

SENATE No. 2583

The Commonwealth of Massachusetts

In the Year Two Thousand Ten

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 116C of chapter 6 of the General Laws, as appearing in the 2008
2 Official Edition, is hereby amended by striking out, in lines 16 and 31, the words ‘criminal
3 history systems board’ and inserting in place thereof the following words:- department of
4 criminal justice information services.

5 SECTION 2. Section 167 of said chapter 6 of the General Laws, as so appearing, is
6 hereby amended by striking out, in line 2, the words “one hundred and sixty-eight to one hundred
7 seventy-eight” and inserting in place thereof the following words:- 168 to 178L, inclusive.

8 SECTION 3. Said section 167 of said chapter 6, as so appearing, is hereby further
9 amended by inserting before the definition of “Criminal justice agencies” the following 3
10 definitions:-

11 “All available criminal offender record information”, adult and youthful offender
12 convictions, non-convictions and pending criminal court appearances, but excluding criminal

13 records sealed under section 34 of chapter 94C or sections 100A to 100C, inclusive, of chapter
14 276 or the existence of such records.

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

16 “Commissioner”, the commissioner of criminal justice information services under section
17 167A.

18 SECTION 4. Said section 167 of said chapter 6, as so appearing, is hereby further
19 amended by inserting after the definition of “Criminal justice agencies” the following 2
20 definitions:-

21 “Criminal offender record information”, records and data in any communicable form
22 compiled by a Massachusetts criminal justice agency which concern an identifiable individual
23 and relate to the nature or disposition of a criminal charge, an arrest, a pre-trial proceeding, other
24 judicial proceedings, sentencing, incarceration, rehabilitation, or release. Such information shall
25 be restricted to that recorded as the result of the initiation of criminal proceedings or any
26 consequent proceedings related thereto. Criminal offender record information shall not include
27 evaluative information, statistical and analytical reports and files in which individuals are not
28 directly or indirectly identifiable, or intelligence information. Criminal offender record
29 information shall be limited to information concerning persons who have attained the age of 17
30 and shall not include any information concerning criminal offenses or acts of delinquency
31 committed by any person before he attained the age of 17; provided, however, that if a person
32 under the age of 17 is adjudicated as an adult, information relating to such criminal offense shall
33 be criminal offender record information. Criminal offender record information shall not include
34 information concerning any offenses which are not punishable by incarceration.

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

37 SECTION 5. Said section 167 of said chapter 6, as so appearing, is hereby further
38 amended by inserting after the definition of “Evaluative information” the following definition:-

39 “Executive office”, the executive office of public safety and security.

40 SECTION 6. Said section 167 of said chapter 6, as so appearing, is hereby further
41 amended by inserting after the definition of “Interstate systems” the following definition:-

42 “Person”, a natural person, corporation, association, partnership or other legal entity
43 acting as a decision maker on an application or interacting directly with a subject.

44 SECTION 7. Said section 167 of said chapter 6, as so appearing, is hereby further
45 amended by inserting after the definition of “Purge” the following 4 definitions:-

46 “Requestor”, a person, other than a criminal justice agency, submitting a request for
47 criminal offender record information to the department.

48 ‘Secretary’, the secretary of public safety and security.

49 “Self-audit”, an inquiry made by a subject or his legally authorized designee to obtain a
50 log of all queries to the department by any individual or entity, other than a criminal justice
51 agency, for the subject’s criminal offender record information, but excluding any information
52 relative to any query conducted by a criminal justice agency.

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

55 SECTION 8. Said chapter 6 is hereby further amended by inserting after section 167 the
56 following section:-

57 Section 167A. (a) There shall be within the executive office a department of criminal
58 justice information services which shall be under the supervision and control of a commissioner.
59 The commissioner shall be appointed by the secretary and shall be a person of skill and
60 experience in the field of criminal justice. The commissioner shall be the executive and
61 administrative head of the department and shall be responsible for administering and enforcing
62 the provisions of law relative to the department and to each administrative unit thereof. The
63 commissioner shall serve at the pleasure of the secretary, shall receive such salary as may be
64 determined by law and shall devote his full time to the duties of his office. In the case of an
65 absence or vacancy in the office of the commissioner, or in the case of disability as determined
66 by the secretary, the secretary may designate an acting commissioner to serve as commissioner
67 until the vacancy is filled or the absence or disability ceases. The acting commissioner shall have
68 all the powers and duties of the commissioner and shall have similar qualifications as the
69 commissioner. The commissioner shall not be subject to the provisions of chapter 31 or section
70 9A of chapter 30.

71 (b) The commissioner may appoint such persons, including experts and consultants, as he
72 shall deem necessary to perform the functions of the department. The provisions of chapter 31
73 and section 9A of chapter 30 shall not apply to any person holding any such appointment. Every
74 person so appointed to any position in the department shall have experience and skill in the field
75 of such position. So far as practicable in the judgment of the commissioner, appointments to such
76 positions in the department shall be made by promoting or transferring employees of the
77 commonwealth serving in positions which are classified under chapter 31 and such appointments

78 shall at all times reflect the professional needs of the administrative unit affected. If an employee
79 serving in a position which is classified under chapter 31 or in which an employee has tenure by
80 reason of said section 9A of said chapter 30 shall be appointed to a position within the
81 department which is not subject to said chapter 31, the employee shall, upon termination of his
82 service in such position, be restored to the position which he held immediately prior to such
83 appointment; provided, however, that his service in such position shall be determined by the civil
84 service commission in accordance with the standards applied by said commission in
85 administering said chapter 31. Such restoration shall be made without impairment of civil service
86 status or tenure under said section 9A of said chapter 30 and without loss of seniority, retirement
87 or other rights to which uninterrupted service in such prior position would have entitled the
88 employee. During the period of such appointment, each person so appointed from a position in
89 the classified civil service shall be eligible to take any competitive promotional examination for
90 which he would otherwise have been eligible.

91 (c) The department shall provide for and exercise control over the installation, operation
92 and maintenance of data processing and data communication systems, hereinafter called the
93 public safety information system, which shall include, but shall not be limited to, the criminal
94 justice information system. The system shall be designed to ensure the prompt collection,
95 exchange, dissemination and distribution of such public safety information as may be necessary
96 for the efficient administration and operation of criminal justice agencies and to connect such
97 systems directly or indirectly with similar systems in this or other states. The department shall be
98 responsible for all data processing, management of the public safety information system,
99 supervision of all personnel associated with the system and the appointment of all such
100 personnel.

101 (d) The department shall provide access to the public safety information system to
102 criminal justice agencies, as defined in section 167. The department may, subject to chapter 30A,
103 hear and investigate complaints pertaining to misuse of the public safety information system and
104 issue sanctions and penalties for misuse. The commissioner may refer complaints for further
105 review to the criminal record review board, any state or federal agency or prosecuting authority.

106 (e) The department may, in consultation with the board, adopt rules and regulations for:
107 (i) the implementation, administration and enforcement of this section; (ii) the control,
108 installation and operation of the public safety information system accessed and utilized by
109 criminal justice agencies; and the collection, storage, access, dissemination, content, organization
110 and use of criminal offender record information by requestors; provided, however, any consumer
111 reporting agency accessing the criminal offender record information from the department shall
112 be deemed in compliance with any rule or regulation promulgated hereunder so long as its
113 applicable policies are in compliance with the state and federal Fair Credit Reporting Acts.

114 (f) The department shall ensure that no backlog of criminal offender records requests
115 develop that impedes the processing of necessary information related to employment, housing
116 and other essential activities and services. If a backlog develops, the commissioner shall report
117 the nature of the backlog and its impact on services to the secretary of public safety and shall
118 take action to remediate the cause of the backlog.

119 (g) The department may enter into contracts and agreements with, and accept gifts,
120 grants, contributions and bequests of funds from, any department, agency or subdivision of
121 federal, state, county or municipal government and any individual, foundation, corporation,
122 association, or public authority for the purpose of providing or receiving services, facilities or

123 staff assistance in connection with its work. Such funds shall be deposited with the state treasurer
124 and may be expended by the department in accordance with the conditions of the gift, grant,
125 contribution or bequest, without specific appropriation.

126 SECTION 9. Section 168 of said chapter 6, as appearing in the 2008 Official Edition, is
127 hereby amended by striking out the first paragraph and inserting in place thereof the following
128 paragraph:-

129 There shall be a criminal history systems board, hereinafter called the board, consisting
130 of the following persons: the secretary of public safety and security, who shall serve as chair, the
131 secretary of labor and workforce development, the attorney general, the chair of the
132 Massachusetts sentencing commission, the chief counsel for the committee for public counsel
133 services, the chair of the parole board, the commissioner of correction, the commissioner of
134 probation, the commissioner of youth services and the colonel of state police, or their designees,
135 all of whom shall serve ex officio, and 10 persons to be appointed by the governor for a term of 3
136 years, 1 of whom shall represent the Massachusetts District Attorneys Association, 1 of whom
137 shall represent the Massachusetts Sheriffs' Association, 1 of whom shall represent the
138 Massachusetts Chiefs of Police Association, 1 of whom shall represent private users of criminal
139 offender record information, 1 of whom shall be a victim of crime, 1 of whom shall be a provider
140 of victim services, 2 of whom shall have experience in the areas of workforce development, ex-
141 offender rehabilitation or economic development and 2 of whom shall be persons who have
142 experience in issues relating to personal privacy. Upon the expiration of the term of any
143 appointive member, the member's successor shall be appointed in a like manner for a term of 3
144 years.

145 SECTION 10. Said section 168 of said chapter 6, as so appearing, is hereby further
146 amended by striking out, in lines 50 and 51, the words “five hundred dollars for each willful
147 violation thereof, after notice and hearing as provided by applicable law” and inserting in place
148 thereof the following words:- \$1,000 for a knowing violation thereof, \$2,500 for a second
149 knowing violation, and \$5,000 for a third or subsequent knowing violation, after notice and
150 hearing as provided by applicable law; provided, however, that the board shall not issue any
151 orders, sanctions or fines against a law enforcement officer who, in good faith, obtains or seeks
152 to obtain or communicates or seeks to communicate criminal offender record information in the
153 furtherance of the officer’s official duties.

154 SECTION 11. Said section 168 of said chapter 6, as so appearing, is hereby further
155 amended by striking out the fourth and sixth paragraphs.

156 SECTION 12. Said chapter 6, as so appearing, is hereby further amended by striking out
157 section 168 and inserting in place thereof the following section:-

158 Section 168. (a) There shall be a criminal record review board within the department of
159 criminal justice information services consisting of the following persons: the secretary of public
160 safety and security, who shall serve as chair, the attorney general, the secretary of labor and
161 workforce development, the chair of the Massachusetts sentencing commission, the chief counsel
162 for the committee for public counsel services, the chair of the parole board, the commissioner of
163 correction, the commissioner of probation, the commissioner of youth services, the colonel of
164 state police and the presidents of the Massachusetts District Attorneys Association, the
165 Massachusetts Sheriffs’ Association and the Massachusetts Chiefs of Police Association, or their
166 designees, all of whom shall serve ex officio, and 5 persons to be appointed by the governor, 1 of

167 whom shall represent private users of criminal offender record information, 1 of whom shall be a
168 victim of crime, 1 of whom shall have experience in the areas of workforce development or ex-
169 offender rehabilitation and 2 of whom shall be persons who have experience in issues relating to
170 personal privacy. Upon the expiration of the term of any appointive member, his successor shall
171 be appointed in a like manner for a term of 3 years.

