SENATE DOCKET, NO. 1620 FILED ON: 1/16/2015

SENATE . . . . . No. 905

The Commonwealth of Massachusetts

PRESENTED BY:

Karen E. Spilka

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 promoting transparency, best practices, and better outcomes for children and communities.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Karen E. Spilka	*Second Middlesex and Norfolk*
Ruth B. Balser	*12th Middlesex*
Michael J. Barrett	*Third Middlesex*
Cynthia S. Creem	*First Middlesex and Norfolk*
James B. Eldridge	*Middlesex and Worcester*
William N. Brownsberger	*Second Suffolk and Middlesex*
Thomas M. McGee	*Third Essex*
Mary S. Keefe	*15th Worcester*
Sal N. DiDomenico	*Middlesex and Suffolk*

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SENATE . . . . . No. 905

By Ms. Spilka, a petition (accompanied by bill, Senate, No. 905) of Karen E. Spilka, Ruth B. Balser, Michael J. Barrett, Cynthia S. Creem and other members of the General Court for legislation to promote transparency, best practices, and better outcomes for children and communities. The Judiciary.

The Commonwealth of Massachusetts

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

An Act promoting transparency, best practices, and better outcomes for children and communities.

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

SECTION 1. The General Laws, as appearing in the 2012 Official Edition, are hereby amended by adding the following chapter:-

Chapter 18D: Collection of juvenile justice contact data

Section 1: Definitions

As used in this Chapter the following words shall have the following meanings, -

"Contact" any action, order, practice, or procedure by law enforcement personnel, court personnel, , or any official of the commonwealth in interacting with a juvenile in response to any type of offense.

"Juvenile" a youth between the age of seven and eighteen and up to the age of 22 if the individual remains within the jurisdiction of the juvenile court, and children aged fourteen to

eighteen who are charged with first or second degree murder pursuant to section 74 of chapter 119;

"Racial and ethnic category" the socio-cultural racial and ethnic category of an individual as determined in a manner that is consistent with the categories established by the United States Department of Justice Office of Juvenile Justice and Delinquency Prevention.

"Type of offense" category of offense that is consistent with the categories established and utilized by the National Incident-Based Reporting System published by the Uniform Crime Reporting Program of the Federal Bureau of Investigation.

Section 2. (a) The child advocate shall identify information to be collected by the attorney general, the chief justice for administration and management of the trial court, the commissioner of probation, the secretary of public safety and security, and the secretary of health and human services in order to evaluate the frequency and outcome of contacts between juveniles of each racial and ethnic category and law enforcement personnel, court personnel, and other Commonwealth officials. Information shall include, but not be limited to, the type of offense which resulted in the contact and the age, gender, and racial and ethnic category of the juvenile. The child advocate may provide guidance regarding the manner in which racial and ethnic category data is collected, with consideration of the juvenile's self-reporting of such categories. In identifying information to be collected, the child advocate shall include information the Commonwealth is required to report under the United States Juvenile Justice & Delinquency Prevention Act, including without limitation the requirements for applications and reporting for formula grants under 28 CFR 31

(b) The attorney general, the chief justice for administration and management of the trial court, the commissioner of probation, the secretary of public safety and security, and the secretary of health and human services shall collaborate to establish procedures for the collection of the information identified under paragraph (a).

Section 3. (a) The commissioner of the department of correction, the sheriffs of each county, the parole board and law enforcement officials including the department of state police, municipal police departments, Massachusetts Bay Transportation Authority police, any school-based police from a local education authority, , shall collect the information identified in section 2 for each juvenile with whom they have contact and transmit the information to the secretary of public safety and security on a quarterly basis. The secretary shall study and analyze the information collected and file a report with the clerks of the house of representatives and senate each year on January 15. A copy of the report and the information collected shall be provided to the office of the child advocate and made available to the public on the website of the executive office of public safety and security.

