

**HOUSE . . . . . No. 4043**

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Text of an amendment, as recommended by the House committee on Ways and Means, as changed by the House committee on Bills in the Third Reading, and as adopted by the House, to the Senate Bill relative to criminal justice reform (Senate, No. 2200). November 13 and 14, 2017.

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The Commonwealth of Massachusetts

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In the One Hundred and Ninetieth General Court  
(2017-2018)  
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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 appointed pursuant to section 63 of  
17 chapter 22C.

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

32 SECTION 2A. Section 167 of chapter 6 of the General Laws, as appearing in the 2016  
33 Official Edition, is hereby amended by inserting in line 5, after the word “conviction,” the  
34 following words:- including a finding of guilty or not guilty by reason of insanity,.

35 SECTION 2B. Section 18 <sup>3</sup>/<sub>4</sub> of chapter 6A of the General Laws, as appearing in the 2016  
36 Official Edition, is hereby amended by adding the following 4 paragraphs:-

37 (11) (i) to establish data collection and reporting standards for criminal justice agencies  
38 and the trial court to enable the submission of data by the department of correction, houses of  
39 correction and county jails to capture and report information on their populations, including  
40 recording all applicable charges and convictions. The secretary shall require that the department,  
41 houses of correction and county jails promulgate regulations regarding: (i) the format for the  
42 submission of the data and (ii) the categories and types of data required to be submitted,  
43 including, but not limited to: (A) the unique statewide identification number assigned to each  
44 person who enters the criminal justice system known as the probation central file number, (B) the  
45 offense for which the person has been incarcerated; (C) the date and time of the offense, (D) the  
46 location of the offense, (E) the race, ethnicity, gender, age of the person, whether the person is a  
47 primary caretaker of a child and the status of the person's reproductive health needs; (F) risk and  
48 needs assessment scores; (G) participation and completion of evidence-based programs; and (H)  
49 dates entering and exiting the jail or the date entering the department or house of correction  
50 custody, wrap-up release date and actual release date.

51 (ii) the data collected pursuant to clause (i) shall be in the form of a cross-tracking system  
52 for data collection and reporting standards for criminal justice agencies and the trial court,  
53 including houses of correction and county jails. The cross-tracking system shall require all  
54 criminal justice agencies and the judiciary to use the probation central file number assigned to  
55 each person who enters the criminal justice system. All criminal justice agencies and the trial  
56 court shall incorporate the probation central file number into their data systems upon a person's  
57 initial transfer to their jurisdiction. Anonymized cross-agency data shall be made available to the

58 public for analysis through an application programming interface which allows access to all  
59 electronically available records.

60 (12) to establish data collection and reporting standards for criminal justice agencies and  
61 the trial court relative to recidivism rates for arraignment, reconviction and reincarceration.  
62 Recidivism rates, determined by the data collected, shall be reported annually to the secretary.  
63 The data shall be submitted by each criminal justice agency and the judiciary to the secretary  
64 who shall subsequently publish the information quarterly on the executive office of public safety  
65 and security website. Reported data shall be tracked over 1, 2 and 3 year periods and include  
66 categorizations by race, ethnicity, gender and age.

67 (13) to establish data collection and reporting standards for criminal justice agencies and  
68 the trial court to standardize methods of reporting of race and ethnicity data to facilitate  
69 assessment of the racial and ethnic composition of the criminal justice population of the  
70 commonwealth. The criminal justice agencies and the trial court, including houses of correction  
71 and county jails, shall coordinate to ensure that racial and ethnic data related to populations,  
72 trends and outcomes is reported accurately to the secretary of the executive office of public  
73 safety and security and the public.

74 (14) The data collection and reporting standards established in paragraphs 11, 12 and 13  
75 shall be developed in consultation with the executive office of technology services and security.

76 SECTION 2C. Chapter 7D of the General Laws, as appearing in the 2016 Official  
77 Edition, is amended by adding the following section:-

78 Section 11. There shall be an inter-branch, interagency oversight board to monitor and  
79 ensure that the justice reinvestment policies relative to data collection and its availability to the

80 public achieve anticipated goals. The board shall consist of 16 members: the secretary of the  
81 executive office of technology services and security, who shall serve as chairperson; the attorney  
82 general or a designee; the chief justice of the trial court or a designee; the secretary of the  
83 executive office of public safety and security or a designee; the commissioner of probation or a  
84 designee, the chief counsel of the committee for public counsel services or a designee; the  
85 commissioner of correction or a designee; a member of the Massachusetts District Attorneys  
86 Association; a member of the Massachusetts Sheriffs Association, Inc.; the senate chair of the  
87 joint committee on the judiciary or a designee; the house chair of the joint committee on the  
88 judiciary or a designee; the chief legal counsel of the Massachusetts Bar Association or a  
89 designee; the executive director of the American Civil Liberties Union of Massachusetts, Inc. or  
90 a designee; and 3 members appointed by the governor: 1 of whom shall be an expert in  
91 addressing racial, ethnic, gender or age bias and 2 of whom shall be experts in data collection  
92 and analysis.

93         The board shall meet quarterly to review the compliance of : (i) criminal justice agencies  
94 and the trial court, including the probation service, the parole board, the executive office of  
95 public safety and security, the department of correction, houses of correction and county jails in:  
96 (1) collecting and submitting data required by paragraphs 11, 12 and 13 of section 18¾ of  
97 chapter 6A; (2) making said data available to the public as required by said paragraphs 11, 12  
98 and 13 of said section 18¾ through the development of data portals to make data without  
99 personally identifiable information so available; and (ii) criminal justice agencies and the trial  
100 court, including the department of correction, houses of correction and county jails, with polices  
101 ensuring risk assessment accurately predict outcomes across racial, ethnic, and gender  
102 classifications; provided, that compliance shall include a review of whether the tools are

103 appropriately screening for gender-specific risk or needs that may be addressed by evidence-  
104 based programs. A report on the collection of data and the compliance with justice reinvestment  
105 policies shall be submitted annually to the clerks of the house of representatives and the senate  
106 on or before July 1.

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

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

117 SECTION 3A. Section 66A of Chapter 10 of the General Laws, as appearing in the 2016  
118 Official Edition, is hereby amended by inserting after the words “chapter 265”, in line 6, the  
119 following words:- and section 107 of chapter 272.

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

122 Section 34. (a) The district attorneys shall, within their respective districts, establish a  
123 pre-arraignment diversion program which may be used to divert a veteran or person who is in  
124 active service in the armed forces, a person with a substance use disorder or a person with mental

125 illness if such veteran or person is charged with an offense or offenses against the  
126 commonwealth.

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

129 Section 14. The office shall convene a childhood trauma task force made up of members  
130 of the juvenile justice policy and data commission established pursuant to section 86 of chapter  
131 119 to study, report and make recommendations on gender responsive and trauma-informed  
132 approaches to treatment services for juveniles and youthful offenders in the juvenile justice  
133 system. Said task force shall review the current means of (i) identifying school-aged children  
134 who have experienced trauma, particularly undiagnosed trauma, and (ii) providing services to  
135 help child recover from the psychological damage caused by such exposure to violence, crime or  
136 maltreatment. The task force shall consider the feasibility of providing school-based trainings on  
137 early, trauma-focused interventions, trauma-informed screenings and assessments, and the  
138 recognition of reactions to victimization, as well as the necessity for diagnostic tools. A priority  
139 shall be placed on juvenile or youthful offender's pathways into the juvenile justice system with  
140 the goal of reducing the likelihood of recidivism by addressing the unique issues associated with  
141 juvenile or youthful offenders including emotional abuse, physical abuse, sexual abuse,  
142 emotional neglect, physical neglect, family violence, household substance abuse, household  
143 mental illness, parental absence, and household member incarceration.

144 The childhood trauma task force shall annually report its findings and recommendations  
145 by December 31 of each year to the governor, the house and senate chairs of the joint committee

146 on the judiciary, the house and senate chairs of the joint committee on public safety and  
147 homeland security and the chief justice of the trial court.

148 SECTION 6. Chapter 22E of the General Laws is hereby amended by striking out section  
149 3, as appearing in the 2016 Official Edition, and inserting in place thereof of the following  
150 section:-

151 Section 3. (a) Any person who is convicted of an offense that is punishable by  
152 imprisonment in the state prison and any person adjudicated a youthful offender by reason of an  
153 offense that would be punishable by imprisonment in the state prison if committed by an adult  
154 shall submit a DNA sample to the department within 1 year of such conviction or adjudication  
155 or, if incarcerated, the DNA sample shall be collected upon intake or return to the correctional  
156 facility to which the inmate has been sentenced, or as a condition of probation for any sentence  
157 which does not include incarceration at a correctional facility. No person required to submit a  
158 DNA sample pursuant to this section shall be released from a correctional facility until a DNA  
159 sample has been collected.

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161 (b) The trial court, the commissioner of probation and the department shall  
162 establish and implement a system for the electronic notification to the department whenever a  
163 person is convicted of an offense that requires the submission of a DNA sample under subsection  
164 (a). The sample shall be collected by a person authorized under section 4, in accordance with  
165 regulations or procedures established by the director. The results of such sample shall become  
166 part of the state DNA database. The submission of such DNA sample shall not be stayed pending



167 a sentence appeal, motion for new trial, appeal to an appellate court or other post conviction  
168 motion or petition.

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

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

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

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

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

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

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

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

202 If the defendant has been previously convicted or assigned to an alcohol or controlled  
203 substance education, treatment or rehabilitation program by a court of the commonwealth or any  
204 other jurisdiction because of a like offense 4 times preceding the date of the commission of the  
205 offense for which the defendant has been convicted, the defendant shall be punished by a fine of  
206 not less than \$2,000 nor more than \$50,000 and by imprisonment for not less than 2 and one-half  
207 years or by a fine of not less than \$2,000 nor more than \$50,000 and by imprisonment in the state  
208 prison for not less than 2 and one-half years nor more than 5 years; provided, however, that the

209 sentence imposed upon such person shall not be reduced to less than 24 months, nor suspended,  
210 nor shall any such person be eligible for probation, parole, or furlough or receive any deduction  
211 from his or her sentence for good conduct until he or she shall have served 24 months of such  
212 sentence; provided, further, that the commissioner of correction may, on the recommendation of  
213 the warden, superintendent, or other person in charge of a correctional institution, or the  
214 administrator of a county correctional institution, grant to an offender committed under this  
215 subdivision a temporary release in the custody of an officer of such institution for the following  
216 purposes only: to attend the funeral of a relative; to visit a critically ill relative; to obtain  
217 emergency medical or psychiatric services unavailable at said institution; to engage in  
218 employment pursuant to a work release program; or for the purposes of an aftercare program  
219 designed to support the recovery of an offender who has completed an alcohol or controlled  
220 substance education, treatment or rehabilitation program operated by the department of  
221 correction; and provided, further, that the defendant may serve all or part of such 24 months  
222 sentence, to the extent that resources are available, in a correctional facility specifically  
223 designated by the department of correction for the incarceration and rehabilitation of drinking  
224 drivers.

225         If the defendant has been previously convicted or assigned to an alcohol or controlled  
226 substance education, treatment or rehabilitation program by a court of the commonwealth or any  
227 other jurisdiction because of a like offense 5 times preceding the date of the commission of the  
228 offense for which the defendant has been convicted, the defendant shall be punished by a fine of  
229 not less than \$2,000 nor more than \$50,000 and by imprisonment for not less than 2 and one-half  
230 years or by a fine of not less than \$2,000 nor more than \$50,000 and by imprisonment in the state  
231 prison for not less than 2 and one-half years nor more than 5 years; provided, however, that the

232 sentence imposed upon such person shall not be reduced to less than 24 months, nor suspended,  
233 nor shall any such person be eligible for probation, parole, or furlough or receive any deduction  
234 from his or her sentence for good conduct until he or she shall have served 24 months of such  
235 sentence; provided, further, that the commissioner of correction may, on the recommendation of  
236 the warden, superintendent, or other person in charge of a correctional institution, or the  
237 administrator of a county correctional institution, grant to an offender committed under this  
238 subdivision a temporary release in the custody of an officer of such institution for the following  
239 purposes only: to attend the funeral of a relative; to visit a critically ill relative; to obtain  
240 emergency medical or psychiatric services unavailable at said institution; to engage in  
241 employment pursuant to a work release program; or for the purposes of an aftercare program  
242 designed to support the recovery of an offender who has completed an alcohol or controlled  
243 substance education, treatment or rehabilitation program operated by the department of  
244 correction; and provided, further, that the defendant may serve all or part of such 24 months  
245 sentence, to the extent that resources are available, in a correctional facility specifically  
246 designated by the department of correction for the incarceration and rehabilitation of drinking  
247 drivers.

248         If the defendant has been previously convicted or assigned to an alcohol or controlled  
249 substance education, treatment or rehabilitation program by a court of the commonwealth or any  
250 other jurisdiction because of a like offense 6 times preceding the date of the commission of the  
251 offense for which defendant has been convicted, the defendant shall be punished by a fine of not  
252 less than \$2,000 nor more than \$50,000 and by imprisonment in the state prison for not less than  
253 3 and one-half years nor more than 8 years; provided, however, that the sentence imposed upon  
254 such person shall not be reduced to less than 36 months, nor suspended, nor shall any such

255 person be eligible for probation, parole, or furlough or receive any deduction from his or her  
256 sentence for good conduct until he or she shall have served 36 months of such sentence;  
257 provided, further, that the commissioner of correction may, on the recommendation of the  
258 warden, superintendent, or other person in charge of a correctional institution, or the  
259 administrator of a county correctional institution, grant to an offender committed under this  
260 subdivision a temporary release in the custody of an officer of such institution for the following  
261 purposes only: to attend the funeral of a relative; to visit a critically ill relative; to obtain  
262 emergency medical or psychiatric services unavailable at said institution; to engage in  
263 employment pursuant to a work release program; or for the purposes of an aftercare program  
264 designed to support the recovery of an offender who has completed an alcohol or controlled  
265 substance education, treatment or rehabilitation program operated by the department of  
266 correction; and provided, further, that the defendant may serve all or part of such 36 months  
267 sentence, to the extent that resources are available, in a correctional facility specifically  
268 designated by the department of correction for the incarceration and rehabilitation of drinking  
269 drivers.

