

Acts (2018)

Chapter 69

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:

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

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

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

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

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

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

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

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

(iii) handling mental health emergencies and complaints involving victims, witnesses or suspects with a mental illness or developmental disability, which shall include training related to common behaviors and actions exhibited by such individuals, strategies law enforcement officers may use for reducing or preventing the risk of harm and strategies that involve the least intrusive means of addressing such incidences and individuals while protecting the safety of the law

enforcement officer and other persons; provided, however, that training presenters shall include certified mental health practitioners with expertise in the delivery of direct services to individuals experiencing mental health emergencies and victims, witnesses and suspects with a mental illness or developmental disability.

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

SECTION 3. The definition of “Criminal offender record information” in section 167 of said chapter 6, as appearing in the 2016 Official Edition, is hereby amended by striking out the second sentence and inserting in place thereof the following sentence:- Such information shall be restricted to information recorded in criminal proceedings that are not dismissed before arraignment.

SECTION 4. Said section 167 of said chapter 6, as so appearing, is hereby further amended by striking out, in lines 41 and 42, the words “is adjudicated as an adult” and inserting in place thereof the following words:- was adjudicated as an adult in superior court or adjudicated as an adult after transfer of a case from a juvenile session to another trial court department.

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

(i)(1) The department shall quarterly obtain arrest data, consistent with the National Incident-Based Reporting System of the Uniform Crime Reporting Program of the United States Department of Justice Federal Bureau of Investigation, from criminal justice agencies

including, without limitation: the Massachusetts state police; the Massachusetts Bay Transportation Authority police force; any police department in the commonwealth or any of its political subdivisions; any law enforcement council, as defined in section 4J of chapter 40, created by contract between or among cities and towns, pursuant to section 4A of said chapter 40; and any entity employing 1 or more special state police officers appointed pursuant to section 63 of chapter 22C.

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

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

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

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

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

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

Section 184A. (a) There shall be a forensic science oversight board in the executive office of public safety and security. The board shall have oversight authority over all commonwealth facilities engaged in forensic services in criminal investigations, and shall provide

enhanced, objective and independent auditing and oversight of forensic evidence used in criminal matters, and of the analysis, including the integrity of such forensic analysis performed in state and municipal laboratories.

The board shall consist of: the undersecretary for forensic sciences or a designee, who shall serve as chair but shall not be a voting member; and 13 members who shall be appointed by the governor, 1 of whom shall have expertise in forensic science, 1 of whom shall have expertise in forensic laboratory management, 1 of whom shall have expertise in cognitive bias, 1 of whom shall have expertise in statistics, 1 of whom shall be in academia in a research field involving forensic science, 1 of whom shall have expertise in statistics, 1 of whom shall have expertise in forensic laboratory management, 1 of whom shall have expertise in clinical quality management, 1 of whom shall be nominated by the Massachusetts District Attorneys Association, 1 of whom shall be nominated by the attorney general, 1 of whom shall be nominated by the committee for public counsel services, 1 of whom shall be nominated by the Massachusetts Association of Criminal Defense Lawyers, Inc. and 1 of whom shall be nominated by the New England Innocence Project, Inc.

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

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

(c) Not more than 6 months following the appointment of its membership, the board shall conduct a comprehensive audit of the facilities and practices being utilized for criminal forensic analysis in the Commonwealth and the operation and management of the Massachusetts state police crime laboratories. Such audit shall include, but not be limited to: (i) evaluating the capabilities of the state police crime laboratory and its ability to process evidence necessary to comply with the Massachusetts general laws; (ii) the condition and accuracy of testing equipment; (iii) the handling processing, testing and storage of evidence by such facilities; (iv) establishing professional qualifications necessary to serve as the head of the state police crime laboratory; (v) the licensure and oversight of laboratory personnel; (vi) determining the proper entity to control the crime laboratory and whether it would be appropriate to transfer such control to another executive agency or to an independent executive director; (vii) the feasibility of creating a board to select an independent executive director of the crime laboratory; (viii) setting term limits and reappointment standards applicable to the head of the

state police crime laboratory. The results of such audit, together with any recommendations for regulatory or legislative actions, shall be reported to the clerks of the house and senate, the secretary of public safety and security, the joint committee on the judiciary, the joint committee on public safety and homeland security, the colonel of the state police, and the house and senate committee on ways and means.

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

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

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

(f) The board shall actively engage stakeholders in the criminal justice system in forensic development initiatives and shall recommend ways to improve education and training in forensic science and the law, and identify measures to improve the quality of forensic analysis performed in laboratories.

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

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

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

(j) The board shall receive and review quarterly reports from the undersecretary for forensic sciences that shall include such information as the board requests, and which shall, at a minimum, include: (1) the volume of forensic services of each facility as well as the volume for each employee within such facility; (2) the volume of forensic services required for each county; (3) the costs and length of time from submission for testing and the return of results from such

facilities; (4) compliance with accreditation standards; and (5) facility employee records, qualifications, and incident reports that could affect the integrity or results of forensic analysis.

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

SECTION 10. Section 18³/₄ of chapter 6A of the General Laws, as so appearing, is hereby amended by adding the following 5 paragraphs:-

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

background on, and explanations of, criminal offender record information; and (vi) a list of answers to frequently asked questions about criminal offender record information.

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

(ii) the data collected pursuant to clause (i) shall be in the form of a cross-tracking system for data collection and reporting standards for criminal justice agencies and the trial court, including houses of correction and county jails. The cross-tracking system shall require all criminal justice agencies and the judiciary to use a unique state

identification number assigned to each person who enters the criminal justice system. All criminal justice agencies and the trial court shall incorporate the unique state identification number into their data systems upon a person's initial transfer to their jurisdiction.

Anonymized cross-agency data shall be made available to the public for analysis through an application programming interface which allows access to all electronically available records.

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

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

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

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

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

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

(i) track the location and status of sexual assault evidence kits throughout the criminal justice process, including: (1) the initial collection in examinations performed at hospitals or medical facilities; (2) receipt and storage at a governmental entity, including a local law

enforcement agency, the department of state police, a district attorney's office or any other political subdivision of the commonwealth or of a county, city or town; (3) a hospital or medical facility that is in possession of forensic evidence pursuant to section 97B of chapter 41; (4) receipt and analysis at forensic laboratories; and (5) storage and any destruction after completion of analysis;

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

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

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

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

(d) Local law enforcement agencies shall participate in the statewide sexual assault evidence kit tracking system established in this section for the purpose of tracking the status of all sexual assault evidence kits

in the custody of local law enforcement agencies and other entities contracting with local law enforcement agencies.

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

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

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

Section 18Y. Annually, on or before September 1st, the following reports regarding the previous fiscal year shall be submitted to the executive office of public safety and security by law enforcement agencies, medical facilities, crime laboratories, and any other facilities that receive, maintain, store or preserve sexual assault evidence kit. The reports shall contain: (i) the total number of all kits containing forensic samples collected or received; (ii) the date of collection or

receipt of each kit; (iii) the category of each kit; (iv) the sexual assault that was reported to law enforcement; (v) whether or not the victim chose not to file a report with law enforcement (non-investigatory); (vi) the status of the kit; (vii) the total number of all kits remaining in possession of the medical facility, law enforcement or laboratory and all reasons for any kit in possession for more than 30 days; (viii) the total number of kits destroyed by medical facilities, law enforcement or laboratories, and reason for destruction; (ix) in the case of a medical facility, the date the kit was collected, the date the kit was reported to law enforcement and the date the kit was picked up by law enforcement; (x) in the case of law enforcement, the date the kit was picked up from a medical facility, the date the kit was delivered to the crime laboratory and, for kits belonging to another jurisdiction, the date that the jurisdiction was notified and the date it was picked up; and (xi) in the case of crime laboratories the date the kit was received, from which agency the kit was received, the date the kit was tested, the date the resulting information was entered into CODIS and the state DNA databases and all reasons a kit was not tested or a DNA profile was not created.

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

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

SECTION 12. Section 3 of chapter 7D of the General Laws, as amended by section 13 of chapter 64 of the acts of 2017, is hereby further amended by striking out the words “and (xii) adapt standards as necessary for individual agencies to comply with federal law” and inserting in place thereof the following words:- (xii) adapt standards as necessary for individual agencies to comply with federal law; and (xiii) maintain a page on the commonwealth’s official website, open to the public through the Massachusetts open data portal, providing data, as transmitted by the department of criminal justice information services pursuant to subsection (i) of section 167A of chapter 6, concerning arrests; provided, however, that categories of data which constitute personally identifiable information shall not be posted or made available to the public.

