

HOUSE No. 4712

The Commonwealth of Massachusetts

In the Year Two Thousand Ten

An Act reforming the administration procedures relative to criminal offender record information.

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

1 1) Criminal justice agencies may obtain all criminal offender record information,
2 including sealed records, for the actual performance of their criminal justice duties. Licensing
3 authorities, as defined in section 121 of chapter 140, may obtain all criminal offender record
4 information, including sealed records, for the purpose of firearms licensing in accordance with
5 sections 121 to 131P, inclusive, of said chapter 140. The board may obtain all criminal offender
6 record information, including sealed records, for the actual performance of its duties.

7 (2) Requestors authorized or required to obtain criminal record information other than
8 that available under paragraph (3) to comply with a statutory, regulatory or accreditation
9 requirement may obtain such information to the extent and for the purposes authorized to comply
10 with said statute, regulation or accreditation requirement.

11 (3) Requestors or their legally designated representatives may obtain criminal offender
12 record information for the following purposes: (a) to evaluate current and prospective employees
13 including full-time, part-time, contract, internship employees or volunteers; (b) to evaluate
14 applicants for rental or lease of housing; (c) to evaluate volunteers for services; and (d) to

15 evaluate applicants for a professional or occupational license. Criminal offender record
16 information made available under this section shall be limited to the following: (i) felony
17 convictions for 10 years following their disposition, including termination of any period of
18 incarceration or custody; (ii) misdemeanor convictions for 5 years following their disposition,
19 including termination of any period of incarceration or custody; and (iii) pending criminal
20 charges, which shall include cases that have been continued without a finding until such time as
21 the case is dismissed pursuant to section 18 of chapter 278; provided, however, that criminal
22 offender record information shall contain prior misdemeanor and felony conviction records that
23 have been sealed pursuant to clauses (i) and (ii) if the subject is convicted of a misdemeanor or
24 felony after the records are sealed under this section; and provided, further, that a violation of
25 section 7 of chapter 209A and a violation of section 9 of chapter 258E shall be treated as a felony
26 for purposes of this section.

27 (4) A member of the general public may, upon written request to the department and in
28 accordance with regulations established by the department, obtain the following criminal
29 offender record information on a subject: (i) convictions for any felony punishable by a term of
30 imprisonment of 5 years or more; (ii) information indicating custody status and placement within
31 the correction system for an individual who has been convicted of any crime and sentenced to
32 any term of imprisonment, and at the time of the request is serving a sentence of probation or
33 incarceration, or is under the custody of the parole board; (iii) felony convictions for 2 years
34 following their disposition, including any period of incarceration or custody ; and (iv)
35 misdemeanor convictions for 1 year following their disposition, including any period of
36 incarceration or custody.

37 (5) Subjects who seek to obtain their own criminal offender record information, or their
38 legally designated representative, may obtain all criminal offender record information pertaining
39 to the subject pursuant to section 175.

40 (6) The commissioner may provide access to criminal offender record information to
41 persons other than those entitled to obtain access pursuant to this section if the commissioner
42 finds that such dissemination to such requestor serves the public interest. Upon such a finding,
43 the commissioner shall also determine the extent of access to criminal offender record
44 information necessary to sustain the public interest. The commissioner shall make an annual
45 report to the governor and file a copy thereof with the state secretary, the attorney general, the
46 clerk of the house of representatives and the clerk of the senate documenting access provided
47 under this paragraph, without inclusion of identifying data on a subject. The annual report shall
48 be available to the public upon request.

49 (7) Housing authorities operating pursuant to chapter 121B may obtain from the
50 department conviction and pending criminal offender record information for the sole purpose of
51 evaluating applications for housing owned by such housing authority, in order to further the
52 protection and well-being of tenants of such housing authorities.

53 (8) The department of public utilities established pursuant to chapter 25 may obtain from
54 the department all available criminal offender record information for the purpose of screening
55 applicants for motor bus driver certificates and applicants who regularly transport school age
56 children or students under chapter 71B in the course of their job duties. The department of public
57 utilities shall not disseminate such information for any purpose other than to further the
58 protection of children.

59 (9) The department of children and families and the department of youth services may
60 obtain from the department data permitted under section 172B.

61 (10) A person providing services in a home or community-based setting for any elderly
62 person or disabled person or who will have direct or indirect contact with such elderly or
63 disabled persons or access to such persons' files may obtain from the department data permitted
64 under section 172C.

65 (11) The IV-D agency as set forth in chapter 119A may obtain from the department data
66 permitted under section 172D and section 14 of chapter 119A.

67 (12) A long term care facility, as defined in section 72W of chapter 111, an assisted
68 living residence as defined in section 1 of chapter 19D, and any continuing care facility as
69 defined in section 1 of chapter 40D may obtain from the department data permitted under section
70 172E.

71 (13) The department of early education and care may obtain from the department data
72 permitted under section 172F.

73 (14) Operators of camps for children may obtain from the department data permitted
74 under section 172G.

75 (15) An entity or organization primarily engaged in providing activities or programs to
76 children 18 years of age or less that accepts volunteers may obtain from the department data
77 permitted under section 172H.

78 (16) School committees or superintendents that have contracted with taxicab companies
79 to provide transportation of pupils pursuant to section 7A of chapter 71 may obtain from the
80 department data permitted under section 172I.

81 (17) The commissioner of banks may obtain from the department data permitted under
82 section 172J, section 3 of chapter 255E and section 3 of chapter 255F.

83 (18) A children's camp or school that plans to employ a person or accept a volunteer for a
84 climbing wall or challenge course program may obtain from the department data permitted under
85 section 172K.

86 (20) A victim of a crime, a witness or a family member of a homicide victim, as defined
87 by section 1 of chapter 258B, may obtain from the department data permitted under section
88 178A.

89 (21) The motor vehicle insurance merit rating board may obtain from the department data
90 permitted under section 183.

91 (22) The department of early education and care, or its designee, may obtain from the
92 department data permitted under section 6 and section 8 of chapter 15D.

93 (23) The district attorney may obtain from the department data permitted under section
94 2A of chapter 38.

95 (24) A school committee and superintendent of any city, town or regional school district
96 and the principal, by whatever title the position be known, of a public or accredited private
97 school of any city, town or regional school district, may obtain from the department data
98 permitted under section 38R of chapter 71.

99 (25) The Massachusetts port authority may obtain from the department data permitted
100 under section 61 of chapter 90.

101 (26) The department of social services may obtain from the department data permitted
102 under section 26A of chapter 119, section 3B of chapter 210 and item 4800-8940 of section 2A
103 of chapter 493 of the acts of 1993, as amended by section 7 of chapter 96 of the acts of 1995.

104 (27) The state racing commission may obtain from the department data permitted under
105 section 9A of chapter 128A.

106 (28) A court, office of jury commissioner, and the clerk of court or assistant clerk may
107 obtain from the department data permitted under section 33 of chapter 234A.

108 (29) The pension fraud unit within the public employee retirement administration
109 commission may obtain from the department data permitted under section 10 of chapter 427 of
110 the acts of 1996.

111 (30) Special education school programs approved under chapter 71B may obtain from the
112 department all criminal offender record information provided for in paragraph (3) of subsection
113 (a); provided, further, that the department, with the assistance of the state police, shall provide
114 said approved special education school programs with criminal offender record information from
115 other states made available to the department, and the federal government for the purposes of
116 criminal background checks for employees and potential employees of chapter 71B approved
117 special education school programs.

118 (b) Notwithstanding the foregoing, convictions for murder, voluntary manslaughter,
119 involuntary manslaughter, and sex offenses as defined in section 178C that are punishable by a

120 term of incarceration in state prison shall remain in the database permanently and shall be
121 available to all requestors listed in paragraphs (1) to (3), inclusive of subsection (a) unless sealed
122 under section 100A of chapter 276.