270           If the defendant has been previously convicted or assigned to an alcohol or controlled  
271 substance education, treatment or rehabilitation program by a court of the commonwealth or any  
272 other jurisdiction because of a like offense 7 times preceding the date of the commission of the  
273 offense for which the defendant has been convicted, the defendant shall be punished by a fine of  
274 not less than \$2,000 nor more than \$50,000 and by imprisonment in the state prison for not less  
275 than 3 and one-half years nor more than 8 years; provided, however, that the sentence imposed  
276 upon such person shall not be reduced to less than 36 months, nor suspended, nor shall any such  
277 person be eligible for probation, parole, or furlough or receive any deduction from his or her

278 sentence for good conduct until he or she shall have served 36 months of such sentence;  
279 provided, further, that the commissioner of correction may, on the recommendation of the  
280 warden, superintendent, or other person in charge of a correctional institution, or the  
281 administrator of a county correctional institution, grant to an offender committed under this  
282 subdivision a temporary release in the custody of an officer of such institution for the following  
283 purposes only: to attend the funeral of a relative; to visit a critically ill relative; to obtain  
284 emergency medical or psychiatric services unavailable at said institution; to engage in  
285 employment pursuant to a work release program; or for the purposes of an aftercare program  
286 designed to support the recovery of an offender who has completed an alcohol or controlled  
287 substance education, treatment or rehabilitation program operated by the department of  
288 correction; and provided, further, that the defendant may serve all or part of such 36 months  
289 sentence, to the extent that resources are available, in a correctional facility specifically  
290 designated by the department of correction for the incarceration and rehabilitation of drinking  
291 drivers.

292           If the defendant has been previously convicted or assigned to an alcohol or controlled  
293 substance education, treatment or rehabilitation program by a court of the commonwealth or any  
294 other jurisdiction because of a like offense 8 or more times preceding the date of the commission  
295 of the offense for which the defendant has been convicted, the defendant shall be punished by a  
296 fine of not less than \$2,000 nor more than \$50,000 and by imprisonment in the state prison for  
297 not less than 4 and one-half years nor more than 10 years; provided, however, that the sentence  
298 imposed upon such person shall not be reduced to less than 48 months, nor suspended, nor shall  
299 any such person be eligible for probation, parole, or furlough or receive any deduction from his  
300 or her sentence for good conduct until he or she shall have served 48 months of such sentence;

301 provided, further, that the commissioner of correction may, on the recommendation of the  
302 warden, superintendent, or other person in charge of a correctional institution, or the  
303 administrator of a county correctional institution, grant to an offender committed under this  
304 subdivision a temporary release in the custody of an officer of such institution for the following  
305 purposes only: to attend the funeral of a relative; to visit a critically ill relative; to obtain  
306 emergency medical or psychiatric services unavailable at said institution; to engage in  
307 employment pursuant to a work release program; or for the purposes of an aftercare program  
308 designed to support the recovery of an offender who has completed an alcohol or controlled  
309 substance education, treatment or rehabilitation program operated by the department of  
310 correction; and provided, further, that the defendant may serve all or part of such 48 months  
311 sentence, to the extent that resources are available, in a correctional facility specifically  
312 designated by the department of correction for the incarceration and rehabilitation of drinking  
313 drivers.

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

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

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

327 (3) Ketamine

328 (4) Carfentanil

329 (5) Fentanyl

330 (6) Acetyl fentanyl

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

334 (1) Alphaprodine

335 (2) Anileridine

336 (3) Bezitramide

337 (4) Dihydrocodeine

338 (5) Diphenoxylate

339 (6) Isomethadone

340 (7) Levomethorphan

341 (8) Levorphanol



- 342 (9) Metazocine
- 343 (10) Methadone
- 344 (11) Methadone-Intermediate, 4-cyano-2-dimethylamino-4, 4-diphenyl butane
- 345 (12) Moramide-Intermediate, 2-methyl-3 morpholine-1, 1-diphenyl-propane carboxylic  
346 acid
- 347 (13) Pethidine
- 348 (14) Pethidine-Intermediate-A, 4-cyano-1-methyl-4-phenylpiperidine
- 349 (15) Pethidine-Intermediate-B, ethyl-4-phenylpiperidine-4-carboxylate
- 350 (16) Pethidine-Intermediate-C, 1-methyl-4-phenylpiperidine-4-carboxylic acid
- 351 (17) Phenazocine
- 352 (18) Piminodine
- 353 (19) Racemethorphan
- 354 (20) Racemorphan

355 SECTION 15. Said chapter 94C is hereby further amended by striking out sections 32A  
356 and 32B, as so appearing, and inserting in place thereof the following 2 sections:-

357 Section 32A. (a) Any person who knowingly or intentionally manufactures, distributes,  
358 dispenses, or possesses with intent to manufacture, distribute or dispense a controlled substance  
359 in Class B of section 31 shall be punished by imprisonment in the state prison for not more than

360 10 years, or in a jail or house of correction for not more than two and one-half years, or by a fine  
361 of not less than \$1,000 nor more than \$10,000, or both such fine and imprisonment.

362 (b) Any person convicted of violating this section after 1 or more prior convictions of  
363 manufacturing, distributing, dispensing, or possessing with the intent to manufacture, distribute  
364 or dispense a controlled substance as defined by section 31 under this or any other prior law of  
365 this jurisdiction or of any offense of any other jurisdiction, federal, state, or territorial, which is  
366 the same as or necessarily includes the elements of said offense shall be punished by a term of  
367 imprisonment in the state prison for not more than 10 years, by a term of imprisonment in the  
368 state prison for not more than 10 years and by a fine of not less than \$2,500 and not more than  
369 \$25,000, or by a fine of not more than \$25,000.

370 (c) Any person who knowingly or intentionally manufactures, distributes, dispenses or  
371 possesses with intent to manufacture, distribute or dispense phencyclidine or a controlled  
372 substance defined in clause (4) of paragraph (a) or in clause (2) of paragraph (c) of Class B of  
373 section 31 shall be punished by a term of imprisonment in the state prison for not more than 10  
374 years, a term of imprisonment in the state prison for not more than 10 years and a fine of not less  
375 than \$1,000 and not more than \$10,000, by imprisonment in a jail or house of correction for not  
376 more than two and one-half years, by imprisonment in a jail or house of correction for not more  
377 than two and one-half years and a fine of not less than \$1,000 and not more than \$10,000, or by a  
378 fine of not more than \$10,000.

379 (d) Any person convicted of violating the provisions of subsection (c) after 1 or more  
380 prior convictions of manufacturing, distributing, dispensing or possessing with the intent to  
381 manufacture, distribute, or dispense a controlled substance, as defined in section 31 or of any

382 offense of any other jurisdiction, either federal, state or territorial, which is the same as or  
383 necessarily includes, the elements of said offense, shall be punished by a term of imprisonment  
384 in the state prison for not more than 15 years, a term of imprisonment in the state prison for not  
385 more than 15 years and a fine of not less than \$2,500 nor more than \$25,000 or a fine of not  
386 more than \$25,000.

387           Section 32B (a) Any person who knowingly or intentionally manufactures, distributes,  
388 dispenses, or possesses with intent to manufacture, distribute, or dispense a controlled substance  
389 in Class C of section 31 shall be imprisoned in state prison for not more than 5 years or in a jail  
390 or house of correction for not more than two and one-half years, or by a fine of not less than  
391 \$500 nor more than \$5,000, or both such fine and imprisonment.

392           (b) Any person convicted of violating this section after 1 or more prior convictions of  
393 manufacturing, distributing, dispensing or possessing with the intent to manufacture, distribute or  
394 dispense a controlled substance as defined by section 31 under this or any prior law of this  
395 jurisdiction or of any offense of any other jurisdiction, federal, state, or territorial, which is the  
396 same as or necessarily includes the elements of said offense shall be punished by a term of  
397 imprisonment in the state prison for not more than 10 years, a term of imprisonment in the state  
398 prison for not more than 10 years and a fine of not less than \$1,000 nor more than \$10,000, a  
399 term of imprisonment in a jail or house of correction for not more than two and one-half years, a  
400 term of imprisonment in a jail or house of correction for not more than two and one-half years  
401 and a fine of not less than \$1,000 nor more than \$10,000, or and a fine of not more than \$10,000.

402           SECTION 16. Section 32C of said chapter 94C, as so appearing, is hereby amended by  
403 striking out, in lines 15 and 16, the words “less than one nor”.

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

407 SECTION 18. Said section 32E of said chapter 94C, as so appearing, is hereby further  
408 amended by striking out subsection (c<sup>1/2</sup>) and inserting in place thereof the following subsection:-

409 (c<sup>1/2</sup>) Any person who trafficks in fentanyl or any derivative of fentanyl by knowingly or  
410 intentionally manufacturing, distributing, dispensing or possessing with intent to manufacture,  
411 distribute, or dispense or by bringing into the commonwealth a net weight of 10 grams or more  
412 of fentanyl or any derivative of fentanyl, or a net weight of 10 grams or more of any mixture  
413 containing fentanyl or any derivative of fentanyl, shall be punished by a term of imprisonment in  
414 state prison for not less than 3 and one-half nor more than 20 years. No sentence imposed under  
415 the provisions of this subsection shall be for less than a mandatory minimum term of  
416 imprisonment of 3 and one-half years.

417 SECTION 19. Said section 32E of said chapter 94C, as so appearing, is hereby further  
418 amended by inserting after subsection (c<sup>1/2</sup>) the following subsection:-

419 (c<sup>3/4</sup>) Any person who trafficks in carfentanil, including without limitation, any  
420 derivative of carfentanil and any mixture containing carfentanil or a derivative of carfentanil, by  
421 knowingly or intentionally manufacturing, distributing, dispensing or possessing with intent to  
422 manufacture, distribute or dispense or by bringing into the commonwealth carfentanil shall be  
423 punished by a term of imprisonment in state prison for not less than 3 and one-half nor more than  
424 20 years. No sentence imposed under the provisions of this subsection shall be for less than a  
425 mandatory minimum term of imprisonment of 3 and one-half years.

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

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

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

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

435 “Delinquent child”, a child between 10 and 18 years of age who commits any offense  
436 against a law of the commonwealth; provided however, that such offense shall not include a civil  
437 infraction, a violation of any municipal ordinance or town by-law, or a first offense of a  
438 misdemeanor, except for offenses in subsection (a) of section 53 of chapter 272 for which the  
439 punishment is a fine, imprisonment in a jail or house of correction for not more than 6 months, or  
440 both such fine and imprisonment.

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

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

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

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

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

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

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

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

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

460 “Contact”, any action or decision by criminal justice agencies or by any other official of  
461 the commonwealth or private service provider under contract or other agreement with the  
462 commonwealth, involving a juvenile at any stage of the juvenile justice system which causes  
463 such juvenile to enter or exit the juvenile justice system or which will change the custodial  
464 status, liberty, case processing, or status of the juvenile within the juvenile justice system.

465 “Criminal justice agencies”, those agencies at all levels of government which perform as  
466 their principal function, activities relating to: (a) crime prevention, including research or the  
467 sponsorship of research; (b) the apprehension, prosecution, adjudication, incarceration, or

468 rehabilitation of criminal offenders; or (c) the collection, storage, dissemination or usage of  
469 criminal offender record information.

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

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

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

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

480 (b) The office shall create and annually update an instrument to record aggregate  
481 statistical data for every contact a juvenile has with criminal justice agencies, any contractor,  
482 vendor or service-provider working with said agencies, and any alternative lock-up programs.  
483 The data to be recorded on the instrument shall include, without limitation, age, gender, racial or  
484 ethnic category, and type of crime. The child advocate shall give due regard to the census of  
485 juveniles in the commonwealth when setting forth the gender, racial or ethnic categories in the  
486 instrument. The child advocate shall provide guidance about the manner in which the gender,  
487 racial or ethnic information is designated and collected, with consideration of the juveniles’ self-  
488 reporting of such categories. The office shall provide the instrument to all offices and

489 departments subject to this section and all such offices and departments shall use this instrument  
490 to record contacts.

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

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

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

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

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



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

512 (h) Criminal justice agencies shall annually submit the data required by this section to the  
513 office no later than March 31 for the preceding calendar year. The child advocate shall annually  
514 file a report which shall include, without limitation, an analysis of the data to the house and  
515 senate chairs of the joint committee on the judiciary, the house and senate chairs of the joint  
516 committee on public safety and homeland security, the secretary of public safety and security  
517 and the chief justice of the trial court no later than July 1.

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

523 The commission shall consist of 21 members, 1 of whom shall be a member of the house  
524 of representatives appointed by the speaker of the house of representatives, 1 member of the  
525 house of representatives to be appointed by the minority leader of the house; 1 of whom shall be  
526 a member of the senate appointed by the president of the senate; 1 member of the senate to be  
527 appointed by the senate minority leader; 1 of whom shall be the child advocate; 1 of whom shall  
528 be the chief justice of the juvenile court, or a designee; 1 of whom shall be the commissioner of  
529 probation, or a designee; 1 of whom shall be the commissioner of youth services, or a designee;  
530 1 of whom shall be the commissioner of children and families, or a designee; 1 of whom shall be  
531 the commissioner of mental health, or a designee; 1 of whom shall be the commissioner of public

532 health, or a designee; 1 of whom shall be the secretary of education, or a designee; 1 of whom  
533 shall be the chief counsel of the committee for public counsel services, or a designee; 1 of whom  
534 shall be the president of the Massachusetts District Attorneys Association, or a designee; 1 of  
535 whom shall be the chair of the Massachusetts juvenile justice advisory committee, or a designee;  
536 and 6 of whom shall be appointed by the governor, provided that: 1 of whom shall be from a list  
537 provided by Citizens for Juvenile Justice, Inc.; 1 of whom shall be from a list provided by the  
538 Children’s League of Massachusetts, Inc.; 1 of whom shall be from a list provided by the  
539 Massachusetts Chiefs of Police Association Incorporated; 2 of whom shall be parents whose  
540 children have been subject to juvenile court jurisdiction; and 1 of whom shall have experience or  
541 expertise related to the design and implementation of state administrative data systems.

542 Members of the commission shall serve without compensation. The child advocate shall serve as  
543 chair of the commission.

