

SENATE No. 64

The Commonwealth of Massachusetts

PRESENTED BY:

Sonia Chang-Diaz

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 to increase neighborhood safety and opportunity.

PETITION OF:

| NAME: | DISTRICT/ADDRESS: |
|--------------------------------|-------------------------------------|
| <i>Sonia Chang-Diaz</i> | <i>Second Suffolk</i> |
| <i>Mary S. Keefe</i> | <i>15th Worcester</i> |
| <i>Christine P. Barber</i> | <i>34th Middlesex</i> |
| <i>Michael J. Barrett</i> | <i>Third Middlesex</i> |
| <i>William N. Brownsberger</i> | <i>Second Suffolk and Middlesex</i> |
| <i>Evandro C. Carvalho</i> | <i>5th Suffolk</i> |
| <i>Marjorie C. Decker</i> | <i>25th Middlesex</i> |
| <i>Marcos A. Devers</i> | <i>16th Essex</i> |
| <i>Kenneth J. Donnelly</i> | <i>Fourth Middlesex</i> |
| <i>James B. Eldridge</i> | <i>Middlesex and Worcester</i> |
| <i>Linda Dorcena Forry</i> | <i>First Suffolk</i> |
| <i>Gloria L. Fox</i> | <i>7th Suffolk</i> |
| <i>Carlos Gonzalez</i> | <i>10th Hampden</i> |
| <i>Russell E. Holmes</i> | <i>6th Suffolk</i> |
| <i>Patricia D. Jehlen</i> | <i>Second Middlesex</i> |
| <i>Jay R. Kaufman</i> | <i>15th Middlesex</i> |
| <i>Jason M. Lewis</i> | <i>Fifth Middlesex</i> |
| <i>Jay D. Livingstone</i> | <i>8th Suffolk</i> |

| | | |
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| <i>Elizabeth A. Malia</i> | <i>11th Suffolk</i> | |
| <i>Thomas M. McGee</i> | <i>Third Essex</i> | |
| <i>Byron Rushing</i> | <i>9th Suffolk</i> | |
| <i>Tom Sannicandro</i> | <i>7th Middlesex</i> | |
| <i>Benjamin Swan</i> | <i>11th Hampden</i> | |
| <i>Aaron Vega</i> | <i>5th Hampden</i> | |
| <i>Daniel A. Wolf</i> | <i>Cape and Islands</i> | |
| <i>Tricia Farley-Bouvier</i> | <i>3rd Berkshire</i> | |
| <i>Denise Provost</i> | <i>27th Middlesex</i> | |
| <i>Peter V. Kocot</i> | <i>1st Hampshire</i> | |
| <i>Sheriff Steven Tompkins</i> | <i>Suffolk County Sheriff 20 Bradston Street Boston, MA 02118</i> | |
| <i>Carmine L. Gentile</i> | <i>13th Middlesex</i> | |
| <i>Jose F. Tosado</i> | <i>9th Hampden</i> | |
| <i>Frank A. Moran</i> | <i>17th Essex</i> | |
| <i>David M. Rogers</i> | <i>24th Middlesex</i> | |
| <i>Daniel M. Donahue</i> | <i>16th Worcester</i> | |
| <i>Timothy R. Madden</i> | <i>Barnstable, Dukes and Nantucket</i> | |
| <i>James J. O'Day</i> | <i>14th Worcester</i> | |
| <i>Anne M. Gobi</i> | <i>Worcester, Hampden, Hampshire and Middlesex</i> | |
| <i>Brian M. Ashe</i> | <i>2nd Hampden</i> | |
| <i>Jonathan Hecht</i> | <i>29th Middlesex</i> | |
| <i>Claire D. Cronin</i> | <i>11th Plymouth</i> | |
| <i>Daniel J. Ryan</i> | <i>2nd Suffolk</i> | |
| <i>Frank I. Smizik</i> | <i>15th Norfolk</i> | |
| <i>Ruth B. Balsler</i> | <i>12th Middlesex</i> | |
| <i>Kay Khan</i> | <i>11th Middlesex</i> | |
| <i>Elizabeth A. Poirier</i> | <i>14th Bristol</i> | |
| <i>John J. Lawn, Jr.</i> | <i>10th Middlesex</i> | |
| <i>Gailanne M. Cariddi</i> | <i>1st Berkshire</i> | |
| <i>Michael D. Brady</i> | <i>Second Plymouth and Bristol</i> | |
| <i>Kenneth I. Gordon</i> | <i>21st Middlesex</i> | |
| <i>John J. Mahoney</i> | <i>13th Worcester</i> | |
| <i>Sal N. DiDomenico</i> | <i>Middlesex and Suffolk</i> | |
| <i>Paul R. Heroux</i> | <i>2nd Bristol</i> | |
| <i>Danielle W. Gregoire</i> | <i>4th Middlesex</i> | |
| <i>Brendan P. Crighton</i> | <i>11th Essex</i> | |
| <i>Michelle M. DuBois</i> | <i>10th Plymouth</i> | <i>12/7/2015</i> |

SENATE No. 64

By Ms. Chang-Diaz, a petition (accompanied by bill, Senate, No. 64) of Sonia Chang-Diaz, Mary S. Keefe, Christine P. Barber, William N. Brownsberger and other members of the General Court for legislation to increase neighborhood safety and opportunity. The Judiciary.

