

SENATE No. 2220

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

An Act reforming the administrative procedures relative to criminal offender record information and pre- and post-trial supervised release.

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 167 of chapter 6 of the General Laws, as appearing in the 2008
2 Official Edition, is hereby amended by striking out, in line 2, the words “one hundred and sixty-
3 eight to one hundred seventy-eight” and inserting in place thereof the following words:- 168 to
4 178L, inclusive.

5 SECTION 2. Said section 167 of said chapter 6, as so appearing, is hereby amended by
6 inserting before the definition of “criminal justice agencies” the following 3 definitions:-

7 “All available criminal offender record information”, adult and youthful offender
8 convictions, non-convictions and pending criminal court appearances, but excluding criminal
9 records sealed under section 34 of chapter 94C or sections 100A to 100C, inclusive, of chapter
10 276 or the existence of such records.

11 “Board”, the criminal record review board established under section 168.

12 “Commissioner”, the commissioner of the Massachusetts department of criminal justice
13 information services.

14 SECTION 3. Said section 167 of said chapter 6, as so appearing, is hereby further
15 amended by inserting after the definition of “criminal offender record information” the following
16 definition:-

17 “Department”, the Massachusetts department of criminal justice information services
18 established under section 167A.

19 SECTION 4. Said section 167 of said chapter 6, as so appearing, is hereby further
20 amended by inserting after the definition of “purge” the following 3 definitions:-

21 “Requestor”, an entity or individual, other than a criminal justice agency, submitting a
22 request for criminal offender record information to the department.

23 “Self-audit”, an inquiry made by a subject or an advocate or agent designated by the
24 subject to obtain a log of all queries to the department by any requestor for the subject’s criminal
25 offender record information, but excluding any information relative to any query conducted by a
26 criminal justice agency.

27 “Subject”, an individual for whom a request for criminal offender record information is
28 submitted.

29 SECTION 5. Said chapter 6, as so appearing, is hereby amended by inserting after
30 section 167 the following section:-

31 Section 167A. There shall be within the executive office of public safety and security a
32 department of criminal justice information services. The department shall provide for and

33 exercise control over the installation, operation and maintenance of data processing and data
34 communication systems, hereinafter called the public safety information system including, but
35 not limited to, the criminal justice information system. Said system shall be designed to ensure
36 the prompt collection, exchange, dissemination and distribution of such public safety information
37 as may be necessary for the efficient administration and operation of criminal justice agencies,
38 and to connect such systems directly or indirectly with similar systems in this or other states. The
39 secretary of public safety and security shall appoint a commissioner who shall be classified in
40 accordance with section 45 of chapter 30 and the salary shall be determined in accordance with
41 section 46C of said chapter 30. Such commissioner shall not be subject to the provisions of
42 chapter 31 or section 9A of chapter 30. The commissioner shall be responsible for all data
43 processing, management of the public safety information system, supervision of all personnel
44 associated with said system and the appointment of all such personnel. The commissioner may
45 appoint such other employees, including experts and consultants, as he deems necessary to carry
46 out the department's responsibilities, none of whom shall be subject to the provisions of chapter
47 31 or of section 9A of chapter 30.

48 The commissioner shall provide access to the public safety information system to
49 criminal justice agencies as defined in section 167. The commissioner may promulgate rules and
50 regulations for the control, installation, and operation of the public safety information system
51 accessed and utilized by criminal justice agencies. The commissioner or his designee may hear
52 and investigate complaints pertaining to misuse of the public safety information system and to
53 issue sanctions and penalties for misuse. The commissioner may refer complaints for further
54 review to the criminal record review board or any state or federal agency or prosecuting
55 authority.

56 The commissioner, upon the advice of the board, may promulgate regulations regarding
57 the collection, storage, access, dissemination, content, organization and use of criminal offender
58 record information by non-criminal justice agencies.

59 The department is authorized to enter into contracts and agreements with, and accept
60 gifts, grants, contributions, and bequests of funds from, any department, agency, or subdivision
61 of federal, state, county, or municipal government and any individual, foundation, corporation,
62 association, or public authority for the purpose of providing or receiving services, facilities or
63 staff assistance in connection with its work. Such funds shall be deposited with the state treasurer
64 and may be expended by the department in accordance with the conditions of the gift, grant,
65 contribution, or bequest, without specific appropriation.

66 References in any general or special law to the criminal history systems board or its
67 executive director shall be deemed to refer to the Massachusetts department of criminal justice
68 information services or its commissioner.

69 SECTION 5A. References in any general or special law to the criminal history systems
70 board or the executive director thereof, except for the references in sections 171, 172, 172A,
71 172C, 172E, 172G, 172H, 172I, 172J, 173, 175, 176 and 178A of chapter 6 and in section 38R of
72 chapter 71, shall be deemed to refer to the Massachusetts department of criminal justice
73 information services or its commissioner.

74 SECTION 6. Section 168 of said chapter 6, as so appearing, is hereby amended by
75 striking out the first paragraph and inserting in place thereof the following paragraph:-

76 There shall be a criminal history systems board, hereinafter called the board, consisting
77 of the following persons: the secretary of public safety and security, who shall serve as chairman,

78 the secretary of labor and workforce development, the attorney general, the chairperson of the
79 Massachusetts sentencing commission, the chief counsel for the committee for public counsel
80 services, the chairman of the parole board, the commissioner of the department of correction, the
81 commissioner of probation and commissioner of the department of youth services and the
82 colonel of state police, or their designees, all of whom shall serve ex officio, and 10 persons to
83 be appointed by the governor for a term of 3 years, 1 of whom shall represent the Massachusetts
84 District Attorneys Association, 1 of whom shall represent the Massachusetts Sheriffs
85 Association, and 1 of whom shall represent the Massachusetts Chiefs of Police Association, 1 of
86 whom shall represent private users of criminal offender record information, 1 of whom shall be a
87 victim of crime, 1 of whom shall be a provider of victim services, 2 of whom shall have
88 experience in the areas of workforce development, ex-offender rehabilitation, or economic
89 development, and 2 of whom shall be persons who have experience in issues relating to personal
90 privacy. Upon the expiration of the term of any appointive member, his successor shall be
91 appointed in a like manner for a term of 3 years.

92 SECTION 7. Said section 168 of said chapter 6, as so appearing, is hereby further
93 amended by striking out, in line 50, the word “hundred” and inserting in place thereof the
94 following word:- thousand.

95 SECTION 8. Said section 168 of said chapter 6, as so appearing, is hereby further
96 amended by striking out, in line 50, the word “willful” and inserting in place thereof the
97 following word:- knowing.

98 SECTION 9. Said section 168 of said chapter 6, as so appearing, is hereby further
99 amended by inserting after the word “law”, in line 51, the following words:- provided, however,

100 that the board shall not issue any orders, sanctions or fines against a law enforcement officer
101 who, in good faith, obtains or seeks to obtain or communicates or seeks to communicate criminal
102 offender record information in the furtherance of his or her official duties.

103 SECTION 10. Said section 168 of said chapter 6, as so appearing, is hereby amended by
104 striking out the fourth and sixth paragraphs.

105 SECTION 11. Said chapter 6, as so appearing, is hereby further amended by striking out
106 section 168 and inserting in place thereof the following section:-

107 Section 168. There shall be a criminal record review board within the Massachusetts
108 department of criminal justice information services, consisting of the following persons: the
109 secretary of public safety and security, who shall serve as chairperson, the attorney general, the
110 secretary of labor and workforce development, the chairperson of the Massachusetts sentencing
111 commission, the chief counsel for the committee for public counsel services, the chairperson of
112 the parole board, the commissioner of the department of correction, the commissioner of
113 probation, the commissioner of the department of youth services, the colonel of state police and
114 the presidents of the Massachusetts District Attorneys Association, the Massachusetts Sheriffs'
115 Association and the Massachusetts Chiefs of Police Association, or their designees, all of whom
116 shall serve ex officio, and 5 persons to be appointed by the governor, 1 of whom shall represent
117 private users of criminal offender record information, 1 of whom shall be a victim of crime, 1 of
118 whom shall have experience in the areas of workforce development or ex-offender rehabilitation
119 and 2 of whom shall be persons who have experience in issues relating to personal privacy. Each
120 appointed member shall serve for a term of 3 years or until a successor is appointed and
121 qualified, whichever is longer.

122 The chairperson shall hold regular meetings, 1 of which shall be an annual meeting and
123 shall notify all board members of the time and place of all meetings. Special meetings may be
124 called at any time by a majority of the board members and shall be called by the chairman upon
125 written application of 9 or more members. Members of the board shall receive no compensation,
126 but shall receive their expenses actually and necessarily incurred in the discharge of their duties.

127 The board may hear complaints and investigate any incidents alleging that an individual
128 or agency that has requested or received criminal offender record information has failed to
129 provide the subject with the criminal offender record information in his possession prior to
130 questioning the individual about his criminal history in connection with a decision regarding
131 employment, volunteer opportunities, housing or professional licensing or in connection with an
132 adverse decision on such an application on the basis of the criminal offender record
133 information. The board shall also have the authority to hear complaints and investigate any
134 incidents alleging any other violation of sections 168 through 178A of this chapter or board rules
135 and regulations. The board may charge and collect a fee as a condition for filing a complaint,
136 which fee may be waived upon a finding of indigency. Any complaint filed with the board shall
137 be supported by a written declaration by the complainant that it is made under the penalties of
138 perjury. Any answer filed by a responding party shall be signed under the penalties of perjury by
139 an individual with personal knowledge of its contents. In conducting investigations or hearings
140 the board or department staff designated by the board shall have the power to summons
141 witnesses, compel their attendance and testimony, require the production of books, records and
142 documents, administer oaths and have access to all criminal offender record information. The
143 chairperson of the board may appoint a member, panel of 3 board members or a hearing officer
144 to conduct hearings, according to the standard rules of adjudicatory procedure or other rules

145 which the department may promulgate, upon advice of the board. Following review of a
146 complaint by a member, panel or hearing officer, the board, by a vote of two-thirds of the
147 members present and voting, shall issue a ruling as to the findings of the board. In accordance
148 with its findings the board may issue orders and sanctions enforcing its rules and regulations and
149 the General Laws, including but not limited to a remand for additional fact finding, the
150 imposition of civil fines payable to the commonwealth not to exceed \$5,000 for each violation,
151 conditions on continued access to criminal offender record information or revocation of access;
152 provided, however, that the board shall not issue any orders, sanctions or fines against a law
153 enforcement officer who, in good faith, obtains or seeks to obtain, or communicates or seeks to
154 communicate criminal offender record information in the furtherance of the officer's official
155 duties. The board may at any time refer a complaint for criminal prosecution under section 178
156 of this chapter.