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

547 (1) any statutory changes concerning the juvenile justice system that the commission  
548 recommends to: (i) improve public safety, (ii) promote the best interests of children and young  
549 adults who are under the jurisdiction, supervision, care or custody of the juvenile court, the  
550 commissioner of youth services or the commissioner of children and families; (iii) improve  
551 transparency and accountability with respect to state-funded services for children and young  
552 adults in the juvenile justice system with an emphasis on goals identified by the committee for  
553 community-based programs and facility-based interventions; (iv) promote the efficient sharing of  
554 information between the executive branch and the judicial branch to ensure the regular collection

555 and reporting of recidivism data; and (v) promote public welfare and public safety outcomes  
556 related to the juvenile justice system;

557 (2) an analysis of the capacities and limitations of the data systems and networks used to  
558 collect and report state and local juvenile caseload and outcome data. The analysis shall include,  
559 without limitation, the following: (i) a review of the relevant data systems, studies and models  
560 from the commonwealth and other states; (ii) identification of changes or upgrades to current  
561 data collection processes to remove inefficiencies, track and monitor state agency and court-  
562 involved juveniles and facilitate the coordination of information sharing between relevant  
563 agencies and the courts, including without limitation, data that is required to be reported under  
564 federal law or for purposes of securing federal funding; (iii) the identification and evaluation of  
565 any gender, racial and ethnic disparities within the juvenile justice system and recommendations  
566 regarding ways to reduce such disparities; (iv) recommendations for the creation of a web-based  
567 statewide information center to make relevant juvenile justice information on operations,  
568 caseloads, dispositions and outcomes available in a user-friendly, query-based format for  
569 stakeholders and members of the public, including a feasibility assessment of implementing such  
570 system; (v) a plan for improving the current juvenile justice reporting requirements, including  
571 streamlining and consolidating current requirements without impacting data collection and  
572 including a detailed analysis of the information technology and other resources necessary to  
573 implement improved data collection; and (vi) any other matters which the commission  
574 determines may improve the collection and interagency coordination of juvenile justice data;

575 (3) the impact of any statutory change that expands or alters the jurisdiction or  
576 functioning of the juvenile court, as measured by the following: (i) any change in the average age  
577 of children and young adults involved in the juvenile justice system; (ii) the types of services

578 used by designated age groups and the outcomes of those services; (iii) the types of delinquent  
579 acts or criminal offenses that children and young adults have been charged with since the  
580 enactment and implementation of such statutory change; (iv) the gaps in services identified by  
581 the committee with respect to children and young adults involved in the juvenile justice system,  
582 including, but not limited to, young adults who have attained the age of 18 after being involved  
583 in the juvenile justice system, and recommendations to address such gaps in services; and (v) the  
584 strengths and barriers identified by the committee that support or impede the educational needs  
585 of children and young adults in the juvenile justice system, with specific recommendations for  
586 reforms;

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

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

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

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

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

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

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

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

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

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

622 correction, including but not limited to: Massachusetts Correctional Institution, Cedar Junction;  
623 Massachusetts Correctional Institution, Norfolk; Massachusetts Correctional Institution,  
624 Concord; Massachusetts Correctional Institution, Framingham; Massachusetts Correctional  
625 Institution, Bridgewater; Massachusetts Correctional Institution, Plymouth; Massachusetts  
626 Correctional Institution, Warwick; Massachusetts Correctional Institution, Monroe.

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

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

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

639 Each quarter the sheriff shall deliver the report from each jail and house of correction to  
640 the secretary of public safety and security, the house and senate chairs of the joint committee on  
641 the judiciary, the house and senate chairs of the joint committee on public safety and homeland  
642 security and the clerks of the house of representatives and the senate.

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

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

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

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

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

661 “Clinical Standards”, standards which shall be promulgated by the Department of  
662 Correction in consultation with the Department of Mental Health.

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

665           “Commissioner”, the commissioner of correction.

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

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

672           “Department”, the department of correction.

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

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

677           “Medical parole plan”, a comprehensive written medical and psychosocial care plan  
678 specific to a prisoner and including , but not limited to: (i) the proposed course of treatment; (ii)  
679 the proposed site for treatment and post-treatment care; (iii) documentation that medical  
680 providers qualified to provide the medical services identified in the medical parole plan are  
681 prepared to provide such services; and (iv) the financial program in place to cover the cost of the  
682 plan for the duration of the medical parole, which shall include eligibility for enrollment in



683 commercial insurance, Medicare or Medicaid or access to other adequate financial resources for  
684 the duration of the medical parole.

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

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

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

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

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

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

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

704 “Serious mental illness”, a current or recent diagnosis by a qualified mental health  
705 professional of 1 or more of the following disorders described in the most recent edition of the  
706 Diagnostic and Statistical Manual of Mental Disorders: (i) schizophrenia and other psychotic  
707 disorders; (ii) major depressive disorders; (iii) all types of bipolar disorders; (iv) a  
708 neurodevelopmental disorder, dementia or other cognitive disorder; (v) any disorder commonly  
709 characterized by breaks with reality or perceptions of reality; (vi) all types of anxiety disorders;  
710 (vii) trauma and stressor related disorders; or (viii) severe personality disorders; or a finding by a  
711 qualified mental health professional that the prisoner is at serious risk of substantially  
712 deteriorating mentally or emotionally while confined in segregation, or already has so  
713 deteriorated while confined in segregation, such that diversion or removal is deemed to be  
714 clinically appropriate by a qualified mental health professional. “State correctional facility”, any  
715 correctional facility owned, operated, administered or subject to the control of the department of  
716 correction, including but not limited to: Massachusetts Correctional Institution, Cedar Junction;  
717 Massachusetts Correctional Institution, Norfolk; Massachusetts Correctional Institution,  
718 Concord; Massachusetts Correctional Institution, Framingham; Massachusetts Correctional  
719 Institution, Bridgewater; Massachusetts Correctional Institution, Plymouth; Massachusetts  
720 Correctional Institution, Warwick; Massachusetts Correctional Institution, Monroe.

721 “State prison”, a prison owned, operated, administered or subject to the control of the  
722 department of correction, including but not limited to: Massachusetts Correctional Institution,  
723 Cedar Junction; Massachusetts Correctional Institution, Norfolk; Massachusetts Correctional  
724 Institution, Concord; Massachusetts Correctional Institution, Framingham; Massachusetts  
725 Correctional Institution, Bridgewater; Massachusetts Correctional Institution, Plymouth;

726 Massachusetts Correctional Institution, Warwick; Massachusetts Correctional Institution,  
727 Monroe.

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

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

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

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

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

742 SECTION 34. Said chapter 127 is hereby further amended by striking out sections 39 to  
743 41, inclusive, as so appearing, and inserting in place thereof the following 11 sections:-

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

747 (b) No inmate in a state correctional facility or a county correctional facility shall be  
748 placed in disciplinary segregation more than 6 times in any 365 day period without the approval  
749 of the administrative and disciplinary segregation review board; provided, however, that a  
750 superintendent or administrator may place an inmate in disciplinary segregation pending  
751 approval of the administrative and disciplinary segregation review board if, in the discretion of  
752 the superintendent or administrator, the inmate poses an immediate risk to himself, others or the  
753 security of the institution.

754 (c) No inmate in a state correctional facility shall be placed in disciplinary segregation for  
755 more than 120 days in any 365 day period without the approval of the administrative and  
756 disciplinary segregation review board.

757 (d) No inmate in a county correctional facility shall be placed in disciplinary segregation  
758 for more than 120 days in any 365 day period without the approval of the administrative and  
759 disciplinary segregation review board.

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

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

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

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

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

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

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

785 A qualified mental health professional shall make rounds in each such segregation unit  
786 and may conduct an out-of-cell meeting with any inmate for whom a confidential meeting is  
787 warranted in the qualified mental health professional's judgment. Inmates in disciplinary

788 segregation shall be evaluated by a qualified mental health professional in accordance with  
789 clinical standards adopted by the department.

790 (b) Except in exigent circumstances that would create an unacceptable risk to the safety  
791 of any person or where no secure treatment unit bed is available, an inmate in disciplinary  
792 segregation diagnosed with a serious mental illness in accordance with clinical standards adopted  
793 by the department shall not be housed in a segregated unit for more than 15 days and shall be  
794 placed in a secure treatment unit. A correctional facility may house an inmate diagnosed with a  
795 serious mental illness in a segregated unit for no more than 15 days while waiting for a bed in a  
796 secure treatment unit. If the department fails to transfer the inmate to a secure treatment bed by  
797 day 15, the correctional facility shall submit a report to the segregation oversight committee, the  
798 house and senate chairs of the joint committee on the judiciary and the house and senate chairs of  
799 the joint committee on public safety and homeland security a report that includes the following  
800 information: : (1) The reason segregation was instituted for the inmate named in the report; (2)  
801 The reason transfer has not occurred 3) Changes to the inmate's mental state; and 4) Efforts that  
802 have been undertaken to find appropriate housing, the status of such efforts and an estimated  
803 date for removal from segregation "; and provided further that the inmate shall be evaluated by a  
804 qualified mental health professional in accordance with clinical standards adopted by the  
805 department and the department of mental health. Any inmate in disciplinary segregation awaiting  
806 transfer to a secure treatment unit shall be offered additional mental health services in  
807 accordance with clinical standards adopted by the department. In instances where no secure  
808 treatment bed is available and an inmate diagnosed with a serious mental illness is housed in a  
809 segregated unit for more than 30 days the correction facility where the inmate is housed shall  
810 submit to the segregation oversight committee, the house and senate chairs of the joint

811 committee on the judiciary and the house and senate chairs of the joint committee on public  
812 safety and homeland security every 7 days a report that includes: (1) The reason segregation was  
813 instituted for the inmate named in the report; (2) The reason transfer has not occurred 3) Changes  
814 to the inmate's mental state; and 4) Efforts that have been undertaken to find appropriate  
815 housing, the status of such efforts and an estimated date for removal from segregation "; and  
816 provided further that the inmate shall be evaluated by a qualified mental health professional in  
817 accordance with clinical standards adopted by the department and the department of mental  
818 health.

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

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

829 Section 39D. (a) Prior to placement in disciplinary segregation within a county  
830 correctional facility an inmate shall be screened by a qualified mental health professional to  
831 determine whether the inmate has a serious mental illness and whether there are any acute mental

832 health contraindications to placement in a segregated unit. The screening shall be conducted in  
833 accordance with clinical standards adopted by the sheriff.

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

839 (b) Except in exigent circumstances that would create an unacceptable risk to the safety  
840 of any person or where no secure treatment unit bed is available, an inmate in disciplinary  
841 segregation diagnosed with a serious mental illness in accordance with clinical standards adopted  
842 by the sheriff shall not be housed in a segregated unit for more than 15 days and shall be placed  
843 in a secure treatment unit. A correctional facility may house an inmate diagnosed with a serious  
844 mental illness in a segregated unit for no more than 15 days while waiting for a bed in a secure  
845 treatment unit. If the sheriff fails to transfer the inmate to a secure treatment bed by day 15, the  
846 correctional facility shall submit a report to the segregation oversight committee, the house and  
847 senate chairs of the joint committee on the judiciary and the house and senate chairs of the joint  
848 committee on public safety and homeland security a report that includes the following  
849 information: : (1) The reason segregation was instituted for the inmate named in the report; (2)  
850 The reason transfer has not occurred 3) Changes to the inmate's mental state; and 4) Efforts that  
851 have been undertaken to find appropriate housing, the status of such efforts and an estimated  
852 date for removal from segregation "; and provided further that the inmate shall be evaluated by a  
853 qualified mental health professional in accordance with clinical standards adopted by the sheriff  
854 and the department of mental health. Any inmate in disciplinary segregation awaiting transfer to



855 a secure treatment unit shall be offered additional mental health services in accordance with  
856 clinical standards adopted by the sheriff. In instances where no secure treatment bed is available  
857 and an inmate diagnosed with a serious mental illness is housed in a segregated unit for more  
858 than 30 days the correction facility where the inmate is housed shall submit to the segregation  
859 oversight committee, the house and senate chairs of the joint committee on the judiciary and the  
860 house and senate chairs of the joint committee on public safety and homeland security every 7  
861 days a report that includes: (1) The reason segregation was instituted for the inmate named in the  
862 report; (2) The reason transfer has not occurred 3) Changes to the inmate's mental state; and 4)  
863 Efforts that have been undertaken to find appropriate housing, the status of such efforts and an  
864 estimated date for removal from segregation "; and provided further that the inmate shall be  
865 evaluated by a qualified mental health professional in accordance with clinical standards adopted  
866 by the sheriff and the department of mental health.

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

871 (b) No inmate in a state correctional facility or a county correctional facility shall be  
872 placed in administrative segregation more than 6 times in any 365 day period without the  
873 approval of the administrative and disciplinary segregation review board; provided, however,  
874 that a superintendent or administrator may place an inmate in administrative segregation pending  
875 approval of the administrative and disciplinary segregation review board if, in the discretion of  
876 the superintendent or administrator, the inmate poses an immediate risk to himself, others or the  
877 security of the institution.

878 (c) No inmate in a state correctional facility shall be placed in administrative segregation  
879 for more than 120 days in any 365 day period without the approval of the administrative and  
880 disciplinary segregation review board.

881 (d) No inmate in a county correctional facility shall be placed in administrative  
882 segregation for more than 120 days in any 365 day period without the approval of the  
883 administrative and disciplinary segregation review board.

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

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

890 All inmates in administrative segregation shall, to the extent practicable, be provided  
891 living conditions approximate to those in general population. Under the supervision of the  
892 department of mental health, all inmates in administrative segregation shall be given periodic  
893 medical and psychiatric examinations and shall receive such medical and psychiatric treatment as  
894 may be indicated.

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

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

905 (b) Except in exigent circumstances that would create an unacceptable risk to the safety  
906 of any person or where no secure treatment unit bed is available, an inmate in administrative  
907 segregation diagnosed with a serious mental illness in accordance with clinical standards adopted  
908 by the department shall not be housed in a segregated unit for more than 15 days and shall be  
909 placed in a secure treatment unit. A correctional facility may house an inmate diagnosed with a  
910 serious mental illness in a segregated unit for no more than 15 days while waiting for a bed in a  
911 secure treatment unit. If the department fails to transfer the inmate to a secure treatment bed by  
912 day 15, the correctional facility shall submit a report to the segregation oversight committee, the  
913 house and senate chairs of the joint committee on the judiciary and the house and senate chairs of  
914 the joint committee on public safety and homeland security a report that includes the following  
915 information: : (1) The reason segregation was instituted for the inmate named in the report; (2)  
916 The reason transfer has not occurred 3) Changes to the inmate's mental state; and 4) Efforts that  
917 have been undertaken to find appropriate housing, the status of such efforts and an estimated  
918 date for removal from segregation "; and provided further that the inmate shall be evaluated by a  
919 qualified mental health professional in accordance with clinical standards adopted by the  
920 department and the department of mental health. Any inmate in administrative segregation  
921 awaiting transfer to a secure treatment unit shall be offered additional mental health services in  
922 accordance with clinical standards adopted by the department. In instances where no secure

923 treatment bed is available and an inmate diagnosed with a serious mental illness is housed in a  
924 segregated unit for more than 30 days the correction facility where the inmate is housed shall  
925 submit to the segregation oversight committee, the house and senate chairs of the joint  
926 committee on the judiciary and the house and senate chairs of the joint committee on public  
927 safety and homeland security every 7 days a report that includes: (1) The reason segregation was  
928 instituted for the inmate named in the report; (2) The reason transfer has not occurred 3) Changes  
929 to the inmate's mental state; and 4) Efforts that have been undertaken to find appropriate  
930 housing, the status of such efforts and an estimated date for removal from segregation "; and  
931 provided further that the inmate shall be evaluated by a qualified mental health professional in  
932 accordance with clinical standards adopted by the department and the department of mental  
933 health.

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

938 All inmates in administrative segregation shall to the extent practicable, be provided  
939 living conditions approximate to those in general population. Under the supervision of the  
940 department of mental health, all inmates in administrative segregation shall be given periodic  
941 medical and psychiatric examinations and shall receive such medical and psychiatric treatment as  
942 may be indicated.

