

HOUSE No. 3249

The Commonwealth of Massachusetts

PRESENTED BY:

Russell E. Holmes

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to sentencing reform.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Russell E. Holmes</i>	<i>6th Suffolk</i>	<i>1/18/2013</i>
<i>Carlo Basile</i>	<i>1st Suffolk</i>	
<i>William N. Brownsberger</i>	<i>Second Suffolk and Middlesex</i>	
<i>Carlos Henriquez</i>	<i>5th Suffolk</i>	
<i>Martin J. Walsh</i>	<i>13th Suffolk</i>	

HOUSE No. 3249

By Mr. Holmes of Boston, a petition (accompanied by bill, House, No. 3249) of Russell E. Holmes and others relative to sentencing reform. Public Safety and Homeland Security.

The Commonwealth of Massachusetts

In the Year Two Thousand Thirteen

An Act relative to sentencing reform.

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

1 SECTION 1. Section 167 of chapter 6 of the General Laws, as appearing in the 2010
2 Official Edition, is hereby amended by striking out, in lines 21, 23 and 24 the word “seventeen”
3 and inserting in place thereof the following word:- eighteen

4 SECTION 2. Section 5 of chapter 27 of the General Laws, as appearing in the 2010
5 Official Edition, is hereby amended by inserting after the word “require”, in line 33, the
6 following words:- ; and (i) administer and oversee mandatory post-release supervision functions
7 as set forth in subsection (a) of section 133D of chapter 127.

8 SECTION 3. Section 20 of chapter 31 of the General Laws, as appearing in the 2010
9 Official Edition, is hereby amended by striking out in line 10 the word “seventeen” and inserting
10 in place thereof the following word:- eighteen

11 SECTION 4. Section 24 of chapter 37 of the General Laws, as appearing in the 2010
12 Official Edition, is hereby amended by striking out in paragraph (d) the word “seventeen” and
13 inserting in place thereof the following word:- eighteen

14 SECTION 5. Section 32 of chapter 94C of the General Laws, as appearing in
15 section 12 of chapter 192 of the acts of 2012, is hereby amended by striking out subsection (b)
16 inserting in place thereof the following subsection:-

17 (b) Any person convicted of violating this section after one or more prior convictions of
18 manufacturing, distributing, dispensing or possessing with the intent to manufacture, distribute,
19 or dispense a controlled substance as defined by section thirty-one of this chapter under this or
20 any prior law of this jurisdiction or of any offense of any other jurisdiction, federal, state, or

21 territorial, which is the same as or necessarily includes the elements of said offense shall be
22 punished by a term of imprisonment in the state prison for not less than five nor more than
23 twelve years. No sentence imposed under the provisions of this section shall be for less than a
24 mandatory minimum term of imprisonment of five years and a fine of not less than two thousand
25 and five hundred nor more than twenty-five thousand dollars may be imposed but not in lieu of
26 the mandatory minimum five year term of imprisonment, as established herein.

27 SECTION 6. Section 32A of Chapter 94C of the General Laws, as appearing in section
28 13 of chapter 192 of the acts of 2012, is hereby further amended by striking out subsection (b)
29 and inserting in place thereof the following subsection:-

30 (b) Any person convicted of violating this section after one or more prior convictions of
31 manufacturing, distributing, dispensing, or possessing with the intent to manufacture, distribute
32 or dispense a controlled substance as defined by section thirty-one of this chapter under this or
33 any other prior law of this jurisdiction or of any offense of any other jurisdiction, federal, state,
34 or territorial, which is the same as or necessarily includes the elements of said offense shall be
35 punished by a term of imprisonment in the state prison for not less than 18 months nor more than
36 ten years. No sentence imposed under the provisions of this section shall be for less than a
37 mandatory minimum term of imprisonment of 18 months and a fine of not less than two
38 thousand and five hundred nor more than twenty-five thousand dollars may be imposed but not
39 in lieu of the mandatory minimum term of imprisonment, as established herein.

40 SECTION 7. Chapter 94C of the General Laws is hereby further amended by striking out
41 section 32E inserting in place thereof the following section:-

42 Section 32E. (a) Any person who trafficks in marihuana by knowingly or intentionally
43 manufacturing, distributing, dispensing or cultivating or possessing with intent to manufacture,
44 distribute, dispense or cultivate, or by bringing into the commonwealth a net weight of 50
45 pounds or more of marihuana or a net weight of 50 pounds or more of any mixture containing
46 marihuana shall, if the net weight of marihuana or any mixture thereof is:

47 (1) Fifty pounds or more, but less than 100 pounds, be punished by a term of
48 imprisonment in the state prison for not more than 15 years or by imprisonment in a jail or house
49 of correction for not more than 2½ years and by a fine of not less than \$500 nor more than
50 \$10,000, or both such fine and imprisonment.

