

SENATE No. 2371

The Commonwealth of Massachusetts

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

SENATE,

Report of the committee of conference on the disagreeing votes of the two branches, with reference to the House amendments to the Senate Bill relative to criminal justice reform (Senate, No. 2200) (amended by the House by striking out all after the enacting clause and inserting in place thereof the text of House document numbered 4043),-- reports, in part, a "Bill relative to criminal justice reform." (Senate, No. 2371).

For the Committee:

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Cynthia Stone Creem
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SENATE No. 2371

The Commonwealth of Massachusetts

**In the One Hundred and Eighty-Ninth General Court
(2015-2016)**

An Act relative to criminal justice reform.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to forthwith make certain changes in laws relative to the administration of justice in the Commonwealth, therefore, it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

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

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

3 Sixtieth, “Age of criminal majority” shall mean the age of 18.

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

8 SECTION 2. Chapter 6 of the General Laws is hereby amended by inserting after section
9 116F the following section:-

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

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

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

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

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

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

35 SECTION 3. The definition of “Criminal offender record information” in section 167 of
36 said chapter 6, as so appearing, is hereby amended by striking out the second sentence and
37 inserting in place thereof the following sentence:- Such information shall be restricted to
38 information recorded in criminal proceedings that are not dismissed before arraignment.

39 SECTION 4. Said section 167 of said chapter 6, as so appearing, is hereby further
40 amended by striking out, in lines 41 and 42, the words “is adjudicated as an adult” and inserting
41 in place thereof the following words:- was adjudicated as an adult in superior court or

42 adjudicated as an adult after transfer of a case from a juvenile session to another trial court
43 department.

44 SECTION 5. Section 167A of said chapter 6, as so appearing, is hereby amended by
45 adding the following subsection:-

46 (i)(1) The department shall quarterly obtain arrest data, consistent with the National
47 Incident-Based Reporting System of the Uniform Crime Reporting Program of the United States
48 Department of Justice Federal Bureau of Investigation, from criminal justice agencies including,
49 without limitation: the Massachusetts state police; the Massachusetts Bay Transportation
50 Authority police force; any police department in the commonwealth or any of its political
51 subdivisions; any law enforcement council, as defined in section 4J of chapter 40, created by
52 contract between or among cities and towns, pursuant to section 4A of said chapter 40; and any
53 entity employing 1 or more special state police officers appointed pursuant to section 63 of
54 chapter 22C.

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

69 SECTION 6. Section 172 of said chapter 6, is hereby amended by inserting after the
70 word “convictions”, in lines 29, 44 and 52, as so appearing, in each instance, the following
71 words:- or findings of not guilty by reason of insanity.

72 SECTION 7. Section 172A of said chapter 6, as so appearing, is hereby amended by
73 inserting after the words “42 U.S.C. 18031(i)”, in line 9, the following words:- , or veterans
74 organizations requesting information relative to employees, volunteers and veterans that such
75 organizations shall provide housing for.

76 SECTION 8. Said chapter 6 is hereby amended by inserting after section 172M the
77 following section:-

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

85 SECTION 9. Said chapter 6 is hereby further amended by striking out section 184A, as
86 appearing in the 2016 Official Edition, and inserting in place thereof the following section:-

87 Section 184A. (a) There shall be a forensic science oversight board in the executive
88 office of public safety and security. The board shall have oversight authority over all
89 commonwealth facilities engaged in forensic services in criminal investigations, and shall
90 provide enhanced, objective and independent auditing and oversight of forensic evidence used in
91 criminal matters, and of the analysis, including the integrity of such forensic analysis performed
92 in state and municipal laboratories.

93 The board shall consist of: the undersecretary for forensic sciences or a designee, who
94 shall serve as chair but shall not be a voting member; and 13 members who shall be appointed by
95 the governor, 1 of whom shall have expertise in forensic science, 1 of whom shall have expertise
96 in forensic laboratory management, 1 of whom shall have expertise in cognitive bias, 1 of whom

97 shall have expertise in statistics, 1 of whom shall be in academia in a research field involving
98 forensic science, 1 of whom shall have expertise in statistics, 1 of whom shall have expertise in
99 forensic laboratory management, 1 of whom shall have expertise in clinical quality management,
100 1 of whom shall be nominated by the Massachusetts District Attorneys Association, 1 of whom
101 shall be nominated by the attorney general, 1 of whom shall be nominated by the committee for
102 public counsel services, 1 of whom shall be nominated by the Massachusetts Association of
103 Criminal Defense Lawyers, Inc. and 1 of whom shall be nominated by the New England
104 Innocence Project, Inc.

105 A member, other than the undersecretary for forensic sciences or a designee and those
106 nominated by the Massachusetts District Attorneys Association, the attorney general, the
107 committee for public counsel services or the New England Innocence Project, Inc., shall not be
108 employed by or affiliated with any state or municipal forensic laboratory throughout the term of
109 membership.

110 (b) All appointments to the board shall be for a term of 4 years, with the members
111 initially appointed serving staggered terms. A vacancy, other than by expiration of term, shall be
112 filled by the governor for the unexpired term. Staff for the board shall be provided by the
113 executive office of public safety and security. The board shall meet at times and places as is
114 requested by 5 of its members and shall not meet less than quarterly. Members shall not
115 designate a proxy to vote in their absence. Members of the board shall serve without
116 compensation but shall be reimbursed for reasonable and necessary expenses incurred in the
117 performance of their duties.

118 (c) Not more than 6 months following the appointment of its membership, the board shall
119 conduct a comprehensive audit of the facilities and practices being utilized for criminal forensic
120 analysis in the Commonwealth and the operation and management of the Massachusetts state
121 police crime laboratories. Such audit shall include, but not be limited to: (i) evaluating the
122 capabilities of the state police crime laboratory and its ability to process evidence necessary to
123 comply with the Massachusetts general laws; (ii) the condition and accuracy of testing
124 equipment; (iii) the handling processing, testing and storage of evidence by such facilities; (iv)
125 establishing professional qualifications necessary to serve as the head of the state police crime
126 laboratory; (v) the licensure and oversight of laboratory personnel; (vi) determining the proper

127 entity to control the crime laboratory and whether it would be appropriate to transfer such control
128 to another executive agency or to an independent executive director; (vii) the feasibility of
129 creating a board to select an independent executive director of the crime laboratory; (viii) setting
130 term limits and reappointment standards applicable to the head of the state police crime
131 laboratory. The results of such audit, together with any recommendations for regulatory or
132 legislative actions, shall be reported to the clerks of the house and senate, the secretary of public
133 safety and security, the joint committee on the judiciary, the joint committee on public safety and
134 homeland security, the colonel of the state police, and the house and senate committee on ways
135 and means.

136 (d) The board shall initiate an investigation into any forensic science, technique or
137 analysis used in a criminal matter upon: (i) application by a person alleging that a forensic
138 technique in common use is not scientifically valid if not less than 5 members of the
139 commission, which may include the undersecretary for forensic sciences or the undersecretary's
140 designee, agree; or (ii) a determination by not less than 5 members of the commission, which
141 may include the undersecretary for forensic sciences or the undersecretary's designee, that an
142 investigation of a forensic analysis would advance the integrity and reliability of forensic science
143 in the commonwealth.

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

150 (e) The board shall develop, implement and periodically review a system for forensic
151 laboratories to report professional negligence or misconduct and any such facility shall be
152 required to report to the board any instance of professional negligence and misconduct.

153 (f) The board shall actively engage stakeholders in the criminal justice system in forensic
154 development initiatives and shall recommend ways to improve education and training in forensic

155 science and the law, and identify measures to improve the quality of forensic analysis performed
156 in laboratories.

157 (g) The board shall develop, implement and periodically review a system to evaluate
158 laboratory accreditation and professional licensing processes, including securing and maintaining
159 such accreditation, and shall ensure that every facility is actively accredited and in compliance
160 with standards promulgated by the International Organization of Standardization.

161 (h) The board shall review any budget request of the undersecretary for forensic sciences,
162 including any recommendations for the allocation of resources and expansion of services, and
163 may provide its own recommendations to the secretary of the executive office of public safety
164 and security.

165 (i) The board shall develop protocols to ensure proper chain of custody of evidence.

166 (h) The board shall receive and review quarterly reports from the undersecretary for
167 forensic sciences that shall include such information as the board requests, and which shall, at a
168 minimum, include: (1) the volume of forensic services of each facility as well as the volume for
169 each employee within such facility; (2) the volume of forensic services required for each county;
170 (3) the costs and length of time from submission for testing and the return of results from such
171 facilities; (4) compliance with accreditation standards; and (5) facility employee records,
172 qualifications, and incident reports that could affect the integrity or results of forensic analysis.

173 At the direction of the board, the undersecretary for forensic sciences shall advise the
174 board on issues as the board shall request. The undersecretary shall make recommendations for
175 the allocation of resources and expansion of services, and on an annual basis, submit budget
176 recommendations to the secretary of the executive office of public safety and security and the
177 board.

178 SECTION 10. Section 18¾ of chapter 6A of the General Laws, as so appearing, is
179 hereby amended by adding the following 5 paragraphs:-

180 (11) to create a uniform booklet of informational material, which shall be provided to
181 persons, including juvenile offenders, committed to the custody of the department of correction,
182 the department of youth services or the sheriffs upon their release from a correctional facility.

183 The booklet shall contain, at a minimum: (i) a summary of how and by whom the committed
184 person's criminal offender record information may be accessed and distributed pursuant to
185 sections 167 to 178B, inclusive, of chapter 6; (ii) an explanation of the process for filing a
186 complaint with the department of criminal justice information services regarding the content of,
187 dissemination of or access to criminal offender record information; (iii) an explanation of the
188 right to have certain records sealed pursuant to section 100A of chapter 276 and a step by step
189 explanation of the process for sealing such records; (iv) an explanation of the duration of
190 criminal offender record information; (v) contact information for relevant employees and offices
191 of the department; (vi) a list of websites with important background on, and explanations of,
192 criminal offender record information; and (vi) a list of answers to frequently asked questions
193 about criminal offender record information.

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

208 (ii) the data collected pursuant to clause (i) shall be in the form of a cross-tracking
209 system for data collection and reporting standards for criminal justice agencies and the trial
210 court, including houses of correction and county jails. The cross-tracking system shall require all
211 criminal justice agencies and the judiciary to use a unique state identification number assigned to
212 each person who enters the criminal justice system. All criminal justice agencies and the trial

213 court shall incorporate the unique state identification number into their data systems upon a
214 person's initial transfer to their jurisdiction. Anonymized cross-agency data shall be made
215 available to the public for analysis through an application programming interface which allows
216 access to all electronically available records.

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

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

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

233 SECTION 11. Said chapter 6A is hereby amended by inserting after section 18W the
234 following 2 sections:-

235 Section 18X. (a) The executive office of public safety and security shall establish and
236 maintain a statewide sexual assault evidence kit tracking system. The secretary of public safety
237 and security, hereinafter referred to as the secretary, in conjunction with the department of public
238 health, shall convene a multidisciplinary task force composed of members that include law
239 enforcement professionals, crime lab personnel, prosecutors, victim advocates, victim attorneys,
240 survivors and sexual assault nurse examiners or sexual assault forensic examiners to help
241 develop recommendations for a tracking system, methods to improve transportation of sexual

242 assault evidence kits and funding sources. The secretary may contract with state or non-state
243 entities including, but not limited to, private software and technology providers, for the creation,
244 operation and maintenance of the system. A sexual assault evidence kit shall include the
245 standardized kit for the collection and preservation of evidence in sexual assault or rape cases as
246 designed by the municipal police training committee pursuant to section 97B of chapter 41.

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

248 (i) track the location and status of sexual assault evidence kits throughout the criminal
249 justice process, including: (1) the initial collection in examinations performed at hospitals or
250 medical facilities; (2) receipt and storage at a governmental entity, including a local law
251 enforcement agency, the department of state police, a district attorney's office or any other
252 political subdivision of the commonwealth or of a county, city or town; (3) a hospital or medical
253 facility that is in possession of forensic evidence pursuant to section 97B of chapter 41; (4)
254 receipt and analysis at forensic laboratories; and (5) storage and any destruction after completion
255 of analysis;

256 (ii) allow hospitals or medical facilities performing sexual assault forensic examinations,
257 law enforcement agencies, prosecutors, the crime laboratory within the department of state
258 police, or any crime laboratory operated by the police department of a municipality with a
259 population of more than 150,000, and other entities in the custody of sexual assault kits to update
260 and track the status and location of sexual assault kits;

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

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

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

269 (d) Local law enforcement agencies shall participate in the statewide sexual assault
270 evidence kit tracking system established in this section for the purpose of tracking the status of
271 all sexual assault evidence kits in the custody of local law enforcement agencies and other
272 entities contracting with local law enforcement agencies.

273 (e) The director of the crime laboratory within the department of state police and the
274 director of any crime laboratory operated by the police department of a municipality with a
275 population of more than 150,000 shall participate in the statewide sexual assault evidence kit
276 tracking system established in this section for the purpose of tracking the status of all sexual
277 assault evidence kits in the custody of the department of state police and other entities
278 contracting with the department of state police or such crime laboratory operated by a police
279 department of a municipality with a population of more than 150,000.

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

284 (g) District attorney offices shall participate in the statewide sexual assault evidence kit
285 tracking system established in this section for the purpose of tracking the status of all sexual
286 assault evidence kits.

287 Section 18Y. Annually, on or before September 1st, the following reports regarding the
288 previous fiscal year shall be submitted to the executive office of public safety and security by
289 law enforcement agencies, medical facilities, crime laboratories, and any other facilities that
290 receive, maintain, store or preserve sexual assault evidence kit. The reports shall contain: (i) the
291 total number of all kits containing forensic samples collected or received; (ii) the date of
292 collection or receipt of each kit; (iii) the category of each kit; (iv) the sexual assault that was
293 reported to law enforcement; (v) whether or not the victim chose not to file a report with law
294 enforcement (non-investigatory); (vi) the status of the kit; (vii) the total number of all kits
295 remaining in possession of the medical facility, law enforcement or laboratory and all reasons for
296 any kit in possession for more than 30 days;viii) the total number of kits destroyed by medical
297 facilities, law enforcement or laboratories, and reason for destruction;

298 ix. in the case of a medical facility, the date the kit was collected, the date the kit was
299 reported to law enforcement and the date the kit was picked up by law enforcement;

300 x. in the case of law enforcement the date the kit was picked up from a medical
301 facility, the date the kit was delivered to the crime laboratory and, for kits belonging to another
302 jurisdiction, the date that the jurisdiction was notified and the date it was picked up; and

303 xi. in the case of crime laboratories the date the kit was received, from which agency
304 the kit was received, the date the kit was tested, the date the resulting information was entered
305 into CODIS and the state DNA databases and all reasons a kit was not tested or a DNA profile
306 was not created.

307 The executive office of public safety and security shall compile the information in a
308 summary report that includes a list of all agencies or facilities that failed to participate in the
309 audit. The annual summary report shall be made publicly available on the executive office of
310 public safety and security's website and shall be submitted to the governor, the attorney general,
311 the clerks of the house of representatives and the senate, and the house and senate chairs of the
312 joint committee on the judiciary.

313 The executive office of public safety and security may obtain information from the
314 tracking system established in section 18X and by additional means, such as manual counts and
315 review of records such as case files.

316 SECTION 12. Section 3 of chapter 7D of the General Laws, as amended by section 13 of
317 chapter 64 of the acts of 2017, is hereby further amended by striking out the words "and (xii)
318 adapt standards as necessary for individual agencies to comply with federal law" and inserting in
319 place thereof the following words:- (xii) adapt standards as necessary for individual agencies to
320 comply with federal law; and

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

326 SECTION 13. Said chapter 7D is hereby amended by adding the following section:-

327 Section 11. There shall be an inter-branch, interagency oversight board to monitor and
328 ensure that the justice reinvestment policies relative to data collection and its availability to the
329 public achieve anticipated goals. The board shall consist of 16 members: the secretary of the
330 executive office of technology services and security, who shall serve as chairperson; the attorney
331 general or a designee; the chief justice of the trial court or a designee; the secretary of the
332 executive office of public safety and security or a designee; the commissioner of probation or a
333 designee, the chief counsel of the committee for public counsel services or a designee; the
334 commissioner of correction or a designee; a member of the Massachusetts District Attorneys
335 Association; a member of the Massachusetts Sheriffs Association, Inc.; the senate chair of the
336 joint committee on the judiciary or a designee; the house chair of the joint committee on the
337 judiciary or a designee; the chief legal counsel of the Massachusetts Bar Association or a
338 designee; the executive director of the American Civil Liberties Union of Massachusetts, Inc. or
339 a designee; and 3 members appointed by the governor: 1 of whom shall be an expert in
340 addressing racial, ethnic, gender or age bias and 2 of whom shall be experts in data collection
341 and analysis.

342 The board shall meet quarterly to review the compliance of : (i) criminal justice agencies
343 and the trial court, including the probation service, the parole board, the executive office of
344 public safety and security, the department of correction, houses of correction and county jails in:
345 (1) collecting and submitting data required by paragraphs 12, 13 and 14 of section 18³/₄ of
346 chapter 6A; (2) making said data available to the public as required by said paragraphs 12, 13
347 and 14 of said section 18³/₄ through the development of data portals to make data without
348 personally identifiable information so available; and (ii) criminal justice agencies and the trial
349 court, including the department of correction, houses of correction and county jails, with policies
350 ensuring accurate data collection across racial, ethnic and gender classifications; provided, that
351 compliance shall include a review of whether the methods of data collection are appropriately
352 screening for gender-specific risk or needs that may be addressed by evidence-based programs.
353 A report on the collection of data and the compliance with justice reinvestment policies shall be
354 submitted annually to the clerks of the house of representatives and the senate on or before July
355 1.

356 SECTION 14. Chapter 10 of the General Laws is hereby amended by inserting after
357 section 35DDD the following section:-

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

363 (b) The fund shall consist of: (i) funds transferred from the Marijuana Regulation Fund
364 established in section 14 of chapter 94G; (ii) revenue from appropriations or other money
365 authorized by the general court and specifically designated to be credited to the fund; (iii)
366 interest earned on money in the fund; and (iv) funds from private sources including, but not
367 limited to, gifts, grants and donations received by the commonwealth that are specifically
368 designated to be credited to the fund. Amounts credited to the fund shall not be subject to further
369 appropriation and any money remaining in the fund at the end of a fiscal year shall not revert to
370 the General Fund. The secretary shall annually report the activity of the fund to the clerks of the
371 senate and the house of representatives and the senate and house committees on ways and means
372 not later than December 31.

373 (c) Expenditures from the fund shall be made to provide funding for: (i) the operating
374 expenses of the municipal police training committee established by section 116 of chapter 6; (ii)
375 basic recruit training for new police officers; (iii) mandatory in-service training for veteran
376 police officers; (iv) specialized training for veteran police officers and reserve and intermittent
377 police officers; and (v) the basic training program for reserve and intermittent police officers.

378 SECTION 15. Section 66A of chapter 10 of the General Laws, as appearing in the 2016
379 Official Edition, is hereby amended by inserting after the words “chapter 265”, in line 6, the
380 following words:- and section 107 of chapter 272.

381 SECTION 16. Chapter 12 of the General Laws is hereby amended by adding the
382 following section:-

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

388 SECTION 17. Chapter 18C of the General Laws is hereby amended by adding the
389 following section:-

390 Section 14. The office shall convene a childhood trauma task force made up of members
391 of the juvenile justice policy and data board established pursuant to section 89 of chapter 119 to
392 study, report and make recommendations on gender responsive and trauma-informed approaches
393 to treatment services for juveniles and youthful offenders in the juvenile justice system. Said
394 task force shall review the current means of (i) identifying school-aged children who have
395 experienced trauma, particularly undiagnosed trauma, and (ii) providing services to help children
396 recover from the psychological damage caused by such exposure to violence, crime or
397 maltreatment. The task force shall consider the feasibility of providing school-based trainings on
398 early, trauma-focused interventions, trauma-informed screenings and assessments, and the
399 recognition of reactions to victimization, as well as the necessity for diagnostic tools. A priority
400 shall be placed on juvenile or youthful offender’s pathways into the juvenile justice system with
401 the goal of reducing the likelihood of recidivism by addressing the unique issues associated with
402 juvenile or youthful offenders including emotional abuse, physical abuse, sexual abuse,
403 emotional neglect, physical neglect, family violence, household substance abuse, household
404 mental illness, parental absence, and household member incarceration.

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

409 SECTION 18. Section 36 of chapter 22C of the General Laws, as appearing in the 2016
410 Official Edition, is hereby amended by adding the following 3 paragraphs:-

411 In any juvenile or adult criminal case in which a fingerprint identification has been
412 transmitted to the Federal Bureau of Investigation to provide criminal history record information
413 through the bureau's Interstate Identification Index, the department shall also transmit the case
414 disposition information, including any order of dismissal and any order to seal or expunge a
415 record. The transmission of any sealing order to the Federal Bureau of Investigation shall be
416 accompanied by an order to seal such information within the bureau's Interstate Identification
417 Index. The transmission of any expungement order to the Federal Bureau of Investigation shall
418 be accompanied by an order to expunge such information within the bureau's Interstate
419 Identification Index.

420 If the department transmits a fingerprint identification of a juvenile to the Federal Bureau
421 of Investigation to provide criminal history record information through the bureau's Interstate
422 Identification Index, the department shall also promptly transmit an order to seal such
423 information within the bureau's Interstate Identification Index.

424 The executive office of public safety and security shall promulgate regulations to assure
425 that the necessary offense based tracking number is included with criminal offender record
426 information so as to support the transmission of case disposition information to the Federal
427 Bureau of Investigation.

428 SECTION 19. Chapter 22E of the General Laws is hereby amended by striking out
429 section 3, as so appearing, and inserting in place thereof of the following section:-

430 Section 3. (a) Any person who is convicted of an offense that is punishable by
431 imprisonment in the state prison and any person adjudicated a youthful offender by reason of an
432 offense that would be punishable by imprisonment in the state prison if committed by an adult
433 shall submit a DNA sample to the department or the commissioner of probation as a condition of
434 probation forthwith upon conviction or, if sentenced to a term of imprisonment, the DNA sample
435 shall be collected within 10 days of intake or return to the correctional facility to which the
436 inmate has been sentenced. No person required to submit a DNA sample pursuant to this section
437 shall be released from a correctional facility until a DNA sample has been collected.

438 (b) The trial court, the commissioner of probation and the department shall establish and
439 implement a system for the electronic notification to the department whenever a person is

440 convicted of an offense that requires the submission of a DNA sample under subsection (a). The
441 sample shall be collected by a person authorized under section 4, in accordance with regulations
442 or procedures established by the director. The results of such sample shall become part of the
443 state DNA database. The submission of such DNA sample shall not be stayed pending a
444 sentence appeal, motion for new trial, appeal to an appellate court or other post-conviction
445 motion or petition.

446 SECTION 20. Section 4 of said chapter 22E, as so appearing, is hereby amended by
447 inserting after the word “training”, in line 5, the following words:- , a probation officer.

448 SECTION 21. Said section 4 of said chapter 22E, as so appearing, is hereby further
449 amended by inserting after the word “personnel”, in lines 14 and 18, in each instance, the
450 following words:- , including a probation officer,.

451 SECTION 22. Said chapter 22E is hereby further amended by striking out section 5, as
452 so appearing, and inserting in place thereof the following section:-

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

455 SECTION 23. Said chapter 22E is hereby further amended by striking out section 11, as
456 so appearing, and inserting in place thereof the following section:-

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

461 SECTION 24. Chapter 41 of the General Laws is hereby amended by inserting after
462 section 97B the following section:-

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

467 (b) Local law enforcement agencies shall:

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

471 (2) Submit new sexual assault evidence kits to the crime laboratory within the
472 department of the state police or the police department of a municipality that operates a crime
473 laboratory and has a population of more than 150,000, in the case of a sexual assault alleged to
474 have taken place in that municipality, within 7 business days of taking possession, except that
475 non-investigatory sexual assault evidence kits associated with a victim who has not yet filed a
476 report with law enforcement shall not be subject to the 7 day requirement. Non-investigatory kits
477 shall be safely stored by law enforcement in a manner that preserves evidence for the duration of
478 the statute of limitations for all sexual assault and rape cases.

479 (b) The crime laboratory within the department of the state police or the police
480 department of a municipality that operates a crime laboratory and has a population of more than
481 150,000, in the case of a sexual assault alleged to have taken place in that municipality, shall test
482 all sexual assault evidence kits within 30 days of receipt from local law enforcement.

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

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

487 SECTION 25. Section 98F of said chapter 41, as appearing in the 2016 Official Edition,
488 is hereby amended by striking out, in line 18, the words “or (iii)” and inserting in place thereof
489 the following words:- , (iii).

490 SECTION 26. Said section 98F of said chapter 41, as so appearing, is hereby further
491 amended by inserting after the figure “209A”, in line 21, the following words:- , or (iv) any entry
492 concerning the arrest of a person who has not yet reached 18 years of age.

493 SECTION 27. Section 37P of chapter 71, as so appearing, is hereby amended by striking
494 the second paragraph in subsection (b) and inserting in place thereof the following

495 In assigning a school resource officer, hereinafter referred to as “SRO”, the chief of
496 police shall assign an officer that the chief believes would strive to foster an optimal learning
497 environment and educational community. The chief of police shall give preference to candidates
498 who demonstrate the requisite personality and character to work with children and educators in a
499 school environment and who have received specialized training relating to working with
500 adolescents and children, including cognitive development, de-escalation techniques, and
501 alternatives to arrest and diversion strategies. The appointment shall not be based solely on
502 seniority. The performance of an SRO shall be reviewed annually by the superintendent and the
503 chief of police.

504 The superintendent and the chief of police shall enter into a written memorandum of
505 understanding which shall be placed on file in the offices of the school superintendent and the
506 chief of police. The memorandum of understanding shall, at minimum, describe the following:
507 (i) the mission statement, goals and objectives of the SRO program; (ii) the roles and
508 responsibilities of the SROs, the police department, and the schools; (iii) the process for selecting
509 SROs; (iv) the mechanisms to incorporate SROs into the school environment, including school
510 safety meetings; (v) information sharing between SROs, school staff and other partners; (vi) the
511 organizational structure of the SRO program, including supervision of SROs and the lines of
512 communication between the school district and police department; (vii) training for SROs,
513 including but not limited to continuing professional development in child and adolescent
514 development, conflict resolution and diversion strategies; and (viii) specify the manner and
515 division of responsibility for collecting and reporting the school-based arrests, citations and court
516 referrals of students to the department of elementary and secondary education in accordance with
517 regulations promulgated by the department, which shall collect and publish disaggregated data in
518 a like manner as school discipline data made available for public review.

519 The memorandum of understanding shall state that SROs shall not serve as school
520 disciplinarians, as enforcers of school regulations or in place of licensed school psychologists,
521 psychiatrists or counselors and that SROs shall not use police powers to address traditional
522 school discipline issues, including non-violent disruptive behavior.

523 The chief of police, in consultation with the school superintendent, shall establish
524 standard operating procedures, hereinafter referred to as “SOP” to provide guidance to SROs

525 about daily operations, policies and procedures. At minimum, the SOP, as established by the
526 chief of police, shall describe the following for the school resource officer:

- 527 (1) the SRO uniform;
- 528 (2) use of police force, arrest, citation and court referral on school property;
- 529 (3) a statement and description of students' legal rights, including the process for
530 searching and questioning students and when parents and administrators shall be notified and
531 present;
- 532 (4) chain of command, including delineating to whom the SRO reports and how
533 school administrators and the SRO work together;
- 534 (5) performance evaluation standards, which shall incorporate monitoring compliance
535 with the memorandum of understanding and use of arrest, citation, and police force in school;
- 536 (6) protocols for diverting and referring at-risk students to school- and community-
537 based supports and providers; and
- 538 (7) information sharing between the SRO, school staff, and parents or guardians.

