

**PROPOSED RE-DRAFT OF H2141
JUVENILE JUSTICE DATA TRANSPARENCY**

SECTION 1. The purpose of these provisions is to ensure that the Commonwealth establishes systems to collect accurate, consistent, and comprehensive data on juveniles' contacts with officials in the law enforcement and juvenile justice systems in order to improve comprehensive state planning as required by Title 34 of the United States Code, section 1113.

SECTION 2. Section 89 of chapter 119 of the General Laws, as appearing in section 80 of chapter 69 of the acts of 2018, is hereby amended by inserting after the definition of "criminal justice agency" the following paragraph:-
"Gender identity and expression" shall be defined pursuant to subsection 59 of section 7 of chapter 4 of the General Laws

SECTION 3. Section 89 of said chapter 119, as so appearing, is hereby further amended by inserting after the definition of "racial or ethnic category" the following paragraph:-
'Sexual orientation", having an orientation for or being identified as having an orientation such as heterosexuality, bisexuality, or homosexuality.

SECTION 4: Chapter 18C of the General Laws is hereby amended by inserting the following section:^[SF1]

Section 15: Collection and Reporting of Juvenile Justice Data

- (a) The child advocate shall report annually by December 31st to the governor, the house and senate chairs of the joint committee on the judiciary, the house and senate chairs of the joint committee public safety and homeland security, the house and senate chairs of committee on children, families and persons with disabilities and the chief justice of the trial court on juvenile contacts with the justice system. The report, which shall be made public, shall include statistics on juvenile interactions with the justice system, as described in Section 90 of Chapter 119 of the General Laws.
- (b) The child advocate shall request data from relevant Offices and Departments holding data necessary to complete the aforementioned report at least annually, and may request data be provided on a quarterly basis.
- (c) The child advocate shall determine the format and form that the aforementioned data from Offices and Departments shall take, including any requirements that data should be available for manipulation or disaggregation, and the format that transmission of the data shall take, provided that at a minimum the child advocate shall request the data be provided in such a way as to allow analysis by demographic subgroups including, at a minimum, age, biological sex, gender identity and expression, racial and ethnicity category, sexual orientation, charge type and level, geographic location including county or court location, and any combination thereof. The child advocate may request, and all Offices and

Departments subject to this law shall provide, individual level data to facilitate analysis, provided that the child advocate shall be bound by any limitations on the use or release of information imposed by law upon the party furnishing such information as described in Section 12 of this chapter. The child advocate shall give due regard to the census of juveniles when setting forth the racial or ethnic categories in the instrument. The child advocate may provide guidance about the manner in which race and ethnicity information is designated and collected, with consideration of the juveniles' self-reporting of such categories.

SECTION 5. Section 12(a) of Chapter 18C of the General Laws is hereby amended by inserting the words "or any law protecting the confidentiality of juvenile justice records and information" after "20K of chapter 233"

SECTION 6. Chapter 119 of the General Laws, as appearing in section 80 of chapter 69 of the acts of 2018, is hereby amended by inserting after section 89 the following section:

Section 90. (a) The department of state police, municipal police departments, Massachusetts Bay Transportation Authority police, any police or law enforcement officer stationed at or affiliated with a local education authority, and any contractor, vendor or service-provider working with such police including any alternative lock-up programs, shall collect and provide the necessary information to comply with the data request from the child advocate pursuant to Section 15 of Chapter 18C for each juvenile subjected to the following contacts for each fiscal year, provided on a quarterly basis if requested by the child advocate:

- (1) referral to and/or use of diversion programming; and
- (2) custodial arrests and issuance of court summons.

(b) Clerk magistrates shall collect and provide the necessary information to comply with the data request from the child advocate pursuant to Section 15 of Chapter 18C for each juvenile subjected to the following contacts for each fiscal year, provided on a quarterly basis if requested by the child advocate:

- (1) criminal complaint filed;
- (2) finding of probable cause;
- (3) diversion from further court proceedings, including referral to and/or use of diversion programming;
- (4) complaint issued;
- (5) appeal to judge of the finding by the clerk magistrate; and
- (6) complaint issued after appeal.

