

HOUSE No. 4011

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, November 6, 2017.

The committee on Ways and Means, to whom was referred the Senate Bill relative to criminal justice reform (Senate, No. 2200), reports recommending that the same ought to pass with an amendment striking all after the enacting clause and inserting in place thereof the text contained in House document numbered 4011.

For the committee,

JEFFREY SÁNCHEZ.

HOUSE No. 4011

Text of an amendment, recommended by the committee on Ways and Means, to the Senate Bill relative to criminal justice reform (Senate, No. 2200). November 6, 2017.

The Commonwealth of Massachusetts

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

By striking out all after the enacting clause and inserting in place thereof the following:–

1 SECTION 1. Section 7 of chapter 4 of the General Laws, as appearing in the 2016
2 Official Edition, is hereby amended by adding the following 2 clauses:–

3 Sixtieth, The “age of criminal majority” shall mean the age of 18.

4 Sixty-first, “Substantial financial hardship” shall mean an inability to meet the minimum
5 basic human needs of food, shelter and clothing for an individual, an individual’s immediate
6 family or an individual’s dependents.

7 SECTION 2. Section 167A of chapter 6 of the General Laws, as so appearing, is hereby
8 amended by adding the following subsection:–

9 (i)(1) The department shall quarterly obtain arrest data, consistent with the National
10 Incident-Based Reporting System of the Uniform Crime Reporting Program of the United States
11 Department of Justice Federal Bureau of Investigation, from criminal justice agencies including,
12 without limitation: the Massachusetts state police; the Massachusetts Bay Transportation
13 Authority police force; any police department in the commonwealth or any of its political
14 subdivisions; any law enforcement council, as defined in section 4J of chapter 40, created by

15 contract between or among cities and towns, pursuant to section 4A of said chapter 40 ; and any
16 entity employing 1 or more special state police officers, as defined in section 63 of chapter 22C.

17 (2) The department shall quarterly post the data collected pursuant to paragraph (1) of
18 this subsection on its webpage. All criminal justice agencies shall submit arrest data consistent
19 with the National Incident-Based Reporting System to the department. The department shall
20 promulgate regulations for the administration and enforcement of this section including
21 regulations establishing: (i) schedules for the submission, transmission, and publication of the
22 data and regulations; (ii) the format for the submission of arrest data; (iii) the categories and
23 types of arrest data required to be submitted; and (iv) a description of categories of data which
24 constitute personally identifiable information, including but not limited to names and dates of
25 birth of individual arrestees; provided, however, that the arrest data, shall include for each arrest
26 (i) the name of the arresting authority, (ii) the incident number, (iii) the alleged offense, (iv) the
27 date and time of the arrest, (v) the location of the arrest, and (vi) the race, gender and age of the
28 arrestee. Categories of data which constitute personally identifiable information shall not be
29 posted or made available to the public and shall not be public records as defined in section 7 of
30 chapter 4.

31 SECTION 3. Section 3 of chapter 7D of the General Laws, as amended by section 13 of
32 chapter 64 of the acts of 2017, is hereby further amended by striking out the words “and (xii)
33 adapt standards as necessary for individual agencies to comply with federal law” and inserting in
34 place thereof the following words:- (xii) adapt standards as necessary for individual agencies to
35 comply with federal law; and

36 (xiii) maintain a page on the commonwealth's official website, open to the public through
37 the Massachusetts open data portal, providing data, as transmitted by the department of criminal
38 justice information services pursuant to subsection (i) of section 167A of chapter 6, concerning
39 arrests; provided, however, that categories of data which constitute personally identifiable
40 information shall not be posted or made available to the public.

41 SECTION 4. Chapter 12 of the General Laws is hereby amended by adding the following
42 section:-

43 Section 34. (a) The district attorneys shall, within their respective districts, establish a
44 pre-arraignment diversion program which may be used to divert a veteran or person who is in
45 active service in the armed forces, a person with a substance abuse disorder or a person with
46 mental illness if such veteran or person is charged with an offense or offenses against the
47 commonwealth.

48 SECTION 5. Chapter 18C of the General Laws is hereby amended by adding the
49 following section:-

50 Section 14. The office shall convene a childhood trauma task force made up of members
51 of the juvenile justice policy and data commission established pursuant to section 86 of chapter
52 119 to study, report and make recommendations on gender responsive and trauma-informed
53 approaches to treatment services for juveniles and youthful offenders in the juvenile justice
54 system. Said task force shall review the current means of (i) identifying school-aged children
55 who have experienced trauma, particularly undiagnosed trauma, and (ii) providing services to
56 help child recover from the psychological damage caused by such exposure to violence, crime or
57 maltreatment. The task force shall consider the feasibility of providing school-based trainings on

58 early, trauma-focused interventions, trauma-informed screenings and assessments, and the
59 recognition of reactions to victimization, as well as the necessity for diagnostic tools. A priority
60 shall be placed on juvenile or youthful offender's pathways into the juvenile justice system with
61 the goal of reducing the likelihood of recidivism by addressing the unique issues associated with
62 juvenile or youthful offenders including emotional abuse, physical abuse, sexual abuse,
63 emotional neglect, physical neglect, family violence, household substance abuse, household
64 mental illness, parental absence, and household member incarceration.

65 The childhood trauma task force shall annually report its findings and recommendations
66 by December 31 of each year to the governor, the house and senate chairs of the joint committee
67 on the judiciary, the house and senate chairs of the joint committee on public safety and
68 homeland security and the chief justice of the trial court.

69 SECTION 6. Chapter 22E of the General Laws is hereby amended by striking out section
70 3, as appearing in the 2016 Official Edition, and inserting in place thereof of the following
71 section:-

72

73 Section 3. (a) Any person who is convicted of an offense that is punishable by
74 imprisonment in the state prison and any person adjudicated a youthful offender by reason of an
75 offense that would be punishable by imprisonment in the state prison if committed by an adult
76 shall submit a DNA sample to the department within 1 year of such conviction or adjudication
77 or, if incarcerated, the DNA sample shall be collected upon intake or return to the correctional
78 facility to which the inmate has been sentenced, or as a condition of probation for any sentence
79 which does not include incarceration at a correctional facility. No person required to submit a

80 DNA sample pursuant to this section shall be released from a correctional facility until a DNA
81 sample has been collected.

82

83 (b) The trial court, the commissioner of probation and the department shall establish and
84 implement a system for the electronic notification to the department whenever a person is
85 convicted of an offense that requires the submission of a DNA sample under subsection (a). The
86 sample shall be collected by a person authorized under section 4, in accordance with regulations
87 or procedures established by the director. The results of such sample shall become part of the
88 state DNA database. The submission of such DNA sample shall not be stayed pending a sentence
89 appeal, motion for new trial, appeal to an appellate court or other post conviction motion or
90 petition.

91 SECTION 7. Said chapter 22E is hereby further amended by striking out section 3,
92 inserted by section 6 of this act, and inserting in place thereof of the following section:-

93 Section 3. (a) Any person who is convicted of an offense that is punishable by
94 imprisonment in the state prison and any person adjudicated a youthful offender by reason of an
95 offense that would be punishable by imprisonment in the state prison if committed by an adult
96 shall submit a DNA sample to the department or the commissioner of probation forthwith upon
97 conviction or, if sentenced to a term of imprisonment , the DNA sample shall be collected upon
98 intake or return to the correctional facility to which the inmate has been sentenced. No person
99 required to submit a DNA sample pursuant to this section shall be released from a correctional
100 facility until a DNA sample has been collected.

101 .

102 (b) The trial court, the commissioner of probation and the department shall establish and
103 implement a system for the electronic notification to the department whenever a person is
104 convicted of an offense that requires the submission of a DNA sample under subsection (a). The
105 sample shall be collected by a person authorized under section 4, in accordance with regulations
106 or procedures established by the director. The results of such sample shall become part of the
107 state DNA database. The submission of such DNA sample shall not be stayed pending a sentence
108 appeal, motion for new trial, appeal to an appellate court or other post conviction motion or
109 petition.

110 SECTION 8. Section 4 of said chapter 22E of the General Laws, as appearing in the 2016
111 Official Edition, is hereby amended by inserting after the word “training”, in line 5, the
112 following words:- , a probation officer.

113 SECTION 9. Said section 4 of said chapter 22E, as so appearing, is hereby amended by
114 inserting after the word “personnel”, in lines 14 and 18, in each instance, the following words:- ,
115 including a probation officer,.

116 SECTION 10. Said chapter 22E is hereby amended by striking out section 11, as so
117 appearing, and inserting in place thereof the following section:-

118 Section 11. Any person required to provide a DNA sample pursuant to this chapter and
119 who, after receiving written notice, fails to provide such DNA as required by section 3 shall be
120 punished by a fine of not more than \$1,000 or imprisonment in a jail or house of correction for
121 not more than 6 months, or both.

122 SECTION 11. Subparagraph (1) of paragraph (a) of subdivision (1) of section 24 of
123 chapter 90, as so appearing, is hereby amended by striking out the seventh paragraph and
124 inserting in place thereof the following 5 paragraphs:-

125 If the defendant has been previously convicted or assigned to an alcohol or controlled
126 substance education, treatment or rehabilitation program by a court of the commonwealth or any
127 other jurisdiction because of a like offense 4 times preceding the date of the commission of the
128 offense for which he has been convicted, the defendant shall be punished by a fine of not less
129 than \$2,000 nor more than \$50,000 and by imprisonment for not less than 2 and 1/2 years or by a
130 fine of not less than \$2,000 nor more than \$50,000 and by imprisonment in the state prison for
131 not less than 2 and 1/2 years nor more than 5 years; provided, however, that the sentence
132 imposed upon such person shall not be reduced to less than 24 months, nor suspended, nor shall
133 any such person be eligible for probation, parole, or furlough or receive any deduction from his
134 sentence for good conduct until he shall have served 24 months of such sentence; provided,
135 further, that the commissioner of correction may, on the recommendation of the warden,
136 superintendent, or other person in charge of a correctional institution, or the administrator of a
137 county correctional institution, grant to an offender committed under this subdivision a
138 temporary release in the custody of an officer of such institution for the following purposes only:
139 to attend the funeral of a relative; to visit a critically ill relative; to obtain emergency medical or
140 psychiatric services unavailable at said institution; to engage in employment pursuant to a work
141 release program; or for the purposes of an aftercare program designed to support the recovery of
142 an offender who has completed an alcohol or controlled substance education, treatment or
143 rehabilitation program operated by the department of correction; and provided, further, that the
144 defendant may serve all or part of such 24 months sentence to the extent that resources are

145 available in a correctional facility specifically designated by the department of correction for the
146 incarceration and rehabilitation of drinking drivers.

147 If the defendant has been previously convicted or assigned to an alcohol or controlled
148 substance education, treatment or rehabilitation program by a court of the commonwealth or any
149 other jurisdiction because of a like offense 5 times preceding the date of the commission of the
150 offense for which he has been convicted, the defendant shall be punished by a fine of not less
151 than \$2,000 nor more than \$50,000 and by imprisonment for not less than 2 and 1/2 years or by a
152 fine of not less than \$2,000 nor more than \$50,000 and by imprisonment in the state prison for
153 not less than 2 and 1/2 years nor more than 5 years; provided, however, that the sentence
154 imposed upon such person shall not be reduced to less than 24 months, nor suspended, nor shall
155 any such person be eligible for probation, parole, or furlough or receive any deduction from his
156 sentence for good conduct until he shall have served 24 months of such sentence; provided,
157 further, that the commissioner of correction may, on the recommendation of the warden,
158 superintendent, or other person in charge of a correctional institution, or the administrator of a
159 county correctional institution, grant to an offender committed under this subdivision a
160 temporary release in the custody of an officer of such institution for the following purposes only:
161 to attend the funeral of a relative; to visit a critically ill relative; to obtain emergency medical or
162 psychiatric services unavailable at said institution; to engage in employment pursuant to a work
163 release program; or for the purposes of an aftercare program designed to support the recovery of
164 an offender who has completed an alcohol or controlled substance education, treatment or
165 rehabilitation program operated by the department of correction; and provided, further, that the
166 defendant may serve all or part of such 24 months sentence, to the extent that resources are

167 available, in a correctional facility specifically designated by the department of correction for the
168 incarceration and rehabilitation of drinking drivers.

169 If the defendant has been previously convicted or assigned to an alcohol or controlled
170 substance education, treatment or rehabilitation program by a court of the commonwealth or any
171 other jurisdiction because of a like offense 6 times preceding the date of the commission of the
172 offense for which he has been convicted, the defendant shall be punished by a fine of not less
173 than \$2,000 nor more than \$50,000 and by imprisonment in the state prison for not less than 3
174 and 1/2 years nor more than 8 years; provided, however, that the sentence imposed upon such
175 person shall not be reduced to less than 36 months, nor suspended, nor shall any such person be
176 eligible for probation, parole, or furlough or receive any deduction from his sentence for good
177 conduct until he shall have served 36 months of such sentence; provided, further, that the
178 commissioner of correction may, on the recommendation of the warden, superintendent, or other
179 person in charge of a correctional institution, or the administrator of a county correctional
180 institution, grant to an offender committed under this subdivision a temporary release in the
181 custody of an officer of such institution for the following purposes only: to attend the funeral of a
182 relative; to visit a critically ill relative; to obtain emergency medical or psychiatric services
183 unavailable at said institution; to engage in employment pursuant to a work release program; or
184 for the purposes of an aftercare program designed to support the recovery of an offender who has
185 completed an alcohol or controlled substance education, treatment or rehabilitation program
186 operated by the department of correction; and provided, further, that the defendant may serve all
187 or part of such 36 months sentence, to the extent that resources are available, in a correctional
188 facility specifically designated by the department of correction for the incarceration and
189 rehabilitation of drinking drivers.

190 If the defendant has been previously convicted or assigned to an alcohol or controlled
191 substance education, treatment or rehabilitation program by a court of the commonwealth or any
192 other jurisdiction because of a like offense 7 times preceding the date of the commission of the
193 offense for which he has been convicted, the defendant shall be punished by a fine of not less
194 than \$2,000 nor more than \$50,000 and by imprisonment in the state prison for not less than 3
195 and 1/2 years nor more than 8 years; provided, however, that the sentence imposed upon such
196 person shall not be reduced to less than 36 months, nor suspended, nor shall any such person be
197 eligible for probation, parole, or furlough or receive any deduction from his sentence for good
198 conduct until he shall have served 36 months of such sentence; provided, further, that the
199 commissioner of correction may, on the recommendation of the warden, superintendent, or other
200 person in charge of a correctional institution, or the administrator of a county correctional
201 institution, grant to an offender committed under this subdivision a temporary release in the
202 custody of an officer of such institution for the following purposes only: to attend the funeral of a
203 relative; to visit a critically ill relative; to obtain emergency medical or psychiatric services
204 unavailable at said institution; to engage in employment pursuant to a work release program; or
205 for the purposes of an aftercare program designed to support the recovery of an offender who has
206 completed an alcohol or controlled substance education, treatment or rehabilitation program
207 operated by the department of correction; and provided, further, that the defendant may serve all
208 or part of such 36 months sentence, to the extent that resources are available, in a correctional
209 facility specifically designated by the department of correction for the incarceration and
210 rehabilitation of drinking drivers.

211 If the defendant has been previously convicted or assigned to an alcohol or controlled
212 substance education, treatment or rehabilitation program by a court of the commonwealth or any

213 other jurisdiction because of a like offense 8 or more times preceding the date of the commission
214 of the offense for which he has been convicted, the defendant shall be punished by a fine of not
215 less than \$2,000 nor more than \$50,000 and by imprisonment in the state prison for not less than
216 4 and 1/2 years nor more than 10 years; provided, however, that the sentence imposed upon such
217 person shall not be reduced to less than 48 months, nor suspended, nor shall any such person be
218 eligible for probation, parole, or furlough or receive any deduction from his sentence for good
219 conduct until he shall have served 48 months of such sentence; provided, further, that the
220 commissioner of correction may, on the recommendation of the warden, superintendent, or other
221 person in charge of a correctional institution, or the administrator of a county correctional
222 institution, grant to an offender committed under this subdivision a temporary release in the
223 custody of an officer of such institution for the following purposes only: to attend the funeral of a
224 relative; to visit a critically ill relative; to obtain emergency medical or psychiatric services
225 unavailable at said institution; to engage in employment pursuant to a work release program; or
226 for the purposes of an aftercare program designed to support the recovery of an offender who has
227 completed an alcohol or controlled substance education, treatment or rehabilitation program
228 operated by the department of correction; and provided, further, that the defendant may serve all
229 or part of such 48 months sentence, to the extent that resources are available, in a correctional
230 facility specifically designated by the department of correction for the incarceration and
231 rehabilitation of drinking drivers.