539 The executive office of public safety and security, in consultation with the department of
540 elementary and secondary education, shall make available to all communities examples of model
541 memoranda of understanding, statements of procedures, and non-binding advisories on how to
542 establish said documents.

543 SECTION 28. Section 8A of chapter 90 of the General Laws, as so appearing, is hereby
544 amended by striking out, in line 33, the words "of the vapors of glue" and inserting in place
545 thereof the following words:- from smelling or inhaling the fumes of any substance having the
546 property of releasing toxic vapors as defined in section 18 of chapter 270.

547 SECTION 29. Section 8A^{1/2} of said chapter 90, as so appearing, is hereby amended by
548 striking out, in lines 29 and 30, the words "the vapors of glue" and inserting in place thereof the
549 following words:- from smelling or inhaling the fumes of any substance having the property of
550 releasing toxic vapors as defined in section 18 of chapter 270.

551 SECTION 30. Section 21 of said chapter 90, as so appearing, is hereby amended by
552 striking out, in line 27, the words "under the influence of the vapors of glue" and inserting in
553 place thereof the following words:- while under the influence from smelling or inhaling the

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

556 SECTION 31. Subsection (i) of section 22 of said chapter 90 is hereby repealed.

557 SECTION 32. Section 24 of said chapter 90, as appearing in the 2016 Official Edition, is
558 hereby amended by striking out, in lines 8 and 759, the words “the vapors of glue” and inserting
559 in place thereof, in each instance, the following words:- while under the influence from smelling
560 or inhaling the fumes of any substance having the property of releasing toxic vapors as defined in
561 section 18 of chapter 270.

562 SECTION 33. Subparagraph (1) of paragraph (a) of subdivision (1) of said section 24 of
563 said chapter 90, as so appearing, is hereby amended by striking out the seventh paragraph and
564 inserting in place thereof the following 5 paragraphs:-

565 If the defendant has been previously convicted or assigned to an alcohol or controlled
566 substance education, treatment or rehabilitation program by a court of the commonwealth or any
567 other jurisdiction because of a like offense 4 times preceding the date of the commission of the
568 offense for which the defendant has been convicted, the defendant shall be punished by a fine of
569 not less than \$2,000 nor more than \$50,000 and by imprisonment for not less than 2 and one-half
570 years or by a fine of not less than \$2,000 nor more than \$50,000 and by imprisonment in the state
571 prison for not less than 2 and one-half years nor more than 5 years; provided, however, that the
572 sentence imposed upon such person shall not be reduced to less than 24 months, nor suspended,
573 nor shall any such person be eligible for probation, parole, or furlough or receive any deduction
574 from his or her sentence for good conduct until he or she shall have served 24 months of such
575 sentence; provided, further, that the commissioner of correction may, on the recommendation of
576 the warden, superintendent, or other person in charge of a correctional institution, or the
577 administrator of a county correctional institution, grant to an offender committed under this
578 subdivision a temporary release in the custody of an officer of such institution for the following
579 purposes only: to attend the funeral of a relative; to visit a critically ill relative; to obtain
580 emergency medical or psychiatric services unavailable at said institution; to engage in
581 employment pursuant to a work release program; or for the purposes of an aftercare program
582 designed to support the recovery of an offender who has completed an alcohol or controlled

583 substance education, treatment or rehabilitation program operated by the department of
584 correction; and provided further, that the defendant may serve all or part of such 24 months
585 sentence, to the extent that resources are available, in a correctional facility specifically
586 designated by the department of correction for the incarceration and rehabilitation of drinking
587 drivers.

588 If the defendant has been previously convicted or assigned to an alcohol or controlled
589 substance education, treatment or rehabilitation program by a court of the commonwealth or any
590 other jurisdiction because of a like offense 5 times preceding the date of the commission of the
591 offense for which the defendant has been convicted, the defendant shall be punished by a fine of
592 not less than \$2,000 nor more than \$50,000 and by imprisonment for not less than 2 and one-half
593 years or by a fine of not less than \$2,000 nor more than \$50,000 and by imprisonment in the state
594 prison for not less than 2 and one-half years nor more than 5 years; provided, however, that the
595 sentence imposed upon such person shall not be reduced to less than 24 months, nor suspended,
596 nor shall any such person be eligible for probation, parole or furlough or receive any deduction
597 from his or her sentence for good conduct until he or she shall have served 24 months of such
598 sentence; provided further, that the commissioner of correction may, on the recommendation of
599 the warden, superintendent, or other person in charge of a correctional institution, or the
600 administrator of a county correctional institution, grant to an offender committed under this
601 subdivision a temporary release in the custody of an officer of such institution for the following
602 purposes only: to attend the funeral of a relative; to visit a critically ill relative; to obtain
603 emergency medical or psychiatric services unavailable at said institution; to engage in
604 employment pursuant to a work release program; or for the purposes of an aftercare program
605 designed to support the recovery of an offender who has completed an alcohol or controlled
606 substance education, treatment or rehabilitation program operated by the department of
607 correction; and provided further, that the defendant may serve all or part of such 24 months
608 sentence, to the extent that resources are available, in a correctional facility specifically
609 designated by the department of correction for the incarceration and rehabilitation of drinking
610 drivers.

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

613 other jurisdiction because of a like offense 6 times preceding the date of the commission of the
614 offense for which defendant has been convicted, the defendant shall be punished by a fine of not
615 less than \$2,000 nor more than \$50,000 and by imprisonment in the state prison for not less than
616 3 and one-half years nor more than 8 years; provided, however, that the sentence imposed upon
617 such person shall not be reduced to less than 36 months, nor suspended, nor shall any such
618 person be eligible for probation, parole or furlough or receive any deduction from his or her
619 sentence for good conduct until he or she shall have served 36 months of such sentence; provided
620 further, that the commissioner of correction may, on the recommendation of the warden,
621 superintendent, or other person in charge of a correctional institution, or the administrator of a
622 county correctional institution, grant to an offender committed under this subdivision a
623 temporary release in the custody of an officer of such institution for the following purposes only:
624 to attend the funeral of a relative; to visit a critically ill relative; to obtain emergency medical or
625 psychiatric services unavailable at said institution; to engage in employment pursuant to a work
626 release program; or for the purposes of an aftercare program designed to support the recovery of
627 an offender who has completed an alcohol or controlled substance education, treatment or
628 rehabilitation program operated by the department of correction; and provided further, that the
629 defendant may serve all or part of such 36 months sentence, to the extent that resources are
630 available, in a correctional facility specifically designated by the department of correction for the
631 incarceration and rehabilitation of drinking drivers.

632 If the defendant has been previously convicted or assigned to an alcohol or controlled
633 substance education, treatment or rehabilitation program by a court of the commonwealth or any
634 other jurisdiction because of a like offense 7 times preceding the date of the commission of the
635 offense for which the defendant has been convicted, the defendant shall be punished by a fine of
636 not less than \$2,000 nor more than \$50,000 and by imprisonment in the state prison for not less
637 than 3 and one-half years nor more than 8 years; provided, however, that the sentence imposed
638 upon such person shall not be reduced to less than 36 months, nor suspended, nor shall any such
639 person be eligible for probation, parole or furlough or receive any deduction from his or her
640 sentence for good conduct until he or she shall have served 36 months of such sentence; provided
641 further, that the commissioner of correction may, on the recommendation of the warden,
642 superintendent or other person in charge of a correctional institution, or the administrator of a
643 county correctional institution, grant to an offender committed under this subdivision a

644 temporary release in the custody of an officer of such institution for the following purposes only:
645 to attend the funeral of a relative; to visit a critically ill relative; to obtain emergency medical or
646 psychiatric services unavailable at said institution; to engage in employment pursuant to a work
647 release program; or for the purposes of an aftercare program designed to support the recovery of
648 an offender who has completed an alcohol or controlled substance education, treatment or
649 rehabilitation program operated by the department of correction; and provided further, that the
650 defendant may serve all or part of such 36 months sentence, to the extent that resources are
651 available, in a correctional facility specifically designated by the department of correction for the
652 incarceration and rehabilitation of drinking drivers.

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

675 SECTION 34. Section 24D of said chapter 90, as so appearing, is hereby amended by
676 striking out, in lines 4 and in lines 17 and 18, the words “the vapors of glue” and inserting in
677 place thereof, in each instance, the following words:- while under the influence from smelling or
678 inhaling the fumes of any substance having the property of releasing toxic vapors as defined in
679 section 18 of chapter 270.

680 SECTION 35. Said section 24D of said chapter 90, as so appearing, is hereby further
681 amended by striking out, in lines 138 and 139, the words “grave and serious hardship to such
682 individual or to the family of such individual” and inserting in place thereof the following
683 words:- substantial financial hardship to the individual, the individual’s immediate family or the
684 individual’s dependents.

685 SECTION 36. Said section 24D of said chapter 90, as so appearing, is hereby further
686 amended by striking out, in lines 173 and 174, the words “grave and serious hardship to such
687 individual or to the family thereof” and inserting in place thereof the following words:-
688 substantial financial hardship to the individual, the individual’s immediate family or the
689 individual’s dependents.

690 SECTION 37. Said chapter 90 is hereby amended by striking out section 24G, as so
691 appearing, and inserting in place thereof the following section:-

692 Section 24G. (a) Whoever, upon any way or in any place to which the public has a right
693 of access, or upon any way or in any place to which members of the public have access as
694 invitees or licensees, operates a motor vehicle with a percentage, by weight, of alcohol in their
695 blood of .08 or greater, or while under the influence of intoxicating liquor, or of marijuana,
696 narcotic drugs, depressants or stimulant substances, all as defined in section 1 of chapter 94C, or
697 from smelling or inhaling the fumes of any substance having the property of releasing toxic
698 vapors as defined in section 18 of chapter 270, and so operates a motor vehicle recklessly or
699 negligently so that the lives or safety of the public might be endangered, and by any such
700 operation so described causes the death of another person, shall be guilty of homicide by a motor
701 vehicle while under the influence of an intoxicating substance, and shall be punished by
702 imprisonment in the state prison for not less than 2½ years or more than 15 years and a fine of
703 not more than \$5,000, or by imprisonment in a jail or house of correction for not less than 1 year

704 nor more than 2 ½ years and a fine of not more than \$5,000. The sentence imposed upon such
705 person shall not be reduced to less than 1 year, nor suspended, nor shall any person convicted
706 under this subsection be eligible for probation, parole, or furlough or receive any deduction from
707 a sentence until such person has served at least 1 year of such sentence; provided, however, that
708 the commissioner of correction may, on the recommendation of the warden, superintendent or
709 other person in charge of a correctional institution or the administrator of a county correctional
710 institution grant to an offender committed under this subsection a temporary release in the
711 custody of an officer of such institution for the following purposes only: (i) to attend the funeral
712 of a relative; (ii) to visit a critically ill relative; (iii) to obtain emergency medical or psychiatric
713 services unavailable at said institution; or (iv) to engage in employment pursuant to a work
714 release program. Prosecutions commenced under this section shall neither be continued without
715 a finding nor placed on file. Section 87 of chapter 276 shall not apply to any person charged
716 with a violation of this subsection.

717 (b) Whoever, upon any way or in any place to which the public has a right of access or
718 upon any way or in any place to which members of the public have access as invitees or
719 licensees, operates a motor vehicle with a percentage, by weight, of alcohol in their blood of .08
720 or greater, or while under the influence of intoxicating liquor, or of marijuana, narcotic drugs,
721 depressants or stimulant substances, all as defined in section 1 of chapter 94C, or from smelling
722 or inhaling the fumes of any substance having the property of releasing toxic vapors as defined in
723 section 18 of chapter 270, or whoever operates a motor vehicle negligently so that the lives or
724 safety of the public might be endangered and by any such operation causes the death of another
725 person, shall be guilty of homicide by a motor vehicle and shall be punished by imprisonment in
726 a jail or house of correction for not less than 30 days nor more than 2½ years, or by a fine of not
727 less than \$300 nor more than \$3,000 dollars, or both.

728 (c) Whoever, upon any way or in any place to which the public has a right of access or
729 upon any way or in any place to which members of the public have access as invitees or
730 licensees, operates a motor vehicle recklessly so that the lives or safety of the public might be
731 endangered and by any such operation causes the death of another person, shall be guilty of
732 reckless homicide by a motor vehicle and shall be punished by imprisonment in a jail or house of
733 correction for not more than 2½ years, or by imprisonment in the state prison for not more than 5

734 years, or by a fine of not more than \$3,000 dollars, or by both such fine and imprisonment. For
735 the purpose of this section, a person operates recklessly when that person consciously disregards
736 a substantial and unjustifiable risk that the lives or safety of the public might be endangered.

737 (d) When a motor vehicle is the instrument of the offense, the registrar shall revoke the
738 license or right to operate of a person convicted of a violation of subsection (a), (b) or (c), or
739 punished under section 13 of chapter 265, for a period of 10 years after the date of conviction for
740 a first offense. The registrar shall revoke the license or right to operate of a person convicted for
741 a subsequent violation of this section for the life of such person. No appeal, motion for a new
742 trial or exceptions shall operate to stay the revocation of the license or of the right to operate;
743 provided, however, such license shall be restored or such right to operate shall be reinstated if the
744 prosecution of such person ultimately terminates in favor of the defendant.

745 SECTION 38. Section 24L of said chapter 90, as so appearing, is hereby amended by
746 striking out, in lines 8 and 43, the words “vapors of glue” and inserting in place thereof, in each
747 instance, the following words:- while under the influence from smelling or inhaling the fumes of
748 any substance having the property of releasing toxic vapors as defined in section 18 of chapter
749 270.

750 SECTION 39. Section 24W of said chapter 90, as so appearing, is hereby amended by
751 inserting after the words “ways and means”, in line 85, the following words:- and the clerks of
752 the senate and the house of representatives.

753 SECTION 40. Section 8 of chapter 90B of the General Laws, as so appearing, is hereby
754 amended by striking out, in lines 6 and 508, the words “the vapors of glue” and inserting in place
755 thereof, in each instance, the following words:- from smelling or inhaling the fumes of any
756 substance having the property of releasing toxic vapors as defined in section 18 of chapter 270.

757 SECTION 41. Section 8A of said chapter 90B, as so appearing, is hereby amended by
758 striking out, in lines 5 and 6, the words “the vapors of glue” and inserting in place thereof the
759 following words:- from smelling or inhaling the fumes of any substance having the property of
760 releasing toxic vapors as defined in section 18 of chapter 270.

761 SECTION 42. Said section 8A of said chapter 90B, as so appearing, is hereby further
762 amended by striking out, in line 36, the words “vapors of glue” and inserting in place thereof the
763 following words:- from smelling or inhaling the fumes of any substance having the property of
764 releasing toxic vapors as defined in section 18 of chapter 270.

765 SECTION 43. Section 8B of said chapter 90B, as so appearing, is hereby amended by
766 striking out, in lines 5 and 6 and 38 and 39, the words “the vapors of glue” and inserting in place
767 thereof, in each instance, the following words:- from smelling or inhaling the fumes of any
768 substance having the property of releasing toxic vapors as defined in section 18 of chapter 270.

769 SECTION 44. Section 26A of said chapter 90B, as so appearing, is hereby amended by
770 striking out, in line 8 and 17, the words “the vapors of glue” and inserting in place thereof, in
771 each instance, the following words:- from smelling or inhaling the fumes of any substance
772 having the property of releasing toxic vapors as defined in section 18 of chapter 270.

773 SECTION 45. Class A of section 31 of chapter 94C of the General Laws, as so
774 appearing, is hereby amended by adding the following paragraph:-

775 (d) Unless specifically excepted or unless listed in another schedule, any material,
776 compound, mixture or preparation that contains any quantity of the following substances
777 including its salts, isomers and salts of isomers whenever the existence of such salts, isomers and
778 salts of isomers is possible within the specific chemical designations:

779 (1) Acetyl Fentanyl

780 (2) Carfentanil

781 (3) Fentanyl

782 (4) Cyclopropyl fentanyl

783 (5) Furanyl fentanyl

784 (6) 3-methylfentanyl

785 (7) 3,4-Dichloro-*N*-[2-(dimethylamino)cyclohexyl]-*N*-methylbenzamide

786 (8) Any synthetic opioid controlled in Schedule I of 21 C.F.R. 1308.11 or Schedule II of
787 21 C.F.R. 1308.12, unless specifically excepted or unless listed in another class in this section.

788 SECTION 46. Subsection (b) of Class B of said section 31 of said chapter 94C, as so
789 appearing, is hereby amended by striking out clauses (1) to (21), inclusive, and inserting in place
790 thereof the following 20 clauses:-

791 (1) Alphaprodine

792 (2) Anileridine

793 (3) Bezitramide

794 (4) Dihydrocodeine

795 (5) Diphenoxylate

796 (6) Isomethadone

797 (7) Levomethorphan

798 (8) Levorphanol

799 (9) Metazocine

800 (10) Methadone

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

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

804 (13) Pethidine

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

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

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

808 (17) Phenazocine

809 (18) Piminodine

810 (19) Racemethorphan

811 (20) Racemorphan

812 SECTION 47. Said chapter 94C is hereby further amended by striking out sections 32A
813 and 32B, as so appearing, and inserting in place thereof the following 2 sections:-

814 Section 32A. (a) Any person who knowingly or intentionally manufactures, distributes,
815 dispenses or possesses with intent to manufacture, distribute or dispense a controlled substance
816 in Class B of section 31 shall be punished by imprisonment in the state prison for not more than
817 10 years, or in a jail or house of correction for not more than 2¹/₂ years, or by a fine of not less
818 than \$1,000 nor more than \$10,000, or both such fine and imprisonment.

819 (b) Any person convicted of violating this section after 1 or more prior convictions of
820 manufacturing, distributing, dispensing or possessing with the intent to manufacture, distribute or
821 dispense a controlled substance as defined by section 31 under this or any other prior law of this
822 jurisdiction or of any offense of any other jurisdiction, federal, state or territorial, which is the
823 same as or necessarily includes the elements of said offense shall be punished by a term of
824 imprisonment in the state prison for not more than 10 years, by a term of imprisonment in the
825 state prison for not more than 10 years and by a fine of not less than \$2,500 and not more than
826 \$25,000, or by a fine of not more than \$25,000.

827 (c) Any person who knowingly or intentionally manufactures, distributes, dispenses or
828 possesses with intent to manufacture, distribute or dispense phencyclidine or a controlled
829 substance defined in clause (4) of paragraph (a) or in clause (2) of paragraph (c) of Class B of
830 section 31 shall be punished by a term of imprisonment in the state prison for not more than 10
831 years, a term of imprisonment in the state prison for not more than 10 years and a fine of not less
832 than \$1,000 and not more than \$10,000, by imprisonment in a jail or house of correction for not
833 more than 2¹/₂ years, by imprisonment in a jail or house of correction for not more than 2¹/₂
834 years and a fine of not less than \$1,000 and not more than \$10,000, or by a fine of not more than
835 \$10,000.

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

844 Section 32B. (a) Any person who knowingly or intentionally manufactures, distributes,
845 dispenses or possesses with intent to manufacture, distribute, or dispense a controlled substance
846 in Class C of section 31 shall be imprisoned in state prison for not more than 5 years or in a jail
847 or house of correction for not more than 2¹/₂ years, or by a fine of not less than \$500 nor more
848 than \$5,000, or both such fine and imprisonment.

849 (b) Any person convicted of violating this section after 1 or more prior convictions of
850 manufacturing, distributing, dispensing or possessing with the intent to manufacture, distribute or
851 dispense a controlled substance as defined by section 31 under this or any prior law of this
852 jurisdiction or of any offense of any other jurisdiction, federal, state or territorial, which is the
853 same as or necessarily includes the elements of said offense shall be punished by a term of
854 imprisonment in the state prison for not more than 10 years, a term of imprisonment in the state
855 prison for not more than 10 years and a fine of not less than \$1,000 nor more than \$10,000, a
856 term of imprisonment in a jail or house of correction for not more than 2¹/₂ years, a term of
857 imprisonment in a jail or house of correction for not more than 2¹/₂ years and a fine of not less
858 than \$1,000 nor more than \$10,000, or a fine of not more than \$10,000.

859 SECTION 48. Section 32C of said chapter 94C, as so appearing, is hereby amended by
860 striking out, in lines 15 and 16, the words “less than one nor”.

861 SECTION 49. Section 32E of said chapter 94C, as so appearing, is hereby amended by
862 inserting after the words “heroin or any salt thereof” in lines 80, 85, 87 and 89, in each instance,
863 the words:- , a controlled substance defined in paragraph (d) of Class A of section 31.

864 SECTION 50. Said section 32E of said chapter 94C, as so appearing, is hereby further
865 amended by striking out subsection (c^{1/2}) and inserting in place thereof the following subsection:-

866 (c^{1/2}) Any person who trafficks in fentanyl or any derivative of fentanyl by knowingly or
867 intentionally manufacturing, distributing, dispensing or possessing with intent to manufacture,
868 distribute or dispense or by bringing into the commonwealth a net weight of 10 grams or more of
869 fentanyl or any derivative of fentanyl, or a net weight of 10 grams or more of any mixture
870 containing fentanyl or any derivative of fentanyl, shall be punished by a term of imprisonment in
871 state prison for not less than 3 and one-half nor more than 20 years. No sentence imposed under
872 the provisions of this subsection shall be for less than a mandatory minimum term of
873 imprisonment of 3 and one-half years.

874 SECTION 51. Said section 32E of said chapter 94C, as so appearing, is hereby further
875 amended by inserting after subsection (c^{1/2}) the following subsection:-

876 (c^{3/4}) Any person who trafficks in carfentanil, including without limitation, any
877 derivative of carfentanil by knowingly or intentionally manufacturing, distributing, dispensing or
878 possessing with intent to manufacture, distribute or dispense or by bringing into the
879 commonwealth carfentanil or any derivative of carfentanil, any mixture containing carfentanil or
880 a derivative of carfentanil; provided, that such person had specific knowledge that such mixture
881 contained carfentanil or any derivative of carfentanil shall be punished by a term of
882 imprisonment in state prison for not less than 3 and one-half nor more than 20 years. No
883 sentence imposed pursuant to this subsection shall be for less than a mandatory minimum term of
884 imprisonment of 3 and one-half years.

885 SECTION 52. Section 32H of said chapter 94C, as appearing in the 2016 Official
886 Edition, is hereby amended by striking out, in line 6, the words “any provision of said sections”
887 and inserting in place thereof the following words:- paragraph (b) of section 32 or sections 32E,
888 32F or 32J.

889 SECTION 53. Said section 32H of said chapter 94C, as so appearing, is hereby further
890 amended by striking out, in line 11, the words “said sections” and inserting in place thereof the
891 following words:- paragraph (b) of section 32 or sections 32E, 32F or 32J.

892 SECTION 54. Said section 32H of said chapter 94C, as so appearing, is hereby further
893 amended by striking out, in lines 17 and 18, the words “subsection (e) of section 32A, subsection
894 (c) of section 32B, subsection (d) of section 32E, or section 32J and inserting in place thereof the
895 following words:- or subsection (d) of section 32E.

896 SECTION 55. Section 32I of said chapter 94C, as so appearing, is hereby amended by
897 striking out, in line 10, the words “less than one nor”.

898 SECTION 56. Said section 32I of said chapter 94C, as so appearing, is hereby further
899 amended by striking out, in line 11, the words “less than five hundred nor”.

900 SECTION 57. Said chapter 94C is hereby amended by striking section 32J, as so
901 appearing, and inserting in place thereof the following section:-

902 Section 32J. Any person who violates the provisions of section 32, 32A, 32B, 32C, 32D,
903 32E, 32F or 32I while in, on or within 300 feet of the real property comprising a public or private
904 accredited preschool, accredited headstart facility, elementary, vocational or secondary school if
905 the violation occurs between 5:00a.m. and midnight, whether or not in session, or within 100 feet
906 of a public park or playground and who during the commission of the offense: (i) used violence
907 or threats of violence or possessed a firearm, rifle, shotgun, machine gun or a weapon described
908 in paragraph (b) of section 10 of chapter 269, or induced another participant to do so during the
909 commission of the offense; or (ii) engaged in a course of conduct whereby the person directed
910 the activities of another person who committed any felony in violation of this chapter; or (iii)
911 committed or attempted to commit a violation of section 32F or section 32K shall be punished by
912 a term of imprisonment in the state prison for not less than 2¹/₂ nor more than 15 years or by
913 imprisonment in a jail or house of correction for not less than 2 nor more than 2¹/₂ years. No
914 sentence imposed pursuant to this section shall be for less than a mandatory minimum term of
915 imprisonment of 2 years. A fine of not less than \$1,000 nor more than \$10,000 may be imposed
916 but not in lieu of the mandatory minimum 2 year term of imprisonment as established herein. In
917 accordance with section 8A of chapter 279 such sentence shall begin from and after the
918 expiration of the sentence for violation of section 32, 32A, 32B, 32C, 32D, 32E, 32F or 32I.

919 Lack of knowledge of school boundaries shall not be a defense to any person who violates this
920 section.

921 SECTION 58. Section 34A of said chapter 94C, as so appearing, is hereby amended by
922 striking out, in lines 4 and 11, the words “sections 34 or 35” and inserting in place thereof, in
923 each instance, the following words:- section 34 or found in violation of a condition of probation
924 or pretrial release as determined by a court or a condition of parole, as determined by the parole
925 board.

926 SECTION 59. Said section 34A of said chapter 94C, as so appearing, is hereby further
927 amended by inserting after the word “substance”, in lines 5 and 12, in each instance, the
928 following words:- or violation.

929 SECTION 60. Section 35 of said chapter 94C is hereby repealed.

930 SECTION 61. Section 47 of said chapter 94C, as appearing in the 2016 Official Edition,
931 is hereby amended by adding the following subsection:-

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

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

947 (3) Annually, not later than March 15, the state treasurer shall file a report with the
948 executive office of administration and finance and the house and senate committees on ways and

949 means regarding the aggregate deposits, aggregate expenditures, and ending balances for each
950 special law enforcement trust fund during the preceding calendar year. The reports shall be a
951 public record.

952 SECTION 62. Section 1 of chapter 111E of the General Laws, as so appearing, is hereby
953 amended by striking out the definition of “Administrator” and inserting in place thereof the
954 following 2 definitions:-

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

960 “Administrator”, the person in charge of the operation of a facility or a penal facility, or
961 the person’s designee.

962 SECTION 63. Said section 1 of said chapter 111E, as so appearing, is hereby further
963 amended by striking out the definitions of “Independent psychiatrist” and “Independent
964 physician” and inserting in place thereof the following definition:-

965 “Independent addiction specialist”, an addiction specialist, except an addiction specialist
966 holding an office or appointment in a department, board or agency of the commonwealth or in a
967 public facility or penal facility.

968 SECTION 64. Section 10 of said chapter 111E, as so appearing, is hereby amended by
969 striking out, in lines 18 and 19, the words “a psychiatrist, or if it is, in the discretion of the court,
970 impracticable to do so, a physician,” and inserting in place thereof the following words:- an
971 addiction specialist.

972 SECTION 65. Said section 10 of said chapter 111E, as so appearing, is hereby further
973 amended by striking out, in lines 23, 25, 31, 35, 93 and 104 the words “psychiatrist or physician”
974 and inserting in place thereof, in each instance, the following words:- addiction specialist.

975 SECTION 66. Said section 10 of said chapter 111E, as so appearing, is hereby further
976 amended by striking out, in lines 98 and 99, the words “psychiatrist, or if it is impracticable to do
977 so, an independent physician” and inserting in place thereof the following words:- addiction
978 specialist.

979 SECTION 67. Said section 10 of said chapter 111E, as so appearing, is hereby further
980 amended by striking out, in lines 124 and 125, the words “psychiatrist, or, if none is available, an
981 independent physician” and inserting in place thereof the following words:- addiction specialist.

