# HOUSE . . . . . . . . . . . . No. 1584

### The Commonwealth of Massachusetts

PRESENTED BY:

#### Tom Sannicandro

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 reforming pretrial process.

#### PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
Tom Sannicandro	7th Middlesex	1/16/2015
Kenneth J. Donnelly	Fourth Middlesex	1/16/2015
Michael D. Brady	Second Plymouth and Bristol	1/29/2015
Claire D. Cronin	11th Plymouth	1/20/2015
Marjorie C. Decker	25th Middlesex	1/21/2015
Carolyn C. Dykema	8th Middlesex	1/28/2015
Tricia Farley-Bouvier	3rd Berkshire	1/21/2015
Gloria L. Fox	7th Suffolk	1/23/2015
Sean Garballey	23rd Middlesex	1/25/2015
Carlos Gonzalez	10th Hampden	2/4/2015
Kenneth I. Gordon	21st Middlesex	1/30/2015
Jonathan Hecht	29th Middlesex	1/22/2015
Paul R. Heroux	2nd Bristol	1/29/2015
Russell E. Holmes	6th Suffolk	2/3/2015
Jay R. Kaufman	15th Middlesex	1/22/2015
Mary S. Keefe	15th Worcester	1/30/2015
Peter V. Kocot	1st Hampshire	1/16/2015
Jay D. Livingstone	8th Suffolk	1/20/2015

Frank A. Moran	17th Essex	1/30/2015
Denise Provost	27th Middlesex	1/16/2015
David M. Rogers	24th Middlesex	1/26/2015
Jeffrey N. Roy	10th Norfolk	1/16/2015
Byron Rushing	9th Suffolk	1/30/2015
Ellen Story	3rd Hampshire	1/16/2015
Benjamin Swan	11th Hampden	1/30/2015
Jose F. Tosado	9th Hampden	2/3/2015
Aaron Vega	5th Hampden	1/23/2015
Chris Walsh	6th Middlesex	1/16/2015
Michael O. Moore	Second Worcester	8/13/2019
Leah Cole	12th Essex	8/13/2019
Louis L. Kafka	8th Norfolk	8/13/2019
Jennifer E. Benson	37th Middlesex	8/13/2019
Ruth B. Balser	12th Middlesex	1/26/2015
Sonia Chang-Diaz	Second Suffolk	8/13/2019
James B. Eldridge	Middlesex and Worcester	8/13/2019
Kay Khan	11th Middlesex	8/13/2019
Jason M. Lewis	Fifth Middlesex	8/13/2019
Danielle W. Gregoire	4th Middlesex	8/13/2019
John W. Scibak	2nd Hampshire	8/13/2019
Paul McMurtry	11th Norfolk	8/13/2019
Sheila C. Harrington	1st Middlesex	8/13/2019
James J. O'Day	14th Worcester	8/13/2019
Steven Ultrino	33rd Middlesex	8/13/2019
Daniel A. Wolf	Cape and Islands	8/13/2019
Gailanne M. Cariddi	1st Berkshire	8/13/2019
Frank I. Smizik	15th Norfolk	8/13/2019
Linda Dorcena Forry	First Suffolk	8/13/2019
John J. Lawn, Jr.	10th Middlesex	8/13/2019
Aaron Michlewitz	3rd Suffolk	8/13/2019
Christine P. Barber	34th Middlesex	8/13/2019
Daniel M. Donahue	16th Worcester	8/13/2019
Paul Brodeur	32nd Middlesex	8/13/2019
Timothy J. Toomey, Jr.	26th Middlesex	8/13/2019
Harold P. Naughton, Jr.	12th Worcester	8/13/2019
Paul A. Schmid, III	8th Bristol	8/13/2019
John J. Mahoney	13th Worcester	8/13/2019
Timothy R. Madden	Barnstable, Dukes and Nantucket	8/13/2019

Carmine L. Gentile	13th Middlesex	8/13/2019
William Smitty Pignatelli	4th Berkshire	8/13/2019
Alice Hanlon Peisch	14th Norfolk	8/13/2019
Elizabeth A. Malia	11th Suffolk	8/13/2019
Carole A. Fiola	6th Bristol	8/13/2019
Sal N. DiDomenico	Middlesex and Suffolk	8/13/2019
Stephen L. DiNatale	3rd Worcester	8/13/2019

## **HOUSE . . . . . . . . . . . . . . . No. 1584**

By Mr. Sannicandro of Ashland, a petition (accompanied by bill, House, No. 1584) of Tom Sannicandro and others for legislation to reform pretrial processes. The Judiciary.