(b) Judicial officials including clerk magistrates, the commissioner and personnel of the department of probation, and personnel and justices of the trial court shall collect the information identified in section 2 for each juvenile with whom they have contact and transmit the information to the trial court's chief justice for administration and management on a quarterly basis. The chief justice shall study and analyze the information collected and file a report with the supreme judicial court and the clerks of the house of representatives and senate each year on January 15. A copy of the report and the information collected shall be provided to the office of the child advocate and made available to the public on the websites of the trial court and the department of probation.

(c) District attorneys shall collect the information identified in section 2 for each juvenile with whom they have contact and transmit the information to the attorney general on a quarterly basis. The attorney general shall study and analyze the information collected and file a report with the clerks of the house of representatives and senate each year on January 15. A copy of the report and the information collected shall be provided to the office of the child advocate and made available to the public on the website of the attorney general.

(d) The department of youth services shall collect the information identified in section 2 for each juvenile with whom they have contact and transmit the information to the secretary of health and human services on a quarterly basis. The secretary shall study and analyze the information collected and file a report with the clerks of the house of representatives and senate each year on January 15. A copy of the report and the information collected shall be provided to the office of the child advocate and made available to the public on the website of the executive office of health and human services.

Section 4. The information acquired under the provisions of this chapter shall be used only for statistical purposes. Data concerning the identity of an individual who had contact with the juvenile justice system shall be removed from information made available to the public.

SECTION 2. The first sentence of the second paragraph of Section 23 of chapter 90 of the General Laws, as appearing in the 2012 Official Edition, is hereby amended by inserting after the words, “not more than $500”, the following:-

; provided further, that notwithstanding any general or special law to the contrary, a finding of delinquency shall not be entered against any person against whom such a complaint has been issued

SECTION 3. The fourth paragraph of section 34J of said chapter 90 of the General Laws, as so appearing, is hereby amended by adding at the end thereof the following:-

; provided further, that notwithstanding any general or special law to the contrary, any person who violates this section and has not been previously determined responsible for or convicted therefor, or against whom a finding of delinquency or a finding of sufficient facts to support a conviction has not previously been rendered, shall not have a finding of delinquency entered against him

SECTION 4. Section 52 of chapter 119 of the General Laws, as most recently amended by section 7 of chapter 84 of the Acts of 2013, is hereby further amended by striking out the definition of "Delinquent Child" in the second paragraph and inserting in place thereof the following new definition:-

"Delinquent Child", a child between eleven and eighteen who commits any offense against a law of the commonwealth, provided however, that such offense shall not include a civil infraction or a violation of any municipal ordinance or town by-law.

SECTION 5. Said section 52 of said chapter 119 is hereby further amended by inserting at the end thereof the following new definition:-

"Civil Infraction", a violation for which a civil proceeding is allowed, and for which the court may not sentence any term of incarceration and therefore not appoint counsel.

SECTION 6: Section 54 of said chapter 119, as so appearing, is hereby amended by striking out in the definition of "Delinquent child" the word "seven" and inserting in place thereof the following word:- eleven

SECTION 7: Section 67 of said chapter 119, as so appearing, is hereby amended by striking out in the definition of “Delinquent child” the word “seven” and inserting in place thereof the following word:- eleven

SECTION 8: Section 68 of said Chapter 119, as so appearing, is hereby amended by striking out the word “seven” and inserting in place thereof the following word:- eleven

SECTION 9: Section 68A of said chapter 119, as so appearing, is hereby amended by striking out the word “seven” and inserting in place thereof the following word:- eleven

SECTION 10: Section 84 of said chapter 119, as so appearing, is hereby amended by striking out the word “seven” and inserting in place thereof the following:- eleven

SECTION 11. Chapter 119 of the General Laws, as so appearing, is hereby amended by inserting after section 85 the following new sections:-

Section 86. The following words, as used in the following sections, except as otherwise provided, shall have the following meanings:—

“Assessment”, a thorough and complete measurement of the needs of a child in, but not limited to, the following areas: education, vocational training, job readiness, housing, behavioral and physical health, family and social services, and an analysis of a child’s willingness to participate in a community program.