982 SECTION 68. Section 11 of said chapter 111E, as so appearing, is hereby amended by
983 striking out, in lines 4 and 5, the words “a psychiatrist, or, if, in the discretion of the court, it is
984 impracticable to do so, by a physician,” and inserting in place thereof the following words:- an
985 addiction specialist.

986 SECTION 69. Said section 11 of said chapter 111E, as so appearing, is hereby further
987 amended by striking out, in line 11, the words “physician or psychiatrist” and inserting in place
988 thereof, the following words:- addiction specialist.

989 SECTION 70. Said section 11 of said chapter 111E, as so appearing, is hereby further
990 amended by striking out, in lines 16 and 17 and in line 18, the words “psychiatrist or physician”
991 and inserting in place thereof, in each instance, the following words:- addiction specialist.

992 SECTION 71. Section 13A of said chapter 111E, as so appearing, is hereby amended by
993 striking out, in lines 9 and 12 the word “physician” and inserting in place thereof, in each
994 instance, the following words:- addiction specialist.

995 SECTION 72. Section 52 of chapter 119 of the General Laws, as so appearing, is hereby
996 amended by striking out the definition of “Delinquent child” and inserting in place thereof the
997 following definition:-

998 “Delinquent child”, a child between 12 and 18 years of age who commits any offense
999 against a law of the commonwealth; provided, however, that such offense shall not include a
1000 civil infraction, a violation of any municipal ordinance or town by-law or a first offense of a
1001 misdemeanor for which the punishment is a fine, imprisonment in a jail or house of correction
1002 for not more than 6 months or both such fine and imprisonment.

1003 SECTION 73. Section 54 of said chapter 119, as so appearing, is hereby amended by
1004 striking out, in line 2, the word “seven” and inserting in place thereof the following figure:- 12.

1005 SECTION 74. Said section 54 of said chapter 119, as so appearing, is hereby further
1006 amended by striking the second paragraph and inserting in place thereof the following
1007 paragraph:-

1008 An application for such complaint submitted to the juvenile court by a police department
1009 against a child arrested for a felony offense shall be accompanied by an offense-based tracking
1010 number. The failure to include the arrestee’s offense-based tracking number shall not preclude
1011 the issuance of a complaint where there is otherwise a valid application submitted by a police
1012 department against a child. If a complaint is issued based on an application for a complaint for a
1013 felony submitted by a police department against a child that did not include the child’s offense-
1014 based tracking number, the prosecutor shall submit the offense-based tracking number of the
1015 child to the court to be included in the case file.

1016 SECTION 75. Said chapter 119 is hereby further amended by inserting after section 54
1017 the following section:-

1018 Section 54A. (a) A juvenile court shall have jurisdiction to divert from further court
1019 processing a child who is subject to the jurisdiction of the juvenile court as the result of an
1020 application for complaint brought pursuant to section 54. The court may divert a child to a
1021 program as defined in section 1 of chapter 276A.

1022 (b) A child complained of as a delinquent child may, upon the request of the child,
1023 undergo an assessment prior to arraignment to enable the judge to consider the suitability of the
1024 child for diversion. If a child chooses to request a continuance for the purpose of such an
1025 assessment, the child shall notify the judge prior to arraignment. Upon receipt of such
1026 notification, the judge may grant a 14-day continuance. The department of probation may
1027 conduct such assessment prior to arraignment to assist the judge in making that decision. If the
1028 judge determines it is appropriate, a determination of eligibility by the personnel of a program
1029 may substitute for an assessment. If a case is continued pursuant to this subsection, the child
1030 shall not be arraigned and an entry shall not be made into the criminal offender record
1031 information system until a judge issues an order to resume the ordinary processing of a

1032 delinquency proceeding. A judge may order diversion without first ordering an assessment in
1033 any case in which the court finds that sufficient information is available without an assessment.

1034 (c)(1) After the completion of the assessment, the probation officer or, where applicable,
1035 the director of a program to which the child has been referred shall submit to the court and to the
1036 counsel for the child a recommendation as to whether the child would benefit from diversion.

1037 Upon receipt of the recommendation, the judge shall provide an opportunity for both the
1038 commonwealth and counsel for the child to be heard regarding diversion of the child. The judge
1039 shall then make a final determination as to the eligibility of the child for diversion. The
1040 proceedings of a child who is found eligible for diversion shall be stayed for 90 days unless the
1041 judge determines that the interest of justice would best be served by a lesser period of time or
1042 unless extended under subsection (f).

1043 (2) A stay of proceedings shall not be granted under this section unless the child consents
1044 in writing to the terms and conditions of the stay of proceedings and knowingly executes a
1045 waiver of the child's right to a speedy trial on a form approved by the chief justice of the juvenile
1046 court department. Consent shall be given only upon the advice of counsel.

1047 (3) The following shall not be admissible against the child in any proceedings: (i) a
1048 request for assessment; (ii) a decision by the child not to enter a program; (iii) a determination by
1049 probation or by a program that the child would not benefit from diversion; and (iv) any statement
1050 made by the child or the child's family during the course of assessment. Any consent by a child
1051 to a stay of proceedings or any act done or statement made in fulfillment of the terms and
1052 conditions of a stay of proceedings shall not be admissible as an admission, implied or otherwise,
1053 against the child if the stay of proceedings was terminated and proceedings were resumed on the
1054 original complaint. A statement or other disclosure or a record thereof made by a child during
1055 the course of assessment or during the stay of proceedings shall not be disclosed at any time to a
1056 commonwealth or other law enforcement officer in connection with the investigation or
1057 prosecution of any charges against the child or a codefendant.

1058 (4) If a child is found eligible for diversion pursuant to this section, the child shall not be
1059 arraigned and an entry shall not be made into the criminal offender record information system
1060 unless a judge issues an order to resume the ordinary processing of a delinquency proceeding. If

1061 a child is found eligible pursuant to this section, the eligibility shall not be considered an
1062 issuance of a criminal complaint for the purposes of section 37H½ of chapter 71.

1063 (d) A district attorney may divert any child for whom there is probable cause to issue a
1064 complaint, either before or after the assessment procedure set forth in subsection (b), with or
1065 without the permission of the court and without regard to the limitations in subsection (g). A
1066 district attorney who diverts a case pursuant to this subsection may request a report from a
1067 program regarding the child's status in and completion of the program.

1068 (e) If during the stay of proceedings a child is charged with a subsequent offense, a judge
1069 in the court that entered the stay of proceedings may issue such process as is necessary to bring
1070 the child before the court. When the child is brought before the court, the judge shall afford the
1071 child an opportunity to be heard. If the judge finds probable cause to believe that the child has
1072 committed a subsequent offense, the judge may order that the stay of proceedings be terminated
1073 and that the commonwealth be permitted to proceed on the original complaint as provided by
1074 law.

1075 (f)(1) Upon the expiration of the initial 90-day stay of proceedings, the probation officer
1076 or the program director shall submit to the court a report indicating the successful completion of
1077 diversion by the child or recommending an extension of the stay of proceedings for not more
1078 than an additional 90 days so that the child may complete the diversion program successfully.

1079 (2) If the probation officer or the program director indicates the successful completion of
1080 diversion by a child, the judge may dismiss the original complaint pending against the child. If
1081 the report recommends an extension of the stay of proceedings, the judge may, on the basis of
1082 the report and any other relevant evidence, take such action as the judge deems appropriate,
1083 including the dismissal of the complaint, the granting of an extension of the stay of proceedings
1084 or the resumption of proceedings.

1085 (3) If the conditions of diversion have not been met, the child's attorney shall be notified
1086 prior to the termination of the child from diversion and the judge may grant an extension to the
1087 stay of proceedings if the child provides good cause for failing to comply with the conditions of
1088 diversion.

1089 (4) If the judge dismisses a complaint under this subsection, the court shall, unless the
1090 child objects, enter an order directing expungement of any records of the complaint and related
1091 proceedings maintained by the clerk, the court, the department of criminal justice information
1092 services and the court activity record index.

1093 (g) A child otherwise eligible for diversion pursuant to this section shall not be eligible
1094 for diversion if the child is indicted as a youthful offender or if the child is charged with a
1095 violation of 1 or more of the offenses enumerated in the second sentence of section 70C of
1096 chapter 277, other than the offenses in subsection (a) of section 13A of chapter 265 and sections
1097 13A and 13C of chapter 268, or if the defendant is charged with an offense for which a penalty
1098 of incarceration greater than five years may be imposed or for which there is minimum term
1099 penalty of incarceration or which may not be continued without a finding or placed on file, this
1100 chapter shall not apply to that defendant. Diversion of juvenile court charges under this chapter
1101 shall not preclude a subsequent indictment on the same charges in superior court.

1102 SECTION 76. Said chapter 119 is hereby amended by striking out section 67, as so
1103 appearing, and inserting in place thereof the following section:-

1104 Section 67. (a) Whenever a child between 12 and 18 years of age is arrested with or
1105 without a warrant, as provided by law, and the court or courts having jurisdiction over the
1106 offense are not in session, the officer in charge shall immediately notify at least 1 of the child's
1107 parents, or, if there is no parent, the guardian or custodian with whom the child resides or if the
1108 child is in the custody and care of the department, the department of children and families.
1109 Pending such notice, such child shall be detained pursuant to subsection (c).

1110 (b) Upon the acceptance by the officer in charge of the police station or town lockup of
1111 the written promise of the parent, guardian, custodian or representative of the department of
1112 children and families to be responsible for the presence of the child in court at the time and place
1113 when the child is ordered to appear, the child shall be released to the person giving such promise;
1114 provided, however, that if the arresting officer requests in writing that a child between 14 and 18
1115 years of age be detained, and if the court issuing a warrant for the arrest of a child between 14
1116 and 18 years of age directs in the warrant that the child shall be held in safekeeping pending the
1117 child's appearance in court, the child shall be detained in a police station, town lockup, a place of

1118 temporary custody commonly referred to as a detention home of the department of youth
1119 services or any other home approved by the department of youth services pending the child's
1120 appearance in court; provided further, that in the event any child is so detained, the officer in
1121 charge of the police station or town lockup shall notify the parents, guardian, custodian or
1122 representative of the department of children and families of the detention of the child. Nothing
1123 contained in this section shall prevent the admitting of such child to bail in accordance with law.

1124 (c) No child between 14 and 18 years of age shall be detained in a police station or town
1125 lockup pursuant to subsections (a) or (b) unless the detention facilities for children at the police
1126 station or town lockup have received the approval in writing of the commissioner of youth
1127 services. The department of youth services shall make inspection at least annually of police
1128 stations and town lockups where children are detained. If no approved detention facility exists in
1129 a city or town, the city or town may contract with an adjacent city or town for the use of
1130 approved detention facilities to prevent children who are detained from coming in contact with
1131 adult prisoners. A separate and distinct place shall be provided in police stations, town lockups
1132 or places of detention for such children. Nothing in this section shall permit a child between 14
1133 and 18 years of age to be detained in a jail or house of correction.

1134 (d) When a child is arrested who is in the care and custody of the department of children
1135 and families, the officer in charge of the police station or town lockup where the child has been
1136 taken shall immediately contact the department's emergency hotline and notify the on-call
1137 worker of the child's arrest. The on-call worker shall notify the social worker assigned to the
1138 child's case who shall make arrangement for the child's release as soon as practicable if it has
1139 been determined that the child will not be detained.

1140 SECTION 77. Section 68 of said chapter 119, as so appearing, is hereby amended by
1141 striking out, in lines 1 and 34, the word "seven" and inserting in place thereof, in each instance,
1142 the following figure:- 12.

1143 SECTION 78. Section 68A of said chapter 119, as so appearing, is hereby amended by
1144 striking out, in line 1, the word "seven" and inserting in place thereof the following figure:- 12.

1145 SECTION 79. Section 84 of said chapter 119, as so appearing, is hereby amended by
1146 striking out, in line 12, the word "seven" and inserting in place thereof the following figure:- 12.

1147 SECTION 80. Said chapter 119 is hereby further amended by adding the following 4
1148 sections:-

1149 Section 86. (a) For the purposes of this section, the following words shall have the
1150 following meanings unless the context clearly requires otherwise:

1151 “Juvenile”, (1) a person appearing before a division of the juvenile court department who
1152 is (i) subject to a delinquency proceeding, (ii) a child requiring assistance or (iii) a child in a care
1153 and protection proceeding or (2) a person under the age of 21 in a youthful offender proceeding.

1154 “Restraints”, a device that limits voluntary physical movement of an individual, including
1155 leg irons and shackles, which have been approved by the trial court department.

1156 (b) A juvenile shall not be placed in restraints during court proceedings and any restraints
1157 shall be removed prior to the appearance of a juvenile before the court at any stage of a
1158 proceeding unless the justice presiding in the courtroom issues an order and makes specific
1159 findings on the record that: (i) restraints are necessary because there is reason to believe that a
1160 juvenile presents an immediate and credible risk of escape that cannot be curtailed by other
1161 means; (ii) a juvenile poses a threat to the juvenile’s own safety or to the safety of others; or (iii)
1162 restraints are reasonably necessary to maintain order in the courtroom.

1163 (c) The court officer charged with custody of a juvenile shall report any security concern
1164 to the presiding justice. On the issue of courtroom or courthouse security, the presiding justice
1165 may receive information from the court officer charged with custody of a juvenile, a probation
1166 officer or any other source determined by the court to be credible.

1167 The authority to use restraints shall reside solely within the discretion of the presiding
1168 justice at the time that a juvenile appears before the court. A juvenile court justice shall not
1169 impose a blanket policy to maintain restraints on all juveniles or a specific category of juveniles
1170 who appear before the court.

1171 Section 87. (a) The department of youth services and the department of correction shall
1172 not place in a secure detention facility or secure correctional facility any juvenile who has: (1)
1173 been charged with or who has committed an offense that would not be criminal if committed by
1174 an adult, except juveniles who are held in accordance with the interstate compact on juveniles as

1175 enacted by the commonwealth; (2) not been charged with any offense; or (3) been alleged to be
1176 dependent on the court, neglected or abused.

1177 (b) The department of youth services and the department of correction shall not detain or
1178 confine any juvenile identified subsection (a) or any juvenile alleged to be or found to be
1179 delinquent in any institution in which they have contact with adult inmates; and shall require that
1180 individuals employed by the department of youth services or the department of corrections who
1181 work with both juveniles and adult inmates be trained and certified to work with juveniles by the
1182 department of youth services.

1183 The department of youth services and the department of correction shall promulgate
1184 regulations and policies for the implementation, administration and enforcement of this section
1185 and maintain adequate records to ensure compliance with this section.

1186 Section 88. A child against whom a complaint is brought pursuant to this chapter may
1187 participate in a community-based restorative justice program pursuant to chapter 276B.

1188 Section 89. (a) As used in this section the following words shall, unless the context
1189 clearly requires otherwise, have the following meanings:-:

1190 “Alternative lock-up program”, a facility or program that provides for the physical care
1191 and custody of a juvenile being held by a criminal justice agency after an arrest and before an
1192 arraignment, and shall include a program provided by the police or municipal, county or state
1193 government, as well as any contractor, vendor or service-provider working with such agencies.

1194 “Child advocate”, the child advocate appointed pursuant to section 3 of chapter 18C.

1195 “Contact”, any action or decision by criminal justice agencies or by any other official of
1196 the commonwealth or private service provider under contract or other agreement with the
1197 commonwealth, involving a juvenile at any stage of the juvenile justice system which causes
1198 such juvenile to enter or exit the juvenile justice system or which will change the custodial
1199 status, liberty, case processing or status of the juvenile within the juvenile justice system.

1200 “Criminal justice agencies”, agencies at all levels of government which perform as their
1201 principal function, activities relating to: (a) crime prevention, including research or the

1202 sponsorship of research; (b) the apprehension, prosecution, adjudication, incarceration or
1203 rehabilitation of criminal offenders; or (c) the collection, storage, dissemination or usage of
1204 criminal offender record information.

1205 “Juvenile”, a child under the age of 18; provided, however, that the term juvenile shall
1206 include a person under the age of 22 if the person remains within the jurisdiction of the juvenile
1207 court or juvenile justice system and a child between the ages of 14 to 18, inclusive, who is
1208 charged with first or second degree murder pursuant to section 74.

1209 “Office”, the office of the child advocate.

1210 “Racial or ethnic category”, the socio-cultural racial and ethnic category of an individual
1211 as categorized in a manner that is consistent with the categories established and utilized by the
1212 federal Office of Juvenile Justice and Delinquency Prevention.

1213 “Type of crime”, the category of crime consistent with the categories established and
1214 utilized by the National Incident-Based Reporting System.

1215 (b)There shall be a juvenile justice policy and data board, referred to in this section as the
1216 board. The board shall evaluate policies and procedures related to the juvenile justice system,
1217 examine the feasibility of the child advocate collecting and disseminating data regarding juvenile
1218 contact with criminal justice agencies and study the implementation of any statutory changes to
1219 the juvenile justice system.

1220 The board shall consist of 21 members, 1 of whom shall be a member of the house of
1221 representatives appointed by the speaker of the house of representatives; 1 member of the house
1222 of representatives to be appointed by the minority leader of the house; 1 of whom shall be a
1223 member of the senate appointed by the president of the senate; 1 member of the senate to be
1224 appointed by the senate minority leader; 1 of whom shall be the child advocate; 1 of whom shall
1225 be the chief justice of the juvenile court or a designee; 1 of whom shall be the commissioner of
1226 probation or a designee; 1 of whom shall be the commissioner of youth services or a designee; 1
1227 of whom shall be the commissioner of children and families or a designee; 1 of whom shall be
1228 the commissioner of mental health or a designee; 1 of whom shall be the commissioner of public
1229 health or a designee; 1 of whom shall be the secretary of education or a designee; 1 of whom

1230 shall be the chief counsel of the committee for public counsel services or a designee; 1 of whom
1231 shall be the president of the Massachusetts District Attorneys Association or a designee; 1 of
1232 whom shall be the chair of the Massachusetts juvenile justice advisory committee or a designee;
1233 and 6 of whom shall be appointed by the governor, provided that: 1 of whom shall be from a list
1234 provided by Citizens for Juvenile Justice, Inc., 1 of whom shall be from a list provided by the
1235 Children’s League of Massachusetts, Inc., 1 of whom shall be from a list provided by the
1236 Massachusetts Chiefs of Police Association Incorporated, 2 of whom shall be parents whose
1237 children have been subject to juvenile court jurisdiction and 1 of whom shall have experience or
1238 expertise related to the design and implementation of state administrative data systems.
1239 Members of the board shall serve without compensation. The child advocate shall serve as chair
1240 of the board.

1241 The board shall analyze and make a recommendation on the feasibility of the child
1242 advocate creating and annually updating an instrument to record aggregate statistical data for
1243 every contact a juvenile has with: (i) criminal justice agencies; (ii) any contractor, vendor or
1244 service-provider working with said agencies; and (iii) any alternative lock-up programs. The data
1245 to be recorded on the instrument shall include, without limitation, age, gender, racial or ethnic
1246 category and type of crime. The recommendation shall include a study of the feasibility of all
1247 offices and departments subject to this section using the instrument to record a juvenile’s contact.
1248 The board shall determine the best practices for departments to submit data to the child advocate.

1249 The board shall submit its findings and recommendations relative to data collection by
1250 the child advocate by June 30, 2019 to the clerks of the house and the senate, who shall forward
1251 the report to the chairs of the house committee on ways and means, the senate committee on
1252 ways and means, and the joint committee on the judiciary.

1253 The board shall annually report to the governor, the house and senate chairs of the joint
1254 committee on the judiciary, the house and senate chairs of the joint committee on public safety
1255 and homeland security and the chief justice of the trial court regarding the following:

1256 (1) any statutory changes concerning the juvenile justice system that the board
1257 recommends to: (i) improve public safety, (ii) promote the best interests of children and young
1258 adults who are under the jurisdiction, supervision, care or custody of the juvenile court, the

1259 commissioner of youth services or the commissioner of children and families; (iii) improve
1260 transparency and accountability with respect to state-funded services for children and young
1261 adults in the juvenile justice system with an emphasis on goals identified by the committee for
1262 community-based programs and facility-based interventions; (iv) promote the efficient sharing of
1263 information between the executive branch and the judicial branch to ensure the regular collection
1264 and reporting of recidivism data; and (v) promote public welfare and public safety outcomes
1265 related to the juvenile justice system;

1266 (2) an analysis of the capacities and limitations of the data systems and networks used to
1267 collect and report state and local juvenile caseload and outcome data. The analysis shall include,
1268 without limitation, the following: (i) a review of the relevant data systems, studies and models
1269 from the commonwealth and other states; (ii) identification of changes or upgrades to current
1270 data collection processes to remove inefficiencies, track and monitor state agency and court-
1271 involved juveniles and facilitate the coordination of information sharing between relevant
1272 agencies and the courts including without limitation, data that is required to be reported under
1273 federal law or for purposes of securing federal funding; (iii) the identification and evaluation of
1274 any gender, racial and ethnic disparities within the juvenile justice system and recommendations
1275 regarding ways to reduce such disparities; (iv) recommendations for the creation of a web-based
1276 statewide information center to make relevant juvenile justice information on operations,
1277 caseloads, dispositions and outcomes available in a user-friendly, query-based format for
1278 stakeholders and members of the public, including a feasibility assessment of implementing such
1279 system; (v) a plan for improving the current juvenile justice reporting requirements, including
1280 streamlining and consolidating current requirements without impacting data collection and
1281 including a detailed analysis of the information technology and other resources necessary to
1282 implement improved data collection; (vi) any other matters which the board determines may
1283 improve the collection and interagency coordination of juvenile justice data;

1284 (3) the impact of any statutory change that expands or alters the jurisdiction or
1285 functioning of the juvenile court, as measured by the following: (i) any change in the average age
1286 of children and young adults involved in the juvenile justice system; (ii) the types of services
1287 used by designated age groups and the outcomes of those services; (iii) the types of delinquent
1288 acts or criminal offenses that children and young adults have been charged with since the

1289 enactment and implementation of such statutory change; (iv) the gaps in services identified by
1290 the committee with respect to children and young adults involved in the juvenile justice system,
1291 including, but not limited to, young adults who have attained the age of 18 after being involved
1292 in the juvenile justice system, and recommendations to address such gaps in services; and (v) the
1293 strengths and barriers identified by the board that support or impede the educational needs of
1294 children and young adults in the juvenile justice system, with specific recommendations for
1295 reforms;

1296 (4) the quality and accessibility of diversion programs available to juveniles;

1297 (5) an assessment of the system of community-based services for children and juveniles
1298 who are under the supervision, care or custody of the department of youth services or the
1299 juvenile court;

1300 (6) an assessment of the number of juveniles who, after being or while under the
1301 supervision or custody of the department of children and families, are adjudicated delinquent or
1302 as a youthful offender; and

1303 (7) an assessment of the overlap between the juvenile justice system and the mental
1304 health care system for children.

1305 The board shall establish a timeframe for review and reporting regarding the
1306 responsibilities outlined in this section. Each report submitted by the board shall include specific
1307 recommendations to improve outcomes and a timeline by which specific tasks or outcomes shall
1308 be achieved.

1309 SECTION 81. Section 16 of chapter 119A of the General Laws, as appearing in the 2016
1310 Official Edition, is hereby amended by inserting after the word “obligor”, in line 44, the
1311 following words:- ; provided, however, that the IV-D agency has no evidence of the obligor
1312 residing at an address other than the address last known by the IV-D agency.

1313 SECTION 82. Chapter 120 of the General Laws is hereby amended by inserting after
1314 section 10 the following section:-

1315 Section 10B. A person detained by and committed to the department of youth services
1316 shall not be placed in involuntary room confinement as a punishment, harassment or
1317 consequence for noncompliance or in retaliation for any conduct.

1318 SECTION 83. Section 1 of chapter 125 of General Laws, as appearing in the 2016, is
1319 hereby amended by striking out, in lines 37 and 38, the words “Massachusetts Correctional
1320 Institution, Cedar Junction” and inserting in place thereof the following words:- any prison
1321 owned, operated, administered or subject to the control of the department of correction including,
1322 but not limited to: Massachusetts Correctional Institution, Cedar Junction; Massachusetts
1323 Correctional Institution, Norfolk; Massachusetts Correctional Institution, Concord;
1324 Massachusetts Correctional Institution, Framingham; Massachusetts Correctional Institution,
1325 Bridgewater; Massachusetts Correctional Institution, Plymouth; Massachusetts Correctional
1326 Institution, Warwick; and Massachusetts Correctional Institution, Monroe.

1327 SECTION 84. Chapter 126 of the General Laws is hereby amended by adding the
1328 following section:-

1329 Section 40. The sheriff shall record, without limitation, the following data for each person
1330 committed to a jail or house of correction: (i) probation central file number; (ii) fingerprint-based
1331 state identification number, if available; (iii) race and ethnicity; (iv) offense-based tracking
1332 number; (v) type of release; (vi) type of admission; (vii) length of sentence; (viii) jail credit from
1333 pretrial incarceration; (ix) earned time; (x) program participation and outcome during
1334 incarceration; (xi) case disposition; and (xii) bail amount or reason if no bail set.

1335 Aggregate data on the population of each jail and house of correction shall be assembled
1336 into a quarterly report with the reported data covering the entire quarterly period. The reports
1337 prepared by the sheriff shall contain no identifying information relating to an individual inmate
1338 or detainee.

1339 Each quarter the sheriff shall deliver the report from each jail and house of correction to
1340 the secretary of public safety and security, the house and senate chairs of the joint committee on
1341 the judiciary, the house and senate chairs of the joint committee on public safety and homeland
1342 security and the clerks of the house of representatives and the senate.

1343 SECTION 85. Section 1 of chapter 127 of the General Laws, as appearing in the 2016
1344 Official Edition, is hereby amended by inserting after the definition of “Commissioner” the
1345 following 2 definitions:

1346 “Disciplinary restrictive housing”, a placement in restrictive housing in a state
1347 correctional facility for disciplinary purposes after a finding has been made that the prisoner has
1348 committed a breach of discipline.

1349 “Exigent circumstances”, circumstances that create an unacceptable risk to the safety of
1350 any person.

1351 SECTION 86. Said section 1 of said chapter 127, as so appearing, is hereby further
1352 amended by inserting after the definition of “Parole board” the following definition:-

1353 “Placement review”, a multidisciplinary examination to determine whether, restrictive
1354 housing continues to be necessary to reasonably manage risks of harm, notwithstanding any
1355 previous finding of a disciplinary breach, exigent circumstances or other circumstances
1356 supporting a placement in restrictive housing. When a placement review is conducted pursuant to
1357 clause (iv) or (v) of subsection (a) of section 39B, the examiners performing a placement review
1358 shall include, but not be limited to, 1 member of the security staff, 1 member of the programming
1359 staff and 1 member of the mental health staff.

1360 “Serious mental illness”, a current or recent diagnosis by a qualified mental health
1361 professional of 1 or more of the following disorders described in the most recent edition of the
1362 Diagnostic and Statistical Manual of Mental Disorders: (i) schizophrenia and other psychotic
1363 disorders; (ii) major depressive disorders; (iii) all types of bipolar disorders; (iv) a
1364 neurodevelopmental disorder, dementia or other cognitive disorder; (v) any disorder commonly
1365 characterized by breaks with reality or perceptions of reality; (vi) all types of anxiety disorders;
1366 (vii) trauma and stressor related disorders; or (viii) severe personality disorders; or a finding by a
1367 qualified mental health professional that the prisoner is at serious risk of substantially
1368 deteriorating mentally or emotionally while confined in restrictive housing, or already has so
1369 deteriorated while confined in restrictive housing, such that diversion or removal is deemed to be
1370 clinically appropriate by a qualified mental health professional.