### The Commonwealth of Alassachusetts

In the One Hundred and Eighty-Ninth General Court (2015-2016)

An Act reforming pretrial process.

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 16 of chapter 125 of the General Laws, as appearing in 2012
- 2 Official Edition, is hereby amended by adding, at the end thereof, the following sentence:-
- The commissioner of corrections may upon approval of the commissioner place female
- 4 prisoners held for trial in a community corrections program under chapter 211F.
- 5 SECTION 2. Section 4 of chapter 126, as appearing in the 2012 Official Edition, is
- 6 hereby amended by inserting, after the first sentence, the following sentence:-
- 7 The sheriff, superintendent, keeper or other officer in charge of the jail may upon
- 8 approval of the commissioner place a person, who is charged with crime and committed for trial,
- 9 in a community corrections program under chapter 211F.
- SECTION 3. Section 48 of Chapter 127 of the General Laws, as appearing in the 2012
- Official Edition, is hereby amended by adding, after the third sentence, the following sentence:-

12 The commissioner or the administrators of county correctional facilities may upon approval of 13 the commissioner place inmates in a community corrections program under chapter 211F.

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- SECTION 4. Section 49 of Chapter 127 of the General Laws, as so appearing, is hereby amended by adding after the word "facility" in line 7 the following sentence:- or to participate in a community corrections program under chapter 211F;
- SECTION 5. Section 90A of Chapter 127 of the General Laws, as so appearing, is hereby amended by inserting after the figure "(f)" in line 30, the following: - to participate in a 19 community corrections program under chapter 211F; or (g).
  - SECTION 6. Subsection (a) of section 3 of chapter 211F of the General Laws, as appearing in the 2012 Official Edition, is hereby amended by inserting at the end thereof the following sentences:-
  - Under section 49 of chapter 127, the commissioner of corrections or the administrator of a county correctional facility, upon approval of the commissioner may place in a community corrections program an inmate eligible to participate in education, training or employment under section 48 of chapter 127. Under section 16 of chapter 125 or section 4 of chapter 126, the commissioner of corrections or the administrator of a county correctional facility may upon approval of the commissioner place a person who is being held for trial in a community corrections program under chapter 211F.
  - SECTION 7. Subsection (c) of section 3 of chapter 211F of the General Laws, as so appearing, is hereby amended by inserting before the word "sentence" in line 8, the following words:- court-ordered.

SECTION 8. Said section 3 of chapter 211F of the General Laws, as so appearing, is hereby further amended by inserting at the end the following subsection:- (e) Participation in a community corrections program may be ordered by the court, in lieu of bail, or as a condition of release consistent with sections 57, 58, and 58A of chapter 276 and subject to the eligibility requirements of this section.

SECTION 9. Subsection (b) of section 4 of chapter 211F, as so appearing, is hereby amended by inserting at the end thereof the following sentence: - and by the commissioner of corrections, under sections 48, 49 and 90A of chapter 127, for the purpose of re-entry and reintegration or, under section 16 of chapter 125 or section 4 of chapter 126, for the purpose of community supervision of persons held for trial.

SECTION 10. Said section 4 of chapter 211F, as so appearing, is hereby further amended by inserting at the end thereof the following:- (d) Community corrections programs may be utilized by the probation department for pretrial supervision consistent with sections 58, 58A or 87 of chapter 276.

SECTION 11. Section 42 of chapter 276 of the General Laws, as appearing in the 2012 Official Edition, is hereby amended by striking out, in line "and sufficient bail is offered".

SECTION 12. The second paragraph of section 42A of said chapter 276, as amended by chapter 260 of the acts of 2014, is hereby amended by striking out the figure "57" and replacing it with the figure "58".

SECTION 13. Said chapter 276, as so appearing, is hereby amended by striking out section 57 in its entirety and inserting in place thereof the following:-

"Section 57. The following words, as used in section 57 through section 82A, unless the context otherwise requires, shall have the following meanings:—

"Bail", the process by which a person is released from custody, either subject to conditions of release or on his or her own recognizance.

"Conditions of release", the conditions included in paragraph (B) of section 58A.

"Default", any failure to abide by a specific condition of pretrial release, including, but not limited to a failure to appear at a specified court date, a failure to follow an order to stay away from a witness or victim, a failure to attend a treatment program stipulated in a release order or any other failure to abide by a condition of release.

"Financial condition", a secured or unsecured bond.

"Judicial officer", a justice of the supreme judicial or superior court, a justice or a clerk or assistant clerk of the superior, juvenile, Boston Municipal, housing or district court or the clerk of the superior court for criminal business in the county of Suffolk, a standing or special commissioner appointed by either of said courts or a bail commissioner.

