HOUSE DOCKET, NO. 2516 FILED ON: 1/19/2017

HOUSE . . . . . No. 2489

The Commonwealth of Massachusetts

PRESENTED BY:

Carolyn C. Dykema

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 improving juvenile justice data collection.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
Carolyn C. Dykema	*8th Middlesex*	*1/19/2017*
José F. Tosado	*9th Hampden*	*1/19/2017*
James M. Cantwell	*4th Plymouth*	*1/19/2017*
Sean Garballey	*23rd Middlesex*	*1/19/2017*
Chris Walsh	*6th Middlesex*	*1/19/2017*
Jennifer E. Benson	*37th Middlesex*	*1/19/2017*
Jason M. Lewis	*Fifth Middlesex*	*1/19/2017*
Denise Provost	*27th Middlesex*	*1/19/2017*
Jack Lewis	*7th Middlesex*	*1/19/2017*
James B. Eldridge	*Middlesex and Worcester*	*1/19/2017*
Marjorie C. Decker	*25th Middlesex*	*1/19/2017*
Kay Khan	*11th Middlesex*	*1/19/2017*
Paul R. Heroux	*2nd Bristol*	*1/19/2017*
Robert M. Koczera	*11th Bristol*	*1/19/2017*
Kate Hogan	*3rd Middlesex*	*1/19/2017*
Daniel M. Donahue	*16th Worcester*	*1/19/2017*
Mary S. Keefe	*15th Worcester*	*1/19/2017*
Daniel J. Ryan	*2nd Suffolk*	*1/19/2017*

Michelle M. DuBois	*10th Plymouth*	*1/19/2017*
Christine P. Barber	*34th Middlesex*	*1/19/2017*
Stephan Hay	*3rd Worcester*	*1/19/2017*
Bradford R. Hill	*4th Essex*	*1/19/2017*
Jonathan Hecht	*29th Middlesex*	*1/19/2017*
Michael O. Moore	*Second Worcester*	*1/19/2017*
Jay R. Kaufman	*15th Middlesex*	*1/19/2017*
John J. Lawn, Jr.	*10th Middlesex*	*1/19/2017*
Elizabeth A. Malia	*11th Suffolk*	*1/19/2017*
John C. Velis	*4th Hampden*	*1/19/2017*
Linda Dorcena Forry	*First Suffolk*	*1/19/2017*
Thomas M. Stanley	*9th Middlesex*	*1/19/2017*

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HOUSE . . . . . No. 2489

By Ms. Dykema of Holliston, a petition (accompanied by bill, House, No. 2489) of Carolyn C. Dykema and others for legislation to improve data collection in the juvenile justice system. Public Safety and Homeland Security.

The Commonwealth of Massachusetts

In the One Hundred and Ninetieth General Court
(2017-2018)

An Act improving juvenile justice data collection.

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

SECTION 1. The purpose of this provision is to ensure that the Commonwealth establishes systems to collect accurate, consistent, and comprehensive data on juveniles' contacts with officials in the law enforcement and juvenile justice systems in order to improve comprehensive state planning as required by Title 42 of the United States Code, section 5633.

SECTION 2. Definitions.

As used in this act, -

"contact" means any action or decision by law enforcement personnel or by any other official of the commonwealth or private service provider under contract or other agreement with the commonwealth, in dealing with a juvenile at any stage of the juvenile justice system including, but not limited to, the points of contact listed below in sections 4(a) –(i), which causes such juvenile to enter or exit the juvenile justice system or which will change his custodial status, liberty, case processing, or status within the system.

"juvenile" means 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 or juvenile justice system, and children aged fourteen to eighteen who are charged with first or second degree murder pursuant to M.G.L.A. 119 § 74;

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

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

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

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

with consideration of the juveniles' self-reporting of such categories. All Offices and Departments subject to this law shall use this instrument to record contacts.

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

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

(2) arrest

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

(1) criminal complaint filed

(2) finding of probable cause;

(3) complaint issued;

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

(5) complaint issued after appeal.