123 (c) The department shall specify the information that requestors must provide to query
124 the database, including, but not limited to, the subject's name, date of birth and the last 4 digits
125 of the subject's social security number; provided, however, that a member of the public
126 accessing information under paragraph (4) of subsection (a) shall not be required to provide the
127 last 4 digits of the subject's social security number. Requestors seeking to obtain criminal
128 offender record information concerning a subject pursuant to paragraph (2) or (3) of subsection
129 (a), shall certify under the pains and penalties of perjury that the person requesting the criminal
130 offender record information is authorized by the requestor to receive such information, that the
131 request is for a purpose authorized under paragraph (2) or (3) of subsection (a) and that the
132 subject has signed an acknowledgement form authorizing the requestor to obtain the subject's
133 criminal offender record information. The requestor shall also certify that he has verified the
134 identity of the subject by reviewing a form of government-issued identification. Each requestor
135 shall maintain acknowledgement forms for a period of 1 year from the date the request is
136 submitted. Such forms shall be subject to audit by the department. The department may establish
137 rules or regulations imposing other requirements or affirmative obligations upon requestors as a
138 condition of obtaining access to the database.

139 (d) Except as authorized herein, it shall be unlawful to request or require a person to
140 provide a copy of his criminal offender record information. Violation of this subsection is
141 punishable by the penalties set forth in section 178.

142 (e) No employer or person relying on volunteers shall be liable for negligent hiring
143 practices by reason of relying solely on criminal offender record information received from the
144 department and not performing additional criminal history background checks on the volunteer,
145 unless required to do so by law; provided, however, that the employer made an employment
146 decision within 90 days of obtaining the criminal offender record information and maintained
147 and followed policies and procedures for verification of the subject's identifying information
148 consistent with the requirements set forth in this section and in the department's regulations.

149 No employer shall be liable for discriminatory employment practices for the failure to
150 hire a person on the basis of criminal offender record information that contains erroneous
151 information requested and received from the department if the employer would not have been
152 liable if the information had been accurate; provided, however, that the employer made an
153 employment decision within 90 days of obtaining the criminal offender record information and
154 maintained and followed policies and procedures for verification of the subject's information
155 consistent with the requirements set forth in this section and the department's regulations.

156 Neither the board nor the department shall be liable in any civil or criminal action by
157 reason of any criminal offender record information or self-audit log that is disseminated by the
158 board, including any information that is false, inaccurate or incorrect because it was erroneously
159 entered by the court or the office of the commissioner of probation.

160 (f) Requestors shall not disseminate criminal offender record information except: (i) upon
161 request by a subject; (ii) to individuals within the requesting entity that need to know the
162 contents of the criminal offender record information to serve the purpose for which the

163 information was obtained; and (iii) upon request by government entities charged with
164 overseeing, supervising, or regulating them.

165 Requestors shall maintain a secondary dissemination log for a period of 1 year following
166 the dissemination of a subject's criminal offender record information. The log shall include the
167 following information: (i) name of subject; (ii) date of birth of the subject; (iii) date of the
168 dissemination; (iv) name of person to whom it was disseminated; and (v) the purpose for the
169 dissemination. The secondary dissemination log shall be subject to audit by the department.

170 Unless otherwise provided by law or court order, no requestor shall maintain a copy,
171 electronic or otherwise, of requested criminal offender record information obtained from the
172 department for more than 7 years from the last date of employment, volunteer service or
173 residency or from the date of the final decision of the requestor regarding the subject.

174 (g) The department shall maintain a log of all queries that shall indicate the name of the
175 requestor, the name of the subject, the date of the query and the certified purpose of the query.
176 Upon request, the commissioner may transmit the self-audit electronically. Further, if funding is
177 available and technology reasonably allows, the department shall establish a mechanism that will
178 notify a subject, or an advocate or agent designated by the subject, by electronic mail or other
179 communication mechanism whenever a query is made regarding the subject. The self-audit log
180 and query log shall not be considered a public record.

181 (h) Notwithstanding the provisions of this section to the contrary, the motor vehicle
182 insurance merit rating board may disseminate information concerning convictions of automobile
183 law violations as defined in section 1 of chapter 90C or information concerning a charge of
184 operating a motor vehicle while under the influence of intoxicating liquor that results in

185 assignment to a driver alcohol program as described in section 24D of chapter 90, directly or
186 indirectly, to an insurance company doing motor vehicle insurance business within the
187 commonwealth, or to such insurance company's agents, independent contractors or policyholders
188 to be used exclusively for motor vehicle insurance purposes.

189 (i) Notwithstanding the provisions of this section to the contrary, information indicating
190 custody status and placement within the correction system shall be available to any person upon
191 request; provided, however that no information shall be disclosed that identifies family members,
192 friends, medical or psychological history, or any other personal information unless such
193 information is directly relevant to such release or custody placement decision, and no
194 information shall be provided if its release would violate any other provisions of state or federal
195 law.

196 (j) The parole board, subject to sections 130 and 154 of chapter 127, the department of
197 correction, a county correctional authority or a probation officer with the approval of a justice of
198 the appropriate division of the trial court may, in its discretion, make available a summary, which
199 may include references to criminal offender record information or evaluative information,
200 concerning a decision to release an individual on a permanent or temporary basis, to deny such
201 release, or to change the individual's custody status.

202 (k) Members of the public who are in fear of an offender may obtain from the
203 department advance notification of the temporary or permanent release of an offender from
204 custody, including, but not limited to, expiration of a sentence, furlough, parole, work release or
205 educational release. An individual seeking access to advance notification shall verify by a written

206 declaration under the penalties of perjury that the individual is in fear of the offender and that
207 advance notification is warranted for physical safety reasons.

208 (l) A person that receives or obtains criminal offender record information from any
209 source in violation of sections 168 to 175, inclusive, whether directly or through an intermediary,
210 shall not collect, store, disseminate or use such criminal offender record information in any
211 manner or for any purpose.

212 (m) Notwithstanding this section or chapter 66A, the following shall be public records:
213 (1) police daily logs, arrest registers or other similar records compiled chronologically; (2)
214 chronologically maintained court records of public judicial proceedings; (3) published records of
215 public court or administrative proceedings, and of public judicial administrative or legislative
216 proceedings; and (4) decisions of the parole board as provided in section 130 of chapter 127.

217 (n) The commissioner, upon the advice of the board, shall promulgate rules and
218 regulations to carry out the provisions of this section.

219 SECTION 22. Said chapter 6 is hereby further amended by striking out section 172A, as
220 so appearing, and inserting in place thereof the following section:-

221 Section 172A. The commissioner shall assess a fee for each request for criminal offender
222 record information or self-audit, according to a fee structure established by the secretary of
223 public safety and security; provided, however, that a self-audit may be requested for no fee once
224 every 90 days; and provided, further, that the commissioner may impose a fee for self-audit
225 requests made more than once every 90 days. No fee shall be assessed for a request made by a
226 victim of crime, a witness or a family member of a homicide victim, as defined in section 1 of
227 chapter 258B, or for a request made by any local, state or federal government entity. The

228 commissioner may waive the fee or a portion of the fee from such other persons as provided in
229 the department's rules and regulations. The department may enter into contracts and agreements
230 for reduced or bulk fees for requestors who make extensive use of the database. All fees
231 collected pursuant to this section shall be deposited into the Criminal Justice Information
232 Services Fund established by section 2BBBB of chapter 29.

233 SECTION 23. Section 172C of said chapter 6, as so appearing, is hereby amended by
234 striking out, in lines 30 and 31, the words 'criminal history systems board' and inserting in place
235 thereof the following words:- department.

236 SECTION 24. Said chapter 6 is hereby further amended by striking out section 172E, as
237 so appearing, and inserting in place thereof the following section:-

238 Section 172E. Notwithstanding any provision of section 172 to the contrary, criminal
239 offender record information shall be available to a long term care facility, as defined in section
240 72W of chapter 111, an assisted living residence as defined in section 1 of chapter 19D, and to
241 any continuing care facility as defined in section 1 of chapter 40D, for the purpose of evaluating
242 applicants under final consideration as, or an individual currently working as, an employee, a
243 volunteer or a provider of care, treatment, education, training, transportation, delivery of meals,
244 instruction, counseling, supervision, recreation or other services for an elderly or disabled person
245 or for the purpose of evaluating applicants under final consideration for, or an individual
246 currently working in, a position involving direct or indirect contact with such elderly or disabled
247 persons or access to such persons' personal information. A long-term care facility, assisted living
248 residence or continuing care facility shall obtain all available criminal offender record
249 information from the department on such applicant or current staff member. A long-term care

250 facility, assisted living residence or continuing care facility which obtains information under this
251 section shall prohibit the dissemination of such information for any purpose other than to further
252 the protection of the elderly or the disabled; provided, further, that dissemination among and
253 between long term care facilities, assisted living residences or continuing care facilities shall be
254 permitted.