(c) The district attorneys shall collect and provide the necessary information to comply with the data request from the child advocate pursuant to Section 15 of Chapter 18C for each juvenile subjected to the following contacts for each fiscal year, provided on a quarterly basis if requested by the child advocate:

- (1) decision not to proceed with prosecution, including but not limited to entering a nolle prosequi or moving to dismiss a case;

- (2) diversion from further court proceedings, including referral to and/or use of diversion programming;
- (3) indictment of youth as a youthful offender as defined in Section 52 of Chapter 119 of the General Laws;
- (4) prosecution in juvenile court under section 74 of chapter 119 of the General Laws.

(d) The juvenile court department shall collect and provide the necessary information to comply with the data request from the child advocate pursuant to Section 15 of Chapter 18C for each juvenile subjected to the following contacts for each fiscal year, provided on a quarterly basis if requested by the child advocate:

- (1) arraignment as a delinquent;
- (2) arraignment as a youthful offender;
- (3) diversion from further court proceedings, including referral to and/or use of diversion programming pursuant to section 54A of chapter 119 of the General Laws;
- (4) court hearing on dangerousness pursuant to section 58A of chapter 276 of the General Laws;
- (5) transfer of case to adult criminal court under section 72A of chapter 119 of the General Laws;
- (6) imposition of bail or order to hold without bail;
- (6) imposition of pretrial release conditions, including pre-trial probation pursuant to section 87 of chapter 276 of the General Laws;
- (7) bail revocation hearings;
- (8) cases which are continued without a finding pursuant to section 18 of chapter 278 and to section 58 of chapter 119 of the General Laws;
- (9) dismissal of charges;
- (10) adjudication as a delinquent;
- (11) adjudication as a youthful offender;
- (12) imposition of an adult sentence pursuant to section 58 of chapter 119 of the General Laws;
- (13) disposition, including but not limited to:
 - (i) sentence to probation, including any special conditions of probation such as fines, curfew, drug and alcohol testing or special programming;
 - (ii) commitment to the department of youth services pursuant to section 58 of chapter 119 of the General Laws;
 - (iii) commitment to the department of youth services pursuant to section 2 of chapter 279 of the General Laws that are suspended.
- (14) juvenile brought before the court on criminal and non-criminal violations of probation;
- (15) commitments to department of youth services following a probation violation; and

(16) revocation of a continuation without a finding pursuant to pursuant to section 18 of chapter 278 and to section 58 of chapter 119 of the General Laws;

(e) The office of the commissioner of probation shall collect and provide the necessary information to comply with the data request from the child advocate pursuant to Section 15 of Chapter 18C for each juvenile subjected to the following contacts for each fiscal year, , provided on a quarterly basis if requested by the child advocate:

- (1) referral to and/or use of diversion programming;
- (2) supervision of pre-trial probation;
- (3) supervision of continuances without a finding;
- (4) supervision of youth on probation;
- (5) referral to the court for a probation violation; and
- (6) disposition of probation violation hearing

(f) The department of youth services and any contractor, vendor or service provider working with said department including alternative lock-up programs shall collect and provide the necessary information to comply with the data request from the child advocate pursuant to Section 15 of Chapter 18C for each juvenile subjected to the following contacts for each fiscal year, provided on a quarterly basis if requested by the child advocate:

- (1) pre-arraignment detention;
- (2) pre-trial detention;
- (3) commitment;
- (4) placement type, including, but not limited to, security level;
- (5) notice of revocation of grants of conditional liberty;
- (6) hearing on grants of conditional liberty;
- (7) revocation of grants of conditional liberty for violation of conditions of liberty; and
- (8) voluntary extensions of commitments with the department of youth services.