"Pretrial services", the division of pretrial services established in section 59 of this chapter.

"Risk assessment tool", an empirically developed uniform tool validated in the commonwealth that analyzes risk factors, created or chosen and implemented by pretrial services to produce the risk assessment score for a defendant that will aid the judicial officer in determining the pretrial release with or without conditions that will reasonably assure appearance of the defendant before the court.

"Risk factors", items specific to a defendant that are accounted for by the risk assessment tool that may include but are not limited to the following: the nature and circumstances of the offense charged, the potential penalty the person faces, the person's family ties, financial resources, employment record and history of mental illness, his reputation and the length of residence in the community, his record of convictions, if any, any illegal drug distribution or present drug dependency, any flight to avoid prosecution or fraudulent use of an alias or false identification, any failure to appear at any court proceeding to answer to an offense, whether the person is on bail pending adjudication of a prior charge, whether the acts alleged involve abuse as defined in section one of chapter 209A, or violation of a temporary or permanent order issued pursuant to sections 18 or 34B of chapter 208, section 32 of chapter 209, sections 3, 4 or 5 of chapter 209A, or sections 15 or 20 of chapter 209C, whether the person has any history of orders issued against him pursuant to the aforesaid sections, whether he is on probation, parole, or other release pending completion of sentence for any conviction, and whether he is on release pending sentence or appeal for any conviction.

"Secured bond", an amount of cash or pledged property that in the discretion of the judicial officer would reasonably assure the presence of a defendant as required, taking into consideration the individual characteristics of the defendant including the defendant's financial means.

"Surety", an individual, individuals or organization who without any compensation promises to ensure the presence of a criminal defendant at proceedings or who pledges an unsecured bond or both.

"Unsecured bond", an agreement between the district or superior court and a defendant in a criminal case or a surety that if said defendant does not appear on a date certain before the court or fails to abide by any explicit conditions of release, the defendant or surety will forfeit to the court a specified amount of money or property due at the time of any default by the defendant."

SECTION 14. Section 58 of said chapter 276, as so appearing, is hereby amended, in lines 1 and 2, by striking the words "A justice or a clerk or assistant clerk of the district court, a bail commissioner or master in chancery" and inserting in place thereof the following:- "A judicial officer".

SECTION 15. Said section 58 of said chapter 276, as so appearing, is hereby further amended by striking out, in lines 2 and 3, the words "the applicable provisions of section fifty-seven" and inserting in place thereof the following words:- "this section".

SECTION 16. Said section 58 of said chapter 276, as so appearing, is hereby further amended by striking out, in lines 4 and 5, the words "for an offense other than an offense punishable by death,".

SECTION 17. Said section 58 of said chapter 276, as so appearing, is hereby further amended by striking out, in line 6, the words "fifty-eight" and inserting in place thereof the following figure:- "58".

SECTION 18. Said section 58 of said chapter 276, as so appearing, is hereby further amended by inserting after the word "surety" in line 10, the following words:- "or financial condition".

SECTION 19. Said section 58 of said chapter 276, as so appearing, is hereby further amended by striking out, in lines 10 and 11, the words "A justice or a clerk or assistant clerk of the district court, a bail commissioner or master in chancery" and inserting in place thereof the following:- "A judicial officer".

SECTION 20. Said section 58 of said chapter 276, as so appearing, is hereby further amended by inserting after the word "discretion" in line 12, the following words:- "after consulting the risk assessment tool".

SECTION 21. Said section 58 of said chapter 276, as so appearing, is hereby further amended by inserting after the first sentence, the following:- "All persons authorized to take bail under this section shall be governed by the rules established by the supreme judicial or trial court.".

SECTION 22. Said section 58 of said chapter 276, as so appearing, is hereby further amended by striking out, in lines 13-35, the second sentence and inserting in place thereof the following:- "The judicial officer setting bail shall not impose a financial condition that results in the pretrial detention of the person."

SECTION 23. Said section 58 of said chapter 276, as so appearing, is hereby further amended by striking out, in line 35, the word "person" and inserting in place thereof the following:- "judicial officer".

SECTION 24. Said section 58 of said chapter 276, as so appearing, is hereby further amended by striking out, in line 37, the words "or section fifty-seven that".

SECTION 25. Said section 58 of said chapter 276, as so appearing, is hereby further amended by striking out, in lines 38-39, the words "his bail may be revoked in accordance with the third paragraph of this section" and inserting in place thereof the following:- "the commonwealth may present a motion under section 58B for pretrial detention or change in conditions of release".