157 The board shall make an annual report of the volume and disposition of complaints
158 without identifying data on any complainant or other information that would include criminal
159 offender record information relative to any person reviewed by the board to the governor and file
160 a copy thereof with the state secretary, the attorney general, the clerk of the house of
161 representatives and the clerk of the senate. The annual report shall also be available to the public
162 upon request.

163 SECTION 12. Section 171 of said chapter 6, as so appearing, is hereby amended by
164 striking out, in lines 3 to 7, inclusive, the words "(b) assuring the prompt and complete purging
165 of criminal offender record information, insofar as such purging is required by any statute or
166 administrative regulation, by the order of any court of competent jurisdiction, or to correct any

167 errors shown to exist in such information; and (c) ” and inserting in place thereof the following:-
168 “ ;and (b)”

169 SECTION 13. Said section 171 of said chapter 6, as so appearing, is hereby further
170 amended by striking out, in lines 35-48, the words “Any individual aggrieved by an agency’s
171 decision denying access to evaluative information may appeal the denial in writing within thirty
172 days thereafter to the board or to a three member panel thereof, as the board may determine, and
173 the board or such panel or any court under section one hundred and seventy-seven shall have
174 access to any certificate. The adoption of such regulations by each criminal justice agency shall
175 be subject to the approval of the board, and shall be promulgated within time limits set by the
176 board. If any criminal justice agency holding evaluative information fails to promulgate such
177 regulations, then the board shall promulgate such regulations with respect to that criminal justice
178 agency. Evaluative information shall be subject to the provisions of section one hundred and
179 seventy-two and section one hundred and seventy-eight, as if such information was criminal
180 offender record information.”

181 SECTION 14. Said chapter 6, as so appearing, is hereby further amended by inserting
182 after section 171 the following section:-

183 Section 171A. In connection with any decision regarding employment, volunteer
184 opportunities, housing or professional licensing, a person in possession of an applicant’s criminal
185 offender record information shall provide the applicant with the criminal history record in the
186 person’s possession, whether obtained from the department or any other source prior to
187 questioning the applicant about his criminal history. If the person makes a decision adverse to
188 the applicant on the basis of his criminal history, the person shall also provide the applicant with

189 the criminal history record in the person’s possession, whether obtained from the department or
190 any other source; provided, however, that if the person has provided the applicant with a copy of
191 his criminal offender record information prior to questioning the person is not required to
192 provide the information a second time in connection with an adverse decision based on this
193 information. Failure to provide such criminal history information to the individual in accordance
194 with this section may subject the offending person to investigation, hearing and sanctions by the
195 board. Nothing in this section shall be construed to prohibit a person from making an adverse
196 decision on the basis of an individual’s criminal history or to provide or permit a claim of an
197 unlawful practice under chapter 151B or an independent cause of action in a court of civil
198 jurisdiction for a claim arising out of an adverse decision based on criminal history except as
199 otherwise provided under chapter 151B.

200 A person who annually conducts 5 or more criminal background investigations, whether
201 criminal offender record information is obtained from the department or any other source, shall
202 maintain a written criminal offender record information policy providing that, in addition to any
203 obligations required by the commissioner by regulation, it will: (i) notify the individual of the
204 potential adverse decision based on the criminal offender record information; (ii) provide a copy
205 of the criminal offender record information and the policy to the individual; and (iii) provide
206 information concerning the process for correcting a criminal record.

207 SECTION 15. Section 172 of said chapter 6, as so appearing, is hereby amended by
208 inserting after the word “privacy”, in lines 14 and 40, the following words, in each instance:-
209 and the importance and value of successful reintegration of ex-offenders.

210 SECTION 16. Said chapter 6, as so appearing, is hereby further amended by striking out
211 section 172 and inserting in its place thereof the following section:-

212 Section 172. (a) The department shall maintain criminal offender record information in a
213 database, which shall exist in an electronic format and be accessible via the world wide web.

214 Except as provided otherwise in this chapter, access to the database shall be limited as follows:

215 (1) Criminal justice agencies may obtain all criminal offender record information,
216 including sealed records, for the actual performance of their criminal justice duties. Licensing
217 authorities, as defined in section 121 of chapter 140, may obtain all criminal offender record
218 information, including sealed records, for the purpose of firearms licensing in accordance with
219 sections 121 to 131P, inclusive, of chapter 140. The criminal record review board may obtain all
220 criminal offender record information, including sealed records, for the actual performance of its
221 duties.

222 (2) Requestors authorized or required by statute, regulation or accreditation requirement
223 to obtain criminal offender record information other than that available under subsection (a)(3)
224 may obtain such information to the extent and for the purposes authorized by said statute,
225 regulation or accreditation requirement.

226 (3) Requestors and their agents may obtain criminal offender record information for any
227 of the following purposes: (a) to evaluate current and prospective employees including full-time,
228 part-time, contract, internship employees or volunteers; (b) to evaluate applicants for rental or
229 lease of housing; (c) to evaluate volunteers for services; and (d) to evaluate applicants for
230 professional licensure issued by a state or municipal entity. Criminal offender record
231 information made available under this section shall be limited to the following: (i) felony

232 convictions for 10 years following their disposition, including termination of any period of
233 incarceration or custody as defined in section 1 of chapter 125, (ii) misdemeanor convictions for
234 5 years following their disposition, including termination any period of incarceration or custody
235 as defined in section 1 of chapter 125, and (iii) pending criminal charges, which shall include
236 cases that have been continued without a finding until such time as the case is dismissed pursuant
237 to section 18 of chapter 278 ; provided, however, that prior misdemeanor and felony conviction
238 records shall be available for the entire period that the subject's last available conviction record
239 is available under this section 172; and provided further that a violation of section 7 of chapter
240 209A shall be treated as a felony for purposes of this section.

241 (4) Any member of the general public may upon written request to the department and in
242 accordance with regulations established by the department obtain the following criminal offender
243 record information: (i) convictions for any felony punishable by a term of imprisonment of 5
244 years or more; (ii) information concerning an individual who has been convicted of any crime
245 and sentenced to any term of imprisonment, and at the time of the request: is serving a sentence
246 of probation or incarceration, or is under the custody of the parole board; (iii) felony convictions
247 for 2 years following their disposition, including any period of incarceration or custody as
248 defined in section 1 of chapter 125; and (iv) misdemeanor convictions for 1 year following their
249 disposition, including any period of incarceration or custody as defined in section 1 of chapter
250 125.

251 (5) Subjects who seek to obtain their own criminal offender record information, or an
252 advocate or agent designated by the subject, may obtain all criminal offender record information
253 pertaining to the subject under section 175 of this chapter.

254 (6) The commissioner may provide access to criminal offender record information to
255 persons other than those entitled to obtain access under subsections (1) through (5) above if the
256 commissioner finds that such dissemination to such requestor serves the public interest. Upon
257 such a finding, the commissioner shall also determine the extent of access to criminal offender
258 record information necessary to sustain the public interest. The commissioner shall make an
259 annual report to the governor and file a copy thereof with the state secretary, the attorney
260 general, the clerk of the house of representatives and the clerk of the senate documenting access
261 provided under this subsection. The annual report shall be available to the public upon request.

262 (7) The department shall configure the database to allow for the exchange, dissemination,
263 distribution and direct connection of the criminal record information system to criminal record
264 information systems in other states and relevant federal agencies including the Federal Bureau of
265 Investigation and Immigration and Customs Enforcement that utilize fingerprint or iris scanning
266 and similar databases.

267 (b) Notwithstanding the foregoing, convictions for murder, voluntary manslaughter,
268 involuntary manslaughter, and sex offenses as defined in section 178C of chapter 6 that are
269 punishable by a term of incarceration in state prison will remain in the database permanently and
270 shall be available to all requestors listed in subsections (a)(1) through (a)(3) unless sealed under
271 section 100A of chapter 276.

272 (c) The department shall specify the information that requestors must provide to query
273 the database, including, but not limited to, the subject's name, date of birth and the last four
274 digits of the subject's social security number; provided, however, that a member of the public
275 accessing information under subsection (a)(4) shall not be required to provide the last four digits

276 of the subject's social security number. To obtain criminal offender record information
277 concerning a subject under subsection (a)(2) or (a)(3), the requestor must certify under the
278 penalties of perjury that the requestor is an authorized designee of a qualifying entity, that the
279 request is for a purpose authorized under subsection (a)(2) or (a)(3), and that the subject has
280 signed an acknowledgement form authorizing the requestor to obtain the subject's criminal
281 offender record information. The requestor must also certify that he has verified the identity of
282 the subject by reviewing a form of government-issued identification. Each requestor shall
283 maintain acknowledgement forms for a period of one year from the date the request is
284 submitted. Such forms shall be subject to audit by the department. The department may establish
285 rules or regulations imposing other requirements or affirmative obligations upon requestors as a
286 condition of obtaining access to the database.

