

SENATE No. 2119

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

An Act transferring county sheriffs to the Commonwealth.

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

1 SECTION 1. Section 17 of chapter 37 of the General Laws, as appearing in the 2008
2 Official Edition, is hereby amended by striking out the second and third paragraphs and inserting
3 in place thereof the following paragraph:-

4 The sheriffs of the counties of Barnstable, Bristol, Norfolk, Plymouth and Suffolk and of
5 the former counties of Berkshire, Essex, Franklin, Hampden, Hampshire, Middlesex and
6 Worcester shall each receive a salary of \$123,209. The sheriff of the county of Dukes shall
7 receive a salary of \$97,271. The sheriff of the county of Nantucket shall receive a salary of
8 \$71,332.

9 SECTION 2. Chapter 64D of the General Laws is hereby amended by striking out
10 sections 11 to 13, inclusive, as so appearing, and inserting in place thereof the following 2
11 sections:-

12 Section 11. Except for Barnstable and Suffolk counties, there shall be established upon
13 the books of each county of a transferred sheriff, the government of which county has not been

14 abolished by chapter 34B or other law, a fund, maintained separate and apart from all other funds
15 and accounts of each county, to be known as the Deeds Excise Fund.

16 Notwithstanding any general or special law to the contrary, except for Barnstable and
17 Suffolk counties, on the first day of each month, 10.625 per cent of the taxes collected in the
18 county of a transferred sheriff under this chapter shall be transmitted to the Deeds Excise Fund
19 for each county; provided, however, that in any county in which its minimum obligation,
20 established by the secretary of administration and finance in 2009, is insufficient in any given
21 fiscal year to satisfy the unfunded county pension liabilities and other benefit liabilities of retired
22 employees of the sheriff's office as determined by the secretary of administration and finance in
23 consultation with appropriate county officials and county treasurers, beginning in fiscal year
24 2011, the county shall retain 13.625 per cent of the taxes collected in such county and transferred
25 to the Deeds Excise Fund to satisfy the unfunded county pension liabilities and other benefit
26 liabilities of retired employees of the sheriff's office until the minimum obligation is sufficient or
27 until such county has paid such unfunded pension liability in full; and provided further, that once
28 such liabilities are satisfied, the following month and each month thereafter, 10.625 per cent of
29 such taxes collected shall be retained by such county; provided, however, that an additional
30 30.552 per cent of said taxes collected in Nantucket county shall be transmitted to the Deeds
31 Excise Fund on the first day of each month for said county through June 1, 2029; and provided
32 further that if in a fiscal year the dollar amount that equals 30.552 per cent of said taxes collected
33 in Nantucket county exceeds \$250,000, the amount in excess shall be transmitted to the General
34 Fund. The remaining percentage of taxes collected under this chapter, including all taxes
35 collected under this chapter in Barnstable and Suffolk counties and all counties the government
36 of which has been abolished by chapter 34B or other law, but not including the additional excise

37 authorized in section 2 of chapter 163 of the acts of 1988, shall be transmitted to and retained by
38 the General Fund in accordance with section 10.

39 Section 12. (a) Notwithstanding any general or special law to the contrary, of the
40 amounts deposited in the Deeds Excise Fund for each county from revenues collected pursuant to
41 this chapter: (1) not more than 60 per cent of the deposits shall be disbursed and expended for
42 meeting the costs of the operation and maintenance of the county; and (2) not less than 40 per
43 cent shall be disbursed and expended for the automation, modernization and operation of the
44 registries of deeds.

45 (b) Notwithstanding any general or special law to the contrary, with respect to funds
46 appropriated for the purposes designated in clause (2) of subsection (a) and which are not
47 dedicated to the Deeds Excise Fund in each county under section 11, the county budget shall
48 provide a continuing amount of expenditure of not less than 102.5 per cent of the amount
49 expended for that purpose in the preceding fiscal year.

50 SECTION 3. Notwithstanding any general or special law to the contrary, the offices of
51 the Barnstable, Bristol, Dukes, Nantucket, Norfolk, Plymouth, and Suffolk county sheriffs are
52 hereby transferred to the commonwealth as provided in this act.

53 SECTION 4. Notwithstanding any general or special law to the contrary, all functions,
54 duties and responsibilities of the office of a transferred sheriff pursuant to this act including, but
55 not limited to, the operation and management of the county jail and house of correction and any
56 other statutorily authorized functions of that office, are hereby transferred from the county to the
57 commonwealth.

58 SECTION 5. Notwithstanding any general or special law to the contrary, the government
59 of Barnstable, Bristol, Dukes, Nantucket, Norfolk, Plymouth and Suffolk counties, except the
60 office of county sheriff, shall retain all existing authority, functions and activities for all purposes
61 including, but not limited to, the purposes established in chapters 34, 34A, 35 and 36 of the
62 General Laws or as otherwise authorized by this act. This act shall not affect the existing county
63 boundaries.