943 Section 40D (a) Prior to placement in administrative segregation within a county  
944 correctional facility an inmate shall be screened by a qualified mental health professional to

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

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

953 (b) Except in exigent circumstances that would create an unacceptable risk to the safety  
954 of any person or where no secure treatment unit bed is available, an inmate in administrative  
955 segregation diagnosed with a serious mental illness in accordance with clinical standards adopted  
956 by the sheriff shall not be housed in a segregated unit for more than 15 days and shall be placed  
957 in a secure treatment unit. A correctional facility may house an inmate diagnosed with a serious  
958 mental illness in a segregated unit for no more than 15 days while waiting for a bed in a secure  
959 treatment unit. If the sheriff fails to transfer the inmate to a secure treatment bed by day 15, the  
960 correctional facility shall submit a report to the segregation oversight committee, the house and  
961 senate chairs of the joint committee on the judiciary and the house and senate chairs of the joint  
962 committee on public safety and homeland security a report that includes the following  
963 information: : (1) The reason segregation was instituted for the inmate named in the report; (2)  
964 The reason transfer has not occurred 3) Changes to the inmate's mental state; and 4) Efforts that  
965 have been undertaken to find appropriate housing, the status of such efforts and an estimated  
966 date for removal from segregation "; and provided further that the inmate shall be evaluated by a  
967 qualified mental health professional in accordance with clinical standards adopted by the sheriff

968 and the department of mental health. Any inmate in administrative segregation awaiting transfer  
969 to a secure treatment unit shall be offered additional mental health services in accordance with  
970 clinical standards adopted by the sheriff. In instances where no secure treatment bed is available  
971 and an inmate diagnosed with a serious mental illness is housed in a segregated unit for more  
972 than 30 days the correction facility where the inmate is housed shall submit to the segregation  
973 oversight committee, the house and senate chairs of the joint committee on the judiciary and the  
974 house and senate chairs of the joint committee on public safety and homeland security every 7  
975 days a report that includes: (1) The reason segregation was instituted for the inmate named in the  
976 report; (2) The reason transfer has not occurred 3) Changes to the inmate's mental state; and 4)  
977 Efforts that have been undertaken to find appropriate housing, the status of such efforts and an  
978 estimated date for removal from segregation "; and provided further that the inmate shall be  
979 evaluated by a qualified mental health professional in accordance with clinical standards adopted  
980 by the sheriff and the department of mental health.

981 Section 41. (a) There shall be established a segregation oversight committee, hereinafter  
982 in this section referred to as the committee, which shall consist of the commissioner of the  
983 department of correction, or a designee; the commissioner of mental health, or a designee; and 5  
984 members appointed by the governor, 1 of whom shall be the president of Massachusetts Sheriffs  
985 Association, Inc., or a designee, 1 of whom shall be a former judge designated by the chief  
986 justice of the supreme judicial court, 1 of whom shall be the executive director of Disability Law  
987 Center, Inc., or a designee, 1 of whom shall be the executive director of Prisoners' Legal  
988 Services or a designee, and 1 of whom shall be the executive director of the Massachusetts  
989 Association for Mental Health, Inc., or a designee. Members of the committee shall be appointed  
990 for a term of 6 years and shall serve without compensation but shall be reimbursed for all

991 reasonable expenses incurred in the performance of their official duties. No member shall serve  
992 more than 2 6-year terms. Members of the committee shall be considered special state employees  
993 for purposes of chapter 268A.

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

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

1000 (d) The committee shall annually, not later than January 31, submit to the house and  
1001 senate chairs of the joint committee on the judiciary and the house and senate chairs of the joint  
1002 committee on public safety and homeland security a report that includes the following  
1003 information for each correctional institution: (1) the criteria for placing an inmate in segregation;  
1004 (2) the extent to which staff who work with prisoners in segregation receive any specialized  
1005 training; (3) the results of any evaluations of the process of segregation in the commonwealth  
1006 and other states; (4) the impact of use of segregation on prison order and control in correctional  
1007 facilities; (5) the cost of housing an inmate in segregation compared with the cost of housing an  
1008 inmate in general population; and (6) the conditions of segregation in the commonwealth.

1009 (e) Every correctional institution, shall quarterly submit to the committee, the  
1010 house and senate chairs of the joint committee on the judiciary and the house and senate chairs of  
1011 the joint committee on public safety and homeland security a report that includes: (1) the age,  
1012 race, ethnicity, gender, mental health diagnoses, and known disabilities of every prisoner who

1013 was placed in administrative or disciplinary segregation during the previous 3 months; (2) the  
1014 reason segregation was instituted for each instance identified in the report; (3) the dates on which  
1015 each prisoner was placed in and released from segregation during the previous 3 months; (4) the  
1016 number of mental health professionals who work directly with prisoners in segregation; (5) the  
1017 number of transfers to outside hospitals directly from segregation; and (6) the number of suicides  
1018 and, separately, acts of non-lethal self-harm committed by prisoners held in segregation.

1019 (f) The committee shall establish policies to ensure that an inmate with an anticipated  
1020 release date of less than 120 days is not housed in segregation, unless: (i) such segregation is  
1021 limited to not more than 5 days of administrative segregation relating to the upcoming release of  
1022 the inmate; or (ii) the inmate poses a substantial and immediate threat.

1023 A superintendent or an administrator of a correctional facility shall submit a written  
1024 explanation to the committee if an inmate is placed in segregation at any point within the 120  
1025 days prior to his or her release from custody.

1026 (g) The committee shall establish policies to establish a transitional process for each  
1027 inmate with an anticipated release date of 120 days or less who is held in segregation, which  
1028 shall include: (i) substantial re-socialization programming in a group setting; (ii) regular mental  
1029 health counseling to assist with the transition; and (iii) re-entry planning services offered to  
1030 inmates in a general population setting.

1031 SECTION 35. Said chapter 127 is hereby further amended by inserting after section 119  
1032 the following 5 sections:-

1033 Section 119A. (a) For the purposes of this section and sections 119B to 119E, inclusive,  
1034 the term “medical parole board” shall mean the independent medical parole board.



1035 (b) There shall be established an independent medical parole board which shall be  
1036 comprised of 5 members appointed by the governor: 1 of whom shall be the chair of the parole  
1037 board; 1 of whom shall be a retired judge designated by the chief justice of the trial court who  
1038 shall have served on the Boston municipal court, district court or superior court; 2 of whom shall  
1039 be medical doctors designated by the Massachusetts Medical Society; and 1 of whom shall be a  
1040 member of the public with at least 5 years of training and experience in public health, probation,  
1041 corrections, parole, law, criminal justice, psychiatry, psychology, sociology or social work. The  
1042 medical parole board shall annually elect a chair; provided, however, that the position of chair  
1043 shall rotate among the members on an annual basis. There shall be a quorum present for the  
1044 medical parole board to take any official action.

1045 Members of the medical parole board shall be appointed for a term of 6 years and shall  
1046 serve without compensation but shall be reimbursed for all reasonable expenses incurred in the  
1047 performance of their official duties. No member shall serve more than 2 6-year terms. Members  
1048 of the medical parole board shall be considered special state employees for purposes of chapter  
1049 268A.

1050 (c) The medical parole board shall promulgate regulations for the administration and  
1051 enforcement of this section and sections 119B to 119D, inclusive.

1052 Section 119B. (a) A prisoner with a terminal illness or permanent incapacitation or the  
1053 prisoner's attorney, the prisoner's immediate family, the prisoner's medical provider or a  
1054 member of the correctional facility's staff may petition the superintendent of the correctional  
1055 facility where the prisoner is an inmate for medical parole. The petition shall include an affidavit  
1056 from a physician licensed to practice medicine in the commonwealth that the prisoner has a

1057 terminal illness or permanent incapacitation and remaining as an inmate would be detrimental to,  
1058 or exacerbate, said illness or incapacitation. Within 21 days of receipt of a petition, the  
1059 superintendent shall make a recommendation to the commissioner. If the superintendent  
1060 recommends that the commissioner deny medical parole, the commissioner shall notify the  
1061 prisoner and the petitioner in writing within 30 days of receipt of the petition of the reasons for  
1062 the denial. If the superintendent recommends that the commissioner grant medical parole, the  
1063 commissioner shall petition the medical parole board within 10 days of receipt of the  
1064 recommendation for an order granting the prisoner medical parole. Upon receipt of said petition  
1065 the commissioner shall notify, in writing, the district attorney for the jurisdiction where the  
1066 offense resulting in the prisoner being committed to the correctional facility occurred, the  
1067 petitioner and, if applicable under chapter 258B, the victim or the victim's family, that the  
1068 prisoner is being considered by the medical parole board for medical parole.

1069 (b) Upon complying with the requirements of subsection (a), the commissioner shall file  
1070 the petition with the medical parole board. The commissioner shall include with the petition filed  
1071 with the medical parole board: (1) an affidavit attesting that the commissioner has complied with  
1072 the notice requirements of subsection (a); (2) a medical parole plan; and (3) an assessment of the  
1073 prisoner's medical and psychosocial condition and the risk the prisoner poses to society,  
1074 including without limitation: (i) an assessment of the risk for violence and recidivism that the  
1075 prisoner poses to society; and (ii) a written diagnosis by a physician licensed to practice  
1076 medicine in the commonwealth that includes: (A) a description of the terminal illness or  
1077 permanent incapacitation; and (B) a prognosis concerning the likelihood of recovery from the  
1078 terminal illness or permanent incapacitation; provided, however, that the physician shall be

1079 employed by the department or shall be a contract provider used by the department for the  
1080 evaluation and recommended treatment of prisoners.

1081 (c) A prisoner whose petition for medical parole was denied by the superintendent  
1082 pursuant to subsection (a) may appeal the denial to the commissioner. The appeal shall be in  
1083 writing and shall be filed within 30 days of receiving notice of the denial. Upon receipt of the  
1084 appeal, the commissioner shall hold an adjudicatory proceeding pursuant to chapter 30A. (d) The  
1085 commissioner shall promulgate regulations for the administration and enforcement of this section  
1086 and section 119D.

1087 Section 119C. (a) A prisoner with a terminal illness or permanent incapacitation or the  
1088 prisoner's attorney, the prisoner's immediate family, the prisoner's medical provider or a  
1089 member of the correctional facility's staff may petition the administrator of the correctional  
1090 facility where the prisoner is an inmate for medical parole. The petition shall include an affidavit  
1091 from a physician licensed to practice medicine in the commonwealth that the prisoner has a  
1092 terminal illness or permanent incapacitation and remaining as an inmate would be detrimental to,  
1093 or exacerbate, said illness or incapacitation. Within 21 days of receipt of a petition the  
1094 administrator shall make a recommendation to the sheriff. If the administrator recommends that  
1095 the sheriff deny medical parole, the sheriff shall notify the prisoner and the petitioner in writing  
1096 within 30 days of receipt of the petition of the reasons for the denial. If the administrator  
1097 recommends that the sheriff grant medical parole, the sheriff shall petition the medical parole  
1098 board within 10 days of receipt of the recommendation for an order granting the prisoner medical  
1099 parole. The sheriff shall notify, in writing, the district attorney for the jurisdiction where the  
1100 offense resulting in the prisoner being committed to the correctional facility occurred, the

1101 petitioner and, if applicable under chapter 258B, the victim or the victim's family, that the  
1102 prisoner is being considered by the medical parole board for medical parole.

1103 (b) Upon complying with the requirements of subsection (a), the sheriff shall file the  
1104 petition with the medical parole board. The sheriff shall include with the petition filed with the  
1105 medical parole board: (1) an affidavit attesting that the sheriff has complied with the notice  
1106 requirements of subsection (a); (2) a medical parole plan; and (3) an assessment of the prisoner's  
1107 medical and psychosocial condition and the risk the prisoner poses to society, including without  
1108 limitation: (i) an assessment of the risk for violence and recidivism that the prisoner poses to  
1109 society; and (ii) a written diagnosis by a physician licensed to practice medicine in the  
1110 commonwealth that includes: (A) a description of the terminal illness or permanent  
1111 incapacitation; and (B) a prognosis concerning the likelihood of recovery from the terminal  
1112 illness or permanent incapacitation; provided, however, that the physician shall be employed by  
1113 the department or shall be a contract provider used by the department for the evaluation and  
1114 recommended treatment of prisoners.

1115 (c) A prisoner whose petition for medical parole was denied by the administrator  
1116 pursuant to subsection (a) may appeal the denial to the sheriff. The appeal shall be in writing and  
1117 shall be filed within 30 days of receiving notice of the denial. Upon receipt of the appeal, the  
1118 sheriff shall hold an adjudicatory proceeding pursuant to chapter 30A. (d) Each sheriff shall  
1119 promulgate regulations for the administration and enforcement of this section and section 119D.

1120 Section 119D. (a) Within 21 days of receipt of a petition for medical parole pursuant to  
1121 sections 119B or 119C, the medical parole board shall conduct an adjudicatory proceeding  
1122 pursuant to chapter 30A on the petition. Within 30 days of the adjudicatory proceeding the

1123 medical parole board shall vote to grant or deny the petition for medical parole; provided,  
1124 however, that any vote to grant a petition for medical parole shall require the affirmative vote of  
1125 no less than 4 members of the medical parole board. If the medical parole board votes to deny  
1126 medical parole, the medical parole board shall notify the prisoner and the petitioner in writing  
1127 within 30 days of the decision of the reasons for the denial. If the medical parole board votes to  
1128 approve the petition for medical parole, the medical parole board shall: (1) notify in writing the  
1129 district attorney for the jurisdiction where the offense resulting in the prisoner being committed  
1130 to the correctional facility occurred, the petitioner and, if applicable under chapter 258B, the  
1131 victim or the victim's family, that the medical parole board has approved the prisoner for  
1132 medical parole; and (2) refer the matter to the parole board established pursuant to section 4 of  
1133 chapter 27 within 5 days.

1134 (b) Upon receipt of a recommendation for medical parole by the medical parole board  
1135 pursuant to subsection (a), the parole board shall conduct an adjudicatory proceeding pursuant to  
1136 chapter 30A within 10 days. Unless the parole board votes unanimously to reject the approval of  
1137 the medical parole board, the prisoner shall be granted medical parole. A prisoner granted  
1138 medical parole shall be under the jurisdiction, supervision and control of the parole board. The  
1139 parole board shall impose terms and conditions for the medical parole that shall apply through  
1140 the date upon which the prisoner's sentence would have expired. These conditions shall require,  
1141 without limitation that: (1) the medical parolee's care be consistent with the care specified in the  
1142 medical parole plan approved by the medical parole board; (2) the medical parolee cooperate  
1143 with and comply with the prescribed medical parole plan and with reasonable requirements of  
1144 medical providers to whom the prisoner is to be referred for continued treatment; and (3) the  
1145 medical parolee comply with the conditions of medical parole set by the medical parole board.