The Commonwealth of Massachusetts

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

An Act to increase neighborhood safety and opportunity.

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 5K of chapter 18 of the General Laws, as appearing in the 2012
2 Official Edition, is amended by striking out, in line 7, the word “\$100” and inserting in place
3 thereof the words:- “one thousand three hundred dollars.”

4 SECTION 2. Said section 5K of chapter 18, as so appearing, is hereby further amended
5 by striking out, in line 11, the word “\$100” and inserting in place thereof the words:- “one
6 thousand three hundred dollars.”

7 SECTION 3. Section 22 of chapter 90 of the General Laws, as appearing in the 2012
8 Official Edition, is amended by striking out subsection (f).

9 SECTION 4. The registrar of motor vehicles shall purge all records pertaining to past
10 motor vehicle license suspensions effected under subsection (f) of section 22 of chapter 90 of the
11 General Laws.

12 SECTION 5. Section 30 of said chapter 90, as so appearing, is amended by adding, after
13 the second paragraph, the following new paragraph: -

14 Upon expiration of the term of suspension of driving privileges suspended under
15 subsections (g), (h), or (i), of Section 22 of chapter 90, the registrar shall shield from public
16 access all records of the suspension and the underlying offense, including records of the
17 expiration of the suspension, any hearings or appeals related to the suspension, and the
18 reinstatement following the suspension.

19 SECTION 6. Within 60 days of passage of this act the Commonwealth shall submit to
20 the Secretary of the United States Department of Transportation: (i) a written certification stating
21 that the governor is opposed to the enactment or enforcement of a law that conforms with 23
22 U.S.C. § 159(a)(3)(A), relating to the revocation, suspension, issuance or reinstatement of
23 drivers' licenses to convicted drug offenders; and (ii) a written certification that the general court
24 has adopted a resolution expressing its opposition to a law described in clause (i).”

25 SECTION 7. Section 32 of chapter 94C of the General Laws, as appearing in the 2012
26 Official Edition, is hereby amended by

27 (a) Striking out the words “less than one thousand nor” in subsection (a);

28 (b) Striking out the words “less than 3 ½ nor” in subsection (b) and further striking
29 the second sentence in the said subsection and inserting in place thereof the following sentence:-
30 No sentence imposed under the provisions of this section shall be punished by a fine of more
31 than twenty-five thousand dollars;

32 (c) Repealing subsection (c).

33 SECTION 8. Section 32A of said chapter 94C, as so appearing, is hereby amended by

34 (a) Striking out the words “less than one thousand nor” in subsection (a);

35 (b) Striking out the words “less than 2 nor” in subsection (b) and further striking the
36 second sentence in the said subsection and inserting in place thereof the following sentence:- No
37 sentence imposed under the provisions of this section shall be punished by a fine of more than
38 twenty-five thousand dollars;

39 (c) Striking out the words “less than two and one-half nor” and the words “less than
40 one nor” in subsection (c) and further striking the second sentence in the said subsection and
41 inserting in place thereof the following sentence:- No sentence imposed under the provisions of
42 this section shall be punished by a fine of more than ten thousand dollars;

43 (d) Striking out the words “less than 3 ½ nor” and further the words “less than two
44 thousand five hundred nor” and further the words “but not in lieu of the mandatory minimum
45 term of imprisonment, as established herein” in subsection (d)

46 (e) Repealing subsection (e).

47 SECTION 9. Section 32B of said chapter 94C, as so appearing, is hereby amended by

48 (a) Striking out the words “less than five hundred nor” in subsection (a);

49 (b) Striking out the words “less than two and one-half nor” and the words “less than
50 18 months nor” in subsection (b) and further striking the second sentence in the said subsection
51 and inserting in place thereof the following sentence:- No sentence imposed under the provisions
52 of this section shall be punished by a fine of more than ten thousand dollars;

53 (c) Repealing subsection (c).

54 SECTION 10. Section 32C of said chapter 94C, as so appearing, is hereby amended by

55 (a) Striking out the words “less than five hundred nor” in subsection (a);

56 (b) Striking out the words “less than one nor” and further the words “less than one
57 thousand nor” in subsection (b).

