers' discretion in setting financial conditions shall not be affected by this paragraph.

(4) Any hearing under section 58 may be reopened by the judicial officer, any hearing under section 58A or 58B may be reopened by the judge and any hearing under either said section 58, 58A or 58B may be reopened upon motion of the commonwealth or the defendant if the judicial officer or judge determines by a preponderance of the evidence that: (i) information exists that was not known to the moving party at the time of the hearing or there has been a

material change in circumstances; and (ii) such information or change in circumstances has a material bearing on the issue of whether the defendant's detention or the defendant's release on conditions or the conditions imposed on the defendant are necessary and sufficient to reasonably assure the appearance of the defendant as required and the safety of any other person and the community. In any such reopened hearing, the judicial officer shall consider the defendant's compliance with any previously-ordered conditions of release.

Section 58. (a) The judicial officer shall order the pretrial release of the defendant on personal recognizance, subject to the condition that the defendant not commit a new offense during the period of release, unless the judicial officer determines, in its discretion, that the release will not reasonably assure the appearance of the defendant as required or will endanger the safety of any other person or the community. Upon adoption of a risk assessment tool by the Massachusetts probation service as set forth in section 58E, the judicial officer shall consult the risk assessment tool before making a determination pursuant to this section.

(b) If the judicial officer determines that the release described in subsection (a) will not reasonably assure the appearance of the defendant as required or will endanger the safety of any other person or the community, the judicial officer shall order the pretrial release of the defendant subject to the condition that the defendant not commit a new offense during the period of release and shall:

(i) in order to assure the defendant's appearance, impose the least restrictive further condition or combination of conditions, in writing, which may include that the defendant, during the period of release, shall:

(1) abide by specified restrictions on personal associations, place of abode and travel;

(2) report on a regular basis to the office of probation including pretrial services or the office of community corrections;

(3) refrain from using alcohol and marijuana and any controlled substance without a prescription or certification by a licensed medical practitioner;

(4) submit to random testing to monitor compliance with any conditions ordered pursuant to subclause (3); provided, however, that a positive test for use of marijuana shall not be considered a violation of the conditions of pretrial release unless the judicial officer expressly prohibits the use or possession of marijuana as a condition of pretrial release;

(5) comply with a specified curfew or home confinement;

(6) undergo medical, psychological or psychiatric treatment, including treatment for substance or alcohol use disorder, if available, and remain in a specified institution if required for that purpose;

(7) submit to electronic monitoring; provided, however, that any condition of electronic monitoring shall include either specified inclusion or exclusion zones or a curfew or a combination thereof;

(8) participate in pretrial programming at a community corrections center pursuant to chapter 211F; provided, however, that the defendant shall consent to such participation;

(9) provide an unsecured or secured bond to satisfy a financial condition that the judicial officer may specify; provided, however, that for offenses that do not carry a penalty of incarceration, no secured bond shall be ordered unless the defendant has previously failed to appear; provided further, that no financial condition shall be imposed on a defendant under the age of criminal majority;

(10) for a juvenile defendant, release to a personal surety;

(11) participate in a diversion program under chapter 276A, a diversion program under section 54A of chapter 119 for a child who is subject to the jurisdiction of the juvenile court, an alternative adjudication program or a drug, mental health, veteran or other treatment court; provided, however, that the defendant shall consent to such alternative adjudication program or a drug, mental health, veteran or other treatment court; and

(12) satisfy any other condition that is reasonably necessary to assure the appearance of the defendant as required; provided, however, that no condition or combination of conditions shall be imposed pursuant to clause (i) of subsection (b) that is not reasonably necessary to assure the appearance of the defendant as required; or

(ii) in order to assure the safety of any other person and the community, impose the least restrictive further condition or combination of conditions, in writing, which may include that the defendant, during the period of release, shall:

(1) refrain from abusing and harassing any alleged victims of the offense and any potential witnesses who may testify concerning the offense;

(2) stay away from and have no contact with any alleged victims of the offense and potential witnesses who may testify concerning the offense;

(3) refrain from possessing a firearm, rifle, shotgun, destructive device or other dangerous weapon;

(4) comply with a specified curfew or home confinement;

(5) refrain from using alcohol and marijuana and any controlled substance without a prescription or certification by a licensed medical practitioner;

(6) submit to random testing to monitor compliance with subclause (5); provided, however, that a positive test for use of marijuana shall not be considered a violation of the

conditions of pretrial release unless the judicial officer expressly prohibits the use of marijuana as a condition of pretrial release;

(7) undergo medical, psychological or psychiatric treatment, including treatment for substance or alcohol use disorder, if available, and remain in a specified institution if required for that purpose;

(8) submit to electronic monitoring; provided, however, that any condition of electronic monitoring shall include either specified inclusion or exclusion zones or a curfew or a combination thereof; and

(9) satisfy any other condition that is reasonably necessary to assure the safety of any other person and the community; provided, however, that no condition or combination of conditions shall be imposed clause (ii) of subsection (b) that is not reasonably necessary to assure the safety of any other person and the community.

(c) When setting any conditions to reasonably assure the appearance of the defendant as required under clause (i) of subsection (b), the judicial officer shall consider, when relevant, the following factors concerning the defendant:

(i) financial resources

(ii) any results of a risk assessment tool if such tool is available as set forth in section 58E of this chapter;

(iii) family ties;

(iv) any record of convictions;

(v) any potential penalty the defendant is facing;

(vi) any illegal drug distribution charges or present drug dependence;

(vii) history records;

(viii) history of mental illness;

(ix) any prior flight to avoid prosecution or fraudulent use of an alias or false identification;

(x) any prior failure to appear at any court proceeding to answer to an offense; provided, however, that a judicial officer shall not consider a prior failure to appear at a court proceeding where a defendant younger than the age of criminal majority failed to appear because the defendant was unable to secure transportation to the proceeding; and

(xi) any prior violation of conditions of release or probation.

(d) When setting any conditions to reasonably assure the safety of any other person and the community under clause (ii) of subsection (b), the judicial officer shall consider, when relevant, the following factors concerning the defendant:

(i) any factors listed in (c)(ii)-(xi);

(ii) the nature and circumstances of the offense charged;

(iii) whether the defendant is on release pending adjudication of a prior charge;

(iv) whether the acts alleged involve a crime of abuse as defined in section 57;

(v) any history of orders issued against the defendant pursuant to section 18 or 34B of chapter 208, section 32 of chapter 209, section 3, 4 or 5 of chapter 209A or section 15 or 20 of chapter 209C;

(vi) any specific, articulable risk that the defendant might obstruct or attempt to obstruct justice or threaten, injure or intimidate or attempt to threaten, injure or intimidate a prospective witness or juror;

(vii) whether the defendant is on probation, parole or other release pending completion of a sentence for another conviction; and

(viii) whether the defendant is on release pending sentence or appeal for any conviction.

(e)(1) A judicial officer shall not consider financial resources when setting any conditions to assure the safety of any other person or the community under clause (ii) of subsection (b), but may impose a financial condition on a defendant who is older than the age of criminal majority when necessary to reasonably assure the defendant's appearance as required.

(2) A judicial officer shall not set bail at an amount that the defendant represent, in good faith, that he or she cannot afford unless the judicial officer finds that the defendant's risk of non-appearance is so great that no alternative, less restrictive financial or nonfinancial conditions will suffice to assure the defendant's presence at future court proceedings, and the defendant is likely to be incarcerated if convicted on the charged offense. If the judicial officer so finds, the judicial officer shall provide findings of fact and a statement of reasons for the bail decision, either in writing or orally on the record, stating: (i) that the defendant's risk of non-appearance is so great that no alternative, less restrictive financial or nonfinancial conditions will suffice to assure the defendant's presence at future court proceedings; (ii) that it is likely that the defendant will be incarcerated if convicted on the charged offense; (iii) that the judicial officer considered the defendant's financial resources and personal circumstances; and (iv) why the commonwealth's interest in the secured bond amount outweighs any likely adverse impact on the defendant's employment, education, mental health treatment, substance or alcohol use treatment and primary caretaker responsibilities.

(3) A judicial officer shall not order that a defendant who is younger than the age of criminal majority be detained pretrial under this section unless the judicial officer finds that the defendant's risk of non-appearance is so great that no alternative, less restrictive condition or combination of conditions will suffice to assure the defendant's presence at future court

proceedings, and the defendant is likely to be incarcerated if convicted on the charged offense. If the judicial officer so finds, the judicial officer shall provide findings of fact and a statement of reasons for the decision, either in writing or orally on the record, stating: (i) that the defendant's risk of non-appearance is so great that no alternative, less restrictive nonfinancial conditions will suffice to assure the defendant's presence at future court proceedings; (ii) that it is likely that the defendant will be incarcerated if convicted on the charged offense; (iii) that the judicial officer considered the defendant's personal circumstances, including any likely adverse impact on the defendant's employment, education, mental health treatment, substance or alcohol use treatment and primary caretaker responsibilities.

(4) If after 7 calendar days from the date of an order issued under this section a defendant, other than a defendant for whom the judicial officer made findings as set forth in paragraph (2) remains detained because of an inability to satisfy a financial condition, the defendant shall, upon application, be entitled to reconsideration of the financial condition by the judicial officer of the court who initially set the financial condition, if available, or otherwise by a judicial officer of a court with jurisdiction over the offense; provided, however, that a financial condition set by a judge shall only be reconsidered by a judge. If after that review the defendant remains detained because of an inability to satisfy a financial condition, the defendant shall, upon application, be entitled to review at 30-day intervals.

(5) If after 60 calendar days a defendant against whom a judicial officer made findings pursuant to paragraph (2) remains detained because of an inability to satisfy a financial condition, the defendant shall, upon application, be entitled to reconsideration of the financial condition by the judicial officer who initially set the financial condition, if available, or if unavailable, by a judicial officer of a court with jurisdiction over the offense; provided, however,

that a financial condition set by a judge shall only be reconsidered by a judge. If, after such review, the defendant remains detained because of an inability to satisfy a financial condition, the defendant shall, upon application, be entitled to review at 90-day intervals.

(6) If after 15 days a defendant who is younger than the age of criminal majority for whom the judicial officer made findings pursuant to paragraph (3) remains detained, the defendant shall, upon application, be entitled to reconsideration of the detention by the judicial officer who initially made the findings, if available, or if unavailable, by a judicial officer of a court with jurisdiction over the offense; provided, however, that such a finding made by a judge may only be reconsidered by a judge. If, after such review, the defendant remains detained, the defendant shall, upon application, be entitled to review at 15-day intervals.