1146 (c) Not less than 5 days before the date of a prisoner's release due to medical parole, the  
1147 parole board shall notify, in writing, the district attorney, the department of state police, the  
1148 police department in the city or town in which the medically paroled prisoner shall reside and, if  
1149 applicable under chapter 258B, the victim or the victim's family of the prisoner's release date  
1150 and the terms and conditions of the prisoner's medical parole.

1151 (d) The parole board may revise, alter or amend the terms and conditions of a medical  
1152 parole at any time. A parole officer may arrest, without warrant, a medical parolee and bring the  
1153 medical parolee before the parole board for a medical parole violation hearing if the parole board  
1154 has reasonable suspicion that a medical parolee has failed to comply with any condition of said  
1155 medical parolee's medical parole. If the parole board determines that the medical parolee  
1156 violated a condition of the medical parole or that the terminal illness or permanent incapacitation  
1157 has improved to the extent that the medical parolee would no longer be eligible for medical  
1158 parole pursuant sections 119B or 119C, the parole board may revoke the medical parole and  
1159 order the medical parolee to surrender forthwith. Upon revocation of the medical parole, the  
1160 medical parolee shall resume serving the sentence with credit given only for the duration of the  
1161 medical parolee's medical parole served in compliance with all conditions imposed by the parole  
1162 board. Unless the medical parole was granted based on a fraud perpetrated upon a  
1163 superintendent, an administrator, the medical parole board or the parole board, by the prisoner or  
1164 petitioner, a revocation of a medical parole due to a change in medical condition shall not  
1165 preclude a prisoner's eligibility for medical parole in the future.

1166 (e) The parole board shall promulgate regulations for the administration and enforcement  
1167 of this section and sections 119B and 119C.

1168           Section 119E. The commissioner of the department of correction, Massachusetts Sheriffs  
1169 Association, Inc., and the medical parole board shall together file an annual report not later than  
1170 March 1 with the clerks of the house of representatives and the senate, the chairs of the house  
1171 and senate committees on ways and means and the house and senate chairs of the joint  
1172 committee on the judiciary detailing: (i) each prisoner in the custody of the department or  
1173 sheriffs who is receiving treatment for a terminal illness and each prisoner in the custody of the  
1174 department or sheriffs who is receiving treatment for a permanent incapacitation, including the  
1175 race and ethnicity of the prisoner, the offense for which the prisoner was sentenced and a  
1176 detailed description of the prisoner’s physical and mental condition; provided, however, that  
1177 identifying information shall be withheld from the report; (ii) the number of prisoners in the  
1178 custody of the department or the sheriffs who applied for medical parole pursuant to sections  
1179 119B and 119C and the race and ethnicity of each applicant; (iii) the number, race and ethnicity  
1180 of prisoners who have been granted medical parole for the prior fiscal year and total to date; (iv)  
1181 the nature of the illness of the applicants for medical parole; (v) the counties to which the  
1182 prisoners have been medically paroled; (vi) the nature of the placement pursuant to the medical  
1183 parole plan; (vii) the categories of reasons for denial for prisoners who have been denied  
1184 medical parole; (viii) the number of prisoners petitioning for medical parole on more than 1  
1185 occasion; and (ix) the number of prisoners medically paroled who have been returned to the  
1186 custody of the department or sheriffs and the reasons for such returns.

1187           SECTION 36. Section 144 of said chapter 127, as appearing in the 2016 Official Edition,  
1188 is hereby amended by striking out, in line 3, the words “thirty dollars” and inserting in place  
1189 thereof the following figure:- \$90.

1190 SECTION 37. Said chapter 127 is hereby further amended by striking out section 145, as  
1191 so appearing, and inserting in place thereof the following section:-

1192 Section 145. (a) No court shall commit a person to a correctional facility solely for non-  
1193 payment of monies owed if such person has established, by a preponderance of the evidence, that  
1194 the person is unable to pay the fine without causing substantial financial hardship to the person  
1195 or their immediate family or dependents. A court shall determine whether the payment of a fine  
1196 would cause such substantial financial hardship after a hearing, and, in making such  
1197 determination, shall consider the person's employment status, income, financial resources, living  
1198 expenses, number of dependents, and any special circumstances that may affect a person's ability  
1199 to pay.

1200 (b) No court shall commit a person to a correctional facility for non-payment of monies  
1201 owed if such a person was not represented by counsel for the commitment proceeding. A person  
1202 deemed indigent for the purpose of being offered counsel and who is assigned counsel for the  
1203 commitment portion of a proceeding solely for the nonpayment of money owed shall not be  
1204 assessed a fee for such counsel

1205 (c) Courts may consider alternatives to incarceration before committing a person to a  
1206 prison or place of confinement solely for non-payment of a fine or a fine and expenses.

1207 (d) If a court determines that the payment of a fine would cause a substantial financial  
1208 hardship pursuant to subsection (a), the court shall impose an alternative to a fine or sentence to a  
1209 correctional facility including, without limitation, community service.

1210 (e) A person confined to a correctional facility for non-payment of monies owed may  
1211 petition the court for discharge from such correctional facility for an inability to pay such monies



1212 owed due to a substantial financial hardship. If, after a hearing pursuant to subsection (a), the  
1213 court determines that said person is not able to pay the monies owed without causing a  
1214 substantial financial hardship to the person, or the person’s immediate family or dependents, the  
1215 court shall discharge said person from such correctional facility. No filing fee shall be charged  
1216 for the filing of the petition.

1217 SECTION 38. Section 1 of chapter 138 of the General Laws, as so appearing, is hereby  
1218 amended by inserting after the definition of “Alcoholic beverages” the following definition:

1219 “Alcohol-related incapacitation”, the condition of an intoxicated person who, by reason  
1220 of the consumption of intoxicating liquor, is: (a) unconscious; (b) in need of medical attention; or  
1221 (c) likely to suffer or cause physical harm or damage property.

1222 SECTION 39. Said chapter 138 is hereby further amended by inserting after section 34D  
1223 the following section:-

1224 Section 34E. (a) A person under 21 years of age who, in good faith, seeks medical  
1225 assistance for someone experiencing alcohol-related incapacitation shall not be charged or  
1226 prosecuted under sections 34 or 34A if the evidence for the charge of purchase or possession of  
1227 alcohol was gained as a result of seeking medical assistance.

1228 (b) A person under 21 years of age who experiences alcohol-related incapacitation and is  
1229 in need of medical assistance and, in good faith, seeks such medical assistance, or is the subject  
1230 of such a good faith request for medical assistance, shall not be charged or prosecuted under  
1231 sections 34 or 34A if the evidence for the charge of purchase or possession of alcohol was gained  
1232 as a result of seeking medical assistance.

1233 SECTION 40. Section 4 of chapter 151B of the General Laws, as appearing in the 2016  
1234 Official Edition, is hereby amended by striking out, in line 408, the word “five” and inserting in  
1235 place thereof the following figure:- 3.

1236 SECTION 41. Said section 4 of said chapter 151B, as so appearing, is hereby further  
1237 amended by inserting after the word “information”, in line 412, the following words:- , or (iv) a  
1238 criminal record, or anything related to a criminal record, that has been sealed or expunged  
1239 pursuant to chapter 276.

1240 SECTION 42. Section 10 of chapter 209A of the General Laws, as so appearing, is  
1241 hereby amended by striking out, in lines 7 and 8, the words “the person, or the dependents of  
1242 such person, severe financial hardship” and inserting in place thereof the following words:-  
1243 substantial financial hardship to the person or the person’s immediate family or the person’s  
1244 dependents.

1245 SECTION 43. Section 8 of chapter 258B of the General Laws, as so appearing, is hereby  
1246 amended by striking out, in lines 38 to 40, inclusive, the words “would impose a severe financial  
1247 hardship upon the person against whom the assessment is imposed” and inserting in place thereof  
1248 the following words:- would cause a substantial financial hardship to the person against whom  
1249 the assessment is imposed or the person’s immediate family or the person’s dependents.

1250 SECTION 43A. Section 1 of chapter 263A of the General Laws, as appearing in the 2016  
1251 Official Edition, is hereby amended by striking out the definition of “Critical witness” and  
1252 inserting in place thereof the following definition:-

1253 “Critical witness”, any person who is participating, has participated, or is reasonably  
1254 expected to participate in a criminal investigation, motion hearing, trial, show cause hearing, or

1255 other criminal proceeding, or a proceeding involving an alleged violation of conditions of  
1256 probation or parole, or the commitment of a sexually dangerous person pursuant to chapter  
1257 123A; or who has received a subpoena requiring such participation; who is, or was, in the  
1258 judgment of the prosecuting officer, a necessary witness at one or more of the aforementioned  
1259 types of proceedings, and who is or may be endangered by such person's participation in the  
1260 aforementioned proceeding; or such person's relatives, guardians, friends or associates, who are  
1261 or may be endangered by such person's participation in the aforementioned proceeding;

1262 SECTION 44. Section 13 of chapter 265 of the General Laws, as so appearing, is hereby  
1263 amended by adding the following paragraph:-

1264 Any business organization including, without limitation, a corporation, association,  
1265 partnership, or other legal entity that commits manslaughter shall be punished by a fine of not  
1266 more than \$250,000. If a business organization is found guilty under this section, the appropriate  
1267 commissioner or secretary may debar the corporation, under section 29F of chapter 29, for a  
1268 period not to exceed 10 years.

1269 SECTION 45. The second paragraph of section 47 of said chapter 265, as so appearing,  
1270 is hereby amended by striking out the last sentence and inserting in place thereof the following  
1271 sentence:- If the court finds that such fees would cause a substantial financial hardship to the  
1272 offender or the person's immediate family or the person's dependents, the court may waive such  
1273 fees.

1274 SECTION 45A. Chapter 268 of the General Laws is hereby amended by striking out  
1275 section 13B, as so appearing, and inserting in place thereof the following section:-

1276 Section 13B. (a) As used in this section, the following words shall have the following  
1277 meanings unless the context clearly requires otherwise:

1278 “Investigator”, an individual or group of individuals lawfully authorized by a department  
1279 or agency of the federal government or any political subdivision thereof or a department  
1280 or agency of the commonwealth or any political subdivision thereof to conduct or engage in an  
1281 investigation of, prosecution for, or defense of a violation of the laws of the United States or of  
1282 the commonwealth in the course of such individual’s or group’s official duties.

1283 “Harass”, to engage in an act directed at a specific person or group of persons that  
1284 seriously alarms or annoys such person or group of persons and would cause a reasonable person  
1285 or group of persons to suffer substantial emotional distress including, but not limited to, an act  
1286 conducted by mail or by use of a telephonic or telecommunication device or electronic  
1287 communication device including, but not limited to, a device that transfers signs, signals,  
1288 writing, images, sounds, data or intelligence of any nature, transmitted in whole or in part by a  
1289 wire, radio, electromagnetic, photoelectronic or photo-optical system including, but not limited  
1290 to, electronic mail, internet communications, instant messages and facsimile communications.

1291 (b) Whoever willfully, either directly or indirectly: (i) threatens, attempts or causes  
1292 physical, emotional or economic injury or property damage to; (ii) conveys a gift, offer or  
1293 promise of anything of value to; or (iii) misleads, intimidates or harasses another person who is  
1294 a: (A) witness or potential witness; (B) person who is or was aware of information, records,  
1295 documents or objects that relate to a violation of a criminal law or a violation of conditions of  
1296 probation, parole, bail or other court order; (C) judge, juror, grand juror, attorney, victim witness  
1297 advocate, police officer, correction officer, federal agent, investigator, clerk, court officer, court

1298 reporter, court interpreter, probation officer or parole officer; (D) person who is or was attending  
1299 or a person who had made known an intention to attend a proceeding described in this section; or  
1300 (E) family member of a person described in this section, with the intent to or with reckless  
1301 disregard for the fact that it may: (1) impede, obstruct, delay, prevent or otherwise interfere with:  
1302 (I) a criminal investigation at any stage, a grand jury proceeding, a dangerousness hearing, a  
1303 motion hearing, a trial or other criminal proceeding of any type or a parole hearing, parole  
1304 violation proceeding or probation violation proceeding; or (II) an administrative hearing or a  
1305 probate or family court proceeding, juvenile proceeding, housing proceeding, land proceeding,  
1306 clerk's hearing, court-ordered mediation or any other civil proceeding of any type; or (2) punish,  
1307 harm or otherwise retaliate against any such person described in this section for such person or  
1308 such person's family member's participation in any of the proceedings described in this section,  
1309 shall be punished by imprisonment in the state prison for not more than 10 years or by  
1310 imprisonment in the house of correction for not more than 2 ½ years or by a fine of not less than  
1311 \$1,000 or more than \$5,000 or by both such fine and imprisonment. If the proceeding in which  
1312 the misconduct is directed at is the investigation or prosecution of a crime punishable by life  
1313 imprisonment or the parole of a person convicted of a crime punishable by life imprisonment,  
1314 such person shall be punished by imprisonment in the state prison for not more than 20 years or  
1315 by imprisonment in the house of corrections for not more than 2 ½ years or by a fine of not more  
1316 than \$10,000 or by both such fine and imprisonment.

1317 (c) A prosecution under this section may be brought in the county in which the criminal  
1318 investigation, trial or other proceeding was being conducted or took place or in the  
1319 county in which the alleged conduct constituting the offense occurred.

1320 SECTION 45B. Section 54 of chapter 265, as so appearing, is hereby amended by  
1321 striking out, in line 4, the words “sections 50 and 51”, and inserting in place thereof the  
1322 following words:- subsection (c) and subsection (d) of section 26D and sections 50 and 51.