172 The chair shall hold regular meetings, 1 of which shall be an annual meeting, and shall
173 notify all board members of the time and place of all meetings. Special meetings may be called at
174 any time by a majority of the board members and shall be called by the chair upon written
175 application of 9 or more members. Members of the board shall serve without compensation but
176 shall be reimbursed for their expenses actually and necessarily incurred in the discharge of their
177 official duties.

178 (b) The board may hear complaints and investigate any incidents alleging that a person
179 that has requested or received criminal offender record information has failed to provide the
180 subject with the criminal offender record information in his possession prior to questioning the
181 subject about his criminal history in connection with a decision regarding employment, volunteer
182 opportunities, housing or professional licensing or in connection with an adverse decision on
183 such an application on the basis of the criminal offender record information. The board may hear
184 complaints and investigate any incidents alleging any other violation of sections 168 to 178A,
185 inclusive, or violation of board rules and regulations. The board may charge and collect a fee,
186 established by the secretary, as a condition for filing a complaint, which fee may be waived upon
187 a finding of indigency. Any complaint filed with the board shall be supported by a written
188 declaration by the complainant that it is made under the penalties of perjury. An answer filed by
189 a responding party shall be signed under the penalties of perjury by an individual with personal

190 knowledge of its contents. In conducting investigations and hearings, the board, or department
191 staff designated by the board, shall have the power to summons witnesses, compel their
192 attendance and testimony, require the production of books, records and documents, administer
193 oaths and have access to all criminal offender record information. The chair of the board may
194 appoint a member, panel of 3 board members or a hearing officer to conduct hearings, according
195 to the standard rules of adjudicatory procedure or other rules which the department may adopt, in
196 consultation with the board. Following review of a complaint by a member, panel or hearing
197 officer, the board, by a vote of two-thirds of the members present and voting, shall issue a ruling
198 as to the findings of the board. In accordance with its findings, the board may issue orders and
199 sanctions enforcing this section and the board's rules and regulations, including, but not limited
200 to, a remand for additional fact finding, the imposition of civil fines payable to the
201 commonwealth not to exceed \$5,000 for each knowing violation and conditions on continued
202 access to criminal offender record information or revocation of access; provided, however, that
203 the board shall not issue any orders, sanctions or fines against a law enforcement officer who, in
204 good faith, obtains or seeks to obtain, or communicates or seeks to communicate criminal
205 offender record information in the furtherance of the officer's official duties. The board may at
206 any time refer a complaint for criminal prosecution under section 178 of this chapter.

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

213 SECTION 13. Section 168A of said chapter 6, as so appearing, is hereby amended by
214 striking out, in lines 3 and 4, the words “criminal history systems board” and inserting in place
215 thereof the following word:- department.

216 SECTION 14. Section 168B of said chapter 6, as so appearing, is hereby amended by
217 striking out, in lines 1 and 2, the words ‘criminal history systems board’ and inserting in place
218 thereof the following words:- department.

219 SECTION 15. Section 168C of said chapter 6, as so appearing, is hereby amended by
220 striking out, in lines 4 and 5, the words ‘criminal history systems board’ and inserting in place
221 thereof the following words:- department.

222 SECTION 16. Section 171 of said chapter 6, as so appearing, is hereby amended by
223 striking out, in lines 1 and 10, the word ”board” and inserting in place thereof, in each instance,
224 the following word:- department.

225 SECTION 17. Section 171 of said chapter 6, as so appearing, is hereby amended by
226 striking out, in lines 3 to 7, inclusive, the words “(b) assuring the prompt and complete purging
227 of criminal record information, insofar as such purging is required by any statute or
228 administrative regulation, by the order of any court of competent jurisdiction, or to correct any
229 errors shown to exist in such information; and (c) ” and inserting in place thereof the following
230 words:- ;and (b).

231 SECTION 18. Said section 171 of said chapter 6, as so appearing, is hereby further
232 amended by striking out, in lines 35to48, inclusive, the words “Any individual aggrieved by an
233 agency’s decision denying access to evaluative information may appeal the denial in writing
234 within thirty days thereafter to the board or to a three member panel thereof, as the board may

235 determine, and the board or such panel or any court under section one hundred and seventy-
236 seven shall have access to any certificate. The adoption of such regulations by each criminal
237 justice agency shall be subject to the approval of the board, and shall be promulgated within time
238 limits set by the board. If any criminal justice agency holding evaluative information fails to
239 promulgate such regulations, then the board shall promulgate such regulations with respect to
240 that criminal justice agency. Evaluative information shall be subject to the provisions of section
241 one hundred and seventy-two and section one hundred and seventy-eight, as if such information
242 was criminal offender record information.”

243 SECTION 19. Said chapter 6, as so appearing, is hereby further amended by inserting
244 after section 171 the following section:-

245 Section 171A. In connection with any decision regarding employment, volunteer
246 opportunities, housing or professional licensing, a person in possession of an applicant’s criminal
247 offender record information shall provide the applicant with the criminal history record in the
248 person’s possession, whether obtained from the department or any other source prior to
249 questioning the applicant about his criminal history. If the person makes a decision adverse to
250 the applicant on the basis of his criminal history, the person shall also provide the applicant with
251 the criminal history record in the person’s possession, whether obtained from the department or
252 any other source; provided, however, that if the person has provided the applicant with a copy of
253 his criminal offender record information prior to questioning the person is not required to
254 provide the information a second time in connection with an adverse decision based on this
255 information.

256 Failure to provide such criminal history information to an applicant pursuant to this
257 section may subject the offending person to investigation, hearing and sanctions by the board.
258 Nothing in this section shall be construed to prohibit a person from making an adverse decision
259 on the basis of an individual's criminal history or to provide or permit a claim of an unlawful
260 practice under chapter 151B or an independent cause of action in a court of civil jurisdiction for
261 a claim arising out of an adverse decision based on criminal history except as otherwise provided
262 under chapter 151B.

263 A person who annually conducts 5 or more criminal background investigations, whether
264 criminal offender record information is obtained from the department or any other source, shall
265 maintain a written criminal offender record information policy providing that, in addition to any
266 obligations required by the commissioner by regulation, it will: (i) notify the applicant of the
267 potential adverse decision based on the criminal offender record information; (ii) provide a copy
268 of the criminal offender record information and the policy to the applicant; and (iii) provide
269 information concerning the process for correcting a criminal record.

270 SECTION 20. Section 172 of said chapter 6, as appearing in the 2008 Official Edition, is
271 hereby amended by inserting after the word "privacy", in lines 14 and 40, the following words,
272 in each instance:- and the importance and value of successful reintegration of ex-offenders.

273 SECTION 21. Said chapter 6, as so appearing, is hereby further amended by striking out
274 section 172 and inserting in its place thereof the following section:-

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

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

278 (1) Criminal justice agencies may obtain all criminal offender record information,
279 including sealed records, for the actual performance of their criminal justice duties. Licensing
280 authorities, as defined in section 121 of chapter 140, may obtain all criminal offender record
281 information, including sealed records, for the purpose of firearms licensing in accordance with
282 sections 121 to 131P, inclusive, of chapter 140. The criminal record review board may obtain all
283 criminal offender record information, including sealed records, for the actual performance of its
284 duties.

285 (2) A requestor authorized or required by statute, regulation or accreditation requirement
286 to obtain criminal offender record information other than that available under clause (3) may
287 obtain such information to the extent and for the purposes authorized to comply with said statute,
288 regulation or accreditation requirement.

289 (3) A requestor or the requestor's legally designated representative may obtain criminal
290 offender record information for any of the following purposes: (i) to evaluate current and
291 prospective employees including full-time, part-time, contract, internship employees or
292 volunteers; (ii) to evaluate applicants for rental or lease of housing; (iii) to evaluate volunteers
293 for services; and (iv) to evaluate applicants for a professional or occupational license issued by a
294 state or municipal entity. Criminal offender record information made available under this section
295 shall be limited to the following: (i) felony convictions for 10 years following the disposition
296 thereof, including termination of any period of incarceration or custody, (ii) misdemeanor
297 convictions for 5 years following the disposition thereof, including termination of any period of
298 incarceration or custody, and (iii) pending criminal charges, which shall include cases that have
299 been continued without a finding until such time as the case is dismissed pursuant to section 18
300 of chapter 278; provided, however, that prior misdemeanor and felony conviction records shall

301 be available for the entire period that the subject's last available conviction record is available
302 under this section; and provided further, that a violation of section 7 of chapter 209A and a
303 violation of section 9 of chapter 258E shall be treated as a felony for purposes of this section.

304 (4) Any member of the general public may upon written request to the department and in
305 accordance with regulations established by the department obtain the following criminal offender
306 record information on a subject: (i) convictions for any felony punishable by a term of
307 imprisonment of 5 years or more; (ii) information indicating custody status and placement within
308 the correction system for an individual who has been convicted of any offense and sentenced to
309 any term of imprisonment, and at the time of the request: is serving a sentence of probation or
310 incarceration, or is under the custody of the parole board; (iii) felony convictions for 2 years
311 following the disposition thereof, including any period of incarceration or custody; and (iv)
312 misdemeanor convictions for 1 year following the disposition thereof, including any period of
313 incarceration or custody.

314 (5) A subject who seeks to obtain his own criminal offender record information and the
315 subject's legally designated representative may obtain all criminal offender record information
316 from the department pertaining to the subject under section 175.

317 (6) The commissioner may provide access to criminal offender record information to
318 persons other than those entitled to obtain access under this section, if the commissioner finds
319 that such dissemination to such requestor serves the public interest. Upon such a finding, the
320 commissioner shall also determine the extent of access to criminal offender record information
321 necessary to sustain the public interest. The commissioner shall make an annual report to the
322 governor and file a copy of the report with the state secretary, the attorney general, the clerk of

323 the house of representatives and the clerk of the senate documenting all access provided under
324 this paragraph, without inclusion of identifying data on a subject. The annual report shall be
325 available to the public upon request.

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

330 (8) The department of telecommunications and energy may obtain from the department
331 all available criminal offender record information for the purpose of screening applicants for
332 motor bus driver certificates and applicants who regularly transport school age children or
333 students under chapter 71B in the course of their job duties. The department of public utilities
334 shall not disseminate such information for any purpose other than to further the protection of
335 children.

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

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

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

344 (12) A long-term care facility, as defined in section 72W of chapter 111, an assisted
345 living residence as defined in section 1 of chapter 19D, and any continuing care facility as
346 defined in section 1 of chapter 40D may obtain from the department data permitted under section
347 172E.

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

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

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

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

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

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

363 (19) A victim of a crime, a witness or a family member of a homicide victim, as defined
364 in section 1 of chapter 258B, may obtain from the department data permitted under section
365 178A.

366 (20) The motor vehicle insurance merit rating board may obtain from the department data
367 permitted under section 183.

368 (21) The department of early education and care, or its designee, may obtain from the
369 department data permitted under sections 6 and 8 of chapter 15D.

370 (22) The district attorney may obtain from the department data permitted under section
371 2A of chapter 38.

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

376 (24) The Massachusetts Port Authority may obtain from the department data permitted
377 under section 61 of chapter 90.