(7) If a judicial officer imposes a financial condition, the clerk of the court shall accept any money tendered in satisfaction of such financial condition during the regular business hours of that court.

(f) Before ordering the release of a defendant charged with a crime against the person or property of another, the judicial officer shall comply with the domestic abuse inquiry requirements of section 56A.

(g) In a release order issued under this section, the judicial officer shall:

(i) include a written statement that sets forth all of the conditions to which the release shall be subject, which shall be set forth in a manner sufficiently clear and specific to serve as a guide for the defendant's conduct; and

(ii) if a defendant is not released on personal recognizance or unsecured bond, include a written summary of the reasons for denying release on personal recognizance or unsecured bond and detailed reasons for imposing any financial condition; and

(iii) advise the defendant of:

(1) the consequences of violating a condition of release, including immediate arrest or the issuance of a warrant therefor, revocation of release and potential criminal penalties the defendant may face, including penalties for intimidation of a witness under section 13B of chapter 268; and

(2) if the defendant is charged with a crime of abuse, informational resources related to domestic violence which shall include, but not be limited to, a list of certified intimate partner abuse education programs located within or near the court's jurisdiction.

(h) Whenever a judicial officer releases a defendant under this section, the court shall enter in writing on the court docket that the defendant was advised as required in clause (iii) of subsection (g) and that docket entry shall constitute prima facie evidence that the defendant was so informed.

(i) If a defendant in a case involving a crime of abuse is released from a place of detention, the arresting police department shall make a reasonable attempt to notify the victim of the defendant's release or, if the defendant is released by order of a court, the district attorney shall make a reasonable attempt to notify the victim of the defendant's release.

Section 58A. (a)(1) Upon motion of the commonwealth at the defendant's first appearance in court, a judge shall hold a hearing to determine whether any condition or combination of conditions in section 58 will reasonably assure the safety of any other person and the community in a case:

(i) that involves a dangerous crime as defined in section 57 or an offense under clause (1) or (2) of subsection (b) of section 32E of chapter 94C, clause (1), (2), (3) or (4) of subsection (c) of said section 32E of said chapter 94C or section 32F of said chapter 94C;

(ii) where the defendant has an open charge for any crime or offense listed in clause (i);

(iii) where the defendant has a conviction for any crime or offense listed in clause (i), unless the defendant has not been incarcerated for a crime or offense listed in said clause (i) within the previous 10 years; or

(iv) where there is a serious risk that the defendant will obstruct or attempt to obstruct justice or threaten, injure or intimidate or attempt to threaten, injure or intimidate a law enforcement officer, an officer of the court or a prospective witness or juror in a criminal investigation or judicial proceeding.

(2) If after a hearing pursuant to this section the judge finds by clear and convincing evidence that no condition or combination of conditions will reasonably assure the safety of any other person and the community, the judge shall order that the defendant be detained pending trial. If the judge does not so find, the defendant shall be released pursuant to section 58 on personal recognizance or unsecured bond or on such condition or combination of conditions as the judge determines to be necessary to reasonably assure the appearance of the defendant, as required, and the safety of any other person and the community.

(b)(1) At a hearing under paragraph (1) of subsection (a), the defendant shall:

(i) have the right to be represented by counsel and, if financially unable to obtain such counsel, the defendant shall have counsel appointed;

(ii) be afforded an opportunity to testify;

(iii) be afforded an opportunity to present witnesses, to cross examine witnesses who appear at the hearing and to present information by proffer or otherwise; provided, however, that before issuing a summons to an alleged victim or a member of the alleged victim's family to appear as a witness at the hearing, the defendant shall demonstrate to the court a good faith and

reasonable basis for believing that the testimony from that witness will be material and relevant to support a conclusion that there are conditions of release that will reasonably assure the safety of any other person and the community.

(2) The law concerning admissibility of evidence in criminal trials shall not apply to the presentation and consideration of information at the hearing.

(3) If a defendant has been released pursuant to section 58 and it subsequently appears that there are grounds that have arisen since the release for the defendant's pretrial detention under paragraph (1) of subsection (a), the commonwealth may request a pretrial detention hearing by ex parte written motion. If the court grants the commonwealth's motion, which shall be supported by an affidavit setting forth the factual basis of the additional grounds for detention, notice shall be given to the defendant and a hearing shall occur as set forth in this section. A defendant shall not be detained under this paragraph until after a hearing.

(c) In determining whether there are conditions of release that will reasonably assure the safety of any other person and the community, a judge shall take into account information available concerning:

(i) the factors listed in subsection (d) of section 58;

(ii) the weight of the evidence against the defendant; and

(iii) the nature and seriousness of the danger to any other person and the community that would be posed by the defendant's release.

Upon adoption of a risk assessment tool by the office of probation under section 58E, the judge shall consult the risk assessment tool before making a determination pursuant to this section.

(d) If, after the hearing under this section, the judge determines that detention of the defendant is necessary under paragraph (2) of subsection (a), the judge shall issue an order that: (i) includes written findings of fact and a written statement of the reasons for the detention; (ii) directs that the defendant be committed to a correction facility separate, to the extent practicable, from persons serving sentences; and (iii) directs that the defendant be afforded reasonable opportunity for private consultation with counsel.

If the judge releases the defendant, the order for release shall comply with section 58.

(e) A defendant detained under this section shall be brought to trial as soon as reasonably possible. For cases prosecuted in juvenile court, district court or Boston municipal court, in the absence of good cause, a defendant shall not be detained under this section for more than 120 days, if older than the age of criminal majority, and for a period of not more than 60 days for a defendant who is younger than the age of criminal majority, excluding any period of delay as defined in Rule 36(b)(2) of the Massachusetts Rules of Criminal Procedure. Defendants indicted and pending prosecution in the superior court shall not be detained under this section for more than 180 days, excluding any period of delay as defined in said Rule 36(b)(2) of the Massachusetts Rules of Criminal Procedure. If the defendant's case has not been brought to trial or otherwise resolved by the end of the periods prescribed by this section, excluding any period of delay as defined above, the defendant shall be entitled to a de novo reconsideration of the detention order by the court that originally issued the order. (f) Nothing in this section shall be construed to modify or limit the presumption of innocence.

Section 58B. (a) A defendant who has been released after a hearing pursuant to section 58, 58A, 59 or 87 and who has violated a condition of release shall be subject to a revocation of release and an order of detention.

(b) The judge shall enter an order of revocation and detention if, after a hearing, the judge finds that: (i) there is probable cause to believe that the defendant has committed a crime while on release or there is clear and convincing evidence that the defendant has violated any other condition of release; and (ii) there are no conditions of release that will reasonably assure the defendant will not pose a danger to the safety of any other person or the community. The judge may, in the judge's discretion, enter an order of revocation and detention if, after a hearing, the judge finds that: (i) there is probable cause to believe that the defendant has committed a crime while on release or there is clear and convincing evidence that the defendant has violated any condition of release other than committing a crime; and (ii) the defendant is unlikely to abide by any condition or combination of conditions of release.

(c) If the judge issues a release order under this section, the judge may order any condition or combination of conditions of release under clause (i) and (ii) of subsection (b) of section 58.

(d) Upon the defendant's first appearance before the judge that will conduct proceedings for revocation of an order of release under this section, the hearing concerning revocation shall be held immediately unless the defendant or the commonwealth seeks a continuance. During a continuance, the defendant shall be detained without bail unless the judge finds that there are conditions of release that will reasonably assure that the defendant will not pose a danger to the safety of any other person or the community and that the defendant will abide by conditions of release. If the defendant is detained without bail, a continuance on a motion of the defendant shall not be for more than 5 business days, except for good cause, and a continuance on motion of the commonwealth or probation shall not be for more than 3 business days, except for good cause. A defendant detained under an order of revocation and detention shall be brought to trial

as soon as reasonably possible. For cases prosecuted in juvenile court, district court or Boston municipal court, in the absence of good cause, a defendant shall not be detained under this section for more than 90 days, if older than the age of criminal majority, and for a period of not more than 60 days for a defendant who is younger than the age of criminal majority, excluding any period of delay as defined in Rule 36(b)(2) of the Massachusetts Rules of Criminal Procedure. Defendants indicted and pending prosecution in the superior court shall not be detained under this section for more than 180 days, excluding any period of delay as defined in Rule 36(b)(2) of the Massachusetts Rules of Criminal Procedure. If the defendant's case has not been brought to trial or otherwise resolved by the end of the periods prescribed by this section, excluding any period of delay as defined above, the defendant shall be entitled to a de novo reconsideration of the detention order by the court that originally issued the order.

Section 58C. (a) A defendant who is released on conditions or detained under section 58 or section 58A pursuant to an order of the district court department, the Boston municipal court department or the juvenile court department shall, upon application, be entitled to have the conditions or order of detention reviewed de novo by the superior court department on the next day that court is in session.

(b) A defendant who is released on conditions or detained under section 58 or 58A or who is the subject of an order under subsection (a) pursuant to an order of the superior court department may seek relief from a single justice of the appeals court in extraordinary cases involving a clear and substantial abuse of discretion or a clear and substantial error of law.

(c) A judge hearing a review pursuant to subsection (a) or (b) may consider the record below which the commonwealth and the defendant may supplement. The reviewing judge may, after a hearing on the petition for review, order that the petitioner be released on personal

recognizance or on any of the conditions set forth in clause (i) and (ii) of subsection (b) of section 58 or, in the judge's discretion to reasonably assure the effective administration of justice, make any other order of recognizance or conditions, or the judge may remand the petitioner in accordance with the terms of the process by which the petitioner was ordered committed.

Section 58D. (a) There shall be in the office of probation a pretrial services initiative, hereinafter referred to as pretrial services. Pretrial services shall be led by a supervisor of pretrial services. The supervisor shall be a person of ability and experience in the pretrial process who shall be chosen and appointed by the commissioner of probation.