287 In connection with any decision regarding employment, volunteer opportunities, housing
288 or professional licensing, a person in possession of an applicant's criminal offender record
289 information shall provide the applicant with the criminal history record in the person's
290 possession, whether obtained from the department or any other source, (a) prior to questioning
291 the applicant about his criminal history and (b) if the person makes a decision adverse to the
292 applicant on the basis of his criminal history; provided, however, that if the person has provided
293 the applicant with a copy of his criminal offender record information prior to questioning the
294 person is not required to provide the information a second time in connection with an adverse
295 decision based on this information. Failure to provide such criminal history information to the
296 individual in accordance with this section may subject the offending person to investigation,
297 hearing and sanctions by the board.

298 Except as authorized by this section, it shall be unlawful to request or require a person to
299 provide a copy of his criminal offender record information. Violation of this subsection is
300 punishable by the penalties set forth in section 178.

301 No employer or person relying on volunteers shall be liable for negligent hiring practices
302 by reason of relying solely on criminal offender record information received from the
303 department and not performing additional criminal history background checks, unless required to
304 do so by law, provided that the employer made an employment decision within 90 days of
305 obtaining the criminal offender record information and maintained and followed policies and
306 procedures for verification of the subject's identifying information consistent with the
307 requirements set forth in this section and in the department's regulations.

308 No employer shall be liable for discriminatory employment practices for the failure to
309 hire a person on the basis of criminal offender record information that contains erroneous
310 information requested and received from the department, if the employer would not have been
311 liable if the information had been accurate, provided that the employer made an employment
312 decision within 90 days of obtaining the criminal offender record information and maintained
313 and followed policies and procedures for verification of the individual's information consistent
314 with the requirements set forth in this section and the department's regulations.

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

319 (d) Requestors shall not disseminate criminal offender record information except (1)
320 upon request by a subject, a requestor shall provide criminal offender record information
321 received from the department to the subject to whom it pertains; (2) requestors may share
322 criminal offender record information with individuals within the requesting entity that have a
323 need to know the contents of the criminal offender record information to serve the purpose for
324 which the information was obtained; and (3) upon request, requestors shall share criminal
325 offender record information with the government entities charged with overseeing, supervising,
326 or regulating them. Requestors shall maintain a secondary dissemination log for a period of one
327 year following the dissemination of a subject's criminal offender record information. The log
328 shall include the following information: (i) name of subject; (ii) date of birth of the subject; (iii)
329 date of the dissemination; (iv) name of person to whom it was disseminated; and (v) the purpose
330 for the dissemination. The secondary dissemination log shall be subject to audit by the
331 department.

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

336 (e) The department shall maintain a log of all queries that shall indicate the name of the
337 requestor, the name of the subject, the date of the query, and the certified purpose of the
338 query. A self-audit may be requested for no fee once every 90 days. The commissioner may
339 impose a fee in an amount as determined by the secretary of public safety and security, for self-
340 audit requests made more than once every 90 days. Upon request, the commissioner may
341 transmit the self-audit electronically. Further, if funding is available and technology reasonably

342 allows, the department shall establish a mechanism that will notify a subject, or an advocate or
343 agent designated by the subject, by electronic mail or other communication mechanism
344 whenever a query is made regarding the subject. The self-audit log shall not be considered a
345 public record.

346 (f) Notwithstanding the provisions of this section, the motor vehicle insurance merit
347 rating board may disseminate information concerning convictions of automobile law violations
348 as defined in section 1 of chapter 90C, or information concerning a charge of operating a motor
349 vehicle while under the influence of intoxicating liquor that results in assignment to a driver
350 alcohol program as described in section 24D of chapter 90, directly or indirectly, to an insurance
351 company doing motor vehicle insurance business within the commonwealth, or to such insurance
352 company's agents, independent contractors or policyholders to be used exclusively for motor
353 vehicle insurance purposes.

354 (g) Notwithstanding any other provisions of this section, information indicating custody
355 status and placement within the correction system shall be available to any person upon request;
356 provided, however that no information shall be disclosed that identifies family members, friends,
357 medical or psychological history, or any other personal information unless such information is
358 directly relevant to such release or custody placement decision, and no information shall be
359 provided if its release would violate any other provisions of state or federal law.

360 (h) The parole board, subject to sections 130 and 154 of chapter 127, the department of
361 correction, a county correctional authority or a probation officer with the approval of a justice of
362 the appropriate division of the trial court may, in its discretion, make available a summary, which
363 may include references to criminal offender record information or evaluative information,

364 concerning a decision to release an individual on a permanent or temporary basis, to deny such
365 release, or to change the individual's custody status.

366 (i) Notwithstanding any other provision of this section or any other general or special
367 law to the contrary, members of the public who are in fear of an offender may obtain from the
368 department advance notification of the temporary or permanent release of an offender from
369 custody, including but not limited to expiration of a sentence, furlough, parole, work release or
370 educational release. An individual seeking access to advance notification shall verify by a
371 written declaration under the penalties of perjury that the individual is in fear of the offender and
372 that advance notification is warranted for physical safety reasons.

373 (j) Any individual or agency, public or private, that receives or obtains criminal offender
374 record information from any source in violation of sections 168 through 175 of this chapter,
375 whether directly or through any intermediary, shall not collect, store, disseminate, or use such
376 criminal offender record information in any manner or for any purpose.

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

382 (l) The commissioner, upon the advice of the board, may promulgate rules and
383 regulations to carry out the provisions of this section.

384 SECTION 17. Said chapter 6, as so appearing, is hereby further amended by striking out
385 section 172A and inserting in place thereof the following section:-

386 Section 172A. The commissioner shall assess a fee for each request for criminal offender
387 record information or self-audit, according to a fee structure established by the secretary of
388 public safety and security. No fee shall be assessed for a request made by a victim of crime or a
389 witness or a family member of a homicide victim, all as defined in section 1 of chapter 258B, or
390 for a request made by any local, state or federal government entity. The commissioner shall
391 waive the fee or a portion of the fee from such other persons as provided in the department's
392 rules and regulations. The department is authorized to enter into contracts and agreements for
393 reduced or bulk fees for requestors who make extensive use of the database.

394 The department shall be authorized, subject to appropriation, to retain a portion of the
395 revenues received by the commonwealth under this section for the following purposes: to assist
396 ex-offenders in obtaining and maintaining employment, including but not limited to, workforce
397 development training and other applicable training programs, training and auditing requestors
398 described in subsection (a) of section 172, providing education and assistance regarding the
399 correction of criminal records, including but not limited to, training judges, providing the
400 necessary information to employers and other applicable person in possession of an applicant's
401 criminal offender record information, and to operate and maintain the public safety information
402 system and the criminal records review board.

403 SECTION 17A. Said chapter 6, as so appearing, is hereby further amended by inserting
404 after section 172B the following section:-

405 Section 172B 1/2. Municipalities may, by local ordinance, require applicants for licenses
406 in specified occupations to submit a full set of fingerprints for the purpose of conducting a state
407 and national criminal history records check pursuant to sections 168 and 172 and 28 U.S.C.

408 §534. Fingerprint submissions may be submitted by the licensing authority to the identification
409 unit within the department of state police through the criminal history systems board for a state
410 criminal records check and to the Federal Bureau of Investigation for a national criminal records
411 check.

412 Municipalities may, by local ordinance, establish the appropriate fee charged to
413 applicants for administering a fingerprinting system. For the purposes of section 2LLL of chapter
414 29, \$30 of the fee shall be deposited into the Firearms Fingerprint Identity Verification Trust
415 Fund and the remainder of the fee may be retained by the licensing authority for costs associated
416 with the administration of the system

417 SECTION 18. Said chapter 6 is hereby further amended by striking out section 172E, as
418 so appearing, and inserting in place thereof the following section:-

419 Section 172E. Notwithstanding section 172 to the contrary, criminal offender record
420 information shall be available to a long term care facility, as defined in section 72W of chapter
421 111, an assisted living residence as defined in section 1 of chapter 19D, and to any continuing
422 care facility as defined in section of chapter 40D, for the purpose of evaluating applicants under
423 final consideration as, or an individual currently working as, an employee, a volunteer or a
424 provider of care, treatment, education, training, transportation, delivery of meals, instruction,
425 counseling, supervision, recreation or other services for an elderly or disabled person or for the
426 purpose of evaluating applicants under final consideration for, or an individual currently working
427 as, m who will have any direct or indirect contact with such elderly or disabled persons or access
428 to such persons' personal information. Any such long-term care facility, assisted living
429 residence or continuing care facility shall obtain all available criminal offender record

430 information from the department on such applicant or current staff member. A long-term care
431 facility, assisted living residence or continuing care facility which obtains information under this
432 section shall prohibit the dissemination of such information of such information for any purpose
433 other than to further the protection of the elderly or the disabled, including, but not limited to,
434 dissemination among and between long term care facility, assisted living residence or continuing
435 care facility.

436 A long-term care facility, assisted living residence or continuing care facility may employ
437 an individual for a position that involves the provision of direct personal care or treatment to
438 residents of such facility on a conditional basis prior to receiving the results of such individual's
439 criminal offender record check from the criminal history systems board. No long-term care
440 facility, assisted living residence or continuing care facility shall be liable for civil damages to
441 any individual so conditionally employed and subsequently discharged by reason of information
442 received as a result of a criminal offender record information check completed pursuant to this
443 section.

444 The criminal history systems board may waive or reduce the fee assessable pursuant to
445 section 172A for criminal offender record information made available pursuant to this section.

446 Notwithstanding any general or special law to the contrary, the division of medical
447 assistance shall, subject to appropriation, reimburse long-term care facilities, assisted living
448 residences or continuing care facilities for the portion of the costs associated with obtaining
449 criminal offender record information on employees pursuant to this section.

450 SECTION 19. The second paragraph of said section 172E of said chapter 6, as appearing
451 in section 18, is hereby amended by striking out the words ‘for a position that involves the
452 provision of direct personal care or treatment to residents of such facility’.

