

SENATE No. 940

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

AN ACT TO IMPROVE JUVENILE JUSTICE DATA COLLECTION..

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. The purpose of this provision is to ensure that the Commonwealth
2 establishes systems to collect accurate, consistent, and comprehensive data on juveniles' contacts
3 with officials in the law enforcement and juvenile justice systems in order to improve
4 comprehensive state planning as required by Title 42 of the United States Code, section 5633.

5 SECTION 2. Definitions.

6 As used in this act, -

7 "contact" means any action or practice by law enforcement personnel or by any other
8 official of the commonwealth or private service provider under contract or other agreement with
9 the commonwealth, in dealing with a juvenile at any stage of the juvenile justice system
10 including, but not limited to, the points of contact listed below in sections 4(a) –(i).

11 “juvenile” means a youth between the age of seven and seventeen and up to the age of 21
12 if the individual remains within the jurisdiction of the juvenile court or juvenile justice system,

and children aged fourteen to seventeen who are charged with first or second degree murder pursuant to M.G.L.A. 119 § 74;

“alternative lock-up program” means a facility and/or program that provides for the physical care and custody of a youth being held by the police after an arrest and before an arraignment, and includes programs provided by the police, municipal, county or state government, as well as any contractor, vendor or service-provider working with such government entities.

“racial/ethnic category” means the socio-cultural racial and ethnic category of an individual as categorized in a manner that is consistent with the categories established and utilized by the Office of Juvenile Justice and Delinquency Prevention.

“type of crime” means category of crime into which the alleged or proven offense a youth has committed falls as categorized in a manner that is consistent with the categories established and utilized by the National Incident-Based Reporting System.

SECTION 3. The Child Advocate shall create and update as may be appropriate an instrument to record statistical data at each point of contact identified in sections 4(a)-(i). This instrument shall, at minimum, include age, gender, race/ethnicity category, and type of crime. The child advocate shall give due regard to the census of juveniles when setting forth the race/ethnicity categories in the instrument. The Child Advocate shall consider providing guidance about the manner in which the race/ethnicity information is designated and collected, with consideration of the juveniles’ self-reporting of such categories. All Offices and Departments subject to this law shall use this instrument to record contacts.

SECTION 4. (a) The department of state police, municipal police departments, Massachusetts Bay Transportation Authority police, any school-based police from a local education authority, and any contractor, vendor or service-provider working with such police including any alternative lock-up programs, shall collect the necessary information to complete the instrument identified in Section 3 for each juvenile subjected to the following contacts for each fiscal year

(1) referral to and/or use of diversion programming;

(2) arrest; and

(3) pre-arraignment detention;

(b) Clerk magistrates shall collect the necessary information to complete the instrument identified in Section 3 for each juvenile subjected to the following contacts for each fiscal year

(1) criminal complaint filed

(2) finding of probable cause;

(3) complaint issued;

(4) appeal to judge of the finding by the clerk magistrate; and

(5) complaint issued after appeal.

(c) The district attorneys shall collect the necessary information to complete the instrument identified in Section 3 for each juvenile subjected to the following contacts for each fiscal year

(1) referral to and/or use of diversion programming;

(2) indictment as a youthful offender;

(3) dismissal of indictment/dismissal of indictment in exchange for other action; and

(4) prosecution in criminal court under M.G.L.A. ch. 119 § 74.

(d) The juvenile court department shall collect the necessary information to complete the instrument identified in Section 3 for each juvenile subjected to the following contacts for each fiscal year

(1) arraignment as a delinquent

(2) arraignment as a youthful offender;

(3) referral to and/or use of diversion programming;

(3) pre-trial probation pursuant to M.G.L.A. ch. 276 § 87;

(4) cases which are continued without a finding, M.G.L.A. ch. 278 § 18 and M.G.L.A. ch. 119 § 58 ;

(5) adjudication as a delinquent;

(6) adjudication as a youthful offender;

(7) sentence to probation;

(8) commitment to the department of youth services pursuant to M.G.L.A. ch. 119 § 58;

(9) commitment to the department of youth services pursuant to M.G.L.A. ch. 279 s. 2 that are suspended;

(10) extension of commitments to the department of youth services pursuant to M.G.L.A. ch. 120 § 17,18 by consent or order;

(11) juvenile brought before the court on criminal and non-criminal violations of probation; and

(12) commitments to department of youth services following probation violation.