255 SECTION 25. Section 172G of said chapter 6, as so appearing, is hereby amended by
256 striking out, in line 5, the words ‘criminal history systems board’ and inserting in place thereof
257 the following word:- department.

258 SECTION 26. Section 172H of said chapter 6, as so appearing, is hereby amended by
259 striking out, in line 4, the words ‘that accepts volunteers,’.

260 SECTION 27. Said section 172H of said chapter 6, as so appearing, is hereby further
261 amended by striking out, in line 5, the words ‘criminal history systems board’ and inserting in
262 place thereof the following word:- department.

263 SECTION 28. Said section 172H of said chapter 6, as so appearing, is hereby further
264 amended by striking out, in line 6, the words ‘a volunteer’ and inserting in place thereof the
265 following words:- an employee, volunteer, vendor or contractor.

266 SECTION 29. Section 172I of said chapter 6, as so appearing, is hereby amended by
267 striking out, in lines 8 and 9, the words ‘criminal history systems board’ and inserting in place
268 thereof the following word:- department.

269 SECTION 30. Section 172J of said chapter 6, as so appearing, is hereby amended by
270 striking out, in line 4, the words ‘criminal history systems board,’ and inserting in place thereof
271 the following word:- department.

272 SECTION 31. Section 172K of said chapter 6 of the General Laws, inserted by section 1
273 of chapter 43 of the acts of 2009, is hereby amended by striking out, each time it appears, the
274 words ‘criminal history systems board’ and inserting in place thereof the following words:-
275 department.

276 SECTION 32. Section 173 of said chapter 6, as appearing in the 2008 Official Edition, is
277 hereby amended by striking out, in line 1, the word ‘board’ and inserting in place thereof the
278 following words:- commissioner may approve research programs to obtain criminal offender
279 record information, provided, however, that said research programs shall not publish any
280 information that either identifies or tends to identify the subject of the criminal offender record
281 information, and the commissioner

282 SECTION 33. Said section 173 of said chapter 6, as so appearing, is hereby further
283 amended by striking out, in lines 7, 9 and 10 the word ‘board’, and inserting in place thereof, in
284 each instance, the following word:- commissioner.

285 SECTION 34. Said chapter 6 is hereby further amended by striking out section 175, as
286 so appearing, and inserting in place thereof the following section:-

287 Section 175. A subject shall have the right to inspect and obtain a copy of all criminal
288 offender record information that refers to the subject. The commissioner shall publish and
289 furnish, upon request, guidelines for individuals on how to correct inaccurate or incomplete
290 information. Subject to appropriation, the department shall provide assistance to individuals that

291 have requested assistance to correct inaccurate or incomplete criminal offender record
292 information. Such assistance shall include, but shall not be limited to, cooperation with
293 appropriate entities to correct, modify or appropriately supplement criminal offender record
294 information that has been determined to be inaccurate or incomplete. If criminal offender record
295 information is corrected by the office of the commissioner of probation or the courts, any
296 corrections made by such commissioner or court shall be transmitted forthwith to the department
297 and the department's database shall reflect the corrected criminal offender record information.

298 Requestors shall prescribe reasonable hours and places for subjects to inspect their
299 criminal offender record information under paragraph (1) of subsection (f) of section 172 and
300 shall impose such additional restrictions as are reasonably necessary to ensure the record's
301 security and to verify the identities of those who seek to inspect them.

302 SECTION 35. Said chapter 6 is hereby further amended by striking out section 178, as
303 so appearing, and inserting in place thereof the following 2 sections:-

304 Section 178. Any person who knowingly requests, obtains or attempts to obtain criminal
305 offender record information or a self-audit from the department under false pretenses, knowingly
306 communicates or attempts to communicate criminal offender record information to any person
307 except in accordance with the provisions of sections 168 to 175, inclusive, or who knowingly
308 falsifies criminal offender record information, or any records relating thereto, or who requests or
309 requires a person to provide a copy of his criminal offender record information except as
310 authorized pursuant to section 172, shall for each offense be punished by imprisonment in a jail
311 or house of correction for not more than 1 year or by a fine of not more than \$5,000, or both

312 such fine and imprisonment, and in the case of a person that is not a natural person, the amount
313 of the fine shall not be more than \$50,000 for each violation.

314 Any person who knowingly requests, obtains or attempts to obtain juvenile criminal
315 records from the department under false pretenses, knowingly communicates or seeks to
316 communicate juvenile criminal records to any person except in accordance with the provisions of
317 sections 168 to 175, inclusive, or knowingly falsifies juvenile criminal records, shall for each
318 offense be punished by imprisonment in a jail or house of correction for not more than 1 year or
319 by a fine of not more than \$7,500, or by both such fine and imprisonment, and in the case of a
320 person that is not a natural person, the amount of the fine may not be more than \$75,000 for
321 each violation.

322 Section 178½. Whoever uses criminal offender record information to commit a crime
323 against the subject of the criminal offender record information or to engage in harassment of the
324 subject shall be punished by imprisonment in a jail or house of correction for not more than 1
325 year, a fine of not more than \$5,000 or by both such fine and imprisonment. For purposes of this
326 section, 'harassment' shall mean willfully and maliciously engaging in a knowing pattern of
327 conduct or series of acts over a period of time directed at a specific person, which seriously
328 alarms that person and would cause a reasonable person to suffer emotional distress.

329 SECTION 36. Said chapter 6 is hereby further amended by striking out section 178A, as
330 so appearing, and inserting in place thereof the following section:-

331 Section 178A. A victim of crime, witness or family member of a homicide victim, all as
332 defined by section 1 of chapter 258B, may obtain all available criminal offender record
333 information of the person accused or convicted of said crime. Criminal justice agencies may also

334 disclose to such persons such additional information, including, but not limited to, evaluative
335 information, as such agencies determine is reasonably necessary for the security and well being
336 of such persons.

337 SECTION 36A. Chapter 6 of the General Laws, as appearing in the 2008 Official
338 Edition, is hereby amended by inserting after section 178B the following new section:-

339 Section 178B1/2. Municipalities may, by local ordinance, require applicants for licenses
340 in specified occupations to submit a full set of fingerprints for the purpose of conducting a state
341 and national criminal history records check pursuant to sections 168 and 172 of this chapter and
342 28 U.S.C. §534. Fingerprint submissions may be submitted by the licensing authority to the
343 identification unit within the department of state police through the criminal history systems
344 board, or its successor, for a state criminal records check and to the Federal Bureau of
345 Investigation for a national criminal records check.

346 Municipalities may by local ordinance establish the appropriate fee charged to applicants
347 for administering a fingerprinting system. For purposes pursuant to section 2LLL of chapter 29,
348 \$30 of said fee shall be deposited into the Firearms Fingerprint Identity Verification Trust Fund;
349 and the remainder of the fee may be retained by the licensing authority for costs associated with
350 the administration of the system.

351 SECTION 37. Section 178C of said chapter 6, as so appearing, is hereby amended by
352 striking out, in lines 12 and 13 and in line 51, the words ‘criminal history systems board’ and
353 inserting in place thereof , in each instance, the following word:- department.

354 SECTION 38. Section 178D of said chapter 6, as so appearing, is hereby amended by
355 striking out, in line 2, the words ‘criminal history systems board’ and inserting in place thereof
356 the following word:- department.

357 SECTION 39. Section 178K of said chapter 6, as so appearing, is hereby amended by
358 striking out, in lines 1 and 2, the words ‘the criminal history systems board, but not subject to its
359 jurisdiction’ and inserting in place thereof the following words:- the executive office of public
360 safety and security.