58 SECTION 11. Section 32D of said chapter 94C, as so appearing, is hereby amended by

59 (a) Striking out the words “less than two hundred and fifty nor” in subsection (a);

60 (b) Striking out the words “less than five hundred nor” in subsection (b).

61 SECTION 12. Subsection (a) of section 32E of said chapter 94C, as so appearing, is
62 hereby

63 amended by

64 (a) Striking out the words “less than two and one-half nor” and the words “less than
65 one nor” in paragraph (1) and further striking the second sentence in the said subsection and
66 inserting in place thereof the following sentence:- No sentence imposed under the provisions of
67 this section shall be punished by a fine of more than ten thousand dollars;

68 (b) Striking out the words “less than 2 nor” in paragraph (2) and further striking the
69 second sentence in the said subsection and inserting in place thereof the following sentence:- No
70 sentence imposed under the provisions of this section shall be punished by a fine of more than
71 twenty-five thousand dollars;

72 (c) Striking out the words “less than 3 ½ nor” in paragraph (3) and further striking the
73 second sentence in the said subsection and inserting in place thereof the following sentence:- No
74 sentence imposed under the provisions of this section shall be punished by a fine of more than
75 fifty thousand dollars;

76 (d) Striking out the words “less than 8 nor” in paragraph (4) and further striking the
77 second sentence in the said subsection and inserting in place thereof the following sentence:- No
78 sentence imposed under the provisions of this section shall be punished by a fine of more than
79 two hundred thousand dollars;

80 SECTION 13. Subsection (b) of section 32E of said chapter 94C, as so appearing, is
81 hereby

82 amended by

83 (a) Striking out the words “less than 2 nor” in paragraph (1) and further striking the
84 second sentence in the said subsection and inserting in place thereof the following sentence:- No
85 sentence imposed under the provisions of this section shall be punished by a fine of more than
86 twenty-five thousand dollars;

87 (b) Striking out the words “less than 3 ½ nor” in paragraph (2) and further striking the
88 second sentence in the said subsection and inserting in place thereof the following sentence:- No
89 sentence imposed under the provisions of this section shall be punished by a fine of more than
90 fifty thousand dollars;

91 (c) Striking out the words “less than 8 nor” in paragraph (3) and further striking the
92 second sentence in the said subsection and inserting in place thereof the following sentence:- No

93 sentence imposed under the provisions of this section shall be punished by a fine of more than
94 one hundred thousand dollars;

95 (d) Striking out the words “less than 12 nor” in paragraph (4) and further striking the
96 second sentence in the said subsection and inserting in place thereof the following sentence:- No
97 sentence imposed under the provisions of this section shall be punished by a fine of more than
98 fifty thousand dollars;

99 SECTION 14. Subsection (c) of section 32E of said chapter 94C, as so appearing, is
100 hereby

101 amended by

102 (a) Striking out the words “less than 3 ½ nor” in paragraph (1) and further striking the
103 second sentence in the said subsection and inserting in place thereof the following sentence:- No
104 sentence imposed under the provisions of this section shall be punished by a fine of more than
105 fifty thousand dollars;

106 (b) Striking out the words “less than 5 nor” in paragraph (2) and further striking the
107 second sentence in the said subsection and inserting in place thereof the following sentence:- No
108 sentence imposed under the provisions of this section shall be punished by a fine of more than
109 fifty thousand dollars;

110 (c) Striking out the words “less than 8 nor” in paragraph (3) and further striking the
111 second sentence in the said subsection and inserting in place thereof the following sentence:- No
112 sentence imposed under the provisions of this section shall be punished by a fine of more than
113 one hundred thousand dollars;

114 (d) Striking out the words “less than 12 nor” in paragraph (4) and further striking the
115 second sentence in the said subsection and inserting in place thereof the following sentence:- No
116 sentence imposed under the provisions of this section shall be punished by a fine of more than
117 five hundred thousand dollars;

118 SECTION 15. Subsection (d) of section 32E of said chapter 94C is hereby repealed.

119 SECTION 16. Section 32F of said chapter 94C, as so appearing, is hereby amended by

120 (a) Striking out the words “less than five nor” in subsection (a) and further striking
121 the second sentence in the said subsection and inserting in place thereof the following sentence:-
122 No sentence imposed under the provisions of this section shall be punished by a fine of more
123 than twenty-five thousand dollars;

124 (b) Striking out the words “less than three nor” in subsection (b) and further striking
125 the second sentence in the said subsection and inserting in place thereof the following sentence:-
126 No sentence imposed under the provisions of this section shall be punished by a fine of more
127 than twenty-five thousand dollars;