378 (25) The department of social services may obtain from the department data permitted
379 under section 26A of chapter 119, section 3B of chapter 210 (26) The state racing commission
380 may obtain from the department data permitted under section 9A of chapter 128A.

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

383 (28) The pension fraud unit within the public employee retirement administration
384 commission may obtain from the department data permitted under section 1 of chapter 338 of the
385 acts of 1990.

386 (29) Special education school programs approved under chapter 71B may obtain from the
387 department all criminal offender record information provided for in paragraph (3) of subsection
388 (a).

389 (30) The department shall configure the database to allow for the exchange,
390 dissemination, distribution and direct connection of the criminal record information system to
391 criminal record information systems in other states and relevant federal agencies including the
392 Federal Bureau of Investigation and Immigration and Customs Enforcement that utilize
393 fingerprint or iris scanning and similar databases.

394 (b) Notwithstanding the foregoing, convictions for murder, voluntary manslaughter,
395 involuntary manslaughter, and sex offenses as defined in section 178C of chapter 6 that are
396 punishable by a term of incarceration in state prison shall remain in the database permanently
397 and shall be available to all requestors listed in paragraphs (1) through (3), inclusive, of
398 subsection (a) unless sealed under section 100A of chapter 276.

399 (c) The department shall specify the information that a requestor shall provide to query
400 the database, including, but not limited to, the subject's name, date of birth and the last 4 digits
401 of the subject's social security number; provided, however, that a member of the public
402 accessing information under paragraph (4) of subsection (a) shall not be required to provide the
403 last four digits of the subject's social security number. To obtain criminal offender record
404 information concerning a subject pursuant to subsection (a)(2) or (a)(3), the requestor must

405 certify under the penalties of perjury that the requestor is an authorized designee of a qualifying
406 entity, that the request is for a purpose authorized under subsection (a)(2) or (a)(3), and that the
407 subject has signed an acknowledgement form authorizing the requestor to obtain the subject's
408 criminal offender record information. The requestor must also certify that he has verified the
409 identity of the subject by reviewing a form of government-issued identification. Each requestor
410 shall maintain acknowledgement forms for a period of 1 year from the date the request is
411 submitted. Such forms shall be subject to audit by the department. The department may establish
412 rules or regulations imposing other requirements or affirmative obligations upon requestors as a
413 condition of obtaining access to the database; provided, however, that such additional rules and
414 regulations are not in conflict with the state and federal Fair Credit Reporting Acts.

415 In connection with any decision regarding employment, volunteer opportunities, housing
416 or professional licensing, a person in possession of an applicant's criminal offender record
417 information shall provide the applicant with the criminal history record in the person's
418 possession, whether obtained from the department or any other source, (a) prior to questioning
419 the applicant about his criminal history and (b) if the person makes a decision adverse to the
420 applicant on the basis of his criminal history; provided, however, that if the person has provided
421 the applicant with a copy of his criminal offender record information prior to questioning the
422 person is not required to provide the information a second time in connection with an adverse
423 decision based on this information. Failure to provide such criminal history information to the
424 individual in accordance with this section may subject the offending person to investigation,
425 hearing and sanctions by the board.

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

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

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

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

447 (f) A requestor shall not disseminate criminal offender record information except upon
448 request by a subject; provided, however, that a requestor may share criminal offender record
449 information with individuals within the requesting entity that have a need to know the contents
450 of the criminal offender record information to serve the purpose for which the information was
451 obtained; and provided further, that upon request, a requestor shall share criminal offender
452 record information with the government entities charged with overseeing, supervising, or
453 regulating them. A requestor shall maintain a secondary dissemination log for a period of one
454 year following the dissemination of a subject's criminal offender record information. The log
455 shall include the following information: (i) name of subject; (ii) date of birth of the subject; (iii)
456 date of the dissemination; (iv) name of person to whom it was disseminated; and (v) the purpose
457 for the dissemination. The secondary dissemination log shall be subject to audit by the
458 department.

459 Unless otherwise provided by law or court order, a requestor shall not maintain a copy,
460 electronic or otherwise, of requested criminal offender record information obtained from the
461 department for more than 7 years from the last date of employment, volunteer service or
462 residency or from the date of the final decision of the requestor regarding the subject.

463 (g) The department shall maintain a log of all queries that shall indicate the name of the
464 requestor, the name of the subject, the date of the query, and the certified purpose of the query.
465 A self-audit may be requested for no fee once every 90 days. The commissioner may impose a
466 fee in an amount as determined by the secretary of public safety and security, for self-audit
467 requests made more than once every 90 days. Upon request, the commissioner may transmit the
468 self-audit electronically. Further, if funding is available and technology reasonably allows, the
469 department shall establish a mechanism that will notify a subject, or an advocate or agent

470 designated by the subject, by electronic mail or other communication mechanism whenever a
471 query is made regarding the subject. The self-audit log and query log shall not be considered a
472 public record.

473 (h) Notwithstanding the provisions of this section, the motor vehicle insurance merit
474 rating board may disseminate information concerning convictions of automobile law violations
475 as defined in section 1 of chapter 90C, or information concerning a charge of operating a motor
476 vehicle while under the influence of intoxicating liquor that results in assignment to a driver
477 alcohol program as described in section 24D of chapter 90, directly or indirectly, to an insurance
478 company doing motor vehicle insurance business within the commonwealth, or to such insurance
479 company's agents, independent contractors or policyholders to be used exclusively for motor
480 vehicle insurance purposes.

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

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

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

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

500 (l) Any individual or entity that receives or obtains criminal offender record information
501 from any source in violation of sections 168 through 175 of this chapter, whether directly or
502 through an intermediary, shall not collect, store, disseminate, or use such criminal offender
503 record information in any manner or for any purpose.

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

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

511 SECTION 22. Said chapter 6, as appearing in the 2008 Official Edition, is hereby further
512 amended by striking out section 172A and inserting in place thereof the following section:-

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

521 The department shall be authorized, subject to appropriation, to retain a portion of the
522 revenues received by the commonwealth under this section for the following purposes: to assist
523 ex-offenders in obtaining and maintaining employment, including, but not limited to, workforce
524 development training and other applicable training programs, training and auditing requestors
525 described in subsection (a) of section 172, providing education and assistance regarding the
526 correction of criminal records, including but not limited to, training judges, providing the
527 necessary information to employers and other applicable persons in possession of an applicant's
528 criminal offender record information, and to operate and maintain the public safety information
529 system and the criminal records review board.

530 SECTION 23. Said chapter 6, as so appearing, is hereby further amended by inserting
531 after section 172B the following section:-

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

535 §534. Fingerprint submissions may be submitted by the licensing authority to the identification
536 unit within the department of state police through the criminal history systems board, or its
537 successor, for a state criminal records check and to the Federal Bureau of Investigation for a
538 national criminal records check.

539 Municipalities may, by local ordinance, establish the appropriate fee charged to
540 applicants for administering a fingerprinting system. For the purposes of section 2LLL of chapter
541 29, \$30 of the fee shall be deposited into the Firearms Fingerprint Identity Verification Trust
542 Fund and the remainder of the fee may be retained by the licensing authority for costs associated
543 with the administration of the system.

544 SECTION 24. Section 172C of said chapter 6, as so appearing, is hereby amended by
545 striking out, in lines 30 and 31, the words “criminal history systems board” and inserting in place
546 thereof the following word:- department.

547 SECTION 25. Said chapter 6 is hereby further amended by striking out section 172E, as
548 so appearing, and inserting in place thereof the following section:-

549 Section 172E. Notwithstanding any provision of section 172 to the contrary, criminal
550 offender record information shall be available to a long term care facility, as defined in section
551 72W of chapter 111, an assisted living residence as defined in section 1 of chapter 19D, and to
552 any continuing care facility as defined in section 1 of chapter 40D, for the purpose of evaluating
553 applicants under final consideration as, or an individual currently working as, an employee, a
554 volunteer or a provider of care, treatment, education, training, transportation, delivery of meals,
555 instruction, counseling, supervision, recreation or other services for an elderly or disabled person
556 or for the purpose of evaluating applicants under final consideration for, or an individual

557 currently working in, a position involving direct or indirect contact with such elderly or disabled
558 persons or access to such persons' personal information. A long-term care facility, assisted living
559 residence or continuing care facility shall obtain all available criminal offender record
560 information from the department on such applicant or current staff member. A long-term care
561 facility, assisted living residence or continuing care facility which obtains information under this
562 section shall prohibit the dissemination of such information for any purpose other than to further
563 the protection of the elderly or the disabled; provided, further that dissemination among and
564 between long term care facilities, assisted living residences or continuing care facilities shall be
565 permitted.

566 SECTION 26. Section 172G of said chapter 6, as so appearing, is hereby amended by
567 striking out, in line 5, the words 'criminal history systems board' and inserting in place thereof
568 the following word:- department.

569 SECTION 27. Section 172H of said chapter 6, as so appearing, is hereby amended by
570 striking out, in line 4, the words "that accepts volunteers,".

571 SECTION 28. Said section 172H of said chapter 6, as so appearing, is hereby further
572 amended by striking out, in line 5, the words 'criminal history systems board' and inserting in
573 place thereof the following word:- department.

574 SECTION 29. Said section 172H of said chapter 6, as so appearing, is hereby further
575 amended by striking out, in line 6, the words "a volunteer" and inserting in place thereof the
576 following words:- an employee, volunteer, vendor or contractor.

577 SECTION 30. Section 172I of said chapter 6, as so appearing, is hereby amended by
578 striking out, in lines 8 and 9, the words “criminal history systems board” and inserting in place
579 thereof the following word:- department.

580 SECTION 31. Section 172J of said chapter 6, as so appearing, is hereby amended by
581 striking out, in line 4, the words ‘criminal history systems board,’ and inserting in place thereof
582 the following word:- department.

583 SECTION 32. Section 172K of said chapter 6 of the General Laws, inserted by section 1
584 of chapter 43 of the acts of 2009, is hereby amended by striking out, each time they appear, the
585 words “criminal history systems board” and inserting in place thereof the following words:-
586 department.

587 SECTION 33. Section 173 of said chapter 6, as so appearing, is hereby amended by
588 striking out, in line 1, the words “The board”, and inserting in place thereof the following
589 words:- The commissioner may approve research programs to obtain criminal offender record
590 information; provided, however, that said research programs shall not publish any information
591 that either identifies or tends to identify the subject of the criminal offender record information,
592 and the commissioner.

593 SECTION 34. Said section 173 of said chapter 6, as so appearing, is hereby further
594 amended by striking out, in lines 7, 9 and 10 the word “board”, and inserting in place thereof, in
595 each instance, the following word:- commissioner.

596 SECTION 35. Said chapter 6, as so appearing, is hereby further amended by striking out
597 section 175 and inserting in place thereof the following section:-

598 Section 175. A subject shall have the right to inspect, and if practicable, obtain a copy of
599 all criminal offender record information from the department that refers to the subject. The
600 commissioner shall publish and furnish, upon request, guidelines for individuals on how to
601 correct inaccurate or incomplete information. Subject to appropriation, the department shall
602 provide assistance to individuals that have requested assistance to correct inaccurate or
603 incomplete criminal offender record information. Such assistance shall include but not be
604 limited to cooperation with appropriate entities to correct, modify or appropriately supplement
605 criminal offender record information that has been determined to be inaccurate or incomplete. If
606 criminal offender record information is corrected by the office of the commissioner of probation
607 or the courts, any corrections made by such commissioner or court shall be transmitted forthwith
608 to the department and the department's database shall reflect the corrected criminal offender
609 record information.