“Director”, the person in charge of the operation of a community or other service program.

"Official designee", a representative of a community program who has been approved by the presiding justice of a juvenile court to work in conjunction with that court's probation office to screen children who may be eligible for diversion.

"Program", any program of community supervision and services certified or approved by the commissioner of probation under the provisions of section ninety-three, including, but not limited to, medical, educational, vocational, social and psychological services, corrective and preventive guidance, training, performance of community service work, counseling, and other rehabilitative services designed to protect the public and benefit the individual.

Section 87. When a child is brought before the juvenile court as the result of a police referral or a complaint or indictment under section 54 the court may, prior to arraignment, (i) allow a motion to dismiss or order dismissal on its own motion if it concludes that dismissal is in both the best interests of the child and the interests of justice, or (ii) issue an order to divert the child from court processing.

Section 88. The probation officer of a juvenile court shall, after the appointment of counsel and upon the request of counsel, and prior to arraignment, assess each child complained of as a potential delinquent child or youthful offender for the purpose of enabling the judge to consider the suitability of the child for diversion to the community or a program prior to arraignment. The probation officer shall conduct an assessment using an assessment tool developed by the commissioner of probation in consultation with the commissioner's advisory board. The assessment tool shall be scientifically validated, research-based and aligned with best practices in the field.

If the child or the probation officer requests it, the court may order a continuance of up to fourteen-days and additional assessment by the department of probation or, where the judge determines it is appropriate, the personnel of a program to determine if the child would benefit from diversion to such program.

If a case is continued under this section, the child shall not be arraigned and no entry will be made into the criminal offender information system until such time as the Court so orders for the purposes of resuming the ordinary processing of a delinquency or youthful offender proceeding.

Section 89. After the completion of the assessment, or upon the expiration of a continuance granted pursuant to section 88, the probation officer or the director of a program to which the child has been referred shall submit to the court a recommendation as to whether the child would benefit from diversion to the community or a program.

The judge, upon receipt of the recommendation, shall provide an opportunity for a recommendation by the prosecution regarding the diversion of the child. After receiving the report and having provided an opportunity for the prosecution to make its recommendation, the judge shall make a final determination as to the eligibility of the child for diversion and may order the child to be diverted from court proceedings. There shall be a rebuttable presumption that a child who is charged with a misdemeanor for which the punishment is a fine, imprisonment in a jail or house of correction for not more than six months, or both such fine and imprisonment, and who does not have any outstanding warrants, continuances, appeals or juvenile court cases pending, shall be found eligible for diversion.

If the court orders the child to be diverted then the proceedings shall be stayed for a period of ninety days, unless the court in its discretion finds that the interests of justice would best be served by a lesser period of time.

In no event shall a stay of proceedings be granted pursuant to this section unless the child consents in writing to the terms and conditions of the stay of proceedings and knowingly executes a waiver of his right to a speedy trial on a form approved by the chief justice of the juvenile court. Such consent shall be with the advice of the child's counsel. Any request for assessment, or a decision by the child not to enter a program, or a determination by probation or by a program that the child would not benefit from diversion, or any statement made by the child during the course of assessment, shall not be admissible against the child in any proceedings; nor shall any consent by the child to the stay of proceedings or any act done or statement made in fulfillment of the terms and conditions of such stay of proceedings be admissible as an admission, implied or otherwise, against the child, should the stay of proceedings be terminated and proceedings resumed on the original complaint or indictment. No statement or other disclosure or records thereof made by a child during the course of assessment or during the stay of proceedings shall be disclosed at any time to a prosecutor or other law enforcement officer in connection with the investigation, or prosecution of any charge or charges against said child or any co-defendant.