361 SECTION 40. Section 183 of said chapter 6, as so appearing, is hereby amended by
362 striking out, in lines 27 and 32, the words ‘criminal history systems board’ and inserting in place
363 thereof, in each instance, the following words:- department of criminal justice information
364 services.

365 SECTION 41. Chapter 6A of the General Laws is hereby amended by striking out
366 section 18, as so appearing, and inserting in place thereof the following section:-

367 Section 18. The following state agencies are hereby declared to be within the executive
368 office of public safety and security: the department of public safety; the department of fire
369 services; the office of grants and research and the highway safety division; the municipal police
370 training committee; the Massachusetts department of criminal justice information services; the
371 state 911 department; the department of state police; the office of the chief medical examiner; the
372 Massachusetts emergency management agency; the military department; the department of
373 correction, including the parole board; the sex offender registry board; and all other agencies and
374 boards within said departments, committees and boards.

375 SECTION 42. Section 18 ½ of said chapter 6A, as so appearing, is hereby amended by
376 striking out, in line 10, the words ‘criminal history systems board’ and inserting in place thereof
377 the following words:- department of criminal justice information services.

378 SECTION 43. Section 18 ¾ of said chapter 6A, as so appearing, is hereby amended by
379 striking out, in lines 2 and 3, the words ‘criminal history systems board’ and inserting in place
380 thereof the following words:- department of criminal justice information services.

381 SECTION 44. Section 4 of chapter 18C of the General Laws, as so appearing, is hereby
382 amended by striking out, in lines 22 and 23, the words ‘ executive director of the criminal history
383 systems board’ and inserting in place thereof the following words:- commissioner of the
384 department of criminal justice information services.

385 SECTION 45. Section 1 of chapter 22A of the General Laws, as so appearing , is hereby
386 amended by striking out the definition of ‘Board’.

387 SECTION 46. Said section 1 of said chapter 22A, as so appearing, is hereby further
388 amended by inserting after the definition of ‘Central register’ the following definition:-

389 ‘Department’, the department of criminal justice information services.

390 SECTION 47. Section 3 of said chapter 22A, as so appearing, is hereby amended by
391 striking out, in line 10, the word ‘board’ and inserting in place thereof the following word:-
392 department.

393 SECTION 48. Section 32 of chapter 22C of the General Laws, as so appearing, is hereby
394 amended by striking out, in line 4, the words ‘criminal history systems board’ and inserting in
395 place thereof the following words:- department of criminal justice information services.

396 SECTION 49. Section 36 of said chapter 22C, as so appearing, is hereby amended by
397 striking out, in line 17, the words ‘criminal history systems board’ and inserting in place thereof
398 the following words:- department of criminal justice information services.

399 SECTION 50. Section 38 of said chapter 22C, as so appearing, is hereby amended by
400 striking out, in line 25, the words ‘criminal history systems board’ and inserting in place thereof
401 the following words:- department of criminal justice information services.

402 SECTION 51. Section 9 of chapter 22E of the General Laws, as so appearing, is hereby
403 amended by striking out, in line 5, the words ‘criminal history systems board’ and inserting in
404 place thereof the following words:- department of criminal justice information services.

405 SECTION 52. Chapter 29 of the General Laws is hereby amended by inserting after
406 section 2AAAA the following new section:-

407 Section 2BBBB. (a) There shall be established and set up on the books of the
408 commonwealth a separate fund to be known as the Criminal Justice Information Services Fund,
409 hereinafter in this section known as the fund. The fund shall consist of all fees for a criminal
410 offender record information request or self-audit collected and administered by the commissioner
411 of the department of criminal justice information services under section 172A of chapter 6, gifts,
412 grants, contributions and bequests of funds from any department, agency or subdivision of
413 federal, state, county or municipal government and any individual, foundation, corporation,
414 association or public authority. Funds shall be used for the purpose of (i) providing or receiving
415 services, facilities or staff assistance in connection with its work; (ii) assisting ex-offenders in
416 obtaining and maintaining employment, including but not limited to, workforce development
417 training and other applicable training programs; (iii) training and auditing requestors, as defined

418 in section 167 of chapter 6, regarding requests for criminal offender record information under
419 subsection (a) of section 172 of said chapter 6: (iv) providing education and assistance regarding
420 the correction of criminal records, including, but not limited to, training judges, providing the
421 necessary information to employers and other applicable persons in possession of an applicant's
422 criminal offender record information; and (v) operating and maintaining the public safety
423 information system and the criminal records review board, as defined in said section 167 of said
424 chapter 6. Such funds shall be deposited with the state treasurer and may be expended by the
425 department of criminal justice information services in accordance with the conditions of the gift,
426 grant, contribution or bequest subject to appropriation.

427 SECTION 53. Chapter 30A of the General Laws is hereby amended by inserting after
428 section 1C the following section:-

429 Section 1D. The criminal record review board shall be subject to sections 1 to 8,
430 inclusive, and shall not otherwise be subject to this chapter.

431 SECTION 54. Section 36A of chapter 40 of the General Laws, as appearing in the 2008
432 Official Edition, is hereby amended by striking out, in line 25, the words 'criminal history
433 systems board' and inserting in place thereof the following words:- department of criminal
434 justice information services.

435 SECTION 55. Section 10 of chapter 66 of the General Laws, as so appearing, is hereby
436 amended by striking out, in line 50, the words 'executive director of the criminal history systems
437 board' and inserting in place thereof the following words:- commissioner of the department of
438 criminal justice information services.

439 SECTION 56. Said section 10 of said chapter 66, as so appearing, is hereby further
440 amended by striking out, in lines 50 and 51, the words ‘criminal history systems board’ and
441 inserting in place thereof the following words:- department of criminal justice information
442 services.

443 SECTION 56A. Chapter 71 of the General Laws, as appearing in the 2006 Official
444 Edition, is hereby amended by inserting after section 2B the following section:-

445 Section 2C. All school districts in the Commonwealth shall implement a specific policy
446 and discipline code to address teen dating violence in public schools. Such policies shall clearly
447 state that dating violence will not be tolerated and shall include guidelines for addressing alleged
448 incidents of dating violence. Such policies may include a teen dating violence prevention task
449 force comprised of staff, students and parents to provide awareness training and education for the
450 school community. Such policies would include defining the issue of teen dating violence,
451 recognizing warning signs, identifying issues of confidentiality, safety and appropriate legal
452 school-based interventions.

453 SECTION 56B. Section 1 of chapter 71 of the General Laws, as appearing in the 2006
454 Official Edition, shall be amended by inserting in line 19 after the words, ‘emotional
455 development’, the following words:- safe and healthy relationships with a focus on preventing
456 sexual and domestic violence.

457 SECTION 57. Section 38R of chapter 71 of the General Laws, as so appearing, is hereby
458 amended by striking out, in lines 5 and 6 and in lines 11 and 12, the words ‘criminal history
459 systems board’ and inserting in place thereof, in each instance, the following words:- department
460 of criminal justice information services.

461 SECTION 58. Section 24 of chapter 90 of the General Laws, as so appearing, is hereby
462 amended by striking out, in line 705, the words ‘criminal history systems board’ and inserting in
463 place thereof the following words:- department of criminal justice information services.

464 SECTION 59. Section 24N of said chapter 90, as so appearing, is hereby amended by
465 striking out, in lines 31, 44 and 83, the words ‘criminal history systems board’ and inserting in
466 place thereof, in each instance, the following words:- department of criminal justice information
467 services.

468 SECTION 60. Section 52 of chapter 93 of the General Laws, as so appearing, is hereby
469 amended by inserting after the word ‘more;’, in line 21, the following word:- or.

470 SECTION 61. Subsection (b) of said section 52 of said chapter 93, as so appearing, is
471 hereby amended by striking out, in line 24, the word ‘or’,- and by striking out clause 3 .

472 SECTION 62. Section 34 of chapter 101 of the General Laws, as so appearing, is hereby
473 amended by striking out, in line 91 and in lines 96 and 97, the words ‘criminal history systems
474 board’ and inserting in place thereof, in each instance, the following words:- department of
475 criminal justice information services.