SECTION 26. Said section 58 of said chapter 276, as so appearing, is hereby further amended by striking out, in lines 40 and 41, the words "justice or clerk or assistant clerk of the district court, the bail commissioner or master in chancery" and inserting in place thereof the following:- "judicial officer".

SECTION 27. Said section 58 of said chapter 276, as so appearing, is hereby further amended by striking out, in lines 41-43, the words "cash bail is required, the person shall be allowed to provide an equivalent amount in a surety company bond" and inserting in place thereof the following:- "personal recognizance without surety or financial condition would not reasonably assure the appearance of the person before the court, the court may require a surety or unsecured bond in addition to any other conditions of release".

SECTION 28. Said section 58 of said chapter 276, as so appearing, is hereby further amended by striking out, in lines 43 and 44, the words "justice or clerk or assistant clerk of the district court, the bail commissioner or master in chancery" and inserting in place thereof the following:- "judicial officer".

SECTION 29. Said section 58 of said chapter 276, as so appearing, is hereby further amended, in line 45, after the words "to abide by" by inserting the following:- "conditions of release or".

SECTION 30. Said section 58 of said chapter 276, as so appearing, is hereby further amended, by inserting after the first paragraph the following paragraphs:-

"A person detained as a result of a bail decision under this section shall be brought to a trial as soon as reasonably possible, but in absence of good cause, the person so held shall not be detained for a period exceeding 120 days excluding any period of delay as defined in Massachusetts Rules of Criminal Procedure Rule 36(b)(2). Any order resulting in detention shall be reviewed de novo after its expiration to determine if the order is still necessary and shall be appealable to the superior court under the tenth paragraph of this section.

Any bail decision differing from the recommendation of pretrial services on the conditions of release shall be in writing, stating the reasons the judicial officer did not approve of the recommendation.

Notwithstanding the foregoing, a person arrested and charged with a violation of an order or judgment issued pursuant to section 18, 34B or 34C of chapter 208, section 32 of chapter 209, section 3, 4 or 5 of chapter 209A, or section 15 or 20 of chapter 209C, or arrested and charged with a misdemeanor or felony involving abuse as defined in section one of said chapter 209A while an order of protection issued under said chapter 209A was in effect against said person, shall not be released out of court by a clerk of courts, clerk of a district court, or bail commissioner."

SECTION 31. The second paragraph of said section 58 of said chapter 276, as so appearing, is hereby amended by striking out, in line 50, the word "person" and inserting in place thereof the following:- "judicial officer".

SECTION 32. The second paragraph of said section 58 of said chapter 276, as so appearing, is hereby further amended by striking out, in line 52, the word "eighty-two A" and inserting in place thereof the following:- "82A".

SECTION 33. The second sentence of the second paragraph of said section 58, as so appearing, is hereby amended by striking out, in line 54-56, the words "person authorized to take bail may charge the fees authorized by section twenty-four of chapter two hundred and sixty-two" and inserting in place thereof the following:- "judicial officer may charge the fees authorized by section 24 of chapter 262".

SECTION 34. The second paragraph of said section 58 of said chapter 276, as so appearing, is hereby further amended by inserting at the end thereof the following:- "Said fees shall be paid by the court of jurisdiction whether the defendant is released by the judicial officer or detained. After a conviction, plea of guilty or nolo contendere or when the case is continued without a finding on the charged offense, the court may order a defendant to pay restitution in an amount equal the fees paid by the court pursuant to this paragraph."

SECTION 35. Said section 58 of said chapter 276, as so appearing, is hereby amended, by striking the third paragraph and inserting in place thereof the following paragraphs:-

"A person aforesaid charged with an offense and not released on his personal recognizance without surety by a clerk or assistant clerk of the district court, or a bail commissioner shall forthwith be brought before the next session of the district court for a review of the order to recognize in accordance with the standards set forth in the first paragraph of this section. The court shall provide as an explicit condition of release for any person admitted to bail pursuant to this section that should said person be charged with a crime during the period of his

release, his bail may be revoked in accordance with section 58B and the court shall enter in writing on the court docket that the person was so informed and the docket shall constitute prima facie evidence that the person was so informed.