If a child has been found eligible and placed into diversion under this section, the child shall not be arraigned and no entry will be made into the criminal offender information system until such time as a court so orders for the purposes of resuming the ordinary processing of a delinquency or youthful offender proceeding.

Section 90. A district attorney may, in his discretion, divert any child to the community or a program either before or after the assessment procedure set forth in section 88, with or without the permission of the court. A district attorney who diverts a case pursuant to this section may request a report from a program regarding the child's status in and completion of such program. Any request for dissemination of information requires notification and production to child's counsel.

Section 91. During a stay of proceedings, as provided in section 89, the juvenile probation officer for the court shall submit periodic reports to the court relative to the progress of the child and shall report subsequent arrests immediately upon notice thereof.

If, during the stay of proceedings, the child is charged with a subsequent offense, the court that entered the stay may issue such process as is necessary to bring the child before the court. When the child is brought before the court, the child shall have an opportunity to be heard. If the court finds probable cause to believe that the child has committed a subsequent offense, the court may order that the stay of proceedings be terminated and that the Commonwealth be permitted to proceed on the original complaint or indictment.

Section 92. Upon the expiration of the initial ninety-day stay of proceedings the probation officer shall submit to the court a report indicating whether or not diversion was successful for the child or recommending an extension of the stay of proceedings for an additional ninety days, so that the child may complete the diversion program successfully.

If the report indicates the successful completion of diversion by a child, the judge may dismiss the original complaint or indictment pending against the child. If the report recommends an extension of the stay of proceedings, the judge may, on the basis of the report and any other

relevant evidence, take such action as he deems appropriate, including the dismissal of the complaint or indictment, the granting of an extension of the stay of proceedings or the resumption of proceedings. In the event that an extension of the stay of proceedings is granted, the probation officer shall submit a final report upon the expiration of such stay of proceedings.

If the judge dismisses a complaint or indictment under this section, the court shall enter an order directing expungement of any records of the complaint or indictment and related proceedings maintained by the clerk, the court, the department of criminal justice information services, the court activity record index and the probation department that directly pertain to the complaint or indictment.

Section 93. The office of the commissioner of probation shall, in its discretion, certify, monitor and aid all programs to which children may be diverted pursuant to this chapter. The office of the commissioner of probation shall:

(a) issue for a term of two years, and may renew for like terms, a certification, subject to revocation for cause, to any person, partnership, corporation, society, association or other agency or entity of any kind, other than a licensed general hospital or a department, agency or institution of the federal government, the commonwealth or any political subdivision thereof, deemed to be responsible and suitable to establish and maintain such a program and to meet applicable certification standards and requirements; and in the case of a department, agency or institution of the Commonwealth or any political subdivision thereof, grant approval to establish and maintain a program for a term of two years, and may renew such approval for like terms, subject to revocation for cause;

(b) promulgate, in consultation with the advisory board established in section 94, rules and regulations establishing certification and approval standards and requirements;

(c) establish limits for caseloads and enrollment so that programs are able to provide high quality intensive individualized service to those children participating in such programs;

(d) procure, where appropriate, by contract, the personnel, facilities, services, and materials necessary to carry out the purposes of this act, subject to all applicable laws and regulations;

(e)prepare reports for said advisory board showing the progress of all programs in fulfilling the purposes set forth;

(f) notify the appropriate presiding justice of the individual court that adequate facilities and personnel are available to fulfill an appropriate array of programs and services for that court;

(g) provide technical assistance to such program as may be certified hereunder;

(h) provide for the audit of any funds expended by the office for the support of programs certified hereunder;

(i) promote the cooperation of all agencies which provide education, training, counseling, legal, employment, or other services to assure that eligible individuals diverted to programs may benefit to the maximum extent practicable;

(j) prepare and submit an annual report to the chief justices of the supreme judicial, appeals, and trial courts and to all justices in the juvenile court system evaluating the performance of all programs.