(b) Pretrial services shall perform the following duties for the departments of the trial court of the commonwealth:

(i) develop, in coordination with the court and other criminal justice agencies, programs to minimize unnecessary pretrial detention and violations of conditions of release set forth in section 58;

(ii) monitor the local implementation of pretrial services as provided in this section and maintain accurate and comprehensive records of pretrial services' activities;

(iii) provide notification to supervised defendants of court appearance obligations and, as needed, require periodic reporting by letter, telephone, electronic communication, personal appearance or by other means designated by pretrial services to verify compliance with conditions of release;

(iv) assist defendants who are released prior to trial in securing appropriate employment, medical, drug, mental or other health treatment or other needed social services that may increase the defendant's chances of successful compliance with the conditions of release;

(v) prepare a formal report of new charges against defendants released on conditions and present the same to the court and to the prosecuting officer who shall aid pretrial services in presenting such violations; and

(vi) perform any other duties that the commissioner of probation deems necessary to support the operation of pretrial services.

(c) Pretrial services may be provided with probation staff, including community correction staff, as determined by the commissioner of probation.

(d) A defendant shall not be interviewed by pretrial services unless the defendant has been apprised of the identity and purpose of the interview, the scope of the interview, the right to counsel and the right to refuse cooperation. Inquiry of the defendant shall carefully exclude questions concerning the details of the current charge. Statements made by the defendant during the interview or evidence derived therefrom shall not be admissible against the defendant in any pending criminal prosecution, including in determining the defendant's guilt or the appropriate disposition or if the defendant has violated a condition of probation or pretrial release or a condition of parole, except that such statements and evidence may be used in determining appropriate conditions of release and conditions of probation.

(e) The supervisor of pretrial services shall submit annual reports to the commissioner of probation, the chief justice of the trial court, the court administrator, the chief justice of the supreme judicial court and the clerks of the senate and the house of representatives who shall forward the report to the senate and house chairs of the joint committee on the judiciary. The report shall include, but not be limited to, if available: (i) analysis on demographics of the pretrial population, including age, race and gender; (ii) appearance and default rates; (iii) conditions imposed upon release; (iv) caseload of the pretrial services initiative; (v) length of

supervision; and (vi) any other analytical data deemed appropriate; provided, however, that any data included in the report shall be presented only in aggregated form so that no individual can be identified.

Section 58E. (a) Subject to appropriation, pretrial services shall create or choose a risk assessment tool that analyzes risk factors to produce a risk assessment classification for a defendant that will aid the judicial officer in determining pretrial release or detention under sections 58 to 58C, inclusive. Any such tool shall be tested and validated in the commonwealth to identify and eliminate unintended economic, race, gender or other bias.

The pretrial services initiative shall: (i) establish procedures for screening defendants who are presented in court for a first appearance to assist the trial court in determining any appropriate conditions of release or detention under sections 58 to 58C, inclusive; (ii) record and, to the extent possible, verify information required by the risk assessment tool; and (iii) submit a written report to the judicial officer and to all parties and counsel of record which shall include the results of the risk assessment tool, the defendant's eligibility for diversion, treatment or other alternative adjudication programs and any recommendations concerning any appropriate conditions of release or detention under said section 58 and section 58A.

(b) A representative of pretrial services shall, when feasible, be available at any hearing wherein the judicial officer will be considering the pretrial services written report.

(c) When ordered by the judicial officer, pretrial services shall monitor and supervise compliance with the conditions of release ordered under section 58 and, when appropriate, shall proceed under section 58B.

(d) Records created concerning pretrial services, including aggregate data, shall not be considered criminal offender record information and shall be subject to the same limitations on

disclosure as other records kept by the office of probation. Aggregate data that concerns pretrial services shall be available to the public in a form that does not allow an individual to be identified. Subject to redaction for safety and third-party considerations, an individual shall have access to their own records and information collected or created by pretrial services.

(e) The trial court of the commonwealth, in coordination with pretrial services, shall develop curricula and make training opportunities available on a rolling basis to all judicial officers eligible to make decisions under sections 58, 58A, 58B and 59. The training shall include information on the risk assessment tools, risk assessment scoring and recommended supervision levels, conditions of release and any other information that the trial court or the commissioner of probation deem appropriate.

(f) Information about any risk assessment tool, the risk factors such a tool analyzes, the data on which the analysis of risk factors is based, the nature and mechanics of any validation process and the results of any audits or tests to identify and eliminate bias shall be a public record and subject to discovery.

Section 59. (a) If a defendant is arrested and charged with an offense, other than murder in the first or second degree or a crime of abuse or treason when the courts having jurisdiction over the offense are not in session, a bail commissioner or bail magistrate shall appear as soon as possible but not more than 6 hours after the defendant's arrest unless the defendant lacks the capacity to understand and participate in the bail proceedings; provided, however, that failure of a bail commissioner or bail magistrate to appear within the prescribed time shall not constitute grounds for dismissal of the charges against a defendant. If a defendant is charged with a crime of abuse, the bail commissioner or bail magistrate shall not appear earlier than 6 hours after the defendant's arrest but shall appear as soon as possible thereafter.

(b) The bail commissioner or bail magistrate shall order the pretrial release of a defendant on personal recognizance, subject to the condition that the defendant not commit a new offense during the period of release, unless the bail commissioner or bail magistrate determines that release on personal recognizance will not reasonably assure the appearance of the defendant as required or will endanger the safety of any other person or the community.

(c)(1) If the bail commissioner or bail magistrate determines that the release described in subsection (b) will not reasonably assure the appearance of the defendant as required or will endanger the safety of any other person or the community, the bail commissioner or bail magistrate may order the pretrial release of the defendant subject to the following conditions: (i) the defendant shall not commit a new offense during the period of release; and (ii) the bail commissioner or bail magistrate shall impose the least restrictive further condition or combination of conditions that the bail commissioner or bail magistrate determines will reasonably assure the appearance of the defendant as required and the safety of any other person and the community; provided, however, that such conditions may include, but shall not be limited to, orders that the defendant shall:

(A) abide by specified restrictions on personal associations, places of abode or travel;

(B) refrain from the use of alcohol or marijuana or any controlled substance without a prescription or certification by a licensed medical practitioner;

(C) comply with a specified curfew or home confinement;

(D) refrain from abusing and harassing any alleged victim of the offense and any potential witnesses who may testify concerning the offense;

(E) stay away from and have no contact with an alleged victim of the offense or with potential witnesses who may testify concerning the offense;

(F) refrain from possessing a firearm, rifle, shotgun, destructive device or other dangerous weapon;

(G) provide unsecured or secured bond to satisfy a financial condition that the bail commissioner or bail magistrate may specify; provided, that no financial condition shall be imposed on a defendant who is younger than the age of criminal majority; or

(H) satisfy any other condition that is reasonably necessary to assure the appearance of the defendant as required or the safety of any other person and the community.

(2) When setting conditions under this subsection, the bail commissioner or bail magistrate shall consider, when relevant, the following factors concerning the defendant:

(i) financial resources;

(ii) family ties;

(iii) any record of convictions;

(iv) any potential penalty the defendant is facing;

(v) any illegal drug distribution charges or present drug dependence;

(vi) employment records;

(vii) history of mental illness;

(viii) any prior flight to avoid prosecution or fraudulent use of an alias or false identification;

(ix) any prior failure to appear at any court proceedings to answer to an offense;

(x) the nature and circumstances of the offense charged;

(xi) whether the defendant is on bail pending adjudication of a prior charge;

(xii) whether the acts alleged involve a crime of abuse as defined in section 57;

(xiii) any history of orders issued against the defendant pursuant to section 18 or 34B of chapter 208, section 32 of chapter 209, section 3, 4 or 5 of chapter 209A or section 15 or 20 of chapter 209C;

(xiv) any specific, articulable risk that the defendant might obstruct or attempt to obstruct justice or threaten, injure or intimidate or attempt to threaten, injure or intimidate a prospective witness or juror;

(xv) whether the defendant is on probation, parole or other release pending completion of a sentence for another conviction; and

(xvi) whether the defendant is on release pending sentencing or appeal for another conviction.

(d) Bail commissioners and bail magistrates shall not impose a financial condition to assure the safety of any other person and the community, but may impose a financial condition on a defendant who is older than the age of criminal majority when necessary to reasonably assure the defendant's appearance as required. If the defendant represents in good faith that the defendant lacks sufficient financial resources to post the secured bond required by the bail commissioner or bail magistrate such that the defendant will likely be detained until the next day that court is in session, the bail commissioner or bail magistrate may impose the secured bond only if the bail commissioner or bail magistrate confirms, in writing, that the bail commissioner or bail magistrate considered the defendant's financial resources and explains why the defendant's risk of nonappearance is so great that no alternative, less restrictive financial or nonfinancial conditions will suffice to assure the defendant's presence at future court proceedings.

(e) Where a bail commissioner or bail magistrate orders that a defendant who is younger than the age of criminal majority be detained until the next day that court is in session because no condition or combination of conditions will reasonably assure the appearance of the defendant as required, the bail commissioner or bail magistrate shall provide findings of fact and a statement of reasons for the decision, in writing, explaining why no alternative, less restrictive condition or combination of conditions will suffice to assure the defendant's presence at future court proceedings.

(f) Before issuing any release order under this section for a defendant who is released on bail pending adjudication of a prior charge or is on probation, the bail commissioner or bail magistrate shall contact the office of probation's electronic monitoring center to inform them of the defendant's arrest and charge.

(g) In a release order issued under this section, the bail commissioner or bail magistrate shall advise the defendant of:

(i) the consequences of violating a condition of release, including immediate arrest or issuance of a warrant therefor, revocation of release and the potential that the defendant may face criminal penalties, including penalties for intimidation of a witness under section 13B of chapter 268; and

(ii) if the defendant is charged with a crime of abuse, informational resources related to domestic violence which shall include, but shall not be limited to, a list of certified intimate partner abuse education programs located within or near the court's jurisdiction.

(h) If the defendant in a case involving a crime of abuse is released from the place of detention, the arresting police department shall make a reasonable attempt to notify the victim of the defendant's release.

(i) If a defendant is charged with a dangerous crime or a crime of abuse, the bail commissioner or bail magistrate shall not be required to set a cash bail and shall order the defendant held until the next day that the court is in session if the bail commissioner or bail magistrate determines that no condition or combination of conditions will reasonably assure the appearance of the defendant as required or the safety of any other person or the community.

(j) When ordering detention under subsection (d) or (e), the bail commissioner or bail magistrate shall take into account information available concerning: (i) any relevant factors listed paragraph (2) of subsection (c); (ii) the weight of the evidence against the defendant; and (iii) the nature and seriousness of the danger to any other person or the community that would be posed by the defendant's release.