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

Section 11. There shall be an inter-branch, interagency oversight board to monitor and ensure that the justice reinvestment policies relative to data collection and its availability to the public achieve anticipated goals. The board shall consist of 16 members: the secretary of the executive office of technology services and security, who shall serve as chairperson; the attorney general or a designee; the chief justice of the trial court or a designee; the secretary of the executive office of public safety and security or a designee; the

commissioner of probation or a designee, the chief counsel of the committee for public counsel services or a designee; the commissioner of correction or a designee; a member of the Massachusetts District Attorneys Association; a member of the Massachusetts Sheriffs Association, Inc.; the senate chair of the joint committee on the judiciary or a designee; the house chair of the joint committee on the judiciary or a designee; the chief legal counsel of the Massachusetts Bar Association or a designee; the executive director of the American Civil Liberties Union of Massachusetts, Inc. or a designee; and 3 members appointed by the governor: 1 of whom shall be an expert in addressing racial, ethnic, gender or age bias and 2 of whom shall be experts in data collection and analysis.

The board shall meet quarterly to review the compliance of : (i) criminal justice agencies and the trial court, including the probation service, the parole board, the executive office of public safety and security, the department of correction, houses of correction and county jails in: (1) collecting and submitting data required by paragraphs (12), (13) and (14) of section 18³/₄ of chapter 6A; (2) making said data available to the public as required by said paragraphs 12, 13 and 14 of said section 18³/₄ through the development of data portals to make data without personally identifiable information so available; and (ii) criminal justice agencies and the trial court, including the department of correction, houses of correction and county jails, with policies ensuring accurate data collection across racial, ethnic and gender classifications; provided, that compliance shall include a review of whether the methods of data collection are appropriately screening for gender-specific risk or needs that may be addressed by evidence-based

programs. A report on the collection of data and the compliance with justice reinvestment policies shall be submitted annually to the clerks of the house of representatives and the senate on or before July 1.

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

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

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

(c) Expenditures from the fund shall be made to provide funding for: (i) the operating expenses of the municipal police training committee established by section 116 of chapter 6; (ii) basic recruit training for

new police officers; (iii) mandatory in-service training for veteran police officers; (iv) specialized training for veteran police officers and reserve and intermittent police officers; and (v) the basic training program for reserve and intermittent police officers.

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

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

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

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

Section 14. The office shall convene a childhood trauma task force made up of members of the juvenile justice policy and data board established pursuant to section 89 of chapter 119 to study, report and make recommendations on gender responsive and trauma-informed approaches to treatment services for juveniles and youthful offenders in the juvenile justice system. Said task force shall review the current means of (i) identifying school-aged children who have experienced trauma, particularly undiagnosed trauma, and (ii) providing services to help children recover from the psychological damage caused by such

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

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

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

In any juvenile or adult criminal case in which a fingerprint identification has been transmitted to the Federal Bureau of Investigation to provide criminal history record information through the bureau's Interstate Identification Index, the department shall also transmit the case disposition information, including any order of dismissal and any order to seal or expunge a record. The transmission of any sealing order to the Federal Bureau of Investigation shall be

accompanied by an order to seal such information within the bureau's Interstate Identification Index. The transmission of any expungement order to the Federal Bureau of Investigation shall be accompanied by an order to expunge such information within the bureau's Interstate Identification Index.

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

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

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

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

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

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

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

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

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

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

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

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

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

Section 97B^{1/2}. (a) A hospital licensed pursuant to chapter 111 and all other medical facilities that conduct medical forensic examinations shall notify a local law enforcement agency at the time the evidence of a sexual assault is obtained and no later than 24 hours after using a new kit for the collection of sexual assault evidence.

(b) Local law enforcement agencies shall:

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

(2) Submit new sexual assault evidence kits to the crime laboratory within the department of the state police or the police department of a municipality that operates a crime laboratory and has a population of more than 150,000, in the case of a sexual assault alleged to have taken place in that municipality, within 7 business days of taking possession, except that non-investigatory sexual assault evidence kits associated with a victim who has not yet filed a report with law

enforcement shall not be subject to the 7 day requirement. Non-investigatory kits shall be safely stored by law enforcement in a manner that preserves evidence for the duration of the statute of limitations for all sexual assault and rape cases.

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

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

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

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

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

SECTION 27. Subsection (b) of section 37P of chapter 71 of the General Laws, as so appearing, is hereby amended by striking out the second paragraph and inserting in place thereof the following 5 paragraphs:

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

The superintendent and the chief of police shall enter into a written memorandum of understanding which shall be placed on file in the offices of the school superintendent and the chief of police. The memorandum of understanding shall, at minimum, describe the following: (i) the mission statement, goals and objectives of the SRO program; (ii) the roles and responsibilities of the SROs, the police department, and the schools; (iii) the process for selecting SROs; (iv) the mechanisms to incorporate SROs into the school environment, including school safety meetings; (v) information sharing between SROs, school staff and other partners; (vi) the organizational structure of the SRO program, including supervision of SROs and the lines of communication between the school district and police department;

(vii) training for SROs, including but not limited to continuing professional development in child and adolescent development, conflict resolution and diversion strategies; and (viii) specify the manner and division of responsibility for collecting and reporting the school-based arrests, citations and court referrals of students to the department of elementary and secondary education in accordance with regulations promulgated by the department, which shall collect and publish disaggregated data in a like manner as school discipline data made available for public review.

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

The chief of police, in consultation with the school superintendent, shall establish standard operating procedures, hereinafter referred to as “SOP”, to provide guidance to SROs about daily operations, policies and procedures. At minimum, the SOP, as established by the chief of police, shall describe the following for the school resource officer:

(1) the SRO uniform;

(2) use of police force, arrest, citation and court referral on school property;

- (3) a statement and description of students' legal rights, including the process for searching and questioning students and when parents and administrators shall be notified and present;
- (4) chain of command, including delineating to whom the SRO reports and how school administrators and the SRO work together;
- (5) performance evaluation standards, which shall incorporate monitoring compliance with the memorandum of understanding and use of arrest, citation, and police force in school;
- (6) protocols for diverting and referring at-risk students to school- and community-based supports and providers; and
- (7) information sharing between the SRO, school staff, and parents or guardians.

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

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

SECTION 29. Section 8A^{1/2} of said chapter 90, as so appearing, is hereby amended by striking out, in lines 29 and 30, the words “the vapors of glue” and inserting in place thereof the following words:-

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

SECTION 30. Section 21 of said chapter 90, as so appearing, is hereby amended by striking out, in line 27, the words “under the influence of the vapors of glue” and inserting in place thereof the following words:- while under the influence from smelling or inhaling the fumes of any substance having the property of releasing toxic vapors as defined in section 18 of chapter 270.

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

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

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

If the defendant has been previously convicted or assigned to an alcohol or controlled substance education, treatment or rehabilitation program by a court of the commonwealth or any other jurisdiction because of a like offense 4 times preceding the date of the commission of the offense for which the defendant has been convicted, the defendant shall be punished by a fine of not less than \$2,000 nor more

than \$50,000 and by imprisonment for not less than 2 and one-half years or by a fine of not less than \$2,000 nor more than \$50,000 and by imprisonment in the state prison for not less than 2 and one-half years nor more than 5 years; provided, however, that the sentence imposed upon such person shall not be reduced to less than 24 months, nor suspended, nor shall any such person be eligible for probation, parole, or furlough or receive any deduction from his or her sentence for good conduct until he or she shall have served 24 months of such sentence; provided, further, that the commissioner of correction may, on the recommendation of the warden, superintendent, or other person in charge of a correctional institution, or the administrator of a county correctional institution, grant to an offender committed under this subdivision a temporary release in the custody of an officer of such institution for the following purposes only: to attend the funeral of a relative; to visit a critically ill relative; to obtain emergency medical or psychiatric services unavailable at said institution; to engage in employment pursuant to a work release program; or for the purposes of an aftercare program designed to support the recovery of an offender who has completed an alcohol or controlled substance education, treatment or rehabilitation program operated by the department of correction; and provided further, that the defendant may serve all or part of such 24 months sentence, to the extent that resources are available, in a correctional facility specifically designated by the department of correction for the incarceration and rehabilitation of drinking drivers.

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

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

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

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

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

the defendant may serve all or part of such 36 months sentence, to the extent that resources are available, in a correctional facility specifically designated by the department of correction for the incarceration and rehabilitation of drinking drivers.

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

program operated by the department of correction; and provided further, that the defendant may serve all or part of such 48 months sentence, to the extent that resources are available, in a correctional facility specifically designated by the department of correction for the incarceration and rehabilitation of drinking drivers.