51 (2) One hundred pounds or more, but less than 2,000 pounds, be punished by a term of
52 imprisonment in the state prison for not more than 15 years and by a fine of not less than \$2,500
53 nor more than \$25,000.

54 (3) Two thousand pounds or more, but less than 10,000 pounds, be punished by a term of
55 imprisonment in the state prison for not more than 15 years and by a fine of not less than \$5,000
56 nor more than \$50,000.

57 (4) Ten thousand pounds or more, be punished by a term of imprisonment in the state
58 prison for not more than 15 years and by a fine of not less than \$20,000 nor more than \$200,000.

59 (b) Any person who trafficks in a controlled substance defined in clause (4) of paragraph
60 (a) or in clause (3) of paragraph (c) of Class B of section 31 by knowingly or intentionally
61 manufacturing, distributing or dispensing or possessing with intent to manufacture, distribute or
62 dispense or by bringing into the commonwealth a net weight of 14 grams or more of a controlled
63 substance as so defined, or a net weight of 14 grams or more of any mixture containing a
64 controlled substance as so defined shall, if the net weight of a controlled substance as so defined,
65 or any mixture thereof is:

66 (1) Fourteen grams or more but less than 28 grams, be punished by a term of
67 imprisonment in the state prison for not more than 15 years and by a fine of not less than \$2,500
68 nor more than \$25,000.

69 (2) Twenty-eight grams or more, but less than 100 grams, be punished by a term of
70 imprisonment in the state prison for not more than 20 years and by a fine of not less than \$5,000
71 nor more than \$50,000.

72 (3) One hundred grams or more, but less than 200 grams, be punished by a term of
73 imprisonment in the state prison for not more than 20 years and by a fine of not less than \$10,000
74 nor more than \$100,000.

75 (4) Two hundred grams or more, be punished by a term of imprisonment in the state
76 prison for not more than 20 years and by a fine of not less than \$50,000 nor more than \$500,000.

77 (c) Any person who trafficks in heroin or any salt thereof, morphine or any salt thereof,
78 opium or any derivative thereof by knowingly or intentionally manufacturing, distributing or
79 dispensing or possessing with intent to manufacture, distribute or dispense or by bringing into
80 the commonwealth a net weight of fourteen grams or more of heroin or any salt thereof,
81 morphine or any salt thereof, opium or any derivative thereof or a net weight of 14 grams or
82 more of any mixture containing heroin or any salt thereof, morphine or any salt thereof, opium or
83 any derivative thereof shall, if the net weight of heroin or any salt thereof, morphine or any salt
84 thereof, opium or any derivative thereof or any mixture thereof is:

85 (1) Fourteen grams or more but less than 28 grams, be punished by a term of
86 imprisonment in the state prison for not more than 15 years and by a fine of not less than \$5,000
87 nor more than \$50,000.

88 (2) Twenty-eight grams or more but less than 100 grams, be punished by a term of
89 imprisonment in the state prison for not more than 20 years and by a fine of not less than \$5,000
90 nor more than \$50,000.

91 (3) One hundred grams or more but less than 200 grams, be punished by a term of
92 imprisonment in the state prison for not more than 20 years and by a fine of not less than \$10,000
93 nor more than \$100,000.

94 (4) Two hundred grams or more, be punished by a term of imprisonment in the state
95 prison for not more than 20 years and by a fine of not less than \$50,000 nor more than \$500,000.

96 (d) Any person who trafficks in marihuana by knowingly or intentionally manufacturing,
97 distributing, dispensing or cultivating or possessing with intent to manufacture, distribute,
98 dispense or cultivate or by bringing into the commonwealth a net weight of fifty pounds or more
99 of marihuana or a net weight of fifty pounds or more of any mixture containing marihuana and
100 who uses, carries or visibly possesses a firearm during the commission of the offense shall, if the
101 net weight of marihuana or any mixture thereof is:

102 (1) Fifty pounds or more, but less than 100 pounds, be punished by a term of
103 imprisonment in the state prison for not less than 2½ nor more than 15 years or by imprisonment
104 in a jail or house of correction for not less than 1 nor more than 2½ years. No sentence imposed
105 under the provisions of this section shall be for less than a mandatory minimum term of
106 imprisonment of 1 year and a fine of not less than \$500 nor more than \$10,000 may be imposed
107 but not in lieu of the mandatory minimum one year term of imprisonment, as established herein.