(k) The terms and conditions of an order by a bail commissioner or bail magistrate shall remain in effect until the defendant is brought before the court for arraignment under sections 57, 58 and 58A.

(l) When a bail commissioner or bail magistrate releases a defendant on conditions under subsection (c), the bail commissioner or bail magistrate shall record the conditions and provide a copy of such conditions to the defendant and the detaining authority and shall transmit a copy to the court.

(m) If a defendant released on conditions by a bail commissioner or bail magistrate under subsection (c) violates any of the conditions, that violation shall be enforceable under section 58B.

(n) Nothing in this section shall be construed to modify or limit the presumption of innocence.

(o) Bail commissioners and bail magistrates authorized to release a defendant on recognizance, release a defendant on conditions or detain a defendant under this section shall be governed by rules established by the chief justice of the trial court of the commonwealth, subject to review by the supreme judicial court.

(p) Nothing in this section shall authorize a bail commissioner or bail magistrate to release a defendant who has been arrested and charged with first or second degree murder.

SECTION 281. Section 61A of chapter 276 of the General Laws is hereby repealed.

SECTION 282. Said chapter 276 is hereby further amended by striking out section 61B, as appearing in the 2016 Official Edition, and inserting in place thereof the following section:-

Section 61B. No surety under this chapter shall be compensated for acting as surety.

SECTION 283. Section 79 of said chapter 276 is hereby repealed.

SECTION 284. Section 87 of said chapter 276, as appearing in the 2016 Official Edition, is hereby amended by striking out, in line 7, the figure "18" and inserting in place thereof the following words:- criminal majority.

SECTION 285. Said section 87 of said chapter 276, as so appearing, is hereby further amended by striking out, in lines 14 and 15, the words "was eighteen years of age or older" and inserting in place thereof the following words:- had attained the age of criminal majority.

SECTION 286. The first paragraph of section 87A of said chapter 276, as so appearing, is hereby amended by adding the following sentence:- No person placed on probation shall be found to have violated a condition of probation: (i) solely on the basis of possession or use of a controlled substance that has been lawfully dispensed pursuant to a valid prescription to that person by a health professional registered to prescribe a controlled substance pursuant to chapter 94C and acting within the lawful scope of the health professional's practice; or (ii) solely on the

basis of possession or use of medical marijuana obtained in compliance with and in quantities consistent with applicable state regulations if that person received a written certification from a licensed physician for the use of medical marijuana to treat a debilitating medical condition and the person possesses a valid medical marijuana registration card and if the quantity in the person's possession is not greater than the amount recommended in the physician's written certification.

SECTION 287. Said section 87A of said chapter 276, as so appearing, is hereby further amended by striking out the third paragraph and inserting in place thereof the following paragraph:-

The court may waive payment of the fees if it determines after a hearing that such payment would impose a substantial financial hardship on the person or the person's family or dependents. Following the hearing and upon a finding of hardship, the court may require any such person to perform unpaid community service work at a public or nonprofit agency or facility, monitored by the probation department, for not more than 4 hours per month in lieu of payment of a probation fee. A waiver shall be in effect only during the period of time that a person is unable to pay the monthly probation fee.

SECTION 288. Said section 87A of said chapter 276, as so appearing, is hereby further amended by striking out the eighth paragraph and inserting in place thereof the following paragraph:-

The court may waive payment of the fee if it has determined, after a hearing, that the payment would impose a substantial financial hardship on the person or the person's family or dependents. A waiver shall be in effect only during the period of time that the person is unable to pay the monthly probation fee.

SECTION 289. Section 89A of said chapter 276, as so appearing, is hereby amended by striking out, in line 3, the figure “18” and inserting in place thereof the following words:- criminal majority.

SECTION 290. Said chapter 276 of the General Laws is hereby amended by inserting after section 89A the following section:-

Section 89B. Probation officers appointed under subsection (f) of section 83 of this chapter may be designated by the commissioner to exclusively supervise young adults, who are 19 to 26 years of age and have been placed in the care of probation officers under section 87 so that these individuals may benefit from age appropriate guidance, targeted interventions and a greater degree of individual attention.

Probation officers designated under this section shall be selected based on their demonstrated experience and commitment to working with young adults and shall perform their services under the direction of the commissioner.

Probation officers designated under this section shall receive specialized training on topics including but not limited to: supervising and counseling young adults, psycho-social and behavioral development of young adults, cultural competency, rehabilitation of young adults, educational programs, and relevant community-based services and programs.

SECTION 291. Said chapter 276 is hereby further amended by striking out section 92, as appearing in the 2016 Official Edition, and inserting in place thereof the following section:-

Section 92. (a) In a criminal case where the victim has suffered an actual economic loss that is causally connected to a crime for which the defendant has been convicted, has entered a plea of guilty or nolo contendere or has admitted to sufficient facts to warrant a finding of guilt,

the court may order the defendant to make financial restitution to the victim for such loss as a condition of probation as set forth in this section. As used in this section, “defendant” shall include a delinquent child or youthful offender and “actual economic loss” shall mean the loss of money or property, excluding consequential damages or costs.

(b) Before ordering restitution pursuant to this section, the court shall determine the appropriate length of any probationary period to be served by the defendant which shall be based on the amount of time necessary to rehabilitate the defendant and protect the public. The court shall not order a longer probationary period to enable the defendant to make restitution; provided, however, that if the court determines that there is no reason to impose probation other than to collect restitution, the court may impose a probationary period of 60 days or less for such purpose.

(c) Before ordering restitution pursuant to this section, the court shall conduct an evidentiary hearing and make findings concerning: (i) the amount of actual economic loss suffered by the victim that is causally connected to the defendant's crime; and (ii) the amount of restitution that the defendant has the ability to pay monthly without causing substantial financial hardship, taking into account the defendant’s financial resources, including the defendant’s income and net assets and the defendant’s financial obligations, including the amount necessary to meet basic human needs such as food, shelter and clothing for the defendant and the defendant’s family or dependents. The defendant shall bear the burden of proving by a preponderance of the evidence an inability to pay; provided, however, that the court shall presume that a defendant under the age of criminal majority is indigent unless the court finds that the payment would not impose a substantial financial hardship on such person or the person’s family. At any such hearing, the victim may testify regarding the amount of the loss and the

defendant may cross examine the victim, but such cross-examination shall be limited to the issue of restitution. The defendant may rebut the victim's estimate of the amount of loss with expert testimony or other evidence. The commonwealth shall bear the burden of proving by a preponderance of the evidence the amount of the actual economic loss suffered by the victim that is causally connected to the defendant's crime. The hearing need not address issues as to which the commonwealth and the defendant have reached an agreement that has been presented to the court, whether by written stipulation or as part of the defendant's plea of guilty or nolo contendere or admission to sufficient facts to warrant a finding of guilt. An agreement between the commonwealth and the defendant concerning the amount of the victim's actual economic loss shall be docketed by the clerk.

(d) The total amount of restitution ordered by the court shall not exceed the lesser of: (i) the amount of actual economic loss suffered by the victim that is causally connected to the defendant's crime; or (ii) the amount of restitution that the defendant has the ability to pay monthly without causing substantial financial hardship, multiplied by the total number of months of probation ordered by the court in accord with subsection (b).

(e) If the defendant is placed on probation with a condition that the defendant pay restitution to the victim and payment is not made at once, the court may order that the payment shall be made to the clerk of the court who shall give receipts for and keep a record of all payments made, pay the money to the person injured and keep a receipt therefor and notify the probation officer when the full amount of the money is received or paid in accordance with such order or with any modification thereof.

(f) The court may modify the probation condition regarding the payment of restitution based on any material change in the defendant's financial circumstances.

(g) If the court orders the defendant to make restitution under this section, the court may also issue a civil judgment in favor of the victim and against the defendant for the amount of the victim's actual economic loss that is causally connected to the defendant's crime, less the amount of restitution that the defendant has been ordered to pay. Upon the expiration or revocation of the defendant's probation, the victim or the commonwealth may, with notice to the defendant, request the court to amend the civil judgment to include any amount of restitution that the defendant has failed to pay in accord with the restitution order.

(h) If the court does not order the defendant to make restitution under subsection (a), the court may, upon the request of the commonwealth, issue a civil judgment in favor of the victim and against the defendant for the amount of the victim's actual economic loss that is causally connected to the defendant's crime; provided, however, that: (i) the defendant shall have agreed to the amount of such loss as part of the defendant's plea of guilty or nolo contendere or admission to sufficient facts to warrant a finding of guilt; or (ii) the court has determined the amount of such loss after a hearing as provided in subsection (c).

(i) A civil judgment issued under subsections (g) or (h) shall be enforceable by the victim or by the commonwealth acting on behalf of the victim in the same manner as any other civil judgment. In addition to the amount of the civil judgment, the victim shall be entitled to recover from the defendant reasonable attorneys' fees and costs incurred in enforcing or executing the civil judgment.

(j) A civil judgment issued under subsections (g) or (h) shall be dischargeable in bankruptcy.

(k) Nothing herein shall bar the victim from seeking recovery from the defendant in any other civil proceeding; provided, however, that any amount recovered by the victim pursuant to

the court's restitution order or the civil judgment under subsections (g) or (h) shall be set off against any other civil claim by the victim for the same actual economic loss.

SECTION 292. Section 100A of said chapter 276, as so appearing, is hereby amended by striking out, in lines 9, 14, and 21, the figure "5" and inserting in place thereof, in each instance, the following figure:- 3.

SECTION 293. Said section 100A of said chapter 276, as so appearing, is hereby further amended by striking out, in lines 12, 15, and 22, the figure "10" and inserting in place thereof, in each instance, the following figure:- 7.

SECTION 294. Said section 100A of said chapter 276, as so appearing, is hereby further amended by inserting after the figure "268A", in line 28, the following words:- , except for convictions for resisting arrest.

SECTION 295. Said section 100A of said chapter 276, as so appearing, is hereby further amended by striking out, in line 83, the words "for employment used by an employer" and inserting in place thereof the following words:- used to screen applicants for employment, housing or an occupational or professional license.

SECTION 296. Said section 100A of said chapter 276, as so appearing, is hereby further amended by inserting after the word "employment", in line 85, the following words:- or for housing or an occupational or professional license.

SECTION 297. Said section 100A of said chapter 276, as so appearing, is hereby further amended by inserting after the word "employment", in line 89, the following words:- or for housing or an occupational or professional license.