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

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

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

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

Section 24G. (a) Whoever, upon any way or in any place to which the public has a right of access, or upon any way or in any place to which members of the public have access as invitees or licensees, operates a motor vehicle with a percentage, by weight, of alcohol in their blood of .08 or greater, or while under the influence of intoxicating liquor, or of marijuana, narcotic drugs, depressants or stimulant substances, all as defined in section 1 of chapter 94C, or from smelling or inhaling the fumes of any substance having the property of releasing toxic vapors as defined in section 18 of chapter 270, and so operates a motor vehicle recklessly or negligently so that the lives or safety of the public might be endangered, and by any such operation so described causes the death of another person, shall be guilty of homicide by a motor vehicle while under the influence of an intoxicating substance, and shall be punished by imprisonment in the state prison for not less than 2½ years nor more than 15 years and a fine of not more than \$5,000, or by imprisonment in a jail or house of correction for not less than 1 year nor more than 2 ½ years and a fine of not more than \$5,000. The sentence imposed upon such person shall not be reduced to less than 1 year, nor suspended, nor shall any person convicted under this subsection be eligible for probation, parole, or furlough or receive any deduction from a sentence until such person has served at least 1 year of such sentence; provided, however, that the commissioner of correction may, on the recommendation of the warden, superintendent or other person in charge of a correctional institution or the administrator of a county correctional institution grant to an offender committed under this subsection a temporary release in the custody of an officer of such institution for the following purposes only: (i) to attend the funeral of

a relative; (ii) to visit a critically ill relative; (iii) to obtain emergency medical or psychiatric services unavailable at said institution; or (iv) to engage in employment pursuant to a work release program.

Prosecutions commenced under this section shall neither be continued without a finding nor placed on file. Section 87 of chapter 276 shall not apply to any person charged with a violation of this subsection.

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

(c) Whoever, upon any way or in any place to which the public has a right of access or upon any way or in any place to which members of the public have access as invitees or licensees, operates a motor vehicle recklessly so that the lives or safety of the public might be endangered and by any such operation causes the death of another person, shall be guilty of reckless homicide by a motor vehicle and shall be punished by imprisonment in a jail or house of correction for

not more than 2½ years, or by imprisonment in the state prison for not more than 5 years, or by a fine of not more than \$3,000 dollars, or by both such fine and imprisonment. For the purpose of this section, a person operates recklessly when that person consciously disregards a substantial and unjustifiable risk that the lives or safety of the public might be endangered.

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

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

SECTION 38A. Said section 24L of said chapter 90, as so appearing, is hereby further amended by striking out, in line 43, the words “vapors of glue” and inserting in place thereof the following words:-

while under the influence from smelling or inhaling the fumes of any substance having the property of releasing toxic vapors as defined in section 18 of chapter 270.

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

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

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

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

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

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

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

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

- (1) Acetyl Fentanyl
- (2) Carfentanil
- (3) Fentanyl
- (4) Cyclopropyl fentanyl
- (5) Furanyl fentanyl

(6) 3-methylfentanyl

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

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

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

(1) Alphaprodine

(2) Anileridine

(3) Bezitramide

(4) Dihydrocodeine

(5) Diphenoxylate

(6) Isomethadone

(7) Levomethorphan

(8) Levorphanol

(9) Metazocine

(10) Methadone

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

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

(13) Pethidine

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

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

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

(17) Phenazocine

(18) Piminodine

(19) Racemethorphan

(20) Racemorphan

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

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

(b) Any person convicted of violating this section after 1 or more prior convictions of manufacturing, distributing, dispensing or possessing with the intent to manufacture, distribute or dispense a controlled substance as defined by section 31 under this or any other prior law of this jurisdiction or of any offense of any other

jurisdiction, federal, state or territorial, which is the same as or necessarily includes the elements of said offense shall be punished by a term of imprisonment in the state prison for not more than 10 years, by a term of imprisonment in the state prison for not more than 10 years and by a fine of not less than \$2,500 and not more than \$25,000, or by a fine of not more than \$25,000.

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

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

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

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

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

SECTION 49. Section 32E of said chapter 94C, as so appearing, is hereby amended by inserting after the words “heroin or any salt thereof” in lines 80, 85, 87 and 89, in each instance, the words:- , a

controlled substance defined in paragraph (d) of Class A of section 31.

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

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

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

(c^{3/4}) Any person who trafficks in carfentanil, including without limitation, any derivative of carfentanil by knowingly or intentionally manufacturing, distributing, dispensing or possessing with intent to manufacture, distribute or dispense or by bringing into the commonwealth carfentanil or any derivative of carfentanil, any mixture containing carfentanil or a derivative of carfentanil, provided, that such person had specific knowledge that such mixture contained carfentanil or any derivative of carfentanil, shall be punished by a term of imprisonment in state prison for not less than 3 and one-half

nor more than 20 years. No sentence imposed pursuant to this subsection shall be for less than a mandatory minimum term of imprisonment of 3 and one-half years.

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) The attorney general, each district attorney and each police department for which the state treasurer has established a special law enforcement trust fund pursuant to subsection (d) shall file an annual

report with the treasurer regarding all expenditures therefrom, which shall include, but not be limited to, the following expense categories: personnel, contractors, equipment, training, private-public partnerships, inter-agency collaborations and community grants. The report shall be filed not later than January 31 for the preceding calendar year and shall be a public record.

(3) Annually, not later than March 15, the state treasurer shall file a report with the executive office of administration and finance and the house and senate committees on ways and means regarding the aggregate deposits, aggregate expenditures, and ending balances for each special law enforcement trust fund during the preceding calendar year. The reports shall be a public record.

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

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

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

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

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

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

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

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

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

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

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

SECTION 70. Said section 11 of said chapter 111E, as so appearing, is hereby further amended by striking out, in lines 16 and 17 and in line 18, the words “psychiatrist or physician” and inserting in place

thereof, in each instance, the following words:- addiction specialist.

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

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

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

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

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

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

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

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

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

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

Upon receipt of the recommendation, the judge shall provide an opportunity for both the commonwealth and counsel for the child to be heard regarding diversion of the child. The judge shall then make a

final determination as to the eligibility of the child for diversion. The proceedings of a child who is found eligible for diversion shall be stayed for 90 days unless the judge determines that the interest of justice would best be served by a lesser period of time or unless extended under subsection (f).

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

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

not be disclosed at any time to a commonwealth or other law enforcement officer in connection with the investigation or prosecution of any charges against the child or a codefendant.

(4) If a child is found eligible for diversion pursuant to this section, the child shall not be arraigned and an entry shall not be made into the criminal offender record information system unless a judge issues an order to resume the ordinary processing of a delinquency proceeding. If a child is found eligible pursuant to this section, the eligibility shall not be considered an issuance of a criminal complaint for the purposes of section 37H¹/₂ of chapter 71.

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

(e) If during the stay of proceedings a child is charged with a subsequent offense, a judge in the court that entered the stay of proceedings may issue such process as is necessary to bring the child before the court. When the child is brought before the court, the judge shall afford the child an opportunity to be heard. If the judge finds probable cause to believe that the child has committed a subsequent

offense, the judge may order that the stay of proceedings be terminated and that the commonwealth be permitted to proceed on the original complaint as provided by law.

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

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

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

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

(g) A child otherwise eligible for diversion pursuant to this section shall not be eligible for diversion if the child is indicted as a youthful offender or if the child is charged with a violation of 1 or more of the offenses enumerated in the second sentence of section 70C of chapter 277, other than the offenses in subsection (a) of section 13A of chapter 265 and sections 13A and 13C of chapter 268, or if the defendant is charged with an offense for which a penalty of incarceration greater than 5 years may be imposed or for which there is a minimum term penalty of incarceration or which may not be continued without a finding or placed on file. Diversion of juvenile court charges under this chapter shall not preclude a subsequent indictment on the same charges in superior court.

SECTION 76. Said chapter 119 is hereby further amended by striking out section 67, as appearing in the 2016 Official Edition, and inserting in place thereof the following section:-

Section 67. (a) Whenever a child between 12 and 18 years of age is arrested with or without a warrant, as provided by law, and the court or courts having jurisdiction over the offense are not in session, the

officer in charge shall immediately notify at least 1 of the child's parents, or, if there is no parent, the guardian or custodian with whom the child resides or if the child is in the custody and care of the department, the department of children and families. Pending such notice, such child shall be detained pursuant to subsection (c).

(b) Upon the acceptance by the officer in charge of the police station or town lockup of the written promise of the parent, guardian, custodian or representative of the department of children and families to be responsible for the presence of the child in court at the time and place when the child is ordered to appear, the child shall be released to the person giving such promise; provided, however, that if the arresting officer requests in writing that a child between 14 and 18 years of age be detained, and if the court issuing a warrant for the arrest of a child between 14 and 18 years of age directs in the warrant that the child shall be held in safekeeping pending the child's appearance in court, the child shall be detained in a police station, town lockup, a place of temporary custody commonly referred to as a detention home of the department of youth services or any other home approved by the department of youth services pending the child's appearance in court; provided further, that in the event any child is so detained, the officer in charge of the police station or town lockup shall notify the parents, guardian, custodian or representative of the department of children and families of the detention of the child. Nothing contained in this section shall prevent the admitting of such child to bail in accordance with law.