64 SECTION 6. Notwithstanding any general or special law to the contrary, all valid
65 liabilities and debts of the office of a transferred sheriff, which are in force on the effective date
66 of this act, shall be obligations of the commonwealth as of that date, except as may be otherwise
67 provided in this act. All assets of the office of a transferred sheriff on the effective date of this act
68 shall become assets of the commonwealth, except as otherwise provided in this act.

69 SECTION 7. (a) Notwithstanding any general or special law to the contrary, all rights,
70 title and interest in real and personal property, including those real properties improved upon
71 through construction overseen by the division of capital asset management and maintenance and
72 paid with commonwealth funds and which are controlled by the office of a transferred sheriff on
73 the effective date of this act including, without limitation, all correctional facilities and other
74 buildings and improvements, the land on which they are situated and any fixtures, wind turbines,
75 antennae, communication towers and associated structures and other communication devices
76 located thereon or appurtenant thereto shall be transferred to the commonwealth, except as
77 otherwise provided in this act. This transfer of all buildings, lands, facilities, fixtures and
78 improvements shall be subject to chapter 7 of the General Laws and the jurisdiction of the
79 commissioner of capital asset management and maintenance as provided therein, except as
80 otherwise provided in this act. The commonwealth shall take all necessary steps to ensure

81 continued access, availability and service to any assets transferred to the commonwealth under
82 this subsection to a local or regional organization that currently uses such assets.

83 (b) Notwithstanding any general or special law to the contrary, if a transferred sheriff
84 occupies part of a building or structure owned by a county, the county shall lease that part of the
85 building or structure to the commonwealth under reasonable terms determined by the
86 commissioner of capital asset management and maintenance.

87 (c) Notwithstanding any general or special law to the contrary, the transfer under this
88 section shall be effective and shall bind all persons, with or without notice, without any further
89 action or documentation. Without derogating from the foregoing, the commissioner of capital
90 asset management and maintenance may, from time to time, execute and record and file for
91 registration with any registry of deeds or the land court, a certificate confirming the
92 commonwealth's ownership of any interest in real property formerly controlled by the office of a
93 transferred sheriff pursuant to this section.

94 (d) This section shall not apply to the land and buildings shown as Parcel C on a Plan of
95 Land in Braintree, Mass, dated October 2, 1997, prepared by County of Norfolk Engineering
96 Dept., 649 High Street, Dedham, filed at the Norfolk county registry of deeds in plan book 454,
97 page 128.

98 (e) Notwithstanding any provision of this section or sections 40E to 40I, inclusive, of
99 chapter 7 of the General Laws to the contrary, in the event that the Dukes County jail and house
100 of correction located at 149 Main Street in the town of Edgartown ceases to be used for public
101 safety purposes and the commissioner of capital asset management and maintenance intends to
102 sell said property, Dukes County shall hold the right of first refusal to purchase said property for

103 nominal consideration, and shall hold such first refusal option for the first 60 days after receipt of
104 the commissioner's notice of intent to sell said property, and upon the non-acceptance by Dukes
105 County of any such offer, said property shall then be offered for sale by the commissioner
106 pursuant to the provisions of said sections 40E to 40I, inclusive, of said chapter 7.

107 (f) This section shall not apply to the former Barnstable county house of correction
108 located at the Barnstable County Complex on state highway route 6A in the town of Barnstable.

109 (g) This section shall only apply to that portion of the land on which the Plymouth
110 county correctional facility, Plymouth county sheriff's garage and Plymouth county sheriff's
111 offices are situated, including all parking areas, access roads and walkways and any other areas
112 necessary to the use of such buildings, but excluding any open areas, the exact boundaries of
113 which shall be determined by a land survey and plan by the commissioner of capital asset
114 management and maintenance. Such land is part of the premises located at 24 Long Pond road in
115 the town of Plymouth, consisting of 32.747 acres and described in Exhibit A to the lease
116 agreement between Plymouth county and the Plymouth county sheriff which is recorded in the
117 Plymouth county registry of deeds at book 10978, pages 233 and 234. These premises shall
118 continue to be subject to the access easement described in said Exhibit A in said registry of deeds
119 at book 10978, page 232.

120 SECTION 8. Notwithstanding any general or special law to the contrary, once the
121 commonwealth has refinanced any outstanding bonds of the Plymouth County Correctional
122 Facility Corporation, said corporation shall be dissolved and its assets shall be transferred to the
123 commonwealth; provided, however, that prior to said dissolution, the commonwealth shall
124 transfer from the reserve fund created pursuant to the trust agreement executed on February 16,

125 1999 between the Plymouth County Correctional Facility Corporation and the State Street Bank
126 and Trust Company to the county any balance remaining in the reserve fund to which the county
127 is entitled pursuant to section 3.5 of said trust agreement. The criminal detention facility
128 constructed pursuant to chapter 425 of the acts of 1991 shall be transferred to the
129 commonwealth. The revenue held by the corporation in the Repair and Replacement and Capital
130 Improvement Accounts shall be transferred to the Plymouth sheriff's Facility Maintenance Trust
131 Account. The Plymouth sheriff shall make expenditures from this account only for the
132 maintenance, repair and replacement of the sheriff's facilities subject to approval by the
133 commissioner of capital asset management and maintenance.