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

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

(2) indictment as a youthful offender;

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

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

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

(1) arraignment as a delinquent

(2) arraignment as a youthful offender;

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

(4) imposition of bail or order to hold without bail;

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

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

(7) adjudication as a delinquent;

(8) adjudication as a youthful offender;

(9) imposition of an adult sentence pursuant to M.G.L.A. ch. 119 § 58;

(10) sentence to probation;

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

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

(13) voluntary extensions of commitments to the department of youth services;

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

(15) commitments to department of youth services following a probation violation; and

(16) revocation of a continuation without a finding pursuant to M.G.L.A. ch. 278 § 18 and M.G.L.A. ch. 119 §58 ;

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

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

(2) supervision of pre-trial probation;

(3) supervision of continuances without a finding;

(4) supervision of youth on probation; and

(5) referral to the court for a probation violation.

(f) The department of youth services and any contractor, vendor or service provider working with said department including alternative lock-up programs shall collect the necessary

information to complete the instrument identified in Section 3 for each juvenile subjected to the following contacts for each fiscal year

(1) pre-arraignment detention;

(2) pre-trial detention;

(3) commitment;

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

a. “hardware,” secure;

b. staff secure;

c. residential; and

d. community placement;

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

(5) hearing on grants of conditional liberty; and

(6) revocation of grants of conditional liberty for violation of conditions of liberty; and

(7) voluntary extensions of commitments with the department of youth services.

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

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

(2) convictions.

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

(1) pre-arraignment detention;

(2) pre-trial detention;

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

(4) post-conviction confinement for Murder.

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

(1) grant of parole;

(2) supervision of parole; and

(3) revocation of parole.

SECTION 5. (a) The Executive Office of Public Safety and Security shall be responsible for assembling the data collected by the below offices and departments on an annual basis. The collected data for each fiscal year shall be published on the Executive Office of Public Safety and Security Website, filed with the clerks of the Massachusetts House and Senate and provided to the Office of the Child Advocate no later than 90 days after the end of that fiscal year. The first such report shall be submitted by January 2, 2018.

a. The Commissioner of the Department of Correction

b. Sheriffs of each County;

c. The Parole Board;

d. The Department of the State Police;

e. Municipal police departments;

f. The Massachusetts Bay Transportation Authority Police;

g. School based police from any local education authority;

h. Alternative Lock-up Programs; and

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

(b) The Attorney General shall be responsible of assembling data collected by District Attorney's Offices on an annual basis. The collected data for each fiscal year shall be published on the Attorney General's website, filed with the clerks of the Massachusetts House and Senate and provided to the Office of the Child Advocate no later than 90 days after the end of that fiscal year. The first such report shall be submitted by January 2, 2018.

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

90 days after the end of that fiscal year. The first such report shall be submitted by January 2, 2018.

d) The Executive Office for Human Services shall be responsible for assembling data collect by the Commissioner of the Department of Youth Services and all department personnel, contractors or vendors working with the Department. The data shall be collected on an annual basis. The collected data for each fiscal year shall be published on the Office's website, filed with the clerks of the Massachusetts House and Senate and provided to the Office of the Child Advocate no later than 90 days after the end of that fiscal year. The first such report shall be submitted by January 2, 2018.

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

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

SECTION 8. There shall be a Juvenile Justice Policy and Data Commission convened by the Child Advocate for Massachusetts. The Commission shall evaluate policies related to the juvenile justice system, oversee the collection and dissemination of aggregate data regarding the system, and study the implementation of any major statutory changes to the juvenile justice system, including but not limited to the expansion of juvenile jurisdiction to include persons eighteen, nineteen and twenty years of age.

The Commission shall consist of the following members or their designees: Two members of the General Court, one of whom shall be appointed by the speaker of the House of Representatives, and one of whom shall be appointed by the President of the Senate; the Child Advocate; the chief justice of the juvenile court; the commissioner of probation; the commissioner of youth services; the commissioner of children and families; the commissioner of mental health; the commissioner of public health; the Secretary of Education; the chief counsel of the Committee for Public Counsel Services; the executive director of the Massachusetts District Attorneys' Association; the chair of the Massachusetts Juvenile Justice Advisory Committee; the executive director of Citizens for Juvenile Justice, Inc.; the executive director of the Children's League of Massachusetts; a representative of the Massachusetts Chiefs of Police Association; 2 parents whose children have been subject to Juvenile Court jurisdiction; and 1 member to be appointed by the governor who shall have experience or expertise related to the design and implementation of state administrative data systems. All appointments to the Commission shall be made not less than 30 days after the enactment of this legislation.