232 SECTION 12. Section 24D of said chapter 90, as so appearing, is hereby amended by
233 striking out, in lines 138 and 139, the words “grave and serious hardship to such individual or to
234 the family of such individual”, and inserting in place thereof the following words:- substantial
235 financial hardship to the individual, the individual’s immediate family or dependents.

236 SECTION 12A. Said section 24D of said chapter 90, as so appearing, is hereby further
237 amended by striking out, in lines 173 and 174, the words “grave and serious hardship to such
238 individual or to the family thereof” and inserting in place thereof the following words:-
239 substantial financial hardship to the individual, the individual’s immediate family or dependents.

240 SECTION 13. Section 31 of chapter 94C of the General Laws, as so appearing, is hereby
241 amended by striking out, in line 86, the words “(3) Ketamine.” and inserting in place thereof the
242 following words:-

243 (3) Ketamine

244 (4) Carfentanil

245 (5) Fentanyl

246 (6) Acetyl fentanyl

247 SECTION 14. Subsection (b) of Class B of said section 31 of said chapter 94C, as so
248 appearing, is hereby amended by striking out clauses (1) to (21)and inserting in place thereof the
249 following 20 clauses:-

250 (1) Alphaprodine

251 (2) Anileridine

252 (3) Bezitramide

253 (4) Dihydrocodeine

254 (5) Diphenoxylate

- 255 (6) Isomethadone
- 256 (7) Levomethorphan
- 257 (8) Levorphanol
- 258 (9) Metazocine
- 259 (10) Methadone
- 260 (11) Methadone-Intermediate, 4-cyano-2-dimethylamino-4, 4-diphenyl butane
- 261 (12) Moramide-Intermediate, 2-methyl-3 morpholine-1, 1-diphenyl-propane carboxylic
262 acid
- 263 (13) Pethidine
- 264 (14) Pethidine-Intermediate-A, 4-cyano-1-methyl-4-phenylpiperidine
- 265 (15) Pethidine-Intermediate-B, ethyl-4-phenylpiperidine-4-carboxylate
- 266 (16) Pethidine-Intermediate-C, 1-methyl-4-phenylpiperidine-4-carboxylic acid
- 267 (17) Phenazocine
- 268 (18) Piminodine
- 269 (19) Racemethorphan
- 270 (20) Racemorphan

271 SECTION 15. Said chapter 94C is hereby further amended by striking out sections 32A
272 and 32B and inserting in place thereof the following 2 sections:-

273 Section 32A. (a) Any person who knowingly or intentionally manufactures, distributes,
274 dispenses, or possesses with intent to manufacture, distribute or dispense a controlled substance
275 in Class B of section 31 shall be punished by imprisonment in the state prison for not more than
276 10 years, or in a jail or house of correction for not more than two and one-half years, or by a fine
277 of not less than \$1,000 nor more than \$10,000, or both such fine and imprisonment.

278 (b) Any person convicted of violating this section after 1 or more prior convictions of
279 manufacturing, distributing, dispensing, or possessing with the intent to manufacture, distribute
280 or dispense a controlled substance as defined by section 31 under this or any other prior law of
281 this jurisdiction or of any offense of any other jurisdiction, federal, state, or territorial, which is
282 the same as or necessarily includes the elements of said offense shall be punished by a term of
283 imprisonment in the state prison for not more than 10 years, by a term of imprisonment in the
284 state prison for not more than 10 years and by a fine of not less than \$2,500 and not more than
285 \$25,000, or by a fine of not more than \$25,000.

286 (c) Any person who knowingly or intentionally manufactures, distributes, dispenses or
287 possesses with intent to manufacture, distribute or dispense phencyclidine or a controlled
288 substance defined in clause (4) of paragraph (a) or in clause (2) of paragraph (c) of class B of
289 section 31 shall be punished by a term of imprisonment in the state prison for not more than 10
290 years, a term of imprisonment in the state prison for not more than 10 years and a fine of not less
291 than \$1,000 and not more than \$10,000, by imprisonment in a jail or house of correction for not
292 more than two and one-half years, by imprisonment in a jail or house of correction for not more
293 than two and one-half years and a fine of not less than \$1,000 and not more than \$10,000, or by a
294 fine of not more than \$10,000.

295 (d) Any person convicted of violating the provisions of subsection (c) after 1 or more
296 prior convictions of manufacturing, distributing, dispensing or possessing with the intent to
297 manufacture, distribute, or dispense a controlled substance, as defined in section 31 or of any
298 offense of any other jurisdiction, either federal, state or territorial, which is the same as or
299 necessarily includes, the elements of said offense, shall be punished by a term of imprisonment
300 in the state prison for not more than 15 years, a term of imprisonment in the state prison for not
301 more than 15 years and a fine of not less than \$2,500 nor more than \$25,000 or a fine of not
302 more than \$25,000.

303 Section 32B (a) Any person who knowingly or intentionally manufactures, distributes,
304 dispenses, or possesses with intent to manufacture, distribute, or dispense a controlled substance
305 in Class C of section 31 shall be imprisoned in state prison for not more than 5 years or in a jail
306 or house of correction for not more than two and one-half years, or by a fine of not less than
307 \$500 nor more than \$5,000, or both such fine and imprisonment.

308 (b) Any person convicted of violating this section after 1 or more prior convictions of
309 manufacturing, distributing, dispensing or possessing with the intent to manufacture, distribute or
310 dispense a controlled substance as defined by section 31 under this or any prior law of this
311 jurisdiction or of any offense of any other jurisdiction, federal, state, or territorial, which is the
312 same as or necessarily includes the elements of said offense shall be punished by a term of
313 imprisonment in the state prison for not more than 10 years, a term of imprisonment in the state
314 prison for not more than 10 years and a fine of not less than \$1,000 nor more than \$10,000, a
315 term of imprisonment in a jail or house of correction for not more than two and one-half years, a
316 term of imprisonment in a jail or house of correction for not more than two and one-half years
317 and a fine of not less than \$1,000 nor more than \$10,000, or and a fine of not more than \$10,000.

318 SECTION 16. Section 32C of said chapter 94C, as appearing in the 2016 Official
319 Edition, is hereby amended by striking out, in lines 15 and 16, the words “less than one nor”.

320 SECTION 17. Section 32E of said chapter 94C, as so appearing, is hereby amended by
321 inserting after the words “heroin or any salt thereof” in lines 80, 85, 87 and 89, in each instance,
322 the words:- , fentanyl or any derivative thereof.

323 SECTION 18. Said section 32E of said chapter 94C is hereby further amended by
324 striking out subsection (c^{1/2}), as so appearing, and inserting in place thereof the following
325 subsection:-

326 (c^{1/2}) Any person who trafficks in fentanyl or any derivative of fentanyl by knowingly or
327 intentionally manufacturing, distributing, dispensing or possessing with intent to manufacture,
328 distribute, or dispense or by bringing into the commonwealth a net weight of 10 grams or more
329 of fentanyl or any derivative of fentanyl, or a net weight of 10 grams or more of any mixture
330 containing fentanyl or any derivative of fentanyl, shall be punished by a term of imprisonment in
331 state prison for not less than 3 and 1/2 nor more than 20 years. No sentence imposed under the
332 provisions of this subsection shall be for less than a mandatory minimum term of imprisonment
333 of 3 and 1/2 years.

334 SECTION 19. Said section 32E of said chapter 94C, as so appearing, is hereby further
335 amended by inserting after subsection (c^{1/2}) the following subsection:-

336 (c^{3/4}) Any person who trafficks in carfentanil, including without limitation, any
337 derivative of carfentanil and any mixture containing carfentanil or a derivative of carfentanil, by
338 knowingly or intentionally manufacturing, distributing, dispensing or possessing with intent to
339 manufacture, distribute or dispense or by bringing into the commonwealth carfentanil shall be

340 punished by a term of imprisonment in state prison for not less than 3 and 1/2 nor more than 20
341 years. No sentence imposed under the provisions of this subsection shall be for less than a
342 mandatory minimum term of imprisonment of 3 and ½ years.

343 SECTION 20. Section 32I of said chapter 94C, as so appearing, is hereby amended by
344 striking out, in line 10, the words “less than one nor”.

345 SECTION 21. Section 52 of chapter 119 of the General Laws, as so appearing, is hereby
346 amended by inserting before the definition of “Court” the following definition:-

347 “Civil Infraction”, a violation for which a civil proceeding is allowed, and for which the
348 court shall not sentence any term of incarceration and therefore not appoint counsel.

349 SECTION 22. Said section 52 of said chapter 119, as so appearing, is hereby further
350 amended by striking out the definition of “Delinquent child” and inserting in place thereof the
351 following definition:-

352 “Delinquent child”, a child between 10 and 18 years of age who commits any offense
353 against a law of the commonwealth; provided however, that such offense shall not include a civil
354 infraction, a violation of any municipal ordinance or town by-law, or a first offense of a
355 misdemeanor for which the punishment is a fine, imprisonment in a jail or house of correction
356 for not more than 6 months, or both such fine and imprisonment.

357 SECTION 23. Section 54 of said chapter 119, as so appearing, is hereby amended by
358 striking out, in line 2, the word “seven” and inserting in place thereof the following figure:- 10.

359 SECTION 24. Section 67 of said chapter 119, as so appearing, is hereby amended by
360 striking out, in line 2, the word “seven” and inserting in place thereof the following figure:- 10.

361 SECTION 25. Section 68 of said chapter 119, as so appearing, is hereby amended by
362 striking out, in line 1, the word “seven” and inserting in place thereof the following figure:- 10.

363 SECTION 26. Section 68A of said chapter 119, as so appearing, is hereby amended by
364 striking out, in line 1, the word “seven” and inserting in place thereof the following word:- 10.

365 SECTION 27. Section 84 of said chapter 119, as so appearing, is hereby amended by
366 striking out, in line 12, the word “seven” and inserting in place thereof the following figure:- 10.

367 SECTION 28. Said chapter 119 is hereby further amended by adding the following 3
368 sections:-

369 Section 86. (a) As used in this section the following words shall, unless the context
370 clearly requires otherwise, have the following meanings:-

371 “Alternative lock-up program”, a facility or program that provides for the physical care
372 and custody of a juvenile being held by a criminal justice agency after an arrest and before an
373 arraignment, and shall include a program provided by the police, municipal, county or state
374 government, as well as any contractor, vendor or service-provider working with such agencies.

375 “Child advocate”, the child advocate appointed pursuant to section 3 of chapter 18C.

376 "Contact", any action or decision by criminal justice agencies or by any other official of
377 the commonwealth or private service provider under contract or other agreement with the
378 commonwealth, involving a juvenile at any stage of the juvenile justice system which causes
379 such juvenile to enter or exit the juvenile justice system or which will change the custodial
380 status, liberty, case processing, or status of the juvenile within the juvenile justice system.

381 “Criminal justice agencies”, those agencies at all levels of government which perform as
382 their principal function, activities relating to: (a) crime prevention, including research or the
383 sponsorship of research; (b) the apprehension, prosecution, adjudication, incarceration, or
384 rehabilitation of criminal offenders; or (c) the collection, storage, dissemination or usage of
385 criminal offender record information.

386 “Juvenile”, a child under the age of 18; provided, however, that the term juvenile shall
387 include a person under the age of 22 if the person remains within the jurisdiction of the juvenile
388 court or juvenile justice system and a child between the ages of 14 to 18, inclusive, who is
389 charged with first or second degree murder pursuant to section 74.

390 “Office”, the office of the child advocate.

391 “Racial or ethnic category”, the socio-cultural racial and ethnic category of an individual
392 as categorized in a manner that is consistent with the categories established and utilized by the
393 federal Office of Juvenile Justice and Delinquency Prevention.

394 “Type of crime”, the category of crime consistent with the categories established and
395 utilized by the National Incident-Based Reporting System.

396 (b) The office shall create and annually update an instrument to record aggregate
397 statistical data for every contact a juvenile has with criminal justice agencies, any contractor,
398 vendor or service-provider working with said agencies, and any alternative lock-up programs.
399 This instrument shall include, without limitation, age, gender, racial or ethnic category, and type
400 of crime. The child advocate shall give due regard to the census of juveniles in the
401 commonwealth when setting forth the racial or ethnic categories in the instrument. The child
402 advocate shall provide guidance about the manner in which the racial or ethnic information is

403 designated and collected, with consideration of the juveniles' self-reporting of such categories.
404 The office shall provide the instrument to all offices and departments subject to this law and all
405 such offices and departments shall use this instrument to record contacts.

406 (c) The executive office of public safety and security shall be responsible for assembling
407 and submitting to the office the data required by this section collected by (1) the department of
408 correction; (2) the sheriffs of each county; (3) the parole board; (4) the department of the state
409 police; (5) municipal police departments; (6) the Massachusetts bay transportation authority
410 police; (7) school-based police; (8) alternative lock-up programs; and (9) any contractor, vendor
411 or service provider working with school-based or other police officers.

412 (d) The attorney general shall be responsible for assembling and submitting to the office
413 the data collected by the district attorney of each county as required by this section.

414 (e) The chief justice of the trial court shall be responsible for assembling and submitting
415 to the office the data collected by judicial officers and court personnel including the
416 commissioner of probation and the executive director of the office of community corrections as
417 required by this section.

418 (f) The executive office for health and human services shall be responsible for
419 assembling and submitting to the office the data collected by the department of youth services as
420 required by this section.

421 (g) Data compiled, assembled or submitted by criminal justice agencies to the office shall
422 be used only for statistical or research purposes. All criminal justice agencies compiling,
423 assembling or submitting data to the office shall remove any personal information which could
424 directly or indirectly identify a particular individual. Data compiled, assembled or submitted by

425 criminal justice agencies to the office shall not be public records as defined in section 7 of
426 chapter 4.

427 (h) Criminal justice agencies shall annually submit the data required by this section to the
428 office no later than March 31 for the preceding calendar year. The child advocate shall annually
429 file a report which shall include, without limitation, an analysis of the data to the co-chairs of the
430 joint committee on the judiciary, the co-chairs of the joint committee on public safety and
431 homeland security, the secretary of public safety and security and the chief justice of the trial
432 court no later than July 1.

433 (i) There shall be a juvenile justice policy and data commission, referred to in this section
434 as the commission. The commission shall evaluate policies and procedures related to the
435 juvenile justice system, advise the child advocate on the collection and dissemination of data
436 regarding juvenile contact with criminal justice agencies, and study the implementation of any
437 statutory changes to the juvenile justice system.

438 The commission shall consist of 19 members, 1 of whom shall be a member of the house
439 of representatives appointed by the speaker of the house of representatives, 1 of whom shall be a
440 member of the senate appointed by the president of the senate; 1 of whom shall be the child
441 advocate; 1 of whom shall be the chief justice of the juvenile court, or a designee; 1 of whom
442 shall be the commissioner of probation, or a designee; 1 of whom shall be the commissioner of
443 youth services or a designee; 1 of whom shall be the commissioner of children and families, or a
444 designee; 1 of whom shall be the commissioner of mental health, or a designee; 1 of whom shall
445 be the commissioner of public health, or a designee; 1 of whom shall be the secretary of
446 education, or a designee; 1 of whom shall be the chief counsel of the committee for public

447 counsel services, or a designee; 1 of whom shall be the president of the Massachusetts District
448 Attorneys Association, or a designee; 1 of whom shall be the chair of the Massachusetts juvenile
449 justice advisory committee, or a designee; and 6 of whom shall be appointed by the governor,
450 provided that: 1 of whom shall be from a list provided by Citizens for Juvenile Justice, Inc. ; 1 of
451 whom shall be from a list provided by the Children’s League of Massachusetts, Inc.; 1 of whom
452 shall be from a list provided by the Massachusetts Chiefs of Police Association Incorporated; 2
453 of whom shall be parents whose children have been subject to juvenile court jurisdiction; and 1
454 of whom shall have experience or expertise related to the design and implementation of state
455 administrative data systems. Members of the commission shall serve without compensation. The
456 child advocate shall serve as chair of the commission.