128 (c) Striking out the words “less than two and one-half nor” and the words “less than
129 two nor” in subsection (c) and further striking the second sentence in the said subsection and
130 inserting in place thereof the following sentence:- No sentence imposed under the provisions of
131 this section shall be punished by a fine of more than twenty-five thousand dollars;

132 (d) Striking out the words “less than five nor” in subsection (d) and further striking
133 the second sentence in the said subsection and inserting in place thereof the following sentence:-

134 No sentence imposed under the provisions of this section shall be punished by a fine of more
135 than twenty-five thousand dollars;

136 SECTION 17. Section 32G of said chapter 94C, as so appearing, is hereby amended by
137 striking out the words “less than two hundred and fifty nor.”

138 SECTION 18. Section 32 H of said chapter 94C, as so appearing, is hereby amended by
139 striking this section in its entirety.

140 SECTION 19. Section 32I of said chapter 94C, as so appearing, is hereby amended by

141 (a) Striking out the words “less than one nor” and the words “less than five hundred
142 nor” in subsection (a);

143 (b) Striking out the words “less than three nor” and the words “less than one thousand
144 nor” in subsection (b);

145 (c) Striking out the words “less than fifty nor” in subsection (c).

146 SECTION 20. Section 32J of said chapter 94c, as so appearing, is hereby amended by

147 striking out the words “less than two and one-half” and the words “less than two nor” in
148 the first sentence of said section; by striking out the second sentence of said section; and by
149 striking out the words “less than one thousand nor” and the words “but not in lieu of the
150 mandatory minimum two year term of imprisonments as established herein” in the third sentence
151 of said section.

152 SECTION 21. Section 32K of said chapter 94C, as so appearing, is hereby amended by

153 striking out the words “less than five years nor” in line 7 and further striking the second
154 sentence in lines 8-12 in said section.

155 SECTION 22. Section 34 of chapter 94C of the General Laws, as so appearing, is hereby
156 amended by striking out lines 5-9, and inserting in place thereof the following sentence:-

157 Except as provided in Section 32L of this Chapter or as hereinafter provided, any person
158 who violates this section or possesses any Class A, B, C, or D controlled substance shall be
159 punished by a fine of not more than one thousand dollars or by imprisonment in a house of
160 correction or jail for not more than six months, or by both such fine and imprisonment.

161 SECTION 23. Said Section 34 of chapter 94C, as so appearing, is hereby further
162 amended by striking out lines 9-16, and inserting in place thereof the following sentence:-

163 Any person who violates this section by possessing heroin shall for a first offense be
164 punished by a fine of not more than one thousand dollars or by imprisonment in a house of
165 correction or jail for not more than one year, or by both such fine and imprisonment, and for a
166 second or subsequent offense shall be punished by imprisonment in a state prison for not more
167 than three years or by fine of not more than five thousand and imprisonment in jail or house of
168 correction for not more than two and one-half years.

169 SECTION 24. Said Section 34 of said chapter 94C, as so appearing, is hereby amended
170 by

171 striking out the words “less than two and one-half years nor” in lines 13-14.

172 SECTION 25. Said Section 34 of said chapter 94C, as so appearing, is hereby further
173 amended by striking the last sentence of the first paragraph in lines 20-27, and inserting in place
174 thereof the following sentence:-

175 “Except for an offense involving a controlled substance in Class E of section thirty-one,
176 whoever violates the provisions of this section after one or more convictions of a violation of this
177 section or of a felony under any other provisions of this chapter, or of a corresponding provision
178 of earlier law relating to the sale or manufacture of a narcotic drug as defined in said earlier law,
179 shall be punished by imprisonment in a house of correction for not more than one year or by a
180 fine of not more than two thousand dollars, or both.”

181 SECTION 26. Notwithstanding any general or special law to the contrary, a person
182 serving a sentence for violating any provisions of Chapter 94C or charged with such a
183 violation but for whom a guilty plea has not been accepted nor a conviction entered as of the
184 effective date of this act shall be eligible to receive deductions from his sentence for good
185 conduct under Sections 129C and 129D of Chapter 127.

186 SECTION 27. Notwithstanding any general or special law to the contrary, a person
187 serving a sentence for violating any provisions of Chapter 94C or charged with such a
188 violation but for whom a guilty plea has not been accepted nor a conviction entered as of the
189 effective date of this section shall be eligible to participate in education, training, employment or
190 work release programs established pursuant to Sections 49, 49B, 49C, 86F and 86G of Chapter
191 127.