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

614 SECTION 36. Said chapter 6 is hereby further amended by striking out section 178, as so
615 appearing, and inserting in place thereof the following 2 sections:-

616 Section 178. An individual or entity who knowingly requests, obtains or attempts to
617 obtain criminal offender record information or a self-audit from the department under false
618 pretenses, knowingly communicates or attempts to communicate criminal offender record
619 information to any other individual or entity except in accordance with the provisions of sections

620 168 through 175, or knowingly falsifies criminal offender record information, or any records
621 relating thereto, or who requests or requires a person to provide a copy of his or her criminal
622 offender record information except as authorized pursuant to section 172, shall for each offense
623 be punished by imprisonment in a jail or house of correction for not more than 1 year or by a fine
624 of not more than \$5,000 or by both such fine and imprisonment, and in the case of an entity that
625 is not a natural person, the amount of the fine may not be more than \$50,000 for each violation.

626 An individual or entity who knowingly requests, obtains or attempts to obtain juvenile
627 delinquency records from the department under false pretenses, knowingly communicates or
628 seeks to communicate juvenile criminal records to any other individual or entity except in
629 accordance with the provisions of sections 168 through 175, or knowingly falsifies juvenile
630 criminal records, shall for each offense be punished by imprisonment in a jail or house of
631 correction for not more than 1 year or by a fine of not more than \$7,500, or by both such fine and
632 imprisonment, and in the case of an entity that is not a natural person, the amount of the fine may
633 not be more than \$75,000 for each violation.

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

637 Section 178 ½. Whoever uses criminal offender record information to commit a crime
638 against the subject of the criminal offender record information or to engage in harassment of the
639 subject, shall be punished by a fine of not more than \$5,000 or by imprisonment in a jail or house
640 of correction for not more than 1 year, or by both such fine and imprisonment. For purposes of
641 this section, "harassment" shall mean willfully and maliciously engaging in a knowing pattern of

642 conduct or series of acts over a period of time directed at a specific person, which seriously
643 alarms that person and would cause a reasonable person to suffer emotional distress.

644 SECTION 37. Said chapter 6 is hereby further amended by striking out section 178A, as
645 so appearing, and inserting in place thereof the following section:-

646 Section 178A. A victim of crime, witness or family member of a homicide victim, all as
647 defined by section 1 of chapter 258B, may obtain all available criminal offender record
648 information of the person accused or convicted of said crime. Criminal justice agencies may also
649 disclose to such persons such additional information, including, but not limited to, evaluative
650 information, as such agencies determine is reasonably necessary for the security and well being
651 of such persons.

652 SECTION 38. Section 178C of said chapter 6, as so appearing, is hereby amended by
653 striking out, in lines 12 and 13 and in line 51, the words “criminal history systems board” and
654 inserting in place thereof, in each instance, the following word:- department.

655 SECTION 39. Section 178D of said chapter 6, as so appearing, is hereby amended by
656 striking out, in line 2, the words “criminal history systems board” and inserting in place thereof
657 the following word:- department.

658 SECTION 40. Section 178F of chapter 6, as so appearing, is hereby amended by striking
659 out, in lines 14 to 16, inclusive, the words “A sex offender who lists a homeless shelter as his
660 residence shall verify registration data every 45 days” and inserting in place thereof the
661 following words: - A homeless sex offender shall verify registration data every 30 days.

662 SECTION 41. Section 178F½ of chapter 6, as so appearing, is hereby amended by
663 striking out, in lines 14 to 15, the words “Such sex offender who lists a homeless shelter as his
664 residence shall appear in person at such local police department every 45 days” and inserting in
665 place thereof the following words:- A homeless sex offender shall appear in person at such local
666 police department every 30 days.

667 SECTION 42. Said chapter 6, as so appearing, is hereby amended by inserting, after
668 section 178F½, the following section:-

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

672 SECTION 43. Section 178K of said chapter 6, as so appearing, is hereby amended by
673 striking out, in lines 1 to 2, the words “in the criminal history systems board, but not subject to
674 its jurisdiction”, and inserting in place thereof the following words:- in the executive office of
675 public safety and security.

676 SECTION 44. Section 183 of said chapter 6, as so appearing, is hereby amended by
677 striking out, in lines 27 and 32, the words ‘criminal history systems board’ and inserting in place
678 thereof, in each instance, the following words:- department of criminal justice information
679 services.

680 SECTION 45. Chapter 6A of the General Laws, as so appearing, is hereby amended by
681 striking out section 18 and inserting in place thereof the following section:-

682 Section 18. The following state agencies are hereby declared to be within the executive
683 office of public safety and security: the department of public safety; the department of fire
684 services; the office of grants and research and the highway safety division; the municipal police
685 training committee; the Massachusetts department of criminal justice information services; the
686 state 911 department; the department of state police; the office of the chief medical examiner; the
687 Massachusetts emergency management agency; the military department; the department of
688 correction, including the parole board; the sex offender registry board; and all other agencies and
689 boards within said departments, committees and boards.

690 SECTION 46. Section 18 ½ of said chapter 6A, as so appearing, is hereby amended by
691 striking out, in line 10, the words “criminal history systems board” and inserting in place thereof
692 the following words:- department of criminal justice information services.

693 SECTION 47. Section 18 ¾ of said chapter 6A, as so appearing, is hereby amended by
694 striking out, in lines 2 and 3, the words ‘criminal history systems board’ and inserting in place
695 thereof the following words:- department of criminal justice information services.

696 SECTION 48. Section 4 of chapter 18C of the General Laws, as so appearing, is hereby
697 amended by striking out, in lines 22 and 23, the words “executive director of the criminal history
698 systems board” and inserting in place thereof the following words:- commissioner of the
699 department of criminal justice information services.

700 SECTION 49. Section 1 of chapter 22A of the General Laws, as so appearing , is hereby
701 amended by striking out the definition of ‘Board’.

702 SECTION 50. Said section 1 of said chapter 22A, as so appearing, is hereby further
703 amended by inserting after the definition of ‘Central register’ the following definition:-

704 'Department', the department of criminal justice information services.

705 SECTION 51. Section 3 of said chapter 22A, as so appearing, is hereby amended by
706 striking out, in line 10, the word 'board' and inserting in place thereof the following word:-
707 department.

708 SECTION 52. Section 32 of chapter 22C of the General Laws, as so appearing, is hereby
709 amended by striking out, in line 4, the words 'criminal history systems board' and inserting in
710 place thereof the following words:- department of criminal justice information services.

711 SECTION 53. Section 36 of said chapter 22C, as so appearing, is hereby amended by
712 striking out, in line 17, the words "criminal history systems board" and inserting in place thereof
713 the following words:- department of criminal justice information services.

714 SECTION 54. Section 38 of said chapter 22C, as so appearing, is hereby amended by
715 striking out, in line 25, the words "criminal history systems board" and inserting in place thereof
716 the following words:- department of criminal justice information services.

717 SECTION 55. Section 9 of chapter 22E of the General Laws, as so appearing, is hereby
718 amended by striking out, in line 5, the words 'criminal history systems board' and inserting in
719 place thereof the following words:- department of criminal justice information services.

720 SECTION 56. Chapter 30A of the General Laws, as so appearing, is hereby amended by
721 inserting after section 1C the following section:-

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

724 SECTION 57. Section 36A of chapter 40 of the General Laws, as appearing in the 2008
725 Official Edition, is hereby amended by striking out, in line 25, the words ‘criminal history
726 systems board’ and inserting in place thereof the following words:- department of criminal
727 justice information services.

728 SECTION 58. Section 10 of chapter 66 of the General Laws, as so appearing, is hereby
729 amended by striking out, in line 50, the words “executive director of the criminal history systems
730 board” and inserting in place thereof the following words:- commissioner of the department of
731 criminal justice information services.

732 SECTION 59. Said section 10 of said chapter 66, as so appearing, is hereby further
733 amended by striking out, in lines 50 and 51, the words “criminal history systems board” and
734 inserting in place thereof the following words:- department of criminal justice information
735 services.

736 SECTION 60. Section 1 of chapter 71 of the General Laws, as appearing in the 2008
737 Official Edition, shall be amended by inserting after the word “development” , in line 19, the
738 following words:- safe and healthy relationships with a focus on preventing sexual and domestic
739 violence.

740 SECTION 61. Chapter 71 of the General Laws, as appearing in the 2008 Official Edition,
741 is hereby amended by inserting after section 2B the following section:-

742 Section 2C. Each school district in the commonwealth, subject to appropriation, shall
743 implement a specific policy and discipline code to address teen dating violence in public schools.
744 The policy shall clearly state that dating violence will not be tolerated and shall include
745 guidelines for addressing alleged incidents of dating violence. The policy may include a teen

746 dating violence prevention task force comprised of staff, students and parents to provide
747 awareness training and education for the school community. Topics to be covered in the policy
748 include, without limitation, defining the issue of teen dating violence, recognizing warning signs,
749 identifying issues of confidentiality, safety and appropriate legal school-based interventions.

750 SECTION 62. Section 38R of chapter 71 of the General Laws, as so appearing, is hereby
751 amended by striking out, in lines 5 and 6 and in lines 11 and 12, the words “criminal history
752 systems board” and inserting in place thereof, in each instance, the following words:- department
753 of criminal justice information services.

754 SECTION 63. Section 24 of chapter 90 of the General Laws, as so appearing, is hereby
755 amended by striking out, in line 705, the words “criminal history systems board” and inserting in
756 place thereof the following words:- department of criminal justice information services.

757 SECTION 64. Section 24N of chapter 90 of the General Laws, as so appearing, is hereby
758 amended by striking out, in lines 31, 44 and 83, the words “criminal history systems board” and
759 inserting in place thereof, in each instance, the following words:- department of criminal justice
760 information services.

761 SECTION 65. Section 52 of chapter 93 of the General Laws, as so appearing, is hereby
762 amended by inserting after the word “more;”, in line 21, the following word:- or.

763 SECTION 66. Said section 52 of said chapter 93, as so appearing, is hereby further
764 amended by striking out, in lines 24 to 27, inclusive, the words “; or (3) the employment of any
765 individual at annual salary which equals or which may reasonably be expected to equal twenty
766 thousand dollars or more”.

767 SECTION 67. Section 32 of chapter 94C of the General Laws, as so appearing, is hereby
768 amended by adding the following subsection:-

769 (c) Any person serving a mandatory minimum sentence for violating any provision of this
770 section shall be eligible for parole after serving one-half of the maximum term of the sentence if
771 the sentence is to the house of correction, except that such person shall not be eligible for parole
772 upon a finding of any 1 of the following aggravating circumstances:

773 (i) the defendant used violence or threats of violence or possessed a firearm, rifle,
774 shotgun, machine gun or a weapon described in paragraph (b) of section 10 of chapter 269, or
775 induced another participant to do so, during the commission of the offense;

776 (ii) the defendant engaged in a course of conduct whereby he directed the activities of
777 another who committed any felony in violation of chapter 94C; or

778 (iii) the offense was committed during the commission or attempted commission of a
779 violation of section 32F or section 32K of chapter 94C.