457 The commission shall annually report to the governor, the house and senate chairs of the
458 joint committee on the judiciary, the house and senate chairs of the joint committee on public
459 safety and homeland security and the chief justice of the trial court regarding the following:

460 (1) any statutory changes concerning the juvenile justice system that the commission
461 recommends to: (i) improve public safety, (ii) promote the best interests of children and young
462 adults who are under the jurisdiction, supervision, care or custody of the juvenile court, the
463 commissioner of youth services or the commissioner of children and families; (iii) improve
464 transparency and accountability with respect to state-funded services for children and young
465 adults in the juvenile justice system with an emphasis on goals identified by the committee for
466 community-based programs and facility-based interventions; (iv) promote the efficient sharing of
467 information between the executive branch and the judicial branch to ensure the regular collection
468 and reporting of recidivism data; and (v) promote public welfare and public safety outcomes
469 related to the juvenile justice system;

470 (2) an analysis of the capacities and limitations of the data systems and networks used to
471 collect and report state and local juvenile caseload and outcome data. The analysis shall include,
472 without limitation, the following: (i) a review of the relevant data systems, studies and models
473 from the commonwealth and other states; (ii) identification of changes or upgrades to current
474 data collection processes to remove inefficiencies, track and monitor state agency and court-
475 involved juveniles and facilitate the coordination of information sharing between relevant
476 agencies and the courts, including without limitation, data that is required to be reported under
477 federal law or for purposes of securing federal funding; (iii) the identification and evaluation of
478 any racial and ethnic disparities within the juvenile justice system and recommendations
479 regarding ways to reduce such disparities; (iv) recommendations for the creation of a web-based
480 statewide information center to make relevant juvenile justice information on operations,
481 caseloads, dispositions and outcomes available in a user-friendly, query-based format for
482 stakeholders and members of the public, including a feasibility assessment of implementing such
483 system; (v) a plan for improving the current juvenile justice reporting requirements, including
484 streamlining and consolidating current requirements without impacting data collection and
485 including a detailed analysis of the information technology and other resources necessary to
486 implement improved data collection; and (vi) any other matters which the commission
487 determines may improve the collection and interagency coordination of juvenile justice data;

488 (3) the impact of any statutory change that expands or alters the jurisdiction or
489 functioning of the juvenile court, as measured by the following: (i) any change in the average age
490 of children and young adults involved in the juvenile justice system; (ii) the types of services
491 used by designated age groups and the outcomes of those services; (iii) the types of delinquent
492 acts or criminal offenses that children and young adults have been charged with since the

493 enactment and implementation of such statutory change; (iv) the gaps in services identified by
494 the committee with respect to children and young adults involved in the juvenile justice system,
495 including, but not limited to, young adults who have attained the age of 18 after being involved
496 in the juvenile justice system, and recommendations to address such gaps in services; and (v) the
497 strengths and barriers identified by the committee that support or impede the educational needs
498 of children and young adults in the juvenile justice system, with specific recommendations for
499 reforms;

500 (4) the quality and accessibility of diversion programs available to juveniles;

501 (5) an assessment of the system of community-based services for children and juveniles
502 who are under the supervision, care or custody of the department of youth services or the
503 juvenile court;

504 (6) an assessment of the number of juveniles who, after being or while under the
505 supervision or custody of the department of children and families, are adjudicated delinquent or
506 as a youthful offender; and

507 (7) an assessment of the overlap between the juvenile justice system and the mental
508 health care system for children.

509 The commission shall establish a timeframe for review and reporting regarding the
510 responsibilities outlined in this section. Each report submitted by the commission shall include
511 specific recommendations to improve outcomes and a timeline by which specific tasks or
512 outcomes shall be achieved.

513 Section 87. (a) The department of youth services and the department of correction shall
514 not place in secure detention facilities or secure correctional facilities any juvenile who has: (1)
515 been charged with, or who has committed an offense that would not be criminal if committed by
516 an adult, except juveniles who are held in accordance with the interstate compact on juveniles as
517 enacted by the commonwealth; (2) not been charged with any offense; or (3) been alleged to be
518 dependent, neglected, or abused.

519 (b) The department of youth services and the department of correction shall not detain or
520 confine any juvenile identified subsection (a) or any juvenile alleged to be or found to be
521 delinquent in any institution in which they have contact with adult inmates; and shall require that
522 individuals employed by the department of youth services or the department of corrections who
523 work with both juveniles and adult inmates be trained and certified to work with juveniles by the
524 department of youth services.

525 The department of youth services and the department of correction shall promulgate
526 regulations and policies for the implementation, administration and enforcement of this section
527 and maintain adequate records to ensure compliance with this section.

528 Section 88. A child against whom a complaint is brought under this chapter may
529 participate in a community-based restorative justice program pursuant to the requirements of
530 chapter 276B.

531 SECTION 29. Section 1 of chapter 125 of General Laws, as appearing in the 2016
532 Official Edition, is here by amended by striking out, in lines 37 and 38, the words
533 “Massachusetts Correctional Institution, Cedar Junction” and inserting in place thereof the
534 following words:- any prison owned, operated, administered or subject to the control of the

535 department of correction, including but not limited to: Massachusetts Correctional Institution,
536 Cedar Junction; Massachusetts Correctional Institution, Norfolk; Massachusetts Correctional
537 Institution, Concord; Massachusetts Correctional Institution, Framingham; Massachusetts
538 Correctional Institution, Bridgewater; Massachusetts Correctional Institution, Plymouth;
539 Massachusetts Correctional Institution, Warwick; Massachusetts Correctional Institution,
540 Monroe.

541 SECTION 30. Chapter 126 of the General Laws is hereby amended by adding the
542 following section:-

543 Section 40. The sheriff shall record, without limitation, the following data for each person
544 committed to a jail or house of correction: (i) probation central file number; (ii) race and
545 ethnicity; (iii) offense information with standard definitions, including level and type of offense;
546 (iv) type of release; (v) type of admission; (vi) length of sentence; (vii) jail credit from pretrial
547 incarceration; (viii) earned time; (ix) program participation and outcome during incarceration;
548 (x) case disposition; and (xi) bail amount or reason if no bail set.

549 Aggregate data on the population of each jail and house of correction shall be assembled
550 into a quarterly report with the reported data covering the entire quarterly period. The reports
551 prepared by the sheriff shall contain no identifying information relating to an individual inmate
552 or detainee.

553 Each quarter the sheriff shall deliver the report from each jail and house of correction to
554 the secretary of public safety and security, the house and senate chairs of the joint committee on
555 the judiciary, the house and senate chairs of the joint committee on public safety and homeland
556 security and the clerks of the house of representatives and the senate.

557 SECTION 31. Chapter 127 of the General Laws is hereby amended by striking out
558 section 1, as appearing in the 2016 Official Edition, and inserting in place thereof the following
559 section:-

560 Section 1. As used in this chapter the following words shall, unless the context clearly
561 requires otherwise, have the following meanings:

562 “Administrative and disciplinary segregation review board”, a board, which shall consist
563 of 5 members, 1 of whom is the commissioner of the department of correction, or designee; 1 of
564 whom is the president of the Massachusetts Sheriffs Association, Inc., or designee; 1 of whom is
565 the commissioner of mental health, or a designee; 1 of whom is a retired judge appointed by the
566 chief justice of the supreme judicial court; and 1 of whom is the executive director of the mental
567 health legal advisors committee, or designee.

568 “Administrative segregation”, the segregation of a prisoner from the general population,
569 in a segregation unit or other housing unit for: (i) investigative, protective, or preventative
570 reasons posed by a substantial and immediate threat; or (ii) transitional reasons, including a
571 pending transfer, pending classification or other temporary administrative matter unrelated to the
572 enforcement of discipline. Administrative segregation shall not include segregation for
573 documented medical reasons or mental health emergencies.

574 “Administrator”, the chief administrative officer of a county correctional facility.

575 “Committed offender”, a person convicted of a crime and committed, under sentence, to
576 a correctional facility.

577 “Commissioner”, the commissioner of correction.

578 “Correctional facility”, “correctional institution”, “penal institution” or “prison”, any
579 building, enclosure, space or structure used for the custody, control and rehabilitation of
580 committed offenders and of such other persons as may be placed in custody therein in
581 accordance with law.

582 “County correctional facility”, any correctional facility owned, operated, administered or
583 subject to the control of a county of the commonwealth.

584 “Department”, the department of correction.

585 “Disciplinary segregation”, the segregation of a prisoner from the general population in a
586 segregation unit or other housing unit for the purpose of disciplining the prisoner.

587 “Inmate”, a committed offender or such other person as is placed in custody in a
588 correctional facility in accordance with law.

589 “Medical parole plan”, a comprehensive written medical and psychosocial care plan
590 specific to a prisoner and including , but not limited to: (i) the proposed course of treatment; (ii)
591 the proposed site for treatment and post-treatment care; (iii) documentation that medical
592 providers qualified to provide the medical services identified in the medical parole plan are
593 prepared to provide such services; and (iv) the financial program in place to cover the cost of the
594 plan for the duration of the medical parole, which shall include eligibility for enrollment in
595 commercial insurance, Medicare or Medicaid or access to other adequate financial resources for
596 the duration of the medical parole.

597 “Parole board”, the parole board of the department of correction.

598 “Permanent incapacitation”, as determined by a physician licensed to practice medicine
599 in the commonwealth, an irreversible physical incapacitation as a result of a medical condition
600 that was unknown at the time of sentencing, diagnosed after the time of sentencing or, since the
601 time of sentencing, has progressed such that the prisoner does not pose a public safety risk.

602 “Prisoner”, a committed offender and such other person as is placed in custody in a
603 correctional facility in accordance with law.

604 “Qualified mental health professional”, a treatment provider who is a psychiatrist,
605 psychologist, psychiatric social worker or psychiatric nurse and other professionals who by
606 virtue of education, credentials and experience are permitted by law to evaluate and care for the
607 mental health needs of patients.

608 “Residential treatment unit”, a general population housing unit within a state or county
609 correctional facility that is operated for the purpose of providing treatment and rehabilitation for
610 inmates with mental illness.

611 “Secure treatment unit”, a maximum security residential treatment program designed to
612 provide an alternative to segregation for inmates diagnosed with serious mental illness in
613 accordance with clinical standards adopted by the department of correction.

614 “Segregation,” a housing placement where a prisoner is separated from the general
615 population and confined to a cell for not less than 22 hours per day.

616 “Serious mental illness”, shall include a current diagnosis or significant history of 1 or
617 more of the following disorders described in the most recent edition of the Diagnostic and

618 Statistical Manual of Mental Disorders: (i) schizophrenia and other psychotic disorders; (ii)
619 major depressive disorders; or (iii) all types of bipolar disorders.

620 “Significant history”, a diagnosis of 1 or more of the following disorders, as described in
621 the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders: (i) a
622 neurodevelopmental disorder, dementia or other cognitive disorder; (ii) any disorder commonly
623 characterized by breaks with reality, or perceptions of reality; (iii) a severe personality disorder
624 that is manifested by episodes of psychosis or depression; (iv) all types of anxiety disorders; (v)
625 trauma and stressor related disorders; (vi) severe personality disorders; or (vii) a finding that the
626 prisoner is at serious risk of substantially deteriorating mentally or emotionally while confined in
627 segregation, or already has so deteriorated while confined in segregation, such that diversion or
628 removal is deemed to be clinically appropriate by a qualified mental health professional.

629 “State correctional facility”, any correctional facility owned, operated, administered or
630 subject to the control of the department of correction, including but not limited to: Massachusetts
631 Correctional Institution, Cedar Junction; Massachusetts Correctional Institution, Norfolk;
632 Massachusetts Correctional Institution, Concord; Massachusetts Correctional Institution,
633 Framingham; Massachusetts Correctional Institution, Bridgewater; Massachusetts Correctional
634 Institution, Plymouth; Massachusetts Correctional Institution, Warwick; Massachusetts
635 Correctional Institution, Monroe.

636 “State prison”, a prison owned, operated, administered or subject to the control of the
637 department of correction, including but not limited to: Massachusetts Correctional Institution,
638 Cedar Junction; Massachusetts Correctional Institution, Norfolk; Massachusetts Correctional
639 Institution, Concord; Massachusetts Correctional Institution, Framingham; Massachusetts

640 Correctional Institution, Bridgewater; Massachusetts Correctional Institution, Plymouth;
641 Massachusetts Correctional Institution, Warwick; Massachusetts Correctional Institution,
642 Monroe.

643 “Superintendent”, the chief administrative officer of a state correctional facility.

644 “Terminal illness”, as determined by a physician licensed to practice medicine in the
645 commonwealth, an incurable condition caused by illness or disease that was unknown at the time
646 of sentencing, diagnosed after the time of sentencing or, since the time of sentencing, has
647 progressed, that will likely cause the death of the prisoner within 12 months and that is so
648 debilitating that the prisoner does not pose a public safety risk.

649 “Victim”, (i) a person who has suffered a personal injury, including mental anguish or
650 death, property damage or property loss and (ii) any entity which has suffered property damage
651 or property loss as a direct result of the crime for which the sentence referred to in this chapter
652 was imposed.

653 SECTION 32. Section 4 of said chapter 127 is hereby repealed.

654 SECTION 33. Section 23 of said chapter 127, as appearing in the 2016 Official Edition,
655 is hereby amended by inserting after the word “weight”, in line 4, the following words:- ,
656 probation central file number.

657 SECTION 34. Said chapter 127 is hereby further amended by striking out sections 39 to
658 41, inclusive, as so appearing, and inserting in place thereof the following 11 sections:-

659 Section 39. (a) For the enforcement of discipline, an inmate in a state correctional facility
660 or a county correctional facility may, at the discretion of its superintendent or administrator, be
661 confined, for a period not to exceed 15 days, to a disciplinary segregation unit.

662 (b) No inmate in a state correctional facility or a county correctional facility shall be
663 placed in disciplinary segregation more than 6 times in any 365 day period without the approval
664 of the administrative and disciplinary segregation review board; provided, however, that a
665 superintendent or administrator may place an inmate in disciplinary segregation pending
666 approval of the administrative and disciplinary segregation review board if, in the discretion of
667 the superintendent or administrator, the inmate poses an immediate risk to himself, others or the
668 security of the institution.

669 (c) No inmate in a state correctional facility shall be placed in disciplinary segregation for
670 more than 180 days in any 365 day period without the approval of the administrative and
671 disciplinary segregation review board.

672 (d) No inmate in a county correctional facility shall be placed in disciplinary segregation
673 for more than 180 days in any 365 day period without the approval of the administrative and
674 disciplinary segregation review board.

675 (e) All disciplinary segregation units shall provide light, ventilation and adequate sanitary
676 facilities; provided, that such units may contain a minimum of furniture.

677 (f) No juvenile inmate in a state correctional facility, a county correctional facility or
678 department of youth services facility shall be placed in disciplinary segregation or administrative
679 segregation.

680 (g) No pregnant inmate in a state correctional facility or a county correctional facility
681 shall be placed in disciplinary segregation or administrative segregation.

682 (h) No inmate with a permanent physical disability shall be placed in disciplinary
683 segregation in a state correctional facility or a county correctional facility without the approval of
684 the administrative and disciplinary segregation review board.

685 Section 39A. Except as provided in sections 39 and 39B, at the request of a
686 superintendent of a state correctional facility the commissioner may order the disciplinary
687 segregation of an inmate whose continued retention in the general institution population is
688 detrimental to the program of the institution.

689 All inmates in disciplinary segregation shall be provided regular meals, fully furnished
690 cells, limited recreational facilities, rights of visitation and communication by those properly
691 authorized, and such other privileges as may be established by the commissioner. Under the
692 supervision of the department of mental health, all inmates in disciplinary segregation shall be
693 given periodic medical and psychiatric examinations and shall receive such medical and
694 psychiatric treatment as may be indicated.

695 Section 39B (a) Prior to placement in disciplinary segregation within a state correctional
696 facility an inmate shall be screened by a qualified mental health professional to determine
697 whether the inmate has a serious mental illness and whether there are any acute mental health
698 contraindications to placement in a segregated unit. The screening shall be conducted in
699 accordance with clinical standards adopted by the department.