SECTION 298. Said section 100A of said chapter 276, as so appearing, is hereby further amended by inserting after the word “employment”, in line 92, the following words:- or for housing or an occupational or professional license.

SECTION 299. Said chapter 276 is hereby amended by striking out section 100B, as so appearing, and inserting in place thereof the following section:-

Section 100B. (a) A person having a record of entries of a court appearance in a proceeding pursuant to section 52 to 62 of chapter 119, inclusive, on file in the office of the commissioner of probation may, on a form furnished by the commissioner, signed under the penalties of perjury, request that the commissioner seal that file. The commissioner shall comply with such a request, provided that: (i) the court appearance or disposition, including court supervision, probation, commitment or parole, the records for which are to be sealed, terminated not less than 1 year prior to the request; (ii) said person has not been adjudicated a delinquent child or youthful offender or found guilty of a criminal offense within the commonwealth during the 1 year preceding the request, except for motor vehicle offenses in which the penalty does not exceed a fine of $550, and was not imprisoned under sentence or committed as a delinquent child or youthful offender within the commonwealth within the preceding 1 year; and (iii) the form requesting sealing includes a statement by the petitioner signed under the penalties of perjury that the petitioner has not been adjudicated a delinquent child or youthful offender or found guilty of a criminal offense in any other state, United States possession or in a court of federal jurisdiction, except for the motor vehicle offenses described in clause (ii), and has not been imprisoned under sentence or committed as a delinquent or youthful offender in any state or county during the preceding 1 year.

(b) At the time of dismissal of a case, nolle prosequi, without adjudication or when imposing a sentence, period of commitment or probation or other disposition under section 58 of said chapter 119, the court shall inform all juvenile defendants in writing of their right to seek sealing under this section and, if the case ended in a dismissal, nolle prosequi, or without adjudication, the court shall order sealing of the record at the time of the disposition unless the person charged with the offense objects.

(c) Records sealed under this section shall not disqualify a person in any examination, appointment or application for public service in the service of the commonwealth or any political subdivision thereof, nor shall sealed records be admissible in evidence or used in any way in court proceedings or hearings before a court, board or commission to which the person is a party, except in imposing sentence for subsequent offenses in juvenile or criminal proceedings.

Notwithstanding any other provision to the contrary, the commissioner shall report sealed juvenile records to inquiring police and court agencies only as “sealed juvenile record over 1 year old” and to other authorized persons who may inquire as “no record”. The information contained in a sealed juvenile record shall be made available to a judge or probation officer who affirms that the person whose record has been sealed has been adjudicated a delinquent child or youthful offender or has pleaded guilty or been found guilty of and is awaiting sentence for a crime committed subsequent to the sealing of such record. That information shall be used only for the purpose of consideration in imposing sentence.

SECTION 300. Section 100C of said chapter 276, as so appearing, is hereby amended by striking out, in line 23, the words “for employment used by an employer” and inserting in place thereof the following words:- used to screen applicants for employment, housing or an occupational or professional license.

SECTION 301. Said section 100C of said chapter 276, as so appearing, is hereby further amended by inserting after the word “employment”, in line 26, the following words:- , housing or an occupational or professional license.

SECTION 302. Section 100D of said chapter 276, as so appearing, is hereby amended by striking out the figure “17”, in line 8, and inserting in place thereof the following words:- criminal majority.

SECTION 303. Said chapter 276, as so appearing, is hereby further amended by inserting after section 100D the following 5 sections:-

Section 100E. For the purpose of this chapter, the words “expunge”, “expunged” and “expungement” shall mean permanent erasure or destruction of information so that the information is no longer maintained in any file or record in electronic, paper or other physical form and such that no individual or entity including, but not limited to, criminal justice agencies as defined under section 167 of chapter 6, has access to criminal offender record information related to the expunged charge or charges.

Section 100F. (a) Notwithstanding section 100A or any other general or special law to the contrary, a person of any age having a record of entries of a court appearance in a proceeding pursuant to section 52 to 62 of chapter 119, inclusive, on file with the office of the commissioner of probation may, on a form furnished by the commissioner, petition that misdemeanor convictions or adjudications or misdemeanor cases ending in a dismissal, nolle prosequi or without adjudication be expunged if the offense was committed before the person reached the age of criminal majority and the person files a petition with a judge in the court in which the appearance or disposition occurred. Notice shall also be given to the office of probation. The court shall comply with such a request, provided, that: (i) the court appearance or disposition,

including court supervision, probation, commitment or parole, the records of which are to be sealed, terminated not less than 3 years before the request; (ii) the petitioner has not been adjudicated a delinquent child or youthful offender or found guilty of a new criminal offense within the commonwealth during the preceding 3 years, except for motor vehicle offenses in which the penalty does not exceed a fine of $550; and (iii) the form requesting expungement includes a statement by the petitioner signed under the penalties of perjury that the petitioner has not been adjudicated a delinquent child or youthful offender or found guilty of a criminal offense in any other state, United States possession or in a court of federal jurisdiction, except for the motor vehicle offenses described in clause (ii), and has not been imprisoned under sentence or committed as a delinquent or youthful offender in any state or county during the preceding 3 years. If a petition is granted by the court pursuant to this section, the clerks and probation officers of the courts in which the proceedings at issue occurred or were initiated shall expunge all records of the proceedings in their files.

(b) At the time of dismissal of a case, nolle prosequi, without adjudication or when imposing a sentence, period of commitment or probation or other disposition under section 58 of said chapter 119, the court shall inform, in writing, all eligible individuals of their right to seek expungement under this section.

(c) A charge that is expunged shall not disqualify a person in any examination, appointment or application for public employment in the service of the commonwealth or any political subdivision thereof, nor shall such charges and convictions be used against a person in court proceedings or hearings before a court, board or commission to which the person is a party.

(d) If the court orders expungement of records, the person whose records have been expunged, when applying for employment, housing, occupational or professional licensing, may

answer “no record” as to any charge expunged pursuant to this section in response to an inquiry regarding prior arrests, court appearances or criminal cases.

Section 100G. If a case is sealed or expunged pursuant to section 7 of chapter 258D or section 100A, 100B, 100C, 100F, 100H or 104 of this chapter, every mention of the defendant’s name and address shall be redacted from entries in the logs maintained under section 98F of chapter 41.

Section 100H. Notwithstanding any general or special law to the contrary, for the purposes of a negligence claim, an employer or landlord shall be presumed to have no notice or ability to know criminal record information that: (i) is contained in a criminal record that has been sealed or expunged; (ii) is in 1 of the categories of information that employers are prohibited from requesting from an applicant under subsection 9 of section 4 of chapter 151B; or (iii) concerns crimes that occurred in the commonwealth that the department of criminal justice information services cannot lawfully disclose to an employer or landlord.

Section 100I. (a) In any case wherein a plea of not guilty has been entered by a court pursuant to section 59 of chapter 265 and (i) the criminal complaint is subsequently dismissed; (ii) the defendant is found not guilty by a judge or a jury; (iii) a finding of no probable cause is made by the court; or (iv) a nolle prosequi has been entered, a judge shall, upon motion of the defendant, seal said court appearance and disposition recorded, and the clerk and the probation officers of the courts in which the proceedings occurred or were initiated shall likewise seal the records of the proceedings in their files. Sealed records shall not operate to disqualify a person in any examination, appointment, or application for public employment in the service of the commonwealth or of any political subdivision.

(b) An application used to screen applicants for employment, housing or an occupational or professional license which seeks information concerning prior arrests or convictions or adjudications of delinquency of the applicant shall include in addition to the statement required under section 100A the following statement: “An applicant for employment, housing or an occupational or professional license with a sealed record on file with the commissioner of probation may answer ‘no record’ with respect to an inquiry herein relative to prior arrests or criminal court appearances.” The attorney general may enforce the provisions of this section by a suit in equity commenced in the superior court. Notwithstanding this section or any other general or special law to the contrary, the commissioner of probation or the clerk of courts in any district court, superior court, juvenile court, or the Boston municipal court, in response to inquiries by authorized persons other than by a law enforcement agency or a court, shall in the case of a sealed record report that no record exists.

SECTION 304. Said chapter 276 is hereby further amended by adding the following section:-

Section 104. After a court appearance has reached its final disposition, including termination of court supervision, probation, commitment or parole, upon motion of the defendant and after notice to the district attorney and the commissioner of probation, who shall be given the opportunity to be heard, a court may order expungement of all records related to the court appearance if the court determines by clear and convincing evidence that expungement is in the interest of justice because: (i) the complaint was issued against the named defendant because of misidentification by law enforcement or court employees; (ii) the named defendant has no connection to the alleged criminal activity; (iii) the named defendant was prosecuted because another person impersonated the defendant or used the defendant’s name when arrested by

police; (iv) there was fraud on the court related to the claim that the defendant committed the offense; or (v) there was lack of probable cause for initiation of the complaint. The court shall enter written findings of fact in response to any motion filed under this section and shall immediately provide a certified copy of the order and findings of fact to the named defendant and the commissioner of probation. Upon receipt of a certified copy of an order expunging records, the commissioner of probation shall expunge records of court appearances and case disposition in the commissioner's files and the clerk and the probation officers of the courts in which the proceedings occurred or were initiated shall expunge the records of the proceedings from their files.

If the court orders expungement of the records, the person whose records have been expunged, when applying for employment, housing, occupational or professional licensing may answer "no record" as to any charge expunged pursuant to this section in response to an inquiry regarding prior arrests, court appearances or criminal cases. A charge that is expunged shall not disqualify a person in any examination, appointment or application for public employment in the service of the commonwealth or any other political subdivision thereof, nor shall such charges or convictions be used against a person in court proceedings or hearings before a court, board or commission to which the person is a party.

Upon receipt of an expungement order, the state police shall expunge said cases from any records in its custody.

SECTION 305. Section 1 of chapter 276A of the General Laws, as appearing in the 2016 Official Edition, is hereby amended by striking out, in lines 20 and 21, the words "certified or approved by the commissioner of probation under the provisions of section eight,".

SECTION 306. Section 2 of said chapter 276A, as so appearing, is hereby further amended by striking out, in lines 6 and 7, the words “but has not reached the age of twenty-two”.

SECTION 307. Said section 2 of said chapter 276A, as so appearing, is hereby amended by striking out, in lines 6 and 10, the words “18 years” and inserting in place thereof, in each instance, the following words:- criminal majority.