192 SECTION 28. Notwithstanding any general or special law to the contrary, a person

193 serving a sentence for violating any provisions of Chapter 94C or charged with such a
194 violation but for whom a guilty plea has not been accepted nor a conviction entered as of the
195 effective date of this section shall not be eligible for parole until he or she has served 1/2 of the
196 mandatory minimum sentence.

197 SECTION 29. Chapter 127 of the General Laws, as appearing in the 2012 Official
198 Edition, is hereby amended by inserting after section 117A, the following new section:

199 117B. Terminally Ill or Permanently Incapacitated Inmates.

200 The Commissioner of the Department of Correction or a Sheriff may petition a Court of
201 original jurisdiction for an Order permitting the transfer of a terminally ill or permanently
202 incapacitated inmate, as certified by the physician or director of medical care at the correctional
203 facility, to receive medically appropriate care at an alternative location, which shall include a
204 hospital, nursing facility, hospice program or other setting where the inmate may receive hospice
205 services from an entity licensed pursuant to section 57D of chapter 111, or residential care
206 facility, provided that the transfer is not inconsistent with public safety. The Commissioner or
207 Sheriff shall monitor all individuals transferred under this section and order the return of the
208 inmate to the correctional facility if at any time the physician or director of medical services
209 subsequently determines that the inmate does not have a terminal or permanently incapacitating
210 medical condition, or that care outside the correctional facility is not medically appropriate.

211 SECTION 30. The first paragraph of section 30 of chapter 266 of the General Laws, as
212 appearing in the 2012 Official Edition, is amended by striking out, in line 8, the words “two
213 hundred and fifty dollars” and inserting in place thereof the following words:- “one thousand
214 three hundred dollars.”

215 SECTION 31. Said first paragraph of section 30 of said chapter 266, as so appearing, is
216 further amended by striking out, in lines 12-13, the words “two hundred and fifty dollars” and
217 inserting in place thereof the following words:- “one thousand three hundred dollars.”

218 SECTION 32. The fifth paragraph of said section 30 of said chapter 266, as so
219 appearing, is amended by striking out, in line 73, the words “two hundred and fifty dollars” and
220 inserting in place thereof the following words:- “one thousand three hundred dollars.”

221

222 SECTION 33. Said fifth paragraph of said section 30 of said chapter 266, as so
223 appearing, is hereby further amended by striking out, in line 77, the words “two hundred and
224 fifty dollars” and inserting in place thereof the following words:- “one thousand three hundred
225 dollars.”

226 SECTION 34. Section 30A of said chapter 266, as so appearing, is amended by striking
227 out, in line 39, the words “one hundred dollars” and inserting in place thereof the following
228 words:- “one thousand three hundred dollars.”

229 SECTION 35. Said Section 30A of said chapter 266, as so appearing, is hereby further
230 amended by striking out, in line 43, the words “one hundred dollars” in inserting in place thereof
231 the following words: “one thousand three hundred dollars.”

232 SECTION 36. Section 37C of said chapter 266, as so appearing, is amended by striking
233 out, in line 11, the words “two hundred fifty dollars” and inserting in place thereof the following
234 words:- “one thousand three hundred dollars.”

235 SECTION 37. Said Section 37C of said chapter 266, as so appearing, is hereby further
236 amended by striking out, in line 16, the words “two hundred fifty dollars” and inserting in place
237 thereof the following words:- “one thousand three hundred dollars.”

238 SECTION 38. Section 37C of said chapter 266, as so appearing, is hereby further
239 amended by striking out, in line 22, the words “two hundred fifty dollars” and inserting in place
240 thereof the following words:- “one thousand three hundred dollars.”

241 SECTION 39. Said section 37C of said chapter 266, as so appearing, is hereby further
242 amended by striking out, in lines 29-30, the words “two hundred fifty dollars” and inserting in
243 place thereof the following words:- “one thousand three hundred dollars.”

244 SECTION 40. Section 60 of said chapter 266, as so appearing, is amended by striking
245 out, in lines 6-7, the words “two hundred and fifty dollars” and inserting in place thereof the
246 following words:- “one thousand three hundred dollars.”

247 SECTION 41. Said section 60 of said chapter 266, as so appearing, is hereby further
248 amended by striking out, in lines 10-11, the words “two hundred and fifty dollars” and inserting
249 in place thereof the following words:- “one thousand three hundred dollars.”

250 SECTION 42. Section 127 of said chapter 266, as so appearing, is amended by striking
251 out, in lines 12-13, the words “two hundred and fifty dollars” and inserting in place thereof the
252 following words:- “one thousand three hundred dollars.”