700 A qualified mental health professional shall make rounds in each such segregation unit
701 and may conduct an out-of-cell meeting with any inmate for whom a confidential meeting is

702 warranted in the qualified mental health professional's judgment. Inmates in disciplinary
703 segregation shall be evaluated by a qualified mental health professional in accordance with
704 clinical standards adopted by the department.

705 (b) Except in exigent circumstances that would create an unacceptable risk to the safety
706 of any person or where no secure treatment unit bed is available, an inmate in disciplinary
707 segregation diagnosed with a serious mental illness in accordance with clinical standards adopted
708 by the department shall not be housed in a segregated unit for more than 30 days and shall be
709 placed in a secure treatment unit. Any inmate in disciplinary segregation awaiting transfer to a
710 secure treatment unit shall be offered additional mental health services in accordance with
711 clinical standards adopted by the department.

712 Section 39C. Except as provided in sections 39 and 39D, at the request of an
713 administrator of a county correctional facility a sheriff may order the disciplinary segregation of
714 an inmate whose continued retention in the general institution population is detrimental to the
715 program of the institution.

716 All inmates in disciplinary segregation shall be provided regular meals, fully furnished
717 cells, limited recreational facilities, rights of visitation and communication by those properly
718 authorized, and such other privileges as may be established by the sheriff. Under the supervision
719 of the department of mental health, all inmates in disciplinary segregation shall be given periodic
720 medical and psychiatric examinations and shall receive such medical and psychiatric treatment as
721 may be indicated.

722 Section 39D. (a) Prior to placement in disciplinary segregation within a county
723 correctional facility an inmate shall be screened by a qualified mental health professional to

724 determine whether the inmate has a serious mental illness and whether there are any acute mental
725 health contraindications to placement in a segregated unit. The screening shall be conducted in
726 accordance with clinical standards adopted by the sheriff.

727 A qualified mental health professional shall make rounds in each such segregation unit
728 and may conduct an out-of-cell meeting with any inmate for whom a confidential meeting is
729 warranted in the qualified mental health professional's judgment. Inmates in disciplinary
730 segregation shall be evaluated by a qualified mental health professional in accordance with
731 clinical standards adopted by the sheriff.

732 (b) Except in exigent circumstances that would create an unacceptable risk to the safety
733 of any person or where no secure treatment unit bed is available, an inmate in disciplinary
734 segregation diagnosed with a serious mental illness in accordance with clinical standards adopted
735 by the sheriff shall not be housed in a segregated unit for more than 30 days and shall be placed
736 in a secure treatment unit. Any inmate in disciplinary segregation awaiting transfer to a secure
737 treatment unit shall be offered additional mental health services in accordance with clinical
738 standards adopted by the sheriff.

739 Section 40. (a) For purposes of administrative segregation, an inmate in a state
740 correctional facility or a county correctional facility may, at the discretion of its superintendent
741 or administrator, be confined, for a period not to exceed 15 days, to an administrative segregation
742 unit.

743 (b) No inmate in a state correctional facility or a county correctional facility shall be
744 placed in administrative segregation more than 6 times in any 365 day period without the
745 approval of the administrative and disciplinary segregation review board; provided, however,

746 that a superintendent or administrator may place an inmate in administrative segregation pending
747 approval of the administrative and disciplinary segregation review board if, in the discretion of
748 the superintendent or administrator, the inmate poses an immediate risk to himself, others or the
749 security of the institution.

750 (c) No inmate in a state correctional facility shall be placed in administrative segregation
751 for more than 180 days in any 365 day period without the approval of the administrative and
752 disciplinary segregation review board.

753 (d) No inmate in a county correctional facility shall be placed in administrative
754 segregation for more than 180 days in any 365 day period without the approval of the
755 administrative and disciplinary segregation review board.

756 (e) All administrative segregation units shall provide light, ventilation and adequate
757 sanitary facilities and may contain a minimum of furniture.

758 Section 40A. Except as provided in sections 40 and 40B, at the request of a
759 superintendent of a state correctional facility the commissioner may order the administrative
760 segregation of an inmate whose continued retention in the general institution population is
761 detrimental to the program of the institution.

762 All inmates in administrative segregation shall, to the extent practicable, be provided
763 living conditions approximate to those in general population. Under the supervision of the
764 department of mental health, all inmates in administrative segregation shall be given periodic
765 medical and psychiatric examinations and shall receive such medical and psychiatric treatment as
766 may be indicated.

767 Section 40B (a) Prior to placement in administrative segregation within a state
768 correctional facility an inmate shall be screened by a qualified mental health professional to
769 determine whether the inmate has a serious mental illness and whether there are any acute mental
770 health contraindications to placement in a segregated unit. The screening shall be conducted in
771 accordance with clinical standards adopted by the department.

772 A qualified mental health professional shall make rounds in each such segregation unit
773 and may conduct an out-of-cell meeting with any inmate for whom a confidential meeting is
774 warranted in the qualified mental health professional's judgment. Inmates in administrative
775 segregation shall be evaluated by a qualified mental health professional in accordance with
776 clinical standards adopted by the department.

777 (b) Except in exigent circumstances that would create an unacceptable risk to the safety
778 of any person or where no secure treatment unit bed is available, an inmate in administrative
779 segregation diagnosed with a serious mental illness in accordance with clinical standards adopted
780 by the department shall not be housed in a segregated unit for more than 30 days and shall be
781 placed in a secure treatment unit. Any inmate in administrative segregation awaiting transfer to a
782 secure treatment unit shall be offered additional mental health services in accordance with
783 clinical standards adopted by the department.

784 Section 40C. Except as provided in sections 40 and 40D, at the request of an
785 administrator of a county correctional facility a sheriff may order the administrative segregation
786 of an inmate whose continued retention in the general institution population is detrimental to the
787 program of the institution.

788 All inmates in administrative segregation shall to the extent practicable, be provided
789 living conditions approximate to those in general population. Under the supervision of the
790 department of mental health, all inmates in administrative segregation shall be given periodic
791 medical and psychiatric examinations and shall receive such medical and psychiatric treatment as
792 may be indicated.

793 Section 40D (a) Prior to placement in administrative segregation within a county
794 correctional facility an inmate shall be screened by a qualified mental health professional to
795 determine whether the inmate has a serious mental illness and whether there are any acute mental
796 health contraindications to placement in a segregated unit. The screening shall be conducted in
797 accordance with clinical standards adopted by the sheriff.

798 A qualified mental health professional shall make rounds in each such segregation unit
799 and may conduct an out-of-cell meeting with any inmate for whom a confidential meeting is
800 warranted in the qualified mental health professional's professional judgment. Inmates in
801 administrative segregation shall be evaluated by a qualified mental health professional in
802 accordance with clinical standards adopted by the sheriff.

803 (b) Except in exigent circumstances that would create an unacceptable risk to the safety
804 of any person or where no secure treatment unit bed is available, an inmate in administrative
805 segregation diagnosed with a serious mental illness in accordance with clinical standards adopted
806 by the sheriff shall not be housed in a segregated unit for more than 30 days and shall be placed
807 in a secure treatment unit. Any inmate in administrative segregation awaiting transfer to a secure
808 treatment unit shall be offered additional mental health services in accordance with clinical
809 standards adopted by the sheriff.

810 Section 41. (a) There shall be established a segregation oversight committee, hereinafter
811 in this section referred to as the committee, which shall consist of the commissioner of the
812 department of correction, or a designee; the commissioner of mental health, or a designee; and 5
813 members appointed by the governor, 1 of whom shall be the president of Massachusetts Sheriffs
814 Association, Inc., or a designee, 1 of whom shall be a former judge designated by the chief
815 justice of the supreme judicial court, 1 of whom shall be the executive director of Disability Law
816 Center, Inc., or a designee, 1 of whom shall be the executive director of Prisoners' Legal
817 Services or a designee, and 1 of whom shall be the executive director of the Massachusetts
818 Association for Mental Health, Inc., or a designee. Members of the committee shall be appointed
819 for a term of 6 years and shall serve without compensation but shall be reimbursed for all
820 reasonable expenses incurred in the performance of their official duties. No member shall serve
821 more than 2 6-year terms. Members of the committee shall be considered special state employees
822 for purposes of chapter 268A.

823 (b) The committee shall gather information regarding the use of disciplinary segregation
824 and administrative segregation in correctional institutions to determine the impact of such
825 segregation on inmates, rates of violence, recidivism, incarceration costs and self-harm within
826 correctional institutions.

827 (c) The committee shall be provided full access to all correctional institutions, and shall
828 be allowed to interview prisoners and staff.

829 (d) The committee shall annually, not later than January 31, submit to the house and
830 senate chairs of the joint committee on the judiciary and the house and senate chairs of the joint
831 committee on public safety and homeland security a report that includes the following

832 information for each correctional institution: (1) the criteria for placing an inmate in segregation;
833 (2) the extent to which staff who work with prisoners in segregation receive any specialized
834 training; (3) the results of any evaluations of the process of segregation in the commonwealth
835 and other states; (4) the impact of use of segregation on prison order and control in correctional
836 facilities; (5) the cost of housing an inmate in segregation compared with the cost of housing an
837 inmate in general population; and (6) the conditions of segregation in the commonwealth.

838 (e) Every correctional institution, shall quarterly submit to the committee, the house and
839 senate chairs of the joint committee on the judiciary and the house and senate chairs of the joint
840 committee on public safety and homeland security a report that includes: (1) the name, age and
841 ethnicity of every inmate who was placed in segregation during the previous 3 months, including
842 every inmate who is in segregation at the time the report is submitted; (2) the reason segregation
843 was instituted for each inmate named in the report; and (3) the dates on which each inmate was
844 placed in, and released from, segregation during the previous 3 months.

845 (f) The committee shall establish policies to ensure that an inmate with an anticipated
846 release date of less than 180 days is not housed in segregation, unless: (i) such segregation is
847 limited to not more than 5 days of administrative segregation relating to the upcoming release of
848 the inmate; or (ii) the inmate poses a substantial and immediate threat.

849 A superintendent or an administrator of a correctional facility shall submit a written
850 explanation to the committee if an inmate is placed in segregation at any point within the 180
851 days prior to his or her release from custody.

852 (g) The committee shall establish policies to establish a transitional process for each
853 inmate with an anticipated release date of 180 days or less who is held in segregation, which

854 shall include: (i) substantial re-socialization programming in a group setting; (ii) regular mental
855 health counseling to assist with the transition; and (iii) re-entry planning services offered to
856 inmates in a general population setting.

857 SECTION 35. Said chapter 127 is hereby further amended by inserting after section 119
858 the following 5 sections:-

859 Section 119A. (a) For the purposes of this section and sections 119B to 119E, inclusive,
860 the term “medical parole board” shall mean the independent medical parole board.

861 (b) There shall be established independent medical parole board, hereinafter the medical
862 parole board, which shall be comprised of 5 members appointed by the governor: 1 of whom
863 shall be the chair of the parole board, 1 of whom shall be a retired judge designated by the chief
864 justice of the trial court who shall have served on the Boston municipal court, district court, or
865 superior court, 2 of whom shall be medical doctors designated by the Massachusetts Medical
866 Society and 1 of whom shall be a member of the public with at least 5 years of training and
867 experience in public health, probation, corrections, parole, law, criminal justice, psychiatry,
868 psychology, sociology or social work. The medical parole board shall annually elect a chair;
869 provided, however, that the position of chair shall rotate among the members on an annual basis.
870 There shall be a quorum present for the medical parole board to take any official action.

871 Members of the medical parole board shall be appointed for a term of 6 years and shall
872 serve without compensation but shall be reimbursed for all reasonable expenses incurred in the
873 performance of their official duties. No member shall serve more than 2 6-year terms. Members
874 of the medical parole board shall be considered special state employees for purposes of chapter
875 268A.

876 (c) The medical parole board shall promulgate regulations for the administration and
877 enforcement of this section and sections 119B to 119D, inclusive.

878 Section 119B. (a) A prisoner with a terminal illness or permanent incapacitation or the
879 prisoner's attorney, the prisoner's immediate family, the prisoner's medical provider or a
880 member of the correctional facility's staff may petition the superintendent of the correctional
881 facility where the prisoner is an inmate for medical parole. The petition shall include an affidavit
882 from a physician licensed to practice medicine in the commonwealth that the prisoner has a
883 terminal illness or permanent incapacitation and remaining as an inmate would be detrimental to,
884 or exacerbate, said illness or incapacitation. Within 21 days of receipt of a petition the
885 superintendent shall make a recommendation to the commissioner. If the superintendent
886 recommends that the commissioner deny medical parole, the commissioner shall notify the
887 prisoner and the petitioner in writing within 30 days of receipt of the petition of the reasons for
888 the denial. If the superintendent recommends that the commissioner grant medical parole, the
889 commissioner shall petition the medical parole board within 10 days of receipt of the
890 recommendation for an order granting the prisoner to medical parole. The commissioner shall
891 notify, in writing, the district attorney for the jurisdiction where the offense resulting in the
892 prisoner being committed to the correctional facility occurred, the petitioner and, if applicable
893 under chapter 258B, the victim or the victim's family, that the prisoner is being considered by
894 the medical parole board for medical parole.

895 (b) Upon complying with the requirements of subsection (a), the commissioner shall file
896 the petition with the medical parole board. The commissioner shall include with the petition filed
897 with the medical parole board: (1) an affidavit attesting that the commissioner has complied with
898 the notice requirements of subsection (a); (2) a medical parole plan; and (3) an assessment of the

899 prisoner's medical and psychosocial condition and the risk the prisoner poses to society,
900 including without limitation: (i) an assessment of the risk for violence and recidivism that the
901 prisoner poses to society; and (ii) a written diagnosis by a physician licensed to practice
902 medicine in the commonwealth that includes: (A) a description of the terminal illness or
903 permanent incapacitation; and (B) a prognosis concerning the likelihood of recovery from the
904 terminal illness or permanent incapacitation; provided, however, that the physician shall be
905 employed by the department or shall be a contract provider used by the department for the
906 evaluation and recommended treatment of prisoners.

907 (c) A prisoner whose petition for medical parole was denied by the superintendent
908 pursuant to subsection (a) may appeal the denial to the commissioner. The appeal shall be in
909 writing and shall be filed within 30 days of receiving notice of the denial. Upon receipt of the
910 appeal, the commissioner shall hold an adjudicatory proceeding pursuant to chapter 30A. The
911 decision of the commissioner after the adjudicatory proceeding on the appeal shall be final and
912 not subject to further appeal or judicial review.

913 (d) The commissioner shall promulgate regulations for the administration and
914 enforcement of this section and section 119D.

915 Section 119C. (a) A prisoner with a terminal illness or permanent incapacitation or the
916 prisoner's attorney, the prisoner's immediate family, the prisoner's medical provider or a
917 member of the correctional facility's staff may petition the administrator of the correctional
918 facility where the prisoner is an inmate for medical parole. The petition shall include an affidavit
919 from a physician licensed to practice medicine in the commonwealth that the prisoner has a
920 terminal illness or permanent incapacitation and remaining as an inmate would be detrimental to,

921 or exacerbate, said illness or incapacitation. Within 21 days of receipt of a petition the
922 administrator shall make a recommendation to the sheriff. If the administrator recommends that
923 the sheriff deny medical parole, the sheriff shall notify the prisoner and the petitioner in writing
924 within 30 days of receipt of the petition of the reasons for the denial. If the administrator
925 recommends that the sheriff grant medical parole, the sheriff shall petition the medical parole
926 board within 10 days of receipt of the recommendation for an order granting the prisoner to
927 medical parole. The sheriff shall notify, in writing, the district attorney for the jurisdiction where
928 the offense resulting in the prisoner being committed to the correctional facility occurred, the
929 petitioner and, if applicable under chapter 258B, the victim or the victim's family, that the
930 prisoner is being considered by the medical parole board for medical parole.