1371 SECTION 87. Said section 1 of said chapter 127, as so appearing, is hereby further
1372 amended by inserting after the definition of “Residential treatment unit” the following
1373 definition:-

1374 “Restrictive Housing”, a housing placement where a prisoner is confined to a cell for
1375 more than 22 hours per day; provided, however, that observation for mental health evaluation
1376 shall not be considered restrictive housing.

1377 SECTION 88. Section 4 of said chapter 127 is hereby repealed.

1378 SECTION 89. Section 16 of said chapter 127, as so appearing, is hereby amended by
1379 adding the following paragraph:-

1380 The superintendents of correctional institutions and the keepers and superintendents of
1381 jails and houses of correction shall cause an examination for substance use disorder to be made
1382 by a qualified addiction specialist of each inmate in their respective institutions committed for a
1383 term of 30 days’ imprisonment or more.

1384 SECTION 90. Section 23 of said chapter 127, as so appearing, is hereby amended by
1385 inserting after the word “weight”, in line 4, the following words:- , probation central file number,
1386 offense-based tracking number, fingerprint-based state identification number.

1387 SECTION 91. Said chapter 127 is hereby further amended by inserting after section 32
1388 the following section:-

1389 Section 32A. A prisoner of a correctional institution, jail or house of correction that has a
1390 gender identity, as defined in section 7 of chapter 4, that differs from the prisoner’s sex assigned
1391 at birth, with or without a diagnosis of gender dysphoria or any other physical or mental health
1392 diagnosis, shall be: (i) addressed in a manner consistent with the prisoner’s gender identity; (ii)
1393 provided with access to commissary items, clothing, programming, educational materials and
1394 personal property that is consistent with the prisoner’s gender identity; (iii) searched by an
1395 officer of the same gender identity if the search requires an inmate to remove all clothing or
1396 includes a visual inspection of the anal cavity or genitals; provided, however, that the officer’s
1397 gender identity shall be consistent with the prisoner’s request; and provided further, that such
1398 search shall not be conducted for the sole purpose of determining genital status; and (iv) housed

1399 in a correctional facility with inmates with the same gender identity; provided, that the placement
1400 shall be consistent with the prisoner's request, unless the commissioner, the sheriff or a designee
1401 of the commissioner or sheriff certifies in writing that the particular placement would not ensure
1402 the prisoner's health or safety or that the placement would present management or security
1403 problems.

1404 SECTION 92. Said chapter 127 is hereby further amended by inserting after section 36B
1405 the following section:-

1406 Section 36C. A correctional institution, jail or house of correction shall not: (i) prohibit,
1407 eliminate or unreasonably limit in-person visitation of inmates; or (ii) coerce, compel or
1408 otherwise pressure an inmate to forego or limit in-person visitation. For the purposes of this
1409 section, to unreasonably limit in-person visitation of inmates shall include, but not be limited to,
1410 providing an eligible inmate fewer than 2 opportunities for in-person visitation during any 7-day
1411 period.

1412 A correctional institution, jail or house of correction may use video or other types of
1413 electronic devices for inmate communication with visitors; provided, that such communications
1414 shall be in addition to and shall not replace in-person visitation, as prescribed in this section.

1415 Nothing in this section shall prohibit the temporary suspension of visitation privileges for
1416 good cause including, but not limited to, misbehavior or during a bonafide emergency.

1417 SECTION 93. Said chapter 127 is hereby further amended by striking out sections 39 and
1418 39A, as appearing in the 2016 Official Edition, and inserting in place thereof the following 9
1419 sections:-

1420 Section 39. (a) Subject to the limits of this section and section 39A, the superintendent of
1421 a state correctional facility or the administrator of a county correctional facility may authorize
1422 the confinement of a prisoner in a restrictive housing unit to discipline the prisoner or if the
1423 prisoner's retention in general population poses an unacceptable risk: (i) to the safety of others;
1424 (ii) of damage or destruction of property; or (iii) to the operation of a correctional facility.

1425 (b) In addition to meeting all standards established by the regulations of the department
1426 of public health, restrictive housing units shall provide: (i) meals that meet the same standards

1427 established by the commissioner for general population prisoners; (ii) access to showers not less
1428 than 3 days per week; (iii) rights of visitation and communication by those properly authorized;
1429 provided, however, that the authorization may be diminished for the enforcement of discipline
1430 for a period not to exceed 15 days in a state correctional facility or 10 days in a county
1431 correctional facility for each offense; (iv) access to reading and writing materials unless
1432 clinically contraindicated; (v) access to a radio or television if confinement exceeds 30 days; (vi)
1433 periodic mental and psychiatric examinations under the supervision of the department of mental
1434 health; (vii) medical and psychiatric treatment as clinically indicated under the supervision of the
1435 department of mental health; (viii) the same access to canteen purchases and privileges to retain
1436 property in a prisoner's cell as prisoners in the general population at the same facility; provided,
1437 however, that such access and privileges may be diminished for the enforcement of discipline for
1438 a period not to exceed 15 days in a state correctional facility or 10 days in a county correctional
1439 facility for each offense or where inconsistent with the security of the unit; (ix) the same access
1440 to disability accommodations as prisoners in general population, except where inconsistent with
1441 the security of the unit; and (x) other rights and privileges as may be established or recognized
1442 by the commissioner.

1443 (c) Before placement in restrictive housing, a prisoner shall be screened by a qualified
1444 mental health professional to determine if the prisoner has a serious mental illness or restrictive
1445 housing is otherwise clinically contraindicated based on clinical standards adopted by the
1446 department of correction and the qualified mental health professional's clinical judgment.

1447 (d) A qualified mental health professional shall make rounds in every restrictive housing
1448 unit and may conduct an out-of-cell meeting with a prisoner for whom a confidential meeting is
1449 warranted in the clinician's professional judgment. Prisoners shall be evaluated by a qualified
1450 mental health professional in accordance with clinical standards adopted by the department of
1451 correction and the qualified mental health professional's clinical judgment to determine whether
1452 the prisoner has a serious mental illness or restrictive housing is otherwise clinically
1453 contraindicated.

1454 (e) The department of correction shall promulgate clinical standards, in consultation with
1455 the department of mental health.

1456 Section 39A. (a) A prisoner shall not be held in restrictive housing if the prisoner has a
1457 serious mental illness or a finding has been made, pursuant to subsections (c) or (d) of section 39
1458 or otherwise, that restrictive housing is clinically contraindicated unless, not later than 72 hours
1459 after the finding, the commissioner, the sheriff or a designee of the commissioner or sheriff
1460 certifies in writing: (i) the reason why the prisoner may not be safely held in the general
1461 population; (ii) that there is no available placement in a secure treatment unit; (iii) that efforts are
1462 being undertaken to find appropriate housing and the status of the efforts; and (iv) the anticipated
1463 time frame for resolution. A copy of the written certification shall be provided to the prisoner. A
1464 prisoner in restrictive housing shall be offered additional mental health treatment in accordance
1465 with clinical standards adopted by the department of correction.

1466 (b) If a prisoner needs to be separated from general population to protect the prisoner
1467 from harm by others, the prisoner shall not be placed in restrictive housing, but shall be placed in
1468 a housing unit that provides approximately the same conditions, privileges, amenities and
1469 opportunities as in general population; provided, however, that the prisoner may be placed in
1470 restrictive housing for not more than 72 hours while suitable housing is located. A prisoner shall
1471 not be held in restrictive housing to protect the prisoner from harm by others for more than 72
1472 hours unless the commissioner, the sheriff or a designee of the commissioner or sheriff certifies
1473 in writing: (i) the reason why the prisoner may not be safely held in the general population; (ii)
1474 that there is no available placement in a unit comparable to general population; (iii) that efforts
1475 are being undertaken to find appropriate housing and the status of the efforts; and (iv) the
1476 anticipated time frame for resolution. A copy of the written certification shall be provided to the
1477 prisoner.

1478 (c) The fact that a prisoner is lesbian, gay, bisexual, transgender, queer or intersex or has
1479 a gender identity or expression or sexual orientation uncommon in general population shall not
1480 be grounds for placement in restrictive housing.

1481 (d) A pregnant inmate shall not be placed in restrictive housing.

1482 (e) The department shall promulgate regulations regarding the placement or prohibition
1483 of placement of persons with permanent physical disabilities in restrictive housing.

1484 (f) A prisoner shall not be confined to restrictive housing except pursuant to section 39 or
1485 this section.

1486 Section 39B. (a) All prisoners confined to restrictive housing shall receive placement
1487 reviews at the following intervals, and may receive them more frequently, if a prisoner: (i) is
1488 being confined to restrictive housing pursuant to subsection (a) of section 39A, every 72
1489 hours;(ii) is being confined to restrictive housing pursuant to subsection (b) of section 39A,
1490 every 72 hours; (iii) is awaiting adjudication of an alleged disciplinary breach, every 15 days;(iv)
1491 has been committed to disciplinary restrictive housing, not later than 6 months and every 90 days
1492 thereafter; and (v) is being held for any other reason, every 90 days .

1493 (b) After a placement review, the prisoner shall be retained in restrictive housing only if it
1494 is determined that the prisoner poses an unacceptable risk as provided in subsection (a) of section
1495 39 or if the commissioner, the sheriff or a designee of the commissioner or sheriff re-certifies, in
1496 writing, the findings required by subsections (a) or (b) of section 39A.

1497 (c) If a prisoner's placement in restrictive housing may reasonably be expected to last
1498 more than 60 days, the prisoner shall: (i) have 24 hours written notice of placement reviews; (ii)
1499 have the opportunity to participate in reviews in person or in writing; (iii) upon review, if no
1500 placement change is ordered, be provided with a written statement as to the evidence relied on
1501 and the reasons for the placement decision; and (iv) not more than 15 days after the initial
1502 placement and upon placement review, if no placement change is ordered, be advised as to
1503 behavior standards and program participation goals that will increase the prisoner's chances of a
1504 less restrictive placement upon next placement review.

1505 (d) A prisoner who is committed to a secure treatment unit following an allegation or
1506 finding of a disciplinary breach shall receive placement reviews at intervals not less than as
1507 frequently as if the prisoner were confined to restrictive housing.

1508 (e) The commissioner shall promulgate regulations establishing standards and procedures
1509 to maximize out-of-cell activities in restrictive housing and outplacements from restrictive
1510 housing consistent with the safety of all persons.

1511 Section 39C. The commissioner, after consultation with the sheriffs and the department
1512 of mental health, shall promulgate regulations governing the training and qualifications of
1513 correction officers, supervisors and managers deployed to restrictive housing.

1514 Section 39D. (a) The commissioner shall publish monthly and provide directly to the
1515 restrictive housing oversight committee the number of prisoners held in each restrictive housing
1516 unit within each state and county correctional facility.

1517 (b) The commissioner shall publish a report quarterly and provide directly to the
1518 restrictive housing oversight committee, as to each restrictive housing unit within each state
1519 correctional facility, and annually, as to each restrictive housing unit within each county
1520 correctional facility: (i) the number of prisoners as to whom a finding of serious mental illness
1521 has been made and the number of such prisoners held for more than 30 days; (ii) the number of
1522 prisoners who have committed suicide or committed non-lethal acts of self-harm; (iii) the
1523 number of prisoners according to the reason for their restrictive housing; (iv) as to prisoners in
1524 disciplinary restrictive housing, a listing of prisoners with names redacted, including an
1525 anonymized identification number that shall be consistent across reports, age, race, gender and
1526 ethnicity, whether the prisoner has an open mental health case, the date of the prisoner's
1527 commitment to discipline, the length of the prisoner's term and a summary of the reason for the
1528 prisoner's commitment; (v) the number of placement reviews conducted pursuant to clause (iv)
1529 and (v) of subsection (a) of section 39B and the number of prisoners released from restrictive
1530 housing as a result of such placement reviews; (vi) the length of original assignment to and total
1531 time served in disciplinary restrictive housing for each prisoner released from disciplinary
1532 restrictive housing as a result of a placement review; (vii) the count of prisoners released to the
1533 community directly or within 30 days of release from restrictive housing; (viii) the known
1534 disabilities of every prisoner who was placed in restrictive housing during the previous 3 months;
1535 (ix) the number of mental health professionals who work directly with prisoners in restrictive
1536 housing; (x) the number of transfers to outside hospitals directly from restrictive housing; and
1537 (xi) such additional information as the commissioner may determine.

1538 The information shall be published in a commonly available electronic, machine readable
1539 format.

1540 (c) The administrators of county correctional facilities shall furnish to the commissioner
1541 all information that the commissioner deems necessary to support reporting pursuant to this
1542 section.

1543 Section 39E. Pursuant to regulations promulgated by the commissioner, prisoners held in
1544 restrictive housing for a period of more than 60 days shall have access to vocational, educational
1545 and rehabilitative programs to the maximum extent possible consistent with the safety and
1546 security of the unit and shall receive good time for participation at the same rates as the general
1547 population.

1548 Section 39F. The department shall establish policies to ensure that an inmate with an
1549 anticipated release date of less than 120 days is not housed in restrictive housing, unless: (i) the
1550 placement in restrictive housing is limited to not more than 5 days; or (ii) the inmate poses a
1551 substantial and immediate threat.

1552 Notwithstanding the previous paragraph, any prisoner who has fewer than 180 days until
1553 the prisoner's mandatory release date or parole release date and is held in restrictive housing
1554 shall be offered reentry programming that shall include, but shall not be limited to, substantial re-
1555 socialization programming in a group setting, regular mental health counseling to assist with the
1556 transition, housing assistance, assistance obtaining state and federal benefits, employment
1557 readiness training and programming designed to help the person rebuild interpersonal
1558 relationships, which may include, but shall not be limited to, anger management and parenting
1559 courses and other re-entry planning services offered to inmates in a general population setting.

1560 Section 39G. (a) There shall be established a restrictive housing oversight committee,
1561 hereinafter in this section referred to as the committee, which shall consist of: the secretary of the
1562 executive office of public safety and security or a designee, who shall serve as chair; the
1563 commissioner of the department of correction or a designee; the commissioner of mental health
1564 or a designee; and 9 members to be appointed by the governor, 1 of whom shall be a correctional
1565 administrator with expertise in prison discipline or prison programming, 1 of whom shall be a
1566 member of a correctional officers union, 1 of whom shall have significant and demonstrated
1567 experience in criminal justice or corrections policy research; 1 of whom shall be the president of
1568 Massachusetts Sheriffs Association, Inc. or a designee, 1 of whom shall be a former judge

1569 designated by the chief justice of the supreme judicial court, 1 of whom shall be the executive
1570 director of Disability Law Center, Inc. or a designee, 1 of whom shall be the executive director
1571 of Prisoners' Legal Services or a designee, 1 of whom shall be the executive director of the
1572 Massachusetts Association for Mental Health, Inc. or a designee and 1 of whom shall be a
1573 licensed social worker designated by the Massachusetts chapter of the National Association of
1574 Social Workers, Inc.

1575 Members of the committee shall serve without compensation but shall be reimbursed for
1576 all reasonable expenses incurred in the performance of their official duties. Members of the
1577 committee shall be considered special state employees for purposes of chapter 268A.

1578 (b) The committee shall gather information regarding the use of restrictive housing in
1579 correctional institutions to determine the impact of restrictive housing on inmates, rates of
1580 violence recidivism, incarceration costs and self-harm within correctional institutions.

1581 (c) The committee shall be provided access to all correctional institutions consistent with
1582 their duties and shall be allowed to interview prisoners and staff.

1583 (d) The committee shall annually, not later than January 31, submit to the house and
1584 senate chairs of the joint committee on the judiciary and the house and senate chairs of the joint
1585 committee on public safety and homeland security a report offering its recommendations on the
1586 use of restrictive housing in the commonwealth, including ways to minimize its use and improve
1587 outcomes for prisoners and facility safety. The report shall also include the following
1588 information for each correctional institution: (1) the criteria for placing an inmate in restrictive
1589 housing; (2) the extent to which staff who work with prisoners in restrictive housing receive
1590 specialized training; (3) the results of evaluations of the process of restrictive housing in the
1591 commonwealth and other states; (4) the impact of use of restrictive housing on prison order and
1592 control in correctional facilities; (5) the cost of housing an inmate in restrictive housing
1593 compared with the cost of housing an inmate in general population; and (6) the conditions of
1594 restrictive housing in the commonwealth.

1595 Section 39H. The commissioner shall promulgate regulations to implement sections 39 to
1596 39H, inclusive.

1597 SECTION 94. Sections 40 and 41 of said chapter 127 are hereby repealed.

1598 SECTION 95. Section 48 of said chapter 127, as appearing in the 2016 Official Edition,
1599 is hereby amended by inserting after the first paragraph the following paragraph:-

1600 The commissioner shall ensure that at least 1 educational program leading to the award of
1601 a high school equivalency certificate is available to persons who are committed to the custody of
1602 the department or to a county correctional facility for not less than 6 months and who have not
1603 obtained a high school degree or equivalency.

1604 SECTION 96. Said chapter 127 is hereby further amended by inserting after section 48A
1605 the following section:-

1606 Section 48B. (a) The commissioner or a superintendent of a house of correction may
1607 establish young adult correctional units or designate individual corrections officers to exclusively
1608 supervise young adults, who are 18 to 24 years of age and have been placed in the care of the
1609 department or house of correction so that these individuals may benefit from age appropriate
1610 guidance, targeted interventions, age appropriate programming and a greater degree of individual
1611 attention.

1612 (b) Officers designated under subsection (a) shall be selected based on their demonstrated
1613 experience and commitment to working with young adults and shall perform their services under
1614 the direction of the commissioner or superintendent.

1615 (c) Officers designated under subsection (a) shall receive specialized training as
1616 necessary on working with young adults, which may include: supervising and counseling young
1617 adults; psycho-social and behavioral development of young adults; cultural competency;
1618 rehabilitation of young adults; educational programs; and relevant community-based services and
1619 programs.

1620 SECTION 97. Said chapter 127 is hereby further amended by inserting after section 119
1621 the following section:-

1622 Section 119A. (a) As used in this section, the following words shall have the following
1623 meanings unless the context clearly requires otherwise:

1624 “Medical parole plan”, a comprehensive written medical and psychosocial care plan
1625 specific to a prisoner and including, but not limited to: (i) the proposed course of treatment; (ii)
1626 the proposed site for treatment and post-treatment care; (iii) documentation that medical
1627 providers qualified to provide the medical services identified in the medical parole plan are
1628 prepared to provide such services; and (iv) the financial program in place to cover the cost of the
1629 plan for the duration of the medical parole, which shall include eligibility for enrollment in
1630 commercial insurance, Medicare or Medicaid or access to other adequate financial resources for
1631 the duration of the medical parole.

1632 “Department”, the department of correction.

1633 “Permanent incapacitation”, a physical or cognitive incapacitation that appears
1634 irreversible, as determined by a licensed physician, and that is so debilitating that the prisoner
1635 does not pose a public safety risk.

1636 “Secretary”, the secretary of the executive office of public safety and security.

1637 “Terminal illness”, a condition that appears incurable, as determined by a licensed
1638 physician, that will likely cause the death of the prisoner in not more than 18 months and that is
1639 so debilitating that the prisoner does not pose a public safety risk.

1640 (b) Notwithstanding any general or special law to the contrary, a prisoner may be eligible
1641 for medical parole due to a terminal illness or permanent incapacitation pursuant to subsections
1642 (c) and (d).

1643 (c)(1)The superintendent of a correctional facility shall consider a prisoner for medical
1644 parole upon a written petition by the prisoner, the prisoner’s attorney, the prisoner’s next of kin,
1645 a medical provider of the correctional facility or a member of the department’s staff. The
1646 superintendent shall review the petition and develop a recommendation as to the release of the
1647 prisoner. Whether or not the superintendent recommends in favor of medical parole, the
1648 superintendent shall, not more than 21 days after receipt of the petition, transmit the petition and
1649 the recommendation to the commissioner. The superintendent shall transmit with the
1650 recommendation: (i) a medical parole plan; (ii) a written diagnosis by a physician licensed to

1651 practice medicine under section 2 of chapter 112; and (iii) an assessment of the risk for violence
1652 that the prisoner poses to society.

1653 (2) Upon receipt of the petition and recommendation pursuant to paragraph (1), the
1654 commissioner shall notify, in writing, the district attorney for the jurisdiction where the offense
1655 resulting in the prisoner being committed to the correctional facility occurred, the prisoner, the
1656 person who petitioned for medical parole, if not the prisoner and, if applicable under chapter
1657 258B, the victim or the victim's family that the prisoner is being considered for medical parole.
1658 The parties who receive the notice shall have an opportunity to provide written statements;
1659 provided, however, that if the prisoner was convicted and is serving a sentence under section 1 of
1660 chapter 265, the district attorney or victim's family may request a hearing.

1661 (d)(1) A sheriff shall consider a prisoner for medical parole upon a written petition filed
1662 by the prisoner, the prisoner's attorney, the prisoner's next of kin, a medical provider of the
1663 house of correction or jail or a member of the sheriff's staff. The sheriff shall review the request
1664 and develop a recommendation as to the release of the prisoner. Whether or not the sheriff
1665 recommends in favor of medical parole, the sheriff shall, not more than 21 days after receipt of
1666 the petition, transmit the petition and the recommendation to the commissioner. The sheriff shall
1667 transmit with the petition: (i) a medical parole plan; (ii) a written diagnosis by a physician
1668 licensed to practice medicine under section 2 of chapter 112; and (iii) an assessment of the risk
1669 for violence that the prisoner poses to society.

1670 (2) Upon receipt of the petition and recommendation pursuant to paragraph (1), the
1671 commissioner shall notify, in writing, the district attorney for the jurisdiction where the offense
1672 resulting in the prisoner being committed to the correctional facility occurred, the prisoner, the
1673 person who petitioned for medical parole, if not the prisoner and, if applicable under chapter
1674 258B, the victim or the victim's family that the prisoner is being considered for medical parole.
1675 The parties who receive the notice shall have an opportunity to submit written statements.

1676 (e) The commissioner shall issue a written decision not later than 45 days after receipt of
1677 a petition, which shall be accompanied by a statement of reasons for the commissioner's
1678 decision. If the commissioner determines that a prisoner is terminally ill or permanently
1679 incapacitated such that if the prisoner is released the prisoner will live and remain at liberty

1680 without violating the law and that the release will not be incompatible with the welfare of
1681 society, the prisoner shall be released on medical parole. The parole board shall impose terms
1682 and conditions for medical parole that shall apply through the date upon which the prisoner's
1683 sentence would have expired.

1684 Not less than 24 hours before the date of a prisoner's release on medical parole, the
1685 commissioner shall notify, in writing, the district attorney for the jurisdiction where the offense
1686 resulting in the prisoner being committed to the correctional facility occurred, the department of
1687 state police, the police department in the city or town in which the prisoner shall reside and, if
1688 applicable under chapter 258B, the victim or the victim's family of the prisoner's release and the
1689 terms and conditions of the release.

1690 (f) A prisoner granted release under this section shall be under the jurisdiction,
1691 supervision and control of the parole board, as if the prisoner had been paroled pursuant to
1692 section 130 of chapter 127. The parole board may revise, alter or amend the terms and conditions
1693 of a medical parole at any time. If a parole officer receives credible information that a prisoner
1694 has failed to comply with a condition of the prisoner's medical parole or upon discovery that the
1695 terminal illness or permanent incapacitation has improved to the extent that the prisoner would
1696 no longer be eligible for medical parole under this section, the parole officer shall immediately
1697 arrest the prisoner and bring the prisoner before the board for a hearing. If the board determines
1698 that the prisoner violated a condition of the prisoner's medical parole or that the terminal illness
1699 or permanent incapacitation has improved to the extent that the prisoner would no longer be
1700 eligible for medical parole pursuant to this section, the prisoner shall resume serving the balance
1701 of the sentence with credit given only for the duration of the prisoner's medical parole that was
1702 served in compliance with all conditions of their medical parole pursuant to subsection (e).
1703 Revocation of a prisoner's medical parole due to a change in the prisoner's medical condition
1704 shall not preclude a prisoner's eligibility for medical parole in the future or for another form of
1705 release permitted by law.

1706 (g) A prisoner, sheriff, or superintendent aggrieved by a decision denying or granting
1707 medical parole made under this section may petition for relief pursuant to section 4 of chapter
1708 249. A decision by the court affirming or reversing the commissioner's grant or denial of
1709 medical parole shall not affect a prisoner's eligibility for any other form of release permitted by

1710 law. A decision by the court pursuant to this subsection shall not preclude a prisoner's eligibility
1711 for medical parole in the future.

1712 (h) The secretary shall promulgate rules and regulations necessary for the enforcement
1713 and administration of this section.

1714 (i) The commissioner and the secretary shall file an annual report not later than March 1
1715 with the clerks of the senate and the house of representatives, the senate and house committees
1716 on ways and means and the joint committee on the judiciary detailing, for the prior fiscal year: (i)
1717 the number of prisoners in the custody of the department or of the sheriffs who applied for
1718 medical parole under this section and the race and ethnicity of each applicant; (ii) the number of
1719 prisoners who have been granted medical parole and the race and ethnicity of each prisoner; (iii)
1720 the nature of the illness of the applicants for medical parole; (iv) the counties to which the
1721 prisoners have been released; (v) the number of prisoners who have been denied medical parole,
1722 the reason for the denial and the race and ethnicity of each prisoner; (vi) the number of prisoners
1723 who have petitioned for medical parole more than once; (vii) the number of prisoners released
1724 who have been returned to the custody of the department or the sheriff and the reason for each
1725 prisoner's return; and (viii) the number of petitions for relief sought pursuant to subsection (g).
1726 Nothing in this report shall include personally identifiable information of the prisoners.

1727 SECTION 98. Section 133A of said chapter 127, appearing in the 2016 Official Edition,
1728 is hereby amended by adding the following paragraph:-

1729 If a prisoner is indigent and is serving a life sentence for an offense that was committed
1730 before the prisoner reached 18 years of age, the prisoner shall have the right to have appointed
1731 counsel at the parole hearing and shall have the right to funds for experts pursuant to chapter
1732 261.

1733 SECTION 99. Section 144 of said chapter 127, as so appearing, is hereby amended by
1734 striking out, in line 3, the words "thirty dollars" and inserting in place thereof the following
1735 figure:- \$90.

1736 SECTION 100. Said chapter 127 is hereby amended by striking out section 145, as so
1737 appearing, and inserting in place thereof the following section:-

1738 Section 145. (a) A court shall not commit a person to a correctional facility solely for
1739 non-payment of money owed if such person has established, by a preponderance of the evidence,
1740 that the person is unable to pay the fine without causing substantial financial hardship to the
1741 person or their immediate family or dependents. A court shall determine whether the payment of
1742 a fine would cause such substantial financial hardship after a hearing and, in making such
1743 determination, shall consider the person's employment status, income, financial resources, living
1744 expenses, number of dependents and any special circumstances that may affect a person's ability
1745 to pay.

1746 (b) A court shall not commit a person to a correctional facility for non-payment of money
1747 owed if such a person is not represented by counsel for the commitment proceeding, unless such
1748 person has waived counsel. A person deemed indigent for the purpose of being offered counsel
1749 and who is assigned counsel for the commitment portion of a proceeding solely for the
1750 nonpayment of money owed shall not be assessed a fee for such counsel.

1751 (c) Courts may consider alternatives to incarceration before committing a person to a
1752 prison or place of confinement solely for non-payment of a fine or a fine and expenses.

1753 (d) If a court determines that the payment of a fine would cause a substantial financial
1754 hardship pursuant to subsection (a), the court may impose an alternative to a fine or sentence to a
1755 correctional facility including, without limitation, community service.

1756 (e) A justice of the trial court shall not commit a person who has not reached 18 years of
1757 age to a prison, place of confinement or the department of youth services solely for the non-
1758 payment of money.