Section 94. There shall be an advisory board to the office of the commissioner of probation. The members of the advisory board shall be the commissioners of elementary and secondary education, mental health, children and families, and youth services, the chief justice of the juvenile court, the child advocate, the president of the Massachusetts District Attorney's Association, the chief counsel of the committee for public counsel services, or their respective designees, and five experts in the area of human services to the sociologically and economically disadvantaged through community based programs to be appointed by the governor for terms of two years, one of whom shall be an individual between the ages of 18 and 24 who has previously been subject to the jurisdiction of the juvenile court. The members of the advisory board shall serve without compensation but shall be reimbursed for their expenses actually and necessarily incurred in the discharge of their duties. The advisory board shall annually select its chairman from among its members.

The advisory board shall assist the commissioner in the creation of an assessment tool to evaluate an individual for diversion under section 89 and in coordinating the efforts of all public agencies and private organizations and individuals within the Commonwealth concerned with the providing of services to defendants by programs under section 93.

SECTION 12. Chapter 119 of the General Laws, as so appearing, is hereby further amended by inserting at the end thereof the following new section:

Section 95. (a) For purposes of this section, the following terms shall have the following meanings:

"Juveniles" – Persons appearing before the juvenile court under the age of eighteen in delinquency, children requiring assistance cases, and care and protection cases, and under the age of twenty-one in youthful offender cases.

"Restraints" – Devices that limit voluntary physical movement of an individual, including leg irons and shackles approved by the trial court security department.

(b) There shall be a presumption that restraints shall be removed from juveniles while appearing in a courtroom before a justice of the Juvenile Court.

(c) Restraints may not be used on juveniles during court proceedings and must be removed prior to the appearance of juveniles before the court at any stage of any proceedings, unless the justice presiding in the courtroom issues an order and makes specific findings on the record that restraints are necessary because there is reason to believe that a juvenile may try to escape, or that a juvenile may pose a threat to his or her own safety, or to the safety of other people in the courtroom, or restraints are reasonably necessary to maintain order in the courtroom.

(d) The justice presiding in the courtroom shall consider one or more of the following factors prior to issuance of any order and findings:

1) The seriousness of the present charge (supporting a concern that the juvenile has an incentive to attempt to escape);

2) The prior offense history of the juvenile;

3) Any past disruptive courtroom behavior by the juvenile;

4) Any past behavior by the juvenile that presented a threat to his or her own safety, or the safety of other people;

5) Any present behavior that the juveniles represents a current threat to his or her own safety, or the safety of other people in the courtroom;

6) Any past escapes, or attempted escapes;

7) Risk of flight from the courtroom;

8) Any threats of harm to others, or threats to cause a disturbance; and

9) Security situation in the courtroom and courthouse, including risk of gang violence, or attempted revenge by others.

(e) The court officer charged with custody of a juvenile shall report any security concerns with said juvenile to the justice presiding in the courtroom. The justice presiding in the courtroom may attach significance to the report and recommendation of the court officer charged with custody of the juvenile, but shall not cede responsibility for determining the use of restraints in the courtroom to the court officer. The justice presiding in the courtroom may receive information from the court officer charged with custody of the juvenile, a probation officer, or any source which the court determines in its discretion to be credible on the issue of courtroom or courthouse security.

The decision to use restrains shall be the sole determination of the juvenile court justice who is presiding in the courtroom at the time that a juvenile appears before the court. No juvenile court justice shall impose a blanket policy to maintain restraints on all juveniles, or a specific category of juveniles, who appear before the court.