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

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

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

12.

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

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

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

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

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

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

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

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

The authority to use restraints shall reside solely within the discretion of the presiding justice at the time that a juvenile appears before the court. A juvenile court justice shall not impose a blanket policy to

maintain restraints on all juveniles or a specific category of juveniles who appear before the court.

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

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

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

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

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

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

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

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

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

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

“Office”, the office of the child advocate.

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

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

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

The board shall consist of 21 members, 1 of whom shall be a member of the house of representatives appointed by the speaker of the house of representatives; 1 member of the house of representatives to be appointed by the minority leader of the house; 1 of whom shall be a member of the senate appointed by the president of the senate; 1 member of the senate to be appointed by the senate minority leader; 1 of whom shall be the child advocate, who shall serve as chair; 1 of

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

The board shall analyze and make a recommendation on the feasibility of the child advocate creating and annually updating an instrument to record aggregate statistical data for every contact a juvenile has with: (i) criminal justice agencies; (ii) any contractor, vendor or service-provider working with said agencies; and (iii) any alternative lock-up programs. The data to be recorded on the instrument shall include, without limitation, age, gender, racial or ethnic category and type of

crime. The recommendation shall include a study of the feasibility of all offices and departments subject to this section using the instrument to record a juvenile's contact. The board shall determine the best practices for departments to submit data to the child advocate.

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

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

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

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

(3) the impact of any statutory change that expands or alters the jurisdiction or functioning of the juvenile court, as measured by the following: (i) any change in the average age of children and young adults involved in the juvenile justice system; (ii) the types of services used by designated age groups and the outcomes of those services; (iii) the types of delinquent acts or criminal offenses that children and young adults have been charged with since the enactment and implementation of such statutory change; (iv) the gaps in services identified by the committee with respect to children and young adults involved in the juvenile justice system, including, but not limited to, young adults who have attained the age of 18 after being involved in the juvenile justice system, and recommendations to address such gaps in services; and (v) the strengths and barriers identified by the board that support or impede the educational needs of children and young adults in the juvenile justice system, with specific recommendations for reforms;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

“Serious mental illness”, a current or recent diagnosis by a qualified mental health professional of 1 or more of the following disorders described in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders: (i) schizophrenia and other psychotic disorders; (ii) major depressive disorders; (iii) all types of bipolar disorders; (iv) a neurodevelopmental disorder, dementia or other

cognitive disorder; (v) any disorder commonly characterized by breaks with reality or perceptions of reality; (vi) all types of anxiety disorders; (vii) trauma and stressor related disorders; or (viii) severe personality disorders; or a finding by a qualified mental health professional that the prisoner is at serious risk of substantially deteriorating mentally or emotionally while confined in restrictive housing, or already has so deteriorated while confined in restrictive housing, such that diversion or removal is deemed to be clinically appropriate by a qualified mental health professional.

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

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

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

SECTION 89. Section 16 of said chapter 127, as appearing in the 2016 Official Edition, is hereby amended by adding the following paragraph:-

The superintendents of correctional institutions and the keepers and superintendents of jails and houses of correction shall cause an examination for substance use disorder to be made by a qualified

addiction specialist of each inmate in their respective institutions who is committed for a term of 30 days' imprisonment or more.

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

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

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

provided further, that the placement shall be consistent with the prisoner's request, unless the commissioner, the sheriff or a designee of the commissioner or sheriff certifies in writing that the particular placement would not ensure the prisoner's health or safety or that the placement would present management or security problems.

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

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

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

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

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

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

(b) In addition to meeting all standards established by the regulations of the department of public health, restrictive housing units shall provide: (i) meals that meet the same standards established by the commissioner for general population prisoners; (ii) access to showers not less than 3 days per week; (iii) rights of visitation and communication by those properly authorized; provided, however, that the authorization may be diminished for the enforcement of discipline for a period not to exceed 15 days in a state correctional facility or 10 days in a county correctional facility for each offense; (iv) access to reading and writing materials unless clinically contraindicated; (v) access to a radio or television if confinement exceeds 30 days; (vi) periodic mental and psychiatric examinations under the supervision of the department of mental health; (vii) medical and psychiatric treatment as clinically indicated under the supervision of the

department of mental health; (viii) the same access to canteen purchases and privileges to retain property in a prisoner's cell as prisoners in the general population at the same facility; provided, however, that such access and privileges may be diminished for the enforcement of discipline for a period not to exceed 15 days in a state correctional facility or 10 days in a county correctional facility for each offense or where inconsistent with the security of the unit; (ix) the same access to disability accommodations as prisoners in general population, except where inconsistent with the security of the unit; and (x) other rights and privileges as may be established or recognized by the commissioner.

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

(d) A qualified mental health professional shall make rounds in every restrictive housing unit and may conduct an out-of-cell meeting with a prisoner for whom a confidential meeting is warranted in the clinician's professional judgment. Prisoners shall be evaluated by a qualified mental health professional in accordance with clinical standards adopted by the department of correction and the qualified

mental health professional's clinical judgment to determine whether the prisoner has a serious mental illness or restrictive housing is otherwise clinically contraindicated.

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

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

(b) If a prisoner needs to be separated from general population to protect the prisoner from harm by others, the prisoner shall not be placed in restrictive housing, but shall be placed in a housing unit that provides approximately the same conditions, privileges, amenities and

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

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

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

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

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

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

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

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

behavior standards and program participation goals that will increase the prisoner's chances of a less restrictive placement upon next placement review.

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

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

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

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

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

prisoners in restrictive housing; (x) the number of transfers to outside hospitals directly from restrictive housing; and (xi) such additional information as the commissioner may determine.

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

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

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

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

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

Section 39G. (a) There shall be established a restrictive housing oversight committee, hereinafter in this section referred to as the committee, which shall consist of: the secretary of the executive office of public safety and security or a designee, who shall serve as chair; the commissioner of the department of correction or a designee; the commissioner of mental health or a designee; and 9 members to be appointed by the governor, 1 of whom shall be a correctional administrator with expertise in prison discipline or prison programming, 1 of whom shall be a member of a correctional officers union, 1 of whom shall have significant and demonstrated experience in criminal justice or corrections policy research; 1 of whom shall be the president of Massachusetts Sheriffs Association, Inc. or a designee, 1 of whom shall be a former judge designated by the chief justice of the supreme judicial court, 1 of whom shall be the executive director of Disability Law Center, Inc. or a designee, 1 of whom shall be the executive director of Prisoners' Legal Services or a designee, 1

of whom shall be the executive director of the Massachusetts Association for Mental Health, Inc. or a designee and 1 of whom shall be a licensed social worker designated by the Massachusetts chapter of the National Association of Social Workers, Inc.

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

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

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

(d) The committee shall annually, not later than January 31, submit to the house and senate chairs of the joint committee on the judiciary and the house and senate chairs of the joint committee on public safety and homeland security a report offering its recommendations on the use of restrictive housing in the commonwealth, including ways to minimize its use and improve outcomes for prisoners and facility safety. The report shall also include the following information for each

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

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

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

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

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

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

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

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

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

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

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

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

“Department”, the department of correction.

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

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

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

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

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

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

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

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

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

Not less than 24 hours before the date of a prisoner's release on medical parole, the commissioner shall notify, in writing, the district attorney for the jurisdiction where the offense resulting in the prisoner being committed to the correctional facility occurred, the department of state police, the police department in the city or town in which the

prisoner shall reside and, if applicable under chapter 258B, the victim or the victim's family of the prisoner's release and the terms and conditions of the release.

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

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

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

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

for each prisoner's return; and (viii) the number of petitions for relief sought pursuant to subsection (g). Nothing in this report shall include personally identifiable information of the prisoners.

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

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

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

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

Section 145. (a) A court shall not commit a person to a correctional facility solely for non-payment of money owed if such person has established, by a preponderance of the evidence, that the person is

unable to pay the fine without causing substantial financial hardship to the person or their immediate family or dependents. A court shall determine whether the payment of a fine would cause such substantial financial hardship after a hearing and, in making such determination, shall consider the person's employment status, income, financial resources, living expenses, number of dependents and any special circumstances that may affect a person's ability to pay.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 112. Section 8 of chapter 258B of the General Laws, as so appearing, is hereby amended by striking out, in lines 38 to 40, inclusive, the words "would impose a severe financial hardship upon

the person against whom the assessment is imposed” and inserting in place thereof the following words:- would cause a substantial financial hardship to the person against whom the assessment is imposed or the person’s immediate family or the person’s dependents.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

“Critical witness”, any person who is participating, has participated, or is reasonably expected to participate in a criminal investigation, motion hearing, trial, show cause hearing, or other criminal proceeding, or a proceeding involving an alleged violation of conditions of probation or parole, or the commitment of a sexually dangerous person pursuant to chapter 123A; or who has received a subpoena requiring such participation; who is, or was, in the judgment of the prosecuting officer, a necessary witness at one or more of the aforementioned types of proceedings, and who is or may be

endangered by such person's participation in the aforementioned proceeding; or such person's relatives, guardians, friends or associates, who are or may be endangered by such person's participation in the aforementioned proceeding.