1759 (f) A person confined to a correctional facility for non-payment of money owed may
1760 petition the court for discharge from the correctional facility for an inability to pay the money
1761 owed due to a substantial financial hardship. If, after a hearing pursuant to subsection (a), the
1762 court determines that the person is not able to pay the money owed without causing a substantial
1763 financial hardship to the person, or the person's immediate family or dependents, the court shall
1764 discharge the person from the correctional facility. No filing fee shall be charged for the filing of
1765 the petition.

1766 SECTION 101. Section 1 of chapter 138 of the General Laws, as so appearing, is hereby
1767 amended by inserting after the definition of “Alcoholic beverages” the following definition:-

1768 “Alcohol-related incapacitation”, the condition of an intoxicated person who, by reason
1769 of the consumption of intoxicating liquor, is: (a) unconscious; (b) in need of medical attention; or
1770 (c) likely to suffer or cause physical harm or damage property.

1771 SECTION 102. Said chapter 138 is hereby further amended by inserting after section
1772 34D the following section:-

1773 Section 34E. (a) A person under 21 years of age who, in good faith, seeks medical
1774 assistance for someone experiencing alcohol-related incapacitation shall not be charged or
1775 prosecuted under sections 34, 34A or 34C if the evidence for the charge of purchase or
1776 possession of alcohol was gained as a result of seeking medical assistance.

1777 (b) A person under 21 years of age who experiences alcohol-related incapacitation and is
1778 in need of medical assistance and, in good faith, seeks such medical assistance or is the subject
1779 of such a good faith request for medical assistance shall not be charged or prosecuted under
1780 sections 34, 34A or 34C if the evidence for the charge of purchase or possession of alcohol was
1781 gained as a result of seeking medical assistance.

1782 SECTION 103. Section 4 of chapter 151B of the General Laws is hereby amended by
1783 striking out, in lines 408 and 410, as appearing in the 2016 Official Edition, the word “five” and
1784 inserting in place thereof, in each instance, the following figure:- 3.

1785 SECTION 104. Said section 4 of said chapter 151B, as so appearing, is hereby further
1786 amended by inserting after the word “information”, in line 412, the following words:- , or (iv) a
1787 criminal record, or anything related to a criminal record, that has been sealed or expunged
1788 pursuant to chapter 276.

1789 SECTION 105. Section 10 of chapter 209A of the General Laws, as so appearing, is
1790 hereby amended by striking out, in lines 7 and 8, the words “the person, or the dependents of
1791 such person, severe financial hardship” and inserting in place thereof the following words:-
1792 substantial financial hardship to the person or the person’s immediate family or the person’s
1793 dependents.

1794 SECTION 106. Chapter 211B of the General Laws is hereby amended by adding the
1795 following section:-

1796 Section 22. For the purposes of updating the criminal history record, the trial court shall
1797 electronically send to the department of state police all criminal case disposition information for
1798 the offender, including sealing and expungement orders and dismissals, together with the
1799 corresponding offense-based tracking number and fingerprint-based state identification number,
1800 to the extent that the offender has been assigned such numbers and the numbers have been
1801 provided to the court.

1802 SECTION 107. Section 2A of chapter 211D of the General Laws, as appearing in the
1803 2016 Official Edition, is hereby amended by striking out, in line 105, the word “A” and inserting
1804 in place thereof the following words:- Except for a person under 18 years of age, a.

1805 SECTION 108. Section 7 of chapter 212 of the General Laws, as so appearing, is hereby
1806 amended by inserting after the first sentence the following sentence:- An indictment for a felony
1807 offense shall be accompanied by the offense-based tracking number and fingerprint-based state
1808 identification number of the defendant when the corresponding charges result from an arrest.

1809 SECTION 109. Section 26 of said chapter 218, as so appearing, is hereby amended by
1810 striking out, in lines 26 to 27, the words “intimidation of a witness or juror under section thirteen
1811 B of chapter two hundred and sixty-eight” and inserting in place thereof the following words:-
1812 offenses under section 13B of chapter 268, conspiracy under section 7 of chapter 274,
1813 solicitation to commit a felony under section 8 of said chapter 274.

1814 SECTION 110. Said chapter 218 is hereby further amended by inserting after section 32
1815 the following section:-

1816 Section 32A. An application for a criminal complaint submitted to the district court by a
1817 police department against a person arrested for a felony offense shall be accompanied by an
1818 offense-based tracking number. An otherwise valid application for a complaint submitted by a
1819 police department against a person arrested shall not preclude the issuance of a complaint merely
1820 because the application does not include an arrestee’s offense-based tracking number. If a
1821 complaint is issued based on an application for a complaint submitted by a police department

1822 against a person arrested for a felony that did not include the arrestee's offense-based tracking
1823 number, the prosecutor shall submit the offense-based tracking number of the defendant to the
1824 court to be included in the case file.

1825 SECTION 111. Section 20 of chapter 233 of the General Laws, as appearing in the 2016
1826 Official Edition, is hereby amended by striking out clause Fourth and inserting in place thereof
1827 the following clause:-

1828 Fourth, A parent shall not testify against the parent's minor child and a minor child shall
1829 not testify against the child's parent in a proceeding before an inquest, grand jury, trial of an
1830 indictment or complaint or any other criminal, delinquency or youthful offender proceeding in
1831 which the victim in the proceeding is not a family member and does not reside in the family
1832 household; provided, however, that for the purposes of this clause, "parent" shall mean the
1833 biological or adoptive parent, stepparent, legal guardian or other person who has the right to act
1834 in loco parentis for the child; provided further, that in a case in which the victim is a family
1835 member and resides in the family household, the parent shall not testify as to any communication
1836 with the minor child that was for the purpose of seeking advice regarding the child's legal rights.

1837 SECTION 112. Section 8 of said chapter 258B, as so appearing, is hereby amended by
1838 striking out, in lines 38 to 40, inclusive, the words "would impose a severe financial hardship
1839 upon the person against whom the assessment is imposed" and inserting in place thereof the
1840 following words:- would cause a substantial financial hardship to the person against whom the
1841 assessment is imposed or the person's immediate family or the person's dependents.

1842 SECTION 113. Section 2 of chapter 258C of the General Laws, as so appearing, is
1843 hereby amended by inserting after the word "crime", in line 11, the following words:- ; provided,
1844 however, that a claimant who was a victim under 18 years of age shall not be required to file
1845 such report within 5 days.

1846 SECTION 114. Said section 2 of said chapter 258C, as so appearing, is hereby further
1847 amended by striking out, in line 27, the word "shall" and inserting in place thereof the following
1848 word:- may.

1849 SECTION 115. Subsection (e) of said section 2 of said chapter 258C, as so appearing, is
1850 hereby amended by adding the following sentence:- In the event of a victim's death by homicide,
1851 an award may be reduced except that the costs for appropriate and modest funeral, burial or
1852 cremation services shall be paid by the fund.

1853 SECTION 116. Section 1 of chapter 258D of the General Laws, as so appearing, is
1854 hereby amended by adding the following subsection:-

1855 (G) A claimant shall be entitled to preliminary relief under section subsection (E) of
1856 section 5 upon an initial showing that there is a substantial likelihood of success on the merits of
1857 the case.

1858 SECTION 117. Section 3 of said chapter 258D, as so appearing, is hereby amended by
1859 adding the following sentence:- Upon motion of the claimant, the court shall advance the
1860 proceeding for expedited discovery and a speedy trial so that it may be heard and determined
1861 with as little delay as possible.

1862 SECTION 118. Subsection (A) of section 5 of said chapter 258D, as so appearing, is
1863 hereby amended by striking out the fourth to sixth sentences, inclusive, and inserting in place
1864 thereof the following sentence:- The court may include, as part of its judgment against the
1865 commonwealth, an order requiring the commonwealth to provide the claimant with services that
1866 are reasonable and necessary to address any deficiencies in the individual's physical and
1867 emotional condition and waive tuition and fees for the claimant for any educational services from
1868 a state or community college in the commonwealth including, but not limited to, the University
1869 of Massachusetts at Amherst and its satellite campuses.

1870 SECTION 119. Said subsection (A) of said section 5 of said chapter 258D, as so
1871 appearing, is hereby further amended by striking out, in line 43, the figure "\$500,000", and
1872 inserting in place thereof the following figure:- \$1,000,000.

1873 SECTION 120. Said section 5 of said chapter 258D, as so appearing, is hereby further
1874 amended by adding the following subsection:-

1875 (E) Upon a ruling in favor of a claimant moving for preliminary relief under subsection
1876 (G) of section 1, the court shall enter an order requiring the commonwealth to provide the

1877 claimant with services that are reasonable and necessary to address any deficiencies in the
1878 individual's physical and emotional condition and waive tuition and fees for the claimant for any
1879 educational services from a state or community college in the commonwealth including, but not
1880 limited to, the University of Massachusetts at Amherst and its satellite campuses.

1881 SECTION 121. Said chapter 258D is hereby amended by striking out section 6, as so
1882 appearing, and inserting in place thereof the following section:-

1883 Section 6. A claimant who prevails in an action under this chapter shall be entitled to an
1884 award of the costs of the litigation and reasonable attorneys' fees in an amount to be fixed by the
1885 court.

1886 SECTION 122. Section 7 of said chapter 258D, as so appearing, is hereby amended by
1887 adding the following 2 subsections:-

1888 (E) A settlement agreement pursuant to this chapter may include a stipulation or
1889 agreement to an order of expungement or sealing to be entered by the court. Such stipulation or
1890 agreement shall be filed with the court and the court shall enter an order directing the
1891 expungement or sealing of those records of the claimant maintained by the department of
1892 criminal justice information services, the probation department and the sex offender registry that
1893 directly pertain to the claimant's erroneous felony conviction, including documents and other
1894 materials and any biological samples or other materials obtained from the claimant. If the
1895 settlement does not include an agreement to an order of expungement or sealing, the claimant is
1896 entitled to seek expungement or sealing from the court.

1897 (F) For the purposes of this chapter, "expungement" shall mean the permanent erasure
1898 and destruction of records.

1899 SECTION 123. Section 8 of said chapter 258D, as so appearing, is hereby amended by
1900 striking out, in lines 2 and 6, the figure "2" and inserting in place thereof, in each instance, the
1901 following figure:- 3.

1902 SECTION 124. Section 9 of said chapter 258D, as so appearing, is hereby amended by
1903 striking out subsection (C).

1904 SECTION 125. Chapter 263 of the General Laws is hereby amended by striking out
1905 section 1A, as so appearing, and inserting in place thereof the following section:-

1906 Section 1A. Whoever is arrested by virtue of process or is taken into custody by an
1907 officer and is charged with the commission of a felony shall be fingerprinted according to the
1908 system of the department of state police and photographed. The fingerprints and photographs
1909 shall be immediately forwarded to the department of state police to allow a biometric positive
1910 identification. The fingerprint record shall be suitable for comparison and shall include an
1911 offense-based tracking number, completed description of the offenses charged and other
1912 descriptors as required. The executive office of public safety and security may audit police
1913 departments for compliance with this section.

1914 SECTION 126. Section 1 of chapter 263A of the General Laws, as so appearing, is
1915 hereby amended by striking out the definition of “Critical witness” and inserting in place thereof
1916 the following definition:-

1917 “Critical witness”, any person who is participating, has participated, or is reasonably
1918 expected to participate in a criminal investigation, motion hearing, trial, show cause hearing, or
1919 other criminal proceeding, or a proceeding involving an alleged violation of conditions of
1920 probation or parole, or the commitment of a sexually dangerous person pursuant to chapter
1921 123A; or who has received a subpoena requiring such participation; who is, or was, in the
1922 judgment of the prosecuting officer, a necessary witness at one or more of the aforementioned
1923 types of proceedings, and who is or may be endangered by such person’s participation in the
1924 aforementioned proceeding; or such person’s relatives, guardians, friends or associates, who are
1925 or may be endangered by such person’s participation in the aforementioned proceeding.

1926 SECTION 127. Section 13 of chapter 265 of the General Laws, as so appearing, is
1927 hereby amended by adding the following paragraph:-

1928 Any business organization including, without limitation, a corporation, association,
1929 partnership or other legal entity that commits manslaughter shall be punished by a fine of not
1930 more than \$250,000. If a business organization is found guilty under this section, the appropriate
1931 commissioner or secretary may debar the corporation under section 29F of chapter 29 for a
1932 period not to exceed 10 years.

1933 SECTION 128. Section 13D of said chapter 265, as so appearing, is hereby amended by
1934 adding the following paragraph:-

1935 Whoever commits an assault and battery upon a police officer when such officer is
1936 engaged in the performance of the officer's duties at the time of such assault and battery and who
1937 by such assault and battery causes serious bodily injury to the officer shall be punished by a term
1938 of imprisonment in the state prison for not less than 1 year nor more than 10 years, or house of
1939 correction for not less than 1 year, nor more than 2 ½ years. No sentence imposed pursuant to
1940 this section shall be for less than a mandatory minimum term of imprisonment of 1 year and a
1941 fine of not less than \$500 nor more than \$10,000 may be imposed but not in lieu of the
1942 mandatory minimum term of imprisonment. A prosecution commenced under this paragraph
1943 shall not be placed on file or continued without a finding and a sentence imposed upon a person
1944 convicted of violating this paragraph shall not be suspended or reduced, nor shall such person be
1945 eligible for probation, parole, work release, furlough or receive any deduction from the person's
1946 sentence for good conduct until such person shall have served said mandatory minimum term of
1947 imprisonment. For purposes of this section, the term "serious bodily injury" shall mean bodily
1948 injury which results in a permanent disfigurement, protracted loss or impairment of a bodily
1949 function, limb or organ or substantial risk of death.

1950 SECTION 129. The second paragraph of section 47 of said chapter 265, as so appearing,
1951 is hereby amended by striking out the last sentence and inserting in place thereof the following
1952 sentence:- If the court finds that such fees would cause a substantial financial hardship to the
1953 offender or the person's immediate family or the person's dependents, the court may waive such
1954 fees.

1955 SECTION 130. Section 54 of said chapter 265, as so appearing, is hereby amended by
1956 inserting after the word "to", in line 1, the following words:- subsection (c) and subsection (d) of
1957 section 26D and.

1958 SECTION 131. Section 57 of said chapter 265, as so appearing, is hereby amended by
1959 striking out, in line 5, the words "a violation of section 53A" and inserting in place thereof the
1960 following words:- charges of violating sections 26 or 53A.

1961 SECTION 132. Said chapter 265 is hereby further amended by adding the following
1962 section:-

1963 Section 59. (a) At any time after the entry of a judgment of disposition on an indictment
1964 or criminal or delinquency complaint for an offense under section 26, subsection (a) of section
1965 53 or subsection (a) of section 53A of chapter 272 or under section 34 of chapter 94C for simple
1966 possession of a controlled substance, the court in which it was entered shall, upon motion of the
1967 defendant, vacate any conviction, adjudication of delinquency or continuance without a finding
1968 and permit the defendant to withdraw any plea of guilty, plea of nolo contendere, plea of
1969 delinquent or factual admission tendered in association therewith upon a finding by the court of a
1970 reasonable probability that the defendant's participation in the offense was a result of having
1971 been a human trafficking victim as defined by section 20M of chapter 233 or a victim of
1972 trafficking in persons under 22 U.S.C. 7102; provided that:

1973 (1) Except as provided in paragraphs (2) and (3) of this subsection, the defendant shall
1974 have the burden to establish a reasonable probability that the defendant's participation in the
1975 offense was the result of having been a victim of human trafficking;

1976 (2) Where a child under the age of 18 was adjudicated delinquent for an offense under
1977 section 26, subsection (a) of section 53 or subsection (a) of section 53A of chapter 272, based on
1978 allegations of prostitution, there shall be a rebuttable presumption that the child's participation in
1979 the offense was a result of having been a victim of human trafficking or trafficking in persons;

1980 (3) Where the conviction, adjudication of delinquency or continuance without a finding
1981 was for an offense under section 26, subsection (a) of section 53 or subsection (a) of section 53A
1982 of chapter 272 committed when the defendant was 18 years of age or older, official
1983 documentation from any local, state or federal government agency of the defendant's status as a
1984 victim of human trafficking or trafficking in persons at the time of the offense shall create a
1985 rebuttable presumption that the defendant's participation in the offense was a result of having
1986 been a victim of human trafficking or trafficking in persons, but shall not be required for
1987 granting a motion under this subsection;

1988 (4) For purposes of paragraph (3) of this subsection, “official documentation” shall be
1989 defined as any document issued by a local, state or federal government agency in the agency’s
1990 official capacity;

1991 (5) The rules concerning the admissibility of evidence at criminal trials shall not apply to
1992 the presentation and consideration of information at a hearing conducted pursuant to this section
1993 and the court shall consider hearsay contained in official documentation from any local, state or
1994 federal government agency of the defendant’s status as a victim of human trafficking or
1995 trafficking in persons offered in support of a motion pursuant to this section; and

1996 (6) A motion pursuant to this section may be heard by any sitting justice of a court of
1997 competent jurisdiction.

1998 (b) Upon vacatur of a conviction, adjudication of delinquency or continuance without a
1999 finding, the court shall enter a plea of not guilty. It shall be an affirmative defense to the charges
2000 against the defendant that, while a human trafficking victim, such person was under duress or
2001 coerced into committing the offenses for which such person is being prosecuted or against whom
2002 juvenile delinquency proceedings have commenced.

2003 (c) The administrative justices of the superior court, district court, juvenile court and the
2004 Boston municipal court departments shall jointly promulgate a motion form for use under this
2005 section.

2006 (d) A conviction, adjudication of delinquency or continuance without a finding vacated
2007 under this section shall be deemed to have been vacated on the merits.

2008 SECTION 133. Section 27A of chapter 266 of the General Laws, as appearing in the
2009 2016 Official Edition, is hereby amended by striking out, in lines 32 to 34, inclusive, the words
2010 “impose an undue financial hardship on the defendant or his family, the court may modify the
2011 amount, time or method of payment, but may not grant complete remission from payment of
2012 restitution” and inserting in place thereof the following words:- cause a substantial financial
2013 hardship to the defendant or the defendant’s immediate family or the defendant’s dependents, the
2014 court may grant remission from any payment of restitution or modify the amount, time or method
2015 of payment.

2016 SECTION 134. Section 28 of said chapter 266, as so appearing, is hereby amended by
2017 inserting after the word “thereof”, in line 40, the following words- , except for a conviction or
2018 adjudication for malicious damage to a motor vehicle or trailer,.

2019 SECTION 135. Section 29 of said chapter 266, as so appearing, is hereby amended by
2020 striking out, in lines 45 to 47, inclusive, the words “impose an undue financial hardship on the
2021 defendant or his family, the court may modify the amount, time or method of payment, but may
2022 not grant complete remission from payment of restitution” and inserting in place thereof the
2023 following words:- cause a substantial financial hardship to the defendant or the defendant’s
2024 immediate family or the defendant’s dependents, the court may grant remission from any
2025 payment of restitution or modify the amount, time or method of payment.

2026 SECTION 136. Section 30 of said chapter 266, as so appearing, is hereby amended by
2027 striking out, in line 9 and lines 13 and 14, the words “two hundred and fifty dollars” and
2028 inserting in place thereof, in each instance, the following figure:- \$1,200.

2029 SECTION 137. Said section 30 of said chapter 266, as so appearing, is hereby further
2030 amended by striking out, in lines 15 to 23, inclusive, the words “three hundred dollars; or, if the
2031 property was stolen from the conveyance of a common carrier or of a person carrying on an
2032 express business, shall be punished for the first offence by imprisonment for not less than six
2033 months nor more than two and one half years, or by a fine of not less than fifty nor more than six
2034 hundred dollars, or both, and for a subsequent offence, by imprisonment for not less than
2035 eighteen months nor more than two and one half years, or by a fine of not less than one hundred
2036 and fifty nor more than six hundred dollars, or both” and inserting in place thereof the following
2037 figure:- \$1,500.

2038 SECTION 138. Said section 30 of said chapter 266, as so appearing, is hereby further
2039 amended by adding the following paragraph:-

2040 (6) A law enforcement officer may arrest a person without a warrant that the officer has
2041 probable cause to believe has committed an offense under this section and the value of the
2042 property stolen is more than \$250.

2043 SECTION 139. Section 30A of said chapter 266, as so appearing, is hereby amended by
2044 striking out, in lines 35, 42 and 46 and 47, the words “one hundred dollars” and inserting in place
2045 thereof, in each instance, the following figure:- \$250.

2046 SECTION 140. Section 37A of said chapter 266, as so appearing, is hereby amended by
2047 striking out the definition of “Credit card” and inserting in place thereof the following
2048 definition:-

2049 “Credit card”, an instrument or device, whether known as a credit card, credit plate or
2050 other name, or the code of number used to identify that instrument or device or an account of
2051 credit or cash accessed by that instrument or device, issued with or without a fee by an issuer for
2052 the use of the cardholder in obtaining money, goods, services or anything else of value on credit
2053 or by debit from a cash account.

2054 SECTION 141. Section 37B of said chapter 266, as so appearing, is hereby amended by
2055 striking out, in lines 24 and 25, 29 and 30, 37 and 38, and lines 45 and 46, the words “two
2056 hundred and fifty dollars” and inserting in place thereof, in each instance, the following figure:-
2057 \$1,200.

2058 SECTION 142. Said section 37B of said chapter 266, as so appearing, is hereby further
2059 amended by striking out, in lines 49 and 50, the words “five hundred dollars” and inserting in
2060 place thereof the following figure:- \$2,500.

2061 SECTION 143. Section 37C of said chapter 266, as so appearing, is hereby amended by
2062 striking out, in lines 12, 17, 23 and lines 31 and 32, the words “two hundred and fifty dollars”
2063 and inserting in place thereof, in each instance, the following figure:- \$1,200.

2064 SECTION 144. Said section 37C of said chapter 266, as so appearing, is hereby further
2065 amended by striking out, in lines 39 and 40, the words “two thousand dollars” and inserting in
2066 place thereof the following figure:- \$10,000.

2067 SECTION 145. Section 37E of said chapter 266, as so appearing, is hereby amended by
2068 inserting after subsection (c) the following subsection:-

2069 (c½) Whoever possesses a tool, instrument or other article adapted, designed or
2070 commonly used for accessing a person’s financial services account number or code, savings
2071 account number or code, checking account number or code, brokerage account number or code,
2072 credit card account number or code, debit card number or code, automated teller machine
2073 number or code, personal identification number, mother’s maiden name, computer system
2074 password, electronic signature or unique biometric data that is a fingerprint, voice print, retinal
2075 image or iris image of another person under circumstances evincing an intent to use or
2076 knowledge that some person intends to use the same in the commission of larceny shall be guilty
2077 of identity fraud and shall be punished by a fine of not more than \$5,000, or imprisonment in a
2078 house of correction for not more than 2½ years, or by both such fine and imprisonment.

2079 SECTION 146. Section 60 of said chapter 266, as so appearing, is hereby amended by
2080 striking out, in lines 13, 16 and 20, the figure “\$250” and inserting in place thereof, in each
2081 instance, the following figure:- \$1,200.

2082 SECTION 147. Said section 60 of said chapter 266, as so appearing, is hereby further
2083 amended by striking out, in line 15, the figure “\$1,000” and inserting in place thereof the
2084 following figure:- \$3,000.

2085 SECTION 148. Said section 60 of said chapter 266, as so appearing, is hereby further
2086 amended by adding the following paragraph:-

2087 A law enforcement officer may arrest any person without warrant that the officer has
2088 probable cause to believe has committed an offense under this section and the value of the
2089 property stolen exceeds \$250.

2090 SECTION 149. The second paragraph of section 108 of said chapter 266, as so
2091 appearing, is hereby amended by striking out the third sentence and inserting in place thereof the
2092 following sentence:- If the defendant is indigent or if the court finds that ordering such restitution
2093 would cause a substantial financial hardship to the defendant or the defendant’s immediate
2094 family or the defendant’s dependents, the court may determine that the interests of the victim and
2095 of justice would not be served by ordering such restitution.

2096 SECTION 150. Said section 108 of said chapter 266, as so appearing, is hereby further
2097 amended by striking out, in lines 28 and 29, the words “an undue financial hardship on the
2098 defendant or his family” and inserting in place thereof the following words:- a substantial
2099 financial hardship on the defendant or the defendant’s immediate family or the defendant’s
2100 dependents.

2101 SECTION 151. Section 111B of said chapter 266, as so appearing, is hereby amended by
2102 striking out, in lines 45 to 47, inclusive, the words “impose an undue financial hardship on the
2103 defendant or his family, the court may modify the amount, time or method of payment, but may
2104 not grant complete remission from payment of restitution” and inserting in place thereof the
2105 following words:- cause a substantial financial hardship to the defendant or the defendant’s
2106 immediate family or the defendant’s dependents, the court may grant remission from any
2107 payment of restitution or modify the amount, time or method of payment.

2108 SECTION 152. Section 126A of said chapter 266, as so appearing, is hereby amended by
2109 striking out the second paragraph.

2110 SECTION 153. Section 126B of said chapter 266, as so appearing, is hereby amended by
2111 striking out the second paragraph.

2112 SECTION 154. Said chapter 266 is hereby further amended by striking out section 127,
2113 as so appearing, and inserting in place thereof the following section:-

2114 Section 127. Whoever destroys or injures the personal property, dwelling house or
2115 building of another in any manner or by any means not particularly described or mentioned in
2116 this chapter shall, if such destruction or injury is willful and malicious, be punished by
2117 imprisonment in the state prison for not more than 10 years or by a fine of \$3,000 or 3 times the
2118 value of the damage caused to the property so destroyed or injured, whichever is greater, and
2119 imprisonment in jail for not more than 2½ years; or if such destruction or injury is wanton, shall
2120 be punished by a fine of \$1,000 or 3 times the value of the damage to the property so destroyed
2121 or injured, whichever is greater, or by imprisonment for not more than 2½ years; if the value of
2122 the damage to the property so destroyed or injured is not alleged to exceed \$1,200, the
2123 punishment shall be by a fine of 3 times the value of the damage to property or by imprisonment
2124 for not more than 2½ years; provided, however, that where a fine is levied pursuant to the value

2125 of the damage to the property destroyed or injured, the court shall, after conviction, conduct an
2126 evidentiary hearing to ascertain the value of the damage to the property so destroyed or injured.
2127 The words "personal property", as used in this section, shall also include electronically processed
2128 or stored data, either tangible or intangible, and data while in transit.

2129 SECTION 155. Chapter 268 of the General Laws is hereby amended by striking out
2130 section 13B, as so appearing, and inserting in place thereof the following section:-

2131 Section 13B. (a) As used in this section, the following words shall have the following
2132 meanings unless the context clearly requires otherwise:

2133 "Investigator", an individual or group of individuals lawfully authorized by a department
2134 or agency of the federal government or any political subdivision thereof or a department or
2135 agency of the commonwealth or any political subdivision thereof to conduct or engage in an
2136 investigation of, prosecution for, or defense of a violation of the laws of the United States or of
2137 the commonwealth in the course of such individual's or group's official duties.

2138 "Harass", to engage in an act directed at a specific person or group of persons that
2139 seriously alarms or annoys such person or group of persons and would cause a reasonable person
2140 or group of persons to suffer substantial emotional distress including, but not limited to, an act
2141 conducted by mail or by use of a telephonic or telecommunication device or electronic
2142 communication device including, but not limited to, a device that transfers signs, signals, writing,
2143 images, sounds, data or intelligence of any nature, transmitted in whole or in part by a wire,
2144 radio, electromagnetic, photoelectronic or photo-optical system including, but not limited to,
2145 electronic mail, internet communications, instant messages and facsimile communications.