453 SECTION 20. Section 172H of said chapter 6, as so appearing, is hereby amended by
454 striking out, in line 4, the words “that accepts volunteers,”.

455 SECTION 21. Said section 172H of said chapter 6, as so appearing, is hereby further
456 amended by striking out, in line 6, the words “a volunteer” and inserting in place thereof the
457 following words:- an employee, volunteer, vendor or contractor.

458 SECTION 22. Said chapter 6, as so appearing, is hereby amended by inserting after
459 section 172J the following 2 sections:-

460 Section 172K. Notwithstanding section 172 or any other general or special law to the
461 contrary, housing authorities operating pursuant to chapter 121B may obtain from the department
462 conviction and pending criminal offender record information for the sole purpose of evaluating
463 applications for housing owned by such housing authority, in order to further the protection and
464 well-being of tenants of such housing authorities.

465 Section 172L. Notwithstanding section 172 or any other general or special law to the
466 contrary, the Massachusetts department of telecommunications and energy may obtain from the
467 department all available criminal offender record information for the purpose of screening
468 applicants for motor bus driver certificates and applicants who regularly transport school age
469 children or students under chapter 766 in the course of their job duties. The Massachusetts
470 department of telecommunications and energy shall not disseminate such information for any
471 purpose other than to further the protection of children.

SECTION 23. Section 173 of said

472 chapter 6, as so appearing, is hereby amended by striking out, in line 1, the words “The board”,
473 and inserting in place thereof the following words:- The commissioner may approve research
474 programs to obtain criminal offender record information, provided that research programs shall
475 not publish any information that either identifies or tends to identify the subject of the criminal
476 offender record information, and the commissioner

477 SECTION 24. Said section 173 of said chapter 6, as so appearing, is hereby further
478 amended by striking out, in lines 7, 9 and 10 the word “board”, and inserting in place thereof, in
479 each instance, the following word:- commissioner.

480 SECTION 25. Said chapter 6, as so appearing, is hereby further amended by striking out
481 section 175 and inserting in place thereof the following section:-

482 Section 175. A subject shall have the right to inspect, and if practicable, obtain a copy of
483 all criminal offender record information that refers to the subject. The commissioner shall
484 publish and furnish, upon request, guidelines for individuals on how to correct inaccurate or
485 incomplete information. Subject to appropriation, the department shall provide assistance to
486 individuals that have requested assistance to correct inaccurate or incomplete criminal offender
487 record information. Such assistance shall include but not be limited to cooperation with
488 appropriate entities to correct, modify or appropriately supplement criminal offender record
489 information that has been determined to be inaccurate or incomplete. If criminal offender record
490 information is corrected by the office of the commissioner of probation or the courts, any
491 corrections made by such commissioner or court shall be transmitted forthwith to the department
492 and the department’s database shall reflect the corrected criminal offender record information.

493 Requestors shall prescribe reasonable hours and places for subjects to inspect their
494 criminal offender record information under subsection (d)(1) of section 172 and shall impose
495 such additional restrictions as are reasonably necessary both to ensure the record's security and
496 to verify the identities of those who seek to inspect them.

497 SECTION 26. Said chapter 6 is hereby further amended by striking out section 178, as
498 so appearing, and inserting in place thereof the following 2 sections:-

499 Section 178. Any person who knowingly requests, obtains or attempts to obtain criminal
500 offender record information or a self-audit from the department under false pretenses, knowingly
501 communicates or attempts to communicate criminal offender record information to any person
502 except in accordance with the provisions of sections 168 through 175, or knowingly falsifies
503 criminal offender record information, or any records relating thereto, or who requests or requires
504 a person to provide a copy of his or her criminal offender record information except as
505 authorized under section 172, shall for each offense be imprisoned in a jail or house of correction
506 for not more than one year or fined not more than \$5,000 or both, and in the case of a person that
507 is not a natural person, the amount of the fine may be not more than \$50,000 for each violation.

508 Any person who knowingly requests, obtains or attempts to obtain juvenile delinquency
509 records from the department under false pretenses, knowingly communicates or seeks to
510 communicate juvenile criminal records to any person except in accordance with the provisions of
511 sections 168 through 175, or knowingly falsifies juvenile criminal records, shall for each offense
512 be imprisoned in a jail or house of correction for not more than 1 year or fined not more than
513 \$7,500, or both, and in the case of a person that is not a natural person entity, the amount of the
514 fine may be not more than \$75,000 for each violation.

515 This section shall not apply to, and no prosecution shall be brought against, a law
516 enforcement officer who, in good faith, obtains or seeks to obtain or communicates or seeks to
517 communicate criminal offender record information in the furtherance of his or her official duties.

518 Section 178 ½. Whoever uses criminal offender record information to commit a crime
519 against the subject of the criminal offender record information or to engage in harassment of the
520 subject, shall be punished by a fine of not more than \$5,000 or imprisoned in a jail or house of
521 correction for not more than 1 year, or both. For purposes of this section, "harassment" shall
522 mean willfully and maliciously engaging in conduct or acts directed at a specific person, which
523 seriously alarms that person and would cause a reasonable person to suffer emotional distress.

524 SECTION 27. Said chapter 6 is hereby further amended by striking out section 178A, as
525 so appearing, and inserting in place thereof the following section:-

526 Section 178A. A victim of crime, witness, or family member of a homicide victim, all as
527 defined by section 1 of chapter 258B, may obtain all available criminal offender record
528 information of the offender. Criminal justice agencies may also disclose to such persons such
529 additional information, including but not limited to evaluative information, as such agencies
530 determine is reasonably necessary for the security and well being of such persons.

531 SECTION 27A. Section 178F of chapter 6, as so appearing, is hereby amended by
532 striking out, in lines 14 to 15, the words "A sex offender who lists a homeless shelter as his
533 residence shall verify registration data every 45 days" and inserting in place thereof the
534 following words: - A homeless sex offender shall verify registration data every 30 days.

535 SECTION 27B. Section 178F½ of chapter 6, as so appearing, is hereby amended by
536 striking out, in lines 14 to 15, the words "Such sex offender who lists a homeless shelter as his

537 residence shall appear in person at such local police department every 45 days” and inserting in
538 place thereof the following words: - A homeless sex offender shall appear in person at such local
539 police department every 30 days.

540 SECTION 27C. Chapter 6, as so appearing, is hereby amended by inserting, after section
541 178F½, the following section:-

542 Section 178F¾. A homeless sex offender shall wear a global positioning system device,
543 or any comparable device, administered by the commissioner of probation.

544 SECTION 28. Section 178K of said chapter 6, as so appearing, is hereby amended by
545 striking out, in lines 1 to2, the words “in the criminal history systems board, but not subject to its
546 jurisdiction”, and inserting in place thereof the following words:- in the executive office of
547 public safety and security.

548 SECTION 28A. Section 178Q of said chapter 6, as so appearing, is hereby amended by
549 striking out, in line 2, the figure “75” and inserting in place thereof the following figure:- 100.

550 SECTION 28B. The second paragraph of said section 178Q, as so appearing, is hereby
551 amended by striking out the first 2 sentences and inserting in place thereof the following
552 sentence:- The sex offender registry board shall establish a payment plan for an offender who is
553 unable to pay the registration fee due to hardship on the offender or the family thereof due to
554 limited income, employment status or any other relevant factor.

555 SECTION 29. Chapter 6A of the General Laws, as so appearing, is hereby amended by
556 striking out section 18 and inserting in place thereof the following section:-

557 Section 18. The following state agencies are hereby declared to be within the executive
558 office of public safety and security: the department of public safety; the department of fire
559 services; the office of grants and research and the highway safety division; the municipal police
560 training committee; the Massachusetts department of criminal justice information services; the
561 state 911 department; the department of state police; the office of the chief medical examiner; the
562 Massachusetts emergency management agency; the military department; the department of
563 correction, including the parole board; the sex offender registry board; and all other agencies and
564 boards within said departments, committees, and boards.

565 SECTION 30. Section 5 of chapter 27 of the General Laws, as so appearing, is hereby
566 amended by adding the following sentence:- The parole board shall administer and oversee
567 mandatory post-release supervision functions as set forth in section 133D(a) of chapter 127 and
568 in chapter 127A.

569 SECTION 31. Chapter 30A of the General Laws, as so appearing, is hereby amended by
570 inserting after section 1C the following section:- Section 1D. The criminal record review board
571 shall be subject to sections 1 through 8, inclusive, and shall not otherwise be subject to this
572 chapter.

573 SECTION 32. Section 52 of chapter 93 of the General Laws, as so appearing, is hereby
574 amended by inserting after the word “more;”, in line 21, the following word:- or.

575 SECTION 33. Said section 52 of said chapter 93, as so appearing, is hereby further
576 amended by striking out, in lines 24 to 27, inclusive, the words “; or (3) the employment of any
577 individual at annual salary which equals or which may reasonably be expected to equal twenty
578 thousand dollars or more”.

579 SECTION 34. Section 32 of chapter 94C of the General Laws, as so appearing, is
580 hereby amended by adding the following subsection:-

581 (c) Any person serving a mandatory minimum sentence for violating any provision of this
582 section shall be eligible for parole after serving two-thirds of the minimum term of the sentence
583 if the sentence is to a state prison or after serving one-half of the maximum term of the sentence
584 if the sentence is to a house of correction; provided, however, that a condition of such parole
585 may be enhanced supervision; and provided further, that enhanced supervision may include, but
586 not be limited to, the wearing of a global positioning satellite tracking device or any comparable
587 device which shall be administered by the board at all times for the length of the parole.

588 SECTION 35. Section 32A of said chapter 94C, as so appearing, is hereby amended by
589 adding the following subsection:-

590 (e) Any person serving a mandatory minimum sentence for violating any provision of this
591 section shall be eligible for parole after serving two-thirds of the minimum term of the sentence
592 if the sentence is to a state prison or after serving one-half of the maximum term of the sentence
593 if the sentence is to a house of correction; provided, however, that a condition of such parole
594 may be enhanced supervision; and provided further, that enhanced supervision may include, but
595 not be limited to, the wearing of a global positioning satellite tracking device or any comparable
596 device which shall be administered by the board at all times for the length of the parole.