108 (2) One hundred pounds or more, but less than 2,000 pounds, be punished by a term of
109 imprisonment in the state prison for not less than 3 nor more than 15 years. No sentence imposed
110 under the provisions of this section shall be for less than a mandatory minimum term of
111 imprisonment of 3 years and a fine of not less than \$2,500 nor more than \$25,000 may be
112 imposed but not in lieu of the mandatory minimum term of imprisonment, as established herein.

113 (3) Two thousand pounds or more, but less than 10,000 pounds, be punished by a term of
114 imprisonment in the state prison for not less than 5 nor more than 15 years. No sentence imposed
115 under the provisions of this section shall be for less than a mandatory minimum term of
116 imprisonment of 5 years and a fine of not less than \$5,000 nor more than \$50,000 may be
117 imposed but not in lieu of the mandatory minimum term of imprisonment, as established herein.

118 (4) Ten thousand pounds or more, be punished by a term of imprisonment in the state
119 prison for not less than 10 nor more than 15 years. No sentence imposed under the provisions of
120 this section shall be for less than a mandatory minimum term of imprisonment of 10 years and a
121 fine of not less than \$20,000 nor more than \$200,000 may be imposed but not in lieu of the
122 mandatory minimum term of imprisonment, as established herein.

123 (e) Any person who trafficks in a controlled substance defined in clause (4) of paragraph
124 (a) or in clause (3) of paragraph (c) of Class B of section 31 by knowingly or intentionally
125 manufacturing, distributing or dispensing or possessing with intent to manufacture, distribute or
126 dispense or by bringing into the commonwealth a net weight of 14 grams or more of a controlled

127 substance as so defined, or a net weight of 14 grams or more of any mixture containing a
128 controlled substance as so defined and who uses, carries or visibly possesses a firearm during the
129 commission of the offense shall, if the net weight of a controlled substance as so defined, or any
130 mixture thereof is:

131 (1) Fourteen grams or more but less than 28 grams, be punished by a term of
132 imprisonment in the state prison for not less than 3 nor more than 15 years. No sentence imposed
133 under the provisions of this clause shall be for less than a minimum term of imprisonment of 3
134 years, and a fine of not less than \$2,500 nor more than \$25,000 may be imposed but not in lieu of
135 the mandatory minimum term of imprisonment, as established herein.

136 (2) Twenty-eight grams or more, but less than 100 grams, be punished by a term of
137 imprisonment in the state prison for not less than 5 nor more than 20 years. No sentence imposed
138 under the provisions of this clause shall be for less than a mandatory minimum term of
139 imprisonment of 5 years, and a fine of not less than \$5,000 nor more than \$50,000 may be
140 imposed but not in lieu of the mandatory minimum term of imprisonment, as established herein.

141 (3) One hundred grams or more, but less than 200 grams, be punished by a term of
142 imprisonment in the state prison for not less than 10 nor more than 20 years. No sentence
143 imposed under the provisions of this clause shall be for less than a mandatory minimum term of
144 imprisonment of 10 years and a fine of not less than \$10,000 nor more than \$100,000 may be
145 imposed but not in lieu of the mandatory minimum term of imprisonment, as established herein.

146 (4) Two hundred grams or more, be punished by a term of imprisonment in the state
147 prison for not less than 15 nor more than 20 years. No sentence imposed under the provisions of
148 this clause shall be for less than a mandatory minimum term of imprisonment of 15 years and a
149 fine of not less than \$50,000 nor more than \$500,000 may be imposed but not in lieu of the
150 mandatory minimum term of imprisonment, as established herein.

151 (f) Any person who trafficks in heroin or any salt thereof, morphine or any salt thereof,
152 opium or any derivative thereof by knowingly or intentionally manufacturing, distributing or
153 dispensing or possessing with intent to manufacture, distribute or dispense or by bringing into
154 the commonwealth a net weight of fourteen grams or more of heroin or any salt thereof,
155 morphine or any salt thereof, opium or any derivative thereof or a net weight of 14 grams or
156 more of any mixture containing heroin or any salt thereof, morphine or any salt thereof, opium or
157 any derivative thereof and who uses, carries or visibly possesses a firearm during the
158 commission of the offense shall, if the net weight of heroin or any salt thereof, morphine or any
159 salt thereof, opium or any derivative thereof or any mixture thereof is:

160 (1) Fourteen grams or more but less than 28 grams, be punished by a term of
161 imprisonment in the state prison for not less than 5 nor more than 20 years. No sentence imposed
162 under the provisions of this clause shall be for less than a mandatory minimum term of

163 imprisonment of 5 years and a fine of not less than \$5,000 nor more than \$50,000 may be
164 imposed but not in lieu of the mandatory minimum term of imprisonment, as established herein.