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A person aggrieved by the denial of a district court justice to admit him to bail on his personal recognizance without surety or financial condition may petition the superior court for a review of the order of the recognizance and the justice of the district court shall thereupon immediately notify such person of his right to file a petition for review in the superior court. When a petition for review is filed in the district court or with the detaining authority subsequent to petitioner's district court appearance, the clerk of the district court or the detaining authority, as the case may be, shall immediately notify by telephone, the clerk and probation officer of the district court, the district attorney for the district in which the district court is located, the prosecuting officer, the petitioner's counsel, if any, and the clerk of courts of the county to which the petition is to be transmitted. The clerk of the district court, upon the filing of a petition for review, either in the district court or with the detaining authority, shall forthwith transmit the petition for review, a copy of the complaint and of the record of the court, including the appearance of the attorney, if any is entered, and a summary of the court's reasons for denying the release of the defendant on his personal recognizance without surety to the superior court for the county in which the district court is located, if a justice thereof is then sitting, or to the superior court of the nearest county in which a justice is then sitting; the probation officer of the district court shall transmit forthwith to the probation officer of the superior court, copies of all records of the probation office of said district court pertaining to the petitioner, including the petitioner's record of prior convictions, if any, as currently verified by inquiry of the commissioner of probation. The district court or the detaining authority, as the case may be, shall cause any petitioner in its custody to be brought before the said superior court on the same day the petition shall have been filed, unless the district court or the detaining authority shall determine that such appearance and hearing on the petition cannot practically take place before the adjournment of the sitting of said superior court for that day and in which event, the petitioner shall be caused to be brought before said court for such hearing during the morning of the next business day of the sitting of said superior court. The district court is authorized to order any officer authorized to execute criminal process to transfer the petitioner and any papers herein above described from the district court or the detaining authority to the superior court, and to coordinate the transfer of the petitioner and the papers by such officer. The petition for review shall constitute authority in the person or officer having custody of the petitioner to transport the petitioner to said superior court without the issuance of any writ or other legal process, provided, however, that any district or superior court is authorized to issue a writ of habeas corpus for the appearance forthwith of the petitioner before the superior court."

SECTION 36. The fifth paragraph of said section 58 of said chapter 276, as so appearing, is hereby amended, in line 162, by striking the words "has posted" and inserting in place thereof the following:- "was released on";

and, in line 164, by striking the words "holding the defendant's bail" and inserting in place thereof the following:- "that released the defendant on bail";

and, in lines 165 and 166, by striking the words "the amount of any bail bond posted" and inserting in place thereof the following:- "any secured or unsecured bond or record of surety or pledge";

246	and, in line 167, by striking the words "bail bond" and inserting in place thereof the
247	following:- "financial condition";
248	and, in line 168, by striking the words "the amount".
249	SECTION 37. The sixth paragraph of said section 58 of said chapter 276, as so
250	appearing, is hereby amended, in line 178, by striking the words "either by increasing the
251	amount of the recognizance or requiring sufficient surety or both," and inserting in place thereof
252	the following:- "by requiring additional conditions of release, sufficient surety or unsecured
253	bond,";
254	and, in line 182, by striking the word "third" and inserting in place thereof the following:-
255	"eighth".
256	SECTION 38. The eighth paragraph of said section 58 of said chapter 276, as so
257	appearing, is hereby amended, by striking the words "fifty-eight-A," in each instance it appears
258	and inserting in place thereof the following:- "58A".
259	SECTION 39. Clause (2) of section 58A of said chapter 276, as amended by chapter 260
260	of the acts of 2014, is hereby amended, in line 26, by inserting after the figure "(4)" the
261	following word:- "and".
262	SECTION 40. The second paragraph of said clause (2) of section 58A of said chapter
263	276, as so appearing, is hereby amended, in lines 30-31, by striking the words "will not
264	reasonably assure the appearance of the person as required or".
265	SECTION 41. Sublause (xii) of subparagraph (B) of clause (2) of section 58A of said
266	chapter 276, as so appearing, is hereby amended, in lines 68-75, by striking the words "a bail

bond with solvent sureties; who will execute an agreement to forfeit in such amount as is reasonably necessary to assure appearance of the person as required and shall provide the court with information regarding the value of the assets and liabilities of the surety if other than an approved surety and the nature and extent of encumbrances against the surety's property; such surety shall have a net worth which shall have sufficient unencumbered value to pay the amount of the bail bond" and by inserting in place thereof the following:- "a secured or unsecured bond, provided, that the judicial officer shall only impose a financial condition under this clause if said judicial officer finds that no other condition or combination of conditions will reasonably assure the appearance of the person as required".