134 SECTION 9. Notwithstanding any general or special law to the contrary, all leases and
135 contracts of the office of a transferred sheriff which are in force on the effective date of this act
136 shall be obligations of the commonwealth and the commonwealth may exercise all rights and
137 enjoy all interests conferred upon the county by those leases and contracts except as may be
138 otherwise provided in this act.

139 SECTION 10. Notwithstanding any general or special law to the contrary, beginning in
140 fiscal year 2010 and thereafter until terminated, Barnstable, Bristol, Dukes, Nantucket, Norfolk,
141 and Plymouth counties shall appropriate and pay to their respective county retirement boards,
142 and any other entities due payments, amounts equal to the minimum obligations to fund from
143 their own revenues in fiscal year 2009 the operations of the office of the sheriff for the purpose
144 of covering the unfunded county pension liabilities and other benefit liabilities of the retired
145 sheriff's office employees that remain in the county retirement systems, as determined by the
146 actuary of the public employee retirement administration commission. Pursuant to section 20 of
147 chapter 59 of the General Laws, the state treasurer shall assess the city of Boston and remit to the

148 State-Boston retirement system an amount equal to the minimum obligation of Suffolk county to
149 fund from its own revenues in fiscal year 2009 the operations of the office of the sheriff. The
150 secretary of administration and finance shall establish a plan for county governments to pay off
151 these unfunded county pension liabilities and shall establish an amortization schedule to
152 accomplish this task. These payments shall remain in effect for the duration of that amortization
153 schedule, which shall not exceed the funding schedule established by the respective county
154 retirement board. If the unfunded pension liability of retirees exceeds any county's minimum
155 obligation to fund operations from its own revenues as set forth in this section, the retirement
156 system for such county may extend its pension funding schedule to the extent necessary to
157 eliminate that excess unfunded pension liability. In the case of any such county, when the county
158 has paid such unfunded pension liabilities in full, or the county has completed the amortization
159 schedule as established under this section, whichever occurs first, the county's obligation to
160 make payments of its minimum obligations to fund its sheriff's office operations, as determined
161 under this section, shall terminate.

162 SECTION 11. Notwithstanding any general or special law to the contrary, any funds
163 including, but not limited to, county correctional funds and other sources of income and revenue,
164 to the credit of the office of a transferred sheriff on June 30, 2009, shall be paid to the state
165 treasurer, but the county treasurer may pay appropriate fiscal year 2009 sheriff's department
166 obligations after June 30, 2009. Payment of obligations to be charged to the sheriff's fiscal year
167 2009 budget as approved by the county government finance review board shall be within that
168 budget or shall be approved by the secretary of administration and finance.

169 SECTION 12. (a) Notwithstanding any general or special law to the contrary and except
170 for all counties the governments of which have been abolished by chapter 34B of the General

171 Laws or other law, revenues of the office of sheriff in Barnstable, Bristol, Dukes, Nantucket,
172 Norfolk, Plymouth and Suffolk counties for civil process, inmate telephone and commissary
173 funds shall remain with the office of sheriff.

174 (b) Notwithstanding any general or special law to the contrary, in order to encourage
175 innovation and enterprise, each sheriff's office shall annually confer with the house and senate
176 committees on ways and means regarding that sheriff's efforts to maximize and maintain grants,
177 dedicated revenue accounts, revolving accounts, fee for service accounts and fees and payments
178 from the federal, state and local governments and other such accounts and regarding which
179 revenues shall remain with the sheriff's office.

180 (c) Any sheriff who has developed a revenue source derived apart from the state treasury
181 may retain that funding to address the needs of the citizens within that county.

182 (d) Any unencumbered carry-forward deeds excise or other funds to the credit of the
183 sheriff on June 30, 2009 shall be paid to the state treasurer.

184 (e) Notwithstanding any general or special law or county charter to the contrary, regional
185 services and contracts for such services including, but not limited to, regional communications
186 centers and law enforcement support, shall continue until expired, terminated or revoked under
187 the terms of the agreement or contract for such services.

188 SECTION 13. (a) Notwithstanding any general or special law to the contrary, all
189 employees of the office of a transferred sheriff, including those who, on the effective date of this
190 act, hold permanent appointment in positions classified under chapter 31 of the General Laws or
191 those who have tenure in their positions by reason of section 9A of chapter 30 of the General
192 Laws or do not hold such tenure, are hereby transferred to that transferred sheriff as employees

193 of the commonwealth, without interruption of service within the meaning of said section 9A of
194 said chapter 30 or said chapter 31 and without reduction in compensation or salary grade.

195 (b) Notwithstanding any general or special law to the contrary, employees of the office of
196 a transferred sheriff shall continue to retain their right to collectively bargain pursuant to chapter
197 150E of the General Laws and shall be considered sheriff's office employees for the purposes of
198 said chapter 150E.