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

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

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

Whoever commits an assault and battery upon a police officer when such officer is engaged in the performance of the officer's duties at the time of such assault and battery and who by such assault and battery causes serious bodily injury to the officer shall be punished by a term of imprisonment in the state prison for not less than 1 year nor more than 10 years, or house of correction for not less than 1 year, nor more than 2 ½ years. No sentence imposed pursuant to this section shall be

for less than a mandatory minimum term of imprisonment of 1 year and a fine of not less than \$500 nor more than \$10,000 may be imposed but not in lieu of the mandatory minimum term of imprisonment. A prosecution commenced under this paragraph shall not be placed on file or continued without a finding and a sentence imposed upon a person convicted of violating this paragraph shall not be suspended or reduced, nor shall such person be eligible for probation, parole, work release, furlough or receive any deduction from the person's sentence for good conduct until such person shall have served said mandatory minimum term of imprisonment. For purposes of this section, the term "serious bodily injury" shall mean bodily injury which results in a permanent disfigurement, protracted loss or impairment of a bodily function, limb or organ or substantial risk of death.

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

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

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

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

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

(1) except as provided in paragraphs (2) and (3) of this subsection, the defendant shall have the burden to establish a reasonable probability that the defendant’s participation in the offense was the result of

having been a victim of human trafficking;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c^{1/2}) Whoever possesses a tool, instrument or other article adapted, designed or commonly used for accessing a person’s financial services account number or code, savings account number or code, checking account number or code, brokerage account number or code, credit card account number or code, debit card number or code, automated teller machine number or code, personal identification number, mother’s maiden name, computer system password, electronic

signature or unique biometric data that is a fingerprint, voice print, retinal image or iris image of another person under circumstances evincing an intent to use or knowledge that some person intends to use the same in the commission of larceny shall be guilty of identity fraud and shall be punished by a fine of not more than \$5,000, or imprisonment in a house of correction for not more than 2½ years, or by both such fine and imprisonment.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

“Harass”, to engage in an act directed at a specific person or group of persons that seriously alarms or annoys such person or group of persons and would cause a reasonable person or group of persons to suffer substantial emotional distress including, but not limited to, an

act conducted by mail or by use of a telephonic or telecommunication device or electronic communication device including, but not limited to, a device that transfers signs, signals, writing, images, sounds, data or intelligence of any nature, transmitted in whole or in part by a wire, radio, electromagnetic, photoelectronic or photo-optical system including, but not limited to, electronic mail, internet communications, instant messages and facsimile communications.

(b) Whoever willfully, either directly or indirectly: (i) threatens, attempts or causes physical, emotional or economic injury or property damage to; (ii) conveys a gift, offer or promise of anything of value to; or (iii) misleads, intimidates or harasses another person who is a: (A) witness or potential witness; (B) person who is or was aware of information, records, documents or objects that relate to a violation of a criminal law or a violation of conditions of probation, parole, bail or other court order; (C) judge, juror, grand juror, attorney, victim witness advocate, police officer, correction officer, federal agent, investigator, clerk, court officer, court reporter, court interpreter, probation officer or parole officer; (D) person who is or was attending or a person who had made known an intention to attend a proceeding described in this section; or (E) family member of a person described in this section, with the intent to or with reckless disregard for the fact that it may; (1) impede, obstruct, delay, prevent or otherwise interfere with: a criminal investigation at any stage, a grand jury proceeding, a dangerousness hearing, a motion hearing, a trial or other criminal proceeding of any type or a parole hearing, parole violation proceeding or probation violation proceeding; or an administrative hearing or a probate or family court proceeding, juvenile proceeding,

housing proceeding, land proceeding, clerk's hearing, court-ordered mediation or any other civil proceeding of any type; or (2) punish, harm or otherwise retaliate against any such person described in this section for such person or such person's family member's participation in any of the proceedings described in this section, shall be punished by imprisonment in the state prison for not more than 10 years or by imprisonment in the house of correction for not more than 2½ years or by a fine of not less than \$1,000 or more than \$5,000 or by both such fine and imprisonment. If the proceeding in which the misconduct is directed at is the investigation or prosecution of a crime punishable by life imprisonment or the parole of a person convicted of a crime punishable by life imprisonment, such person shall be punished by imprisonment in the state prison for not more than 20 years or by imprisonment in the house of corrections for not more than 2½ years or by a fine of not more than \$10,000 or by both such fine and imprisonment.

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

SECTION 156. Section 34A of said chapter 268, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- Whoever knowingly and willfully furnishes a false name, Social Security number, date of birth, home address, mailing address or phone number, or other information

as may be requested for the purposes of establishing the person's identity, to a law enforcement officer or law enforcement official following an arrest shall be punished by a fine of not more than \$1,000 or by imprisonment in a house of correction for not more than 1 year or by both such fine and imprisonment.

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

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

(b) Upon any conviction under this section, the court shall conduct a hearing to ascertain the extent of costs incurred, and damages and financial loss sustained by any emergency response services provider as a result of the violation and shall order the defendant to make restitution to the emergency response services provider or providers for any such costs, damages or loss. The court shall consider the defendant's present and future ability to pay restitution in its determinations relative to the imposition of a fine. In determining the amount, time and method of payment of restitution, the court shall

consider the defendant's employment status, earning ability, financial resources, living expenses, dependents and any special circumstances that may have bearing on their ability to pay. The court may waive restitution or modify the amount, time or method of payment if such restitution payment would cause a substantial financial hardship to the defendant or the defendant's immediate family or the defendant's dependents.

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

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

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

(b) Disorderly persons and disturbers of the peace shall, for a first offense, be punished by a fine of not more than \$150. For a second or subsequent offense, disorderly persons and disturbers of the peace shall be punished by imprisonment in a jail or house of correction for not more than 6 months or by a fine of not more than \$200 or by both such fine and imprisonment; provided, however, that an elementary or secondary school student shall not be adjudged a delinquent child for a violation of this subsection for such conduct within school buildings or on school grounds or in the course of school-related events.

SECTION 161. Said chapter 272 is hereby further amended by adding the following section:-

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

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

Section 8. Whoever solicits, counsels, advises, or otherwise entices another to commit a crime that may be punished by imprisonment in the state prison, with the intent that the person, in fact, commit or

procure the commitment of such crime shall, except as otherwise provided, be punished as follows:

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

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

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

Fourth, by imprisonment for not more 2½ years in a jail or house of correction, or by a fine of not more than \$2,000, or by both such fine and imprisonment, if the intent of the solicitation, counsel, advice or

enticement was for the person to commit a crime punishable by imprisonment in the state prison for less than 5 years.

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

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

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

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

SECTION 166. Section 57 of said chapter 276, as so appearing, is hereby amended by inserting after the first sentence the following sentence:- Except in cases where the person is determined to pose a danger to the safety of any other person or the community under section 58A, bail shall be set in an amount no higher than what would reasonably assure the appearance of the person before the court after taking into account the person’s financial resources; provided, however, that a higher than affordable bail may be set if neither alternative nonfinancial conditions nor a bail amount which the person could likely afford would adequately assure the person’s appearance before the court.

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

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

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

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

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

SECTION 170. Section 58 of said chapter 276, as so appearing, is hereby amended by inserting after the first sentence the following sentence:- Except in cases where the person is determined to pose a danger to the safety of any other person or the community under

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 180. The first paragraph of section 87A of said chapter 276, as so appearing, is hereby amended by adding the following 2 sentences:- No person placed on probation shall be found to have violated a condition of probation: (i) solely on the basis of possession or use of a controlled substance that has been lawfully dispensed pursuant to a valid prescription to that person by a health professional registered to prescribe a controlled substance pursuant to chapter 94C and acting within the lawful scope of the health professional’s practice; or (ii) solely on the basis of possession or use of medical

marijuana obtained in compliance with and in quantities consistent with applicable state regulations if that person received a written certification from a healthcare professional for the use of medical marijuana to treat a debilitating medical condition and the person possesses a valid medical marijuana registration card and if the quantity in the person's possession is not greater than the amount recommended in the healthcare professional's written certification. If a person is required to submit a DNA sample pursuant to chapter 22E, such submittal and compliance with chapter 22E shall be required as a condition of probation.