1323 SECTION 45C. Section 57 of said chapter 265 of the General Laws, as so appearing, is  
1324 hereby amended by striking out, in lines 5 and 6, the words “a violation of section 53A of said  
1325 chapter 272 that,” and inserting in place thereof the following words:- charges of violating  
1326 sections 26 and 53A of chapter 272 that,;

1327 SECTION 45D. Said chapter 265 of the General Laws, as so appearing, is hereby  
1328 amended by inserting after section 58 the following section:-

1329 Section 59: (a) At any time after the entry of a judgment of disposition on an indictment  
1330 or criminal or delinquency complaint for an offense under section 26, subsection (a) of section  
1331 53, or subsection (a) of section 53A of chapter 272 or under section 34 of chapter 94C for simple  
1332 possession of a controlled substance, the court in which it was entered shall, upon motion of the  
1333 defendant, vacate any conviction, adjudication of delinquency, or continuance without a finding  
1334 and permit the defendant to withdraw any plea of guilty, plea of nolo contendere, plea of  
1335 delinquent, or factual admission tendered in association therewith upon a finding by the court of  
1336 a reasonable probability that the defendant’s participation in the offense was a result of having  
1337 been a victim of human trafficking as defined by section 20M of chapter 233 or a victim of  
1338 trafficking in persons under 22 U.S.C. 7102 provided that:

1339 (1) Except as provided in paragraphs (2) and (3) of this subsection, the defendant shall  
1340 have the burden to establish a reasonable probability that the defendant’s participation in the  
1341 offense was the result of having been a victim of human trafficking;

1342 (2) Where a child under the age of eighteen was adjudicated delinquent for an offense  
1343 under section 26, subsection (a) of section 53, or subsection (a) of section 53A of chapter 272,  
1344 based on allegations of prostitution, there shall be a rebuttable presumption that the child's  
1345 participation in the offense was a result of having been a victim of human trafficking or  
1346 trafficking in persons;

1347 (3) Where the conviction, adjudication of delinquency, or continuance without a finding  
1348 was for an offense under section 26, subsection (a) of section 53, or subsection (a) of section  
1349 53A of chapter 272 committed when the defendant was 18 years of age or older, official  
1350 documentation from any local, state, or federal government agency of the defendant's status as a  
1351 victim of human trafficking or trafficking in persons at the time of the offense shall create a  
1352 rebuttable presumption that the defendant's participation in the offense was a result of having  
1353 been a victim of human trafficking or trafficking in persons, but shall not be required for  
1354 granting a motion under this paragraph;

1355 (4) For purposes of paragraph (3) of this subsection, "official documentation" shall be  
1356 defined as any document issued by a local, state, or federal government agency in the agency's  
1357 official capacity;

1358 (5) The rules concerning the admissibility of evidence at criminal trials shall not apply to  
1359 the presentation and consideration of information at a hearing conducted pursuant to this section,  
1360 and the court shall consider hearsay contained in official documentation from any local, state, or  
1361 federal government agency of the defendant's status as a victim of human trafficking or  
1362 trafficking in persons offered in support of a motion pursuant to this section; and

1363 (6) A motion pursuant to this section may be heard by any sitting justice of a court of  
1364 competent jurisdiction.

1365 (b) Upon vacatur of a conviction, adjudication of delinquency, or continuance without a  
1366 finding, the court shall enter a plea of not guilty. It shall be an affirmative defense to the charges  
1367 against the defendant that, while a human trafficking victim, such person was under duress or  
1368 coerced into committing the offenses for which such person is being prosecuted or against whom  
1369 juvenile delinquency proceedings have commenced.

1370 (c) The administrative justices of the superior court, district court, juvenile court and the  
1371 Boston municipal court departments shall jointly promulgate a motion form for use under this  
1372 section.

1373 SECTION 45E. Chapter 265 of the General Laws is hereby amended by adding the  
1374 following section:-

1375 Section 59. Any person who, in violation of chapter 94C, manufactures, distributes, or  
1376 dispenses heroin, fentanyl, methamphetamine, lysergic acid diethylamide, phencyclidine (PCP)  
1377 or any other controlled substance in Class A, Class B, or Class C, as set forth at section 31 of  
1378 chapter 94C, is strictly liable for a death which results from the injection, inhalation or ingestion  
1379 of that substance, and shall be punished by imprisonment for life or for any term of years as the  
1380 court may order, and by a fine of not more than \$25,000; provided, however, that the sentence of  
1381 imprisonment imposed upon such person shall not be reduced to less than 5 years, nor  
1382 suspended, nor shall any such person be eligible for probation, parole or furlough or receive a  
1383 deduction from his or her sentence for good conduct until such person shall have served 5 years  
1384 of such sentence.



1385 For purposes of this section, a person’s act of manufacturing, distributing, or dispensing a  
1386 substance is the cause of a death when:

1387 (a) The injection, inhalation or ingestion of the substance is an antecedent but for which  
1388 the death would not have occurred; and

1389 (b) The death was proximately caused by a person who manufactured, distributed, or  
1390 dispensed such substance.

1391 It shall not be a defense to a prosecution under this section that the decedent contributed  
1392 to his or her own death by such decedent’s purposeful, knowing, reckless or negligent injection,  
1393 inhalation or ingestion of the substance or by such decedent’s consenting to the administration of  
1394 the substance by another. Nothing in this section shall be construed to preclude or limit any other  
1395 prosecution for homicide.

1396 SECTION 45F. Notwithstanding any general or special law to the contrary, the  
1397 provisions of section 45E shall not take effect until such time as the executive office for  
1398 administration and finance, in conjunction with the executive office of public safety and security,  
1399 has furnished a study of the legislation’s impact on public safety and its impact on the economy  
1400 of the commonwealth and its municipalities, including, but not limited to, a distributional  
1401 analysis of the impact to taxpayers of varying income levels, the current practice of other states,  
1402 anticipated changes in employment levels and other ancillary economic activity to the joint  
1403 committee on public safety and homeland security, and until legislation has been filed and  
1404 enacted pursuant to Part 2, Chap. 1, Sec. 1, Art. II of the Constitution.

1405 SECTION 46. Section 27A of chapter 266 of the General Laws, as so appearing, is  
1406 hereby amended by striking out, in lines 32 to 34, inclusive, the words “impose an undue

1407 financial hardship on the defendant or his family, the court may modify the amount, time or  
1408 method of payment, but may not grant complete remission from payment of restitution” and  
1409 inserting in place thereof the following words:- cause a substantial financial hardship to the  
1410 defendant or the defendant’s immediate family or the defendant’s dependents, the court may  
1411 grant remission from any payment of restitution or modify the amount, time or method of  
1412 payment.

1413 SECTION 47. Section 28 of said chapter 266, as so appearing, is hereby amended by  
1414 inserting after the word “thereof”, in line 40, the following words- , except for a conviction or  
1415 adjudication for malicious damage to a motor vehicle or trailer,.

1416 SECTION 48. Section 29 of said chapter 266, as so appearing, is hereby amended by  
1417 striking out, in lines 45 to 47, inclusive, the words “impose an undue financial hardship on the  
1418 defendant or his family, the court may modify the amount, time or method of payment, but may  
1419 not grant complete remission from payment of restitution” and inserting in place thereof the  
1420 following words:- cause a substantial financial hardship to the defendant or the defendant’s  
1421 immediate family or the defendant’s dependents, the court may grant remission from any  
1422 payment of restitution or modify the amount, time or method of payment.

1423 SECTION 49. Section 30 of said chapter 266, as so appearing, is hereby amended by  
1424 striking out, in line 9 and lines 13 and 14, the words “two hundred and fifty dollars” and  
1425 inserting in place thereof, in each instance, the following figure:- \$1,000.

1426 SECTION 50. Said section 30 of said chapter 266, as so appearing, is hereby further  
1427 amended by striking out, in lines 15 to 23, inclusive, the words “three hundred dollars; or, if the  
1428 property was stolen from the conveyance of a common carrier or of a person carrying on an

1429 express business, shall be punished for the first offence by imprisonment for not less than six  
1430 months nor more than two and one half years, or by a fine of not less than fifty nor more than six  
1431 hundred dollars, or both, and for a subsequent offence, by imprisonment for not less than  
1432 eighteen months nor more than two and one half years, or by a fine of not less than one hundred  
1433 and fifty nor more than six hundred dollars, or both” and inserting in place thereof the following  
1434 figure:- \$1,200.

1435 SECTION 51. Section 37B of said chapter 266, as so appearing, is hereby amended by  
1436 striking out, in lines 24 and 25, 29 and 30, 37 and 38, and lines 45 and 46, the words “two  
1437 hundred and fifty dollars” and inserting in place thereof, in each instance, the following figure:-  
1438 \$1,000.

1439 SECTION 52. Said section 37B of said chapter 266, as so appearing, is hereby further  
1440 amended by striking out, in lines 49 and 50, the words “five hundred dollars” and inserting in  
1441 place thereof the following figure:-\$2,000.

1442 SECTION 53. Section 37C of said chapter 266, as so appearing, is hereby amended by  
1443 striking out, in lines 12, 17, 23 and lines 31 and 32, the words “two hundred and fifty dollars”  
1444 and inserting in place thereof, in each instance, the following figure:-\$1,000.

1445 SECTION 54. Said section 37C of said chapter 266, as so appearing, is hereby further  
1446 amended by striking out, in lines 39 and 40, the words “two thousand dollars” and inserting in  
1447 place thereof the following figure:-\$8,000.

1448 SECTION 55. Section 60 of said chapter 266, as so appearing, is hereby amended by  
1449 striking out, in lines 13, 16 and 20, the figure “\$250” and inserting in place thereof, in each  
1450 instance, the following figure:- \$1,000.

1451 SECTION 56. Said section 60 of said chapter 266, as so appearing, is hereby further  
1452 amended by striking out, in line 15, the figure “\$1,000” and inserting in place thereof the  
1453 following figure:- \$3,000.

1454 SECTION 57. The second paragraph of section 108 of said chapter 266, as so appearing,  
1455 is hereby amended by striking out the third sentence and inserting in place thereof the following  
1456 sentence:- If the defendant is indigent or if the court finds that ordering such restitution would  
1457 cause a substantial financial hardship to the defendant or the defendant’s immediate family or the  
1458 defendant’s dependents, the court may determine that the interests of the victim and of justice  
1459 would not be served by ordering such restitution.

1460 SECTION 58. Said section 108 of said chapter 266, as so appearing, is hereby further  
1461 amended by striking out, in lines 28 and 29, the words “an undue financial hardship on the  
1462 defendant or his family” and inserting in place thereof the following words:- a substantial  
1463 financial hardship on the defendant or the defendant’s immediate family or the defendant’s  
1464 dependents.

1465 SECTION 59. Section 111B of said chapter 266, as so appearing, is hereby amended by  
1466 striking out, in lines 45 to 47, inclusive, the words “impose an undue financial hardship on the  
1467 defendant or his family, the court may modify the amount, time or method of payment, but may  
1468 not grant complete remission from payment of restitution” and inserting in place thereof the  
1469 following words:- cause a substantial financial hardship to the defendant or the defendant’s  
1470 immediate family or the defendant’s dependents, the court may grant remission from any  
1471 payment of restitution or modify the amount, time or method of payment.

1472 SECTION 60. Section 126A of said chapter 266, as so appearing, is hereby amended by  
1473 striking out the second paragraph.

1474 SECTION 61. Section 126B of said chapter 266, as so appearing, is hereby amended by  
1475 striking out the second paragraph.

1476 SECTION 62. Section 127 of said chapter 266, as so appearing, is hereby amended by  
1477 striking out, in line 13, the words “two hundred and fifty dollars” and inserting in place thereof  
1478 the following figure:- \$1,000.

1479 SECTION 63. Section 14B of chapter 269 of the General Laws, as so appearing, is  
1480 hereby amended by striking out subsection (b) and inserting in place thereof the following  
1481 subsection:-

1482 (b) Upon any conviction under this section, the court shall conduct a hearing to ascertain  
1483 the extent of costs incurred, and damages and financial loss sustained by any emergency  
1484 response services provider as a result of the violation and shall order the defendant to make  
1485 restitution to the emergency response services provider or providers for any such costs, damages  
1486 or loss. The court shall consider the defendant's present and future ability to pay restitution in its  
1487 determinations relative to the imposition of a fine. In determining the amount, time and method  
1488 of payment of restitution, the court shall consider the defendant’s employment status, earning  
1489 ability, financial resources, living expenses, dependents, and any special circumstances that may  
1490 have bearing on their ability to pay. The court may waive restitution or modify the amount, time  
1491 or method of payment if such restitution payment would cause a substantial financial hardship to  
1492 the defendant or the defendant’s immediate family or the defendant’s dependents.

1493 SECTION 63A. Chapter 272 of the General Laws, as appearing in the 2016 Official  
1494 Edition, is hereby amended by inserting after section 106 the following section:-

1495 Section 107. The court shall transmit fines collected pursuant to section 8 and subsection  
1496 (b) and subsection (c) of section 53A to the state treasurer. The treasurer shall deposit such fines  
1497 into the Victims of Human Trafficking Trust Fund established pursuant to section 66A of chapter  
1498 10.

1499 SECTION 63B. Chapter 268 of the General Laws, as appearing in the 2016 Official  
1500 Edition, is hereby amended by striking out section 13B, as so appearing, and inserting in place  
1501 thereof the following section:-

1502 Section 13B.

1503 (1) Whoever, directly or indirectly, willfully

1504 (a) threatens, or attempts or causes physical injury, emotional injury, economic injury or  
1505 property damage to,

1506 (b) conveys a gift, offer or promise of anything of value to, or

1507 (c) misleads, intimidates or harasses;

1508 (2) another person who is

1509 (a) a witness or potential witness,

1510 (b) a person who is or was aware of information, records, documents or objects that relate  
1511 to a violation of a criminal statute, or a violation of conditions of probation, parole, bail, or other  
1512 court order,

1513 (c) a judge, juror, grand juror, attorney, victim witness advocate, police officer, federal  
1514 agent, investigator, clerk, court officer, court reporter, court interpreter, probation officer or  
1515 parole officer,

1516 (d) a person who is or was attending, or had made known his or her intention to attend a  
1517 proceeding described in subsection (3)(a), or

1518 (e) a family member of a person described in subsections 2(a) through 2(d);

1519 (3) with the intent to, or with reckless disregard that it may,

1520 (a) impede, obstruct, delay, prevent or otherwise interfere with

1521 (i) a criminal investigation at any stage, a grand jury proceeding, a dangerousness  
1522 hearing, a motion hearing, a trial or other criminal proceeding of any type, or a parole hearing, or  
1523 parole violation proceeding, or probation violation proceeding; or

1524 (ii) an administrative hearing, or a probate and family proceeding, juvenile proceeding,  
1525 housing proceeding, land proceeding, clerk's hearing, court-ordered mediation, or any other civil  
1526 proceeding of any type; or

1527 (b) punish, harm or otherwise retaliate against any person described in subsection (2) for  
1528 such person's or such person's family member's participation in any of the proceedings  
1529 described in subsection (3)(a) shall be punished by imprisonment in the state prison for not more  
1530 than ten years, or by imprisonment in the house of correction for not more than two and one half  
1531 years, or by a fine of not less than \$1,000 nor more than \$5,000, or by both such fine and  
1532 imprisonment; or, if the proceeding which the misconduct is directed at is the investigation or  
1533 prosecution of a crime punishable by life imprisonment, or the parole of a person convicted of a

1534 crime punishable by life imprisonment, shall be punished by imprisonment in the state prison for  
1535 life or for any term of years.

1536 (4) As used in this section, “investigator” shall mean an individual or group of  
1537 individuals lawfully authorized by a department or agency of the federal government, or any  
1538 political subdivision thereof, or a department or agency of the commonwealth, or any political  
1539 subdivision thereof, to conduct or engage in an investigation of, prosecution for, or defense of a  
1540 violation of the laws of the United States or of the commonwealth in the course of his official  
1541 duties.