(e) The office of the commissioner of probation shall collect the necessary information to complete the instrument identified in Section 3 for each juvenile subjected to the following contacts for each fiscal year

(1) referral to and/or use of diversion programming;

(2) supervision of pre-trial probation;

(3) supervision of continuances without a finding; and

(4) supervision of youth on probation;

(f) The department of youth services and any contractor, vendor or service provider working with said department including alternative lock-up programs shall collect the necessary information to complete the instrument identified in Section 3 for each juvenile subjected to the following contacts for each fiscal year

(1) pre-trial detention;

(2) commitment;

(3) level of care including, but not limited to,

a. “hardware,” secure;

b. staff secure;

c. residential; and

d. community placement;

(4) notice of revocation of grants of conditional liberty;

(5) hearing on grants of conditional liberty;

(6) youth placed in secure for violation of conditions of liberty;

(7) extensions of commitments pursuant to M.G.L.A. ch. 120 § §17,18 sought by the
department of youth services; and

(8) extensions pursuant to M.G.L.A. ch. 120 § §17,18 by consent or order.

(g) The superior court shall collect the necessary information to complete the instrument
identified in Section 3 for each juvenile subjected to the following contacts for each fiscal year

(1) arraignment for murder in the first degree and murder in the second degree; and

(2) convictions.

(h) The department of correction and each sheriff's department shall collect the necessary information to complete the instrument identified in Section 3 for each juvenile subjected to the following contacts for each fiscal year

(1) prearrest detention;

(2) pretrial detention;

(3) post-disposition confinement of youthful offenders; and

(4) post-conviction confinement for Murder.

(i) The parole board shall collect the necessary information to complete the instrument identified in Section 3 for each juvenile subjected to the following contacts for each fiscal year

(1) grant of parole;

(2) supervision of parole; and

(3) revocation of parole.

SECTION 5. (a) The Executive Office of Public Safety and Security shall be responsible for assembling the data collected by the below offices and departments on an annual basis. The collected data for each fiscal year shall be published on the Executive Office of Public Safety and Security Website, filed with the clerks of the Massachusetts House and Senate and provided to the Office of the Child Advocate no later than 90 days after the end of that fiscal year. The first such report shall be submitted by January 2, 2010.

a. The Commissioner of the Department of Correction

b. Sheriffs of each County;

c. The Parole Board;

d. The Department of the State Police;

e. Municipal police departments;

f. The Massachusetts Bay Transportation Authority Police;

g. School based police from any local education authority;

h. Alternative Lock-up Programs; and

i. any other contractor, vendor or service provider working with school based or other police officers.

(b) The Attorney General shall be responsible of assembling data collected by District Attorney's Offices on an annual basis. The collected data for each fiscal year shall be published on the Attorney General's website, filed with the clerks of the Massachusetts House and Senate and provided to the Office of the Child Advocate no later than 90 days after the end of that fiscal year. The first such report shall be submitted by January 2, 2010

(c) The Chief Justice for Administration and Management shall be responsible for assembling data collected by judicial officers and court personnel including the Commissioner of Probation, judicial officers and court personnel, and the Executive Director of Community Correction. The data shall be collected on an annual basis. The collected data for each fiscal year shall be published on the Supreme Judicial Court's website, filed with the clerks of the Massachusetts House and Senate and provided to the Office of the Child Advocate no later than

145 90 days after the end of that fiscal year. The first such report shall be submitted by January 2,
146 2010

147 (d) The Executive Office for Human Services shall be responsible for assembling data
148 collect by the Commissioner of the Department of Youth Services and all department personnel,
149 contractors or vendors working with the Department. The data shall be collected on an annual
150 basis. The collected data for each fiscal year shall be published on the Office's website, filed
151 with the clerks of the Massachusetts House and Senate and provided to the Office of the Child
152 Advocate no later than 90 days after the end of that fiscal year. The first such report shall be
153 submitted by January 2, 2010

154 SECTION 6. Any individual data described or acquired under the provisions of this
155 chapter shall be used only for statistical purposes and may not be disseminated if it contains data
156 that reveal the identity of an individual who had contact with the juvenile justice system within
157 the meaning of this chapter.

158 SECTION 7. The annual Juvenile Justice Contact Data Reports from the Executive
159 Offices of Public Safety and Security, Attorney General, Chief Justice for Administration and
160 Management and Executive of Office of Human Services shall be public records.