780 A condition of such parole may be enhanced supervision; provided, however, that such
781 enhanced supervision may, at the discretion of the parole board, include, but shall not be limited
782 to, the wearing of a global positioning satellite tracking device or any comparable device, which
783 shall be administered by the board at all times for the length of the parole.

784 SECTION 68. Section 32A of said chapter 94C, as so appearing, is hereby amended by
785 adding the following subsection:-

786 (e) Any person serving a mandatory minimum sentence for violating this section shall be
787 eligible for parole after serving one-half of the maximum term of the sentence if the sentence is

788 to the house of correction, provided that said person shall not be eligible for parole upon a
789 finding of any one of the following aggravating circumstances:

790 (i) the defendant used violence or threats of violence or possessed a firearm, rifle,
791 shotgun, machine gun or a weapon described in paragraph (b) of section 10 of chapter 269, or
792 induced another participant to do so, during the commission of the offense;

793 (ii) the defendant engaged in a course of conduct whereby he directed the activities of
794 another who committed any felony in violation of chapter 94C; or

795 (iii) the offense was committed during the commission or attempted commission of a
796 violation of section 32F or section 32K of chapter 94C.

797 A condition of such parole may be enhanced supervision; provided, however, that such
798 enhanced supervision may, at the discretion of the parole board, include, but shall not be limited
799 to, the wearing of a global positioning satellite tracking device or any comparable device, which
800 shall be administered by the board at all times for the length of the parole.

801 SECTION 69. Section 32B of said chapter 94C, as so appearing, is hereby amended by
802 adding the following subsection:-

803 (c) Any person serving a mandatory minimum sentence for violating this section shall be
804 eligible for parole after serving one-half of the maximum term of the sentence if the sentence is
805 to the house of correction, except that such person shall not be eligible for parole upon a finding
806 of any 1 of the following aggravating circumstances:

807 (i) the defendant used violence or threats of violence or possessed a firearm, rifle,
808 shotgun, machine gun or a weapon described in paragraph (b) of section 10 of chapter 269, or
809 induced another participant to do so, during the commission of the offense;

810 (ii) the defendant engaged in a course of conduct whereby he directed the activities of
811 another who committed any felony in violation of chapter 94C; or

812 (iii) the offense was committed during the commission or attempted commission of a
813 violation of section 32F or section 32K of chapter 94C.

814 A condition of such parole may be enhanced supervision; provided, however, that such
815 enhanced supervision may, at the discretion of the parole board, include, but shall not be limited
816 to, the wearing of a global positioning satellite tracking device or any comparable device, which
817 shall be administered by the board at all times for the length of the parole.

818 SECTION 70. Section 32E of said chapter 94C, as so appearing, is hereby amended by
819 adding the following subsection:-

820 (d) Any person serving a mandatory minimum sentence for violating this section shall be
821 eligible for parole after serving one-half of the maximum term of the sentence if the sentence is
822 to the house of correction, except that such person shall not be eligible for parole upon a finding
823 of any 1 of the following aggravating circumstances:

824 (i) the defendant used violence or threats of violence or possessed a firearm, rifle,
825 shotgun, machine gun or a weapon described in paragraph (b) of section 10 of chapter 269, or
826 induced another participant to do so, during the commission of the offense;

827 (ii) the defendant engaged in a course of conduct whereby he directed the activities of
828 another others who committed any felony in violation of chapter 94C; or

829 (iii) the offense was committed during the commission or attempted commission of a
830 violation of section 32F or section 32K of chapter 94C.

831 A condition of such parole may be enhanced supervision; provided, however, that such
832 enhanced supervision may, at the discretion of the parole board, include, but shall not be limited
833 to, the wearing of a global positioning satellite tracking device or any comparable device, which
834 shall be administered by the board at all times for the length of the parole.

835 SECTION 71. Section 32H of said chapter 94C, as so appearing, is hereby amended by
836 striking out the second paragraph and inserting in place thereof the following paragraph:-

837 A person convicted of violating said sections shall not, until he shall have served the
838 mandatory minimum term of imprisonment established in said sections, be eligible for probation,
839 furlough, work release or receive any deduction from his sentence for good conduct under
840 sections 129C and 129D of chapter 127, nor shall he be eligible for parole except as authorized
841 pursuant to subsection (c) of Section 32, subsection (e) of section 32A, subsection (c) of section
842 32B, subsection (d) of section 32E, or section 32J; provided, however, that the commissioner of
843 correction, on the recommendation of the warden, superintendent or other person in charge of the
844 correctional institution, or a sheriff, on the recommendation of the administrator of a county
845 correctional institution, may grant to said offender a temporary release, subject to the rules and
846 regulations of the institution and under the direction, control and supervision of the officers
847 thereof, for the following purposes: (1) to attend the funeral of a relative, to visit a critically ill
848 relative, to obtain emergency medical or psychiatric services unavailable at said institution; (2) to

849 participate in education, training, or employment programs established under section 48 of
850 chapter 127; or (3) to participate in a program to provide services under section 49B or 49C of
851 chapter 127. Section 87 of chapter 276 shall not apply to any person, 17 years of age or older,
852 charged with a violation of said sections, or to any child between age 14 and 17, so charged by
853 indictment under section 54 of chapter 119.

854 SECTION 72. Section 32J of said chapter 94C, as so appearing, is hereby amended by
855 adding the following paragraph:-

856 Any person serving a mandatory minimum sentence for violating this section shall be
857 eligible for parole after serving one-half of the maximum term of the sentence if the sentence is
858 to a house of correction, except that such person shall not be eligible for parole upon a finding of
859 any 1 of the following aggravating circumstances:

860 (i) the defendant used violence or threats of violence or possessed a firearm, rifle,
861 shotgun, machine gun or a weapon described in paragraph (b) of section 10 of chapter 269, or
862 induced another participant to do so, during the commission of the offense;

863 (ii) the defendant engaged in a course of conduct whereby he directed the activities of
864 another who committed any felony in violation of chapter 94C.

865 (iii) the offense was committed during the commission or attempted commission of the a
866 violation of section 32F or section 32K of chapter 94C.

867 A condition of such parole may be enhanced supervision; provided, however, that such
868 enhanced supervision may, at the discretion of the parole board, include, but shall not be limited

869 to, the wearing of a global positioning satellite tracking device or any comparable device, which
870 shall be administered by the board at all times for the length of the parole.

871 SECTION 73. Section 34 of chapter 101 of the General Laws, as so appearing, is hereby
872 amended by striking out, in line 91 and in lines 96 and 97, the words ‘criminal history systems
873 board’ and inserting in place thereof, in each instance, the following words:- department of
874 criminal justice information services.

875 SECTION 74. Section 71 of chapter 111 of the General Laws, as so appearing, is hereby
876 amended by striking out, in lines 43 and 44, the words “criminal history systems board” and
877 inserting in place thereof the following words:- department of criminal justice information
878 services.

879 SECTION 75. Section 12A ½ of chapter 112 of the General Laws, as so appearing, is
880 hereby amended by striking out, in line 5, the words “criminal history systems board” and
881 inserting in place thereof the following words:- department of criminal justice information
882 services.

883 SECTION 76. Section 9 of chapter 123A of the General Laws, as so appearing, is hereby
884 amended by striking out, in line 51, the words ‘criminal history systems board’ and inserting in
885 place thereof the following words:- department of criminal justice information services.

886 SECTION 77. Section 14 of chapter 123A of the General Laws, as so appearing, is
887 hereby amended by striking out the first sentence and inserting in place thereof the following 2
888 sentences:- The district attorney, or the attorney general at the request of the district attorney,
889 may petition the court for a trial. In any trial held pursuant to this section, either the person

890 named in the petition or the petitioning party may demand, in writing, that the case be tried to a
891 jury and, upon such demand, the case shall be tried to a jury.

892 SECTION 78. Section 2 of chapter 127 of the General Laws, as so appearing, is hereby
893 amended by striking out, in lines 5 and 6, the words ‘criminal history systems board’ and
894 inserting in place thereof the following words:- department of criminal justice information
895 services.

896 SECTION 79. Said chapter 127 is hereby further amended by inserting after section 20A
897 the following section:-

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

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

910 For the duration of his participation in the program, the detainee shall be deemed to be in
911 custody as a pretrial detainee for the purpose of receiving credit pursuant to section 129B of

912 chapter 127 and section 33A of chapter 279 toward any sentence he may receive, and may be
913 charged with escape pursuant to section 16 of chapter 268 should he leave the place to which he
914 is classified pursuant to his participation in the program without authorization or should he
915 escape from custody while he is being transported pursuant to his participation in the program.
916 Additionally for the duration of his participation in this program only, the detainee may receive
917 additional deductions from any sentence that may be imposed for the offense for which he was
918 detained, for participation in work, education or treatment programs designated by the sheriff
919 pursuant to section 129D of chapter 127.

920 A detainee shall not be eligible to participate in this program if he is charged with:
921 murder; any offense that carries the possibility of a life sentence; a violation of: paragraph (b) of
922 32 of chapter 94C; paragraphs (b), (c) and (d) of section 32A of said chapter 94C; paragraph (b)
923 of 32B of said chapter 94C; sections 32B, 32E, 32F, 32J, 32K or 37 of said chapter 94C; a
924 violation of section 13, 14, 15, 15A, 15B, 16, 17, 18, 18A, 19, 20, 21, 24B, 25, 26 or 26A of
925 chapter 265; section 17, 34 or 35 of chapter 272; or an attempt to commit any offense referred to
926 in these sections; or if he is detained under subsection (3) of section 58A of chapter 276. No sex
927 offender, or sexually dangerous person as defined in section 1 of chapter 123A or any person
928 who is charged with committing a sexual offense as defined in said section 1 of said chapter
929 123A shall be eligible to participate in this program. Placement of an individual in such program
930 shall require victim notification as required under clause (t) of section 3 of chapter 258B.

931 SECTION 80. Section 2 of chapter 127 of the General Laws, as so appearing, is hereby
932 amended by striking out, in lines 5 and 6, the words “criminal history systems board” and
933 inserting in place thereof the following words:- department of criminal justice information
934 services.

935 SECTION 81. Section 28 of said chapter 127, as so appearing, is hereby amended by
936 striking out, in line 9, the words “criminal history systems board” and inserting in place thereof
937 the following words:- department of criminal justice information services.

938 SECTION 82. Section 29 of said chapter 127, as so appearing, is hereby amended by
939 striking out, in line 13, the words “criminal history systems board” and inserting in place thereof
940 the following words:- department of criminal justice information services.

941 SECTION 83. Section 133E of said chapter 127, as so appearing, is hereby amended by
942 striking out, in line 3, the words “criminal history systems board” and inserting in place thereof
943 the following words:- department of criminal justice information services.

944 SECTION 84. Section 122 of chapter 140 of the General Laws, as appearing in the 2008
945 Official Edition, is hereby amended by striking out, in lines 21 and 22, the words “executive
946 director of the criminal history systems board” and inserting in place thereof the following
947 words:- commissioner of the department of criminal justice information services.

948 SECTION 85. Section 122A of said chapter 140, as so appearing, is hereby amended by
949 striking out, in line 5, the words “criminal history systems board” and inserting in place thereof
950 the following words:- department of criminal justice information services.

951 SECTION 86. Said section 122A of said chapter 140, as so appearing, is hereby further
952 amended by striking out, in lines 5 and 6 and in lines 9 and 10, the words “executive director of
953 the criminal history systems board” and inserting in place thereof, in each instance, the following
954 words:- commissioner of the department of criminal justice information services.