931 (b) Upon complying with the requirements of subsection (a), the sheriff shall file the
932 petition with the medical parole board. The sheriff shall include with the petition filed with the
933 medical parole board: (1) an affidavit attesting that he or she has complied with the notice
934 requirements of subsection (a); (2) a medical parole plan; and (3) an assessment of the prisoner's
935 medical and psychosocial condition and the risk the prisoner poses to society, including without
936 limitation: (i) an assessment of the risk for violence and recidivism that the prisoner poses to
937 society; and (ii) a written diagnosis by a physician licensed to practice medicine in the
938 commonwealth that includes: (A) a description of the terminal illness or permanent
939 incapacitation; and (B) a prognosis concerning the likelihood of recovery from the terminal
940 illness or permanent incapacitation; provided, however, that the physician shall be employed by
941 the department or shall be a contract provider used by the department for the evaluation and
942 recommended treatment of prisoners.

943 (c) A prisoner whose petition for medical parole was denied by the administrator
944 pursuant to subsection (a) may appeal the denial to the sheriff. The appeal shall be in writing and
945 shall be filed within 30 days of receiving notice of the denial. Upon receipt of the appeal, the
946 sheriff shall hold an adjudicatory proceeding pursuant to chapter 30A. The decision of the sheriff
947 after the adjudicatory proceeding on the appeal shall be final and not subject to further appeal or
948 judicial review.

949 (d) Each sheriff shall promulgate regulations for the administration and enforcement of
950 this section and section 119D.

951 Section 119D. (a) Within 21 days of receipt of a petition for medical parole pursuant to
952 section 119B or section 119C, the medical parole board shall conduct an adjudicatory proceeding
953 pursuant to chapter 30A on the petition. Within 30 days of the adjudicatory proceeding the
954 medical parole board shall vote to grant or deny the petition for medical parole; provided,
955 however, that any vote to grant a petition for medical parole shall require the affirmative vote of
956 no less than 4 members of the medical parole board. If the medical parole board votes to deny
957 medical parole, the medical parole board shall notify the prisoner and the petitioner in writing
958 within 30 days of the decision of the reasons for the denial. If the medical parole board votes to
959 approve the petition for medical parole, the medical parole board shall: (1) notify in writing the
960 district attorney for the jurisdiction where the offense resulting in the prisoner being committed
961 to the correctional facility occurred, the petitioner and, if applicable under chapter 258B, the
962 victim or the victim's family, that the medical parole board has approved the prisoner for
963 medical parole; and (2) refer the matter to the parole board established pursuant to section 4 of
964 chapter 27 within 5 days.

965 (b) Upon receipt of a recommendation for medical parole by the medical parole board
966 pursuant to subsection (a), the parole board shall conduct an adjudicatory proceeding pursuant to
967 chapter 30A within 10 days. Unless the parole board votes unanimously to reject the approval of
968 the medical parole board, the prisoner shall be granted medical parole. A prisoner granted
969 medical parole shall be under the jurisdiction, supervision and control of the parole board. The
970 parole board shall impose terms and conditions for the medical parole that shall apply through
971 the date upon which the prisoner's sentence would have expired. These conditions shall require,
972 without limitation that: (1) the parolee's care be consistent with the care specified in the medical
973 parole plan approved by the medical parole board; (2) the parolee cooperate with and comply
974 with the prescribed medical parole plan and with reasonable requirements of medical providers
975 to whom the prisoner is to be referred for continued treatment; (3) the parolee comply with the
976 conditions of medical parole set by the medical parole board.

977 (c) Not less than 5 days before the date of a prisoner's release due to medical parole, the
978 parole board shall notify, in writing, the district attorney, the department of state police, the
979 police department in the city or town in which the medically paroled prisoner shall reside and, if
980 applicable under chapter 258B, the victim or the victim's family of prisoner's release date and
981 the terms and conditions of the prisoner's medical parole.

982 (d) The parole board may revise, alter or amend the terms and conditions of a medical
983 parole at any time. A parole officer may arrest, without warrant, a medical parolee and bring the
984 medical parolee before the parole board for a medical parole violation hearing if the parole board
985 has reasonable suspicion that a medical parolee has failed to comply with any condition of said
986 medical parolee's medical parole. If the parole board determines that the medical parolee
987 violated a condition of the medical parole or that the terminal illness or permanent incapacitation

988 has improved to the extent that the medical parolee would no longer be eligible for medical
989 parole pursuant sections 119B or 119C, the parole board may revoke the medical parole and
990 order the medical parolee to surrender forthwith. Upon revocation of the medical parole, the
991 medical parolee shall resume serving the sentence with credit given only for the duration of the
992 medical parolee's medical parole served in compliance with all conditions imposed by the parole
993 board. Unless the medical parole was granted based on a fraud perpetrated upon a
994 superintendent, an administrator, the medical parole board or the parole board, by the prisoner or
995 petitioner, a revocation of a medical parole due to a change in medical condition shall not
996 preclude a prisoner's eligibility for medical parole in the future.

997 (e) (1) A decision by the parole board pursuant to subsection (b) shall be final and not
998 subject to further appeal or judicial review.

999 (2) A decision by the parole board to revise, alter or amend the terms and conditions of a
1000 medical parole or to revoke a grant of medical parole pursuant to subsection (d) shall be final
1001 and not subject to further appeal or judicial review.

1002 (f) The parole board shall promulgate regulations for the administration and enforcement
1003 of this section and sections 119B and 119C.

1004 Section 119E. The commissioner of the department of correction, Massachusetts sheriffs
1005 association, and the medical parole board shall together file an annual report not later than March
1006 1 with the clerks of the house of representatives and the senate, the house and senate chairs of the
1007 senate and house committees on ways and means and the house and senate chairs of the joint
1008 committee on the judiciary detailing: (i) each prisoner in the custody of the department or
1009 sheriffs who is receiving treatment for a terminal illness and each prisoner in the custody of the

1010 department or sheriffs who is receiving treatment for a permanent incapacitation, including the
1011 race and ethnicity of the prisoner, the offense for which the prisoner was sentenced and a
1012 detailed description of the prisoner’s physical and mental condition; provided, however, that
1013 identifying information shall be withheld from the report; (ii) the number of prisoners in the
1014 custody of the department or the sheriffs who applied for medical parole pursuant to sections
1015 119B and 119C and the race and ethnicity of each applicant; (iii) the number, race and ethnicity
1016 of prisoners who have been granted medical parole for the prior fiscal year and total to date; (iv)
1017 the nature of the illness of the applicants for medical parole; (v) the counties to which the
1018 prisoners have been medically paroled; (vi) the nature of the placement pursuant to the medical
1019 parole plan; (vii) the categories of reasons for denial for prisoners who have been denied
1020 medical parole; (viii) the number of prisoners petitioning for medical parole on more than 1
1021 occasion; and (ix) the number of prisoners medically paroled who have been returned to the
1022 custody of the department or sheriffs and the reasons for those returns.

1023 SECTION 36. Section 144 of said chapter 127 of the General Laws, as appearing in the
1024 2016 Official Edition, is hereby amended by striking out, in line 3, the words “thirty dollars” and
1025 inserting in place thereof the following figure:- \$90.

1026 SECTION 37. Said chapter 127 is hereby further amended by striking out section 145, as
1027 so appearing, and inserting in place thereof the following section:-

1028 Section 145. (a) No court shall commit a person to a correctional facility solely for non-
1029 payment of monies owed if such person has established, by a preponderance of the evidence, that
1030 the person is unable to pay the fine without causing substantial financial hardship to the person
1031 or their immediate family or dependents. A court shall determine whether the payment of a fine

1032 would cause such substantial financial hardship after a hearing, and, in making such
1033 determination, shall consider the person’s employment status, income, financial resources, living
1034 expenses, number of dependents, and any special circumstances that may affect a person’s ability
1035 to pay.

1036 (b) No court shall commit a person to a correctional facility for non-payment of monies
1037 owed if such a person was not represented by counsel for the commitment proceeding.

1038 (c) Courts may consider alternatives to incarceration before committing a person to a
1039 prison or place of confinement solely for non-payment of a fine or a fine and expenses.

1040 (d) If a court determines that the payment of a fine would cause a substantial financial
1041 hardship pursuant to subsection (a), the court shall impose an alternative to a fine or sentence to a
1042 correctional facility including, without limitation, community service.

1043 (e) A person confined to a correctional facility for non-payment of monies owed may
1044 petition the court for discharge from such correctional facility for an inability to pay such monies
1045 owed due to a substantial financial hardship. If, after a hearing pursuant to subsection (a), the
1046 court determines that said person is not able to pay the monies owed without causing a
1047 substantial financial hardship to the person, or the person’s immediate family or dependents, the
1048 court shall discharge said person from such correctional facility. No filing fee shall be charged
1049 for the filing of the petition.

1050 SECTION 38. Section 1 of chapter 138 of the General Laws, as so appearing, is hereby
1051 amended by inserting after the definition of “Alcoholic beverages” the following definition:

1052 “Alcohol-related incapacitation”, the condition of an intoxicated person who, by reason
1053 of the consumption of intoxicating liquor, is: (a) unconscious; (b) in need of medical attention; or
1054 (c) likely to suffer or cause physical harm or damage property.

1055 SECTION 39. Said chapter 138 is hereby further amended by inserting after section 34D
1056 the following section:-

1057 Section 34E. (a) A person under 21 years of age who, in good faith, seeks medical
1058 assistance for someone experiencing alcohol-related incapacitation shall not be charged or
1059 prosecuted under sections 34 or 34A if the evidence for the charge of purchase or possession of
1060 alcohol was gained as a result of seeking medical assistance.

1061 (b) A person under 21 years of age who experiences alcohol-related incapacitation and is
1062 in need of medical assistance and, in good faith, seeks such medical assistance, or is the subject
1063 of such a good faith request for medical assistance, shall not be charged or prosecuted under
1064 sections 34 or 34A if the evidence for the charge of purchase or possession of alcohol was gained
1065 as a result of seeking medical assistance.

1066 SECTION 40. Section 4 of chapter 151B of the General Laws, as appearing in the 2016
1067 Official Edition, is hereby amended by striking out, in line 408, the word “five” and inserting in
1068 place thereof the following figure:- 3.

1069 SECTION 41. Said section 4 of said chapter 151B, as so appearing, is hereby further
1070 amended by inserting after the word “information”, in line 412, the following words:- , or (iv) a
1071 criminal record, or anything related to a criminal record, that has been sealed or expunged
1072 pursuant to chapter 276.

1073 SECTION 42. Section 10 of chapter 209A of the General Laws, as so appearing, is
1074 hereby amended by striking out, in lines 7 and 8, the words “the person, or the dependents of
1075 such person, severe financial hardship” and inserting in place thereof the following words:-
1076 substantial financial hardship to the person or the person’s immediate family or the person’s
1077 dependents.

1078 SECTION 43. Section 8 of chapter 258B of the General Laws, as so appearing, is hereby
1079 amended by striking out, in lines 38 to 40, inclusive, the words “would impose a severe financial
1080 hardship upon the person against whom the assessment is imposed” and inserting in place thereof
1081 the following words:- would cause a substantial financial hardship to the person against whom
1082 the assessment is imposed or the person’s immediate family or the person’s dependents.

1083 SECTION 44. Section 13 of chapter 265 of the General Laws, as so appearing, is hereby
1084 amended by adding the following paragraph:-

1085 Any business organization including, without limitation, a corporation, association,
1086 partnership, or other legal entity that commits manslaughter shall be punished by a fine of not
1087 more than \$250,000. If a business organization is found guilty under this section, the appropriate
1088 commissioner or secretary may debar the corporation, under section 29F of chapter 29, for a
1089 period not to exceed 10 years.

1090 SECTION 45. The second paragraph of section 47 of said chapter 265, as so appearing,
1091 is hereby amended by striking out the last sentence and inserting in place thereof the following
1092 sentence:- If the court finds that such fees would cause a substantial financial hardship to the
1093 offender or the person’s immediate family or the person’s dependents, the court may waive such
1094 fees.

1095 SECTION 46. Section 27A of chapter 266 of the General Laws, as so appearing, is
1096 hereby amended by striking out, in lines 32 to 34, inclusive, the words “impose an undue
1097 financial hardship on the defendant or his family, the court may modify the amount, time or
1098 method of payment, but may not grant complete remission from payment of restitution” and
1099 inserting in place thereof the following words:- cause a substantial financial hardship to the
1100 defendant or the defendant’s immediate family or the defendant’s dependents, the court may
1101 grant remission from any payment of restitution or modify the amount, time or method of
1102 payment.

1103 SECTION 47. Section 28 of said chapter 266, as so appearing, is hereby amended by
1104 inserting after the word “thereof”, in line 40, the following words- , except for a conviction or
1105 adjudication for malicious damage to a motor vehicle or trailer,.

1106 SECTION 48. Section 29 of said chapter 266, as so appearing, is hereby amended by
1107 striking out, in lines 45 to 47, inclusive, the words “impose an undue financial hardship on the
1108 defendant or his family, the court may modify the amount, time or method of payment, but may
1109 not grant complete remission from payment of restitution” and inserting in place thereof the
1110 following words:- cause a substantial financial hardship to the defendant or the defendant’s
1111 immediate family or the defendant’s dependents, the court may grant remission from any
1112 payment of restitution or modify the amount, time or method of payment.

1113 SECTION 49. Section 30 of said chapter 266, as so appearing, is hereby amended by
1114 striking out, in line 9 and lines 13 and 14, the words “two hundred and fifty dollars” and
1115 inserting in place thereof, in each instance, the following figure:- \$750.

1116 SECTION 50. Said section 30 of said chapter 266, as so appearing, is hereby further
1117 amended by striking out, in lines 15 to 23, inclusive, the words “three hundred dollars; or, if the
1118 property was stolen from the conveyance of a common carrier or of a person carrying on an
1119 express business, shall be punished for the first offence by imprisonment for not less than six
1120 months nor more than two and one half years, or by a fine of not less than fifty nor more than six
1121 hundred dollars, or both, and for a subsequent offence, by imprisonment for not less than
1122 eighteen months nor more than two and one half years, or by a fine of not less than one hundred
1123 and fifty nor more than six hundred dollars, or both” and inserting in place thereof the following
1124 figure:- \$900.

1125 SECTION 51. Section 37B of said chapter 266, as so appearing, is hereby amended by
1126 striking out, in lines 24 and 25, 29 and 30, 37 and 38, and lines 45 and 46, the words “two
1127 hundred and fifty dollars” and inserting in place thereof, in each instance, the following figure:-
1128 \$750.

1129 SECTION 52. Said section 37B of said chapter 266, as so appearing, is hereby further
1130 amended by striking out, in lines 49 and 50, the words “five hundred dollars” and inserting in
1131 place thereof the following figure:-\$1,500.

1132 SECTION 53. Section 37C of said chapter 266, as so appearing, is hereby amended by
1133 striking out, in lines 12, 17, 23 and lines 31 and 32, the words “two hundred and fifty dollars”
1134 and inserting in place thereof, in each instance, the following figure:-\$750.

1135 SECTION 54. Said section 37C of said chapter 266, as so appearing, is hereby further
1136 amended by striking out, in lines 39 and 40, the words “two thousand dollars” and inserting in
1137 place thereof the following figure:-\$6,000.

1138 SECTION 55. Section 60 of said chapter 266, as so appearing, is hereby amended by
1139 striking out, in lines 13, 16 and 20, the figure “\$250” and inserting in place thereof, in each
1140 instance, the following figure:- \$750.

1141 SECTION 56. Said section 60 of said chapter 266, as so appearing, is hereby further
1142 amended by striking out, in line 15, the figure “\$1,000” and inserting in place thereof the
1143 following figure:- \$3,000.

1144 SECTION 57. The second paragraph of section 108 of said chapter 266, as so appearing,
1145 is hereby amended by striking out the third sentence and inserting in place thereof the following
1146 sentence:- If the defendant is indigent or if the court finds that ordering such restitution would
1147 cause a substantial financial hardship to the defendant or the defendant’s immediate family or the
1148 defendant’s dependents, the court may determine that the interests of the victim and of justice
1149 would not be served by ordering such restitution.

1150 SECTION 58. Said section 108 of said chapter 266, as so appearing, is hereby further
1151 amended by striking out, in lines 28 and 29, the words “an undue financial hardship on the
1152 defendant or his family” and inserting in place thereof the following words:- a substantial
1153 financial hardship on the defendant or the defendant’s immediate family or the defendant’s
1154 dependents.