SECTION 42. Subparagraph (B) of clause (2) of section 58A of said chapter 276, as so appearing, is hereby amended, in lines 78-80, by striking the subclause (xiv) and by inserting in place thereof the following new subclauses:-

"(xiv) participate in a diversion program under chapter 276A, an alternative adjudication program, or in a drug, mental health, veteran or other treatment court program; and

(xv) satisfy any other condition that is reasonably necessary to assure the appearance of the person as required and to assure the safety of any other person and the community.".

SECTION 43. Clause (2) of said section 58A of chapter 276, as so appearing, is hereby amended, in lines 95-97, by striking the last sentence.

SECTION 44. Clause (5) of said section 58A of chapter 276, as so appearing, is hereby amended, in lines 95-97, by inserting after the word "shall" the following:- "in addition to consulting the results of the risk assessment tool,".

SECTION 45. The second paragraph of section 58B of said chapter 276, as amended by chapter 260 of the acts of 2014, is hereby amended, in line 37, by striking the word "ninety" and inserting in place thereof the following:- "60".

SECTION 46. Chapter 276 of the General Laws, as appearing in the 2012 Official Edition, is hereby amended, by striking section 59 in its entirety and inserting in place thereof the following new sections:-

"Section 59. There shall be within the office of probation a pretrial services division, hereinafter referred to as pretrial services. Pretrial services shall collect and present necessary information to compile and present risk assessments scores, and consistent with court policy, provide the court with evidence-based release recommendations required by the judicial officer in making release decisions, including the defendant's eligibility for diversion, treatment or other alternative adjudication programs. The pretrial services division shall be headed by a director of pretrial services. The director shall be a person of ability and experience in the pretrial process, chosen and appointed by the commissioner for the office of probation.

Section 59A. Pretrial services shall perform the following duties for the trial courts:

- (a) create or chose a risk assessment tool, provided, that the tool shall be tested validated in the commonwealth to identify and eliminate unintended economic, race or gender bias included in the tool;
- (b) establish a procedure for the screening of persons who are to be, or have been, presented in court for first appearance to assist the trial court in determining the appropriate terms and conditions of pretrial release; provided, that said procedure shall use a uniform risk assessment tool;

(c) record information received from the arrested person as a result of any division interview on a uniform risk assessment tool;

- (d) verify and supplement to the extent possible the information required by the risk assessment tool before submitting its report, provided, that minimum verification shall include the arrestee's prior criminal record, residency, and employment circumstances;
- (e) submit written reports of any interviews to the presiding judicial officer, all parties and counsel of record, based on the results of the risk assessment tool, along with such findings and recommendations, if any, as may be necessary to assess the appropriate conditions of release which shall be imposed that reasonably assure the presence of the arrestee in court and the safety of the public or aid the orderly administration of justice before trial;
- (f) cooperate with the court and all other criminal justice agencies in the development of programs to minimize unnecessary pretrial detention and protect the public against breaches of pretrial release conditions;
- (g) monitor the local operations of the pretrial release system and maintain accurate and comprehensive records of program activities;
- (h) provide notification to supervised persons of court appearance obligations, and as needed, require periodic reporting by letter, telephone or personal appearance to verify compliance with conditions of release;
- (i) assist persons released prior to trial in securing any necessary employment, medical, drug, mental or other health treatment, legal or other needed social services that would increase the chances of successful compliance with conditions of pretrial release; and

(j) regularly monitor the arrest records of local law enforcement agencies to determine whether any supervised person has been formally charged with the commission of a new offense in violation of the uniform release order. In such event, the pretrial services shall prepare a formal report of that fact and present same to the court. A copy of the report shall be provided to the prosecuting officer who may aid pretrial services in presenting such violation.

No person shall be interviewed by a pretrial services division unless he or she has first been apprised of the identity and purpose of the interview, the scope of the interview, the right to counsel, and the right to refuse cooperation. Inquiry of the defendant shall carefully exclude questions concerning the details of the current charge. Statements made by the defendant during the interview or evidence derived therefrom, are admissible in evidence only when the court is considering the imposition of pretrial conditions to bail or recognizance, or when considering the modification of a prior release order and shall not be admissible in the course of any other proceeding.

A representative of pretrial services shall, where feasible, be present or otherwise available to the trial court at the first appearance or such later hearings at which the division report is to be considered by the trial court. At such hearings, the factual findings, conclusions and recommendations in the written report may be challenged by the defendant, his or her counsel, or the prosecuting attorney, by the presentation of any relevant evidence; and if so ordered by the trial court, pretrial services shall prepare and submit for the court's approval and signature a release order on a uniform release form in all cases where a defendant may be released from custody under conditions contained in an division report. Such conditions shall become part of the conditions of release. A copy of the uniform release order shall be provided to the defendant, the defendant's attorney of record, and the prosecutor.