253 SECTION 43. Chapter 266 of the General Laws, , is hereby further amended by inserting
254 after section 147 the following section:

255 SECTION 148.

256 (a) Notwithstanding any general or special law to the contrary, any person currently
257 serving a sentence for a conviction, whether by trial or plea, whose punishment would have been
258 determined according to provisions in this act had this act been in effect at the time of the
259 offense, may petition for a recall of sentence before the trial court where the judgment of
260 conviction was entered to request resentencing in accordance with Sections 30 (1), 30(5), 30A,
261 37C, 60 and 127 of chapter 266, and Section 34 of chapter 94C, as those sections have been
262 amended or added by this act.

263 (b) Upon receiving a petition under subsection (a), the court shall determine whether the
264 petitioner satisfies the criteria in subsection (a). If the petitioner satisfies the criteria, his or her
265 sentence shall be recalled and the petitioner resentenced to a new penalty, unless the court, in its
266 discretion, determines that resentencing the petitioner would pose an unreasonable risk of danger
267 to public safety; provided that a petitioner who has served his or her punishment shall not be
268 resentenced. In exercising its discretion, the court may consider the following factors:

269 (1) the petitioner’s criminal conviction history, including the type of crimes committed,
270 the extent of injury to victims, the length of prior prison commitments, and the remoteness of the
271 crimes;

272 (2) the petitioner’s disciplinary record and record of rehabilitation, if incarcerated;

273 (3) Any other evidence the court determines to be relevant in deciding whether a new
274 sentence would result in an unreasonable risk of danger to public safety.

275 (c) As used herein, “unreasonable risk of danger to public safety “means an unreasonable
276 risk that the petitioner will commit a new violent crime.”

277 (d) A person who is resentenced pursuant to subsection (b) shall be given credit for time
278 served and shall be subject to parole for one year following completion of his or her sentence,
279 unless the court, in its discretion, as part of its resentencing order, releases the person from
280 parole.

281 (e) Under no circumstance may resentencing under this act result in the imposition of a
282 term longer than the original sentence.

283 (f) Any petition or application under this section shall be filed within three years after the
284 effective date of this act or at a later date upon a showing of good cause.

285 (f) Nothing in this section is intended to diminish or abrogate any rights or remedies
286 otherwise available to a petitioner.

287 SECTION 44. Chapter 29 of the General Laws, as appearing in the 2012 Official
288 Edition, is hereby amended by inserting after 2QQQQ the following section:Section 2RRRR. (a)
289 There shall be established a fund to be known as the "Neighborhood Safety and Opportunity
290 Trust Fund" within the Executive Office of Housing and Economic Development that shall be
291 continuously expended without regard for fiscal year, for carrying out the purposes of this
292 chapter.

293 Notwithstanding any general or specific law to the contrary, the following monies shall
294 be credited to the fund:

295 (1) On July 31 of each fiscal year, based upon the rules provided by the Board of
296 Directors of the Neighborhood Safety and Opportunity Trust Fund and the findings of the cost
297 avoidance report referenced in subsection 3 (u),the Secretary of Administration and Finance shall

298 calculate the savings that accrued to the state from the implementation of this Act during the
299 fiscal year ending June 30, as compared to the fiscal year preceding the enactment of this Act. In
300 making the calculation required by this subdivision, the Secretary of Administration and Finance
301 shall use actual data or best available estimates as described in the Cost Avoidance Report. The
302 calculation shall be final and shall not be adjusted for any subsequent changes in the underlying
303 data. The Secretary of Administration and Finance shall certify the results of the calculation to
304 the Treasurer no later than August 15 of each fiscal year.

305 (2) Before September 1 of each fiscal year, the Treasurer shall transfer from the General
306 Fund to the Neighborhood Safety and Opportunity Trust Fund the total amount calculated
307 pursuant to subsection (1).

308 (3a) Monies in the Neighborhood Safety and Opportunity Trust Fund shall be
309 continuously expended for the purposes of this Act. Funds transferred to the Neighborhood
310 Safety and Opportunity Trust Fund shall be used exclusively for the purposes of this Act and
311 shall not be subject to appropriation or transfer by the Legislature for any other purpose. The
312 funds in the Neighborhood Safety and Opportunity Trust Fund may be used without regard to
313 fiscal year.