165 (2) Twenty-eight grams or more but less than 100 grams, be punished by a term of
166 imprisonment in the state prison for not less than 7 nor more than 20 years. No sentence imposed
167 under the provisions of this clause shall be for less than a mandatory minimum term of
168 imprisonment of 7 years and a fine of not less than \$5,000 nor more than \$50,000 may be
169 imposed, but not in lieu of the mandatory minimum term of imprisonment, as established herein.

170 (3) One hundred grams or more but less than 200 grams, be punished by a term of
171 imprisonment in the state prison for not less than 10 nor more than 20 years. No sentence
172 imposed under the provisions of this clause shall be for less than the mandatory minimum term
173 of imprisonment of 10 years, and a fine of not less than \$10,000 nor more than \$100,000 may be
174 imposed but not in lieu of the mandatory minimum term of imprisonment, as established therein.

175 (4) Two hundred grams or more, be punished by a term of imprisonment in the state
176 prison for not less than 15 nor more than 20 years. No sentence imposed under the provisions of
177 this clause shall be for less than a mandatory minimum term of imprisonment of 15 years and a
178 fine of not less than \$50,000 nor more than \$500,000 may be imposed but not in lieu of the
179 mandatory minimum term of imprisonment, as established therein.

180 SECTION 8. Section 32H of chapter 94C, as most recently amended in sections 28 and
181 29 of chapter 192 of the acts of 2012, is hereby further amended by striking out in the last
182 sentence the number “17” and inserting in place thereof the following number:- 18

183 SECTION 9. Chapter 94C of the General Laws is hereby amended by striking out section
184 32J and inserting in place thereof the following section:-

185 Section 32J. Any person who violates the provisions of section 32, 32A, 32B, 32C, 32D,
186 32E, 32F or 32I while in or on, or within 300 feet of the real property comprising a public or
187 private accredited preschool, accredited headstart facility, elementary, vocational, or secondary
188 school if the violation occurs between 5:00 a.m. and midnight, whether or not in session, or
189 within 100 feet of a public park or playground shall be punished by a term of imprisonment in
190 the state prison for not more than fifteen years or imprisoned in a jail or house of correction for
191 not more than 2 years or by a fine of not less than \$1,000 nor more than \$10,000, or both such
192 fine and imprisonment. In accordance with the provisions of section 8A of chapter 279, such
193 sentence shall begin from and after the expiration of the sentence for violation of section 32,
194 32A, 32B, 32C, 32D, 32E, 32F, 32I or 32K. Lack of knowledge of school boundaries shall not be
195 a defense to any person who violates the provisions of this section.

196 SECTION 10. Section 32M of chapter 94C of the General Laws, as appearing in the 2010
197 Official Edition, is hereby amended by striking out, in line 6, the word “seventeen” and inserting
198 in place thereof the following word:- eighteen

199 SECTION 11. Section 36 of said chapter 94C, as appearing in the 2010 Official Edition,
200 is hereby amended by striking out, in line 6, the word “seventeenth” and inserting in place
201 thereof the following word:- eighteenth

202 SECTION 12. Section 1 of chapter 111E of the General Laws, as appearing in the 2010
203 Official Edition, is hereby amended by inserting the following:-

204 “Addiction specialist”, a person with an MD, PhD, RN, LICSW or other professional
205 training who is licensed or certified by the department’s bureau of substance abuse services as a
206 provider of substance abuse treatment.

207 SECTION 13. Section 1 of said chapter 111E of the General Laws, as so appearing, is
208 hereby amended by inserting the following:-

209 “Bureau”, the bureau of substance abuse services within the department of public health.

210 SECTION 14. Section 1 of said chapter 111E of the General Laws, as so appearing, is
211 hereby amended by striking out the definition of “Director”, and inserting in place thereof the
212 following:-

213 “Director”, the director of the division of rehabilitation, his designee, the assistant
214 commissioner in charge of the bureau or his designee.

215 SECTION 15. Section 1 of said chapter 111E of the General Laws, as so appearing, is
216 hereby amended by striking out the definition of “Drug dependent person” and inserting in place
217 thereof the following:-

218 “Drug dependent person”, a person, regardless of age, who is unable to function
219 effectively and whose inability to do so causes, or results from, the use of a drug other than
220 alcohol, tobacco or lawful beverages containing caffeine, and other than from a medically
221 prescribed drug when such drug is medically indicated and the intake is proportioned to the
222 medical need, or a person who is at risk of becoming drug dependent, as defined herein.