597 SECTION 36. Section 32B of said chapter 94C, as so appearing, is hereby amended by
598 adding the following subsection:-

599 (c) Any person serving a mandatory minimum sentence for violating any provision of this
600 section shall be eligible for parole after serving two-thirds of the minimum term of the sentence

601 if the sentence is to a state prison or after serving one-half of the maximum term of the sentence
602 if the sentence is to a house of correction; provided, however, that a condition of such parole
603 may be enhanced supervision; and provided further, that enhanced supervision may include, but
604 not be limited to, the wearing of a global positioning satellite tracking device or any comparable
605 device which shall be administered by the board at all times for the length of the parole.

606 SECTION 37. Section 32E of said chapter 94C, as so appearing, is hereby amended by
607 adding the following subsection:-

608 (d) Any person serving a mandatory minimum sentence for violating any provision of
609 this section shall be eligible for parole after serving two-thirds of the minimum term of the
610 sentence if the sentence is to a state prison or after serving one-half of the maximum term of the
611 sentence if the sentence is to a house of correction; provided, however, that a condition of such
612 parole may be enhanced supervision; and provided further, that enhanced supervision may
613 include, but not be limited to, the wearing of a global positioning satellite tracking device or any
614 comparable device which shall be administered by the board at all times for the length of the
615 parole.

616 SECTION 38. Section 32F of said chapter 94C, as so appearing, is hereby amended by
617 adding the following subsection:-

618 (e) Any person serving a mandatory minimum sentence for violating any provision of this
619 section shall be eligible for parole after serving two-thirds of the minimum term of the sentence
620 if the sentence is to a state prison or after serving one-half of the maximum term of the sentence
621 if the sentence is to a house of correction; provided, however, that a condition of such parole
622 may be enhanced supervision; and provided further, that enhanced supervision may include, but

623 not be limited to, the wearing of a global positioning satellite tracking device or any comparable
624 device which shall be administered by the board at all times for the length of the parole.

625 SECTION 39. Section 32H of said chapter 94C, as so appearing, is hereby amended by
626 striking out the second paragraph and inserting in place thereof the following paragraph:-

627 A person convicted of violating any provisions of the sections shall not, until he shall
628 have served the mandatory minimum term of imprisonment established in the sections, be
629 eligible for probation, furlough or receive any deduction from his sentence for good conduct
630 under sections 129C and 129D of chapter 127; provided, however, that the commissioner of
631 correction, on the recommendation of the warden, superintendent or other person in charge of the
632 correctional institution, or a sheriff, on the recommendation of the administrator of a county
633 correctional institution, may grant to the offender a temporary release, subject to the rules and
634 regulations of the institution and under the direction, control and supervision of the officers
635 thereof, for the following purposes: (1) to attend the funeral of a relative, to visit a critically ill
636 relative, to obtain emergency medical or psychiatric services unavailable at said institution; (2) to
637 participate in education, training, or employment programs established under section 48 of
638 chapter 127; (3) to engage in employment pursuant to a work release program in accordance with
639 the provisions of sections 49, 49A, 86F and 86G of chapter 127; or (4) to participate in a
640 program to provide services under section 49B or 49C of chapter 127. Section 87 of chapter 276
641 shall not apply to any person, 17 years of age or over, charged with a violation of said sections,
642 or to any child between age 14 and 17, so charged by indictment under section 54 of chapter 119.

643 SECTION 40. Section 32J of said chapter 94C, as so appearing, is hereby amended by
644 adding the following paragraph:-

645 Any person serving a mandatory minimum sentence for violating any provision of this
646 section shall be eligible for parole after serving two-thirds of the minimum term of the sentence
647 if the sentence is to a state prison or after serving one-half of the maximum term of the sentence
648 if the sentence is to a house of correction; provided, however, that a condition of such parole
649 may be enhanced supervision; and provided further, that enhanced supervision may include, but
650 not be limited to, the wearing of a global positioning satellite tracking device or any comparable
651 device which shall be administered by the board at all times for the length of the parole.

652 SECTION 40A. The third paragraph of section 54 of chapter 119 of the General Laws,
653 as appearing in the 2008 Official Edition, is hereby amended by inserting after the words, “
654 “chapter two hundred and sixty-nine,” the following:- or the person has committed a violation of
655 section 13B of chapter 268.

656 SECTION 41. Section 14 of chapter 123A of the General Laws, as so appearing, is
657 hereby amended by striking out the first sentence and inserting in place thereof the following two
658 sentences:- The district attorney or the attorney general at the request of the district attorney may
659 petition the court for a trial. In any trial held pursuant to this section, either the person named in
660 the petition or the petitioning party may demand in writing that the case be tried to a jury, and
661 upon such demand the case shall be tried to a jury.

662 SECTION 42. Section 1 of chapter 125 of the General Laws, as so appearing, is hereby
663 amended by striking out subsections (g) to (p), inclusive, and inserting in place thereof the
664 following subsections:-

665 (g) “custody”, physical or constructive control of an inmate in a state or county
666 correctional facility;

- 667 (h) “department”, the department of correction;
- 668 (i) “gainful employment”, employment within or without any correctional facility
669 including but not limited to labor for the operation and maintenance of any correctional facility;
- 670 (j) “inmate”, a committed offender or such other person as is placed in custody in a
671 correctional facility in accordance with law;
- 672 (k) “institution”, facility;
- 673 (l) “penal institution”, correctional facility;
- 674 (m) “prison”, correctional facility;
- 675 (n) “prisoner”, a committed offender and such other person as is placed in custody in a
676 correctional facility in accordance with law;
- 677 (o) “state correctional facility”, any correctional facility owned, operated, administered or
678 subject to the control of the department of correction, including but not limited to: Massachusetts
679 Correctional Institution, Cedar Junction; Massachusetts Correctional Institution, Norfolk;
680 Massachusetts Correctional Institution, Concord; Massachusetts Correctional Institution,
681 Framingham; Massachusetts Correctional Institution, Bridgewater; Massachusetts Correctional
682 Institution, Plymouth; Massachusetts Correctional Institution, Warwick; Massachusetts
683 Correctional Institution, Monroe;
- 684 (p) “state prison”, Massachusetts Correctional Institution, Cedar Junction;
- 685 (q) “superintendent”, the chief administrative officer of a state correctional facility.

686 SECTION 43. Section 16 of chapter 126 of the General Laws, as so appearing, is hereby
687 amended by striking out the first sentence and inserting in place thereof the following sentence:-

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

692 SECTION 44. Chapter 127 of the General Laws, as so appearing, is hereby amended by
693 inserting after section 20A the following 2 sections:-

694 Section 20B. The sheriff of any county may establish a day reporting program under
695 which persons sentenced to the house of correction, except a sex offender as defined in section
696 178C of chapter 6, may be classified to constructive confinement. Such program shall include
697 electronic monitoring of prisoners classified to the day reporting program. Placement of an
698 individual in a day reporting program shall require victim notification as required under section
699 3(t) of Chapter 258B. Any inmate sentenced to such program shall agree in writing to conditions
700 set by the sheriff, who shall retain the right to revoke or alter such classification at will.

701 No prisoner shall be classified to a day reporting program under this section until he has
702 served the longest minimum mandatory sentence for any offense for which the prisoner is
703 serving within the house of correction to which he is committed.

704 A prisoner classified to the day reporting program as set forth in this section and who
705 abides by the conditions of said classification shall be credited time toward the serving of his
706 sentence in the same manner as though he had served such time within the facility.

707 Section 20C. The sheriff of any county and in the case of women who are committed as
708 pretrial detainees to the Massachusetts Correctional Institution at Framingham, the commissioner
709 of correction, subject to rules and regulations established in accordance with the provisions of
710 this section, may permit a detainee who is committed to a jail awaiting disposition of any
711 criminal matter, except those being held for offenses listed in this section, to be classified to a
712 pretrial diversion program operated by the sheriff's office in the county where the court that
713 committed the detainee is sitting; provided further, that the sheriff's office in the county where
714 the court that committed the detainee is sitting may prescribe a program administrative fee to be
715 paid by each sentenced inmate or pre-trial detainee participating in the program that shall be
716 determined according to the person's ability to pay, finances, household income, number of
717 dependents and medical status. The inability to pay all or a portion of the program fees shall not
718 preclude participation in the program and eligibility shall not be enhanced by reason of ability to
719 pay. For those deemed unable to pay, the sheriff's office shall agree to cover the cost for those
720 participants at a reduced and agreed upon rate with the electronic monitoring agency or entity..

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

726 For the duration of his participation in the program, the detainee shall be deemed to be in
727 custody as a pretrial detainee for the purpose of receiving credit pursuant to section 129B of
728 chapter 127 and section 33A of chapter 299 toward any sentence he may receive, and may be
729 charged with escape pursuant to section 16 of chapter 268 should he leave the place to which he

730 is classified to pursuant to his participation in the program without authorization or should they
731 escape from custody while they are being transported pursuant to their participation in the
732 program. Additionally for the duration of his participation in this program only, the detainee may
733 receive additional deductions from any sentence that may be imposed in the case he was
734 committed on, for participation in work, education, or treatment programs designated by the
735 sheriff pursuant to section 129D of chapter 127.