476 SECTION 63. Section 71 of chapter 111 of the General Laws, as so appearing, is hereby
477 amended by striking out, in lines 43 and 44, the words ‘criminal history systems board’ and
478 inserting in place thereof the following words:- department of criminal justice information
479 services.

480 SECTION 64. Section 12A ½ of chapter 112 of the General Laws, as so appearing, is
481 hereby amended by striking out, in line 5, the words ‘criminal history systems board’ and

482 inserting in place thereof the following words:- department of criminal justice information
483 services.

484 SECTION 65. Section 9 of chapter 123A of the General Laws, as so, is hereby amended
485 by striking out, in line 51, the words ‘criminal history systems board’ and inserting in place
486 thereof the following words:- department of criminal justice information services.

487 SECTION 65A. Section 14 of chapter 123A of the General Laws, as so appearing, is
488 hereby amended by striking out the first sentence and inserting in place thereof the following two
489 sentences: The district attorney or the attorney general at the request of the district attorney may
490 petition the court for a trial. In any trial held pursuant to this section, either the person named in
491 the petition or the petitioning party may demand in writing that the case be tried to a jury, and
492 upon such demand the case shall be tried to a jury.

493 SECTION 66. Section 1 of chapter 125 of the General Laws, as so appearing, is hereby
494 amended by inserting after subsection (f) the following subsection:-

495 (f ½) ‘custody’, physical or constructive control of an inmate in a state or county
496 correctional facility;

497 SECTION 67. Section 16 of chapter 126 of the General Laws, as so appearing, is hereby
498 amended by striking out the first sentence and inserting in place thereof the following sentence:-

499 The sheriff shall have custody and control of the jails in his county, and except in Suffolk
500 county, of the houses of correction therein, and shall have custody and physical or constructive
501 control of all prisoners committed thereto, and shall keep the same himself or by his deputy as
502 jailer, superintendent or keeper, and shall be responsible for them.

503 SECTION 68. Section 2 of chapter 127 of the General Laws, as so appearing, is hereby
504 amended by striking out, in lines 5 and 6, the words ‘criminal history systems board’ and
505 inserting in place thereof the following words:- department of criminal justice information
506 services.

507 SECTION 69. Chapter 127 of the General Laws, as so appearing, is hereby amended by
508 inserting after section 20A the following section:-

509 Section 20B. The sheriff of any county and in the case of women who are committed as
510 pretrial detainees to the Massachusetts Correctional Institution at Framingham, the commissioner
511 of correction, subject to rules and regulations established in accordance with the provisions of
512 this section, may permit a detainee who is committed to a jail awaiting disposition of any
513 criminal matter, except those being held for offenses listed in this section, to be classified to a
514 pretrial diversion program operated by the sheriff’s office in the county where the court that
515 committed the detainee is sitting.

516 The sheriff may extend the limits of the place of confinement of a detainee for the
517 purpose of participation in this program and shall establish a classification system to determine
518 the suitability of detainees who may be potential participants in this program. A person permitted
519 to be away from the jail due to participation in this program may be accompanied by an
520 employee of the sheriff’s office in the discretion of the sheriff or his designee.

521 For the duration of a detainee’s participation in the program, the detainee shall be deemed
522 to be in custody as a pretrial detainee for the purpose of receiving credit pursuant to section 129B
523 of chapter 127 and section 33A of chapter 279 toward any sentence he may receive, and may be
524 charged with escape pursuant to section 16 of chapter 268 should he leave the place to which he

525 is classified pursuant to his participation in the program without authorization or should he
526 escape from custody while he is being transported pursuant to his participation in the program.
527 For the duration of his participation in this program only, the detainee may receive additional
528 deductions from any sentence that may be imposed in the case for which he was committed, for
529 participation in work, education, or treatment programs designated by the sheriff pursuant to
530 section 129D of chapter 127.

531 A detainee shall not be eligible to participate in this program if he is charged with:
532 murder; any offense that carries the possibility of a life sentence; a violation of section 32, 32A,
533 32B, 32C, 32D, 32E, 32F, 323G, 32I, 32J, 32K, 33, 34, 37, 38, 39, and 40 of chapter 94C;
534 section 13, 14, 15, 15A, 15B, 16, 17, 18, 18A, 19, 20, 21, 22, 22A, 23, 24, 24B, 25, 26, 26A or
535 26B of chapter 265; section 17, 34 or 35 of chapter 272; or an attempt to commit any crime
536 referred to in these sections; or if he is detained under subsection (3) of section 58A of chapter
537 276. A detainee shall not be eligible to participate in this program if he is a sex offender, a
538 sexually dangerous person as defined in section 1 of chapter 123A, charged with committing a
539 sexual offense as defined in said section 1 of said chapter 123A or is charged with violating
540 section 24B of chapter 265. Placement of an individual in such program shall require victim
541 notification as required under subsection (t) of section 3 of chapter 258B.

542 SECTION 70. Section 21 of said chapter 127, as so appearing, is hereby amended by
543 inserting after the word 'correction' in line 3 the following words:- by physical or constructive
544 confinement.

545 SECTION 71. Section 28 of said chapter 127, as so appearing, is hereby amended by
546 striking out, in line 9, the words ‘criminal history systems board’ and inserting in place thereof
547 the following words:- department of criminal justice information services.

548 SECTION 72. Section 29 of said chapter 127, as so appearing, is hereby amended by
549 striking out, in line 13, the words ‘criminal history systems board’ and inserting in place thereof
550 the following words:- department of criminal justice information services.

551 SECTION 73. Section 133E of said chapter 127, as so appearing, is hereby amended by
552 striking out, in line 3, the words ‘criminal history systems board’ and inserting in place thereof
553 the following words:- department of criminal justice information services.

554 SECTION 74. Section 122 of chapter 140 of the General Laws, as appearing in the 2008
555 Official Edition, is hereby amended by striking out, in lines 21 and 22, the words ‘ executive
556 director of the criminal history systems board’ and inserting in place thereof the following
557 words:- commissioner of the department of criminal justice information services.

558 SECTION 75. Section 122A of said chapter 140, as so appearing, is hereby amended by
559 striking out, in line 5, the words ‘criminal history systems board’ and inserting in place thereof
560 the following words:- department of criminal justice information services.

561 SECTION 76. Said section 122A of said chapter 140, as so appearing, is hereby further
562 amended by striking out, in lines 5 and 6 and in lines 9 and 10, the words ‘executive director of
563 the criminal history systems board’ and inserting in place thereof, in each instance, the following
564 words:- commissioner of the department of criminal justice information services.

565 SECTION 77. Section 122B of said chapter 140, as so appearing, is hereby amended by
566 striking out, in lines 14 and 15 and in lines 24 and 25, the words ‘executive director of the
567 criminal history systems board’ and inserting in place thereof, in each instance, the following
568 words:- commissioner of the department of criminal justice information services.

569 SECTION 78. Section 123 of said chapter 140, as so appearing, is hereby amended by
570 striking out, in lines 7 and 8 line 27, and in lines 106 and 107, the words ‘executive director of
571 the criminal history systems board’ and inserting in place thereof, in each instance, the following
572 words:- commissioner of the department of criminal justice information services.

573 SECTION 79. Section 125 of said chapter 140, as so appearing, is hereby amended by
574 striking out, in lines 11 and 12, the words ‘executive director of the criminal history systems
575 board’ and inserting in place thereof the following words:- commissioner of the department of
576 criminal justice information services.

577 SECTION 80. Section 127 of said chapter 140, as so appearing, is hereby amended by
578 striking out, in line 6, the words ‘executive director of the criminal history systems board’ and
579 inserting in place thereof the following words:- commissioner of the department of criminal
580 justice information services.

581 SECTION 81. Section 128A of said chapter 140, as so appearing, is hereby amended by
582 striking out, in lines 27 and 28, the words ‘executive director of the criminal history systems
583 board’ and inserting in place thereof the following words:- commissioner of the department of
584 criminal justice information services.