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

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

The court may waive payment of either or both of said fees if it determines after a hearing that such payment would impose a substantial financial hardship on the person, the person's immediate

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

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

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

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

Section 89B. Probation officers appointed under subsection (f) of section 83 may be designated by the commissioner of probation to exclusively supervise young adults, who are 18 to 24 years of age and

have been placed in the care of probation officers under section 87, so that these individuals may benefit from age appropriate guidance, targeted interventions and a greater degree of individual attention.

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

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

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

SECTION 185. Said chapter 276 is hereby further amended by inserting after section 99F the following section:-

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

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

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

(d) The supervisor of pretrial services shall submit annual reports to the commissioner of probation, the chief justice of the trial court, the court administrator, the chief justice of the supreme judicial court and the clerks of the house of representatives and the senate who shall forward the report to the chairs of the joint committee on the

judiciary. The report shall include, but not be limited to, if available: (i) analysis on demographics of the pretrial population, including age, race and gender; (ii) appearance and default rates; (iii) conditions imposed upon release; and (iv) any other analytical data deemed appropriate; provided, however, that any data included in the report shall be presented only in aggregated form so that no individual can be identified.

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

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

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

SECTION 189. Said section 100A of said chapter 276, as so appearing, is hereby further amended by striking out, in line 83, the words “for employment used by an employer” and inserting in place

thereof the following words:- used to screen applicants for employment, housing or an occupational or professional license.

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

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

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

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

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

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

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

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

“Commissioner”, the commissioner of probation.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

“Order”, an order of expungement.

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

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

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

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

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

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

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

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

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

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

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

Section 100G. (a) A petitioner who has a record of conviction may, on a form furnished by the commissioner and signed under the penalties of perjury, petition that the commissioner expunge the

record. Upon receipt of a petition, the commissioner shall certify whether the petitioner is eligible for an expungement under sections 100I and 100J. If the petitioner is not eligible for an expungement under sections 100I and 100J the commissioner shall, within 60 days of the request, deny the request in writing. If the petitioner is eligible for an expungement under sections 100I and 100J the commissioner shall, within 60 days of the petition, notify in writing the district attorney of the petition and that the petitioner is eligible for an expungement under sections 100I and 100J. Within 60 days of receipt of notification from the commissioner of the filing of the petition and that petitioner is eligible for an expungement pursuant to sections 100I and 100J, the district attorney shall notify the commissioner in writing of their objections, if any, to the petition for the expungement.

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

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

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

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

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

Section 100H. (a) A petitioner who has a record that does not include an adjudication as a delinquent, an adjudication as a youthful offender or a conviction may, on a form furnished by the commissioner and signed under the penalties of perjury, petition that the commissioner expunge the record. Upon receipt of a petition, the commissioner shall certify whether the petitioner is eligible for an expungement under sections 100I and 100J. If the petitioner is not eligible for an expungement under sections 100I and 100J the commissioner shall,

within 30 days of the request, deny the request in writing. If the petitioner is eligible for an expungement under sections 100I and 100J the commissioner shall, within 30 days of the request, notify in writing the district attorney. Within 30 days of receipt of notification from the commissioner that the petitioner is eligible for an expungement pursuant to sections 100I and 100J, the district attorney shall notify the commissioner in writing of their objections, if any, to the request for the expungement.

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

(c) If the district attorney does not file an objection with the commissioner within 30 days of receipt of notification as provided in subsection (a) the court may approve the petition without a hearing. The court shall have the discretion to grant or deny the petition based on what is in the best interests of justice and shall enter written findings as to the basis of its order. The court shall deny any petition that does not meet the requirements of sections 100I and 100J.

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

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

- (1) the offense resulting in the record that is the subject of the petition is not a criminal offense included in section 100J;
- (2) the offense that is the subject of the petition to expunge the record occurred before the petitioner's twenty-first birthday;
- (3) the offense that is the subject of the petition to expunge the record, including any period of incarceration, custody or probation, occurred not less than 7 years before the date on which the petition was filed if the offense that is the subject of the petition is a felony, and not less than 3 years before the date on which the petition was filed if the offense that is subject of the petition is a misdemeanor;

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

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

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

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

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

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

- (2) any offense committed with the intent to cause death or serious bodily injury;
- (3) any offense committed while armed with a dangerous weapon;
- (4) any offense against an elderly person;
- (5) any offense against a disabled person;
- (6) any sex offense as defined in section 178C of chapter 6;
- (7) any sex offense involving a child as defined in section 178C of chapter 6;
- (8) any sexually violent offense as defined in section 178C of chapter 6;
- (9) any offense in violation of section 24 of chapter 90;
- (10) any sexual offense as defined in section 1 of chapter 123A;
- (11) any offense in violation of sections 121 to 131Q of chapter 140;

(12) any offense in violation of an order issued pursuant to section 18 or 34B of chapter 208;

(13) any offense in violation of an order issued pursuant to section 32 of chapter 209;

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

(15) any offense in violation of an order issued pursuant to section 15 of chapter 209C;

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

(17) any offense in violation of section 13M of chapter 265;

(18) any felony offense in violation of chapter 265;

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

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

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

(1) false identification of the petitioner or the unauthorized use or theft of the petitioner's identity;

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

(3) demonstrable errors by law enforcement;

(4) demonstrable errors by civilian or expert witnesses;

(5) demonstrable errors by court employees; or

(6) demonstrable fraud perpetrated upon the court.

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

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

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

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

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

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

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

Section 100N. (a) A record expunged pursuant to section 100F, section 100G, section 100H or section 100K shall not operate to disqualify a person in any examination, appointment or application for employment with any county agency, municipal agency or state agency nor shall such expunged records be admissible in evidence or used in any way in any court proceedings or hearings before any boards or commissions or in determining suitability for the practice of any trade or profession requiring licensure. No county agency, municipal agency or state agency shall, directly or indirectly, when

determining a person's eligibility for examination, appointment or employment with any county agency, municipal agency or state agency require the disclosure of a criminal record expunged pursuant to section 100F, section 100G, section 100H or section 100K. An applicant for examination, appointment or employment with any county agency, municipal agency or state agency whose record was expunged pursuant to section 100F, section 100G, section 100H or section 100K may answer 'no record' with respect to an inquiry herein relative to prior arrests, criminal court appearances, juvenile court appearances, adjudications, or convictions. An applicant for examination, appointment or employment with any county agency, municipal agency or state agency whose record was expunged pursuant to section 100F, section 100G, section 100H or section 100K may answer 'no record' to an inquiry herein relative to prior arrests or criminal court appearances.

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

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

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

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

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

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

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

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

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

SECTION 197. Section 2 of said chapter 276A, as appearing in the 2016 Official Edition, is hereby amended by striking out, in lines 6 and 7, inclusive, the words “who has reached the age of 18 years but has not reached the age of twenty-two,”.

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

Section 4. In the event that an individual is charged with a violation of 1 or more of the offenses enumerated in the second sentence of section 70C of chapter 277, other than the offenses in subsection (a) of section 13A of chapter 265 and sections 13A and 13C of chapter 268, or if the defendant is charged with an offense for which a penalty of incarceration greater than 5 years may be imposed or for which there is minimum term penalty of incarceration or which may not be continued without a finding or placed on file, this chapter shall not apply to that defendant. Diversion of a district court charges under this chapter shall not preclude a subsequent indictment on the same charges in superior court.

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

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

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

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

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

CHAPTER 276B.

RESTORATIVE JUSTICE.

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

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

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

Section 2. Participation in a community-based restorative justice program shall be voluntary and may be available to both a juvenile and adult defendant. A juvenile or adult defendant may be diverted to a community-based restorative justice program pre-arraignment or at any stage of a case with the consent of the district attorney and the victim. Restorative justice may be a final case disposition, with judicial approval. If a juvenile or adult defendant successfully

completes the community-based restorative justice program, the charge shall be dismissed. If a juvenile or adult defendant does not successfully complete the program or is found to be in violation of program requirements, the case shall be returned to the court in which the defendant was arraigned in order to commence with proceedings. Nothing in this chapter shall be construed to prohibit pre-arraignment law enforcement based programs and other programs.

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

Section 4. Participation in a community-based restorative justice program shall not be used as evidence or as an admission of guilt, delinquency or civil liability in current or subsequent legal proceedings against any participant. Any statement made by a juvenile or adult defendant during the course of an assignment to a community-based restorative justice program shall be confidential and shall not be subject to disclosure in any judicial or administrative proceeding and no information obtained during the course of such assignment shall be used in any stage of a criminal investigation or prosecution or civil or administrative proceeding; provided, however,

that nothing in this section shall preclude any evidence obtained through an independent source or that would have been inevitably discovered by lawful means from being admitted at such proceedings.