223 SECTION 16. Section 5 of said chapter 111E of the General Laws, as appearing in the
224 2010 Official Edition, is hereby amended by inserting after the last paragraph, after the word
225 “facility”, the following paragraph:-

226 If the division is unable to comply with the provisions of this section, the bureau shall
227 prepare and publish annually a list of facilities operating in accordance with this chapter and
228 shall make such list available to all district and superior courts, interested attorneys and statewide
229 organizations, the offices of the District Attorneys for each county and their statewide
230 organizations, and probation departments and their statewide organizations within the
231 commonwealth on an annual basis and to members of the public upon request. Such list shall
232 include, but not be limited to, the following:

- 233 (a) eligibility of treatment;
- 234 (b) scope of treatment offered;
- 235 (c) applicable facility fees;
- 236 (d) last known patient capacity; and
- 237 (e) facilities available for emergency treatment.

238 SECTION 17. Section 8 of said chapter 111E of the General Laws, as appearing in the
239 2010 Official Edition, is hereby amended by striking out the second paragraph and inserting in
240 place thereof the following:-

241 Upon receipt by the director of an application for admission, the director shall designate
242 an addiction specialist to conduct an examination of the person to determine whether that person
243 is a drug dependent person who would benefit from treatment. The addiction specialist shall
244 report his findings in writing to the director after the completion of the examination, stating the
245 facts upon which the findings are based and the reasons therefore.

246 SECTION 18. Section 10 of said chapter 111E of the General Laws, as appearing in the
247 2010 Official Edition, is hereby amended by striking out the first paragraph and inserting in
248 place thereof the following:-

249 Any defendant who is charged with a first-or second-offense shall be informed, upon
250 being brought before the court on such charge, that he is entitled to request an examination to
251 determine whether or not he is a drug dependant person who would benefit from treatment. A
252 court may in its discretion request an examination of any person charged with a drug offense to
253 determine whether a defendant is drug dependent and would benefit from treatment in
254 accordance with this chapter.

255 SECTION 19. Section 12 of said chapter 111E of the General Laws, as appearing
256 in the 2010 Official Edition, is hereby amended by inserting in the first paragraph, after the last
257 sentence, the following sentence:- A positive drug test alone shall not be considered a breach of
258 the terms of probation.

259 SECTION 20. Section 52 of chapter 119 of the General Laws, as appearing in the
260 2010 Official Edition, is hereby amended by striking out, in line 5, in the definition of
261 “Delinquent child”, the word “seventeen” and inserting in place thereof the following word:-
262 eighteen

263 SECTION 21. Said section 52 of said chapter 119 of the General Laws, as so appearing,
264 is hereby further amended by striking out in the definition of “Youthful offender,” the word
265 “seventeen” and inserting in place thereof the following word:- eighteen

266 SECTION 22. Section 54 of said chapter 119 of the General Laws, as appearing in the
267 2010 Official Edition, is hereby amended by striking out in lines 2 and 20 the word “seventeen”
268 and inserting in place thereof the following word:- eighteen

269 SECTION 23. Section 58 of chapter 119 of the General Laws, as appearing in the 2010
270 Official Edition, is hereby amended by inserting in lines 9 and 10 after the words “or age
271 nineteen in the case of a child whose case is disposed of after he has attained his eighteenth
272 birthday”, the following words:- or age twenty in the case of a child whose case is disposed of
273 after he has attained his nineteenth birthday.

274 SECTION 24. Section 58 of chapter 119 of the General Laws, as appearing in the 2010
275 Official Edition, is hereby amended by inserting at the end of the second paragraph after the
276 word “birthday”, the following words:-, or age twenty in the case of a child whose case is
277 disposed of after he has attained his nineteenth birthday.

278 SECTION 25. Section 58 of said chapter 119 of the General Laws, as so appearing, is
279 hereby further amended by striking out, in line 67, the word “seventeenth” and inserting in place
280 thereof the following word:- eighteenth

281 SECTION 26. Section 58 of said chapter 119 of the General Laws, as so appearing, is
282 hereby further amended by inserting, in line 89, after the words “child attains his eighteenth
283 birthday”, the following:- or his nineteenth birthday in the case of a child whose case is disposed
284 of after he has attained his eighteenth birthday

285 SECTION 27. Section 60A of said chapter 119 of the General Laws, as appearing in the
286 2010 Official Edition, is hereby amended by striking out in the second paragraph the word
287 “seventeenth” and inserting in place thereof the following word:- eighteenth

288 SECTION 28. Section 60A of said chapter 119 of the General Laws, as so appearing, is
289 hereby amended by striking out in the second paragraph the word, “seventeen” where it so
290 appears, and inserting in place thereof the following word:- eighteen

291 SECTION 29. Section 63A of said chapter 119 of the General Laws, as appearing in the
292 2010 Official Edition, is hereby amended by striking out in the first paragraph of clause (i) the
293 words “17, or under the age of 18 and in state custody,” and inserting in place thereof the
294 following word:- eighteen