585 SECTION 82. Section 128B of said chapter 140, as so appearing, is hereby amended by
586 striking out, in lines 11 and 12, the words ‘executive director of the criminal history systems

587 board' and inserting in place thereof the following words:- commissioner of the department of
588 criminal justice information services.

589 SECTION 83. Section 129B of said chapter 140, as so appearing, is hereby amended by
590 striking out, in lines 112, 148 and 159, the words 'executive director of the criminal history
591 systems board' and inserting in place thereof the following words:- commissioner of the
592 department of criminal justice information services.

593 SECTION 84. Section 129C of said chapter 140, as so appearing, is hereby amended by
594 striking out, in lines 12 and 13 and in lines 16 and 17, the words 'executive director of the
595 criminal history systems board' and inserting in place thereof, in each instance, the following
596 words:- commissioner of the department of criminal justice information services.

597 SECTION 85. Section 130B of said chapter 140, as so appearing, is hereby amended by
598 striking out, in line 2, the words 'criminal history systems board' and inserting in place thereof
599 the following words:- department of criminal justice information services.

600 SECTION 86. Said section 130B of said chapter 140, as so appearing, is hereby further
601 amended by striking out, in line 4, the words 'criminal history systems board appointed by the
602 executive director' and inserting in place thereof the following words:- department of criminal
603 justice information services appointed by the commissioner.

604 SECTION 87. Section 131 of said chapter 140, as so appearing, is hereby amended by
605 striking out, in lines 55 and 56, line 163, and in lines 193 and 194, the words 'criminal history
606 systems board,' and inserting in place thereof, in each instance, the following words:- department
607 of criminal justice information services.

608 SECTION 88. Section 131½ of said chapter 140, as so appearing, is hereby amended by
609 striking out, in lines 6 and 7, the words ‘criminal history systems board,’ and inserting in place
610 thereof the following words:- department of criminal justice information services.

611 SECTION 89. Section 131A of said chapter 140, as so appearing, is hereby amended by
612 striking out, in line 13, the words ‘criminal history systems board,’ and inserting in place thereof
613 the following words:- department of criminal justice information services.

614 SECTION 90. Section 25 of chapter 151A of the General Laws, as so appearing, is
615 hereby amended by striking out, in lines 251 and 252 and in line 254, the words ‘criminal history
616 systems board,’ and inserting in place thereof, in each instance, the following words:- department
617 of criminal justice information services.

618 SECTION 91. Section 4 of chapter 151B of the General Laws, as so appearing, is hereby
619 amended by inserting after subsection 9 the following subsection:-

620 9½. For an employer to request on its initial written application form criminal offender
621 record information; provided, however, that except as otherwise prohibited by subsection 9, an
622 employer may inquire about any criminal convictions on an applicant’s application form if: (i)
623 the applicant is applying for a position for which any federal or state law or regulation creates
624 mandatory or presumptive disqualification based on a conviction for 1 or more types of criminal
625 offenses; or (ii) the employer or an affiliate of such employer is subject to an obligation imposed
626 by any federal or state law or regulation not to employ persons, in either 1 or more positions,
627 who have been convicted of 1 or more types of criminal offenses.

628 SECTION 92. Section 7 of chapter 152 of the General Laws, as so appearing, is hereby
629 amended by striking out, in line 42 and in lines 44 and 45, the words ‘criminal history systems

630 board,' and inserting in place thereof, in each instance, the following words:- department of
631 criminal justice information services.

632 SECTION 93. Section 6 of chapter 209A of the General Laws, as so appearing, is hereby
633 amended by striking out, in line 97, the words 'criminal history systems board' and inserting in
634 place thereof the following words:- department of criminal justice information services.

635 SECTION 94. Section 34A of chapter 215 of the General Laws, as so appearing, is
636 hereby amended by striking out, in lines 47 and 48, the words 'criminal history systems board,'
637 and inserting in place thereof the following words:- department of criminal justice information
638 services.

639 SECTION 95. Section 21 of chapter 233 of the General Laws, as so appearing, is hereby
640 amended by adding the following paragraph:-

641 Upon order of the court, a party may obtain a witness's criminal offender record
642 information from the department of criminal justice information services.

643 SECTION 96. Section 3 of chapter 255E of the General Laws, as so appearing, is hereby
644 amended by striking out, in line 12, the words 'criminal history systems board,' and inserting in
645 place thereof the following words:- department of criminal justice information services.

646 SECTION 97. Section 1 of chapter 258C of the General Laws, as so appearing, is hereby
647 amended by inserting after the definition of 'Crime' the following definition:-

648 'Crime scene cleanup', the removal of, or the attempted removal of, blood or other stains
649 that are the direct result of the commission of a crime or other dirt and debris caused by the
650 processing of the crime scene; provided, however, that crime scene cleanup shall not include the

651 replacement or repair of property damaged during the commission of the crime, in accordance
652 with section 4.

653 SECTION 98. Said section 1 of said chapter 258C of the General Laws, as so appearing,
654 is hereby further amended by inserting after the definition of ‘Out-of-pocket loss’ the following
655 definition:-

656 ‘Security measures’, the replacement, repair or installation of locks, windows or other
657 security devices deemed to be reasonably necessary for the promotion of the victim’s safety by
658 the program director after taking into consideration the nature of the crime in accordance with
659 section 4.

660 SECTION 99. Section 2 of said chapter 258C, as so appearing, is hereby amended by
661 striking out subsection (f).

662 SECTION 100. Subsection (b) of section 3 of said chapter 258C, as so appearing, is
663 hereby amended by striking out paragraph (1) and inserting in place thereof the following 2
664 paragraphs:-

665 (1)(A) The maximum award or compensation for funeral and burial expenses shall be
666 \$6,500. A legal guardian, dependent or other family member of the victim or a person who
667 actually incurs funeral and burial expenses directly related to the death of a victim shall be
668 eligible for compensation for such funeral and burial expenses.

669 (B) The maximum award or compensation for expenses other than funeral and burial
670 expenses associated with the interment of a victim whose death is the direct result of a crime
671 shall be \$800. For purposes of this subsection compensable expenses shall include, but not be

672 limited to, transportation of the victim to the location of interment, travel of a legal guardian or
673 family member to accompany the victim to the location of interment, memorial markers at the
674 location of interment or other associated expenses as determined by the program director in
675 accordance with section 4.

676 SECTION 101. Said section 3 of said chapter 258C, as so appearing, is hereby further
677 amended by striking out, in lines 22 and 25, the words ‘one hundred and eighteen F’ and
678 inserting in place thereof, in each instance the following figure:- 118G.

679 SECTION 102. Said section 3 of said chapter 258C, as so appearing, is hereby amended
680 by inserting after the word ‘victim’ , in line 40, the following words:- , parent or legal guardian
681 of a victim who is a minor in accordance with section 4.

682 SECTION 103. Subsection (b) of said section 3 of said chapter 258C, as so appearing, is
683 hereby further amended by adding the following 3 subparagraphs:-

684 (G) Expenses incurred for professional crime scene cleanup services necessary as the
685 direct result of the commission of a crime at a private residence or in a motor vehicle that is
686 owned or leased by a victim, family member or other dependent shall be compensable in
687 accordance with this chapter; provided, however, that the maximum amount of compensation
688 shall not exceed \$1,500.

689 (H) A victim shall be eligible for compensation for the reasonable replacement costs of
690 clothing and bedding seized as evidence or rendered unusable as the result of a criminal
691 investigation that is the direct result of a crime; provided, however, that the maximum
692 compensable amount shall not exceed \$250.

693 (I) A victim or a family member residing with the victim at the time a crime is
694 committed, shall be eligible for compensation for the costs associated with the implementation of
695 security measures; provided, however, that the maximum compensable amount shall not exceed
696 \$500.

697 SECTION 104. Section 8 of said chapter 258C, as so appearing, is hereby amended by
698 striking out, in line 1, the word ‘fifteen’ and inserting in place thereof the following figure:- 20.

699 SECTION 105. Said section 8 of said chapter 258C, as so appearing, is hereby further
700 amended by striking out, in line 12, the word ‘twenty’ and inserting in place thereof the
701 following figure:- 30.