SECTION 308. Said chapter 276A is hereby amended by striking out section 4, as so appearing, and inserting in place thereof the following section:-

Section 4. In the event that an individual is charged with a violation of 1 or more of the offenses enumerated in section 70C of chapter 277, other than the offenses in subsection (a) of section 13A of chapter 265 and sections 13A and 13C of chapter 268, this chapter shall not apply to that defendant.

SECTION 309. Section 5 of said chapter 276A, as so appearing, is hereby amended by inserting after the word “prosecution”, in line 10, the following words:- and any victims as defined by section 1 of chapter 258B.

SECTION 310. Sections 8 and 9 of said chapter 276A are hereby repealed.

SECTION 311. Said chapter 276A is hereby further amended by adding the following section:-

Section 12. Nothing in this chapter or chapter 276B shall be interpreted to limit or in any way govern the authority of a district attorney or a police department to divert an offender, or to require a district attorney or police department to accept an offender into a program that they operate.

SECTION 312. The General Laws are hereby amended by inserting after chapter 276A the following chapter:-

CHAPTER 276B.

RESTORATIVE JUSTICE.

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

"Restorative justice", a voluntary process whereby the offenders, victims and members of the community collectively identify and address harms, needs and obligations resulting from an offense in order to understand the impact of that offense; provided, however, that restorative justice requires an offender's acceptance of responsibility for their actions and supports the offender as the offender makes repair to the victim or community in which the harm occurred.

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

Section 2. Participation in a community-based restorative justice program shall be voluntary and shall be available to both juvenile and adult defendants. A juvenile or adult defendant may be diverted to a community-based restorative justice program at any stage of a case, beginning immediately post arraignment, with the consent of the district attorney and the victim. Restorative justice may be used as a means of disposition, with judicial approval. In such a case, if the court finds that a juvenile or adult defendant successfully completed the restorative justice program, the charge shall be dismissed. If the court finds that a juvenile or adult defendant did not successfully complete the program or is in violation of program requirements, the case shall be returned to the court in order to commence with proceedings.

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

Section 4. Participation in a community-based restorative justice program shall not be used as evidence or as an admission of guilt, delinquency or civil liability in legal proceedings. Statements made by a juvenile or adult defendant or a victim during the course of an assignment to a community-based restorative justice program shall be confidential and shall not be subject to disclosure in any judicial or administrative proceeding; provided, however, that nothing in this section shall preclude any evidence obtained through an independent source or that would have been inevitably discovered by lawful means from being admitted at such proceedings.

Section 5. There shall be a restorative justice advisory committee to review community-based restorative justice programs. The advisory committee shall consist of the following members: 1 member appointed by the senate president and 1 member appointed by the speaker of the house of representatives, who shall serve as co-chairs of the advisory committee; the secretary of public safety and security or a designee; the secretary of health and human services or a designee; the president of the Massachusetts District Attorneys Association or a designee; the chief counsel of the committee for public counsel services or a designee; the commissioner of probation or a designee; the president of the Massachusetts Chiefs of Police Association Incorporated or a designee; the executive director of the Massachusetts office for victim assistance or a designee; and 7 members appointed by the governor, 1 of whom shall be a retired Massachusetts trial court judge and 6 of whom shall be representatives of community-based restorative justice programs. Each member of the advisory committee shall serve a 6 year term,

except for members appointed because of their official title, who shall be members for as long as they hold that title.

The advisory committee shall monitor and assist all community-based restorative justice programs to which a juvenile or adult defendant may be diverted pursuant to this chapter. The advisory committee shall track the use of community-based restorative justice programs through a partnership with an educational institution and shall make legislative, policy and regulatory recommendations to aid in the use of community-based restorative justice programs on topics including, but not limited to: (i) qualitative and quantitative outcomes for participants; (ii) recidivism rates of responsible parties; (iii) criteria for youth involvement and training; (iv) cost savings for the commonwealth; (v) training guidelines for restorative justice facilitators; (vi) data on racial, socioeconomic and geographic disparities in the use of community-based restorative justice programs; (vii) guidelines for restorative justice best practices; (viii) appropriate training and funding sources for community-based restorative programs; and (ix) plans for the expansion of restorative justice programs and opportunities throughout the commonwealth.

Annually, not later than December 31, the advisory committee shall submit a report with findings and recommendations to the governor and to the clerks of the senate and house of representatives.

SECTION 313. Section 70C of chapter 277 of the General Laws, as appearing in the 2016 Official Edition, is hereby amended by striking out, in line 8, the words “, chapter 119”.

SECTION 314. Said section 70C of said chapter 277, as so appearing, is hereby further amended by striking out, in lines 10 and 11, the figures “13B1/2, 13B3/4, 13C, 14, 14B, 15, 15A, 16, 17, 18, 19, 20, 22A, 22B, 22C, 23, 23A, 23B” and inserting in place thereof the following figures:- 13C, 14, 14B, 15, 15A, 16, 17, 18, 19, 20, 23.

SECTION 315. Said section 70C of said chapter 277, as so appearing, is hereby further amended by inserting after the figure “28”, in line 14, the following figure:- , 29.

SECTION 316. Section 1 of chapter 279 of the General Laws, as so appearing, is hereby amended by inserting after the fourth sentence the following 2 sentences:-

When a person is sentenced to pay a fine of any amount, or is assessed fines, fees, costs, civil penalties or other expenses at disposition of a case, the court shall inform the person that: (i) nonpayment of the fines, fees, costs, civil penalties or expenses may result in commitment to a prison or place of confinement; (ii) payment must be made by a date certain; (iii) failure to appear at such date certain or failure to make the payment may result in the issuance of a default; and (iv) if an inability to pay exists as the result of a change in financial circumstances or for any other reason, the person has a right to address the court on that inability to pay. A person may not be committed or detained on a delinquency or youthful offender case for failure to pay a fee, fine or costs.

SECTION 317. Said chapter 279 is hereby further amended by inserting after section 6A the following section:-

Section 6B. (a) As used in this section the following terms shall have the following meanings:-

“Dependent child”, a person who is younger than 18 years of age.

“Primary caretaker of a dependent child”, a parent with whom a child has a primary residence or a woman who has given birth to a child after or while awaiting her sentencing hearing and who expresses a willingness to assume responsibility for the housing, health and safety of that child; provided, that a parent who, in the best interest of the child, has arranged for

the temporary care of the child in the home of a relative or other responsible adult shall not for that reason be excluded from the definition of "primary caretaker of a dependent child".

(b) Unless a sentence of incarceration is required by law, a defendant, upon conviction, shall have the right to have the court consider the defendant's status as primary caretaker of a dependent child before imposing sentence. A defendant shall request such consideration, by motion supported by affidavit, not more than 10 days after the entry of judgment. Upon receipt of such a motion supported by affidavit, the court shall make written findings concerning the defendant's status as a primary caretaker of a dependent child and the availability of appropriate individually assessed, non-incarcerative sentence alternatives. The court shall not impose a sentence of incarceration without first making such written findings.

SECTION 318. Section 24 of said chapter 279, as appearing in the 2016 Official Edition, is hereby amended by striking out, in lines 18, 23 and 28, the words "person's eighteenth birthday" and inserting in place thereof, in each instance, the following words:- person reaches the age of criminal majority.

SECTION 319. Section 35 of said chapter 279, as so appearing, is hereby amended by inserting after the word "shall", in line 3, the following words:- , to the extent that an individual has been assigned a fingerprint-based state identification number and that such number has been provided to the court.

SECTION 320. Said section 35 of said chapter 279, as so appearing, is hereby further amended by inserting after the word "mittimus", in line 4, the following words:- the person's fingerprint-based state identification number,.

SECTION 321. Section 6A of chapter 280 of the General Laws, as so appearing, is hereby amended by striking out the fourth sentence and inserting in place thereof the following

sentence:- The court or justice may waive all or part of the cost assessment, the payment of which would impose a substantial financial hardship on the person convicted or the person's family or dependents.

SECTION 322. Section 6B of said chapter 280, as so appearing, is hereby amended by striking out the words "18 years", in line 3, and inserting in place thereof the following words:- criminal majority.

SECTION 323. Section 368 of chapter 26 of the acts of 2003 is hereby repealed.

SECTION 324. Section 19 of chapter 122 of the acts of 2005 is hereby amended by inserting after the word "registry", in line 7, the following words:- ; provided, however, that approval procedures for ignition interlock device servicing and monitoring entities shall require any entity seeking certification to agree to provide all program costs, including installation, maintenance and removal, at 50 per cent cost to a person who presents documentation issued by the registrar that such cost would cause a substantial financial hardship on the offender or the offender's family; provided further, that documentation of substantial financial hardship on the offender or the offender's family shall include, but shall not be limited to, evidence of a valid electronic benefit transfer card or evidence of a valid MassHealth benefits card; and provided further, that the registrar shall provide notice to a person seeking application for a certified ignition interlock device that the person may obtain a certified ignition interlock device, services and monitoring at 50 per cent cost if such cost would cause a substantial financial hardship on the offender or the offender's family.

SECTION 325. Said section 19 of said chapter 122 is hereby further amended by inserting after the word "vehicles", in line 10, the following words:- ; provided, however, that reporting shall ensure compliance with an entity's responsibly pursuant to clause (2) including,

but not limited to, standard charges for installation, service, maintenance and removal of a device and percentages of the entity's standard program costs waived pursuant to said clause (2).

SECTION 326. Clause (6) of said section 19 of said chapter 122 is hereby amended by striking out subclauses (a) to (c), inclusive, and inserting in place thereof the following 3 clauses:- (i) of inspection of the certified ignition interlock device for accurate operation by an entity approved by the registrar not less than once every 30 days, as promulgated by the registrar, for the duration of any license ignition interlock device restriction;

(ii) that the ignition interlock device shall be monitored, maintained and serviced not less than every 30 days, as promulgated by the registrar, by an entity approved by the registrar; and

(iii) that the costs to install and maintain the certified ignition interlock device shall be borne by the operator unless the operator presents valid evidence of a substantial financial hardship on the individual.

SECTION 327. Said section 19 of said chapter 122 is hereby further amended by striking out clause (8) and inserting in place thereof the following clause:-

(8) violation of the required inspection, monitoring or reporting requirements may result, after hearing, in up to a 2-year extension of the ignition interlock license or a permanent revocation of an ignition interlock license and up to an additional 10-year license suspension during which such a person may not be eligible for an ignition interlock license.