955 SECTION 87. Section 122B of said chapter 140, as so appearing, is hereby amended by
956 striking out, in lines 14 and 15 and in lines 24 and 25, the words “executive director of the
957 criminal history systems board” and inserting in place thereof, in each instance, the following
958 words:- commissioner of the department of criminal justice information services.

959 SECTION 88. Section 123 of said chapter 140, as so appearing, is hereby amended by
960 striking out, in lines 7 and 8 line 27, and in lines 106 and 107, the words “executive director of
961 the criminal history systems board” and inserting in place thereof, in each instance, the following
962 words:- commissioner of the department of criminal justice information services.

963 SECTION 89. Section 125 of said chapter 140, as so appearing, is hereby amended by
964 striking out, in lines 11 and 12, the words “executive director of the criminal history systems
965 board” and inserting in place thereof the following words:- commissioner of the department of
966 criminal justice information services.

967 SECTION 90. Section 127 of said chapter 140, as so appearing, is hereby amended by
968 striking out, in line 6, the words “executive director of the criminal history systems board” and
969 inserting in place thereof the following words:- commissioner of the department of criminal
970 justice information services.

971 SECTION 91. Section 128A of said chapter 140, as so appearing, is hereby amended by
972 striking out, in lines 27 and 28, the words “executive director of the criminal history systems
973 board” and inserting in place thereof the following words:- commissioner of the department of
974 criminal justice information services.

975 SECTION 92. Section 128B of said chapter 140, as so appearing, is hereby amended by
976 striking out, in lines 11 and 12, the words “executive director of the criminal history systems

977 board” and inserting in place thereof the following words:- commissioner of the department of
978 criminal justice information services.

979 SECTION 93. Section 129B of said chapter 140, as so appearing, is hereby amended by
980 striking out, in lines 112, 148 and 159, the words “executive director of the criminal history
981 systems board” and inserting in place thereof the following words:- commissioner of the
982 department of criminal justice information services.

983 SECTION 94. Section 129C of said chapter 140, as so appearing, is hereby amended by
984 striking out, in lines 12 and 13 and in lines 16 and 17, the words “executive director of the
985 criminal history systems board” and inserting in place thereof, in each instance, the following
986 words:- commissioner of the department of criminal justice information services.

987 SECTION 95. Section 130B of said chapter 140, as so appearing, is hereby amended by
988 striking out, in line 2, the words “criminal history systems board” and inserting in place thereof
989 the following words:- department of criminal justice information services.

990 SECTION 96. Said section 130B of said chapter 140, as so appearing, is hereby further
991 amended by striking out, in line 4, the words “criminal history systems board appointed by the
992 executive director” and inserting in place thereof the following words:- department of criminal
993 justice information services appointed by the commissioner.

994 SECTION 97. Section 131 of said chapter 140, as so appearing, is hereby amended by
995 striking out, in lines 55 and 56, line 163, and in lines 193 and 194, the words “executive director
996 of the criminal history systems board,” and inserting in place thereof, in each instance, the
997 following words:- commissioner of the department of criminal justice information services.

998 SECTION 98. Section 131½ of said chapter 140, as so appearing, is hereby amended by
999 striking out, in lines 6 and 7, the words “criminal history systems board,” and inserting in place
1000 thereof the following words:- department of criminal justice information services.

1001 SECTION 99. Section 131A of said chapter 140, as so appearing, is hereby amended by
1002 striking out, in line 12 and 13, the words “executive director of the criminal history systems
1003 board,” and inserting in place thereof the following words:- commissioner of the department of
1004 criminal justice information services.

1005 SECTION 100. Section 25 of chapter 151A of the General Laws, as so appearing, is
1006 hereby amended by striking out, in lines 251 and 252 and in line 254, the words “criminal history
1007 systems board,” and inserting in place thereof, in each instance, the following words:-
1008 department of criminal justice information services.

1009 SECTION 101. Section 4 of chapter 151B of the General Laws, as so appearing, is
1010 hereby amended by inserting, after subsection 9, the following subsection:-

1011 9½. For an employer to request on its initial written application form criminal offender
1012 record information; provided, however, that except as otherwise prohibited by subsection 9, an
1013 employer may inquire about any criminal convictions on an applicant’s application form if: (i)
1014 the applicant is applying for a position for which any federal or state law or regulation creates
1015 mandatory or presumptive disqualification based on a conviction for 1 or more types of criminal
1016 offenses; or (ii) the employer or an affiliate of such employer is subject to an obligation imposed
1017 by any federal or state law or regulation not to employ persons, in either 1 or more positions,
1018 who have been convicted of 1 or more types of criminal offenses.

1019 SECTION 102. Section 7 of chapter 152 of the General Laws, as so appearing, is hereby
1020 amended by striking out, in line 42 and in lines 44 and 45, the words “criminal history systems
1021 board,” and inserting in place thereof, in each instance, the following words:- department of
1022 criminal justice information services.

1023 SECTION 103. Section 6 of chapter 209A of the General Laws, as so appearing, is
1024 hereby amended by striking out, in line 97, the words “criminal history systems board” and
1025 inserting in place thereof the following words:- department of criminal justice information
1026 services.

1027 SECTION 104. Section 34A of chapter 215 of the General Laws, as so appearing, is
1028 hereby amended by striking out, in lines 47 and 48, the words “criminal history systems board,”
1029 and inserting in place thereof the following words:- department of criminal justice information
1030 services.

1031 SECTION 105. Section 21 of chapter 233 of the General Laws, as so appearing, is hereby
1032 amended by inserting, at the end, the following paragraph:-

1033 Upon order of the court, a party may obtain a witness’s criminal offender record
1034 information from the department of criminal justice information services.

1035 SECTION 106. Section 3 of chapter 255E of the General Laws, as so appearing, is
1036 hereby amended by striking out, in line 12, the words ‘criminal history systems board,’ and
1037 inserting in place thereof the following words:- department of criminal justice information
1038 services.

1039 SECTION 107. Section 1 of chapter 258C of the General Laws, as so appearing, is
1040 hereby amended by inserting after the definition of “Crime” the following definition:-

1041 “Crime scene cleanup”, the removal of, or the attempted removal of, blood or other stains
1042 that are the direct result of the commission of a crime or other dirt and debris caused by the
1043 processing of the crime scene; provided, however, that crime scene cleanup shall not include the
1044 replacement or repair of property damaged during the commission of the crime, in accordance
1045 with section 4.

1046 SECTION 108. Section 1 of chapter 258C of the General Laws, as so appearing, is
1047 hereby amended by inserting after the definition of “Out-of-pocket loss” the following
1048 definition:-

1049 “Security measures”, the replacement, repair or installation of locks, windows or other
1050 security devices deemed to be reasonably necessary for the promotion of the victim’s safety by
1051 the program director after taking into consideration the nature of the crime in accordance with
1052 section 4.

1053 SECTION 109. Subsection (f) of section 2 of said chapter 258C of the General Laws is
1054 hereby repealed.

1055 SECTION 110. Subsection (b) of section 3 of said chapter 258C, as so appearing, is
1056 hereby amended by striking out paragraph (1) and inserting in place thereof the following 2
1057 paragraphs:-

1058 (1)(A) The maximum award or compensation for funeral and burial expenses shall be
1059 \$6,500. A legal guardian, dependent or other family member of the victim or a person who

1060 actually incurs funeral and burial expenses directly related to the death of a victim shall be
1061 eligible for compensation for such funeral and burial expenses.

1062 (B) The maximum award or compensation for expenses other than funeral and burial
1063 expenses associated with the interment of a victim whose death is the direct result of a crime
1064 shall be \$800. For purposes of this subsection compensable expenses shall include, but not be
1065 limited to, transportation of the victim to the location of interment, travel of a legal guardian or
1066 family member to accompany the victim to the location of interment, memorial markers at the
1067 location of interment or other associated expenses as determined by the program director in
1068 accordance with section 4.

1069 SECTION 111. Said section 3 of said chapter 258C, as so appearing, is hereby further
1070 amended, in lines 22 and 25, by striking out the words “one hundred and eighteen F,” and
1071 inserting in place thereof the following word:- 118G.

1072 SECTION 112. Said section 3 of said chapter 258C, as so appearing, is hereby further
1073 amended by inserting after the word “victim” , in line 40, the following words:- , parent or legal
1074 guardian of a victim who is a minor in accordance with section 4.

1075 SECTION 113. Subsection (b) of said section 3 of said chapter 258C, as so appearing, is
1076 hereby further amended by adding the following 3 subparagraphs:-

1077 (G) Expenses incurred for professional crime scene cleanup services necessary as the
1078 direct result of the commission of a crime at a private residence or in a motor vehicle that is
1079 owned or leased by a victim, family member or other dependent shall be compensable in
1080 accordance with this chapter; provided, however, that the maximum amount of compensation
1081 shall not exceed \$1,500.

1082 (H) A victim shall be eligible for compensation for the reasonable replacement costs of
1083 clothing and bedding seized as evidence or rendered unusable as the result of a criminal
1084 investigation that is the direct result of a crime; provided, however, that the maximum
1085 compensable amount shall not exceed \$250.

1086 (I) A victim or a family member residing with the victim at the time a crime is
1087 committed, shall be eligible for compensation for the costs associated with the implementation of
1088 security measures; provided, however, that the maximum compensable amount shall not exceed
1089 \$500.

1090 SECTION 114. Section 8 of said chapter 258C, as so appearing, is hereby amended by
1091 striking out, in line 1, the word “fifteen” and inserting in place thereof the following figure:- 20

1092 SECTION 115. Said section 8 of said chapter 258C, as so appearing, is hereby further
1093 amended by striking out, in line 12, the word “twenty”, and inserting in place thereof the
1094 following figure:- 30.

1095 SECTION 116. Section 9 of said chapter 258C, as so appearing, is hereby amended by
1096 striking out, in line 7, the word “twenty” and inserting in place thereof the following figure:- 30.

1097 SECTION 117. Section 10 of said chapter 258C, as so appearing, is hereby amended by
1098 inserting after the word “insurance,” in line 6, the following words:- , including, but not limited
1099 to, homeowner’s insurance, renter’s insurance, automobile insurance.

1100 SECTION 118. Section 7 of chapter 258D of the General Laws, as so appearing, is
1101 hereby amended by striking out, in lines 4 and 5, the words ‘criminal history systems board’ and

1102 inserting in place thereof the following words:- department of criminal justice information
1103 services.

1104 SECTION 119. Chapter 265 of the General Laws is hereby amended by adding the
1105 following section:-

1106 Section 48. A sex offender, as defined by section 178C of chapter 6, who engages in ice
1107 cream truck vending, as defined in section 25 of chapter 270, shall be punished by imprisonment
1108 in the house of correction for not more than 2½ years or by a fine of \$1,000, or by both such fine
1109 and imprisonment. A police officer or officer authorized to serve criminal process may arrest,
1110 without a warrant, any person whom he has probable cause to believe has violated this section.