Pretrial services shall have primary responsibility for reporting non-compliance by criminal defendants with the terms and conditions of pretrial release specified in the uniform release order entered under this section. Pretrial services shall monitor and supervise compliance with pretrial release of supervised persons before trial and promptly submit reports to the court, defendant, the defendant's attorney of record and prosecuting officer whenever: (i) apparent violations of other conditions imposed by the court under the uniform release order have occurred; or (ii) modification of the uniform release order and conditions thereof are deemed in the best interests of either the accused or the community.

Section 59B. (a) Pretrial services shall collect data and maintain records of individuals processed by pretrial services.

- (b) Pretrial services shall submit quarterly reports to the office of probation, the chief justice of the trial court, the court administrator and the supreme judicial court including but not limited to: analysis on demographics of the pretrial population including age, race and sex; number of persons detained before trial; appearance rates; length of detentions; default rates; conditions imposed upon release; caseload of the pretrial services division; length of supervision; and any other analytical data the division deems appropriate; provided, that any data included in the report is presented only in aggregated form and no individual can be identified by data included in the report.
- (c) Information and records maintained by pretrial services that have not been disclosed in open court during a trial court proceeding shall not be released by pretrial services to any individual or organization, other than any employee of the office of probation or the courts, without the express permission of the interviewed or supervised person at or near the time the

information is to be released. An individual shall have access to all information and records about himself or herself maintained by or collected by the pretrial services division. Nothing in this section shall prevent the pretrial services division from making its data available for research purposes to qualified personnel, provided that no records or other information shall be made available in which individuals interviewed or supervised are identified or from which their identities are ascertainable. Records created by pretrial services shall not be part of an individual's criminal offender record information. The information obtained and recorded shall not be regarded as public records and shall not be open for public inspection but aggregate data shall be accessible to the justices, the departments of probation, and youth services, the Massachusetts sentencing commission, and to such local and state governments as the division may determine. Upon payment of a fee as established by the chief justice of the trial court or the court administrator for each search, such aggregate data shall be accessible to such departments of the federal government and to such educational and charitable corporations and institutions as the division may determine.

Section 59C. (a) Pretrial services shall develop informational materials and produce training curriculum for staff regarding the functions of pretrial services. The training shall include information on risk assessment tools, risk assessment scores, recommended supervision levels and conditions of release, the difference between probationers and pretrial defendants and their different needs, data collection consistent with best practices, trauma informed pretrial services, and any other information the trial court or pretrial services division deem appropriate. No employee of pretrial services shall determine a risk assessment score, oversee a released defendant or make release recommendations to the court before participating in the mandatory training.

(b) The trial court in coordination with pretrial services shall develop curriculum and
make training opportunities available on a rolling basis to all judicial officers eligible to make
bail decisions. Training shall include information on the risk assessment tools, risk assessment
scores and recommended supervision levels, conditions of release, and any other information the
trial court or pretrial services division deem appropriate. No bail commissioner shall be eligible
to make a bail decision after the implementation of the risk assessment tool, before participating
in a training offered under this section.".

SECTION 47. Section 60 of said chapter 276, as so appearing, is hereby amended, in line 5, by striking the words "fifty-seven" and inserting in place thereof the following figure:- "58".

SECTION 48. Section 61 of said chapter 276, as so appearing, is hereby amended by inserting after the word "other" in line 8, the following:- "secured or unsecured";

and, in lines 13-17, by striking the words "A surety may, instead of making such certificate, give his personal recognizance as surety and deposit money, bonds or a properly assigned bank book of the kind and in the amount and under the conditions set forth in section fifty-seven for making deposit of like nature.";

and, in line 21, by striking the word "second Monday of each" and inserting in place thereof the following:- "fifteenth of every".

and, in line 22, by striking the word "superior" and inserting in place thereof the following:- "trial".

SECTION 49. Chapter 276 of the General Laws, as appearing in the 2012 Official Edition, is hereby amended, by striking section 61A in its entirety.