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

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

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

(d) The advisory committee shall annually, not later than December 31, submit a report with findings and recommendations to the governor, the clerks of the house of representatives and senate and the house and senate chairs of the joint committees on the judiciary and public safety and homeland security.

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

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

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

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

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

address the court if the person alleges that such assessed fines, fees, costs, civil penalties or other expenses would cause a substantial financial hardship to the person, the person's immediate family or the person's dependents.

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

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

“Dependent child”, a person under 18 years of age.

“Primary caretaker of a dependent child”, a parent with whom a child has a primary residence.

(b) Unless a sentence of incarceration is required by law, the court may, upon conviction, consider the defendant's status as a primary caretaker of a dependent child before imposing a sentence. A defendant may request such consideration, by motion supported by an affidavit, not more than 10 days after the entry of judgment. Upon receipt of such a motion supported by an affidavit, the court shall make written findings concerning the defendant's status as a primary

caretaker of a dependent child and alternatives to incarceration. If such a motion has been filed, the court shall not impose a sentence of incarceration without first making such written findings.

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

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

SECTION 210. The first paragraph of section 368 of chapter 26 of the acts of 2003, as amended by section 10 of chapter 303 of the acts of 2006, is hereby further amended by inserting after the third sentence the following sentence:- However, the parole board shall not assess said parole fee upon any person granted a parole permit for the first year said person is on parole.

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

SECTION 212. The second paragraph of said section 368 of said chapter 26, as so amended, is hereby further amended by inserting after the second sentence the following sentence:- However, the parole board shall not assess said surcharge upon any person granted a parole permit for the first year said person is on parole.

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

SECTION 214. Notwithstanding any special or general law to the contrary, within 180 days of the effective date of this act, all previously unsubmitted investigatory sexual assault evidence kits containing forensic samples collected during a medical forensic exam in medical facilities or other facilities that collect kits, shall be submitted to law enforcement. Non-investigatory kits shall be safely stored by a governmental entity in a manner that preserves evidence for the duration of the statute of limitations. Non-investigatory kits shall not be transferred to the crime laboratory. Within 180 days of enactment, each law enforcement agency shall submit all previously unsubmitted investigatory sexual assault evidence kits, including those past the statute of limitations, to the crime laboratory within the department of the state police or such crime laboratory operated by a police department of a city or town with a population of more than 150,000. The crime laboratory within the department of the state police or an accredited private crime laboratory designated by the secretary of public safety and security shall test all previously unsubmitted investigatory sexual assault kits within 180 days of receipt from local law enforcement. In cases where testing results in a DNA profile, the crime laboratory shall enter the full profile into CODIS and the state DNA database.

SECTION 215. (a) Not later than December 1, 2019, the executive office of public safety and security shall ensure that statewide policies and procedures for law enforcement shall be adopted concerning contact with victims and notification concerning sexual assault evidence kits. The policies and procedures shall be evidence-based and survivor-focused and shall require that: (i) each agency designate

at least 1 person, who is trained in trauma and victim response, to receive all inquiries concerning sexual assault evidence kits and to serve as a liaison between the agency and the victim; and (ii) victims of sexual assault be provided with the contact information for the designated liaison at the time that a sexual assault evidence kit is collected.

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

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

(i) consult with a sexual assault victim advocate, upon availability and request, who shall have confidentiality and privilege and waiving this right to a victim advocate in 1 instance shall not negate this right. The medical facility, a law enforcement officer or a prosecutor shall inform the victim of this right prior to commencement of a medical forensic examination or law enforcement interview, and shall not continue unless such right is knowingly and voluntarily waived;

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

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

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

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

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

SECTION 216. Notwithstanding any general or special law to the contrary, the multidisciplinary task force established in section 18X of chapter 6A of the General Laws shall consider available funding opportunities including, but not limited to the following grant programs: the Bureau of Justice Sexual Assault Kit Initiative (SAKI) grant program; the Sexual Assault Forensic Evidence-Inventory,

Tracking and Reporting Program (SAFE-ITR) grant; the DNA Capacity Enhancement and Backlog Reduction (Debbie Smith) grant; the Edward Byrne Memorial Justice Assistance Grant (JAG) Program; and the Victims of Crime Act Victim Assistance grant. The multidisciplinary task force shall also investigate opportunities to utilize software from outside jurisdictions including, but not limited to, the Idaho State Police and the city of Portland, Oregon's free tracking software.

SECTION 217. (a) Notwithstanding any special or general law to the contrary, there shall be a special commission established pursuant to section 2A of chapter 4 of the General Laws to conduct a study on the ability of a defendant to pay fines and fees. The commission shall consist of 9 members: 1 of whom shall be : the commissioner of the department of probation or the commissioner's designee; 1 of whom shall be the commissioner of the department of revenue or the commissioner's designee; 1 of whom shall be a member of the house of representatives to be appointed by the speaker of the house; 1 of whom shall be a member of the house of representatives to be appointed by the minority leader of the house; 1 of whom shall be a member of the senate to be appointed by the senate president; 1 of whom shall be a member of the senate to be appointed by the senate minority leader; 1 of whom shall be appointed by the parole board; 1 of whom shall be appointed by the committee for public counsel services; and 1 of whom shall be appointed by the executive director of the American Civil Liberties Union of Massachusetts, Inc.

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

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

(ii) the feasibility of enabling the department of probation and the parole board to access department of revenue records to ascertain whether a defendant is indigent or would suffer a substantial financial hardship if ordered to pay fines or fees; and

(iii) the impact of registry of motor vehicle fines on defendants of limited income.

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

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

(b) The special commission shall consist of 8 members: 1 of whom shall be appointed by the department of correction who works in corrections; 1 of whom shall be a sheriff appointed by the Massachusetts Sheriffs Association; 1 of whom shall be a former judge appointed by the chief justice of the supreme judicial court; 1 of whom shall be appointed by the governor who shall be a representative of a healthcare provider with expertise in transgender healthcare; 1 of whom shall be appointed by the national association of social workers; 1 of whom shall be appointed by Prisoners' Legal Services; and 2 members shall be appointed by the attorney general, 1 of whom shall be a representative of an organization specializing in the advocacy, education, direct service and organizing of currently and formerly incarcerated lesbian, gay, bisexual, transgender and queer individuals and 1 of whom shall be a representative of legal advocates with expertise in advocating for lesbian, gay, bisexual, transgender, queer and intersex individuals in the criminal justice system.

(c) The members of the special commission shall be provided access to all state prisons and houses of correction in the commonwealth and shall be allowed to interview prisoners and staff to the extent practicable. The special commission shall gather information that includes, but shall not be limited to: (i) the number of prisoners who have received diagnoses of gender dysphoria or transition-related healthcare; (ii) the number of prisoners who have been denied diagnoses of gender dysphoria or transition-related healthcare; (iii) the number of denied requests for an alternative housing or facility placement by prisoners in connection with their gender identity and

the reasons for the denial; and (iv) training provided to department staff and contracted health professionals on lesbian, gay, bisexual, transgender, queer and intersex cultural competency.

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

SECTION 219. (a) There shall be a special commission to study the prevention of suicide among correction officers in Massachusetts correctional facilities. The commission shall consist of 13 members: 1 of whom shall be: the secretary of the executive office of public safety or the secretary's designee who shall serve as chair; 1 of whom shall be the commissioner of the department of correction or the commissioner's designee; 1 of whom shall be the commissioner of the department of public health or the commissioner's designee; 1 of whom shall be the commissioner of the department of mental health or the commissioner's designee; 1 of whom shall be a person appointed by the speaker of the house of representatives; 1 of whom shall be a person appointed by the minority leader in the house of representatives; 1 of whom shall be a person appointed by the

president of the senate; 1 of whom shall be a person appointed by the minority leader of the senate; 1 of whom shall be appointed by the president of the Massachusetts correction officers federated union or their designee; 1 of whom shall be appointed by the president of the Massachusetts Psychological Society or designee; 1 of whom shall be appointed by the president of the New England Police Benevolent Association, Inc., or designee; and 2 persons to be appointed by the governor; 1 of whom shall be a representative of an organization that specializes in suicide prevention and 1 of whom shall be a representative of an organization that represents Massachusetts sheriffs. Each member shall serve without compensation.

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

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

(d) The commission shall submit its findings and recommendations relative to suicide prevention, together with drafts of legislation necessary to carry those recommendations into effect, by filing the same with the clerks of the house of representatives and senate, the house and senate committees on ways and means, the joint committee on public safety and homeland security and the joint committee on mental health and substance abuse not later than December 31, 2018.