1542 (5) As used in this section, “harass” shall mean to engage in any act directed at a specific  
1543 person or persons, which act seriously alarms or annoys such person or persons and would cause  
1544 a reasonable person to suffer substantial emotional distress. Such act shall include, but not be  
1545 limited to, an act conducted by mail or by use of a telephonic or telecommunication device or  
1546 electronic communication device including but not limited to any device that transfers signs,  
1547 signals, writing, images, sounds, data, or intelligence of any nature transmitted in whole or in  
1548 part by a wire, radio, electromagnetic, photo-electronic or photo-optical system, including, but  
1549 not limited to, electronic mail, internet communications, instant messages or facsimile  
1550 communications.

1551 (6) A prosecution under this section may be brought in the county in which the criminal  
1552 investigation, trial, or other proceeding is being conducted or took place, or in the county in  
1553 which the alleged conduct constituting an offense occurred.

1554 SECTION 64. Chapter 274 of the General Laws is hereby amended by adding the  
1555 following section:-



1556           Section 8. Whoever solicits, counsels, advises, or otherwise entices another to commit a  
1557 crime that may be punished by imprisonment in the state prison, with the intent that the person,  
1558 in fact, commit or procure the commitment of such crime shall, except as otherwise provided, be  
1559 punished as follows:

1560           First, by imprisonment for not more than 20 years in the state prison or for not more than  
1561 2½ years in a jail or house of correction, or by a fine of not more than \$10,000, or by both such  
1562 fine and imprisonment, if the intent of the solicitation, counsel, advice or enticement was for the  
1563 person to commit a crime punishable by imprisonment for life.

1564           Second, by imprisonment for not more than 10 years in the state prison or for not more  
1565 than 2½ years in a jail or house of correction, or by a fine of not more than \$10,000, or by both  
1566 such fine and imprisonment, if the intent of the solicitation, counsel, advice or enticement was  
1567 for the person to commit a crime punishable by imprisonment in the state prison for 10 years or  
1568 more.

1569           Third, by imprisonment for not more than 5 years in the state prison or for not more than  
1570 2½ years in a jail or house of correction, or by a fine of not more than \$5,000, or by both such  
1571 fine and imprisonment, if the intent of the solicitation, counsel, advice or enticement was for the  
1572 person to commit a crime punishable by imprisonment in the state prison for 5 years or more.

1573           Fourth, by imprisonment for not more 2½ years in a jail or house of correction, or by a  
1574 fine of not more than \$2,000, or by both such fine and imprisonment, if the intent of the  
1575 solicitation, counsel, advice or enticement was for the person to commit a crime punishable by  
1576 imprisonment in the state prison for less than 5 years.

1577           If a person is convicted of solicitation, counsel, advice or enticement for which crime the  
1578 penalty is expressly set forth in any other section of the General Laws, the provisions of this  
1579 section shall not apply to said crime and the penalty in the applicable section of the General  
1580 Laws shall be imposed pursuant to the provisions of such other section.

1581           SECTION 65. Section 30 of chapter 276 of the General Laws, as appearing in the 2016  
1582 Official Edition, is hereby amended by striking out, in lines 5 and 6, the words “ upon a finding  
1583 of good cause by the court the fee may be waived” and inserting in place thereof the following  
1584 words:- the court may waive the fee upon a finding of good cause or upon a finding that such a  
1585 fee would cause a substantial financial hardship to the person, the person’s immediate family or  
1586 the person’s dependents.

1587           SECTION 66. Said section 30 of said chapter 276, as so appearing, is hereby further  
1588 amended by inserting after the word “indigent”, in line 11, the following words:- or that such fee  
1589 would cause a substantial financial hardship to the person, the person’s immediate family or the  
1590 person’s dependents.

1591           SECTION 67. Section 31 of said chapter 276, as so appearing, is hereby amended by  
1592 inserting after the word “cause”, in line 6, the following words:- or upon a finding that such an  
1593 assessment would cause a substantial financial hardship to the person, the person’s immediate  
1594 family or the person’s dependents.

1595           SECTION 68. Section 57 of said chapter 276, as so appearing, is hereby amended by  
1596 inserting after the first sentence the following sentence:- Except in cases where the person is  
1597 determined to pose a danger to the safety of any other person or the community under section  
1598 58A, bail shall be set in an amount no higher than what would reasonably assure the appearance

1599 of the person before the court after taking into account the person's financial resources;  
1600 provided, however, that a higher bail may be set if neither alternative nonfinancial conditions nor  
1601 a bail amount which the person could likely afford would adequately assure the person's  
1602 appearance before the court.

1603 SECTION 69. Said section 57 of said chapter 276, as so appearing, is hereby further  
1604 amended by inserting after the word "ties", in line 50, the following words:- , the person's  
1605 financial resources and financial ability to give bail.

1606 SECTION 70. Said section 57 of said chapter 276, as so appearing, is hereby further  
1607 amended by inserting after the second paragraph the following paragraph:-

1608 If bail is set at an amount that is likely to result in the person's long-term pretrial  
1609 detention because he or she lacks the financial resources to post said amount, an authorized  
1610 person setting bail must provide written or orally recorded findings of fact and a statement of  
1611 reasons as to why, under the relevant circumstances, neither alternative nonfinancial conditions  
1612 nor a bail amount that the person can afford will reasonably assure his or her appearance before  
1613 the court, and further, must explain how the bail amount was calculated.

1614 SECTION 71. Section 58 of said chapter 276, as so appearing, is hereby amended by  
1615 inserting after the first sentence the following sentence:- Except in cases where the person is  
1616 determined to pose a danger to the safety of any other person or the community under section  
1617 58A, bail shall be set in an amount no higher than what would reasonably assure the appearance  
1618 of the person before the court after taking into account the person's financial resources;  
1619 provided, however, that a higher bail may be set if neither alternative nonfinancial conditions nor

1620 a bail amount which the person could likely afford would adequately assure the person's  
1621 appearance before the court.

1622 SECTION 72. Said section 58 of said chapter 276, as so appearing, is hereby further  
1623 amended by inserting after the word "resources", in line 20, the following words:- and financial  
1624 ability to give bail.

1625 SECTION 73. Said section 58 of said chapter 276, as so appearing, is hereby further  
1626 amended by inserting after the first paragraph the following paragraph:-

1627 If bail is set at an amount that is likely to result in the person's long-term pretrial  
1628 detention because he or she lacks the financial resources to post said amount, an authorized  
1629 person setting bail must provide written or orally recorded findings of fact and a statement of  
1630 reasons as to why, under the relevant circumstances, neither alternative nonfinancial conditions  
1631 nor a bail amount that the person can afford will reasonably assure his or her appearance before  
1632 the court, and further, must explain how the bail amount was calculated.

1633 SECTION 74. Section 87A of said chapter 276, as so appearing, is hereby amended by  
1634 inserting after the fourth paragraph the following 2 paragraphs:-

1635 The court shall not assess said monthly probation fee or said administrative probation fee  
1636 upon any person placed on supervised probation or administrative supervised probation after  
1637 release from prison or a house of correction for said person's first 6 months of such probation if  
1638 it determines, after a hearing and upon written findings, that said fees would constitute a  
1639 substantial financial hardship to the person, the person's immediate family or dependents.

1640           If the court determines after said hearing and upon such written findings that said fees  
1641 would constitute a substantial financial hardship to said person, the person’s immediate family or  
1642 dependents, the court shall waive payment of either or both said fees. No later than 6 months  
1643 after the waiver, and every 6 months thereafter, the chief probation officer or the officer’s  
1644 designee shall conduct a further reassessment of the financial circumstances of said person to  
1645 ensure that the person continues to meet the definition of substantial financial hardship. The  
1646 chief probation officer or the officer’s designee shall prepare, sign and file with the court a  
1647 written report certifying that the person continues to meet, or no longer meets, the definition of  
1648 substantial financial hardship. Upon receipt of the report, if such report certifies that the person  
1649 no longer meets the definition of substantial financial hardship, the court shall hold a hearing,  
1650 and shall revoke the waiver and impose either or both said fees if the court finds after said  
1651 hearing that the person no longer meets the definition of substantial financial hardship.

1652           SECTION 74A. Section 58A of chapter 276 of the General Laws, as so appearing, is  
1653 hereby amended by striking out, in lines 16 to 17, the words “third or subsequent conviction for a  
1654 violation of section 24 of chapter 90”, and inserting the words: “charge of a third or subsequent  
1655 violation of section 24 of chapter 90 within 10 years of the previous conviction for such  
1656 violation”

1657           SECTION 75. Said section 87A of said chapter 276, as so appearing, is hereby further  
1658 amended by striking out, in lines 42 to 44, inclusive, the words “an undue hardship on said  
1659 person or his family due to limited income, employment status, or any other factor” and inserting  
1660 in place thereof the following words:- a substantial financial hardship for the person, the person’s  
1661 immediate family or dependents.

1662 SECTION 76. Said section 87A of said chapter 276, as so appearing, is hereby further  
1663 amended by striking out, in line 45, the word “undue” and inserting in place thereof the  
1664 following words:- substantial financial.

1665 SECTION 77. The sixth paragraph of said section 87A of said chapter 276, as so  
1666 appearing, is hereby amended by adding the following sentence:- Said person shall pay said  
1667 administrative victims service surcharge once each month during such time as said person  
1668 remains on administrative supervised probation.

1669 SECTION 78. The seventh paragraph of said section 87A of said chapter 276, as so  
1670 appearing, is hereby amended by striking out the first sentence.

1671 SECTION 79. Said section 87A of said chapter 276, as so appearing, is hereby further  
1672 amended by striking out, in lines 86 to 88, inclusive, the words “an undue hardship on said  
1673 person or his family due to limited income, employment status, or any other factor” and inserting  
1674 in place thereof the following words:- a substantial financial hardship for the person, the person’s  
1675 immediate family or dependents.

1676 SECTION 80. The third paragraph of section 92A of said chapter 276, as so appearing,  
1677 is hereby amended by striking out the second sentence and inserting in place thereof the  
1678 following sentence:- If the court finds that the payment of restitution due will cause a substantial  
1679 financial hardship to the defendant, the defendant’s immediate family or the defendant’s  
1680 dependents, the court may grant remission from any payment of restitution, or modify the  
1681 amount, time or method of payment.

1682 SECTION 80A. There shall be a bail reform commission, referred to in this section as the  
1683 commission. The commission shall evaluate policies and procedures related to the current bail  
1684 system and recommend improvements or changes.

1685 The commission shall consist of 19 members, 2 of whom shall be members of the house  
1686 of representatives appointed by the speaker of the house of representatives; 1 of whom shall be a  
1687 member of the house of representatives appointed by the minority leader of the house of  
1688 representatives; 2 of whom shall be members of the senate appointed by the president of the  
1689 senate; 1 of whom shall be a member of the senate appointed by the minority leader of the  
1690 senate; 1 of whom shall be the chief justice of the supreme judicial court, or a designee; 1 of  
1691 whom shall be the chief justice of the superior court, or a designee; 1 of whom shall be the chief  
1692 administrative justice of the district court, or a designee; 1 of whom shall be the commissioner of  
1693 probation, or a designee; 1 of whom shall be the chief counsel of the committee for public  
1694 counsel services, or a designee; 1 of whom shall be appointed by the ACLU of Massachusetts; 1  
1695 of whom shall be appointed by Massachusetts Association of Criminal Defense Lawyers; 1 of  
1696 whom shall be the attorney general, or designee; 2 of whom shall be members of the  
1697 Massachusetts District Attorneys Association, including 1 of whom shall be the President, or  
1698 their designees, and; 1 of whom shall the governor, or designee.

1699 Members of the commission shall serve without compensation. The speaker of the house  
1700 of representatives and the president of the Senate shall each appoint one co-chair of the  
1701 commission from among its members.

1702 The commission shall report by December 1, 2018 to the governor, the house and senate  
1703 chairs of the joint committee on the judiciary, the house and senate chairs of the joint committee

1704 on public safety and homeland security and the chief justice of the trial court regarding the  
1705 following: (1) an evaluation of the potential to use risk assessment factors as part of the pretrial  
1706 system regarding bail decisions, including the potential to use risk assessment factors to  
1707 determine when defendants should be released with or without conditions without bail and when  
1708 bail should be set; (2) an evaluation of the impact of eliminating cash bail and recommendations,  
1709 if any, for doing so; (3) an evaluation of the setting of conditions on defendants when they are  
1710 released with or without bail and if changes should be made to the setting of conditions; (4)  
1711 evaluate any disparate impact on defendants because of gender, race, gender identity, or other  
1712 protected class status in the pretrial system and recommend any changes that could be made to  
1713 minimize any such impact that is found; and (5) any statutory changes concerning the pretrial  
1714 system that the commission recommends.

1715 SECTION 81. Section 100A of said chapter 276, as so appearing, is hereby amended by  
1716 striking out, in lines 9, 14 and 21 the figure “5” and inserting in place thereof, in each instance,  
1717 the following figure:- 3.

1718 SECTION 82. Said section 100A of said chapter 276, as so appearing, is hereby further  
1719 amended by striking out, in lines 12, 15 and 22 the figure “10” and inserting in place thereof, in  
1720 each instance, the following figure:- 7.

1721 SECTION 83. Said section 100A of said chapter 276, as so appearing, is hereby further  
1722 amended by inserting after the words “268A”, in line 28, the following words- , except for  
1723 convictions for resisting arrest.



1724 SECTION 84. Said section 100A of said chapter 276, as so appearing, is hereby further  
1725 amended by striking out the fifth paragraph and inserting in place thereof the following 2  
1726 paragraphs:-

1727 No county, municipal or state agency shall deny an application for a license to practice  
1728 any trade or profession or an application for any occupational license solely because of the  
1729 existence of a sealed record unless the county, municipal or state agency has conducted an  
1730 adjudicatory proceeding pursuant to chapter 30A. A county, municipal or state agency denying  
1731 an application for a license to practice any trade or profession or denying an application for any  
1732 occupational license shall enter written findings as to the basis of its denial. A person whose  
1733 application for a license to practice any trade or profession or for any occupational license has  
1734 been denied solely because of the existence of a sealed record may appeal said denial pursuant to  
1735 chapter 30A.

1736 An application for employment or housing which seeks information concerning prior  
1737 arrests or convictions of the applicant shall include the following statement: "An applicant for  
1738 employment or housing with a sealed record on file with the commissioner of probation may  
1739 answer 'no record' with respect to an inquiry herein relative to prior arrests, criminal court  
1740 appearances or convictions. An applicant for employment or housing with a sealed record on file  
1741 with the commissioner of probation may answer 'no record' to an inquiry herein relative to prior  
1742 arrests or criminal court appearances. In addition, any applicant for employment or housing may  
1743 answer 'no record' with respect to any inquiry relative to prior arrests, court appearances or  
1744 adjudications in all cases of delinquency or as a child in need of services which did not result in a  
1745 complaint transferred to the superior court for criminal prosecution." The attorney general may  
1746 enforce the provisions of this paragraph by a suit in equity commenced in the superior court.