1111 SECTION 120. Section 13B of chapter 268 of the General Laws, as so appearing, is
1112 hereby amended by striking out clauses (iv) and (v) and inserting in place thereof the following 2
1113 clauses:-

1114 (iv) a person who is furthering a civil or criminal proceeding, including criminal
1115 investigation, grand jury proceeding, trial, other criminal proceeding of any type, probate and
1116 family proceeding, juvenile proceeding, housing proceeding, land proceeding, clerk's hearing,
1117 court ordered mediation, any other civil proceeding of any type; or

1118 (v) a person who is or was attending or had made known his intention to attend a civil
1119 or criminal proceeding, including criminal investigation, grand jury proceeding, trial, other
1120 criminal proceeding of any type, probate and family proceeding, juvenile proceeding, housing
1121 proceeding, land proceeding, clerk's hearing, court-ordered mediation, any other civil proceeding
1122 of any type with the intent to impede, obstruct, delay, harm, punish or otherwise interfere
1123 thereby, or do so with reckless disregard, with such a proceeding shall be punished by

1124 imprisonment in a jail or house of correction for not more than 2 and one-half years or by
1125 imprisonment in a state prison for not more than 10 years, or by a fine of not less than \$1,000 nor
1126 more than \$5,000, or by both such fine and imprisonment.

1127 SECTION 121. Section 16 of chapter 268 of the General Laws, as so appearing, is hereby
1128 amended by inserting after the word “branch,” in line 10, the following words:- or who
1129 knowingly disables or attempts to disable or defeat electronic monitoring of the prisoner,.

1130 SECTION 122 Chapter 270 of the General Laws is hereby amended by adding the
1131 following section:-

1132 Section 25. (a) For the purposes of this section, the following words shall have the
1133 following meanings:-

1134 “Ice cream”, any frozen dairy or frozen water-based food product.

1135 “Ice cream truck”, any motor vehicle used for selling, displaying or offering to sell ice
1136 cream.

1137 “Ice cream truck vending”, the selling, displaying or offering to sell ice cream or any
1138 other prepackaged food product from an ice cream truck.

1139 “Permitting authority”, the chief of police or the board or officer having control of the
1140 police in a city or town, or person authorized by them.

1141 (b) No person shall engage in ice cream truck vending unless he shall have been issued a
1142 valid permit to do so by the permitting authority within the municipality wherein the permit
1143 applicant lives or intends to operate an ice cream truck. Such permit shall be conspicuously
1144 displayed and clearly visible on the windshield of any ice cream truck operated or from which

1145 ice cream or any other prepackaged food product is sold. Whoever violates this section shall be
1146 assessed a fine of \$500. Each day that such person is in operation in violation of this section
1147 may be considered a separate violation.

1148 (c) The department of public safety shall adopt regulations relative to the annual
1149 permitting of ice cream truck vendors. Such regulations shall include, but not be limited to:

1150 (i) a requirement that all applications for an ice cream truck vending permit or
1151 applications for renewal thereof shall include the applicant's fingerprints and a current photo of
1152 the applicant;

1153 (ii) adoption of a uniform permit application and permit form, to be used by all
1154 municipalities;

1155 (iii) a requirement that a permitting authority conduct an investigation into the
1156 criminal history of a permit applicant to determine eligibility therefore; and

1157 (iv) a provision restricting a permitting authority from issuing an ice cream truck
1158 vending permit to any sex offender, as defined by section 178C of chapter 6 of the General
1159 Laws.

1160 SECTION 123. Section 23A of chapter 276 of the General Laws, as so appearing, is
1161 hereby amended by striking out, in line 8 and in lines 21 and 22, the words 'criminal history
1162 systems board,' and inserting in place thereof, in each instance, the following words:- department
1163 of criminal justice information services.

1164 SECTION 124. Section 23B of said chapter 276, as so appearing, is hereby amended by
1165 striking out, in line 9 and lines 10 and 11, and in lines 12 and 13, the words 'criminal history

1166 systems board,' and inserting in place thereof, in each instance, the following words:- department
1167 of criminal justice information services.

1168 SECTION 125. Section 58A of chapter 276 of the General Laws, as so appearing, is
1169 hereby amended by striking out subsection (1) and inserting in place thereof the following
1170 subsection:-

1171 (1) The commonwealth may move, based on dangerousness, for an order of pretrial
1172 detention or release on conditions for a felony offense that has as an element of the offense the
1173 use, attempted use or threatened use of physical force against the person of another or any other
1174 felony that, by its nature, involves a substantial risk that physical force against the person of
1175 another may result, including the crimes of burglary and arson whether or not a person has been
1176 placed at risk thereof, or a violation of an order pursuant to section 18, 34B or 34C of chapter
1177 208, section 32 of chapter 209, section 3, 4 or 5 of chapter 209 A or section 15 or 20 of chapter
1178 209C, or arrested and charged with a misdemeanor or felony involving abuse as defined in
1179 section 1 of said chapter 209A or while an order of protection issued under said chapter 209A
1180 was in effect against such person, an offense for which a mandatory minimum term of 3 years or
1181 more is prescribed in chapter 94C, arrested and charged with a violation of section 13B of
1182 chapter 268 or a third or subsequent conviction for a violation of section 24 of chapter 90, or
1183 arrested and charged with a violation of paragraph (a), (c) or (m) of section 10 of chapter 269;
1184 provided, however, that the commonwealth may not move for an order of detention under this
1185 section based on possession of a large capacity feeding device without simultaneous possession
1186 of a large capacity weapon; or arrested and charged with a violation of section 10G of said
1187 chapter 269.

1188 SECTION 126. Section 100 of said chapter 276, as so appearing, is hereby amended by
1189 striking out, in line 30, the words “criminal history systems board” and inserting in place thereof
1190 the following words:- department of criminal justice information services.

1191 SECTION 127. Said section 100 of said chapter 276, as so appearing, is hereby further
1192 amended by striking out, in line 33, the word “board” and inserting in place thereof the following
1193 word:- department.

1194 SECTION 128. Section 100A of chapter 276 of the General Laws, as so appearing, is
1195 hereby amended by striking the first paragraph and inserting in place thereof the following
1196 paragraph:-

1197 Any person having a record of criminal court appearances and dispositions in the
1198 commonwealth on file with the office of the commissioner of probation may, on a form
1199 furnished by the commissioner and signed under the penalties of perjury, request that the
1200 commissioner seal the file. The commissioner shall comply with the request provided that: (1)
1201 the person’s court appearance and court disposition records, including any period of
1202 incarceration or custody for any misdemeanor record to be sealed occurred not less than 5 years
1203 before the request; (2) the person’s court appearance and court disposition records, including any
1204 period of incarceration or custody for any felony record to be sealed occurred not less than 10
1205 years before the request; (3) the person had not been found guilty of any criminal offense within
1206 the commonwealth in the case of a misdemeanor, 5 years before the request, and in the case of a
1207 felony, 10 years before request, except motor vehicle offenses in which the penalty does not
1208 exceed a fine of \$50; (4) the form includes a statement by the petitioner that he has not been
1209 convicted of any criminal offense in any other state, United States possession or in a court of

1210 federal jurisdiction, except such motor vehicle offenses, as aforesaid, and has not been
1211 imprisoned in any state or county in the case of a misdemeanor, within the preceding 5 years,
1212 and in the case of a felony, within the preceding 10 years; and (5) the person's record does not
1213 include convictions of offenses other than those to which this section applies. This section shall
1214 apply to court appearances and dispositions of all offenses; provided, however, that this section
1215 shall not apply in case of convictions for violations of sections 121 to 131H, inclusive, of chapter
1216 140 or for violations of chapter 268 or chapter 268A.

1217 SECTION 129. Said section 100A of said chapter 276, as so appearing, is hereby further
1218 amended by inserting, after line 40, the following clauses:-

1219 5. Any violation of section 7 of chapter 209A or section 9 of chapter 258E shall be
1220 treated as a felony.

1221 6. Sex offenses, as defined in section 178C of chapter 6, shall not be eligible for sealing
1222 for 15 years following their disposition, including termination of supervision, probation or any
1223 period of incarceration, or for so long as the offender is under a duty to register in the
1224 commonwealth or in any other state where the offender resides or would be under such a duty if
1225 residing in the commonwealth, whichever is longer; provided, however, that any sex offender
1226 who has at any time been classified as a level 2 or level 3 sex offender, pursuant to section 178K
1227 of chapter 6, shall not be eligible for sealing of sex offenses.

1228 SECTION 130. Said section 100A of said chapter 276, as so appearing, is hereby further
1229 amended by inserting after the word "proceedings", in line 52, the following words:- " , and
1230 except that in any proceedings under sections 1 to 39I, inclusive, of chapter 119, sections 2 to 5,
1231 inclusive, of chapter 201, chapters 208, 209, 209A, 209B, 209C, or sections 1 to 11A, inclusive,

1232 of chapter 210, a party having reasonable cause to believe that information in a sealed criminal
1233 record of another party may be relevant to (1) an issue of custody or visitation of a child, (2)
1234 abuse, as defined in section 1 of chapter 209A or (3) the safety of any person may upon motion
1235 seek to introduce the sealed record into evidence. The judge shall first review such records in
1236 camera and determine those records that are potentially relevant and admissible. The judge shall
1237 then conduct a closed hearing on the admissibility of those records determined to be potentially
1238 admissible; provided, however, that such records shall not be discussed in open court and, if
1239 admitted, shall be impounded and made available only to the parties, their attorneys and court
1240 personnel who have a demonstrated need to receive them.

1241 SECTION 131. Section 100C of said chapter 276, as so appearing, is hereby amended by
1242 striking out, in lines 11 to 12, inclusive, the words “except in cases in which an order of probation
1243 has been terminated.”.

1244 SECTION 132. Said section 100C of said chapter 276, as so appearing, is hereby further
1245 amended by inserting after the word “commissioner”, in line 29, the following words:- or the
1246 clerk of courts in any district or superior court or the Boston municipal court.

1247 SECTION 133. Said chapter 276 is hereby amended by inserting after section 100C the
1248 following section:-

1249 Section 100D. Notwithstanding any provision of section 100A, 100B, or 100C of this
1250 chapter, criminal justice agencies as defined in section 167 of chapter 6 shall have immediate
1251 access to, and be permitted to use as necessary for the performance of their criminal justice
1252 duties, any sealed criminal offender record information as defined in section 167 of chapter 6 and

1253 any sealed information concerning criminal offenses or acts of delinquency committed by any
1254 person before he attained the age of 17.

1255 SECTION 134. Section 1 of chapter 279 of the General Laws, as so appearing, is hereby
1256 amended by striking out, in line 42, the words ‘criminal history systems board’ and inserting in
1257 place thereof the following words:- department of criminal justice information services.

1258 SECTION 135. Notwithstanding any general or special law to the contrary, this section
1259 shall facilitate the orderly transfer of the employees, proceedings, rules and regulations, property
1260 and legal obligations of the criminal history systems board, as the transferor agency, to the
1261 department of criminal justice information services, as the transferee agency, as follows:

1262 (a) Subject to appropriation, the employees of the criminal history systems board,
1263 including those who immediately before the effective date of this act hold permanent
1264 appointment in positions classified under chapter 31 of the General Laws or have tenure in their
1265 positions as provided by section 9A of chapter 30 of the General Laws or do not hold such
1266 tenure, or hold confidential positions, are hereby transferred to the department of criminal justice
1267 information services, without interruption of service within the meaning of said section 9A of
1268 said chapter 31, without impairment of seniority, retirement or other rights of the employee, and
1269 without reduction in compensation or salary grade, notwithstanding any change in title or duties
1270 resulting from such reorganization, and without loss of accrued rights to holidays, sick leave,
1271 vacation and benefits, and without change in union representation or certified collective
1272 bargaining unit as certified by the state labor relations commission or in local union
1273 representation or affiliation. Any collective bargaining agreement in effect immediately before
1274 the transfer date shall continue in effect and the terms and conditions of employment therein

1275 shall continue as if the employees had not been so transferred. The reorganization shall not
1276 impair the civil service status of any such reassigned employee who immediately before the
1277 effective date of this act either holds a permanent appointment in a position classified under
1278 chapter 31 of the General Laws or has tenure in a position by reason of section 9A of chapter 30
1279 of the General Laws.