2146 (b) Whoever willfully, either directly or indirectly: (i) threatens, attempts or causes
2147 physical, emotional or economic injury or property damage to; (ii) conveys a gift, offer or
2148 promise of anything of value to; or (iii) misleads, intimidates or harasses another person who is
2149 a: (A) witness or potential witness; (B) person who is or was aware of information, records,
2150 documents or objects that relate to a violation of a criminal law or a violation of conditions of
2151 probation, parole, bail or other court order; (C) judge, juror, grand juror, attorney, victim witness
2152 advocate, police officer, correction officer, federal agent, investigator, clerk, court officer, court
2153 reporter, court interpreter, probation officer or parole officer; (D) person who is or was attending

2154 or a person who had made known an intention to attend a proceeding described in this section; or
2155 (E) family member of a person described in this section, with the intent to or with reckless
2156 disregard for the fact that it may; (1) impede, obstruct, delay, prevent or otherwise interfere with:
2157 a criminal investigation at any stage, a grand jury proceeding, a dangerousness hearing, a motion
2158 hearing, a trial or other criminal proceeding of any type or a parole hearing, parole violation
2159 proceeding or probation violation proceeding; or an administrative hearing or a probate or family
2160 court proceeding, juvenile proceeding, housing proceeding, land proceeding, clerk's hearing,
2161 court-ordered mediation or any other civil proceeding of any type; or (2) punish, harm or
2162 otherwise retaliate against any such person described in this section for such person or such
2163 person's family member's participation in any of the proceedings described in this section, shall
2164 be punished by imprisonment in the state prison for not more than 10 years or by imprisonment
2165 in the house of correction for not more than 2½ years or by a fine of not less than \$1,000 or more
2166 than \$5,000 or by both such fine and imprisonment. If the proceeding in which the misconduct is
2167 directed at is the investigation or prosecution of a crime punishable by life imprisonment or the
2168 parole of a person convicted of a crime punishable by life imprisonment, such person shall be
2169 punished by imprisonment in the state prison for not more than 20 years or by imprisonment in
2170 the house of corrections for not more than 2½ years or by a fine of not more than \$10,000 or by
2171 both such fine and imprisonment.

2172 (c) A prosecution under this section may be brought in the county in which the criminal
2173 investigation, trial or other proceeding was being conducted or took place or in the county in
2174 which the alleged conduct constituting the offense occurred.

2175 SECTION 156. Section 34A of said chapter 268, as so appearing, is hereby amended by
2176 striking out the first sentence and inserting in place thereof the following sentence:- Whoever
2177 knowingly and willfully furnishes a false name, Social Security number, date of birth, home
2178 address, mailing address or phone number, or other information as may be requested for the
2179 purposes of establishing the person's identity, to a law enforcement officer or law enforcement
2180 official following an arrest shall be punished by a fine of not more than \$1,000 or by
2181 imprisonment in a house of correction for not more than 1 year or by both such fine and
2182 imprisonment.

2183 SECTION 157. Section 10H of chapter 269 of the General Laws, as so appearing, is
2184 hereby amended by striking out, in line 7, the words “the vapors of glue” and inserting in place
2185 thereof the following words:- from smelling or inhaling the fumes of any substance having the
2186 property of releasing toxic vapors as defined in section 18 of chapter 270.

2187 SECTION 158. Section 14B of said chapter 269, as so appearing, is hereby amended by
2188 striking out subsection (b) and inserting in place thereof the following subsection:-

2189 (b) Upon any conviction under this section, the court shall conduct a hearing to ascertain
2190 the extent of costs incurred, and damages and financial loss sustained by any emergency
2191 response services provider as a result of the violation and shall order the defendant to make
2192 restitution to the emergency response services provider or providers for any such costs, damages
2193 or loss. The court shall consider the defendant's present and future ability to pay restitution in its
2194 determinations relative to the imposition of a fine. In determining the amount, time and method
2195 of payment of restitution, the court shall consider the defendant’s employment status, earning
2196 ability, financial resources, living expenses, dependents and any special circumstances that may
2197 have bearing on their ability to pay. The court may waive restitution or modify the amount, time
2198 or method of payment if such restitution payment would cause a substantial financial hardship to
2199 the defendant or the defendant’s immediate family or the defendant’s dependents.

2200 SECTION 159. Said Chapter 272 of the General Laws is hereby amended by striking out
2201 section 40, as so appearing, and inserting in place thereof the following section:-

2202 Section 40. Whoever willfully interrupts or disturbs an assembly of people meeting for a
2203 lawful purpose shall be punished by imprisonment for not more than 1 month or by a fine of not
2204 more than \$50; provided, however, that an elementary or secondary student shall not be adjudged
2205 a delinquent child for an alleged violation of this section for such conduct within school
2206 buildings or on school grounds or in the course of school-related events.

2207 SECTION 160. Section 53 of said chapter 272, as so appearing, is hereby amended by
2208 striking out subsection (b) and inserting in place thereof the following subsection:-

2209 (b) Disorderly persons and disturbers of the peace shall, for a first offense, be punished
2210 by a fine of not more than \$150. For a second or subsequent offense, disorderly persons and

2211 disturbers of the peace shall be punished by imprisonment in a jail or house of correction for not
2212 more than 6 months or by a fine of not more than \$200 or by both such fine and imprisonment;
2213 provided, however, that an elementary or secondary school student shall not be adjudged a
2214 delinquent child for a violation of this subsection for such conduct within school buildings or on
2215 school grounds or in the course of school-related events.

2216 SECTION 161. Said chapter 272 is hereby amended by inserting after section 106 the
2217 following section:-

2218 Section 107. The court shall transmit fines collected pursuant to section 8 and subsection
2219 (b) and subsection (c) of section 53A to the state treasurer. The treasurer shall deposit such fines
2220 into the Victims of Human Trafficking Trust Fund established pursuant to section 66A of chapter
2221 10.

2222 SECTION 162. Chapter 274 of the General Laws is hereby amended by adding the
2223 following section:-

2224 Section 8. Whoever solicits, counsels, advises, or otherwise entices another to commit a
2225 crime that may be punished by imprisonment in the state prison, with the intent that the person,
2226 in fact, commit or procure the commitment of such crime shall, except as otherwise provided, be
2227 punished as follows:

2228 First, by imprisonment for not more than 20 years in the state prison or for not more than
2229 2½ years in a jail or house of correction, or by a fine of not more than \$10,000, or by both such
2230 fine and imprisonment, if the intent of the solicitation, counsel, advice or enticement was for the
2231 person to commit a crime punishable by imprisonment for life.

2232 Second, by imprisonment for not more than 10 years in the state prison or for not more
2233 than 2½ years in a jail or house of correction, or by a fine of not more than \$10,000, or by both
2234 such fine and imprisonment, if the intent of the solicitation, counsel, advice or enticement was
2235 for the person to commit a crime punishable by imprisonment in the state prison for 10 years or
2236 more.

2237 Third, by imprisonment for not more than 5 years in the state prison or for not more than
2238 2½ years in a jail or house of correction, or by a fine of not more than \$5,000, or by both such

2239 fine and imprisonment, if the intent of the solicitation, counsel, advice or enticement was for the
2240 person to commit a crime punishable by imprisonment in the state prison for 5 years or more.

2241 Fourth, by imprisonment for not more 2½ years in a jail or house of correction, or by a
2242 fine of not more than \$2,000, or by both such fine and imprisonment, if the intent of the
2243 solicitation, counsel, advice or enticement was for the person to commit a crime punishable by
2244 imprisonment in the state prison for less than 5 years.

2245 If a person is convicted of solicitation, counsel, advice or enticement for which crime the
2246 penalty is expressly set forth in any other section of the General Laws, the provisions of this
2247 section shall not apply to said crime and the penalty in the applicable section of the General
2248 Laws shall be imposed pursuant to the provisions of such other section.

2249 SECTION 163. Section 30 of chapter 276 of the General Laws, as appearing in the 2016
2250 Official Edition, is hereby amended by striking out, in lines 5 and 6, the words “upon a finding
2251 of good cause by the court the fee may be waived” and inserting in place thereof the following
2252 words:- the court may waive the fee upon a finding of good cause or upon a finding that such a
2253 fee would cause a substantial financial hardship to the person, the person’s immediate family or
2254 the person’s dependents.

2255 SECTION 164. Said section 30 of said chapter 276, as so appearing, is hereby further
2256 amended by inserting after the word “indigent”, in line 11, the following words:- or that such fee
2257 would cause a substantial financial hardship to the person, the person’s immediate family or the
2258 person’s dependents.

2259 SECTION 165. Section 31 of said chapter 276, as so appearing, is hereby amended by
2260 inserting after the word “cause”, in line 6, the following words:- or upon a finding that such an
2261 assessment would cause a substantial financial hardship to the person, the person’s immediate
2262 family or the person’s dependents.

2263 SECTION 166. Section 57 of said chapter 276, as so appearing, is hereby amended by
2264 inserting after the first sentence the following sentence:- Except in cases where the person is
2265 determined to pose a danger to the safety of any other person or the community under section
2266 58A, bail shall be set in an amount no higher than what would reasonably assure the appearance

2267 of the person before the court after taking into account the person's financial resources;
2268 provided, however, that a higher than affordable bail may be set if neither alternative
2269 nonfinancial conditions nor a bail amount which the person could likely afford would adequately
2270 assure the person's appearance before the court.

2271 SECTION 167. Said section 57 of said chapter 276, as so appearing, is hereby further
2272 amended by inserting after the word "ties", in line 50, the following words:- , the person's
2273 financial resources and financial ability to give bail.

2274 SECTION 168. Said section 57 of said chapter 276, as so appearing, is hereby further
2275 amended by inserting after the second paragraph the following paragraph:-

2276 If bail is set at an amount that is likely to result in the person's long-term pretrial
2277 detention because he or she lacks the financial resources to post said amount, an authorized
2278 person setting bail must provide written or orally recorded findings of fact and a statement of
2279 reasons as to why, under the relevant circumstances, neither alternative nonfinancial conditions
2280 nor a bail amount that the person can afford will reasonably assure his or her appearance before
2281 the court, and further, must explain how the bail amount was calculated after taking the person's
2282 financial resources into account and why the commonwealth's interest in bail or a financial
2283 obligation outweighs the potential adverse impact on the person, their immediate family or
2284 dependents resulting from pretrial detention.

2285 SECTION 169. Said section 57 of said chapter 276, as so appearing, is hereby further
2286 amended by adding the following paragraph:-

2287 Participation in a community corrections program pursuant to chapter 211F may be
2288 ordered by the court, in lieu of bail, or as a condition of release; provided, however, that the
2289 defendant shall consent to such participation.

2290 SECTION 170. Section 58 of said chapter 276, as so appearing, is hereby amended by
2291 inserting after the first sentence the following sentence:- Except in cases where the person is
2292 determined to pose a danger to the safety of any other person or the community under section
2293 58A, bail shall be set in an amount no higher than what would reasonably assure the appearance
2294 of the person before the court after taking into account the person's financial resources;

2295 provided, however, that a higher than affordable bail may be set if neither alternative
2296 nonfinancial conditions nor a bail amount which the person could likely afford would adequately
2297 assure the person's appearance before the court.

2298 SECTION 171. Said section 58 of said chapter 276, as so appearing, is hereby further
2299 amended by inserting after the word "resources", in line 20, the following words:- and financial
2300 ability to give bail.

2301 SECTION 172. Said section 58 of said chapter 276, as so appearing, is hereby further
2302 amended by inserting after the first paragraph the following paragraph:- If bail is set at an
2303 amount that is likely to result in the person's long-term pretrial detention because he or she lacks
2304 the financial resources to post said amount, an authorized person setting bail must provide
2305 written or orally recorded findings of fact and a statement of reasons as to why, under the
2306 relevant circumstances, neither alternative nonfinancial conditions nor a bail amount that the
2307 person can afford will reasonably assure his or her appearance before the court, and further, must
2308 explain how the bail amount was calculated after taking the person's financial resources into
2309 account and why the commonwealth's interest in bail or a financial obligation outweighs the
2310 potential adverse impact on the person, their immediate family or dependents resulting from
2311 pretrial detention.

2312 SECTION 173. Said section 58 of said chapter 276, as so appearing, is hereby further
2313 amended by adding the following paragraph:-

2314 Participation in a community corrections program pursuant to chapter 211F may be
2315 ordered by the court, in lieu of bail, or as a condition of release; provided, however, that the
2316 defendant shall consent to such participation.

2317 SECTION 174. Section 58A of said chapter 276, as so appearing, is hereby amended by
2318 striking out, in lines 16 and 17, the words "third or subsequent conviction for a violation of
2319 section 24 of chapter 90" and inserting in place thereof the following words:- charge of a third or
2320 subsequent violation of section 24 of chapter 90 within 10 years of the previous conviction for
2321 such violation.

2322 SECTION 175. Subsection (2) of said section 58A of said chapter 276, as so appearing,
2323 is hereby amended by adding the following paragraph:-

2324 Participation in a community corrections program pursuant to chapter 211F may be
2325 ordered by the court or as a condition of release; provided, however, that the defendant shall
2326 consent to such participation.

2327 SECTION 176. Said section 58A of said chapter 276, as so appearing, is hereby
2328 amended by inserting after the word “days”, in line 99, the following words:- by the district court
2329 or for a period exceeding 180 days by the superior court.

2330 SECTION 177. Section 59 of said chapter 276 is hereby repealed.

2331 SECTION 178. Section 61A of said chapter 276 is hereby repealed.

2332 SECTION 179. Said chapter 276 is hereby further amended by striking out section 61B,
2333 as appearing in the 2016 Official Edition, and inserting in place thereof the following section:-

2334 Section 61B. No surety under this chapter shall be compensated for acting as surety.

2335 SECTION 180. The first paragraph of section 87A of said chapter 276, as so appearing,
2336 is hereby amended by adding the following 2 sentences:- No person placed on probation shall be
2337 found to have violated a condition of probation: (i) solely on the basis of possession or use of a
2338 controlled substance that has been lawfully dispensed pursuant to a valid prescription to that
2339 person by a health professional registered to prescribe a controlled substance pursuant to chapter
2340 94C and acting within the lawful scope of the health professional’s practice; or (ii) solely on the
2341 basis of possession or use of medical marijuana obtained in compliance with and in quantities
2342 consistent with applicable state regulations if that person received a written certification from a
2343 healthcare professional for the use of medical marijuana to treat a debilitating medical condition
2344 and the person possesses a valid medical marijuana registration card and if the quantity in the
2345 person’s possession is not greater than the amount recommended in the healthcare professional’s
2346 written certification. If a person is required to submit a DNA sample pursuant to chapter 22E,
2347 such submittal and compliance with chapter 22E shall be required as a condition of probation.

2348 SECTION 181. Said section 87A of said chapter 276, as so appearing, is hereby
2349 amended by striking out the third paragraph and inserting in place thereof the following 2
2350 paragraphs:-

2351 The court shall not assess said monthly probation fee or said administrative probation fee
2352 upon any person placed on supervised probation or administrative supervised probation after
2353 release from prison or a house of correction for said person's first 6 months of such probation.
2354 Either or both of said fees shall be assessed after the first 6 months of such probation unless
2355 otherwise waived by the court pursuant to this section.

2356 The court may waive payment of either or both of said fees if it determines after a
2357 hearing that such payment would impose a substantial financial hardship on the person, the
2358 person's immediate family or dependents. Following the hearing and upon a finding of hardship,
2359 the court may require any such person to perform unpaid community service work at a public or
2360 nonprofit agency or facility, monitored by the probation department, for not more than 4 hours
2361 per month in lieu of payment of a probation fee. A waiver shall be in effect only during the
2362 period of time that a person is unable to pay the monthly probation fee.

2363 SECTION 182. Said section 87A of said chapter 276, as so appearing, is hereby further
2364 amended by striking out the eighth paragraph and inserting in place thereof the following
2365 paragraph:-

2366 The court may waive payment of either or both of said fees if it has determined, after a
2367 hearing, that the payment would impose a substantial financial hardship on the person, the
2368 person's immediate family or dependents. A waiver shall be in effect only during the period of
2369 time that the person is unable to pay the monthly probation fee.

2370 SECTION 183. Said chapter 276 is hereby amended by inserting after section 89A the
2371 following section:-

2372 Section 89B. Probation officers appointed under subsection (f) of section 83 may be
2373 designated by the commissioner of probation to exclusively supervise young adults, who are 18
2374 to 24 years of age and have been placed in the care of probation officers under section 87, so that

2375 these individuals may benefit from age appropriate guidance, targeted interventions and a greater
2376 degree of individual attention.

2377 Probation officers designated under this section shall be selected based on their
2378 demonstrated experience and commitment to working with young adults and shall perform their
2379 services under the direction of the commissioner.

2380 Probation officers designated under this section shall receive specialized training on
2381 topics including but not limited to: (i) supervising and counseling young adults; (ii) psycho-
2382 social and behavioral development of young adults; (iii) cultural competency; (iv) rehabilitation
2383 of young adults; (v) educational programs; and (vi) relevant community-based services and
2384 programs.

2385 SECTION 184. The third paragraph of section 92A of said chapter 276, as appearing in
2386 the 2016 Official Edition, is hereby amended by striking out the second sentence and inserting in
2387 place thereof the following sentence:- If the court finds that the payment of restitution due will
2388 cause a substantial financial hardship to the defendant, the defendant's immediate family or the
2389 defendant's dependents, the court may grant remission from any payment of restitution, or
2390 modify the amount, time or method of payment.

2391 SECTION 185. Chapter 276 of the General Laws is hereby amended by inserting after
2392 section 99F the following section:-

2393 Section 99G. (a) There shall be in the office of probation a pretrial services initiative,
2394 hereinafter referred to as pretrial services. Pretrial services shall be led by a supervisor of
2395 pretrial services. The supervisor shall be a person of ability and experience in the pretrial
2396 process who shall be chosen and appointed by the commissioner of probation.

2397 (b) Pretrial services shall perform the following duties for the departments of the trial
2398 court of the commonwealth: (i) develop, in coordination with the court and other criminal justice
2399 agencies, programs to minimize unnecessary pretrial detention; and (ii) provide notifications and
2400 reminders to defendants of court appearance obligations to reduce the risk of accidental defaults.

2401 (c) Pretrial services may be provided with probation staff, including community
2402 correction staff, as determined by the commissioner of probation.

2403 (d) The supervisor of pretrial services shall submit annual reports to the commissioner of
2404 probation, the chief justice of the trial court, the court administrator, the chief justice of the
2405 supreme judicial court and the clerks of the house of representatives and the senate who shall
2406 forward the report to the chairs of the joint committee on the judiciary. The report shall include,
2407 but not be limited to, if available: (i) analysis on demographics of the pretrial population,
2408 including age, race and gender; (ii) appearance and default rates; (iii) conditions imposed upon
2409 release; and (iv) any other analytical data deemed appropriate; provided, however, that any data
2410 included in the report shall be presented only in aggregated form so that no individual can be
2411 identified.

2412 SECTION 186. Section 100A of said chapter 276, as appearing in the 2016 Official
2413 Edition, is hereby amended by striking out, in lines 9, 14 and 21, the figure “5” and inserting in
2414 place thereof, in each instance, the following figure:- 3.

2415 SECTION 187. Said section 100A of said chapter 276, as so appearing, is hereby further
2416 amended by striking out, in lines 12, 15 and 22, the figure “10” and inserting in place thereof, in
2417 each instance, the following figure:- 7.

2418 SECTION 188. Said section 100A of said chapter 276, as so appearing, is hereby further
2419 amended by inserting after the words “268A”, in line 28, the following words- , except for
2420 convictions for resisting arrest.

2421 SECTION 189. Said section 100A of said chapter 276, as so appearing, is hereby further
2422 amended by striking out, in line 83, the words “for employment used by an employer” and
2423 inserting in place thereof the following words:- used to screen applicants for employment,
2424 housing or an occupational or professional license.

2425 SECTION 190. Said section 100A of said chapter 276, as so appearing, is hereby further
2426 amended by inserting after the word “employment”, in line 85, the following words:- or for
2427 housing or an occupational or professional license.

2428 SECTION 191. Said section 100A of said chapter 276, as so appearing, is hereby further
2429 amended by inserting after the word “employment”, in line 89, the following words:- or for
2430 housing or an occupational or professional license.

2431 SECTION 192. Said section 100A of said chapter 276, as so appearing, is hereby further
2432 amended by inserting after the word “employment”, in line 92, the following words:- or for
2433 housing or an occupational or professional license.

2434 SECTION 193. Section 100C of said chapter 276, as so appearing, is hereby amended by
2435 striking out, in line 23, the words “for employment used by an employer” and inserting in place
2436 thereof the following words:- used to screen applicants for employment, housing or an
2437 occupational or professional license.

2438 SECTION 194. Said section 100C of said chapter 276, as so appearing, is hereby further
2439 amended by inserting after the word “employment”, in line 26, the following words:- , housing
2440 or an occupational or professional license.

2441 SECTION 195. Chapter 276 of the General Laws is hereby amended by inserting after
2442 section 100D the following 17 sections:-

2443 Section 100E. As used in sections 100E through 100U, the following words shall, unless
2444 the context clearly requires otherwise, have the following meanings:-

2445 “Attorney general”, the attorney general of the commonwealth.

2446 “Commissioner”, the commissioner of probation.

2447 “Consumer reporting agency”, any person or organization which, for monetary fees,
2448 dues, or on a cooperative, not-for-profit basis, regularly engages in whole, or in part, in the
2449 practice of assembling or evaluating criminal history, credit or other information on consumers
2450 for the purpose of furnishing consumer reports to third parties, and which uses any means or
2451 facility of interstate commerce for the purpose of preparing or furnishing consumer reports.

2452 “County agency”, any department or office of county government and any division,
2453 board, bureau, commission, institution, tribunal or other instrumentality thereof or thereunder.

2454 “Court”, the trial court of the commonwealth established pursuant to section 1 of chapter
2455 211B and any departments or offices established within the trial court.

2456 “Criminal court appearance”, an arraignment on, all pre-trial and other post arraignment
2457 judicial proceedings related to and the disposition of, a criminal offense.

2458 “Criminal justice agencies”, those agencies at all levels of government, which perform as
2459 their principal function, activities relating to: (i) crime prevention, including research or the
2460 sponsorship of research; (ii) the apprehension, prosecution, adjudication, incarceration or
2461 rehabilitation of criminal offenders; or (iii) the collection, storage, dissemination or usage of
2462 criminal offender record information.

2463 “Department”, the department of criminal justice information services established
2464 pursuant to section 167A of chapter 6.

2465 “Disabled person”, a person with an intellectual disability, as defined by section 1 of
2466 chapter 123B, or who is otherwise mentally or physically disabled and, as a result of such mental
2467 or physical disability, is wholly or partially dependent on others to meet daily living needs.

2468 “Disposition”, the final conclusion of a charge during or after the initial criminal court
2469 appearance or juvenile court appearance.

2470 “District attorney”, the district attorney in the jurisdiction where the matter resulting in a
2471 record that is the subject of a petition originated.

2472 “Elderly person”, a person who is 60 years of age or older.

2473 “Expunge”, “expunged”, or “expungement”, the permanent erasure or destruction of a
2474 record so that the record is no longer accessible to, or maintained by, the court, any criminal
2475 justice agencies or any other state agency, municipal agency or county agency. If the record
2476 contains information on a person other than the petitioner, it may be maintained with all
2477 identifying information of the petitioner permanently obliterated or erased.

2478 “Judicial proceedings”, any proceedings before the court resulting in a record.

2479 “Juvenile court appearance”, an arraignment on, all pre-trial and other post arraignment
2480 judicial proceedings related to and the disposition of, an offense in the juvenile court.

2481 “Municipal agency”, any department or office of a city or town government and any
2482 council, division, board, bureau, commission, institution, tribunal or other instrumentality thereof
2483 or thereunder.

2484 “Offense”, a violation of a criminal law for which a person has been charged and has
2485 made a criminal court appearance or a juvenile court appearance for which there is a disposition
2486 and a record.

2487 “Office”, the office of the commissioner of probation.

2488 “Order”, an order of expungement.

2489 “Person”, a natural person, corporation, association, partnership, or other legal entity.

2490 “Petition”, a petition to expunge a criminal record.

2491 “Petitioner”, a natural person with a criminal record who has filed a petition.

2492 “Public records”, shall have the same meaning as the definition of public records in
2493 clause twenty-sixth of section 7 of chapter 4.

2494 “Record”, public records and court records including, without limitation, paper or
2495 electronic records or data in any communicable form compiled by, on file with or in the care
2496 custody or control of, without limitation, the court, the office, the department or criminal justice
2497 agencies, which concern a person and relate to the nature or disposition of an offense, including,
2498 without limitation, an arrest, a criminal court appearance, a juvenile court appearance, a pre-trial
2499 proceeding, other judicial proceedings, disposition, sentencing, incarceration, rehabilitation or
2500 release; provided, however, that the term record shall not include information contained in the
2501 domestic violence record keeping system, evaluative information, intelligence information or
2502 statistical and analytical reports and files in which persons are not directly or indirectly
2503 identifiable.

2504 “State agency”, any department of state government including the executive, legislative
2505 or judicial, and all councils thereof and thereunder, and any division, board, bureau, commission,
2506 institution, tribunal or other instrumentality within such department, and any independent state

2507 authority, district, commission, instrumentality or agency, but not an agency of a county, city or
2508 town.

2509 Section 100F. (a) A petitioner who has a record as an adjudicated delinquent or
2510 adjudicated youthful offender may, on a form furnished by the commissioner and signed under
2511 the penalties of perjury, petition that the commissioner expunge the record. Upon receipt of a
2512 petition for an expungement, the commissioner shall certify whether the petitioner is eligible for
2513 an expungement under sections 100I and 100J. If the petitioner is not eligible for an
2514 expungement under sections 100I and 100J the commissioner shall, within 60 days of the
2515 request, deny the request in writing. If the petitioner is eligible for an expungement under
2516 sections 100I and 100J the commissioner shall, within 60 days of the petition, notify in writing
2517 the district attorney of the petition and that the petitioner is eligible for an expungement under
2518 sections 100I and 100J. Within 60 days of receipt of notification from the commissioner of the
2519 filing of the petition and that petitioner is eligible for an expungement pursuant to sections 100I
2520 and 100J, the district attorney shall notify the commissioner in writing of their objections, if any,
2521 to the petition.

2522 (b) Upon receipt of a response from the district attorney, if any, or within 65 days of the
2523 commissioner's notification to the district attorney pursuant to subsection (a), whichever occurs
2524 first, the commissioner shall forthwith forward the petition, along with the objections of the
2525 district attorney, if any, to the court wherein the petitioner was adjudicated delinquent or
2526 adjudicated a youthful offender.

2527 (c) If the district attorney files an objection with the commissioner within 60 days of
2528 receipt of notification as provided in subsection (a) the court shall, within 21 days of receipt of
2529 the petition pursuant to subsection (b), conduct a hearing on the petition. The court shall have the
2530 discretion to grant or deny the petition based on what is in the best interests of justice and shall
2531 enter written findings as to the basis of its order. The court shall deny any petition that does not
2532 meet the requirements of sections 100I and 100J.

2533 (d) If the district attorney does not file an objection with the commissioner within 60 days
2534 of receipt of notification as provided in subsection (a) the court may approve the petition without
2535 a hearing. The court shall have the discretion to grant or deny the petition based on what is in the

2536 best interests of justice and shall enter written findings as to the basis of its order. The court shall
2537 deny any petition that does not meet the requirements of sections 100I and 100J.

2538 (e) The court shall forward an order for expungement pursuant to this section forthwith to
2539 the clerk of the court where the criminal record was created, to the commissioner and to the
2540 commissioner of criminal justice information services appointed pursuant to section 167A of
2541 chapter 6.