The task force shall have an Executive Director who shall convene the Commission, prepare reports as called for herein; and identify academic research partners in Massachusetts or elsewhere to assist in the analysis and reporting.

Not later than January 1, 2019, and no later than each January 1 following, the Commission shall report to the Clerks of the Senate and the House of Representatives, the Chief Judge of the Trial Court, and the Governor, regarding the following:

(a) Any statutory changes concerning the juvenile justice system that the committee recommends to (A) improve public safety, (B) promote the best interests of children and youths

who are under the jurisdiction, supervision, care or custody of the Juvenile Court, the Commissioner of Youth Services, or the Commissioner of Child Welfare; (C) improve transparency and accountability with respect to state-funded services for children and youths in the juvenile justice system with an emphasis on goals identified by the committee for community-based programs and facility-based interventions; and (D) promote the efficient sharing of information between the Executive Branch and the Judicial Branch to ensure the regular collection and reporting of recidivism data and promote public welfare and public safety outcomes related to the juvenile justice system

(b) Short-term goals to be met within twelve months, medium-term goals to be met within eighteen months and long-term goals to be met within thirty-six months, for the Commission and state agencies with responsibilities with respect to the juvenile justice system to meet, after considering existing relevant reports related to the juvenile justice system and any related agency or entity strategic plans;

(c) By no later than January 1, 2018, the capacities and limitations of the data systems and networks used to collect and report state and local juvenile caseload and outcome data. The analysis shall include all of the following:

i. a review of the relevant data systems, studies and models from the commonwealth and other states;

ii. identification of changes or upgrades to current data collection processes to remove inefficiencies, track and monitor state agency and court-involved juveniles and facilitate the coordination of information sharing between relevant agencies and the courts, including

without limitation data that is required to be reported under federal law or for purposes of securing federal funding;

iii. the identification and evaluation of any racial and ethnic disparities within the juvenile justice system and recommendations regarding ways to reduce such disparities;

iv. recommendations for the creation of a web-based statewide clearinghouse or information center that would make relevant juvenile justice information on operations, caseloads, dispositions and outcomes available in a user-friendly, query-based format for stakeholders and members of the public, including a feasibility assessment of implementing such a system;

v. a plan for improving the current juvenile justice reporting requirements, including streamlining and consolidating current requirements without sacrificing meaningful data collection and including a detailed analysis of the information technology and other resources necessary to implement improved data collection.

vi. any other matters which the task force determines may improve the collection of, and interagency coordination of, juvenile justice data.

(d) The impact of any legislation that expands or alters the jurisdiction or functioning of the juvenile court, including but not limited to legislation to include persons eighteen, nineteen and twenty years of age within the jurisdiction of the juvenile system, as measured by the following: (A) Any change in the average age of children and youths involved in the juvenile justice system; (B) The types of services used by designated age groups and the outcomes of those services; (C) The types of delinquent acts or criminal offenses that children and youths have been charged with since the enactment and implementation of such legislation; and (D) The

gaps in services identified by the committee with respect to children and youths involved in the juvenile justice system, including, but not limited to, children and youths who have attained the age of eighteen after being involved in the juvenile justice system, and recommendations to address such gaps in services; and (5) Strengths and barriers identified by the committee that support or impede the educational needs of children and youths in the juvenile justice system, with specific recommendations for reforms.

(e) The quality and accessibility of diversionary programs available to children and youths in this state;

(f) An assessment of the system of community-based services for children and youths who are under the supervision, care or custody of the Department of Youth Services or the Juvenile Court;

(g) An assessment of the number of children and youths who, after being or while under the supervision or custody of the Department of Children and Families, are adjudicated delinquent or as a youthful offender; and

(h) An assessment of the overlap between the juvenile justice system and the mental health care system for children in Massachusetts.

(i) Any appropriations necessary to accomplish any goals or suggested policy changes identified by the Commission.

The Commission shall establish a timeframe for review and reporting regarding the responsibilities outlined in this section. Each report submitted by the Commission shall include

specific recommendations to improve outcomes and a timeline by which specific tasks or outcomes must be achieved.