SECTION 328. Said section 19 of said chapter 122 is hereby further amended by striking out clause (9) and inserting in place thereof the following clause:-

(9) a schedule for phasing in requirements that ignition interlock devices be equipped with cameras or other means of positively identifying the person providing the ignition interlock breath alcohol concentration test.

SECTION 329. The commissioner of correction and the secretary of public safety and security shall promulgate rules and regulations necessary to implement section 119A of chapter 127 of the General Laws not later than 6 months after the effective date of this act.

SECTION 330. The commissioner of correction shall select 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. Selected facilities shall maintain or provide for the capacity to possess, dispense and administer 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 under section 16 of chapter 127 of the General Laws. 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.

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

Not later than November 1, 2018, and by November 1 of each subsequent year that the pilot program is in place, selected facilities shall report to the commissioner of correction the following information: (i) the cost of the pilot program to the facility related; (ii) the type and

prevalence of opioid substitutions and medication assisted treatments provided through the pilot program; (iii) the number of inmates who continued to receive the same opioid substitution or medication assisted treatment as they received prior to incarceration; (iv) the number of inmates who voluntarily discontinued the opioid substitution or medication assisted treatment that they received prior to incarceration; (v) the number of inmates who discontinued the opioid substitution or medication assisted treatment that they received prior to incarceration due to a determination by an addiction specialist; (vi) a review of the facility's practices related to opioid substitution and medication assisted treatment prior to inclusion in the pilot program; and (vii) any other information requested by the department of correction related to the administration of the pilot program.

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

(C) the number of inmates who discontinued the opioid substitution or medication assisted treatment that they received prior to incarceration due to a determination by an addiction specialist.

The department of correction shall select facilities for participation in the pilot program in the following manner: (i) for the first year, the Massachusetts alcohol and substance abuse center and at least 2 houses of correction and 2 state prisons shall be included in the pilot program; (ii) for the second year, at least 30 per cent of houses of correction and state prisons shall be included in the pilot program; (iii) for the third year, at least 60 per cent of houses of correction and state prisons shall be included in the pilot program; and (iv) for the fourth year, all houses of correction and state prisons shall be included in the pilot program.

SECTION 331. The secretary of elder affairs and the secretary of the executive office of public safety and security 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) additional legislative or regulatory changes that would further strengthen elder protection laws; and (iii) 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, 2018.

SECTION 332. Not later than July 1, 2018, the commissioner of corrections and the sheriffs shall provide a plan to the chairs of the senate and house committees on ways and means as to the resources needed to comply with section 178 The plan shall include an accounting of efforts to reduce the population in restrictive housing so as to facilitate program improvements.

SECTION 333. There shall be a juvenile justice data task force to make recommendations on coordinating and modernizing the juvenile justice data systems and reports that are developed and maintained by state agencies and the courts. The task force shall consist of the following members or their designees: the chief justice of the trial court; the chief justice of the juvenile court; the secretary of health and human services; the commissioner of probation; the commissioner of youth services; the commissioner of children and families; the commissioner of mental health; the commissioner of transitional assistance; the executive director of Citizens for Juvenile Justice, Inc.; the president of the Massachusetts Society for the Prevention of Cruelty to Children; the executive director of the Children's League of Massachusetts, Inc.; the executive director to the Massachusetts District Attorneys Association; the chief counsel of the committee for public counsel services; the child advocate; the chair of the juvenile justice advisory committee; a representative of the Massachusetts Chiefs of Police Association; and 2 members appointed by the governor, 1 of whom shall have experience or expertise related to the juvenile justice system or the design and implementation of juvenile justice data systems or both and 1 of whom shall be an independent expert in state administrative data systems.

The task force shall conduct not less than 1 public hearing. The task force shall analyze the capacities and limitations of the data systems and networks used to collect and report state and local juvenile caseload and outcome data. The analysis shall include the following: (i) a review of the relevant data systems, studies and models from the commonwealth and other states; (ii) identification of changes or upgrades to current data collection processes to remove inefficiencies, track and monitor state agency and court-involved juveniles and facilitate the coordination of information sharing between relevant agencies and the courts; (iii) identification

of racial and ethnic disparities apparent within the juvenile justice system and ways to reduce such disparities; and (iv) any other matters which the task force determines may improve the collection and interagency coordination of juvenile justice data.

The task force shall file a report on the options for improving interagency coordination, modernization and upgrading of state and local juvenile justice data and information systems. The report shall include, but not be limited to: (i) recommended additional collection and reporting responsibilities for agencies, departments or providers; (ii) recommendations for the creation of a web-based statewide clearinghouse or information center that would make relevant juvenile justice information on operations, caseloads, dispositions and outcomes available in a user-friendly, query-based format for stakeholders and members of the public, including an assessment of the feasibility of implementing such a system; and (iii) a plan for improving the current juvenile justice reporting requirements, including streamlining and consolidating current requirements without sacrificing meaningful data collection and including a detailed analysis of the information technology and other resources necessary to implement improved data collection. The report shall be filed with the clerks of the senate and the house of representatives not later than January 1, 2019, and the clerks shall forward the report to the senate and house chairs of the joint committee on the judiciary and the senate and house chairs of the joint committee on children, families and persons with disabilities.

SECTION 334. There shall be a task force to evaluate how to collect fingerprint-based identification where the person against whom a complaint was issued or an indictment was made was not arrested. The task force shall consist of the following members or their designees: the secretary of public safety and security, who shall serve as chair; the chief justice of the trial court; and the president of the Massachusetts Chiefs of Police Association Incorporated. Not

later than December 1, 2018, the task force shall file a report of its recommendations with the clerks of the senate and house of representatives, and the clerks shall forward the report to the senate and house chairs of the joint committee on the judiciary and the senate and house chairs of the joint committee on public safety and homeland security.

SECTION 335. There shall be a task force to evaluate the advisability, feasibility and impact of raising the age of juvenile court jurisdiction to defendants younger than 21 years of age. The study shall include, but not be limited to:(i) the benefits and disadvantages of including 19 and 20 year olds in the juvenile justice system; (ii) the impact of integrating 19 and 20 year olds into the under-19 population in the care and custody of the department of youth services; (iii) the ability to segregate young adults in the care and custody of the department of youth services from younger juveniles in such care; and (iv) the potential costs to the state court system and state and local law enforcement. The task force shall consider resources and facilities, if any, that could be reallocated from the adult system to the juvenile system and the advisability and feasibility of establishing a separate young adult court. The task force shall consist of the following members or their designees: the secretary of the executive office of public safety and security; the commissioner of youth services; the commissioner of the department of children and families; the commissioner of the department of correction; the commissioner of probation; the chief justice of the district court; the chief justice of the Boston municipal court; the chief justice of the superior court; the chief justice of the juvenile court department; the director of the juvenile court clinic; a designee of the Massachusetts District Attorneys Association; the chief counsel of the committee for public counsel services; 1 member appointed by the governor, who shall have expertise in the neurological development of young adults; 1 member appointed by the speaker of the house of representatives; 1 member appointed by the president of the senate; 1

member appointed by the minority leader of the house of representatives; 1 member appointed by the minority leader of the senate; the executive director of Citizens for Juvenile Justice, Inc.; 1 member appointed by American Federation of State, County and Municipal Employees Council 93, who shall be an employee of the department of youth services and have not less than 5 years of experience working in a department of youth services secure facility; and the child advocate. The task force shall select a chair from its members. Not later than January 1, 2019, the task force shall file a final report with the clerks of the senate and house of representatives, and the clerks shall forward the report to the senate and house chairs of the joint committee on the judiciary and the senate and house chairs of the joint committee on ways and means.

SECTION 336. There shall be a task force to evaluate and review the impact and effectiveness of eliminating certain mandatory minimum sentences and to make recommendations on the advisability of making further changes to criminal sentences that impose a mandatory minimum sentence. The evaluation and review shall include, but shall not be limited to: (i) the impact of such sentences on minority communities or neighborhoods; (ii) the impact of such sentences on access to equal justice, including the impact such sentences have on pleading to other crimes; (iii) the impact of such sentences on different age groups, including young adults: (iv) an examination of such sentences as compared to other crimes that do not impose a mandatory minimum sentence, including comparisons with other state and federal sentencing schemes; (v) a comparative analysis of the costs of such sentences to the commonwealth; (vi) the effectiveness of such sentences on reducing crime; (vii) the advisability of adopting so-called “safety valve” provisions, or other policies that allow for the imposition of a sentence less than the mandatory minimum sentence; and (viii) a review of the effectiveness

and advisability of drug sentencing policies that allow intent to be based solely on the weight of the substance.

The task force shall consist of the attorney general or a designee, who shall serve as chair; the secretary of public safety and security or a designee; the commissioner of probation or a designee; 1 member designated by the Massachusetts sentencing commission; 1 member designated by the executive office of the trial court; 1 member designated by the committee for public counsel services; 1 member designated by the American Civil Liberties Union of Massachusetts, Inc.; 1 member designated by the Massachusetts District Attorneys Association; 1 member designated by the Massachusetts Chiefs of Police Association Incorporated; 1 member designated by Ex-Prisoners and Prisoners Organizing for Community Advancement; and 1 member designated by the Massachusetts office for victim assistance.

Not later than January 1, 2020, the task force shall file a final report, which shall include recommendations for legislative or regulatory changes based on the task force's findings, as appropriate, with the clerks of the senate and house of representatives. The clerks shall forward the report to the joint committee on the judiciary and the joint committee on ways and means.

SECTION 337. There shall be a special commission to study the prevention of suicide among prisoners and correction officers in correctional facilities in the commonwealth. The commission shall consist of: the secretary of public safety and security or the a designee, who shall serve as chair; the commissioner of correction or a designee; the commissioner of public health or a designee; 1 person appointed by the senate president; 1 person appointed by the speaker of the house of representatives; and 5 persons appointed by the governor, 1 of whom shall be a representative of a legal advocacy organization that has expertise with issues related to prisons and prisoners, 1 of whom shall be a representative of a community organization or public

agency that works with prisoners and their families, 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 correction officers in the commonwealth and 1 of whom shall be a representative of an organization that represents sheriffs of the commonwealth. Each member shall serve without compensation.