736 A detainee shall not be eligible to participate in this program if he is charged with:
737 murder; any offense that carries the possibility of a life sentence; a violation of section 13, 14,
738 15, 15A, 15B, 16, 17, 18, 18A, 19, 20, 21, 24B, 25, or 26 of chapter 265; section 17, 34 or 35 of
739 chapter 272; or an attempt to commit any crime referred to in these sections; or if he is detained
740 under subsection (3) of section 58A of chapter 276. No sex offender, or sexually dangerous
741 person as defined in section 1 of chapter 123A or any person who is charged with committing a
742 sexual offense as defined in said section 1 of said chapter 123A, or any person who who is
743 charged with violating section 24B of chapter 265. Placement of an individual in such program
744 shall require victim notification as required under subsection (t) of section 3 of chapter 258B.

745 SECTION 45. Section 21 of said chapter 127, as so appearing, is hereby amended by
746 inserting after the word “correction” in line 3 the following words:- to physical or constructive
747 confinement,.

748 SECTION 48. The General Laws, as appearing in the 2008 Official Edition, are hereby
749 amended by inserting after chapter 127 the following chapter:-

750 CHAPTER 127A

751 MANDATORY POST-RELEASE SUPERVISION

752 Section 1. All sentences of incarceration to state prison shall include a period of post-
753 release supervision, excluding sentences for those prisoners for whom parole eligibility is
754 determined by section 133A of chapter 127. Except as provided in this chapter, for individuals
755 who complete the incarceration portion of their sentences without supervised release or are re-
756 incarcerated for the remainder of the sentence for violating the terms of parole or probation, the
757 period of mandatory post-release supervision shall be 25 per cent of the maximum term of
758 incarceration imposed at sentencing up to a maximum period of supervision of 2 years, but in no
759 case less than 9 months. Where an individual is sentenced to incarceration on multiple offenses
760 to be served concurrently, the greater of the maximum terms imposed at sentencing shall be used
761 to calculate the mandatory post-release supervision period. Mandatory post-release supervision
762 as established in this chapter shall not be imposed upon any individual who successfully
763 completes a period of probation imposed by a court at sentencing, upon an individual who is
764 granted a parole permit under chapter 127 and successfully completes a period of parole
765 supervision, or upon an individual sentenced to lifetime community parole under section 45 of
766 chapter 265 or section 178H of chapter 6, being supervised under section 133D of chapter 127.
767 An individual subject to this chapter may be supervised in another jurisdiction in accordance
768 with sections 151A through 151N of chapter 127 and shall be considered on parole for the
769 purposes of supervision.

770 Section 2. Upon release, an individual sentenced to a term of incarceration in a state
771 prison for any length of time shall be subject to the supervision and jurisdiction of the parole
772 board during the period of mandatory post-release supervision and shall be subject to the law,
773 rules and regulations governing parole. The chairman of the parole board shall establish
774 regulations for post-release supervision consistent with applicable provisions of chapters 27 and

775 127. The regulations shall establish supervision levels based on risk-needs assessments, ranging
776 from minimum parole supervision for low-risk parolees to maximum parole supervision of high-
777 risk parolees, with a focus on reducing the risk posed by high-risk parolees. The regulations
778 shall include the use of graduated and intermediate sanctions as appropriate in response to non-
779 criminal violations of parole conditions and, in the discretion of the board, for low-level criminal
780 violations. The regulations shall also establish guidelines with specific benchmarks, which if
781 achieved by an individual shall reduce the period of time in which such individual is subject to
782 post-release supervision. Nothing in this section or in the regulations shall limit the authority of
783 the superior, municipal, district or juvenile court to impose conditions of probation supervision
784 to protect the public or promote the rehabilitation of any person.

785 Section 3. An individual subject to mandatory post-release supervision who has
786 successfully completed 6 months of supervision shall be eligible for early termination of that
787 supervision. Early termination shall only occur in accordance with procedures to be adopted in
788 the regulations of the parole board. In proceedings for early termination of mandatory post-
789 release supervision, the parole board's considerations shall include, but not be limited to, the
790 amount of time the individual has successfully spent under post-release supervision, efforts and
791 achievements in the areas of employment, housing, education, counseling, substance abuse
792 treatment and required testing programs, and any other circumstances that are relevant to the
793 individual case.

794 Section 4. An individual who violates a condition of mandatory post-release supervision
795 shall be subject to this section and to modification or revocation proceedings initiated by the
796 parole board. The laws and regulations governing parole violation proceedings shall govern these
797 modification or revocation proceedings. In all proceedings under this section, an individual who

798 violates a condition of mandatory post-release supervision and such violation does not otherwise
799 constitute a criminal offense may be placed under increased supervision, subjected to other
800 conditions and intermediate sanctions, or upon a determination that such alternative sanctions are
801 not appropriate, incarcerated as follows: Upon a first violation, the individual may be
802 incarcerated for a period no greater than 2 months or the maximum remaining period of
803 postincarceration supervision, whichever is less. Upon a second violation, the prisoner may be
804 incarcerated for a period no greater than 6 months or the maximum remaining period of
805 postincarceration supervision, whichever is less. Upon a third or subsequent violation the
806 prisoner, may be incarcerated for a period no greater than 12 months or the maximum remaining
807 period of postincarceration supervision, whichever is less. In all cases where the individual is
808 not being incarcerated for a violation, the individual shall be subject to the graduated sanctions
809 policy of the parole board. In the case of any violation for use of controlled substances or an
810 offense for operating under the influence of drugs or alcohol where the individual is not
811 incarcerated for the violation, the period of mandatory post-release supervision may be extended
812 to accommodate an appropriate substance abuse program, but the total shall not exceed the
813 maximum supervisory period permitted under section 1. For any violation of the conditions of
814 mandatory post-release supervision, the period of supervision shall be stayed during a period of
815 incarceration and it shall be resumed upon release. If the violation constitutes a criminal offense,
816 the period of incarceration shall be served on and after any sentence received as a result of the
817 new offense. Upon subsequent release, the greater of the maximum sentences of the original
818 offense and subsequent offense shall be used to calculate the new mandatory post-release
819 supervision period.

820 Section 5. Mandatory post-release supervision shall be considered stayed under the
821 following circumstances: (a) the individual is immediately committed to the custody of any other
822 state or of the United States to serve a period of incarceration less than the post-release
823 supervision period required under this chapter; (b) the individual is immediately committed to
824 the custody of the United States immigration authorities; or (c) the individual is committed
825 pursuant to an order of custody under chapter 123A.

826 Section 6. Mandatory post-release supervision shall be considered completed under the
827 following circumstances: (a) except as provided in sections 3 and 4, the individual serves a post-
828 release supervision period of 25 per cent of the maximum term of incarceration imposed at
829 sentencing up to a maximum period of supervision of 2 years, but in no case less than 9 months;
830 (b) the individual is granted early termination under section 3; (c) upon completion of the
831 sentence, the individual is immediately committed to the custody of any other state or of the
832 United States to serve a period of incarceration greater than or equal to the post-release
833 supervision period required under this chapter; or (d) upon completion of the sentence, the
834 individual is physically removed from the United States by immigration authorities for the
835 purpose of permanent deportation.

836 SECTION 48A. Section 130 of said chapter 127, as so appearing, is hereby amended by
837 striking out the first sentence and inserting in place thereof the following 3 sentences:— No
838 prisoner shall be granted a parole permit merely as a reward for good conduct but only if the
839 parole board is of the opinion that there is a reasonable probability that, if such prisoner is
840 released, in light of appropriate conditions and community supervision, he will live and remain
841 at liberty without violating the law and that his release is not incompatible with the welfare of
842 society. In making this determination, the board shall consider whether, during the period of

843 incarceration, the prisoner has participated in available work opportunities and education or
844 treatment programs, and demonstrated good behavior. The board shall also consider whether risk
845 reduction programs made available through collaboration with criminal justice agencies would
846 minimize the probability of the prisoner re-offending once released. In making this
847 determination, the board shall not consider the availability of post-release supervision as
848 authorized under chapter 127A

849 SECTION 49. Section 4 of chapter 151B of the General Laws, as so appearing, is hereby
850 amended by inserting, after paragraph (9), the following paragraph:-

851 (9 ½) For an employer to request on a written application form criminal offender record
852 information; provided, however, that if an applicant is applying for a position for which federal
853 or state laws or regulations create mandatory or presumptive disqualification based on certain
854 criminal offenses the employer may inquire about such offenses on the applicant's application
855 form.

856 SECTION 50. Section 21 of chapter 233 of the General Laws, as so appearing, is hereby
857 amended by inserting, at the end, the following paragraph:-

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

860 SECTION 50A. Chapter 265 of the General Laws is hereby amended by striking out
861 section 13I, as appearing in the 2008 Official Edition, and inserting in place thereof the
862 following section:-

863 Section 13I. Whoever commits an assault or an assault and battery on an emergency
864 medical technician, an ambulance operator, an ambulance attendant or a health care provider as
865 defined in section 1 of chapter 111, while the technician, operator, attendant or provider is
866 treating or transporting a person in the line of duty, shall be punished by imprisonment in the
867 house of correction for not less than 90 days nor more than 2 1/2 years or by a fine of not less
868 than \$500 nor more than \$5,000, or both.

869 SECTION 50B. Chapter 265 of the General Laws is hereby amended by adding the
870 following section:- Section 48. A sex offender, as defined by section 178C of chapter 6, who
871 engages in ice cream truck vending, as defined in section 25 of chapter 270, shall be punished by
872 imprisonment in the house of correction for not more than 2½ years or by a fine of \$1,000, or by
873 both such fine and imprisonment. A police officer or officer authorized to serve criminal process
874 may arrest, without a warrant, any person who he has probable cause to believe has violated this
875 section.

876 SECTION 51. Section 16 of chapter 268 of the General Laws, as so appearing, is hereby
877 amended by inserting after the word “branch,” in line 10, the following words:-

878 “or who, on any other form of constructive confinement, knowingly disables or attempts
879 to disable or defeat electronic monitoring of the prisoner,”.