1155 SECTION 59. Section 111B of said chapter 266, as so appearing, is hereby amended by
1156 striking out, in lines 45 to 47, inclusive, the words “impose an undue financial hardship on the
1157 defendant or his family, the court may modify the amount, time or method of payment, but may
1158 not grant complete remission from payment of restitution” and inserting in place thereof the
1159 following words:- cause a substantial financial hardship to the defendant or the defendant’s

1160 immediate family or the defendant's dependents, the court may grant remission from any
1161 payment of restitution or modify the amount, time or method of payment.

1162 SECTION 60. Section 126A of said chapter 266, as so appearing, is hereby amended by
1163 striking out the second paragraph.

1164 SECTION 61. Section 126B of said chapter 266, as so appearing, is hereby amended by
1165 striking out the second paragraph.

1166 SECTION 62. Section 127 of said chapter 266, as so appearing, is hereby amended by
1167 striking out, in line 13, the words "two hundred and fifty dollars" and inserting in place thereof
1168 the following figure:- \$750.

1169 SECTION 63. Section 14B of chapter 269 of the General Laws, as so appearing, is
1170 hereby amended by striking out subsection (b) and inserting in place thereof the following
1171 subsection:-

1172 (b) Upon any conviction under this section, the court shall conduct a hearing to ascertain
1173 the extent of costs incurred, and damages and financial loss sustained by any emergency
1174 response services provider as a result of the violation and shall order the defendant to make
1175 restitution to the emergency response services provider or providers for any such costs, damages
1176 or loss. The court shall consider the defendant's present and future ability to pay restitution in its
1177 determinations relative to the imposition of a fine. In determining the amount, time and method
1178 of payment of restitution, the court shall consider the defendant's employment status, earning
1179 ability, financial resources, living expenses, dependents, and any special circumstances that may
1180 have bearing on their ability to pay. The court may waive restitution or modify the amount, time

1181 or method of payment if such restitution payment would cause a substantial financial hardship to
1182 the defendant or the defendant's immediate family or the defendant's dependents.

1183 SECTION 64. Chapter 274 of the General Laws is hereby amended by adding the
1184 following section:-

1185 Section 8. Whoever solicits, counsels, advises, or otherwise entices another to commit a
1186 crime that may be punished by imprisonment in the state prison, with the intent that the person,
1187 in fact, commit or procure the commitment of such crime shall, except as otherwise provided, be
1188 punished as follows:

1189 First, by imprisonment for not more than 20 years in the state prison or for not more than
1190 2½ years in a jail or house of correction, or by a fine of not more than \$10,000, or by both such
1191 fine and imprisonment, if the intent of the solicitation, counsel, advice or enticement was for the
1192 person to commit a crime punishable by imprisonment for life.

1193 Second, by imprisonment for not more than 10 years in the state prison or for not more
1194 than 2½ years in a jail or house of correction, or by a fine of not more than \$10,000, or by both
1195 such fine and imprisonment, if the intent of the solicitation, counsel, advice or enticement was
1196 for the person to commit a crime punishable by imprisonment in the state prison for 10 years or
1197 more.

1198 Third, by imprisonment for not more than 5 years in the state prison or for not more than
1199 2½ years in a jail or house of correction, or by a fine of not more than \$5,000, or by both such
1200 fine and imprisonment, if the intent of the solicitation, counsel, advice or enticement was for the
1201 person to commit a crime punishable by imprisonment in the state prison for 5 years or more.

1202 Fourth, by imprisonment for not more 2½ years in a jail or house of correction, or by a
1203 fine of not more than \$2,000, or by both such fine and imprisonment, if the intent of the
1204 solicitation, counsel, advice or enticement was for the person to commit a crime punishable by
1205 imprisonment in the state prison for less than 5 years.

1206 If a person is convicted of solicitation, counsel, advice or enticement for which crime the
1207 penalty is expressly set forth in any other section of the General Laws, the provisions of this
1208 section shall not apply to said crime and the penalty in the applicable section of the General
1209 Laws shall be imposed pursuant to the provisions of such other section.

1210 SECTION 65. Section 30 of chapter 276 of the General Laws, as appearing in the 2016
1211 Official Edition, is hereby amended by striking out, in lines 5 and 6, the words “ upon a finding
1212 of good cause by the court the fee may be waived” and inserting in place thereof the following
1213 words:- the court may waive the fee upon a finding of good cause or upon a finding that such a
1214 fee would cause a substantial financial hardship to the person, the person’s immediate family or
1215 the person’s dependents.

1216 SECTION 66. Said section 30 of said chapter 276, as so appearing, is hereby further
1217 amended by inserting after the word “indigent”, in line 11, the following words:- or that such fee
1218 would cause a substantial financial hardship to the person, the person’s immediate family or the
1219 person’s dependents.

1220 SECTION 67. Section 31 of said chapter 276, as so appearing, is hereby amended by
1221 inserting after the word “cause”, in line 6, the following words:- or upon a finding that such an
1222 assessment would cause a substantial financial hardship to the person, the person’s immediate
1223 family or the person’s dependents.

1224 SECTION 68. Section 57 of said chapter 276, as so appearing, is hereby amended by
1225 inserting after the first sentence the following sentence:- Except in cases where the person is
1226 determined to pose a danger to the safety of any other person or the community under section
1227 58A, bail shall be set in an amount no higher than what would reasonably assure the appearance
1228 of the person before the court after taking into account the person’s financial resources;
1229 provided, however, that a higher bail may be set if neither alternative nonfinancial conditions nor
1230 a bail amount which the person could likely afford would adequately assure the person’s
1231 appearance before the court.

1232 SECTION 69. Said section 57 of said chapter 276, as so appearing, is hereby further
1233 amended by inserting after the word “ties”, in line 50, the following words:- , the person’s
1234 financial resources and financial ability to give bail.

1235 SECTION 70. Said section 57 of said chapter 276, as so appearing, is hereby further
1236 amended by inserting after the second paragraph the following paragraph:-

1237 If bail is set at an amount that is likely to result in the person’s long-term pretrial
1238 detention because he or she lacks the financial resources to post said amount, an authorized
1239 person setting bail must provide written or orally recorded findings of fact and a statement of
1240 reasons as to why, under the relevant circumstances, neither alternative nonfinancial conditions
1241 nor a bail amount that the person can afford will reasonably assure his or her appearance before
1242 the court, and further, must explain how the bail amount was calculated.

1243 SECTION 71. Section 58 of said chapter 276, as so appearing, is hereby amended by
1244 inserting after the first sentence the following sentence:- Except in cases where the person is
1245 determined to pose a danger to the safety of any other person or the community under section

1246 58A, bail shall be set in an amount no higher than what would reasonably assure the appearance
1247 of the person before the court after taking into account the person's financial resources;
1248 provided, however, that a higher bail may be set if neither alternative nonfinancial conditions nor
1249 a bail amount which the person could likely afford would adequately assure the person's
1250 appearance before the court.

1251 SECTION 72. Said section 58 of said chapter 276, as so appearing, is hereby further
1252 amended by inserting after the word "resources", in line 20, the following words:- and financial
1253 ability to give bail.

1254 SECTION 73. Said section 58 of said chapter 276, as so appearing, is hereby further
1255 amended by inserting after the first paragraph the following paragraph:-

1256 If bail is set at an amount that is likely to result in the person's long-term pretrial
1257 detention because he or she lacks the financial resources to post said amount, an authorized
1258 person setting bail must provide written or orally recorded findings of fact and a statement of
1259 reasons as to why, under the relevant circumstances, neither alternative nonfinancial conditions
1260 nor a bail amount that the person can afford will reasonably assure his or her appearance before
1261 the court, and further, must explain how the bail amount was calculated.

1262 SECTION 74. Section 87A of said chapter 276, as so appearing, is hereby amended by
1263 inserting after the fourth paragraph the following 2 paragraphs:-

1264 The court shall not assess said monthly probation fee or said administrative probation fee
1265 upon any person placed on supervised probation or administrative supervised probation after
1266 release from prison or a house of correction for said person's first 6 months of such probation if

1267 it determines, after a hearing and upon written findings, that said fees would constitute a
1268 substantial financial hardship to the person, the person's immediate family or dependents.

1269 If the court determines after said hearing and upon such written findings that said fees
1270 would constitute a substantial financial hardship to said person, the person's immediate family or
1271 dependents, the court shall waive payment of either or both said fees. No later than 6 months
1272 after the waiver, and every 6 months thereafter, the chief probation officer or the officer's
1273 designee shall conduct a further reassessment of the financial circumstances of said person to
1274 ensure that the person continues to meet the definition of substantial financial hardship. The
1275 chief probation officer or the officer's designee shall prepare, sign and file with the court a
1276 written report certifying that the person continues to meet, or no longer meets, the definition of
1277 substantial financial hardship. Upon receipt of the report, if such report certifies that the person
1278 no longer meets the definition of substantial financial hardship, the court shall hold a hearing,
1279 and shall revoke the waiver and impose either or both said fees if the court finds after said
1280 hearing that the person no longer meets the definition of substantial financial hardship.

1281 SECTION 75. Said section 87A of said chapter 276, as so appearing, is hereby further
1282 amended by striking out, in lines 42 to 44, inclusive, the words "an undue hardship on said
1283 person or his family due to limited income, employment status, or any other factor" and inserting
1284 in place thereof the following words:- a substantial financial hardship for the person, the person's
1285 immediate family or dependents.

1286 SECTION 76. Said section 87A of said chapter 276, as so appearing, is hereby further
1287 amended by striking out, in line 45, the word "undue" and inserting in place thereof the
1288 following words:- substantial financial.

1289 SECTION 77. The sixth paragraph of said section 87A of said chapter 276, as so
1290 appearing, is hereby amended by adding the following sentence:- Said person shall pay said
1291 administrative victims service surcharge once each month during such time as said person
1292 remains on administrative supervised probation.

1293 SECTION 78. The seventh paragraph of said section 87A of said chapter 276, as so
1294 appearing, is hereby amended by striking out the first sentence.

1295 SECTION 79. Said section 87A of said chapter 276, as so appearing, is hereby further
1296 amended by striking out, in lines 86 to 88, inclusive, the words “an undue hardship on said
1297 person or his family due to limited income, employment status, or any other factor” and inserting
1298 in place thereof the following words:- a substantial financial hardship for the person, the person’s
1299 immediate family or dependents.

1300 SECTION 80. The third paragraph of section 92A of said chapter 276, as so appearing,
1301 is hereby amended by striking out the second sentence and inserting in place thereof the
1302 following sentence:- If the court finds that the payment of restitution due will cause a substantial
1303 financial hardship to the defendant, the defendant’s immediate family or the defendant’s
1304 dependents, the court may grant remission from any payment of restitution, or modify the
1305 amount, time or method of payment.

1306 SECTION 81. Section 100A of said chapter 276, as so appearing, is hereby amended by
1307 striking out, in lines 9, 14 and 21 the figure “5” and inserting in place thereof, in each instance,
1308 the following figure:- 3.

1309 SECTION 82. Said section 100A of said chapter 276, as so appearing, is hereby further
1310 amended by striking out, in lines 12, 15 and 22 the figure “10” and inserting in place thereof, in
1311 each instance, the following figure:- 7.

1312 SECTION 83. Said section 100A of said chapter 276, as so appearing, is hereby further
1313 amended by inserting after the words “268A”, in line 28, the following words- , except for
1314 convictions for resisting arrest.

1315 SECTION 84. Said section 100A of said chapter 276, as so appearing, is hereby further
1316 amended by striking out the fifth paragraph and inserting in place thereof the following 2
1317 paragraphs:-

1318 No county, municipal or state agency shall deny an application for a license to practice
1319 any trade or profession or an application for any occupational license solely because of the
1320 existence of a sealed record unless the county, municipal or state agency has conducted an
1321 adjudicatory proceeding pursuant to chapter 30A. A county, municipal or state agency denying
1322 an application for a license to practice any trade or profession or denying an application for any
1323 occupational license shall enter written findings as to the basis of its denial. A person whose
1324 application for a license to practice any trade or profession or for any occupational license has
1325 been denied solely because of the existence of a sealed record may appeal said denial pursuant to
1326 chapter 30A.

1327 An application for employment or housing which seeks information concerning prior
1328 arrests or convictions of the applicant shall include the following statement: “An applicant for
1329 employment or housing with a sealed record on file with the commissioner of probation may
1330 answer ‘no record’ with respect to an inquiry herein relative to prior arrests, criminal court

1331 appearances or convictions. An applicant for employment or housing with a sealed record on file
1332 with the commissioner of probation may answer ‘no record’ to an inquiry herein relative to prior
1333 arrests or criminal court appearances. In addition, any applicant for employment or housing may
1334 answer ‘no record’ with respect to any inquiry relative to prior arrests, court appearances or
1335 adjudications in all cases of delinquency or as a child in need of services which did not result in a
1336 complaint transferred to the superior court for criminal prosecution.” The attorney general may
1337 enforce the provisions of this paragraph by a suit in equity commenced in the superior court.

1338 SECTION 85. Section 100C of said chapter 276, as so appearing, is hereby amended by
1339 striking out, in line 23, the words “used by an employer” and inserting in place thereof the
1340 following words:- , housing or an occupational license.

1341 SECTION 86. Said section 100C of said chapter 276, as so appearing, is hereby further
1342 amended by inserting after the word “employment”, in line 26, the following words:- , housing
1343 or an occupational license.

1344 SECTION 87. Chapter 276 of the General Laws is hereby amended by inserting after
1345 section 100D the following 17 sections:-

1346 Section 100E. As used in sections 100E through 100U of this chapter, the following
1347 words shall, unless the context clearly requires otherwise, have the following meanings:-

1348 “Attorney general”, the attorney general of the commonwealth.

1349 “Chief of police”, the administrative head of the police department where the matter
1350 resulting in a criminal record that is the subject of a petition originated.

1351 “Commissioner”, the commissioner of probation.

1352 “Consumer reporting agency”, any person or organization which, for monetary fees,
1353 dues, or on a cooperative, not-for-profit basis, regularly engages in whole, or in part, in the
1354 practice of assembling or evaluating criminal history, credit or other information on consumers
1355 for the purpose of furnishing consumer reports to third parties, and which uses any means or
1356 facility of interstate commerce for the purpose of preparing or furnishing consumer reports.

1357 “County agency”, any department or office of county government and any division,
1358 board, bureau, commission, institution, tribunal or other instrumentality thereof or thereunder.

1359 “Court”, the trial court of the commonwealth established pursuant to section 1 of chapter
1360 211B and any departments or offices established within the trial court.

1361 “Criminal court appearance”, an arraignment on, all pre-trial and other post arraignment
1362 judicial proceedings related to and the disposition of, a criminal offense.

1363 “Criminal justice agencies”, those agencies at all levels of government, which perform as
1364 their principal function, activities relating to: (i) crime prevention, including research or the
1365 sponsorship of research; (ii) the apprehension, prosecution, adjudication, incarceration or
1366 rehabilitation of criminal offenders; or (iii) the collection, storage, dissemination or usage of
1367 criminal offender record information.

1368 “Department”, the department of criminal justice information services established
1369 pursuant to section 167A of chapter 6.

1370 “Disabled person”, a person with an intellectual disability, as defined by section 1 of
1371 chapter 123B, or who is otherwise mentally or physically disabled and, as a result of such mental
1372 or physical disability, is wholly or partially dependent on others to meet daily living needs.

1373 “Disposition”, the final conclusion of a charge during or after the initial criminal court
1374 appearance or juvenile court appearance; provided, however, that disposition shall not include
1375 criminal offenses for which the dispositions were: (i) not guilty; (ii) dismissed for want of
1376 prosecution; (iii) dismissed at request of complainant; (iv) nol prossed; or (v) no bill.

1377 “District attorney”, the district attorney in the jurisdiction where the matter resulting in a
1378 record that is the subject of a petition originated.

1379 “Elderly person”, a person who is 60 years of age or older.

1380 “Expunge, expunged, or expungement”, the permanent erasure or destruction of a record
1381 so that the record is no longer accessible to, or maintained by, the court, any criminal justice
1382 agencies or any other state agency, municipal agency or county agency.

1383 “Judicial proceedings”, any proceedings before the court resulting in a record.

1384 “Juvenile court appearance”, an arraignment on, all pre-trial and other post arraignment
1385 judicial proceedings related to and the disposition of, an offense in the juvenile court.

1386 “Municipal agency”, any department or office of a city or town government and any
1387 council, division, board, bureau, commission, institution, tribunal or other instrumentality thereof
1388 or thereunder.