295 SECTION 30. Section 65 of said chapter 119 of the General Laws, as appearing in the
296 2010 Official Edition, is hereby amended by striking out, in line 2, the word “seventeen” and
297 inserting in place thereof the following word:- eighteen

298 SECTION 31. Section 66 of said chapter 119 of the General Laws, as appearing in the
299 2010 Official Edition, is hereby amended by striking out in lines 2, 3 and 5 the word “seventeen”
300 and inserting in place thereof the following word:- eighteen

301 SECTION 32. Section 67 of said chapter 119 of the General Laws, as appearing in the
302 2010 Official Edition, is hereby amended by striking out in lines 2, 19, 20, 35 and 45 the word
303 “seventeen” and inserting in place thereof the following word:- eighteen

304 SECTION 33. Section 68 of said Chapter 119 of the General Laws, as appearing in the
305 2010 Official Edition, is hereby amended by striking out in lines 2, 31 and 46 the word
306 “seventeen” and inserting in place thereof the following word:- eighteen

307 SECTION 34. Section 68A of said chapter 119 of the General Laws, as appearing in the
308 2010 Official Edition, is hereby amended by striking out, in line 1, the word “seventeen” and
309 inserting in place thereof the following word:- eighteen

310 SECTION 35. Section 70 of said chapter 119 of the General Laws, as appearing in the
311 2010 Official Edition, is hereby amended by striking out, in line 2, the word “seventeen” and
312 inserting in place thereof the following word:- eighteen

313 SECTION 36. Section 72 of said chapter 119 of the General Laws, as appearing in the
314 2010 Official Edition, is hereby amended by striking out, in line 8, the word “nineteenth” and
315 inserting in place thereof the following word:- twentieth

316 SECTION 37. Section 72 of said chapter 119 of the General Laws, as so appearing, is
317 hereby further amended by striking out, in lines 9 to 12, inclusive, the words “seventeenth
318 birthday, and is not apprehended until between his seventeenth and eighteenth birthday, the court
319 shall deal with such child in the same manner as if he has not attained his seventeenth birthday”
320 and inserting in place thereof the following words:- eighteenth birthday, and is not apprehended
321 before his nineteenth birthday, the court shall deal with such child in the same manner as if he
322 has not attained his eighteenth birthday

323 SECTION 38. Section 72A of said chapter 119 of the General Laws, as appearing in the
324 2010 Official Edition, is hereby amended by striking out in lines 2 to 3, inclusive, the words
325 “seventeenth birthday, and is not apprehended until after his eighteenth birthday,” and inserting
326 in place thereof the following:- eighteenth birthday, and is not apprehended until after his
327 nineteenth birthday,

328 SECTION 39. Section 72B of said chapter 119 of the General Laws, as appearing in the
329 2010 Official Edition, is hereby amended by striking out in lines 2, 7 and 24 the word
330 “seventeenth” and inserting in place thereof the following word:- eighteenth

331 SECTION 40. Section 74 of said chapter 119 of the General Laws, as appearing in the
332 2010 Official Edition, is hereby amended by striking out in line 3 the word “seventeenth” and
333 inserting in place thereof the following word:- eighteenth

334 SECTION 41. Said section 74 of said chapter 119 of the General Laws, as so appearing,
335 is hereby further amended by striking out in lines 10 and 14 the word “seventeen” and inserting
336 in place thereof the following word:- eighteen

337 SECTION 42. Section 84 of said chapter 119 of the General Laws, as appearing in the
338 2010 Official Edition, is hereby amended by striking out in line 11 the words “seventeen (or
339 eighteen)” and inserting in place thereof the following:- eighteen (or nineteen)

340 SECTION 43. Section 15 of chapter 120 of the General Laws, as appearing in the 2010
341 Official Edition, is hereby amended by striking out in lines 3 and 4 the word “seventeen” and
342 inserting in place thereof the following word:- eighteen

343 SECTION 44. Section 21 of said chapter 120 of the General Laws, as appearing in the
344 2010 Official Edition, is hereby amended by striking out in line 17 the word “seventeen” and
345 inserting in place thereof the following word:- eighteen

346 SECTION 45. Section 1 of chapter 124 of the General Laws, as appearing in the 2010
347 Official Edition, is hereby amended by adding the following subsection:-

348 (v) promulgate regulations to develop, implement, coordinate and monitor a
349 comprehensive, collaborative, seamless, reentry strategy which promotes successful transition of
350 the offender population to promote public safety and reduce recidivism by collaborating with
351 county, state, community and faith-based agencies in areas including, but not limited to, housing,
352 employment, medical and mental health care, substance abuse treatment, education and related
353 transitioning programming. The reentry process should begin upon an inmate’s commitment to
354 the department and continue until the inmate is discharged from supervision into the community.