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

(b) The commission shall consist of 19 members: 2 of whom shall be members of the house of representatives appointed by the speaker of the house of representatives; 1 of whom shall be a member of the house of representatives appointed by the minority leader of the house of representatives; 2 of whom shall be members of the senate appointed by the president of the senate; 1 of whom shall be a member of the senate appointed by the minority leader of the senate; 1 of whom shall be the chief justice of the supreme judicial court or the

chief justice's designee; 1 of whom shall be the chief justice of the superior court or the chief justice's designee; 1 of whom shall be the chief administrative justice of the district court or the chief administrative justice's designee; 1 of whom shall be the commissioner of probation or the commissioner's designee; 1 of whom shall be the chief counsel of the committee for public counsel services or the chief counsel's designee; 1 of whom shall be appointed by the American Civil Liberties Union of Massachusetts, Inc.; 1 of whom shall be appointed by Massachusetts Association of Criminal Defense Lawyers, Inc.; 1 of whom shall be the attorney general, or the attorney general's designee; 2 of whom shall be members of the Massachusetts District Attorneys Association, including 1 of whom shall be the president, or their designees, and; 1 of whom shall be the governor, or the governor's designee. The speaker of the house of representatives and the president of the senate shall each appoint 1 co-chair of the commission from among its members. Members of the commission shall serve without compensation.

(c) The commission shall submit its final report to the governor, the house and senate chairs of the joint committee on the judiciary, the house and senate chairs of the joint committee on public safety and homeland security and the chief justice of the trial court not later than June 30, 2019 which shall include: (i) an evaluation of the potential to use risk assessment factors as part of the pretrial system regarding bail decisions, including the potential to use risk assessment factors to determine when defendants should be released, with or without conditions, without bail and when bail should be set; (ii) an evaluation of the impact of eliminating cash bail and recommendations, if any,

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

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

(b) The task force shall consist of 20 members: 1 of whom shall be the secretary of health and human services or the secretary's designee; 1 of whom shall be the secretary of public safety and security or the secretary's designee; 1 of whom shall be the commissioner of youth services or the commissioner's designee; 1 of whom shall be the commissioner of the department of correction or the commissioner's designee; 1 of whom shall be the commissioner of probation or the commissioner's designee; 1 of whom shall be the chief justice of the district court or the chief justice's designee; 1 of whom shall be the chief justice of the Boston municipal court or the chief justice's designee; 1 of whom shall be the chief justice of the juvenile court department or the chief justice's designee; 1 of whom shall be the director of the juvenile court clinic or the director's designee; 1 of

whom shall be a designee of the Massachusetts District Attorneys Association; the chief counsel of the committee for public counsel services; 2 of whom shall be appointed by the governor, 1 of whom shall have expertise in the neurological development of young adults and 1 of whom shall whom shall have expertise in young adult justice; 1 of whom shall be a member appointed by the speaker of the house of representatives who shall serve as co-chair; 1 of whom shall be a member appointed by the president of the senate who shall serve as co-chair; 1 of whom shall be a member appointed by the minority leader of the house of representatives; 1 member appointed by the minority leader of the senate; 1 of whom shall be a member appointed by American Federation of State, County and Municipal Employees Council 93 who shall be an employee of the department of youth services and have not less than 5 years of experience working in a department of youth services secure facility; 1 of whom shall be the executive director of Citizens for Juvenile Justice, Inc or the executive director's designee; and 1 of whom shall be appointed by the Massachusetts Sheriff's Association.

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

(i) the benefits and disadvantages of including 18 to 20 year olds in the juvenile justice system;

(ii) the impact of integrating 18 to 20 year olds into the under-18 population in the care and custody of the department of youth services;

(iii) the ability to segregate young adults in the care and custody of the department of youth services from younger juveniles in such care; and

(iv) the potential costs to the state court system and state and local law enforcement.

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

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

(i) identifying the need and resources necessary to provide appropriate training to corrections and court staff, community supervision staff and behavioral health providers;

(ii) recommendations for programmatic development including, youth development and mentoring programs, mental health access, anger management and de-escalating conflicts, education opportunities and employment and vocational training;

(iii) recommendations to improve access to family and increase family involvement;

(iv) identifying opportunities to partner with or access appropriate programs or services within the department of youth services;

(v) identifying any costs or savings from implementing such programs and identifying any grants or other opportunities to reduce such costs;

(vi) reviewing policies and best practices from other jurisdictions and experts in the field;

(vii) reviewing existing models and programs currently being provided; and

(viii) identifying any costs related to the implementation of new protocols for correction's and court staff, community supervision staff and behavioral health providers.

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

SECTION 222. The secretary of elder affairs and the secretary of public safety and security, in consultation with the attorney general, the Massachusetts chapter of AARP, the Massachusetts chapter of the National Academy of Elder Law Attorneys and a representative from an aging services access point, shall report to the general court on elder protection laws. The report shall include, but not be limited to:

(i) the effectiveness of existing elder protection laws; (ii) the

preservation of the autonomy of elders in the context of elder protection laws; (iii) additional legislative or regulatory changes that would further strengthen elder protection laws; and (iv) opportunities presented by the Elder Abuse Prevention and Prosecution Act, Public Law No. 115-70. The report shall be submitted with drafts of any recommended legislation to the clerks of the house of representatives and the senate and the chairs of the joint committee on elder affairs and the joint committee on the judiciary not later than December 31, 2018.

SECTION 223. (a) Notwithstanding any general or special law to the contrary, there shall be established a panel on justice-involved women to review and report on the impact of this act and other criminal laws on women and make recommendations on gender-responsive and trauma-informed approaches to address the pretrial, incarceration and rehabilitation needs of justice-involved women. The panel shall review and consider improvements including, but not limited to, family visitation policies, available reproductive health care, gender-specific, pretrial services and programming offered within correctional institutions and post-release transitional assistance and supports for women.

(b) The panel shall be chaired by the commissioner of the department of correction or a designee and shall consist of the commissioner of the department of children and families or a designee, the commissioner of the department of mental health or a designee, the commissioner of the department of public health or a designee, the commissioner of the office of probation, a member of the house of representatives appointed by the speaker of the house, a member of the senate appointed by the senate president, a member of the

Massachusetts sheriffs' association, and persons representing justice-involved women, re-entry programs, trauma-informed programs and training, domestic violence prevention and 1 person who has been incarcerated. Members of the panel shall be appointed not later than 60 days after the effective date of this act. The panel shall meet at least twice annually and shall review reports, data and other information related to justice-involved women.

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

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

SECTION 225. (a) There shall be a restoration center commission in the former county of Middlesex to plan and implement a county restoration center and program to divert persons suffering from mental illness or substance use disorder who interact with law enforcement or the court system during a pre-arrest investigation or the pre-adjudication process from lock-up facilities and hospital emergency departments to appropriate treatment.

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

(c) The commission shall develop and implement a 3-year plan to build a restoration center in the former county of Middlesex. In the first year, the commission shall: (i) perform an examination of state and national best practices including, but not limited to, the Bexar County model, which has received national recognition from the federal Substance Abuse and Mental Health Services Administration for its success in diverting individuals with behavioral health issues away from the criminal justice system and into appropriate treatment; and (ii) review the current capacity of mental health providers within the former county of Middlesex to provide behavioral health services to individuals suffering from mental illness or substance use disorders who interact with law enforcement or the court system and the barriers they face to accessing treatment. In the second year, the commission shall develop a jail diversion program and an initial pilot focused on providing integrated community-based services from a centralized location and perform an analysis of potential costs and cost savings. In the third year, the commission shall develop a restoration center and secure funding for a subsequent 2-year period.

(d) Within 1 year after the effective date of this act, the commission shall submit its findings and recommendations for a restoration center, together with drafts of legislation necessary to carry out those recommendations, including a report on the current capacity to provide behavioral health services to individuals suffering from mental illness or substance use disorder, which shall include, but not be limited to, the type of services pre-arrest, pre-release and post-release, location of services, types of patients served and barriers to diverting individuals away from the criminal justice system and into treatment. Within 2 years after the effective date of this act, the

commission shall report on the outcome of the pilot programs and provide a full implementation plan for a restoration center including, but not limited to, deliverables, barriers to implementation and costs. Reports shall be submitted to the senate and house committees on ways and means, the joint committee on mental health and substance abuse, the executive office of public safety and security, the executive office of health and human services and the governor. The commission shall thereafter produce an annual report, which shall include, but not be limited to, a list of services and programs, populations served and financial information.

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

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

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

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

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

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

SECTION 228. (a) The secretary of public safety and security may use a phased implementation process to implement the sexual assault evidence kit tracking system required pursuant to section 18X of chapter 6A and section 97B½ of chapter 41 of the General Laws and facilitate entry and use of the system for required participants not later than June 30, 2019. The secretary may phase initial participation according to region, volume or other appropriate classifications. All entities who have custody of sexual assault evidence kits shall fully participate in the system not later than December 1, 2019.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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