420 SECTION 50. Section 61B of said chapter 276, as so appearing in, is hereby amended, by 421 striking the first paragraph in its entirety and inserting in place thereof the following:- "No 422 person proposing to become a surety in a criminal case, shall be accepted as such unless he shall 423 have been registered by the pretrial services division. No surety under this chapter may be 424 compensated for acting as such a surety.". 425 SECTION 51. The second paragraph of said section 61B of said chapter 276, as so 426 appearing in, is hereby further amended, in line 2, by striking the words "cash or a bail" and 427 inserting in place thereof the following:- "secured or unsecured"; 428 and, in line 37, by striking the words "a bail" and inserting in place thereof the 429 following:- "secured or unsecured"; 430 and, in line 38, by striking the words "a bail bond or cash bail" and inserting in place 431 thereof the following:- "secured or unsecured bond". 432 SECTION 52. The third paragraph of said section 61B of said chapter 276, as so 433 appearing in, is hereby further amended, in lines 64 and 66, by inserting after the word 434 "administration" in each instance, the following:- "and pretrial services". 435 SECTION 53. Said section 61B of said chapter 276, as so appearing in, is hereby 436 amended, by striking the fifth paragraph in its entirety. 437 SECTION 54. Section 65 of said chapter 276, as so appearing in, is hereby amended, in 438 line 13, by striking the word "bail" and inserting in place thereof the following:- "secured or

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unsecured".

440	SECTION 55. Section 68 of said chapter 276, as so appearing in, is hereby amended, in
441	line 1, by striking the word "Bail" and inserting in place thereof the following:- "A surety".
442	SECTION 56. Section 69 of said chapter 276, as so appearing in, is hereby amended, in
443	line 1, by striking the word "Bail" and inserting in place thereof the following:- "A surety";
444	and, in line 6, by striking the word "Bail" and inserting in place thereof the following:-
445	"surety".
446	SECTION 57. Section 70 of said chapter 276, as so appearing in, is hereby amended, in
447	line 2, by striking the words "bail are" and inserting in place thereof the following:- "surety is".
448	SECTION 58. Section 71 of said chapter 276, as so appearing in, is hereby amended, in
449	line 5, by striking the words "his obligation" and inserting in place thereof the following:-
450	"including the reason for default, his or her secured or unsecured bond, if any,".
451	SECTION 59. Chapter 276 of the General Laws, as appearing in the 2012 Official
452	Edition, is hereby further amended, by striking sections 79 and 80 and inserting in place thereof
453	the following sections:-
454	"Section 79. Any judicial officer authorized to make bail decisions shall collect any
455	financial obligation due as a result of the bail decision from a defendant at the time a bail
456	decision is made and at the place where the decision is made if the defendant has means at that
457	time and place to meet the financial obligation.
458	Section 80. At any time after default of the defendant, the court may order the forfeit of
459	the secured or unsecured bond determined or deposited at the time of the recognizance and the
460	court or clerk of the court shall issue an order against the person who pledged an unsecured bond

to pay the court the money so forfeited. The court or clerk of the court shall pay to the state treasurer any money so deposited. The court may accept alternatives to cash, including but not limited to bonds. The clerk of the court shall immediately proceed to sell any bonds so deposited either at public or private sale, and shall forthwith pay the proceeds thereof, after deducting all expenses connected with such sale, to the state treasurer. The order for payment issued by the court or clerk of court shall be delivered according to the rules for delivery of a criminal summons, upon the person or persons obligated to pay the court. A person who fails to pay an order for payment may be subject to contempt proceedings. ".

SECTION 60. Section 81 of chapter 276 of the General Laws, as appearing in the 2012 Official Edition, is hereby further amended, by striking the first sentence;

and, further, in line 6, by striking the word "reception" and inserting in place thereof the following:- "recapture";

and, further, in line 13, by striking the word "recognizance" and inserting in place thereof the following:- "secured or unsecured bond".

SECTION 61. The first paragraph of section 32 of chapter 260 of the acts of 2014 is hereby amended by striking out, in line 1, the figure "57" and inserting in place thereof the following figure:- "58"

and, by inserting at the end of the first paragraph of said section 32, after the word "practicable" the following:- ", and shall take into consideration the following: the nature and circumstances of the offense charged, the potential penalty the person faces, the person's family ties, employment record and history of mental illness, the person's reputation, the risk that the person will obstruct or attempt to obstruct justice or threaten, injure or intimidate or attempt to

threaten, injure or intimidate a prospective witness or juror, the person's record of convictions, if any, any illegal drug distribution or present drug dependency, whether the person is on bail pending adjudication of a prior charge, whether the acts alleged involve abuse, as defined in said section 1 of said chapter 209A, a violation of a temporary or permanent order issued pursuant to said sections 18 or 34B of said chapter 208, said section 32 of said chapter 209, said sections 3, 4 or 5 of said chapter 209A or said sections 15 or 20 of said chapter 209C, whether the person has any history of issuance of such orders pursuant to the aforesaid sections, whether the person is on probation, parole or other release pending completion of sentence for any conviction and whether the person is on release pending sentence or appeal for any conviction"