880 SECTION 51A. Section 58A of chapter 276 of the General Laws, as so appearing, is
881 hereby amended by striking out subsection (1) and inserting in place thereof the following
882 subsection:- (1) The commonwealth may move, based on dangerousness, for an order of
883 pretrial detention or release on conditions for a felony offense that has as an element of the
884 offense the use, attempted use or threatened use of physical force against the person of another or

885 any other felony that, by its nature, involves a substantial risk that physical force against the
886 person of another may result, including the crimes of burglary and arson whether or not a person
887 has been placed at risk thereof, or a violation of an order pursuant to section 18, 34B or 34C of
888 chapter 208, section 32 of chapter 209, section 3, 4 or 5 of chapter 209 A or section 15 or 20 of
889 chapter 209C, or arrested and charged with a misdemeanor or felony involving abuse as defined
890 in section 1 of said chapter 209A or while an order of protection issued under said chapter 209A
891 was in effect against such person, an offense for which a mandatory minimum term of 3 years or
892 more is prescribed in chapter 94C, arrested and charged with a violation of section 13B of
893 chapter 268 or a third or subsequent conviction for a violation of section 24 of chapter 90, or
894 arrested and charged with a violation of paragraph (a), (c) or (m) of section 10 of chapter 269;
895 provided, however, that the commonwealth may not move for an order of detention under this
896 section based on possession of a large capacity feeding device without simultaneous possession
897 of a large capacity weapon; or arrested and charged with a violation of section 10G of said
898 chapter 269.’

899 SECTION 51B. Chapter 270 of the General Laws is hereby amended by adding the
900 following section:- Section 25. (a) For the purposes of this section, the following words shall
901 have the following meanings:- “Ice cream”, any frozen dairy or frozen water-based food
902 product. “Ice cream truck”, any motor vehicle used for selling, displaying or offering to
903 sell ice cream. “Ice cream truck vending”, the selling, displaying or offering to sell ice cream or
904 any other prepackaged food product from an ice cream truck. “Permitting authority”, the
905 chief of police or the board or officer having control of the police in a city or town, or person
906 authorized by them. (b) No person shall engage in ice cream truck vending unless he shall have
907 been issued a valid permit to do so by the permitting authority within the municipality wherein

908 the permit applicant lives or intends to operate an ice cream truck. Such permit shall be
909 conspicuously displayed and clearly visible on the windshield of any ice cream truck operated or
910 from which ice cream or any other prepackaged food product is sold. Whoever violates this
911 section shall be assessed a fine of \$500. Each day that such person is in operation in violation of
912 this section may be considered a separate violation. (c) The department of public safety shall
913 adopt regulations relative to the annual permitting of ice cream truck vendors. Such regulations
914 shall include, but not be limited to:

915 (i) a requirement that all applications for an ice cream truck vending permit or
916 applications for renewal thereof shall include the applicant's fingerprints and a current photo of
917 the applicant; (ii) adoption of a uniform permit application and permit form, to be used by all
918 municipalities; (iii) requiring that a permitting authority conduct an investigation into the
919 criminal history of a permit applicant to determine eligibility therefore; and (iv) restricting
920 a permitting authority from issuing an ice cream truck vending permit to any sex offender, as
921 defined by section 178C of chapter 6 of the General Laws.

922 SECTION 52. Section 100A of chapter 276 of the General Laws, as so appearing, is
923 hereby amended by striking the first paragraph and inserting in place thereof the following
924 paragraph:-

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

930 incarceration or custody as defined in section 1 of chapter 125 for any misdemeanor record to be
931 sealed occurred not less than 5 years before the request; (2) the person's court appearance and
932 court disposition records, including any period of incarceration or custody as defined in section 1
933 of chapter 125 for any felony record to be sealed occurred not less than 10 years before the
934 request; (3) the person had not been found guilty of any criminal offense within the
935 commonwealth in the case of a misdemeanor, 5 years before the request, and in the case of a
936 felony, 10 years before request, except motor vehicle offenses in which the penalty does not
937 exceed a fine of \$50 ; (4) the form includes a statement by the petitioner that he has not been
938 convicted of any criminal offense in any other state, United States possession or in a court of
939 federal jurisdiction, except such motor vehicle offenses, as aforesaid, and has not been
940 imprisoned in any state or county in the case of a misdemeanor, within the preceding 5 years,
941 and in the case of a felony, within the preceding 10 years; and (5) the person's record does not
942 include convictions of offenses other than those to which this section applies. This section shall
943 apply to court appearances and dispositions of all offenses; provided, however, that this section
944 shall not apply in case of convictions for violations of sections 121 to 131H, inclusive, of chapter
945 140 or for violations of chapter 268 or chapter 268A.

946 SECTION 58. Said section 100A of said chapter 276, as so appearing, is hereby further
947 amended by inserting, after line 40, the following words:-

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

949 6. Sex offenses, as defined in section 178C of chapter 6, shall not be eligible for sealing
950 for 15 years following their disposition, including termination of supervision, probation or any
951 period of incarceration, or for so long as the offender is under a duty to register in the

952 commonwealth or in any other state where the offender resides or would be under such a duty if
953 residing in the commonwealth, whichever is longer.

954 SECTION 59. Said section 100A of said chapter 276, as so appearing, is hereby further
955 amended by inserting after the word “proceedings”, in line 52, the following words:- “, and
956 except that in any proceedings under sections 1 to 39I, inclusive, of chapter 119, sections 2 to 5,
957 inclusive, of chapter 201, chapters 208, 209, 209A, 209B, 209C, or sections 1 to 11A, inclusive,
958 of chapter 210, a party having reasonable cause to believe that information in a sealed criminal
959 record of another party may be relevant to (1) an issue of custody or visitation of a child, (2)
960 abuse, as defined in section 1 of chapter 209A or (3) the safety of any person may upon motion
961 seek to introduce the sealed record into evidence. The judge shall first review such records in
962 camera and determine those records that are potentially relevant and admissible. The judge shall
963 then conduct a closed hearing on the admissibility of those records determined to be potentially
964 admissible; provided, however, that such records shall not be discussed in open court and, if
965 admitted, shall be impounded and made available only to the parties, their attorneys and court
966 personnel who have a demonstrated need to receive them.

967 SECTION 60. Section 100C of said chapter 276, as so appearing, is hereby amended by
968 striking out, in lines 11-12, the words “except in cases in which an order of probation has been
969 terminated.”.

970 SECTION 61. Said section 100C of said chapter 276, as so appearing, is hereby further
971 amended by inserting after the word “commissioner”, in line 29, the following words:- or the
972 clerk of courts in any district, superior, or the Boston municipal court.

973 SECTION 62. Chapter 276 of the General Laws, as so appearing, is hereby amended by
974 inserting after section 100C the following section:-

975 Section 100D. Notwithstanding any provision of section 100A, 100B, or 100C of this
976 chapter, criminal justice agencies as defined in section 167 of chapter 6 shall have immediate
977 access to, and be permitted to use as necessary for the performance of their criminal justice
978 duties, any sealed criminal offender record information as defined in section 167 of chapter 6 and
979 any sealed information concerning criminal offenses or acts of delinquency committed by any
980 person before he attained the age of 17.

981 SECTION 63. Section 34 of chapter 279 of the General Laws, as so appearing, is hereby
982 amended by inserting after the word “accordingly”, in line 5, the following words,- for the
983 duration of the sentence and within classification guidelines of the facility to which said convict
984 is committed.

985 SECTION 64. Notwithstanding any general or special law to the contrary, this section
986 shall facilitate the orderly transfer of the employees, proceedings, rules and regulations, property
987 and legal obligations of the criminal history systems board, as the transferor agency, to the
988 department of criminal justice information services, as the transferee agency, as follows:

989 (a) Subject to appropriation, the employees of the criminal history systems board,
990 including those who immediately before the effective date of this act hold permanent
991 appointment in positions classified under chapter 31 of the General Laws or have tenure in their
992 positions as provided by section 9A of chapter 30 of the General Laws or do not hold such
993 tenure, or hold confidential positions, are hereby transferred to the department of criminal justice
994 information services, without interruption of service within the meaning of said section 9A of

995 said chapter 31, without impairment of seniority, retirement or other rights of the employee, and
996 without reduction in compensation or salary grade, notwithstanding any change in title or duties
997 resulting from such reorganization, and without loss of accrued rights to holidays, sick leave,
998 vacation and benefits, and without change in union representation or certified collective
999 bargaining unit as certified by the state labor relations commission or in local union
1000 representation or affiliation. Any collective bargaining agreement in effect immediately before
1001 the transfer date shall continue in effect and the terms and conditions of employment therein
1002 shall continue as if the employees had not been so transferred. The reorganization shall not
1003 impair the civil service status of any such reassigned employee who immediately before the
1004 effective date of this act either holds a permanent appointment in a position classified under
1005 chapter 31 of the General Laws or has tenure in a position by reason of section 9A of chapter 30
1006 of the General Laws.

1007 Notwithstanding any general or special law to the contrary, all such employees shall
1008 continue to retain their right to collectively bargain pursuant to chapter 150E of the General
1009 Laws and shall be considered employees for the purposes of said chapter 150E.

1010 Nothing in this section shall be construed to confer upon any employee any right not held
1011 immediately before the date of said transfer, or to prohibit any reduction of salary grade, transfer,
1012 reassignment, suspension discharge layoff or abolition of position not prohibited before such
1013 date.

1014 (b) All petitions, requests, investigations and other proceedings appropriately and duly
1015 brought before or referred to the executive director of the criminal history systems board by the
1016 transferor agency and pending before the executive director before the effective date of this act,

1017 shall continue unabated and remain in force, but shall be assumed and completed by the
1018 department of criminal justice information services.

1019 (c) All orders, rules and regulations duly made and all approvals duly granted by the
1020 criminal history systems board, which are in force immediately before the effective date of this
1021 act, shall continue in force and shall thereafter be enforced by the department of criminal justice
1022 information systems, until superseded, revised, rescinded or canceled, in accordance with law.