702 SECTION 106. Section 9 of said chapter 258C, as so appearing, is hereby amended by
703 striking out, in line 7, the word ‘twenty’ and inserting in place thereof the following figure:- 30.

704 SECTION 107. Section 10 of said chapter 258C, as so appearing, is hereby amended by
705 inserting after the word ‘insurance’, in line 6, the following words:- , including, but not limited
706 to, homeowner’s insurance, renter’s insurance, automobile insurance.

707 SECTION 108. Section 7 of chapter 258D of the General Laws, as so appearing, is
708 hereby amended by striking out, in lines 4 and 5, the words ‘criminal history systems board’ and
709 inserting in place thereof the following words:- department of criminal justice information
710 services.

711 SECTION 109. Subsection (1) of section 13B of chapter 268 of the General Laws, as so
712 appearing, is hereby amended by striking out clauses (iv) and (v) and inserting in place thereof
713 the following 2 clauses:-

714 (iv) a person who is furthering a civil or criminal proceeding, including criminal
715 investigation, grand jury proceeding, trial, other criminal proceeding of any type, probate and
716 family proceeding, juvenile proceeding, housing proceeding, land proceeding, clerk's hearing,
717 court ordered mediation, any other civil proceeding of any type; or

718 (v) a person who is or was attending or had made known his intention to attend a civil
719 or criminal proceeding, including criminal investigation, grand jury proceeding, trial, other
720 criminal proceeding of any type, probate and family proceeding, juvenile proceeding, housing
721 proceeding, land proceeding, clerk's hearing, court-ordered mediation, any other civil proceeding
722 of any type with the intent to impede, obstruct, delay, harm, punish or otherwise interfere
723 thereby, or do so with reckless disregard, with such a proceeding shall be punished by
724 imprisonment in a jail or house of correction for not more than 2 and one-half years or by
725 imprisonment in a state prison for not more than 10 years, or by a fine of not less than \$1,000 nor
726 more than \$5,000, or by both such fine and imprisonment.

727 SECTION 110. Section 13C of said chapter 268, as so appearing, is hereby amended by
728 striking out the first sentence and inserting in place thereof the following sentence:- Whoever
729 causes or actively participates in disruption on any court property of the commonwealth or in
730 disruption of any proceedings of any court of the commonwealth shall be punished by
731 imprisonment in a jail or house of correction for not more than 2 and one-half years or by
732 imprisonment in a state prison for not more than 10 years, or by a fine of not less than \$1,000 nor
733 more than \$5,000, or by both such fine and imprisonment. Court property shall include any
734 property leased or used by the commonwealth for any court.

735 SECTION 111. Section 23A of chapter 276 of the General Laws, as so appearing, is
736 hereby amended by striking out, in line 8 and in lines 21 and 22, the words ‘criminal history
737 systems board,’ and inserting in place thereof, in each instance, the following words:- department
738 of criminal justice information services.

739 SECTION 112. Section 23B of said chapter 276, as so appearing, is hereby amended by
740 striking out, in line 9, lines 10 and 11, and in lines 12 and 13, the words ‘criminal history
741 systems board,’ and inserting in place thereof, in each instance, the following words:- department
742 of criminal justice information services.

743 SECTION 113. Section 58A of chapter 276 of the General Laws, as so appearing, is
744 hereby amended by striking out subsection (1) and inserting in place thereof the following
745 subsection:-

746 (1) The commonwealth may move, based on dangerousness, for an order of pretrial
747 detention or release on conditions for a felony offense that has an element of the offense the use,
748 attempted use or threatened use of physical force against the person of another or any other
749 felony that, by its nature, involves a substantial risk that physical force against the person of
750 another may result, including the crimes of burglary and arson whether nor not a person has been
751 placed at risk thereof, or a violation of an order pursuant to section 18, 34B or 34C of chapter
752 208, section 32 of chapter 209, section 3, 4 or 5 of chapter 209A or section 15 or 20 of chapter
753 209C, or arrested and charged with a misdemeanor or felony involving abuse as defined in
754 section 1 of said chapter 209A or while an order of protection issued under said chapter 209A
755 was in effect against such person, an offense for which a mandatory minimum term of 3 years or

756 more is prescribed in chapter 94C, arrested and charged with a violation of section 13B of
757 chapter 268 or a third or subsequent conviction for a violation of section 24 of chapter 90.

758 (2) The commonwealth may move, based on dangerousness, for an order of pretrial
759 detention or release on conditions for any convicted felon, person out on bail, person on
760 probation who is arrested and charged with a violation of paragraph (1), (c) or (m) of section 10
761 of chapter 269 or arrested and charged with a violation of section 10G of said chapter 269;
762 provided, however, that the commonwealth may not move for an order of detention under this
763 section based on possession of a large capacity feeding device without simultaneous possession
764 of a large capacity weapon.

765 SECTION 114. Section 100 of said chapter 276, as so appearing, is hereby amended by
766 striking out, in line 30, the words ‘criminal history systems board’ and inserting in place thereof
767 the following words:- department of criminal justice information services.

768 SECTION 115. Said section 100 of said chapter 276, as so appearing, is hereby further
769 amended by striking out, in line 33, the word ‘board’ and inserting in place thereof the following
770 word:- department.

771 SECTION 116. Section 100A of said chapter 276, as so appearing, is hereby amended by
772 striking out the first paragraph and inserting in place thereof the following paragraph:-

773 Any person having a record of criminal court appearances and dispositions in the
774 commonwealth on file with the office of the commissioner of probation may, on a form
775 furnished by the commissioner and signed under the penalties of perjury, request that the
776 commissioner seal the file. The commissioner shall comply with the request provided that: (1)
777 the person’s court appearance and court disposition records, including any period of

778 incarceration or custody as defined in section 1 of chapter 125 for any misdemeanor record to be
779 sealed occurred not less than 5 years before the request; (2) the person's court appearance and
780 court disposition records, including any period of incarceration or custody as defined in section 1
781 of chapter 125 for any felony record to be sealed occurred not less than 10 years before the
782 request; (3) the person had not been found guilty of any criminal offense within the
783 commonwealth in the case of a misdemeanor, 5 years before the request, and in the case of a
784 felony, 10 years before request, except motor vehicle offenses in which the penalty does not
785 exceed a fine of \$50; (4) the form includes a statement by the petitioner that the petitioner has
786 not been convicted of any criminal offense in any other state, United States possession or in a
787 court of federal jurisdiction, except such motor vehicle offenses, as aforesaid, and has not been
788 imprisoned in any state or county in the case of a misdemeanor, within the preceding 5 years,
789 and in the case of a felony, within the preceding 10 years; and (5) the person's record does not
790 include convictions of offenses other than those to which this section applies. This section shall
791 apply to court appearances and dispositions of all offenses; provided, however, that this section
792 shall not apply in case of convictions for violations of sections 121 to 131H, inclusive, of chapter
793 140 or for violations of chapter 268 or chapter 268A.

794 SECTION 117. The second paragraph of said section 100A of said chapter 276, as so
795 appearing, is hereby amended by inserting, after line 40, the following clauses:-

796 5. Any violation of section 7 of chapter 209A shall be treated as a felony.

797 6. Sex offenses, as defined in section 178C of chapter 6, shall not be eligible for sealing.

798 SECTION 118. Said section 100A of said chapter 276, as so appearing, is hereby further
799 amended by inserting after the word 'proceedings', in line 52, the following words:-; provided,

800 however, that in any proceedings under sections 1 to 39I, inclusive, of chapter 119, sections 2 to
801 5, inclusive, of chapter 201, chapter 208, 209, 209A, 209B, 209C, or sections 1 to 11A,
802 inclusive, of chapter 210, a party having reasonable cause to believe that information in a sealed
803 criminal record of another party may be relevant to (1) an issue of custody or visitation of a
804 child, (2) abuse, as defined in section 1 of chapter 209A or (3) the safety of any person may upon
805 motion seek to introduce the sealed record into evidence. The judge shall first review such
806 records in camera and determine those records that are potentially relevant and admissible. The
807 judge shall then conduct a closed hearing on the admissibility of those records determined to be
808 potentially admissible; provided, however, that such records shall not be discussed in open court
809 and, if admitted, shall be impounded and made available only to the parties, their attorneys and
810 court personnel who have a demonstrated need to receive them.