1280 Notwithstanding any general or special law to the contrary, all such employees shall
1281 continue to retain their right to collectively bargain pursuant to chapter 150E of the General
1282 Laws and shall be considered employees for the purposes of said chapter 150E.

1283 Nothing in this section shall be construed to confer upon any employee any right not held
1284 immediately before the date of said transfer, or to prohibit any reduction of salary grade, transfer,
1285 reassignment, suspension discharge layoff or abolition of position not prohibited before such
1286 date.

1287 (b) All petitions, requests, investigations and other proceedings appropriately and duly
1288 brought before or referred to the executive director of the criminal history systems board by the
1289 transferor agency and pending before the executive director before the effective date of this act,
1290 shall continue unabated and remain in force, but shall be assumed and completed by the
1291 department of criminal justice information services.

1292 (c) All orders, rules and regulations duly made and all approvals duly granted by the
1293 criminal history systems board, which are in force immediately before the effective date of this
1294 act, shall continue in force and shall thereafter be enforced by the department of criminal justice
1295 information systems, until superseded, revised, rescinded or canceled, in accordance with law.

1296 (d) All books, papers, records, documents, equipment, buildings, facilities, cash and other
1297 property, both personal and real, including all such property held in trust, which immediately
1298 before the effective date of this act are in the custody of the criminal history systems board shall
1299 be transferred to the department of criminal justice information services.

1300 (e) All duly existing contracts, leases and obligations of the criminal history systems
1301 board shall continue in effect but shall be assumed by the department of criminal justice
1302 information services. No existing right or remedy of any character shall be lost, impaired or
1303 affected by this act.

1304 SECTION 136. The Massachusetts department of criminal justice information systems, in
1305 consultation with the information technology division, shall regularly report on its progress in
1306 building the information technology system necessary to fulfill the requirements established in
1307 subsection (a) of section 172 of chapter 6 of the General Laws, as amended by section 21 of this
1308 act. The department shall file such reports with the joint committee on the judiciary, the joint
1309 committee on public safety and homeland security, the house and senate committees on bonding,
1310 capital expenditures and state assets and the house and senate committees on ways and means
1311 and shall post such reports on the department's publicly-accessible website. The department shall
1312 file such reports 6, 12, 15 and 18 months after the effective date of this act, and at 3-month
1313 intervals thereafter, if necessary, until the project is complete. Each report shall include a
1314 description of the progress made in the planning, design and construction of the system since the
1315 preceding report, and shall include a comparison of actual expenditures to budgeted expenditures
1316 and of budgeted timelines to actual timelines. Each report shall also include a certification as to
1317 whether the department expects the complete information technology system to be fully
1318 operational 18 months after the effective date of this act.

1319 SECTION 137. Notwithstanding the provisions of sections 32, 32A, 32B, 32E, and 32J of
1320 chapter 94C of the General Laws, or any other general or special law to the contrary, a person
1321 serving a mandatory minimum sentence for violating any provision of the above-referenced
1322 sections as of the effective date of this act, shall be eligible for parole after serving one-half of
1323 the maximum term of the sentence if the sentence is to a house of correction; provided, however,
1324 that said person shall not be eligible for parole if the parole board finds that any one of the
1325 following aggravating circumstances apply:

1326 (i) the defendant used violence or threats of violence or possessed a firearm, rifle,
1327 shotgun, machine gun or a weapon described in paragraph (b) of section 10 of chapter 269, or
1328 induced another participant to do so, during the commission of the offense;

1329 (ii) the defendant engaged in a course of conduct whereby he directed the activities of
1330 another who committed a felony in violation of Chapter 94C; or

1331 (iii) the offense was committed during the commission or attempted commission of the
1332 offenses set forth in section 32F or section 32K of chapter 94C.

1333 SECTION 138. The executive office of public safety, in conjunction with the department
1334 of public health, the trial court, the department of probation and the office of community
1335 correction, shall promulgate regulations establishing a resource guide for law enforcement
1336 personnel, sheriffs and judges on substance abuse treatment programs and options, including but
1337 not limited to, providing information on civil commitment programs, jail diversion and public
1338 and private treatment options, including the Massachusetts Alcohol and Substance Abuse Center,
1339 the Men's Addiction Treatment Center and the Women's Addiction Treatment Center. The

1340 Bureau of Substance Abuse Services shall provide technical assistance related to producing said
1341 resource guide.

1342 SECTION 139. The executive office of public safety and security and the department of
1343 correction, in conjunction with the department of public health, shall adopt regulations to create a
1344 substance abuse education program in state prisons and houses of corrections. Such program
1345 shall focus on, but not be limited to, screening inmates for substance use disorders, preparing
1346 inmates with substance use disorders for reentry into the community, providing training relative
1347 to obtaining housing, employment and the necessary substance abuse treatment once an inmate is
1348 released.

1349 SECTION 140. The department of probation, in conjunction with the criminal history
1350 systems board shall conduct a study on rehabilitation. That study shall include an examination
1351 of:

1352 (a) enabling a person convicted of or adjudicated delinquent by reason of any felony or
1353 misdemeanor charges in the commonwealth or a person who has been charged with a crime in
1354 the commonwealth but which charges did not result in a conviction to petition the superior court
1355 of the trial court department in the county in which he then resides for a certificate of
1356 rehabilitation, or a certificate of recovery and rehabilitation if the charges were a consequence of
1357 substance abuse, for ascertainment and declaration of the fact of his rehabilitation or recovery
1358 and rehabilitation if certain conditions are met, for example if the person: (1) has not been
1359 sentenced to incarceration since being discharged from a felony or misdemeanor or since the
1360 termination of any ancillary proceedings related to such felony or misdemeanor including, but
1361 not limited to, any period of probation, parole or continuation; (2) is not the subject of a

1362 probationary or parole term for the commission of any other felony or misdemeanor; (3)
1363 presents satisfactory evidence of 2 years residence in the commonwealth prior to the filing of the
1364 petition; (4) has demonstrated a period of rehabilitation, as provided in section 176C of the
1365 General Laws, and (5) in the case of a person seeking a certificate of recovery and rehabilitation,
1366 has completed a substance abuse treatment program approved by the bureau of substance abuse
1367 treatment services;

1368 (b) the standard the petitioner must demonstrate his rehabilitation or recovery;

1369 (c) the duration of rehabilitation required to be eligible for a certificate of rehabilitation
1370 or recovery;

1371 (d) any recommended provision of notice of the filing of a petition to the district attorney
1372 of the county in which a petition is filed, to the district attorney of the county in which the
1373 petitioner was convicted of an offense, to the attorney general and to the governor;

1374 (e) whether a petitioner for a certification of rehabilitation or recovery may be
1375 represented by counsel and whether the court shall appoint counsel for certain petitioners;

1376 (f) whether the court in which the petition is filed may require such testimony as it deems
1377 necessary, and who should be required to produce and pay for the cost of production of all
1378 records and reports relating to the petitioner and the offense for which he was charged;

1379 (g) which information the court may request upon the filing of the application for a
1380 certificate, from the district attorney in which the petition was filed including, but not limited to:
1381 the place of residence of the petitioner; the criminal record of the petitioner as shown by the
1382 records of the Department of Justice; any representation made to the court by the petitioner; the

1383 conduct of the petitioner during his period of rehabilitation; and any other information the court
1384 may deem necessary in making its determination;

1385 (h) under what conditions a court should deny a petition for a certificate of rehabilitation
1386 or recovery;

1387 (i) under what conditions a court should issue a certificate of rehabilitation or recovery
1388 and whether such a certificate should become a part of the petitioner's criminal offender record
1389 information;

1390 (j) to whom the court should forward such a certificate and whether any
1391 recommendations should be included;

1392 (k) whether such a certificate should be provided to any person lawfully seeking
1393 information relative to the offense for which a petitioner has received a certificate;

1394 (l) whether any forms would be required to effectuate such a process and who should
1395 develop them;

1396 (m) any notice requirements that are recommended for defendants or individuals being
1397 released from custody, discharged from probation or parole, or concluding substance abuse
1398 treatment;

1399 (n) any other factors that may or may not be included within the determination of whether
1400 to issue a benefit granted by the awarding of such a certificate;

1401 (o) any rights that an individual who has been denied the benefits of attaining a certificate
1402 of rehabilitation or recovery should have, including the right to appeal such a decision;

1403 (p) what the appropriate forum should be for such an appeal; and

1404 (q) any punishments that should be levied against an individual who fraudulently uses
1405 such a certificate.

1406 The department shall report its findings to the clerks of the house and senate by
1407 December 31, 2010, who shall forward that report to the chairmen of the house committee on
1408 ways and means, the senate committee on ways and means and the joint committee on mental
1409 health and substance abuse.

1410 SECTION 141. The parole board shall conduct a study to determine the benefit and cost
1411 of establishing a substance abuse treatment program to be included as a requirement for
1412 individuals during a period of post-release supervision.

1413 The board shall file the findings of its study by December 31, 2010, with the clerks of the
1414 house and the senate, who shall forward the report to the chairmen of the house committee on
1415 ways and means, the senate committee on ways and means, the joint committee on mental health
1416 and substance abuse and the joint committee on the judiciary.

1417 SECTION 142. The department of corrections, in consultation with the department of
1418 public health shall conduct a study on the establishment of jail diversion programs for nonviolent
1419 low-level offenders with substance use disorders. The study shall include, but not be limited to,
1420 the establishment of jail diversion programs, innovative ways for the courts to divert substance
1421 abusers from the criminal justice system into specified substance abuse treatment options and the
1422 cost estimates for implementing such a program.

1423 The department shall file the findings of its study by December 31, 2010, with the clerks
1424 of the house and the senate, who shall forward the report to the chairmen of the house committee
1425 on ways and means, the senate committee on ways and means and the joint committee on mental
1426 health and substance abuse.

1427 SECTION 143. The administrative office of the trial court shall conduct a study to
1428 examine the bail review process including, but not limited to, personal recognizance, challenges
1429 to the amount of bail for an accused and the provision of notice to a petitioner relative to future
1430 court appearances. The administrative office shall report to the joint committee on the judiciary
1431 not later than December 31, 2010.

1432 SECTION 144. The department of public safety shall adopt the regulations required
1433 under section 25 of chapter 270 of the General Laws, not later than 90 days from the effective
1434 date of this act.

1435 SECTION 145. Sections 2 to 8, inclusive, 12, 16 to 26, inclusive, 28, 30, 31, 33 to 37,
1436 inclusive, 56, 62, 65 to 67, inclusive, 105, 119, 122, 128 to 133, inclusive, and 135 shall take
1437 effect 18 months from the effective date of this act.

1438 SECTION 146. Section 144 shall take effect 180 days from the effective date of this act.