SECTION 13: Section 21 of said chapter 120, as so appearing, is hereby amended by striking out the word “seven” and inserting in place thereof the following word:- eleven

SECTION 14. Section 20 of chapter 233 of the General Laws, as appearing in the 2012 Official Edition, is hereby amended by striking out the Fourth clause, and inserting in place thereof the following:-

Fourth, in a proceeding before an inquest, grand jury, trial of indictment or complaint, or any other criminal, delinquency or youthful offender proceeding where the victim in such proceeding is not a family member and does not reside in the family household, neither the parent nor minor child shall testify against the other without the other’s permission. For the purpose of this clause the term, “parent”, shall mean the biological or adoptive parent, stepparent, foster parent, or legal guardian of a child. In cases where the victim is a family member and resides in said household, the parent shall not testify as to any communication with such child that was for the purpose of seeking advice regarding the child’s legal rights and decision making

SECTION 15. Chapter 265 of the General Laws, as appearing in the 2012 Official Edition, is hereby amended by striking out section 13B and inserting in place thereof the following: -

Section 13B. Whoever commits an indecent assault and battery on a minor under the age of 14 shall be punished by imprisonment in the state prison for not more than 10 years, or by imprisonment in the house of correction for not more than 2½ years. A prosecution commenced under this section shall neither be continued without a finding nor placed on file. In a prosecution under this section, a minor under the age of 15 years shall be deemed incapable of consenting to

any conduct of the defendant for which such defendant is being prosecuted unless: (a) The defendant is no more than 3 years older than the minor; or (b) The defendant is no more than 2 years older than the minor if the minor is under 12 years of age.

Notwithstanding the provisions of section 54 of Chapter 119 or any other general or special law to the contrary, in a prosecution under this section in which the defendant is under 18 years of age at the time of the offense, the Commonwealth shall only proceed by complaint in juvenile court or in a juvenile session of a district court.

SECTION 16. Said chapter 265, as so appearing, is hereby amended by striking out section 23 and inserting in place thereof the following:-

Section 23. Whoever has sexual intercourse or unnatural sexual intercourse with a minor under 16 years of age and: (a) The defendant is more than 4 years older than the minor, or (b) The minor is under 15 years of age and the defendant is more than 3 years older than the minor; or (c) The minor is under 12 years of age and the defendant is more than 2 years older than the minor, shall be punished by imprisonment in the state prison for life or for any term of years, or, except as otherwise provided, for any term in a jail or house of correction, provided, however, that a prosecution commenced under this section shall not be placed on file or continued without a finding.

Notwithstanding the provisions of section 54 of Chapter 119 or any other general or special law to the contrary, in a prosecution under this section in which the defendant is under 18 years of age at the time of the offense, the commonwealth shall only proceed by complaint in juvenile court or in a juvenile session of a district court.

SECTION 17. Section 4 of chapter 272 of the General Laws, as appearing in the 2012 Official Edition, is hereby repealed.

SECTION 18. Chapter 272 of the General Laws is amended by striking out section 40, as appearing in the 2010 Official Edition, and inserting in place thereof the following section:

Section 40. Disturbance of assemblies.

Whoever willfully interrupts or disturbs an assembly of people met for a lawful purpose shall be punished by imprisonment for not more than one month or by a fine of not more than fifty dollars; provided, however, that an elementary or secondary school student shall not be charged, adjudicated, or convicted for alleged violation of this provision due to conduct within school buildings or grounds or in the course of school-related events. Whoever, within one year after being twice convicted of a violation of this section, again violates the provisions of this section shall be punished by imprisonment for one month, and the sentence imposing such imprisonment shall not be suspended.

SECTION 19. Chapter 272 is hereby further amended by striking out subsection (b) of section 53, as appearing in the 2012 Official Edition, and inserting in place thereof the following subsection:

(b) Disorderly persons and disturbers of the peace, for the first offense, shall be punished by a fine of not more than $150. On a second or subsequent offense, such person shall be punished by imprisonment in a jail or house of correction for not more than 6 months, or by a fine of not more than $200, or by both such fine and imprisonment, provided, however, that an elementary or secondary school student shall not be charged, adjudicated, or convicted for

alleged violation of this provision due to conduct within school buildings or grounds or in the course of school-related events.

SECTION 20. Chapter 272, Section 53, is hereby further amended by inserting at the end thereof the following new clause:-

(c) Notwithstanding any general or special law to the contrary, any person who violates clause (a) or (b) of this section shall not have a finding of delinquency entered against him.