1389 “Offense”, a violation of a criminal law for which a person has been charged and has
1390 made a criminal court appearance or a juvenile court appearance for which there is a disposition
1391 and a record.

1392 “Office”, the office of the commissioner of probation.

1393 “Order”, an order of expungement.

1394 “Person”, a natural person, corporation, association, partnership, or other legal entity.

1395 “Petition”, a petition to expunge a criminal record.

1396 “Petitioner”, a natural person with a criminal record who has filed a petition.

1397 “Public records”, shall have the same meaning as the definition of public records in
1398 clause twenty-sixth of section 7 of chapter 4.

1399 “Record”, public records including, without limitation, paper or electronic records or data
1400 in any communicable form compiled by, on file with or in the care custody or control of, without
1401 limitation, the court, the office, the department or criminal justice agencies, which concern a
1402 person and relate to the nature or disposition of an offense, including, without limitation, an
1403 arrest, a criminal court appearance, a juvenile court appearance, a pre-trial proceeding, other
1404 judicial proceedings, disposition, sentencing, incarceration, rehabilitation or release; provided,
1405 however, that the term record shall not include evaluative information, intelligence information
1406 or statistical and analytical reports and files in which persons are not directly or indirectly
1407 identifiable.

1408 “State agency”, any department of state government including the executive, legislative
1409 or judicial, and all councils thereof and thereunder, and any division, board, bureau, commission,
1410 institution, tribunal or other instrumentality within such department, and any independent state
1411 authority, district, commission, instrumentality or agency, but not an agency of a county, city or
1412 town.

1413 Section 100F. (a) A petitioner who has a record as an adjudicated delinquent or
1414 adjudicated youthful offender may, on a form furnished by the commissioner and signed under
1415 the penalties of perjury, petition that the commissioner expunge the record. Upon receipt of a
1416 petition for an expungement, the commissioner shall certify whether the petitioner is eligible for
1417 an expungement under sections 100I and 100J. If the petitioner is not eligible for an
1418 expungement under sections 100I and 100J the commissioner shall, within 60 days of the
1419 request, deny the request in writing. If the petitioner is eligible for an expungement under
1420 sections 100I and 100J the commissioner shall, within 60 days of the petition, notify in writing
1421 the chief of police and the district attorney of the petition and that the petitioner is eligible for an
1422 expungement under sections 100I and 100J. Within 60 days of receipt of notification from the
1423 commissioner of the filing of the petition and that petitioner is eligible for an expungement
1424 pursuant to sections 100I and 100J, the chief of police and the district attorney shall notify the
1425 commissioner in writing of their objections, if any, to the petition.

1426 (b) Upon receipt of a response from the chief of police and the district attorney, if any, or
1427 within 65 days of the commissioner's notification to the chief of police and the district attorney
1428 pursuant to subsection (a), whichever occurs first, the commissioner shall forthwith forward the
1429 petition, along with the objections of the chief of police and the district attorney, if any, to the
1430 court wherein the petitioner was adjudicated delinquent or adjudicated a youthful offender.

1431 (c) If the chief of police or the district attorney files an objection with the commissioner
1432 within 60 days of receipt of notification as provided in subsection (a) the court shall, within 21
1433 days of receipt of the petition pursuant to subsection (b), conduct a hearing on the petition. The
1434 court shall have the discretion to grant or deny the petition based on what is in the best interests

1435 of justice and shall enter written findings as to the basis of its order. The court shall deny any
1436 petition that does not meet the requirements of sections 100I and 100J.

1437 (d) If the chief of police or the district attorney does not file an objection with the
1438 commissioner within 60 days of receipt of notification as provided in subsection (a) the court
1439 may approve the petition without a hearing. The court shall have the discretion to grant or deny
1440 the petition based on what is in the best interests of justice and shall enter written findings as to
1441 the basis of its order. The court shall deny any petition that does not meet the requirements of
1442 sections 100I and 100J.

1443 (e) The court shall forward an order for expungement pursuant to this section forthwith to
1444 the clerk of the court where the criminal record was created, to the commissioner and to the
1445 commissioner of criminal justice information services appointed pursuant to section 167A of
1446 chapter 6.

1447 Section 100G. (a) A petitioner who has a record of conviction may, on a form furnished
1448 by the commissioner and signed under the penalties of perjury, petition that the commissioner
1449 expunge the record. Upon receipt of a petition, the commissioner shall certify whether the
1450 petitioner is eligible for an expungement under sections 100I and 100J. If the petitioner is not
1451 eligible for an expungement under sections 100I and 100J the commissioner shall, within 60 days
1452 of the request, deny the request in writing. If the petitioner is eligible for an expungement under
1453 sections 100I and 100J the commissioner shall, within 60 days of the petition, notify in writing
1454 the chief of police and the district attorney of the petition and that the petitioner is eligible for an
1455 expungement under sections 100I and 100J. Within 60 days of receipt of notification from the
1456 commissioner of the filing of the petition and that petitioner is eligible for an expungement

1457 pursuant to sections 100I and 100J, the chief of police and the district attorney shall notify the
1458 commissioner in writing of their objections, if any, to the petition for the expungement.

1459 (b) Upon receipt of a response from the chief of police and the district attorney, if any, or
1460 within 65 days of the commissioner's notification to the chief of police and the district attorney
1461 pursuant to subsection (a), whichever occurs first, the commissioner shall forthwith forward the
1462 petition, along with the objections of the chief of police and the district attorney, if any, to the
1463 court wherein the petitioner was convicted.

1464 (c) If the chief of police or the district attorney files an objection with the commissioner
1465 within 60 days of receipt of notification as provided in subsection (a) the court shall, within 21
1466 days of receipt of the petition pursuant to subsection (b), conduct a hearing on the petition. The
1467 court shall have the discretion to grant or deny the petition based on what is in the best interests
1468 of justice and shall enter written findings as to the basis of its order. The court shall deny any
1469 petition that does not meet the requirements of sections 100I and 100J.

1470 (d) If the chief of police or the district attorney does not file an objection with the
1471 commissioner within 60 days of receipt of notification as provided in subsection (a) the court
1472 may approve the petition without a hearing. The court shall have the discretion to grant or deny
1473 the petition based on what is in the best interests of justice and shall enter written findings as to
1474 the basis of its order. The court shall deny any petition that does not meet the requirements of
1475 sections 100I and 100J.

1476 (e) The court shall forward an order for expungement pursuant to this section forthwith to
1477 the clerk of the court where the criminal record was created, to the commissioner and to the

1478 commissioner of criminal justice information services appointed pursuant to section 167A of
1479 chapter 6.

1480 Section 100H. (a) A petitioner who has a record that does not include an adjudication as
1481 a delinquent, an adjudication as a youthful offender or a conviction may, on a form furnished by
1482 the commissioner and signed under the penalties of perjury, petition that the commissioner
1483 expunge the record. Upon receipt of a petition, the commissioner shall certify whether the
1484 petitioner is eligible for an expungement under sections 100I and 100J. If the petitioner is not
1485 eligible for an expungement under sections 100I and 100J the commissioner shall, within 30
1486 days of the request, deny the request in writing. If the petitioner is eligible for an expungement
1487 under sections 100I and 100J the commissioner shall, within 30 days of the request, notify in
1488 writing the chief of police and the district attorney. Within 30 days of receipt of notification from
1489 the commissioner that the petitioner is eligible for an expungement pursuant to sections 100I and
1490 100J, the chief of police or the district attorney shall notify the commissioner in writing of their
1491 objections, if any, to the request for the expungement.

1492 (b) If the chief of police or the district attorney files an objection to the petition with the
1493 commissioner within 30 days of receipt of notification as provided in subsection (a) the court
1494 shall, within 21 days of receipt of the petition pursuant to subsection (b), conduct a hearing on
1495 the petition. The court shall have the discretion to grant or deny the petition based on what is in
1496 the best interests of justice and shall enter written findings as to the basis of its order. The court
1497 shall deny any petition that does not meet the requirements of sections 100I and 100J.

1498 (c) If the chief of police or the district attorney does not file an objection with the
1499 commissioner within 30 days of receipt of notification as provided in subsection (a) the court

1500 may approve the petition without a hearing. The court shall have the discretion to grant or deny
1501 the petition based on what is in the best interests of justice and shall enter written findings as to
1502 the basis of its order. The court shall deny any petition that does not meet the requirements of
1503 sections 100I and 100J.

1504 (d) The court shall forward an order for expungement pursuant to this section forthwith to
1505 the clerk of the court where the criminal record was created, to the commissioner and to the
1506 commissioner of criminal justice information services appointed pursuant to section 167A of
1507 chapter 6.

1508 Section 100I. (a) The commissioner shall certify that a petition filed pursuant to section
1509 100F, section 100G or section 100H is eligible for expungement provided that:

1510 (1) the offense resulting in the record that is the subject of the petition is not a
1511 criminal offense included in section 100J;

1512 (2) the offense that is the subject of the petition to expunge the record occurred before
1513 the petitioner's twenty-first birthday;

1514 (3) the offense that is the subject of the petition to expunge the record, including any
1515 period of incarceration, custody or probation, occurred not less than 10 years before the date on
1516 which the petition was filed;

1517 (4) other than motor vehicle offenses in which the penalty does not exceed a fine of
1518 \$50 and the offense that is the subject of the petition to expunge, the petitioner does not have any
1519 other criminal court appearances, juvenile court appearances or dispositions on file with the
1520 commissioner;

1521 (5) other than motor vehicle offenses in which the penalty does not exceed a fine of
1522 \$50, the petitioner does not have any criminal court appearances, juvenile court appearances or
1523 dispositions on file in any other state, United States possession or in a court of federal
1524 jurisdiction; and

1525 (6) the petition includes a certification by the petitioner that, to the petitioner's
1526 knowledge, the petitioner is not currently the subject of an active criminal investigation by any
1527 criminal justice agency.

1528 Section 100J. (a) No criminal record, which includes a disposition related to the
1529 following offenses, shall be eligible for expungement pursuant to section 100F, section 100G or
1530 section 100H:

- 1531 (1) any offense resulting in death or serious bodily injury;
- 1532 (2) any offense committed with the intent to cause death or serious bodily injury;
- 1533 (3) any offense committed while armed with a dangerous weapon;
- 1534 (4) any offense against an elderly person;
- 1535 (5) any offense against a disabled person;
- 1536 (6) any sex offense as defined in section 178C of chapter 6;
- 1537 (7) any sex offense involving a child as defined in section 178C of chapter 6;
- 1538 (8) any sexually violent offense as defined in section 178C of chapter 6;
- 1539 (9) any offense in violation of section 24 of chapter 90;

- 1540 (10) any sexual offense as defined in section 1 of chapter 123A;
- 1541 (11) any offense in violation of sections 121 to 131Q of chapter 140;
- 1542 (12) any offense in violation of an order issued pursuant to chapter 209A;
- 1543 (13) any offense in violation of an order issued pursuant to chapter 258E;
- 1544 (14) any offense in violation of paragraph (a), (c) or (d) of section 10 of chapter 269;
- 1545 or
- 1546 (15) any offense in violation of section 10E of chapter 269.

1547 Section 100K. (a) Notwithstanding the requirements of section 100I and section 100J, a
1548 court may order the expungement of a record created as a result of criminal court appearance,
1549 juvenile court appearance or dispositions if the court determines that the record was created as a
1550 result of:

- 1551 (1) an offense the outcome of which was “not guilty”, “dismissed for want of
1552 prosecution”, “dismissed at request of complainant”, “nol prossed”, or “no bill”;
- 1553 (2) an offense the disposition of which was a dismissal by the court after a conviction
1554 had been overturned by the appeals court;
- 1555 (3) an offense the disposition of which was a dismissal with prejudice by the court;
- 1556 (4) false identification of the petitioner or the unauthorized use or theft of the
1557 petitioner’s identity;

1558 (5) an offense at the time of the creation of the record which at the time of
1559 expungement is no longer a crime, except in cases where the elements of the original criminal
1560 offense continue to be a crime under a different designation.

1561 (6) demonstrable errors by law enforcement;

1562 (7) demonstrable errors by civilian or expert witnesses;

1563 (8) demonstrable errors by court employees; or

1564 (9) demonstrable fraud perpetrated upon the court.

1565

1566 (b) The court shall have the discretion to order an expungement pursuant to this section
1567 based on what is in the best interests of justice. Prior to entering an order of expungement
1568 pursuant to this section, the court shall hold a hearing if requested by the petitioner or the district
1569 attorney. Upon an order of expungement, the court shall enter written findings of fact.

1570 (c) The court shall forward an order for expungement pursuant to this section forthwith to
1571 the clerk of the court where the record was created, to the commissioner and to the commissioner
1572 of criminal justice information services appointed pursuant to section 167A of chapter 6.

1573 Section 100L. (a) Upon receipt of an order by a court pursuant to section 100F, section
1574 100G, section 100H or section 100K the commissioner, the clerk of court where the record was
1575 created and the commissioner of criminal justice information services appointed pursuant to
1576 section 167A of chapter 6 shall:

1577 (1) expunge the record within the care, custody or control of the office, clerk's office
1578 or department;

1579 (2) order all criminal justice agencies to expunge the record within their care, custody
1580 or control;

1581 (3) order the attorney general to expunge the record within her care, custody or
1582 control;

1583 (4) order the chief of police and the district attorney to expunge the record within
1584 their care, custody or control; and

1585 (5) upon request of the petitioner who is the subject of the order, order any county
1586 agency, municipal agency or state agency identified by said petitioner to expunge any records
1587 within their care, custody or control that pertain to, or would otherwise identify, disclose or
1588 reference the expunged record.

1589 (b) Any criminal justice agencies receiving an order from the commissioner or the
1590 commissioner of criminal justice information services appointed pursuant to section 167A of
1591 chapter 6 pursuant to subsection (a), shall forthwith expunge any records within their care,
1592 custody or control. Upon receipt of the order all criminal justice agencies shall, upon inquiry
1593 from any party, including without limitation, criminal justice agencies, a county agency, a
1594 municipal agency or a state agency, inform said party that no record exists.

1595 (c) Upon receipt of an order from the commissioner or the commissioner of criminal
1596 justice information services appointed pursuant to section 167A of chapter 6 pursuant to
1597 subsection (a), the attorney general shall forthwith expunge any records within her care, custody

1598 or control. Upon receipt of the order the attorney general shall, upon inquiry from any party,
1599 including without limitation, criminal justice agencies, a county agency, a municipal agency or a
1600 state agency, inform said party that no record exists.

1601 (d) Any chief of police or district attorney receiving an order from the commissioner or
1602 the commissioner of criminal justice information services appointed pursuant to section 167A of
1603 chapter 6 pursuant to subsection (a), shall forthwith expunge any records within their care,
1604 custody or control. Upon receipt of the order all chiefs of police and district attorneys shall, upon
1605 inquiry from any party, including without limitation, criminal justice agencies, a county agency,
1606 a municipal agency or a state agency, inform said party that no record exists.

1607 (e) Any county agency, municipal agency or state agency receiving an order from the
1608 commissioner or the commissioner of criminal justice information services appointed pursuant to
1609 section 167A of chapter 6 pursuant to subsection (a), shall forthwith expunge any criminal
1610 records within their care, custody or control. Upon receipt of the order a county agency, a
1611 municipal agency or a state agency shall, upon inquiry from any party, including without
1612 limitation, criminal justice agencies, a county agency, a municipal agency or a state agency,
1613 inform said party that no record exists.

1614 Section 100M. No person whose record was expunged pursuant to section 100F, section
1615 100G, section 100H or section 100K shall be held under any provision of any law to be guilty of
1616 perjury or otherwise giving a false statement by reason of the person's failure to recite or
1617 acknowledge such record, or portion thereof, in response to any inquiry made of him or her for
1618 any purpose.