314 (b) There shall be a Board of Directors to consist of thirteen members to be appointed by
315 the Secretary of Housing and Economic Development, with the approval of the Governor. Said
316 Board of Directors shall advise the commissioner in matters relating to job training, job creation
317 and job placement and will consist of the following members: the Commissioner of
318 Neighborhood Safety and Opportunity or a designee of; not less than six (6) members shall be
319 individuals who are, or have been at some time, members of the target population as defined in

320 subsection 3(i) of this chapter; and a combination of appointees with professional case
321 management experience, entrepreneurial or business management experience, professional
322 workforce development experience, experience providing professional or vocational training, or
323 experience in labor market analysis. The terms of the initial members shall be as follows: three
324 shall be appointed for one year, three shall be appointed for two years, three shall be appointed
325 for three years and three shall be appointed for four years. Upon the expiration of the term of a
326 member, his successor shall be appointed for a term of four years. Said members shall elect a
327 chairman and shall meet at least quarterly. They shall serve without compensation, but shall be
328 reimbursed for expenses necessarily incurred in the performance of their duties. If any member is
329 absent from two regularly scheduled quarterly meetings in any one calendar year, the office of
330 such member may be declared vacant by the chairman. Upon notification by the chairman that a
331 vacancy exists, the Secretary of Housing and Economic Development shall appoint, with the
332 approval of the governor, another member to fill the unexpired term.

333 (c) The fund shall be under the direction, supervision and control of the commissioner of
334 neighborhood safety and opportunity, called the commissioner, who shall be appointed by the
335 Board of Directors with the approval of the Governor, and who shall serve at the pleasure of the
336 Board of Directors and may be removed by the Board of Directors at any time, subject to the
337 approval of the Governor. The position of commissioner shall be classified in accordance with
338 section 45 of chapter 30 of the General Laws, as appearing in the 2012 Official Edition and the
339 salary shall be determined in accordance with section 46C of said 30 and the commissioner shall
340 devote full time during business hours to the duties of this office.

341 (d) The commissioner with the advice of the Board of Directors will have sole charge of
342 the supervision and administration of the fund.

343 (e) The commissioner may promulgate, in accordance with the provisions of chapter 30 A
344 of the General Laws, rules and regulations relating to the services provided by the commission.

345 (f) The commissioner may also appoint such other personnel as may be deemed
346 necessary for the efficient management of the fund.

347 (g) The total expenditure from the fund for administration, including salaries and benefits
348 of the commissioner and staff described in subsections (a) through (u) of this section, shall not
349 exceed 5% of the total amount disbursed by the fund in any given fiscal year.

350 (h) If an employee of the commonwealth or of a political subdivision, as defined in
351 section one of chapter thirty-two, shall be appointed to any such position, , and later, upon
352 conclusion of his service to the Trust Fund, be restored to his previously held civil service
353 position, such restoration shall be made without impairment of the employee's civil service
354 status or tenure under section 9A of chapter 30 and without loss of seniority, retirement or other
355 rights to which uninterrupted service in such position would have entitled the employee. During
356 the period of such appointment each person so appointed from a classified civil service position
357 shall be eligible to take any competitive promotional examination for which he would have
358 otherwise been eligible.

359 (i) The monies in the Neighborhood Safety and Opportunity Trust Fund shall be
360 appropriated for the purpose of righting an unbalanced economy by creating opportunities for job
361 training, job creation, and job placement for those who face high barriers to employment. The
362 target population is defined as any person who meets two or more of the following
363 characteristics: is under 25 years of age; is a victim of violence; is a veteran; does not have a
364 high school diploma (if over 18 years of age); has been convicted of a felony; has been

365 unemployed or has had family income below 250% of the federal poverty level for six months or
366 more; or lives in a census tract where over 20% of the population fall below the federal poverty
367 line.

368 (j) By September 15 of each fiscal year, the Secretary of Housing and Economic
369 Development shall publicly request proposals from private and public agencies regarding the use
370 of funds from the Neighborhood Safety and Opportunity Fund. Eligible programs shall exhibit a
371 model of creating employment opportunities for members of the target population, or, in the case
372 of programs serving a target population aged 20 years and under, may instead demonstrate a
373 model of building within such members the skills necessary for future employment. Such model
374 shall be supported by research and evaluation, and may include: transitional employment
375 programs; social enterprise; pre-apprenticeship or other training programs; school- or
376 community-based high school dropout prevention and re-engagement programs; cooperative and
377 small business development programs; and community-based workforce development programs.
378 Components of successful programs may include, but are not limited to: job training in both “soft
379 skills” and skills identified as lacking in growth industries; stipends or wage subsidies; serving as
380 employer of record with private employers; case management; cognitive behavioral therapy; and
381 supports such as child care vouchers or transportation assistance. The Trust may give priority to
382 programs that include access to services such as addiction treatment and trauma-informed mental
383 health care as relevant to the Trust’s mission, but such services by themselves are not eligible to
384 be funded by the Trust. Training programs that do not include a strong presumption of full
385 employment by a specific employer, or entry into a bona fide apprenticeship program recognized
386 by the Commonwealth of Massachusetts, upon successful completion by each participant shall
387 not be eligible for funding; provided that high school dropout prevention and re-engagement

388 programs need not include said presumption. Eligible employment programs must engage
389 participants in employment at a living wage and may use funds from the Trust to provide a wage
390 subsidy for up to 24 months in order to achieve that goal

391 (k) An employer may not employ an individual for a position funded under this Act, if--

392 (1) employing such individual will result in the layoff or partial displacement (such as a
393 reduction in hours, wages, or employee benefits) of an existing employee of the employer; or

394 (2) such individual will perform the same or substantially similar work that had
395 previously been performed by an employee of the employer who has been laid off or partially
396 displaced (as such term is described in subclause (1); and has not been offered by the employer
397 to be restored to the position the employee had immediately prior to being laid off or partially
398 displaced.