SECTION 21. Chapter 276 of the General Laws, as so appearing, is hereby amended by inserting after section 100D the following new section:-

Section 100E. Notwithstanding the provisions of section 100A, any person at any age having a record of juvenile or criminal court appearances and dispositions in the commonwealth on file with the office of the commissioner of probation may have convictions or adjudications expunged from their criminal and court records if they committed such offense prior to the age of 21 years old. Any sentence or disposition imposed by the court must be terminated prior to the expungement of any such records.

Misdemeanor offenses shall be expunged automatically upon the termination of the individual's sentence or, where applicable, period of commitment or probation imposed pursuant to Chapter 119 Section 58. In a form furnished by the commissioner of probation, an individual may file a petition to a judge in the court in which such adjudication or disposition occurred to expunge a felony offense. The court shall comply with such request provided the offender has completed their sentence or disposition or, where applicable, period of commitment or probation imposed pursuant to Chapter 119 Section 58, and said person has not been adjudicated delinquent or found guilty of any new criminal offense within the Commonwealth prior to the

completion of their sentence. A motor vehicle offense in which the penalty does not exceed a fine of fifty dollars shall not be treated as a new criminal offense under this section.

The Court shall, at the time of imposing any sentence or disposition or, where applicable, period of commitment or probation pursuant to Chapter 119 Section 58, inform all eligible individuals of their right to seek expungement under this section.

Notwithstanding any other provision to the contrary, the commissioner of probation shall report such expunged record to inquiring police, court agencies, and other authorized persons only as "no record." An applicant for employment with an expunged record on file with the commissioner of probation may answer "no record" to any inquiry regarding prior arrests, delinquency appearances, delinquency adjudications, or delinquency dispositions that were contained in such expunged record.

Once the commissioner expunges the records within his possession, he shall forthwith notify the clerk and probation officer of the courts in which the adjudications or dispositions occurred, or other entries have been made, and the Department of Youth Services of such expungement, and said clerks, probation officers, and Department of Youth Services shall each expunge such records from their files. Records shall be expunged both in their electronic form as well as their physical form.

The charges, adjudications, and dispositions expunged shall not operate to disqualify such person in any examination, appointment, or application for public employment in the service of the Commonwealth or any other subdivision thereof, nor shall such charges, adjudications, or dispositions be used against such person in anyway in any court proceeding or hearing before any court, board, or commission to which the person is a party to the proceeding.

For the purpose of this chapter the words, expunge, expunged, or expungement, shall mean permanent erasure or destruction.

SECTION 22. Paragraph 1 of section 70C of chapter 277 of the General Laws, as appearing in the 2012 Official Edition, is hereby amended by striking out in the second sentence the words:- “chapter 119,”

SECTION 23. Notwithstanding any general or special laws to the contrary, there shall be a rebuttable presumption that youth status is a distinct mitigating factor. When the commonwealth has failed to rebut the presumption by clear and convincing evidence, issues of intent, knowledge, premeditation and purpose, or the reasonableness of the defendant’s belief that he is in imminent threat of death or serious bodily injury, or the reasonableness of a defendant’s perception of the amount of force necessary to combat the perceived threat, shall be considered in light of the young adult’s diminished capacities.

In cases where youth status is a mitigating factor, the court, at the time of sentencing shall apply a sentencing discount, not to exceed one third of the “adult” prescribed penalty, or provide early release options based on the completion of educational, vocational, or substance abuse programs.

The department of corrections and the houses of correction shall provide workforce development, educational, and substance abuse treatment programming for all individuals under the age of 26 at the time of the offense; and accelerated good time credits for completion of said programing.

Youth status shall be based on the scientific literature on brain maturation, which documents that young adults under age 26 are developmentally more like juveniles than they are like fully mature adults and are therefore less culpable and more amendable to change.