1023 (d) All books, papers, records, documents, equipment, buildings, facilities, cash and
1024 other property, both personal and real, including all such property held in trust, which
1025 immediately before the effective date of this act are in the custody of the criminal history
1026 systems board shall be transferred to the department of criminal justice information services.

1027 (e) All duly existing contracts, leases and obligations of the criminal history systems
1028 board shall continue in effect but shall be assumed by the department of criminal justice
1029 information services. No existing right or remedy of any character shall be lost, impaired or
1030 affected by this act.

1031 SECTION 65. The department, in consultation with the information technology
1032 division, shall regularly report on its progress in building the information technology system
1033 necessary to fulfill the requirements established in subsection (a) of section 172 of chapter 6 of
1034 the General Laws, as amended by section 16 of this act. The department shall file such reports
1035 with the chairpersons of the joint committee on the judiciary, the joint committee on public
1036 safety and homeland security, the chairpersons of the house and senate committees on bonding,
1037 capital expenditures and state assets and the chairpersons of the house and senate committees on
1038 ways and means and shall post such reports on the department's publicly-accessible website. The

1039 department shall file such reports 6, 12, 15 and 18 months after this act is approved by the
1040 governor, and at 3-month intervals thereafter, if necessary, until the project is complete. Each
1041 report shall include a description of the progress made in the planning, design and construction
1042 of the system since the preceding report, and shall include a comparison of actual expenditures to
1043 budgeted expenditures and of budgeted timelines to actual timelines. Such report shall also
1044 include a certification whether the department expects the complete information technology
1045 system to be fully operational 18 months after this act is approved by the governor, as required in
1046 this act.

1047 SECTION 65A. The executive office of public safety, in conjunction with the
1048 department of public health, the trial court, the department of probation and the office of
1049 community correction, shall promulgate regulations establishing a resource guide for law
1050 enforcement personnel, sheriffs and judges on substance abuse treatment programs and options,
1051 including but not limited to, providing information on civil commitment programs, jail diversion
1052 and public and private treatment options, including the Massachusetts Alcohol and Substance
1053 Abuse Center, the Men’s Addiction Treatment Center and the Women’s Addiction Treatment
1054 Center. The Bureau of Substance Abuse Services shall provide technical assistance related to
1055 producing said resource guide.

1056 SECTION 66. Notwithstanding the provisions of sections 32, 32A, 32B, 32E, 32F, and
1057 32J of chapter 94C of the General Laws, or any other general or special law to the contrary, a
1058 person serving a mandatory minimum sentence for violating any provision of the above
1059 referenced sections as of the effective date of this act, shall be eligible for parole after serving
1060 two-thirds of the minimum term of the sentence if the sentence is to a state prison, or after
1061 serving one-half of the maximum term of the sentence if the sentence is to a house of correction.

1062 SECTION 66A. The executive office of public safety and security and the department of
1063 correction, in conjunction with the department of public health, shall adopt regulations to create a
1064 substance abuse education program in state prisons and houses of corrections. Such program
1065 shall focus on, but not be limited to, screening inmates for substance use disorders, preparing
1066 inmates with substance use disorders for reentry into the community, providing training relative
1067 to obtaining housing, employment and the necessary substance abuse treatment once an inmate is
1068 released.

1069 SECTION 66B. The department of probation, in conjunction with the criminal history
1070 systems board shall conduct a study on rehabilitation. That study shall include an examination
1071 of:

1072 (a) enabling a person convicted of or adjudicated delinquent by reason of any felony or
1073 misdemeanor charges in the Commonwealth or a person who has been charged with a crime in
1074 the Commonwealth but which charges did not result in a conviction to petition the superior court
1075 of the trial court department in the county in which he then resides for a certificate of
1076 rehabilitation, or a certificate of recovery and rehabilitation if the charges were a consequence of
1077 substance abuse, for ascertainment and declaration of the fact of his rehabilitation or recovery
1078 and rehabilitation if certain conditions are met, for example if the person: (1) has not been
1079 sentenced to incarceration since being discharged from a felony or misdemeanor or since the
1080 termination of any ancillary proceedings related to such felony or misdemeanor including, but
1081 not limited to, any period of probation, parole or continuation; (2) is not the subject of a
1082 probationary or parole term for the commission of any other felony or misdemeanor; (3)
1083 presents satisfactory evidence of 2 years residence in the commonwealth prior to the filing of the
1084 petition; (4) has demonstrated a period of rehabilitation, as provided in section 176C of the

1085 General Laws, and (5) in the case of a person seeking a certificate of recovery and rehabilitation,
1086 has completed a substance abuse treatment program approved by the bureau of substance abuse
1087 treatment services;

1088 (b) the standard the petitioner must demonstrate his rehabilitation or recovery;

1089 (c) the duration of rehabilitation required to be eligible for a certificate of rehabilitation
1090 or recovery;

1091 (d) any recommended provision of notice of the filing of a petition to the district attorney
1092 of the county in which a petition is filed, to the district attorney of the county in which the
1093 petitioner was convicted of an offense, to the attorney general and to the governor;

1094 (e) whether a petitioner for a certification of rehabilitation or recovery may be
1095 represented by counsel and whether the court shall appoint counsel for certain petitioners;

1096 (f) whether the court in which the petition is filed may require such testimony as it deems
1097 necessary, and who should be required to produce and pay for the cost of production of all
1098 records and reports relating to the petitioner and the offense for which he was charged; (g) which
1099 information the court may request upon the filing of the application for a certificate, from the
1100 district attorney in which the petition was filed including, but not limited to: the place of
1101 residence of the petitioner; the criminal record of the petitioner as shown by the records of the
1102 Department of Justice; any representation made to the court by the petitioner; the conduct of the
1103 petitioner during his period of rehabilitation; and any other information the court may deem
1104 necessary in making its determination; (h) under what conditions a court should deny a petition
1105 for a certificate of rehabilitation or recovery; (i) under what conditions a court should issue a

1106 certificate of rehabilitation or recovery and whether such a certificate should become a part of
1107 the petitioner's criminal offender record information;

1108 (j) to whom the court should forward such a certificate and whether any
1109 recommendations should be included;

1110 (k) whether such a certificate should be provided to any person lawfully seeking
1111 information relative to the offense for which a petitioner has received a certificate;

1112 (l) whether any forms would be required to effectuate such a process and who should
1113 develop them;

1114 (m) any notice requirements that are recommended for defendants or individuals being
1115 released from custody, discharged from probation or parole, or concluding substance abuse
1116 treatment;

1117 (n) any other factors that may or may not be included within the determination of whether
1118 to issue a benefit granted by the awarding of such a certificate;

1119 (o) any rights that an individual who has been denied the benefits of attaining a certificate
1120 of rehabilitation or recovery should have, including the right to appeal such a decision;

1121 (p) what the appropriate forum should be for such an appeal; and

1122 (q) any punishments that should be levied against an individual who fraudulently uses
1123 such a certificate.

1124 The department shall report its findings to the clerks of the house and senate by July 1,
1125 2010 who shall forward that report to the chairmen of the house committee on ways and means,

1126 the senate committee on ways and means and the joint committee on mental health and substance
1127 abuse.

1128 SECTION 66C. The parole board shall conduct a study to determine the benefit and cost
1129 of establishing a substance abuse treatment program to be included as a requirement for
1130 individuals during a period of post-release supervision required by chapter 127A of the General
1131 Laws.

1132 The board shall file the findings of its study by July 1, 2010 with the clerks of the house
1133 and the senate, who shall forward the report to the chairmen of the house committee on ways and
1134 means, the senate committee on ways and means, the joint committee on mental health and
1135 substance abuse and the joint committee on the judiciary.

1136 SECTION 66D. The department of corrections, in consultation with the department of
1137 public health shall conduct a study on the establishment of jail diversion programs for nonviolent
1138 low-level offenders with substance use disorders. The study shall include, but not be limited to,
1139 the establishment of jail diversion programs, innovative ways for the courts to divert substance
1140 abusers from the criminal justice system into specified substance abuse treatment options and the
1141 cost estimates for implementing such a program.

1142 The department shall file the findings of its study by July 1, 2010 with the clerks of the
1143 house and the senate, who shall forward the report to the chairmen of the house committee on
1144 ways and means, the senate committee on ways and means and the joint committee on mental
1145 health and substance abuse.”

1146 SECTION 66E. The administrative office of the trial court shall conduct a study to
1147 examine the bail review process including, but not limited to, personal recognizance, challenges

1148 to the amount of bail for an accused and the provision of notice to a petitioner relative to future
1149 court appearances. The administrative office shall report to the joint committee on the judiciary
1150 not later than July 1, 2010.

1151 SECTION 67. Notwithstanding any general or special law to the contrary, chapter 127A
1152 of the General Laws shall apply to any felony, as defined in section 1 of chapter 274 of the
1153 General Laws, committed on or after the effective date of this act.

1154 SECTION 67A. Notwithstanding any general or special law to the contrary, section
1155 178F³/₄ of chapter 6 of the General Laws shall apply to a conviction for a sex offense, as defined
1156 in section 178C of chapter 6, or an adjudication as a youthful offender or as delinquent juvenile
1157 by reason of a sex offense, as defined in section 178C of chapter 6, which occurs after the
1158 effective date of this act.

1159 SECTION 68. Section 5A of this act is hereby repealed.

1160 SECTION 68A. The department of public safety shall adopt the regulations required
1161 under section 25 of chapter 270 of the General Laws, not later than 90 days from the effective
1162 date of this act.

1163 SECTION 69. Sections 1 to 5, inclusive, 11 to 14, inclusive, 16, 17, 17A, 22-27,
1164 inclusive, 31 to 33, inclusive, 50, 50B, 51B, 52, 58 to 62, inclusive, 64 and 68 shall take effect 18
1165 months from the effective date of this act.

1166 SECTION 69A. Section 68A shall take effect 180 days from the effective date of this
1167 act.