399 (3) An individual may not be hired for a position funded under this Act in a manner that
400 infringes upon the promotional opportunities of an existing employee (as of the date of such
401 hiring) of an employer receiving funds under this Act.

402 (l) Any employer that employs an individual whose employment is funded under a grant
403 from the Trust shall--

404 (1) continue to employ such individual for not less than 12 months, subject to the
405 individual's satisfactory performance of the reasonable requirements of the individual's
406 employment;

407 (2) if such an individual desires full-time employment, employ such individual for not
408 less than 35 hours per week and not more than 40 hours, and if such an individual desires part-

409 time work, employ such individual for a mutually agreed number of hours per week that is less
410 than 35 hours per week;

411 (3) comply with responsible contractor standards, as determined by the relevant official
412 in the unit of local government;

413 (4) provide compensation to such individual on a per hour basis equal to the
414 compensation provided to public sector employees who perform similar work in the community
415 where such individual is employed or, if no public sector employees perform such similar work,
416 provide compensation to such individual that is comparable to the compensation provided to
417 private-sector employees who perform similar work in the community where such individual is
418 employed;

419 (5) if such employment is in construction, provide compensation to any laborer or
420 mechanic employed under the grant at rates not less than those prevailing on similar construction
421 in the locality

422 (m) No individual whose employment is funded under the grant may work for an
423 employer at which a collective bargaining agreement is in effect covering the same or similar
424 work, unless--

425 (1) the consent of the union at such employer is obtained; and

426 (2) negotiations have taken place between such union and the employer as to the terms
427 and conditions of such employment.

428 (n) The existence of a felony record shall not be a barrier to hiring, training, or otherwise
429 engaging a participant in employment under this Act, unless the specific conditions of

430 employment and the nature of a specific charge on the criminal record combine so as to present a
431 clear risk to the safety of a vulnerable population. Employers who do not follow such a policy
432 shall not be eligible to receive funds or benefit from wage subsidies under this Act.

433 (o) Recipients of grants under the Neighborhood Safety and Opportunity Trust Fund
434 shall comply with data collection and evaluation requirements as established by the
435 commissioner, to ensure the effectiveness of programs funded under this Act.

436 (p) All contracts granted by the Neighborhood Safety and Opportunity Trust Fund will
437 include reporting on outcomes related to the recidivism, employment attainment/retainment,
438 and/or educational attainment, as appropriate, of participants served. The Board of Directors
439 shall create the rules associated with requests for proposals that prioritize the attainment and
440 performance measurement of all outcomes listed above.

441 (q) Every three years, the Auditor shall conduct an audit of the grant programs operated
442 by the agencies specified in paragraph (a) to ensure the funds are disbursed and expended solely
443 according to this chapter and shall report his or her findings to the Legislature and the public.

444 (r) Any costs incurred by the Auditor and the Secretary of Administration and Finance in
445 connection with the administration of the Neighborhood Safety and Opportunity Trust Fund,
446 including the costs of the calculation required by subsection a(1) and the audit required by
447 subsection 3(s) shall be deducted from the Neighborhood Safety and Opportunity Trust Fund
448 before grants are disbursed pursuant to subsection 3(g).

449 (s) The Board of Directors shall develop rules and regulations for calculating the savings
450 resulting in all measures related to Sections 1-42, which shall account at a minimum for the
451 variable costs averted, such as food and medical expenses, and also consider fixed expenditures

452 that are avoided if larger numbers of potential inmates are avoided; The Board of Directors, with
453 approval from the Secretary of Administration and Finance, shall determine the rules associated
454 with appropriating all monies into the Neighborhood Safety and Opportunity Fund based upon
455 all savings. The Board of Directors shall contract with a third party agency that has experience in
456 the provision of criminal justice cost avoidance analyses for states, that will provide a report
457 summarizing all savings, both actual and best available forecasted estimates based upon the
458 calculation rules set forth by the Board of Directors. Such Annual Cost Avoidance Report will be
459 delivered to the Secretary of Administration and Finance within 30 days of the ending of each
460 fiscal year.