2542 Section 100G. (a) A petitioner who has a record of conviction may, on a form furnished
2543 by the commissioner and signed under the penalties of perjury, petition that the commissioner
2544 expunge the record. Upon receipt of a petition, the commissioner shall certify whether the
2545 petitioner is eligible for an expungement under sections 100I and 100J. If the petitioner is not
2546 eligible for an expungement under sections 100I and 100J the commissioner shall, within 60 days
2547 of the request, deny the request in writing. If the petitioner is eligible for an expungement under
2548 sections 100I and 100J the commissioner shall, within 60 days of the petition, notify in writing
2549 the district attorney of the petition and that the petitioner is eligible for an expungement under
2550 sections 100I and 100J. Within 60 days of receipt of notification from the commissioner of the
2551 filing of the petition and that petitioner is eligible for an expungement pursuant to sections 100I
2552 and 100J, the district attorney shall notify the commissioner in writing of their objections, if any,
2553 to the petition for the expungement.

2554 (b) Upon receipt of a response from the district attorney, if any, or within 65 days of the
2555 commissioner's notification to the district attorney pursuant to subsection (a), whichever occurs
2556 first, the commissioner shall forthwith forward the petition, along with the objections of the
2557 district attorney, if any, to the court wherein the petitioner was convicted.

2558 (c) If the district attorney files an objection with the commissioner within 60 days of
2559 receipt of notification as provided in subsection (a) the court shall, within 21 days of receipt of
2560 the petition pursuant to subsection (b), conduct a hearing on the petition. The court shall have the
2561 discretion to grant or deny the petition based on what is in the best interests of justice and shall
2562 enter written findings as to the basis of its order. The court shall deny any petition that does not
2563 meet the requirements of sections 100I and 100J.

2564 (d) If the district attorney does not file an objection with the commissioner within 60 days
2565 of receipt of notification as provided in subsection (a) the court may approve the petition without
2566 a hearing. The court shall have the discretion to grant or deny the petition based on what is in the
2567 best interests of justice and shall enter written findings as to the basis of its order. The court shall
2568 deny any petition that does not meet the requirements of sections 100I and 100J.

2569 (e) The court shall forward an order for expungement pursuant to this section forthwith to
2570 the clerk of the court where the criminal record was created, to the commissioner and to the
2571 commissioner of criminal justice information services appointed pursuant to section 167A of
2572 chapter 6.

2573 Section 100H. (a) A petitioner who has a record that does not include an adjudication as
2574 a delinquent, an adjudication as a youthful offender or a conviction may, on a form furnished by
2575 the commissioner and signed under the penalties of perjury, petition that the commissioner
2576 expunge the record. Upon receipt of a petition, the commissioner shall certify whether the
2577 petitioner is eligible for an expungement under sections 100I and 100J. If the petitioner is not
2578 eligible for an expungement under sections 100I and 100J the commissioner shall, within 30
2579 days of the request, deny the request in writing. If the petitioner is eligible for an expungement
2580 under sections 100I and 100J the commissioner shall, within 30 days of the request, notify in
2581 writing the district attorney. Within 30 days of receipt of notification from the commissioner that
2582 the petitioner is eligible for an expungement pursuant to sections 100I and 100J, the district
2583 attorney shall notify the commissioner in writing of their objections, if any, to the request for the
2584 expungement.

2585 (b) If the district attorney files an objection to the petition with the commissioner within
2586 30 days of receipt of notification as provided in subsection (a) the court shall, within 21 days of
2587 receipt of the petition pursuant to subsection (b), conduct a hearing on the petition. The court
2588 shall have the discretion to grant or deny the petition based on what is in the best interests of
2589 justice and shall enter written findings as to the basis of its order. The court shall deny any
2590 petition that does not meet the requirements of sections 100I and 100J.

2591 (c) If the district attorney does not file an objection with the commissioner within 30 days
2592 of receipt of notification as provided in subsection (a) the court may approve the petition without

2593 a hearing. The court shall have the discretion to grant or deny the petition based on what is in the
2594 best interests of justice and shall enter written findings as to the basis of its order. The court shall
2595 deny any petition that does not meet the requirements of sections 100I and 100J.

2596 (d) The court shall forward an order for expungement pursuant to this section forthwith to
2597 the clerk of the court where the criminal record was created, to the commissioner and to the
2598 commissioner of criminal justice information services appointed pursuant to section 167A of
2599 chapter 6.

2600 Section 100I. (a) The commissioner shall certify that a record that is the subject of the
2601 petition filed pursuant to section 100F, section 100G or section 100H is eligible for expungement
2602 provided that:

2603 (1) the offense resulting in the record that is the subject of the petition is not a
2604 criminal offense included in section 100J;

2605 (2) the offense that is the subject of the petition to expunge the record occurred before
2606 the petitioner's twenty-first birthday;

2607 (3) the offense that is the subject of the petition to expunge the record, including any
2608 period of incarceration, custody or probation, occurred not less than 7 years before the date on
2609 which the petition was filed if the offense that is the subject of the petition is a felony, and not
2610 less than 3 years before the date on which the petition was filed if the offense that is subject of
2611 the petition is a misdemeanor;

2612 (4) other than motor vehicle offenses in which the penalty does not exceed a fine of
2613 \$50 and the offense that is the subject of the petition to expunge, the petitioner does not have any
2614 other criminal court appearances, juvenile court appearances or dispositions on file with the
2615 commissioner;

2616 (5) other than motor vehicle offenses in which the penalty does not exceed a fine of
2617 \$50, the petitioner does not have any criminal court appearances, juvenile court appearances or
2618 dispositions on file in any other state, United States possession or in a court of federal
2619 jurisdiction; and

2620 (6) the petition includes a certification by the petitioner that, to the petitioner's
2621 knowledge, the petitioner is not currently the subject of an active criminal investigation by any
2622 criminal justice agency.

2623 Any violation of section 7 of chapter 209A or section 9 of chapter 258E shall be treated as a
2624 felony for purposes of this section.

2625 Section 100J. (a) No criminal record resulting from a disposition of the following
2626 offenses shall be eligible for expungement pursuant to section 100F, section 100G or section
2627 100H:

- 2628 (1) any offense resulting in death or serious bodily injury;
- 2629 (2) any offense committed with the intent to cause death or serious bodily injury;
- 2630 (3) any offense committed while armed with a dangerous weapon;
- 2631 (4) any offense against an elderly person;
- 2632 (5) any offense against a disabled person;
- 2633 (6) any sex offense as defined in section 178C of chapter 6;
- 2634 (7) any sex offense involving a child as defined in section 178C of chapter 6;
- 2635 (8) any sexually violent offense as defined in section 178C of chapter 6;
- 2636 (9) any offense in violation of section 24 of chapter 90;
- 2637 (10) any sexual offense as defined in section 1 of chapter 123A;
- 2638 (11) any offense in violation of sections 121 to 131Q of chapter 140;
- 2639 (12) any offense in violation of an order issued pursuant to section 18 or 34B of
2640 chapter 208;
- 2641 (13) any offense in violation of an order issued pursuant to section 32 of chapter 209;
- 2642 (14) any offense in violation of an order issued pursuant to chapter 209A;

- 2643 (15) any offense in violation of an order issued pursuant to section 15 of chapter 209C;
- 2644 (16) any offense in violation of an order issued pursuant to chapter 258E;
- 2645 (17) any offense in violation of section 13M of chapter 265;
- 2646 (18) any felony offense in violation of chapter 265;
- 2647 (19) any offense in violation of paragraph (a), (b), (c) or (d) of section 10 of chapter
- 2648 269; or
- 2649 (20) any offense in violation of section 10E of chapter 269.

2650 Section 100K. (a) Notwithstanding the requirements of section 100I and section 100J, a
2651 court may order the expungement of a record created as a result of criminal court appearance,
2652 juvenile court appearance or dispositions if the court determines based on clear and convincing
2653 evidence that the record was created as a result of:

- 2654 (1) false identification of the petitioner or the unauthorized use or theft of the
- 2655 petitioner's identity;
- 2656 (2) an offense at the time of the creation of the record which at the time of
- 2657 expungement is no longer a crime, except in cases where the elements of the original criminal
- 2658 offense continue to be a crime under a different designation.
- 2659 (3) demonstrable errors by law enforcement;
- 2660 (4) demonstrable errors by civilian or expert witnesses;
- 2661 (5) demonstrable errors by court employees; or
- 2662 (6) demonstrable fraud perpetrated upon the court.

2663 (b) The court shall have the discretion to order an expungement pursuant to this section
2664 based on what is in the best interests of justice. Prior to entering an order of expungement
2665 pursuant to this section, the court shall hold a hearing if requested by the petitioner or the district
2666 attorney. Upon an order of expungement, the court shall enter written findings of fact.

2667 (c) The court shall forward an order for expungement pursuant to this section forthwith to
2668 the clerk of the court where the record was created, to the commissioner and to the commissioner
2669 of criminal justice information services appointed pursuant to section 167A of chapter 6.

2670 Section 100L. (a) Upon receipt of an order by a court pursuant to section 100F, section
2671 100G, section 100H or section 100K the commissioner, the clerk of court where the record was
2672 created and the commissioner of criminal justice information services appointed pursuant to
2673 section 167A of chapter 6 shall:

2674 (1) expunge the record within the care, custody or control of the office, clerk's office
2675 or department;

2676 (2) order all criminal justice agencies to expunge all publicly available police logs
2677 maintained pursuant to section 98F of chapter 41 within their care, custody or control.

2678 (b) Any criminal justice agencies receiving an order from the commissioner or the
2679 commissioner of criminal justice information services appointed pursuant to section 167A of
2680 chapter 6 pursuant to subsection (a), shall forthwith expunge all publicly available police logs
2681 maintained pursuant to section 98F of chapter 41 within their care, custody or control. Upon
2682 receipt of the order all criminal justice agencies shall, upon inquiry from any party, including
2683 without limitation, criminal justice agencies, a county agency, a municipal agency or a state
2684 agency, inform said party that no record exists.

2685 Section 100M. No person whose record was expunged pursuant to section 100F, section
2686 100G, section 100H or section 100K shall be held under any provision of any law to be guilty of
2687 perjury or otherwise giving a false statement by reason of the person's failure to recite or
2688 acknowledge such record, or portion thereof, in response to any inquiry made of him or her for
2689 any purpose.

2690 Section 100N. (a) A record expunged pursuant to section 100F, section 100G, section
2691 100H or section 100K shall not operate to disqualify a person in any examination, appointment
2692 or application for employment with any county agency, municipal agency or state agency nor
2693 shall such expunged records be admissible in evidence or used in any way in any court
2694 proceedings or hearings before any boards or commissions or in determining suitability for the

2695 practice of any trade or profession requiring licensure. No county agency, municipal agency or
2696 state agency shall, directly or indirectly, when determining a person's eligibility for examination,
2697 appointment or employment with any county agency, municipal agency or state agency require
2698 the disclosure of a criminal record expunged pursuant to section 100F, section 100G, section
2699 100H or section 100K. An applicant for examination, appointment or employment with any
2700 county agency, municipal agency or state agency whose record was expunged pursuant to section
2701 100F, section 100G, section 100H or section 100K may answer 'no record' with respect to an
2702 inquiry herein relative to prior arrests, criminal court appearances, juvenile court appearances,
2703 adjudications, or convictions. An applicant for examination, appointment or employment with
2704 any county agency, municipal agency or state agency whose record was expunged pursuant to
2705 section 100F, section 100G, section 100H or section 100K may answer 'no record' to an inquiry
2706 herein relative to prior arrests or criminal court appearances.

2707 (b) An application for employment used by any employer which seeks information
2708 concerning prior arrests or convictions of the applicant shall include the following statement:
2709 "An applicant for employment with a record expunged pursuant to section 100F, section 100G,
2710 section 100H or section 100K of chapter 276 of the General Laws may answer 'no record' with
2711 respect to an inquiry herein relative to prior arrests, criminal court appearances or convictions.
2712 An applicant for employment with a record expunged pursuant to section 100F, section 100G,
2713 section 100H or section 100K of chapter 276 of the General Laws may answer 'no record' to an
2714 inquiry herein relative to prior arrests, criminal court appearances, juvenile court appearances,
2715 adjudications or convictions.

2716 Section 100O. A petition for an expungement, any records related to a petition for an
2717 expungement, records related to judicial proceedings required to hear the petition for an
2718 expungement or an order of expungement pursuant to section 100F, section 100G, section 100H
2719 or section 100K shall not be a public record. Any information obtained by a county, municipal or
2720 state employee acting in their official capacity and related to a petition for or order for an
2721 expungement shall not be a public record as defined by clause twenty-sixth of section 7 of
2722 chapter 4 and shall be confidential information. Within 60 days of ordering an expungement
2723 pursuant to section 100F, section 100G, section 100H or section 100K the court and the

2724 commissioner shall expunge all records of the petition, the order and any related proceedings
2725 within their care, custody or control.

2726 Section 100P. The court shall exclude the general public from any judicial proceeding
2727 where the court will be hearing a petition for an expungement admitting only such persons as
2728 may have a direct interest in the case.

2729 Section 100Q. No person shall make records sealed pursuant to section 100A or section
2730 100B or expunged pursuant to section 100F, section 100G, section 100H or section 100K
2731 available for inspection in any form by any person.

2732 Section 100R. It shall be a violation of public policy for a district attorney to make a plea
2733 deal contingent on waiving a right to expunge.

2734 Section 100S. In a claim for negligence, an employer or landlord shall be presumed to
2735 have no notice or ability to know of a record that: (i) has been sealed or expunged; (ii) the
2736 employer is prohibited from inquiring about pursuant to subsection 9 of section 4 of chapter
2737 151B; or (iii) concerns crimes that the department of criminal justice information services cannot
2738 lawfully disclose to an employer or landlord.

2739 Section 100T. Upon sealing a record pursuant to section 100A or section 100B or upon
2740 receipt of an order of expungement pursuant to section 100F, section 100G, section 100H or
2741 section 100K the commissioner of the department shall notify the Federal Bureau of
2742 Investigation and the United States Department of Justice of said sealing or expungement and
2743 shall request said Federal Bureau of Investigation and the United States Department of Justice
2744 seal or expunge the record.

2745 Section 100U. The court, the office and the department may promulgate regulations for
2746 the administration and enforcement of sections 100E through 100T.

2747 SECTION 196. Section 1 of chapter 276A, as so appearing, is hereby amended by
2748 striking out, in lines 20 and 21, the words “certified or approved by the commissioner of
2749 probation under the provisions of section eight,”.

2750 SECTION 197. Section 2 of said chapter 276A, as so appearing, is hereby amended by
2751 striking out, in lines 6 and 7, inclusive, the words “who has reached the age of 18 years but has
2752 not reached the age of twenty-two,”.

2753 SECTION 198. Said chapter 276A is hereby further amended by striking out section 4, as
2754 so appearing, and inserting in place thereof the following section:-

2755 Section 4. In the event that an individual is charged with a violation of 1 or more of the
2756 offenses enumerated in the second sentence of section 70C of chapter 277, other than the
2757 offenses in subsection (a) of section 13A of chapter 265 and sections 13A and 13C of chapter
2758 268, or if the defendant is charged with an offense for which a penalty of incarceration greater
2759 than five years may be imposed or for which there is minimum term penalty of incarceration or
2760 which may not be continued without a finding or placed on file, this chapter shall not apply to
2761 that defendant. Diversion of a district court charges under this chapter shall not preclude a
2762 subsequent indictment on the same charges in superior court.

2763 SECTION 199. Section 5 of said chapter 276A, as so appearing, is hereby amended by
2764 inserting after the word “prosecution”, in line 10, the following words:- and any victims as
2765 defined in section 1 of chapter 258B.

2766 SECTION 200. Sections 8 and 9 of said chapter 276A are hereby repealed.

2767 SECTION 201. Said chapter 276A is hereby further amended by adding the following
2768 section:-

2769 Section 12. Nothing in this chapter or chapter 276B shall limit or govern the authority of
2770 a district attorney or a police department to divert an offender or to require a district attorney or
2771 police department to accept an offender into a program that they operate.

2772 SECTION 202. The General Laws are hereby amended by inserting after chapter 276A
2773 the following chapter:-

2774 CHAPTER 276B.

2775 RESTORATIVE JUSTICE.

2776 Section 1. As used in this chapter the following words shall have the following meanings
2777 unless the context clearly requires otherwise:

2778 “Community-based restorative justice program”, a voluntary program established on
2779 restorative justice principles that engages parties to a crime or members of the community in
2780 order to develop a plan of repair that addresses the needs of the parties and the community.
2781 Programs may include the parties to a case, their supporters and community members or 1-on-1
2782 dialogues between a victim and an offender.

2783 “Restorative justice”, a voluntary process whereby offenders, victims and members of the
2784 community collectively identify and address harms, needs and obligations resulting from an
2785 offense, in order to understand the impact of that offense; provided, however, that an offender
2786 shall accept responsibility for their actions and the process shall support the offender as the
2787 offender makes reparation to the victim or to the community in which the harm occurred.

2788 Section 2. Participation in a community-based restorative justice program shall be
2789 voluntary and may be available to both a juvenile and adult defendant. A juvenile or adult
2790 defendant may be diverted to a community-based restorative justice program pre-arraignment or
2791 at any stage of a case with the consent of the district attorney and the victim. Restorative justice
2792 may be a final case disposition, with judicial approval. If a juvenile or adult defendant
2793 successfully completes the community-based restorative justice program, the charge shall be
2794 dismissed. If a juvenile or adult defendant does not successfully complete the program or is
2795 found to be in violation of program requirements, the case shall be returned to the court in which
2796 it was arraigned in order to commence with proceedings. Nothing in this chapter shall be
2797 construed to prohibit pre-arraignment law enforcement based programs and other programs.

2798 Section 3. A person shall not be eligible to participate in a community-based restorative
2799 justice program prior to conviction or adjudication if that person is charged with: (i) a sexual
2800 offense as defined in section 1 of chapter 123A; (ii) an offense against a family or household
2801 member as defined in section 13M of chapter 265; or (iii) an offense resulting in serious bodily
2802 injury or death.

2803 Section 4. Participation in a community-based restorative justice program shall not be
2804 used as evidence or as an admission of guilt, delinquency or civil liability in current or

2805 subsequent legal proceedings against any participant. Any statement made by a juvenile or adult
2806 defendant during the course of an assignment to a community-based restorative justice program
2807 shall be confidential and shall not be subject to disclosure in any judicial or administrative
2808 proceeding and no information obtained during the course of such assignment shall be used in
2809 any stage of a criminal investigation or prosecution or civil or administrative proceeding;
2810 provided, however, that nothing in this section shall preclude any evidence obtained through an
2811 independent source or that would have been inevitably discovered by lawful means from being
2812 admitted at such proceedings.

2813 Section 5. (a) There shall be established a restorative justice advisory committee to
2814 review community-based restorative justice programs. The advisory committee shall consist of
2815 17 members: 1 of whom shall be: the secretary of public safety and security or a designee who
2816 shall serve as chair; 1 of whom shall be the secretary of health and human services or a designee;
2817 1 of whom shall be a member of the house of representatives appointed by the speaker; 1 of
2818 whom shall be a member of the senate appointed by the senate president; 1 of whom shall be; the
2819 president of the Massachusetts district attorneys association, or a designee; 1 of whom shall be
2820 the chief counsel of the committee for public counsel services or a designee; 1 of whom shall be
2821 the commissioner of probation or a designee; 1 of whom shall be the president of the
2822 Massachusetts chiefs of police association, or a designee; 1 of whom shall be the executive
2823 director of the Massachusetts office for victim assistance or a designee; 1 of whom shall be the
2824 executive director of the Massachusetts sheriff's association, or a designee; and 7 of whom shall
2825 be appointed by the governor, 1 of whom shall be a retired trial court judge and 6 of whom shall
2826 be representatives of community-based restorative justice programs or a member of the public
2827 with expertise in restorative justice. Each member of the advisory committee shall serve a 6-year
2828 term.

2829 (b) The advisory committee may monitor and assist all community-based restorative
2830 justice programs to which a juvenile or adult defendant may be diverted pursuant to this chapter.

2831 (c) The advisory committee shall track the use of community-based restorative justice
2832 programs through a partnership with an educational institution and may make legislative, policy
2833 and regulatory recommendations to aid in the use of community-based restorative justice
2834 programs including, but not limited to: (i) qualitative and quantitative outcomes for participants;

2835 (ii) recidivism rates of responsible parties; (iii) criteria for youth involvement and training; (iv)
2836 cost savings for the commonwealth; (v) training guidelines for restorative justice facilitators; (vi)
2837 data on gender, racial socioeconomic and geographic disparities in the use of community-based
2838 restorative justice programs; (vii) guidelines for restorative justice best practices; and (viii)
2839 appropriate training for community-based restorative programs.

2840 (d) The advisory committee shall annually submit a report with findings and
2841 recommendations to the governor, the clerks of the house of representatives and senate and the
2842 joint committees on the judiciary and public safety and homeland security annually, no later than
2843 December 31.

2844 SECTION 203. Section 70C of chapter 277 of the General Laws, as appearing in the
2845 2016 Official Edition, is hereby amended by striking out, in line 8, the word “, chapter 119”.

2846 SECTION 204. Said section 70C of said chapter 277, as so appearing, is hereby further
2847 amended by inserting after the figure “265”, in line 9, the following words;- , section 25 of
2848 chapter 266,

2849 SECTION 205. Said section 70C of said chapter 277, as so appearing, is hereby further
2850 amended by striking out, in lines 10 and 11, the figures “13B1/2, 13B3/4, 13C, 14, 14B, 15, 15A,
2851 16, 17, 18, 19, 20, 22A, 22B, 22C, 23, 23A, 23B” and inserting in place thereof the following
2852 figures:- 13C, 14, 14B, 15, 15A, 16, 17, 18, 19, 20, 23.

2853 SECTION 206. Section 1 of chapter 279 of the General Laws, as so appearing, is hereby
2854 amended by adding the following paragraph:-

2855 When a person is sentenced to pay a fine of any amount or is assessed fines, fees, costs,
2856 civil penalties or other expenses at disposition of a case, the court shall inform that person that:
2857 (i) nonpayment of the fines, fees, costs, civil penalties or expenses may result in commitment to
2858 a correctional facility; (ii) payment must be made by a date certain; (iii) failure to appear at such
2859 date certain or failure to make the payment may result in the issuance of a default; and (iv) if an
2860 inability to pay exists as the result of a change in financial circumstances or for any other reason,
2861 the person has a right to address the court if the person alleges that such assessed fines, fees,

2862 costs, civil penalties or other expenses would cause a substantial financial hardship to the person,
2863 the person's immediate family or the person's dependents.

2864 SECTION 207. Said chapter 279 is hereby further amended by inserting after section 6A
2865 the following section:-

2866 Section 6B. (a) As used in this section the following words shall have the following
2867 meanings unless the context clearly requires otherwise:

2868 "Dependent child", a person under 18 years of age.

2869 "Primary caretaker of a dependent child", a parent with whom a child has a primary
2870 residence.

2871 (b) Unless a sentence of incarceration is required by law, the court may, upon conviction,
2872 consider the defendant's status as a primary caretaker of a dependent child before imposing a
2873 sentence. A defendant may request such consideration, by motion supported by an affidavit, not
2874 more than 10 days after the entry of judgment. Upon receipt of such a motion supported by an
2875 affidavit, the court shall make written findings concerning the defendant's status as a primary
2876 caretaker of a dependent child and alternatives to incarceration. If such a motion has been filed,
2877 the court shall not impose a sentence of incarceration without first making such written findings.

2878 SECTION 208. The second paragraph of section 6A of chapter 280 of the General Laws,
2879 as appearing in the 2016 Official Edition, is hereby amended by striking out the second sentence
2880 and inserting in place thereof the following sentence:- The court or justice may waive all or any
2881 part of said cost assessment upon a finding that such payment would cause a substantial financial
2882 hardship to the person, the person's immediate family or the person's dependents.

2883 SECTION 209. The first paragraph of section 6B of said chapter 280, as so appearing, is
2884 hereby amended by striking out the fourth sentence and inserting in place thereof the following
2885 sentence:- The court or justice may waive all or any part of said assessment upon a finding that
2886 such payment would cause a substantial financial hardship to the person, the person's immediate
2887 family or the person's dependents.

2888 SECTION 210. The first paragraph of said section 368 of chapter 26 of the acts of 2003,
2889 as amended by section 10 of chapter 303 of the acts of 2006 is hereby further amended by
2890 inserting after the third sentence the following sentence:-

2891 However, the parole board shall not assess said parole fee upon any person granted a parole
2892 permit for the first year said person is on parole.

2893 SECTION 211. The first paragraph of said section 368 of chapter 26, as so amended, is
2894 hereby further amended by striking out the fourth and fifth sentences and inserting in place
2895 thereof the following 2 sentences:- The parole board may waive payment of said parole fee if it
2896 determines that such payment would constitute a substantial financial hardship to said person or
2897 the person's immediate family or dependents. Any such waiver so granted shall continue to be in
2898 effect during the period of time that said person is determined to be unable to pay the monthly
2899 parole fee.

2900 SECTION 212. The second paragraph of said section 368 of said chapter 26, as so
2901 amended, is hereby further amended by inserting after the second sentence the following
2902 sentence:-

2903 However, the parole board shall not assess said surcharge upon any person granted a parole
2904 permit for the first year said person is on parole.

2905 SECTION 213. The second paragraph of said section 368 of said chapter 26, as so
2906 appearing, is hereby further amended by striking out the third and fourth sentences and inserting
2907 in place thereof the following 2 sentences:- The parole board may waive payment of said
2908 surcharge if it determines that such payment would constitute a substantial financial hardship to
2909 said person or the person's immediate family or dependents. Any such waiver so granted shall
2910 continue to be in effect during the period of time that said person is determined to be unable to
2911 pay the monthly parolee victim services surcharge.

2912 SECTION 214. Notwithstanding any special or general law to the contrary, within 180
2913 days of the effective date of this act, all previously unsubmitted investigatory sexual assault
2914 evidence kits containing forensic samples collected during a medical forensic exam in medical
2915 facilities or other facilities that collect kits, shall be submitted to law enforcement. Non-

2916 investigatory kits shall be safely stored by a governmental entity in a manner that preserves
2917 evidence for the duration of the statute of limitations. Non-investigatory kits shall not be
2918 transferred to the crime laboratory. Within 180 days of enactment, each law enforcement agency
2919 shall submit all previously unsubmitted investigatory sexual assault evidence kits , including
2920 those past the statute of limitations, to the crime laboratory within the department of the state
2921 police or such crime laboratory operated by a police department of a municipality with a
2922 population of more than 150,000.. The crime laboratory within the department of the state police
2923 or an accredited private crime laboratory designated by the secretary of public safety and security
2924 shall test all previously unsubmitted investigatory sexual assault kits within 180 days of receipt
2925 from local law enforcement. In cases where testing results in a DNA profile, the crime laboratory
2926 shall enter the full profile into CODIS and the state DNA database.

2927 SECTION 215. (a) Not later than December 1, 2019, the executive office of public safety
2928 and security shall ensure that statewide policies and procedures for law enforcement shall be
2929 adopted concerning contact with victims and notification concerning sexual assault evidence kits.
2930 The policies and procedures shall be evidence-based and survivor-focused and shall require that:
2931 (i) each agency designate at least 1 person, who is trained in trauma and victim response, to
2932 receive all inquiries concerning sexual assault evidence kits and to serve as a liaison between the
2933 agency and the victim; and (ii) victims of sexual assault be provided with the contact information
2934 for the designated liaison at the time that a sexual assault evidence kit is collected.

2935 (b) In advance or at the time of the medical forensic examination or law enforcement
2936 interview, a medical professional, a victim advocate, a law enforcement officer or a district
2937 attorney shall provide a victim of sexual assault with a physical document developed by the
2938 executive office of public safety and security identifying the victim’s rights under law.