811 SECTION 119. Section 100C of said chapter 276, as so appearing, is hereby amended by
812 striking out, in lines 11 and 12, the words ‘except in cases in which an order of probation has
813 been terminated,’.

814 SECTION 120. Said section 100C of said chapter 276, as so appearing, is hereby further
815 amended by inserting after the word ‘commissioner’, in line 29, the following words:- or the
816 clerk of courts in any district or superior court or the Boston municipal court.

817 SECTION 121. Said chapter 276 is hereby further amended by inserting after section
818 100C the following section:-

819 Section 100D. Notwithstanding the provisions of section 100A, 100B, or 100C to the
820 contrary, criminal justice agencies as defined in section 167 of chapter 6 shall have immediate
821 access to, and be permitted to use as necessary for the performance of their criminal justice

822 duties, any sealed criminal offender record information as defined in said section 167 of said
823 chapter 6 and any sealed information concerning criminal offenses or acts of delinquency
824 committed by a person before the person attained the age of 17.

825 SECTION 122. Section 1 of chapter 279 of the General Laws, as so appearing, is hereby
826 amended by striking out, in line 42, the words ‘criminal history systems board’ and inserting in
827 place thereof the following words:- department of criminal justice information services.

828 SECTION 123. Section 34 of said chapter 279, as so appearing, is hereby amended by
829 inserting after the word ‘accordingly’, in line 5, the following words:- for the duration of the
830 sentence and within classification guidelines of the facility to which the convict is committed.

831 SECTION 124. Notwithstanding any general or special law to the contrary, this section
832 shall facilitate the orderly transfer of the employees, proceedings, rules and regulations, property
833 and legal obligations of the criminal history systems board, as the transferor agency, to the
834 department of criminal justice information services, as the transferee agency, as follows:

835 (a) Subject to appropriation, the employees of the criminal history systems board,
836 including those who immediately before the effective date of this act hold permanent
837 appointment in positions classified under chapter 31 of the General Laws or have tenure in their
838 positions as provided by section 9A of chapter 30 of the General Laws or do not hold such
839 tenure, or hold confidential positions, are hereby transferred to the department of criminal justice
840 information services, without interruption of service within the meaning of said section 9A of
841 said chapter 31, without impairment of seniority, retirement or other rights of the employee, and
842 without reduction in compensation or salary grade, notwithstanding any change in title or duties
843 resulting from such reorganization, and without loss of accrued rights to holidays, sick leave,

844 vacation and benefits and without change in union representation or certified collective
845 bargaining unit as certified by the state labor relations commission or in local union
846 representation or affiliation. Any collective bargaining agreement in effect immediately before
847 the transfer date shall continue in effect and the terms and conditions of employment therein
848 shall continue as if the employees had not been so transferred. The reorganization shall not
849 impair the civil service status of any such reassigned employee who immediately before the
850 effective date of this act either holds a permanent appointment in a position classified under
851 chapter 31 of the General Laws or has tenure in a position by reason of section 9A of chapter 30
852 of the General Laws.

853 Notwithstanding any general or special law to the contrary, all such employees shall
854 continue to retain their right to collectively bargain pursuant to chapter 150E of the General
855 Laws and shall be considered employees for the purposes of said chapter 150E.

856 Nothing in this section shall be construed to confer upon any employee any right not held
857 immediately before the date of said transfer, or to prohibit any reduction of salary grade, transfer,
858 reassignment, suspension discharge layoff or abolition of position not prohibited before such
859 date.

860 (b) All petitions, requests, investigations and other proceedings appropriately and duly
861 brought before or referred to the executive director of the criminal history systems board by the
862 transferor agency and pending before the executive director before the effective date of this act,
863 shall continue unabated and remain in force, but shall be assumed and completed by the
864 department of criminal justice information services.

865 (c) All orders, rules and regulations duly made and all approvals duly granted by
866 the criminal history systems board, which are in force immediately before the effective date of
867 this act, shall continue in force and shall thereafter be enforced by the department of criminal
868 justice information systems until superseded, revised, rescinded or canceled, in accordance with
869 law.

870 (d) All books, papers, records, documents, equipment, buildings, facilities, cash and other
871 property, both personal and real, including all such property held in trust, which immediately
872 before the effective date of this act are in the custody of the criminal history systems board, shall
873 be transferred to the department of criminal justice information services.

874 (e) All duly existing contracts, leases and obligations of the criminal history systems
875 board shall continue in effect but shall be assumed by the department of criminal justice
876 information services. No existing right or remedy of any character shall be lost, impaired or
877 affected by this act.

878 SECTION 125. Notwithstanding any general or special law to the contrary, the term of
879 any member appointed to the criminal record review board, established by section 168 of chapter
880 6 of the General Laws, shall expire; provided, however, that any appointed board member whose
881 term has expired pursuant to this section shall be eligible for reappointment to the board. Such
882 appointments shall be made in accordance with said section 168 of said chapter 6.

883 Notwithstanding any general or special law to the contrary, in making initial
884 appointments to the criminal record review board established pursuant to section 168 of chapter
885 6 of the General Laws, amended by section 12 of this act, the governor shall appoint 1 member

886 to serve for a term of 1 year, 2 members to serve for a term of 2 years and 2 members to serve for
887 a term of 3 years.

888 SECTION 126. The Massachusetts department of criminal justice information systems,
889 in consultation with the information technology division, shall regularly report on its progress in
890 building the information technology system necessary to fulfill the requirements established in
891 subsection (a) of section 172 of chapter 6 of the General Laws, as amended by section 21 of this
892 act. The department shall file such reports with the joint committee on the judiciary, the joint
893 committee on public safety and homeland security, the house and senate committees on bonding,
894 capital expenditures and state assets and the house and senate committees on ways and means
895 and shall post such reports on the department's publicly-accessible website. The department shall
896 file such reports 6, 12, 15 and 18 months after the effective date of this act, and at 3-month
897 intervals thereafter, if necessary, until the project is complete. Each report shall include a
898 description of the progress made in the planning, design and construction of the system since the
899 preceding report, and shall include a comparison of actual expenditures to budgeted expenditures
900 and of budgeted timelines to actual timelines. Each report shall also include a certification as to
901 whether the department expects the complete information technology system to be fully
902 operational 18 months after the effective date of this act.

903 SECTION 127. The executive office of public safety and security, the criminal systems
904 history board, or its successor, and the department of state police shall request the cooperation of
905 the administrative office of the trial court and the office of the commissioner of probation in
906 conducting a pilot program or programs in selected district courts to evaluate the feasibility and
907 cost of biometric identification of all defendants arraigned in criminal cases in the courts of the
908 commonwealth in order to create a biometric index for criminal records. The pilot program shall

909 be implemented on or before December 31, 2010 and shall expire on June 30, 2012. The
910 secretary of public safety and security in consultation with the criminal history systems board, or
911 its successor, and the department of state police, shall issue a final report, which shall include the
912 results of its review and analysis, to the joint committee on judiciary, the joint committee on
913 public safety and homeland security and the house and senate committees on ways and means on
914 or before November 1, 2012.

915 SECTION 128. Sections 1 to 8, inclusive, 12 to 19, inclusive, 21 to 25, inclusive, 27, 29
916 to 38, inclusive, 40 to 65, inclusive, 68, 71 to 90, inclusive, 92 to 96, inclusive, 108, 111, 112,
917 114 to 122, inclusive, 124 and 125 shall take effect on January 1, 2012.

918 SECTION 129. Subparagraph e of Section 178D in Chapter 6 of the General Laws as
919 appearing in the 2008 Edition is hereby amended by striking, in lines 31 and 32, the words:- ‘or
920 level 2’.’;

921 and by striking out the title and inserting in place thereof the following title: “An Act
922 reforming the administrative procedures relative to criminal offender record information.”.