355 SECTION 46. Chapter 127 of the General Laws is hereby amended by inserting after
356 section 97B the following section:-

357 Section 97C. (a) Notwithstanding any general or special law to the contrary, when an
358 inmate, as defined in section 1 of chapter 125, including any prisoner held pursuant to section
359 52A of chapter 276, is transferred from a county correctional facility to a state correctional
360 facility or from a state correctional facility to a county correctional facility, or between the
361 department of mental health and a state or county correctional facility, the transferring facility
362 shall provide known medical and mental health information about the inmate relevant to recent
363 treatment and information necessary for continuity of care to the receiving facility.

364 (b) Under procedures jointly developed by the commissioner and the commissioner of
365 mental health, a correctional facility and the department of mental health shall share information
366 relevant to recent treatment and information necessary for continuity of care concerning an
367 inmate who has received or is identified as needing services from the department of mental

368 health for purposes of providing mental health treatment to said inmate at their respective
369 facilities.

370 (c) Information shared under this section may be verbal or written, provided, however,
371 that for an inmate transferred between correctional facilities, or between a correctional facility
372 and the department of mental health information, information as set forth below shall also be
373 provided in writing. The commissioner shall specify a written form that the correctional facilities
374 shall utilize for purposes of this section. The content of this written form shall be developed by
375 the commissioner in consultation with the commissioner of mental health and shall include, but
376 not be limited to: (i) mental health history relevant to recent treatment and information necessary
377 for continuity of care, (ii) history of suicide attempts, (iii) acute medical concerns, (iv) names
378 and dosages of current medications, (v) substance abuse history, and (vi) allergies and dietary
379 restrictions.

380 The transferring facility shall provide such information at or before the time of the
381 inmate's arrival at the receiving institution, but in any event, not more than 72 hours after the
382 inmate's arrival at the receiving institution. In the event of an emergency, the transferring facility
383 shall provide such information as soon as possible after the inmate's arrival, but in any event, not
384 more than 24 hours thereafter.

385 (d) Any privilege or confidentiality provision created by statute or common law relating
386 to confidential communications or information or any statute otherwise prohibiting the disclosure
387 of information shall not preclude the dissemination of information pursuant to this section;
388 provided, however, that no such privilege or right of confidentiality shall be deemed waived in
389 any proceeding by virtue of its having been disseminated pursuant to this section.

390 (e) Any person who provides information to a correctional facility or to the department of
391 mental health in accordance with this section shall not be liable in any civil or criminal action for
392 providing such information.

393 (f) Information shared pursuant to this section shall be considered health information and
394 shall not be further disseminated except as provided by the regulations for release of health
395 information of the respective departments.

396 SECTION 47. Section 136 of said chapter 127, as appearing in section 42 of chapter 192
397 of the acts of 2012, is hereby amended by inserting, after clause (c), the following sentence:- The
398 parole board shall have the option to (1) grant parole, subject to the conditions or limitations as
399 deemed appropriate, (2) deny parole, subject to reconsideration at a specified date with
400 recommendations for interim program participation or treatment, or (3) deny parole.

401 SECTION 48. Section 3 of chapter 211E of the General Laws, as appearing in the 2010
402 Official Edition, is hereby amended by inserting after subsection (k) the following subsection:-

403 (l) The commission shall provide an assessment of current mandatory minimum
404 sentencing laws as part of an annual survey of sentencing practices and shall conduct as part of
405 the assessment a racial impact assessment, which may include, but not be limited to, an
406 assessment about offenders sentenced to mandatory and non-mandatory drug offenses, and
407 information about length of sentences. The commission shall also provide a racial impact
408 assessment on any sentencing proposal that is voted on by the general court. Notwithstanding the
409 foregoing, the commission shall assure that the guidelines are neutral as to race, national origin,
410 creed, religion and socio-economic status of offenders. The commission shall establish a protocol
411 and practice for obtaining the information for the assessment.

412 SECTION 49. Section 13 of chapter 250 of the General Laws, as appearing in the 2010
413 Official Edition, is hereby amended by striking out in line 3 the word “seventeen” and inserting
414 in place thereof the following word:- eighteen

415 SECTION 50. Section 10 of chapter 269 of the General Laws, as appearing in the 2010
416 Official Edition, is hereby amended by inserting at the end of subsection (d) the following:-

417 Whoever, after having been convicted in any court, of a crime punishable by
418 imprisonment for a term of ten years or more, further commits an offense set forth in paragraph
419 (a), (b) or (c), shall be punished by imprisonment in the state prison for not less than five years.
420 The sentence imposed on such person shall not be reduced, nor suspended, nor shall any person
421 convicted under this subsection be eligible for probation, parole, work release, or furlough or
422 receive any deduction from his sentence for good conduct until he shall have served such
423 sentence; provided, however, that the commissioner of correction may on the recommendation of
424 the warden, superintendent, or other person in charge of a correctional institution, grant to an
425 offender committed under this subsection a temporary release in the custody of an officer of such
426 institution for the following purposes only: to attend the funeral of a relative; to visit a critically
427 ill relative; or to obtain emergency medical or psychiatric service unavailable at said institution.
428 Prosecutions commenced under this subsection shall neither be continued without a finding nor
429 placed on file.