(g) The superior court shall collect and provide the necessary information to comply with the data request from the child advocate pursuant to Section 15 of Chapter 18C for each juvenile subjected to the following contacts for each fiscal year, provided on a quarterly basis if requested by the child advocate:

- (1) arraignment for murder in the first degree and murder in the second degree; and
- (2) convictions and dispositions for murder in the first degree and murder in the second degree.

(h) The department of correction and each sheriff's department shall collect and provide the necessary information to comply with the data request from the child advocate pursuant to Section 15 of Chapter 18C for each juvenile subjected to the

following contacts for each fiscal year, provided on a quarterly basis if requested by the child advocate:

- (1) pre-arraignment detention;
- (2) pre-trial detention;
- (3) post-disposition confinement of youthful offenders; and
- (4) post-conviction confinement for murder.

(i) The parole board shall collect and provide the necessary information to comply with the data request from the child advocate pursuant to Section 15 of Chapter 18C, for each adult who was convicted of an offense committed when they were a juvenile subjected to the following contacts for each fiscal year, provided on a quarterly basis if requested by the child advocate:

- (1) grant of parole;
- (2) supervision of parole; and
- (3) revocation of parole.

(j) The Executive Office of Public Safety and Security shall be responsible for assembling the data requested by the child advocate pursuant to Section 15 of Chapter 18C collected by the below offices and departments. The collected data shall be provided to the Office of the Child Advocate no later than 75 days after the end of the fiscal year or quarter if the child advocate requests data on a quarterly basis.

- (1) The Commissioner of the Department of Correction;
- (2) Sheriffs of each County;
- (3) The Parole Board;
- (4) The Department of the State Police;
- (5) Municipal police departments;
- (6) The Massachusetts Bay Transportation Authority Police;
- (7) School based police from any local education authority;
- (8) Alternative Lock-up Programs; and
- (9) any other contractor, vendor or service provider working with school based or other police officers.

(k) The Attorney General shall be responsible for assembling data requested by the child advocate pursuant to Section 15 of Chapter 18C collected by District Attorney's Offices on an annual basis. The collected data shall be provided to the Office of the Child Advocate no later than 75 days after the end of the fiscal year or quarter if the child advocate requests data on a quarterly basis.

(l) The Court Administrator shall be responsible for assembling data requested by the child advocate pursuant to Section 15 of Chapter 18C collected by judicial officers and court personnel, including the Commissioner of Probation, and the Executive Director of Community Correction. The collected data shall be provided to the Office of the Child Advocate no later than 75 days after the end of the fiscal year or quarter if the child advocate requests data on a quarterly basis.

(m) The Department of Youth Services shall be responsible for assembling data requested by the child advocate pursuant to Section 15 of Chapter 18C collected by all department personnel, contractors or vendors working with the Department. The collected data shall be provided to the Office of the Child Advocate no later than 75 days after the end of the fiscal year or quarter if the child advocate requests data on a quarterly basis.

(n) Notwithstanding any law to the contrary, the child advocate may request, and all Offices and Departments subject to this law shall provide upon request, individual level data to facilitate analysis by the Office of the Child Advocate, provided that the child advocate shall be bound by any limitations on the use or release of information imposed by law upon the party furnishing such information as described in Section 12 of Chapter 18C. Any individual data described or acquired under the provisions of this section shall be used only for statistical purposes and may not be disseminated if it contains data that reveals the identity of an individual who had contact with the juvenile justice system within the meaning of this chapter.

(o) If any Offices or Departments subject to this law are unable to fulfil the data request made by the child advocate, in whole or in part, they shall submit to the child advocate a report detailing what data could not be provided, stating clearly the reason data could not be provided, and stating clearly the efforts the Office or Department has made and will make to ensure data can be provided in the future. If the data cannot be provided due to budgetary constraints, the Office or Department shall provide a budget detailing the additional funding required to fulfil the data request. These reports on data availability shall be included in the annual juvenile justice data report of the child advocate pursuant to Section 15 of Chapter 18C and shall be a matter of public record.