1619 Section 100N. (a) A record expunged pursuant to section 100F, section 100G, section
1620 100H or section 100K shall not operate to disqualify a person in any examination, appointment
1621 or application for employment with any county agency, municipal agency or state agency nor
1622 shall such expunged records be admissible in evidence or used in any way in any court
1623 proceedings or hearings before any boards or commissions or in determining suitability for the
1624 practice of any trade or profession requiring licensure. No county agency, municipal agency or
1625 state agency shall, directly or indirectly, when determining a person’s eligibility for examination,
1626 appointment or employment with any county agency, municipal agency or state agency require
1627 the disclosure of a criminal record expunged pursuant to section 100F, section 100G, section
1628 100H or section 100K. An applicant for examination, appointment or employment with any
1629 county agency, municipal agency or state agency whose record was expunged pursuant to section
1630 100F, section 100G, section 100H or section 100K may answer ‘no record’ with respect to an
1631 inquiry herein relative to prior arrests, criminal court appearances, juvenile court appearances,
1632 adjudications, or convictions. An applicant for examination, appointment or employment with
1633 any county agency, municipal agency or state agency whose record was expunged pursuant to
1634 section 100F, section 100G, section 100H or section 100K may answer ‘no record’ to an inquiry
1635 herein relative to prior arrests or criminal court appearances.

1636 (b) An application for employment used by any employer which seeks information
1637 concerning prior arrests or convictions of the applicant shall include the following statement:
1638 “An applicant for employment with a record expunged pursuant to section 100F, section 100G,
1639 section 100H or section 100K of chapter 276 of the General Laws may answer ‘no record’ with
1640 respect to an inquiry herein relative to prior arrests, criminal court appearances or convictions.
1641 An applicant for employment with a record expunged pursuant to section 100F, section 100G,

1642 section 100H or section 100K of chapter 276 of the General Laws may answer ‘no record’ to an
1643 inquiry herein relative to prior arrests, criminal court appearances, juvenile court appearances,
1644 adjudications or convictions.

1645 Section 100O. A petition for an expungement, any records related to a petition for an
1646 expungement, records related to judicial proceedings required to hear the petition for an
1647 expungement or an order of expungement pursuant to section 100F, section 100G, section 100H
1648 or section 100K shall not be a public records. Any information obtained by a county, municipal
1649 or state employee acting in their official capacity and related to a petition for or order for an
1650 expungement shall be confidential information. Within 60 days of ordering an expungement
1651 pursuant to section 100F, section 100G, section 100H or section 100K the court and the
1652 commissioner shall expunge all records of the petition, the order and any related proceedings
1653 within their care, custody or control.

1654 Section 100P. The court shall exclude the general public from any judicial proceeding
1655 where the court will be hearing a petition for an expungement admitting only such persons as
1656 may have a direct interest in the case.

1657 Section 100Q. No person shall make records sealed pursuant to section 100A or section
1658 100B or expunged pursuant to section 100F, section 100G, section 100H or section 100K
1659 available for inspection in any form by any person.

1660 Section 100R. It shall be a violation of public policy for a district attorney to make plea
1661 deal contingent on waiving a right to expunge.

1662 Section 100S. In a claim for negligence, an employer or landlord shall be presumed to
1663 have no notice or ability to know of a record that: (i) has been sealed or expunged; (ii) the

1664 employer is prohibited from inquiring about pursuant to subsection 9 of section 4 of chapter
1665 151B; or (iii) concerns crimes that the department of criminal justice information services cannot
1666 lawfully disclose to an employer or landlord.

1667 Section 100T. Upon sealing a record pursuant to section 100A or section 100B or upon
1668 receipt of an order of expungement pursuant to section 100F, section 100G, section 100H or
1669 section 100K the commissioner shall notify the Federal Bureau of Investigation and the United
1670 States Department of Justice of said sealing or expungement and shall request said Federal
1671 Bureau of Investigation and the United States Department of Justice seal or expunge the record.

1672 Section 100U. The court, the office and the department may promulgate regulations for
1673 the administration and enforcement of sections 100E through 100T.

1674 SECTION 88. Section 2 of chapter 276A, as so appearing, is hereby amended by striking
1675 out, in lines 6 and 7, inclusive, the words “who has reached the age of 18 years but has not
1676 reached the age of twenty-two,”.

1677 SECTION 89. The General Laws are hereby amended by inserting after chapter 276A the
1678 following chapter:-

1679 CHAPTER 276B.

1680 RESTORATIVE JUSTICE.

1681 Section 1. As used in this chapter the following words shall, unless the context clearly
1682 requires otherwise, have the following meanings:

1683 “Restorative justice”, a voluntary process whereby the offenders, victims and members of
1684 the community collectively identify and address harms, needs and obligations resulting from an

1685 offense, in order to understand the impact of that offense. An offender shall accept responsibility
1686 for their actions and the program shall support the offender as they make repair to the victim or
1687 community in which the harm occurred.

1688 “Community-based restorative justice program”, a voluntary program established on
1689 restorative justice principles and approved by the restorative justice advisory committee that
1690 engages parties to a crime or members of the community in order to develop a plan of repair that
1691 addresses the needs of the parties and the community. Programs may include the parties to a
1692 case, their supporters, and community members or one-on-one dialogues between a victim and
1693 offender.

1694 Section 2. Participation in a community-based restorative justice program shall be
1695 voluntary and may be available to both a juvenile and adult defendant. A juvenile or adult
1696 defendant may be diverted to a community-based restorative justice program pre-arraignment or
1697 at any stage of a case with the consent of the district attorney and the victim. Restorative justice
1698 may be a final case disposition, with judicial approval. If a juvenile or adult defendant
1699 successfully completes the community-based restorative justice program, the charge shall be
1700 dismissed. If a juvenile or adult defendant does not successfully complete the program or is
1701 found to be in violation of program requirements, the case shall be returned to the court in which
1702 it was arraigned in order to commence with proceedings.

1703 Section 3. A person shall not be eligible to participate in a community-based restorative
1704 justice program if that person is charged with: (i) a sexual offense as defined by section 1 of
1705 chapter 123A; (ii) an offense against a family or household member as defined by section 13M
1706 of chapter 265; or (iii) an offense resulting in serious bodily injury or death.

1707 Section 4. Participation in a community-based restorative justice program shall not be
1708 used as evidence or as an admission of guilt, delinquency or civil liability in current or
1709 subsequent legal proceedings against any participant. Any statement made by a juvenile or adult
1710 defendant during the course of an assignment to a community-based restorative justice program
1711 shall be confidential and shall not be subject to disclosure in any judicial or administrative
1712 proceeding; and no information obtained during the course of such assignment shall be used in
1713 any stage of a criminal investigation or prosecution, or civil or administrative proceeding;
1714 provided, however, that nothing in this section shall preclude any evidence obtained through an
1715 independent source or that would have been inevitably discovered by lawful means from being
1716 admitted at such proceedings.

1717 Section 5. (a) There shall be established a restorative justice advisory committee to
1718 review community-based restorative justice programs. The advisory committee shall consist of
1719 17 members: 1 of whom shall be the secretary of public safety and security, or a designee, who
1720 shall serve as chair; 1 of whom shall be the secretary of health and human services, or a
1721 designee; 1 of whom shall be a member of the house of representatives appointed by the speaker;
1722 1 of whom shall be a member of the senate appointed by the senate president; 1 of whom shall be
1723 the president of the Massachusetts district attorneys association, or a designee; 1 of whom shall
1724 be the chief counsel of the committee for public counsel services, or a designee; 1 of whom shall
1725 be the commissioner of probation, or a designee; 1 of whom shall be the president of the
1726 Massachusetts chiefs of police association, or a designee; 1 of whom shall be the executive
1727 director of the Massachusetts office for victim assistance, or a designee; 1 of whom shall be the
1728 executive director of the Massachusetts sheriff's association, or a designee; and 7 of whom shall
1729 be appointed by the governor, 2 of whom shall be a retired trial court judge and 5 of whom shall

1730 be representatives of community-based restorative justice programs or a member of the public
1731 with expertise in restorative justice. Each member of the advisory committee shall serve a 6-year
1732 term.

1733 (b) The advisory committee may monitor and assist all community-based restorative
1734 justice programs to which a juvenile or adult defendant may be diverted pursuant to this chapter.
1735 The committee shall issue approval of new and existing programs for a term of 2 years, and may
1736 renew approval for additional 2-year terms, subject to revocation for cause. The committee shall
1737 establish criteria to determine approval of a program.

1738 (c) The advisory committee shall track the use of community-based restorative justice
1739 programs through a partnership with an educational institution and may make legislative, policy
1740 and regulatory recommendations to aid in the use of community-based restorative justice
1741 programs, including but not limited to: qualitative and quantitative outcomes for participants;
1742 recidivism rates of responsible parties; criteria for youth involvement and training; cost savings
1743 for the commonwealth; training guidelines for restorative justice facilitators; data on racial
1744 socioeconomic and geographic disparities in the use of community-based restorative justice
1745 programs; guidelines for restorative justice best practices; and appropriate training for
1746 community-based restorative programs.

1747 (d) The advisory committee shall annually submit a report with findings and
1748 recommendations to the governor, the clerks of the house of representatives and senate, and the
1749 joint committees on the judiciary and public safety and homeland security annually, no later than
1750 December 31.

1751 SECTION 90. Section 70C of chapter 277 of the General Laws, as appearing in the 2016
1752 Official Edition, is hereby amended by striking out, in line 8, the words “, chapter 119”.

1753 SECTION 91. Section 1 of chapter 279 of the General Laws, as so appearing, is hereby
1754 amended by adding the following paragraph:-

1755 When a person is sentenced to pay a fine of any amount, or is assessed fines, fees, costs,
1756 civil penalties, or other expenses at disposition of a case, the court shall inform that person that:
1757 (i) nonpayment of the fines, fees, costs, civil penalties or expenses may result in commitment to
1758 a correctional facility; (ii) payment must be made by a date certain; (iii) failure to appear at such
1759 date certain or failure to make the payment may result in the issuance of a default; and (iv) if an
1760 inability to pay exists as the result of a change in financial circumstances or for any other reason,
1761 the person has a right to address the court if the person alleges that such assessed fines, fees,
1762 costs, civil penalties or other expenses would cause a substantial financial hardship to the person,
1763 the person’s immediate family or the person’s dependents.

1764 SECTION 92. The second paragraph of section 6A of chapter 280 of the General Laws,
1765 as so appearing is hereby amended by striking out the second sentence and inserting in place
1766 thereof the following sentence:- The court or justice may waive all or any part of said cost
1767 assessment upon a finding that such payment would cause a substantial financial hardship to the
1768 person, the person’s immediate family or the person’s dependents.

1769 SECTION 93. The first paragraph of section 6B of said chapter 280, as so appearing, is
1770 hereby amended by striking out the fourth sentence and inserting in place thereof the following
1771 sentence:-The court or justice may waive all or any part of said assessment upon a finding that

1772 such payment would cause a substantial financial hardship to the person, the person's immediate
1773 family or the person's dependents.

1774 SECTION 94. The first paragraph of section 368 of chapter 26 of the acts of 2003 is
1775 hereby amended by striking out the fourth and fifth sentences and inserting in place thereof the
1776 following 2 sentences:- The parole board shall waive payment of said parole fee for the first 6
1777 months of parole if it determines that such payment would constitute a substantial financial
1778 hardship to said person or the person's immediate family or the person's dependents. Any such
1779 waiver so granted shall continue to be in effect during the period of time that said person is
1780 determined to be unable to pay the monthly parole fee.

1781 SECTION 95. The second paragraph of said section 368 of said chapter 26 is hereby
1782 amended by striking out the third and fourth sentences and inserting in place thereof the
1783 following 2 sentences:- The parole board shall waive payment of said surcharge for the first 6
1784 months of parole if it determines that such payment would constitute a substantial financial
1785 hardship to said person or the person's immediate family or the person's dependents. Any such
1786 waiver so granted shall continue to be in effect during the period of time that said person is
1787 determined to be unable to pay the monthly parolee victim services surcharge.

1788 SECTION 96. Notwithstanding any special or general law to the contrary, there shall be a
1789 special commission established to conduct a study on the ability of a defendant to pay fines and
1790 fees. The commission shall consist of: commissioner of the department of probation, or designee;
1791 commissioner of the department of revenue, or designee; 1 member of the house of
1792 representatives to be appointed by the speaker of the house; 1 member of the senate to be
1793 appointed by the senate president; 1 member to be appointed by the parole board; 1 member to

1794 be appointed by the committee for public counsel services; and 1 member to be appointed by the
1795 executive director of the American Civil Liberties Union of Massachusetts, Inc.

1796 That study shall include, but not be limited to:

1797 (a) the establishment of a uniform definition and standards for evaluating indigency;

1798 (b) the establishment of a uniform definition and standards for evaluating a
1799 substantial financial hardship; and

1800 (c) the feasibility of enabling the department of probation and the parole board to
1801 access department of revenue records for the purposes of ascertaining whether a defendant is
1802 indigent or would suffer a substantial financial hardship if ordered to pay fines or fees.

1803 The department shall file the findings of its study by December 31, 2018, with the clerks
1804 of the house and the senate, who shall forward the report to the chairmen of the house committee
1805 on ways and means, the senate committee on ways and means, and the joint committee on the
1806 judiciary.

1807 SECTION 97. Notwithstanding any special or general law to the contrary, there shall be a
1808 special commission established to investigate and study the operation and management of the
1809 Massachusetts state police crime laboratory. The commission shall consist 11 members: 1 of
1810 whom shall be the secretary of public safety and security or the secretary's designee; 1 of whom
1811 shall be the secretary of health and human services or the secretary's designee; 1 of whom shall
1812 be a member of the house of representatives appointed by the speaker of the house; 1 of whom
1813 shall be a member of the senate appointed by the senate president; 1 of whom shall be a member
1814 appointed by the Massachusetts district attorney association; 1 of whom shall be a member

1815 appointed by the committee for public counsel services; 1 of whom shall be a member e
1816 appointed by the Massachusetts bar association; 1 person appointed by the governor who shall be
1817 a member of the public with expertise in scientific research on or technological development in
1818 testing capabilities of substances; 1 person appointed by the speaker of the house who shall be a
1819 member of the public with expertise in scientific research on, or technological development in,
1820 testing capabilities of substances; 1 person appointed by the senate president who shall be a
1821 member of the public with expertise in scientific research on or technological development in
1822 testing capabilities of substances; and 1 person appointed by the attorney general who shall be a
1823 member of the public with expertise in social welfare or social justice.

1824 The investigation shall include, but not be limited to:

1825 (a) evaluating the capabilities of the crime laboratory and its ability to process
1826 evidence necessary to comply with the Massachusetts general laws;

1827 (b) establishing professional qualifications necessary to serve as the head of the crime
1828 laboratory;

1829 (c) determining the proper entity to oversee the crime laboratory and whether it
1830 would be appropriate to transfer such oversight to another executive agency or to an independent
1831 executive director;

1832 (d) the feasibility of creating a board to select an independent executive director of
1833 the crime laboratory;

1834 (e) setting term limits and reappointment standards applicable to the head of the
1835 crime laboratory.

1836 The commission shall file the findings of its study by December 31, 2018, with the clerks
1837 of the house and the senate, who shall forward the report to the chairmen of the house committee
1838 on ways and means, the senate committee on ways and means, and the joint committee on the
1839 judiciary.

1840 SECTION 98. All appointments to the advisory committee established pursuant to
1841 section 5 of chapter 276B of the General Laws shall be made not later than October 1, 2018 and
1842 the first meeting of the advisory committee shall be held not later than December 1, 2018.

1843 SECTION 99. All appointments to the juvenile justice policy and data commission
1844 established pursuant to section 86 of chapter 119 of the General Laws shall be made not less than
1845 90 days after the enactment of this legislation.

1846 SECTION 100. All reports established pursuant to subsection (e) of section 41 of chapter
1847 127 of the General Laws shall be filed beginning July 1, 2019.

1848 SECTION 101. Notwithstanding any general or special law to the contrary, any person
1849 who has failed to provide a DNA sample as required by section 3 of the chapter 22E of the
1850 General Laws shall not be subject to section 11 of said chapter 22E; provided said person
1851 provides the required DNA sample within 6 months of the effective date of this act.

1852 SECTION 102. Section 7 shall take effect 6 months after the effective date of this act.

1853 SECTION 103. Sections 13, 14, 15, 16 and 20 shall apply to convictions occurring on or
1854 after the effective date of this act.

1855 SECTION 104. Section 87 shall take effect 6 months after the effective date of this act.

1856 SECTION 105. Section 101 of this act is hereby repealed.

1857 SECTION 106. Section 105 of this act shall take effect 6 months after the effective date
1858 of this act.