430 SECTION 51. Section 89A of chapter 276 of the General Laws, as appearing in the 2010
431 Official Edition, is hereby amended by striking out in line 3 the word “seventeen” and inserting
432 in place thereof the following word:- eighteen

433 SECTION 52. Section 2 of chapter 276A of the General Laws, as appearing in the 2010
434 Official Edition, is hereby amended by striking out in lines 6 and 10 the word “seventeen” in and
435 inserting in place thereof the following word:- eighteen

436 SECTION 53. Chapter 279 of the General Laws is hereby amended by inserting after
437 section 27 the following section:-

438 Section 27A. Post-release supervision.

439 (a) All sentences of incarceration to a correctional facility shall include a period of
440 mandatory post-release supervision and assistance, except where mandated by section 133A of
441 chapter 127, where an individual has successfully completed a period of probation imposed by
442 the court, or where an individual is sentenced to lifetime community parole pursuant to section
443 45 of chapter 265 and section 133D of chapter 127. For those not subject to parole or probation,
444 the period of mandatory post-release supervision and assistance shall be 25 percent of the
445 maximum term of incarceration imposed at sentencing, or nine months, whichever is greater.
446 Where an individual is convicted of multiple offenses, the offense with the greatest term of
447 incarceration shall be used to determine the length of the post-release supervision period. An
448 individual subject to mandatory post-release supervision who has successfully completed 6
449 months of supervision shall be eligible for early termination of that supervision. Early
450 termination shall only occur in accordance with procedures to be adopted in the regulations of
451 the parole board. In proceedings for early termination of mandatory post-release supervision, the
452 parole board's considerations shall include, but not be limited to, the amount of time the
453 individual has successfully spent under post-release supervision, efforts and achievements in the
454 areas of employment, housing, education, counseling, substance abuse treatment and required
455 testing programs, and any other circumstances that are relevant to the individual case.

456 (b) Upon release, an individual subject to post-release supervision and assistance shall be
457 under the jurisdiction of and supervised by the parole board. The chairman of the parole board
458 shall establish uniform regulations for mandatory post-release supervision consistent with the
459 applicable provisions of chapter 127 and 276. All persons under such supervision shall be
460 subject to the provisions of law, rules and regulations governing parole. The parole board will
461 actively work with either the department of social services or the department of youth services,
462 or both, where applicable, to provide assistance to the releasee in areas including, but not limited
463 to, housing, education, employment training and employment opportunity. Nothing in this
464 section shall limit the authority of the any court to impose conditions of probation supervision to
465 protect the public or promote the rehabilitation of any person.

466 (c) An individual who violates a condition of mandatory post-release supervision shall be
467 subject to modification or revocation proceedings initiated by the parole board. In all
468 proceedings under this section, upon a violation, the individual may be placed under increased
469 supervision, subjected to other conditions, or incarcerated for not more than the maximum
470 remaining unserved portion of their sentence. In the case of any violation for use of controlled
471 substances or an offense for operating under the influence of drugs or alcohol, the period of
472 mandatory post-release supervision shall be extended to accommodate an appropriate substance
473 abuse program. For any violation of the conditions of mandatory post-release supervision, the
474 period of supervision shall be stayed during a period of incarceration and it shall be resumed
475 upon release. If such violation constitutes a criminal offense, said period of incarceration shall
476 be served on and after any sentence received as a result of the new offense. Upon subsequent

477 release, the greater of the maximum sentences of the original offense and subsequent offense
478 shall be used to calculate the new mandatory post-release supervision period.

479 In establishing rules applicable to post-release supervision, the parole board, in
480 conjunction with the Sentencing Commission, shall prepare and consider a racial and ethnic
481 impact statement describing the effect of the rules on: (i) the racial and ethnic composition of
482 persons on parole, probation or post-release supervision; and (ii) victims of crime who are
483 members of racial and ethnic groups for which data are available.

484 SECTION 54. Section 6B of chapter 280 of the General Laws, as appearing in the 2010
485 Official Edition, is hereby amended by striking out in line 3 the word “seventeen” and inserting
486 in place thereof the following word:- eighteen