2939 (c) Under this section all victims of sexual assault shall have the right to:

2940 (i) consult with a sexual assault victim advocate, upon availability and request, who
2941 shall have confidentiality and privilege and waiving this right to a victim advocate in 1 instance
2942 shall not negate this right. The medical facility, a law enforcement officer, or a prosecutor shall
2943 inform the victim of this right prior to commencement of a medical forensic examination or law

2944 enforcement interview, and shall not continue unless such right is knowingly and voluntarily
2945 waived;

2946 (ii) request information on the location, testing date and testing results of a kit,
2947 whether a DNA sample was obtained from the kit, whether or not there are matches to DNA
2948 profiles in state and federal databases and the estimated destruction date for the kit, if applicable,
2949 in a manner of communication designated by the victim;

2950 (iii) be informed when there is any change in the status of their case, including if the
2951 case has been closed or reopened;

2952 (iv) designate a person of the victim's choosing to act as a recipient of the information
2953 provided under this subsection;

2954 (v) be informed on how to file a report with law enforcement and have their sexual
2955 assault evidence kit tested in the future if the victim has chosen not to file a report or have the kit
2956 tested at the time the kit was collected; and

2957 (vi) be informed of the right to apply for victim compensation.

2958 SECTION 216. Notwithstanding any general or special law to the contrary, the
2959 multidisciplinary task force established by section 11 of this act shall consider available funding
2960 opportunities including, but not limited to the following grant programs: Bureau of Justice
2961 Sexual Assault Kit Initiative (SAKI) grant program; the Sexual Assault Forensic Evidence-
2962 Inventory, Tracking and Reporting Program (SAFE-ITR) grant; the DNA Capacity Enhancement
2963 and Backlog Reduction (Debbie Smith) grant; the Edward Byrne Memorial Justice Assistance
2964 Grant (JAG) Program; and the Victims of Crime Act Victim Assistance grant. The
2965 multidisciplinary task force shall also investigate opportunities to utilize software from outside
2966 jurisdictions including, but not limited to, the Idaho State Police and the city of Portland,
2967 Oregon's free tracking software.

2968 SECTION 217. (a) Notwithstanding any special or general law to the contrary, there shall
2969 be a special commission established pursuant to section 2A of chapter 4 of the General Laws to
2970 conduct a study on the ability of a defendant to pay fines and fees. The commission shall consist
2971 of 9 members: 1 of whom shall be : the commissioner of the department of probation or the

2972 commissioner's designee; 1 of whom shall be the commissioner of the department of revenue or
2973 the commissioner's designee; 1 of whom shall be a member of the house of representatives to be
2974 appointed by the speaker of the house; 1 of whom shall be a member of the house of
2975 representatives to be appointed by the minority leader of the house; 1 of whom shall be a
2976 member of the senate to be appointed by the senate president; 1 of whom shall be a member of
2977 the senate to be appointed by the senate minority leader; 1 of whom shall be appointed by the
2978 parole board; 1 of whom shall be appointed by the committee for public counsel services; and 1
2979 of whom shall be appointed by the executive director of the American Civil Liberties Union of
2980 Massachusetts, Inc.

2981 (b) The study shall include, but not be limited to:

- 2982 (i) the establishment of a uniform definition and standards for evaluating a
2983 substantial financial hardship;
- 2984 (ii) the feasibility of enabling the department of probation and the parole board to
2985 access department of revenue records to ascertain whether a defendant is indigent
2986 or would suffer a substantial financial hardship if ordered to pay fines or fees; and
- 2987 (iii) the impact of registry of motor vehicle fines on defendants of limited income.

2988 (c) The commission shall file the findings of its study by December 31, 2018, with the
2989 clerks of the house and the senate, who shall forward a copy of the report to the chairs of the
2990 house and senate committees on ways and means and the house and senate chairs of the joint
2991 committee on the judiciary.

2992 SECTION 218. (a) Notwithstanding any general law or special law to the contrary, there
2993 shall be a special commission to study the health and safety of lesbian, gay, bisexual,
2994 transgender, queer, and intersex prisoners in correctional institutions, jails and houses of
2995 correction to evaluate current access to appropriate healthcare services and health outcomes.

2996 (b) The special commission shall consist of 8 members: 1 of whom shall be appointed by
2997 the department of correction who works in corrections; 1 of whom shall be a sheriff appointed by
2998 the Massachusetts Sheriffs Association; 1 of whom shall be a former judge appointed by the
2999 chief justice of the supreme judicial court; 1 of whom shall be appointed by the governor who
3000 shall be a representative of a healthcare provider with expertise in transgender healthcare; 1 of

3001 whom shall be appointed by the national association of social workers; 1 of whom shall be
3002 appointed by Prisoners' Legal Services; and 2 members shall be appointed by the attorney
3003 general, 1 of whom shall be a representative of an organization specializing in the advocacy,
3004 education, direct service and organizing of currently and formerly incarcerated lesbian, gay,
3005 bisexual, transgender and queer individuals and 1 of whom shall be a representative of legal
3006 advocates with expertise in advocating for lesbian, gay, bisexual, transgender, queer and intersex
3007 individuals in the criminal justice system.

3008 (c) The members of the special commission shall be provided access to all state prisons
3009 and houses of correction in the commonwealth and shall be allowed to interview prisoners and
3010 staff to the extent practicable. The special commission shall gather information that includes, but
3011 shall not be limited to: (i) the number of prisoners who have received diagnoses of gender
3012 dysphoria or transition-related healthcare; (ii) the number of prisoners who have been denied
3013 diagnoses of gender dysphoria or transition-related healthcare; (iii) the number of denied
3014 requests for an alternative housing or facility placement by prisoners in connection with their
3015 gender identity and the reasons for the denial; and (iv) training provided to department staff and
3016 contracted health professionals on lesbian, gay, bisexual, transgender, queer and intersex cultural
3017 competency.

3018 (d) The special commission shall prepare a report that shall include specific
3019 recommendations to improve outcomes, a timeline by which specific tasks or outcomes shall be
3020 achieved and recommendations for improving prisoner health and safety that shall be published
3021 not more than 1 year after the effective date of this act. The special commission shall submit its
3022 final report evaluating implementation of its recommendations not more than 3 years after the
3023 effective date of this act to the governor, the attorney general and the joint committee on the
3024 judiciary and the report shall be publicly available.

3025 SECTION 219. (a) There shall be a special commission to study the prevention of suicide
3026 among correction officers in Massachusetts correctional facilities.. The commission shall consist
3027 of 13 members: 1 of whom shall be: the secretary of the executive office of public safety or the
3028 secretary's designee who shall serve as chair; 1 of whom shall be the commissioner of the
3029 department of correction or the commissioner's designee; 1 of whom shall be the commissioner
3030 of the department of public health or the commissioner's designee; 1 of whom shall be the

3031 commissioner of the department of mental health or the commissioner's designee; 1 of whom
3032 shall be a person appointed by the speaker of the house of representatives; 1 of whom shall be a
3033 person appointed by the minority leader in the house of representatives; 1 of whom shall be a
3034 person appointed by the president of the senate; 1 of whom shall be a person appointed by the
3035 minority leader of the senate; 1 of whom shall be appointed by the president of the
3036 Massachusetts correction officers federated union or their designee; 1 of whom shall be
3037 appointed by the president of the Massachusetts Psychological Society or designee; 1 of whom
3038 shall be appointed by the president of the New England Police Benevolent Association, Inc., or
3039 designee; and 2 persons to be appointed by the governor; 1 of whom shall be a representative of
3040 an organization that specializes in suicide prevention and 1 of whom shall be a representative of
3041 an organization that represents Massachusetts sheriffs. Each member shall serve without
3042 compensation.

3043 (b) The commission shall review the state of suicide prevention programs in
3044 Massachusetts' correctional facilities and develop model plans, recommend program changes,
3045 highlight budget priorities and recommend best practices that could be utilized to reduce
3046 correction officer suicide and attempted suicide. The commission shall: (i) examine and evaluate
3047 the current jail and prison suicide prevention policies; (ii) examine and evaluate suicide
3048 prevention training for correctional facility staff; (iii) provide recommendations for improving
3049 suicide identification and intervention for correctional facility staff; (iv) develop
3050 recommendations for providing mental health counseling services to correction officers that have
3051 a need for such services; (v) examine ways in which correctional facilities can reduce stress,
3052 anxiety and depression among correction officers; and (vi) examine training programs for
3053 incoming correction officers and develop recommendations for programs to include a discussion
3054 of mental preparedness.

3055 (c) The commission may hold public hearings to assist in the collection and evaluation of
3056 data and testimony.

3057 (d) The commission shall submit its findings and recommendations relative to suicide
3058 prevention, together with drafts of legislation necessary to carry those recommendations into
3059 effect, by filing the same with the clerks of the house of representatives and senate, the house
3060 and senate committees on ways and means, the joint committee on public safety and homeland

3061 security and the joint committee on mental health and substance abuse not later than December
3062 31, 2018.

3063 SECTION 220. (a) There shall be a bail reform special commission established pursuant
3064 to section 2A of chapter 4 of the General Laws, referred to in this section as the commission..
3065 The commission shall evaluate policies and procedures related to the current bail system and
3066 recommend improvements or changes.

3067 (b) The commission shall consist of 19 members: 2 of whom shall be members of the
3068 house of representatives appointed by the speaker of the house of representatives; 1 of whom
3069 shall be a member of the house of representatives appointed by the minority leader of the house
3070 of representatives; 2 of whom shall be members of the senate appointed by the president of the
3071 senate; 1 of whom shall be a member of the senate appointed by the minority leader of the
3072 senate; 1 of whom shall be; the chief justice of the supreme judicial court or the chief justice's
3073 designee; 1 of whom shall be the chief justice of the superior court or the chief justice's
3074 designee; 1 of whom shall be the chief administrative justice of the district court or the chief
3075 administrative justice's designee; 1 of whom shall be the commissioner of probation or the
3076 commissioner's designee; 1 of whom shall be the chief counsel of the committee for public
3077 counsel services or the chief counsel's designee; 1 of whom shall be appointed by the American
3078 Civil Liberties Union of Massachusetts, Inc.; 1 of whom shall be appointed by Massachusetts
3079 Association of Criminal Defense Lawyers, Inc.; 1 of whom shall be the attorney general, or the
3080 attorney general's designee; 2 of whom shall be members of the Massachusetts District
3081 Attorneys Association, including 1 of whom shall be the president, or their designees, and; 1 of
3082 whom shall be the governor, or the governor's designee.. The speaker of the house of
3083 representatives and the president of the senate shall each appoint 1 co-chair of the commission
3084 from among its members. Members of the commission shall serve without compensation.

3085 (b) The commission shall submit its final report to the governor, the house and senate
3086 chairs of the joint committee on the judiciary, the house and senate chairs of the joint committee
3087 on public safety and homeland security and the chief justice of the trial court not later than June
3088 30, 2019 which shall include: (i) an evaluation of the potential to use risk assessment factors as
3089 part of the pretrial system regarding bail decisions, including the potential to use risk assessment
3090 factors to determine when defendants should be released, with or without conditions, without

3091 bail and when bail should be set; (ii) an evaluation of the impact of eliminating cash bail and
3092 recommendations, if any, for doing so; (iii) an evaluation of the setting of conditions on
3093 defendants when they are released with or without bail and if changes should be made to the
3094 setting of conditions; (iv) an evaluation of any disparate impact on defendants because of gender,
3095 race, gender identity or other protected class status in the pretrial system and recommend any
3096 changes that may minimize any such impact that is found; and (v) proposed statutory changes
3097 concerning the pretrial system

3098 SECTION 221. (a) Notwithstanding any special or general law to the contrary, there shall
3099 be a task force to examine and study the treatment and impact of individuals ages 18 to 24 in the
3100 court system and correctional system.

3101 (b) The task force shall consist of 20 members: 1 of whom shall be: the secretary of
3102 health and human services or the secretary's designee, 1 of whom shall be; the secretary of
3103 public safety and security or the secretary's designee, 1 of whom shall be; the commissioner of
3104 youth services or the commissioner's designee; 1 of whom shall be the commissioner of the
3105 department of correction or the commissioner's designee; 1 of whom shall be the commissioner
3106 of probation or the commissioner's designee; 1 of whom shall be the chief justice of the district
3107 court or the chief justice's designee; 1 of whom shall be the chief justice of the Boston municipal
3108 court or the chief justice's designee; 1 of whom shall be the chief justice of the juvenile court
3109 department or the chief justice's designee; 1 of whom shall be the director of the juvenile court
3110 clinic or the director's designee; 1 of whom shall be a designee of the Massachusetts District
3111 Attorneys Association; the chief counsel of the committee for public counsel services; 2 of
3112 whom shall be appointed by the governor, 1 of whom shall have expertise in the neurological
3113 development of young adults and 1 of whom shall whom shall have expertise in young adult
3114 justice; 1 of whom shall be a member appointed by the speaker of the house of representatives
3115 who shall serve as co-chair; 1 of whom shall be a member appointed by the president of the
3116 senate who shall serve as co-chair; 1 of whom shall be a member appointed by the minority
3117 leader of the house of representatives; 1 member appointed by the minority leader of the senate;
3118 1 of whom shall be a member appointed by American Federation of State, County and Municipal
3119 Employees Council 93 who shall be an employee of the department of youth services and have
3120 not less than 5 years of experience working in a department of youth services secure facility; 1 of

3121 whom shall be the executive director of Citizens for Juvenile Justice, Inc or the executive
3122 director's designee; and 1 of whom shall be appointed by the Massachusetts Sheriff's
3123 Association.

3124 (c) The task force shall evaluate the advisability, feasibility and impact of changing the
3125 age of juvenile court jurisdiction to defendants younger than 21 years of age. The study shall
3126 include, but not be limited to:

- 3127 (i) the benefits and disadvantages of including 18 to 20 year olds in the juvenile justice
3128 system;
- 3129 (ii) the impact of integrating 18 to 20 year olds into the under-18 population in the care
3130 and custody of the department of youth services;
- 3131 (iii) the ability to segregate young adults in the care and custody of the department of
3132 youth services from younger juveniles in such care; and
- 3133 (iv) the potential costs to the state court system and state and local law enforcement.

3134 The task force shall consider resources and facilities, if any, that could be reallocated
3135 from the adult system to the juvenile system and the advisability and feasibility of establishing a
3136 separate young adult court for persons aged 18 to 24.

3137 (d) The task force shall also make recommendations for the establishment,
3138 implementation and provision to young adults, aged 18 to 24, who have been committed to the
3139 department of correction or a county correctional facility with increased and targeted age-
3140 appropriate programming and the establishment of young adult correctional units as authorized
3141 in section 48B of chapter 127 of the General Laws. The study shall include, but not be limited to:

- 3142 (i) identifying the need and resources necessary to provide appropriate training to
3143 corrections and court staff, community supervision staff and behavioral health
3144 providers;
- 3145 (ii) recommendations for programmatic development including, youth development and
3146 mentoring programs, mental health access, anger management and de-escalating
3147 conflicts, education opportunities and employment and vocational training;
- 3148 (iii) recommendations to improve access to family and increase family involvement;

- 3149 (iv) identifying opportunities to partner with or access appropriate programs or services
3150 within the department of youth services;
- 3151 (v) identifying any costs or savings from implementing such programs and identifying
3152 any grants or other opportunities to reduce such costs;
- 3153 (vi) reviewing policies and best practices from other jurisdictions and experts in the field;
- 3154 (vii) reviewing existing models and programs currently being provided; and
- 3155 (viii) identifying any costs related to the implementation of new protocols for correction's
3156 and court staff, community supervision staff and behavioral health providers.

3157 (e) The task force shall submit its findings to the clerks of the house of representatives
3158 and the senate not later than July 1, 2019 and the clerks shall forward the report to the house and
3159 senate chairs of the joint committee on the judiciary and the house and senate chairs of the joint
3160 committee on ways and means.

3161 SECTION 222. The secretary of elder affairs and the secretary of public safety and
3162 security, in consultation with the attorney general, the Massachusetts chapter of AARP, the
3163 Massachusetts chapter of the National Academy of Elder Law Attorneys and a representative
3164 from an aging services access point, shall report to the general court on elder protection laws.
3165 The report shall include, but not be limited to: (i) the effectiveness of existing elder protection
3166 laws; (ii) the preservation of the autonomy of elders in the context of elder protection laws; (iii)
3167 additional legislative or regulatory changes that would further strengthen elder protection laws;
3168 and (iv) opportunities presented by the Elder Abuse Prevention and Prosecution Act, Public Law
3169 No. 115-70. The report shall be submitted with drafts of any recommended legislation to the
3170 clerks of the house of representatives and the senate and the chairs of the joint committee on
3171 elder affairs and the joint committee on the judiciary not later than December 31, 2018.

3172 SECTION 223. (a) Notwithstanding any general or special law to the contrary, there
3173 shall be established a panel on justice-involved women to review and report on the impact of this
3174 act and other criminal laws on women and make recommendations on gender-responsive and
3175 trauma-informed approaches to address the pretrial, incarceration and rehabilitation needs of
3176 justice-involved women. The panel shall review and consider improvements including, but not
3177 limited to, family visitation policies, available reproductive health care, gender-specific, pretrial

3178 services and programming offered within correctional institutions and post-release transitional
3179 assistance and supports for women.

3180 (b) The panel shall be chaired by the commissioner of the department of corrections or a
3181 designee and shall consist of the commissioner of the department of children and families or a
3182 designee, the commissioner of the department of mental health or a designee, the commissioner
3183 of the department of public health or a designee, the commissioner of the office of probation a
3184 member of the house of representatives appointed by the speaker of the house, a member of the
3185 senate appointed by the senate president, a member of the Massachusetts' sheriffs association,
3186 and persons representing justice-involved women, re-entry programs, trauma-informed programs
3187 and training, domestic violence prevention and 1 person who has been incarcerated. Members of
3188 the panel shall be appointed not later than 60 days after the effective date of this act. The panel
3189 shall meet at least twice annually and shall review reports, data and other information related to
3190 justice-involved women.

3191 (c) The panel shall annually, not later than December 31, issue a report of its review and
3192 recommendations to the house and senate chairs of the joint committee on the judiciary, the
3193 clerk of the senate and house of representatives and the chairs of the women's caucus task force
3194 on justice-involved women.

3195 SECTION 224. The department of correction, in consultation with the department of
3196 telecommunications and cable, shall study and report on: (i) the cost of local and long-distance
3197 telephone service provided to prisoners in department of correction facilities and houses of
3198 correction; (ii) a comparison of the rates with comparable residential telephone service; and (iii)
3199 information relative to commissions and revenue collected as part of telephone services provided
3200 to prisoners in department of correction facilities and houses of correction. The report shall be
3201 filed with the house and senate chairs of the joint committee on the judiciary, the house and
3202 senate chairs of the joint committee on public safety and security and the house and senate chairs
3203 of the joint committee on telecommunications, utilities and energy not later than December 31.
3204 2018.

3205 SECTION 225. (a) There shall be a restoration center commission in the former county
3206 of Middlesex to plan and implement a county restoration center and program to divert persons

3207 suffering from mental illness or substance use disorder who interact with law enforcement or the
3208 court system during a pre-arrest investigation or the pre-adjudication process from lock-up
3209 facilities and hospital emergency departments to appropriate treatment.

3210 (b)The commission shall consist of 11 members: the Middlesex county sheriff or a
3211 designee who shall serve as co-chair; a representative from the Massachusetts Association for
3212 Mental Health who shall serve as co-chair; a representative of the National Alliance for Mental
3213 Illness Massachusetts; a representative from the Middlesex County Chiefs Association, from
3214 police departments within Middlesex county that have received critical incident training or have
3215 established a local jail diversion program; a representative from the Association for Behavioral
3216 Healthcare, Inc.; 1 member of the senate appointed by the senate president; a; 1 member of the
3217 house of representatives appointed by the speaker of the house; a representative from the
3218 department of mental health with knowledge of sequential intercept mapping and forensic
3219 services; a representative from the department of public health with knowledge of sequential
3220 intercept mapping and forensic services; a representative from the trial courts who shall be
3221 appointed by the chief justice of the trial court and who shall have specialty court experience or
3222 probation experience within Middlesex county; and a representative from MassHealth who shall
3223 have knowledge of insurance vehicles, including Medicaid. The commission shall hold its first
3224 meeting not later than 30 days after the effective date of this act.

3225 (c)The commission shall develop and implement a 3-year plan to build a restoration
3226 center in the former county of Middlesex. In the first year, the commission shall: (i) perform an
3227 examination of state and national best practices including, but not limited to, the Bexar County
3228 model, which has received national recognition from the federal Substance Abuse and Mental
3229 Health Services Administration for its success in diverting individuals with behavioral health
3230 issues away from the criminal justice system and into appropriate treatment; and (ii) review the
3231 current capacity of mental health providers within the former county of Middlesex to provide
3232 behavioral health services to individuals suffering from mental illness or substance use disorders
3233 who interact with law enforcement or the court system and the barriers they face to accessing
3234 treatment. In the second year, the commission shall develop a jail diversion program and an
3235 initial pilot focused on providing integrated community-based services from a centralized

3236 location and perform an analysis of potential costs and cost savings. In the third year, the
3237 commission shall develop a restoration center and secure funding for a subsequent 2-year period.

3238 (d) Within 1 year after the effective date of this act, the commission shall submit its
3239 findings and recommendations for a restoration center, together with drafts of legislation
3240 necessary to carry out those recommendations, including a report on the current capacity to
3241 provide behavioral health services to individuals suffering from mental illness or substance use
3242 disorder, which shall include, but not be limited to, the type of services pre-arrest, pre-release
3243 and post-release, location of services, types of patients served and barriers to diverting
3244 individuals away from the criminal justice system and into treatment. Within 2 years after the
3245 effective date of this act, the commission shall report on the outcome of the pilot programs and
3246 provide a full implementation plan for a restoration center including, but not limited to,
3247 deliverables, barriers to implementation and costs. Reports shall be submitted to the senate and
3248 house committees on ways and means, the joint committee on mental health and substance
3249 abuse, the executive office of public safety and security, the executive office of health and
3250 human services and the governor. The commission shall thereafter produce an annual report,
3251 which shall include, but not be limited to, a list of services and programs, populations served and
3252 financial information.

3253 SECTION 226. (a) Notwithstanding any general or special law to the contrary, there shall
3254 be a special commission established pursuant to section 2A of chapter 4 of the General Laws to
3255 review the qualifications and scope of practice of qualified examiners as defined in section 1 of
3256 chapter 123A of the General Laws.

3257 (b) The special commission shall consist of 13 members: 2 of whom shall be: the senate
3258 and house chairs of the joint committee on the judiciary or their designees, who shall serve as co-
3259 chairs; 1 of whom shall be the minority leader of the house of representatives or a designee; 1 of
3260 whom shall be the minority leader of the senate or a designee; 1 of whom shall be the secretary
3261 of public safety and security or a designee; 1 of whom shall be the commissioner of correction or
3262 a designee; 1 of whom shall be the commissioner of public health or a designee; 1 of whom shall
3263 be the executive director of the Massachusetts District Attorneys Association or a designee; 1 of
3264 whom shall be the executive director of the Massachusetts office of victim assistance or a
3265 designee; 1 of whom shall be the superintendent of the Massachusetts treatment center or a

3266 designee; 1 of whom shall be the executive director of the committee for public counsel services
3267 or a designee; 1 of whom shall be a representative of a professional association with expertise in
3268 the assessment and treatment of sexually dangerous persons; and 1 of whom shall be a person
3269 with experience in supervision of qualified examiners. The special commission shall consult with
3270 the sex offender registry board, the parole board, the department of probation and others as
3271 necessary to complete the commission's work.

3272 (c) The special commission shall conduct a thorough review of the educational and
3273 experiential requirements for qualified examiners and the clinical standards and practices and
3274 risk assessment criteria used by qualified examiners in conducting an assessment of sexually
3275 dangerous persons as defined in section 1 of chapter 123A of the General Laws. The special
3276 commission shall determine whether these requirements, standards and practices reflect the
3277 current scientific research and best practice evidence in the field and make recommendations for
3278 revision of current professional requirements, clinical standards, practices and risk assessment
3279 criteria as needed to support effective practices among qualified examiners and to maximally
3280 ensure public safety.

3281 (d) The special commission shall submit its report and recommendations, together with
3282 drafts of legislation to carry its recommendations into effect, by filing the same with the clerks of
3283 the house of representatives and the senate not later than December 31, 2018.

3284 SECTION 227. The executive office of public safety and security may issue a temporary
3285 waiver from the requirements of section 1A of chapter 263 of the General Laws for a defined
3286 period of time to a police department that demonstrates, upon application to the executive office,
3287 that it has inadequate resources to implement that section.

3288 SECTION 228. (a) The secretary of public safety and security may use a phased
3289 implementation process to implement the sexual assault evidence kit tracking system required
3290 pursuant to sections 11, 24, and 216 of this Act and facilitate entry and use of the system for
3291 required participants not later than June 30, 2019. The secretary may phase initial participation
3292 according to region, volume or other appropriate classifications. All entities who have custody of
3293 sexual assault evidence kits shall fully participate in the system not later than December 1, 2019.

3294 (b)The secretary shall submit a report on the current status and plan for launching the
3295 system, including the plan for phased implementation, to the joint committee on the judiciary,
3296 and the governor not later than June 30, 2018. For the purpose of the report, a sexual assault
3297 evidence kit shall be assigned to the jurisdiction associated with the law enforcement agency
3298 anticipated to receive the sexual assault evidence kit or otherwise in the custody of the sexual
3299 assault evidence kit.

3300 (c) Local law enforcement agencies shall begin full participation in the system according
3301 to the implementation schedule established by the secretary which shall be not later than 1 year
3302 after the effective date of this act.

3303 (d) The department of state police and the Boston police department shall begin full
3304 participation in the system according to the implementation schedule established by the secretary
3305 which shall be not later than 1 year after the effective date of this act.

3306 (e) Hospitals shall begin full participation in the system according to the implementation
3307 schedule established by the secretary which shall be not later than 1 year after the effective date
3308 of this act.

3309 (f) District attorney offices shall begin full participation in the system according to the
3310 implementation schedule established by the secretary which shall be not later than 1 year after
3311 the effective date of this act.

3312 SECTION 229. All appointments to the juvenile justice policy and data board
3313 established in section 89 of chapter 119 of the General Laws shall be made not less than 90 days
3314 after the effective date of this act.

3315 SECTION 230. Regulations required by subsection (e) of section 39B and section 39E of
3316 chapter 127 of the General Laws shall be promulgated not later than December 31, 2018.

3317 SECTION 231. All appointments to the advisory committee established in section 5 of
3318 chapter 276B of the General Laws shall be made not later than October 1, 2018 and the first
3319 meeting of the advisory committee shall be held not later than December 1, 2018.

3320 SECTION 232. Sections 2, 5, 8, 10, 12, 13, 14, 15, 16, 17, 27, 31, 61, 62, 63, 64, 65, 66,
3321 67, 68, 69, 70, 71, 72, 73, 75, 76, 77, 78, 79, 80, 81, 130, 131, 132, 161, 168, 172, 185, and 207
3322 shall take effect 90 days after the effective date of this act.

3323 SECTION 233. Sections 18, 74, 106, 108, 110, 125, and 227 shall take effect on July 1,
3324 2019.

3325 SECTION 234. Sections 19 and 23 shall take effect 1 year after the effective date of this
3326 act.

3327 SECTION 235. Section 19 shall apply to convictions and adjudications entered on or
3328 after a date 1 year after the effective date of this act.

3329 SECTION 236. Sections 25, 26, 85, 86, 87, 88, 89, 91, 92, 93, 94, 95, and 96 shall take
3330 effect on December 31, 2018.

3331 SECTION 237. Sections 45, 46, 49, 50, 51, 57, and 111 shall apply to offenses
3332 committed after the effective date of this act.

3333 SECTION 238. Sections 47, 48, 52, 53, 54, 55, 56, and 60 shall apply to initial
3334 convictions occurring on or after the effective date of this act.

3335 SECTION 239. Sections 84, 90, 103, 104, 186, 187, 188, 189, 190, 191, 192, 193 194,
3336 and 195 of this act shall take effect 6 months after the effective date of this act.