The commission shall review the state of suicide prevention programs in correctional facilities in the commonwealth and develop model plans, recommend program changes, highlight budget priorities and recommend best practices that can be utilized to reduce instances of prisoner and 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) develop recommendations on ways in which correctional facilities can improve intake screening and bookkeeping; (iv) examine and develop recommendations on methods by which correctional facilities may improve identification, referral and evaluation of individual suicide risk; (v) provide recommendations for improving communication between detention facility staff and arresting or transporting officers, as well as between detention facility staff and potentially suicidal inmates; (vi) examine and develop recommendations on methods by which correctional facilities may improve housing designated for inmates that are identified as suicidal; (vii) provide recommendations for improving observation and treatment plans for inmates identified as suicidal; (viii) provide recommendations for improving suicide intervention; (ix) examine and develop recommendations for how correctional facilities may improve or establish practices of postmortem notification, reporting and mortality-morbidity reviewing; (x) develop

recommendations for the provision of mental health counseling services to correction officers that have a need for such services; (xi) examine ways in which correctional facilities can reduce stress, anxiety and depression among correction officers; and (xii) 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 file its findings and recommendations relative to suicide prevention, together with drafts of legislation necessary to carry those recommendations into effect, with the clerks of the senate and house of representatives, the senate and house 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 March 31, 2019.

SECTION 338. There shall be a restoration center commission in the former county of Middlesex to plan and implement a county restoration center and program to divert persons suffering from mental illness or substance use disorder who interact with law enforcement or the court system during a pre-arrest investigation or the pre-adjudication process from lock-up facilities and hospital emergency departments to appropriate treatment.

The commission shall consist of: the Middlesex sheriff or a designee, who shall serve as co-chair; a representative from the Massachusetts Association for Mental Health, Inc., who shall serve as co-chair; the Middlesex district attorney or a designee; a representative of the National Alliance on Mental Illness of Massachusetts, Inc.; 2 representatives appointed by the Middlesex County Chiefs of Police Association from police departments in the former county of Middlesex who have received critical incident training or have established a local jail diversion program; 2

representatives appointed by the Association for Behavioral Healthcare, Inc., at least one of whom shall be be a provider organization in the former county of Middlesex with experience operating a local jail diversion program; 1 member of the senate; 1 member of the house of representatives; a representative from the department of mental health with knowledge of sequential intercept mapping and forensic services; a representative from the department of public health with knowledge of sequential intercept mapping and forensic services; a representative from the trial court with specialty court experience; a representative from the executive office of public safety and security; a representative from MassHealth with knowledge of insurance vehicles, including Medicaid; a representative from the Massachusetts Psychiatric Society, Inc. with experience in community-based mental health services; a representative from The Massachusetts Psychological Association, Inc.; a representative from the office of the commissioner of probation within the former county of Middlesex; a representative from the parole board with knowledge of establishing methodologies and analyzing metrics for program fidelity; and a representative from the committee for public counsel services. The commission shall hold its first meeting not more than 30 days after the effective date of this act.

The commission shall develop and implement a 3-year plan to build a restoration center in the former county of Middlesex. In the first year, the commission shall: (i) perform an examination of state and national best practices including, but not limited to, the Bexar County model, which has received national recognition from the federal Substance Abuse and Mental Health Services Administration for its success in diverting individuals with behavioral health issues away from the criminal justice system and into appropriate treatment; and (ii) review the current capacity of mental health providers within the former county to provide behavioral health services to individuals suffering from mental illness or substance use disorders who interact with

law enforcement or the court system and the barriers they face to accessing treatment. In the second year, the commission shall develop a jail diversion program and an initial pilot focused on providing integrated community-based services from a centralized location and perform an analysis of potential costs and cost-savings. In the third year, the commission shall develop a restoration center and secure funding for a subsequent 2-year period.

Within 1 year, the commission shall submit its findings and recommendations for a restoration center, together with drafts of legislation necessary to carry out those recommendations, including a report on the current capacity to provide behavioral health services to individuals suffering from mental illness or substance use disorder, which shall include, but shall not be limited to, the type of services pre-arrest, pre- and post-release, location of services, type of patients served and barriers to diverting individuals away from the criminal justice system and into treatment. Within 2 years, the commission shall report on the outcome of the pilot programs and provide a full implementation plan for a restoration center including, but not limited to, deliverables, barriers to implementation and costs. The report shall be submitted to the senate and house committees on ways and means, the joint committee on mental health and substance abuse, the executive office of public safety and security, the executive office of health and human services and the governor. The commission shall thereafter produce an annual report, which shall include, but shall not be limited to: a list of services and programs, populations served and financial information.

SECTION 339. Notwithstanding any general law or special law to the contrary, there shall be a special commission to study the health and safety of lesbian, gay, transgender, queer, and intersex prisoners in the correctional institutions, jails and houses of correction of the

commonwealth in order to evaluate current access to appropriate healthcare services and health outcomes.

The special commission shall consist of: 1 member appointed by the department of correction who works in corrections; 1 sheriff appointed by the Massachusetts Sheriffs Association; 1 former judge appointed by the chief justice of the supreme judicial court; 1 member appointed by the governor who shall be a representative of a healthcare provider with expertise in transgender healthcare; 1 member appointed by the national association of social workers; 1 member appointed by Prisoners' Legal Services; and 2 members appointed by the attorney general, 1 of whom shall be a representative of an organization specializing in the advocacy, education, direct service and organizing of currently and formerly incarcerated lesbian, gay, bisexual, queer and transgender individuals and 1 of whom shall be a representative of legal advocates with expertise in advocating for lesbian, gay, bisexual, queer, transgender and intersex individuals in the criminal justice system.

The members of the special commission shall be provided full and unfettered access to all state prisons and houses of correction in the commonwealth and shall be allowed to interview prisoners and staff to the extent practicable. The special commission shall gather information that includes, but shall not be limited to: (i) the number of prisoners who have received diagnoses of gender dysphoria or transition-related healthcare; (ii) the number of prisoners who have been denied diagnoses of gender dysphoria or transition-related healthcare; (iii) the number of denied requests for an alternative housing or facility placement by prisoners in connection with their gender identity and the reasons for the denial; and (iv) training provided to department staff and contracted health professionals on lesbian, gay, bisexual, queer, transgender and intersex cultural competency.

The special commission shall produce a report that shall include specific recommendations to improve outcomes, a timeline by which specific tasks or outcomes shall be achieved and recommendations for improving prisoner health and safety that shall be published not more than 1 year after the passage of this act. The special commission shall issue a subsequent and final report evaluating implementation of its recommendations not more than 3 years after the passage of this act. The commission shall make the reports publicly available and shall deliver copies of the reports to the governor, the attorney general and the joint committee on the judiciary.

SECTION 340. Notwithstanding any general or special law to the contrary, there shall be a special commission created to review the qualifications and scope of practice of qualified examiners, as defined in section 1 of chapter 123A.

The special commission shall consist of the senate and house chairs of the joint committee on the judiciary or their designees, who shall serve as co-chairs; the minority leader of the house of representatives or a designee; the minority leader of the senate or a designee; the secretary of public safety and security or a designee; the commissioner of correction or a designee; the commissioner of public health or a designee; the executive director of the Massachusetts District Attorneys Association or a designee; the executive director of the Massachusetts office of victim assistance or a designee; the superintendent of the Massachusetts treatment center or a designee; the executive director of the committee for public counsel services or a designee; a representative of a professional association with expertise in the assessment and treatment of sexually dangerous persons; and a person with experience in supervision of qualified examiners. The special commission shall consult with the sex offender

registry board, the parole board, the department of probation and others as necessary to complete the commission's work.

The special commission shall conduct a thorough review of the educational and experiential requirements for qualified examiners and the clinical standards and practices and risk assessment criteria used by qualified examiners in conducting an assessment of sexually dangerous persons, as defined in section 1 of chapter 123A. The special commission shall determine whether these requirements, standards and practices reflect the current scientific research and best practice evidence in the field and make recommendations for revision of current professional requirements, clinical standards, practices and risk assessment criteria as needed to support effective practice among qualified examiners and to maximally ensure public safety.

The special commission shall submit its report and recommendations, together with drafts of legislation to carry its recommendations into effect, with the clerks of the senate and house not later than August 1, 2018.

SECTION 341. Notwithstanding any general or special law to the contrary, juvenile records including, but not limited to, juvenile conviction data, juvenile arrest data or juvenile sealed record data shall not be shared with the registry of motor vehicles, except when a consequence of a sentencing decision is related to operating a motor vehicle, in which case such data may be shared by the court, probation, district attorney, law enforcement agencies, the department of criminal justice information services or any other agency or entity that lawfully possesses such records.

SECTION 342. The executive office of public safety and security may issue a temporary waiver from the requirements of section 1A of chapter 263 for a defined period of time to a

police department that demonstrates, upon application to the executive office, that it has inadequate resources to implement that section.

SECTION 343. Notwithstanding section 32H of chapter 94C or any other general or special law to the contrary, as of the effective date of this act a person who is serving a sentence for an offense that has been repealed by this act shall be eligible to receive deductions from that person's sentence for good conduct under sections 129C and 129D of chapter 127.

SECTION 344. Sections 39 to 39D, inclusive, and 39F of chapter 127 of the General Laws, inserted by section 178, and section 179 shall take effect on July 1, 2018.

SECTION 345. Section 39E of said chapter 127, inserted by said section 178 shall take effect on January 1, 2019.

SECTION 346. Sections 8, 27, 28, 97, 100, 101, 106, 107, 114, the definition of "Delinquent child" in section 131, 132, 133, 135, 137, 138, 139, 140, 141, 143, 144, 145, 146, 148, 149, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 168, 169, 184, 185, 186, 203, 219, 222, 226, 227, 228, 229, 230, 231, 232, 233, 256, 257, 258, 259, 260, 261, 262, 263, 264, 284, 285, 289, 291, 300, 302, 303, 307 , and 322 shall take effect January 1, 2019.

SECTION 347. Sections 30, 116, 134, 175, 191, 197, 201, 220, 319, and 320 shall take effect on July 1, 2019.

SECTION 348. Section 85 shall take effect on September 1, 2018.

SECTION 349. Section 193 shall take effect on July 1, 2018.

SECTION 350. Section 194 shall take effect on July 1, 2019.

SECTION 351. Sections 195 and 196 shall take effect on July 1, 2020.

SECTION 352. Sections 223A to 223E, inclusive, shall take effect on August 1, 2018.