1747 SECTION 85. Section 100C of said chapter 276, as so appearing, is hereby amended by  
1748 striking out, in line 23, the words “used by an employer” and inserting in place thereof the  
1749 following words:- , housing or an occupational license.

1750 SECTION 86. Said section 100C of said chapter 276, as so appearing, is hereby further  
1751 amended by inserting after the word “employment”, in line 26, the following words:- , housing  
1752 or an occupational license.

1753 SECTION 87. Chapter 276 of the General Laws is hereby amended by inserting after  
1754 section 100D the following 17 sections:-

1755 Section 100E. As used in sections 100E through 100U of this chapter, the following  
1756 words shall, unless the context clearly requires otherwise, have the following meanings:-

1757 “Attorney general”, the attorney general of the commonwealth.

1758 “Commissioner”, the commissioner of probation.

1759 “Consumer reporting agency”, any person or organization which, for monetary fees,  
1760 dues, or on a cooperative, not-for-profit basis, regularly engages in whole, or in part, in the  
1761 practice of assembling or evaluating criminal history, credit or other information on consumers  
1762 for the purpose of furnishing consumer reports to third parties, and which uses any means or  
1763 facility of interstate commerce for the purpose of preparing or furnishing consumer reports.

1764 “County agency”, any department or office of county government and any division,  
1765 board, bureau, commission, institution, tribunal or other instrumentality thereof or thereunder.

1766 “Court”, the trial court of the commonwealth established pursuant to section 1 of chapter  
1767 211B and any departments or offices established within the trial court.

1768 “Criminal court appearance”, an arraignment on, all pre-trial and other post arraignment  
1769 judicial proceedings related to and the disposition of, a criminal offense.

1770 “Criminal justice agencies”, those agencies at all levels of government, which perform as  
1771 their principal function, activities relating to: (i) crime prevention, including research or the  
1772 sponsorship of research; (ii) the apprehension, prosecution, adjudication, incarceration or  
1773 rehabilitation of criminal offenders; or (iii) the collection, storage, dissemination or usage of  
1774 criminal offender record information.

1775 “Department”, the department of criminal justice information services established  
1776 pursuant to section 167A of chapter 6.

1777 “Disabled person”, a person with an intellectual disability, as defined by section 1 of  
1778 chapter 123B, or who is otherwise mentally or physically disabled and, as a result of such mental  
1779 or physical disability, is wholly or partially dependent on others to meet daily living needs.

1780 “Disposition”, the final conclusion of a charge during or after the initial criminal court  
1781 appearance or juvenile court appearance; provided, however, that disposition shall not include  
1782 criminal offenses for which the dispositions were: (i) not guilty; (ii) dismissed for want of  
1783 prosecution; (iii) dismissed at request of complainant; (iv) nol prossed; or (v) no bill.

1784 “District attorney”, the district attorney in the jurisdiction where the matter resulting in a  
1785 record that is the subject of a petition originated.

1786 “Elderly person”, a person who is 60 years of age or older.

1787 “Expunge, expunged, or expungement”, the permanent erasure or destruction of a record  
1788 so that the record is no longer accessible to, or maintained by, the court, any criminal justice  
1789 agencies or any other state agency, municipal agency or county agency.

1790 “Judicial proceedings”, any proceedings before the court resulting in a record.

1791 “Juvenile court appearance”, an arraignment on, all pre-trial and other post arraignment  
1792 judicial proceedings related to and the disposition of, an offense in the juvenile court.

1793 “Municipal agency”, any department or office of a city or town government and any  
1794 council, division, board, bureau, commission, institution, tribunal or other instrumentality thereof  
1795 or thereunder.

1796 “Offense”, a violation of a criminal law for which a person has been charged and has  
1797 made a criminal court appearance or a juvenile court appearance for which there is a disposition  
1798 and a record.

1799 “Office”, the office of the commissioner of probation.

1800 “Order”, an order of expungement.

1801 “Person”, a natural person, corporation, association, partnership, or other legal entity.

1802 “Petition”, a petition to expunge a criminal record.

1803 “Petitioner”, a natural person with a criminal record who has filed a petition.

1804 “Public records”, shall have the same meaning as the definition of public records in  
1805 clause twenty-sixth of section 7 of chapter 4.

1806 “Record”, public records including, without limitation, paper or electronic records or data  
1807 in any communicable form compiled by, on file with or in the care custody or control of, without  
1808 limitation, the court, the office, the department or criminal justice agencies, which concern a  
1809 person and relate to the nature or disposition of an offense, including, without limitation, an  
1810 arrest, a criminal court appearance, a juvenile court appearance, a pre-trial proceeding, other  
1811 judicial proceedings, disposition, sentencing, incarceration, rehabilitation or release; provided,  
1812 however, that the term record shall not include evaluative information, intelligence information  
1813 or statistical and analytical reports and files in which persons are not directly or indirectly  
1814 identifiable.

1815 “State agency”, any department of state government including the executive, legislative  
1816 or judicial, and all councils thereof and thereunder, and any division, board, bureau, commission,  
1817 institution, tribunal or other instrumentality within such department, and any independent state  
1818 authority, district, commission, instrumentality or agency, but not an agency of a county, city or  
1819 town.

1820 Section 100F. (a) A petitioner who has a record as an adjudicated delinquent or  
1821 adjudicated youthful offender may, on a form furnished by the commissioner and signed under  
1822 the penalties of perjury, petition that the commissioner expunge the record. Upon receipt of a  
1823 petition for an expungement, the commissioner shall certify whether the petitioner is eligible for  
1824 an expungement under sections 100I and 100J. If the petitioner is not eligible for an  
1825 expungement under sections 100I and 100J the commissioner shall, within 60 days of the  
1826 request, deny the request in writing. If the petitioner is eligible for an expungement under  
1827 sections 100I and 100J the commissioner shall, within 60 days of the petition, notify in writing  
1828 the district attorney of the petition and that the petitioner is eligible for an expungement under

1829 sections 100I and 100J. Within 60 days of receipt of notification from the commissioner of the  
1830 filing of the petition and that petitioner is eligible for an expungement pursuant to sections 100I  
1831 and 100J, the district attorney shall notify the commissioner in writing of their objections, if any,  
1832 to the petition.

1833 (b) Upon receipt of a response from the district attorney, if any, or within 65 days of the  
1834 commissioner's notification to the district attorney pursuant to subsection (a), whichever occurs  
1835 first, the commissioner shall forthwith forward the petition, along with the objections of the  
1836 district attorney, if any, to the court wherein the petitioner was adjudicated delinquent or  
1837 adjudicated a youthful offender.

1838 (c) If the district attorney files an objection with the commissioner within 60 days of  
1839 receipt of notification as provided in subsection (a) the court shall, within 21 days of receipt of  
1840 the petition pursuant to subsection (b), conduct a hearing on the petition. The court shall have the  
1841 discretion to grant or deny the petition based on what is in the best interests of justice and shall  
1842 enter written findings as to the basis of its order. The court shall deny any petition that does not  
1843 meet the requirements of sections 100I and 100J.

1844 (d) If the district attorney does not file an objection with the commissioner within 60 days  
1845 of receipt of notification as provided in subsection (a) the court may approve the petition without  
1846 a hearing. The court shall have the discretion to grant or deny the petition based on what is in the  
1847 best interests of justice and shall enter written findings as to the basis of its order. The court shall  
1848 deny any petition that does not meet the requirements of sections 100I and 100J.

1849 (e) The court shall forward an order for expungement pursuant to this section forthwith to  
1850 the clerk of the court where the criminal record was created, to the commissioner and to the

1851 commissioner of criminal justice information services appointed pursuant to section 167A of  
1852 chapter 6.

1853           Section 100G. (a) A petitioner who has a record of conviction may, on a form furnished  
1854 by the commissioner and signed under the penalties of perjury, petition that the commissioner  
1855 expunge the record. Upon receipt of a petition, the commissioner shall certify whether the  
1856 petitioner is eligible for an expungement under sections 100I and 100J. If the petitioner is not  
1857 eligible for an expungement under sections 100I and 100J the commissioner shall, within 60 days  
1858 of the request, deny the request in writing. If the petitioner is eligible for an expungement under  
1859 sections 100I and 100J the commissioner shall, within 60 days of the petition, notify in writing  
1860 the district attorney of the petition and that the petitioner is eligible for an expungement under  
1861 sections 100I and 100J. Within 60 days of receipt of notification from the commissioner of the  
1862 filing of the petition and that petitioner is eligible for an expungement pursuant to sections 100I  
1863 and 100J, the district attorney shall notify the commissioner in writing of their objections, if any,  
1864 to the petition for the expungement.

1865           (b) Upon receipt of a response from the district attorney, if any, or within 65 days of the  
1866 commissioner's notification to the district attorney pursuant to subsection (a), whichever occurs  
1867 first, the commissioner shall forthwith forward the petition, along with the objections of the  
1868 district attorney, if any, to the court wherein the petitioner was convicted.

1869           (c) If the district attorney files an objection with the commissioner within 60 days of  
1870 receipt of notification as provided in subsection (a) the court shall, within 21 days of receipt of  
1871 the petition pursuant to subsection (b), conduct a hearing on the petition. The court shall have the  
1872 discretion to grant or deny the petition based on what is in the best interests of justice and shall

1873 enter written findings as to the basis of its order. The court shall deny any petition that does not  
1874 meet the requirements of sections 100I and 100J.

1875 (d) If the district attorney does not file an objection with the commissioner within 60 days  
1876 of receipt of notification as provided in subsection (a) the court may approve the petition without  
1877 a hearing. The court shall have the discretion to grant or deny the petition based on what is in the  
1878 best interests of justice and shall enter written findings as to the basis of its order. The court shall  
1879 deny any petition that does not meet the requirements of sections 100I and 100J.

1880 (e) The court shall forward an order for expungement pursuant to this section forthwith to  
1881 the clerk of the court where the criminal record was created, to the commissioner and to the  
1882 commissioner of criminal justice information services appointed pursuant to section 167A of  
1883 chapter 6.

1884 Section 100H. (a) A petitioner who has a record that does not include an adjudication as  
1885 a delinquent, an adjudication as a youthful offender or a conviction may, on a form furnished by  
1886 the commissioner and signed under the penalties of perjury, petition that the commissioner  
1887 expunge the record. Upon receipt of a petition, the commissioner shall certify whether the  
1888 petitioner is eligible for an expungement under sections 100I and 100J. If the petitioner is not  
1889 eligible for an expungement under sections 100I and 100J the commissioner shall, within 30  
1890 days of the request, deny the request in writing. If the petitioner is eligible for an expungement  
1891 under sections 100I and 100J the commissioner shall, within 30 days of the request, notify in  
1892 writing the district attorney. Within 30 days of receipt of notification from the commissioner that  
1893 the petitioner is eligible for an expungement pursuant to sections 100I and 100J, the district



1894 attorney shall notify the commissioner in writing of their objections, if any, to the request for the  
1895 expungement.

1896 (b) If the district attorney files an objection to the petition with the commissioner within  
1897 30 days of receipt of notification as provided in subsection (a) the court shall, within 21 days of  
1898 receipt of the petition pursuant to subsection (b), conduct a hearing on the petition. The court  
1899 shall have the discretion to grant or deny the petition based on what is in the best interests of  
1900 justice and shall enter written findings as to the basis of its order. The court shall deny any  
1901 petition that does not meet the requirements of sections 100I and 100J.

1902 (c) If the district attorney does not file an objection with the commissioner within 30 days  
1903 of receipt of notification as provided in subsection (a) the court may approve the petition without  
1904 a hearing. The court shall have the discretion to grant or deny the petition based on what is in the  
1905 best interests of justice and shall enter written findings as to the basis of its order. The court shall  
1906 deny any petition that does not meet the requirements of sections 100I and 100J.

1907 (d) The court shall forward an order for expungement pursuant to this section forthwith to  
1908 the clerk of the court where the criminal record was created, to the commissioner and to the  
1909 commissioner of criminal justice information services appointed pursuant to section 167A of  
1910 chapter 6.

1911 Section 100I. (a) The commissioner shall certify that a petition filed pursuant to section  
1912 100F, section 100G or section 100H is eligible for expungement provided that:

1913 (1) the offense resulting in the record that is the subject of the petition is not a  
1914 criminal offense included in section 100J;

1915           (2)     the offense that is the subject of the petition to expunge the record occurred before  
1916 the petitioner's twenty-first birthday;

1917           (3)     the offense that is the subject of the petition to expunge the record, including any  
1918 period of incarceration, custody or probation, occurred not less than 7 years before the date on  
1919 which the petition was filed if the offense that is the subject of the petition is a felony, and not  
1920 less than 3 years before the date on which the petition was filed if the offense that is subject of  
1921 the petition is a misdemeanor;

1922           (4)     other than motor vehicle offenses in which the penalty does not exceed a fine of  
1923 \$50 and the offense that is the subject of the petition to expunge, the petitioner does not have any  
1924 other criminal court appearances, juvenile court appearances or dispositions on file with the  
1925 commissioner;

1926           (5)     other than motor vehicle offenses in which the penalty does not exceed a fine of  
1927 \$50, the petitioner does not have any criminal court appearances, juvenile court appearances or  
1928 dispositions on file in any other state, United States possession or in a court of federal  
1929 jurisdiction; and

1930           (6)     the petition includes a certification by the petitioner that, to the petitioner's  
1931 knowledge, the petitioner is not currently the subject of an active criminal investigation by any  
1932 criminal justice agency.

1933           Section 100J. (a) No criminal record, which includes a disposition related to the  
1934 following offenses, shall be eligible for expungement pursuant to section 100F, section 100G or  
1935 section 100H:

- 1936 (1) any offense resulting in death or serious bodily injury;
- 1937 (2) any offense committed with the intent to cause death or serious bodily injury;
- 1938 (3) any offense committed while armed with a dangerous weapon;
- 1939 (4) any offense against an elderly person;
- 1940 (5) any offense against a disabled person;
- 1941 (6) any sex offense as defined in section 178C of chapter 6;
- 1942 (7) any sex offense involving a child as defined in section 178C of chapter 6;
- 1943 (8) any sexually violent offense as defined in section 178C of chapter 6;
- 1944 (9) any offense in violation of section 24 of chapter 90;
- 1945 (10) any sexual offense as defined in section 1 of chapter 123A;
- 1946 (11) any offense in violation of sections 121 to 131Q of chapter 140;
- 1947 (12) any offense in violation of an order issued pursuant to chapter 209A;
- 1948 (13) any offense in violation of an order issued pursuant to chapter 258E;
- 1949 (14) any offense in violation of paragraph (a), (c) or (d) of section 10 of chapter 269;
- 1950 or
- 1951 (15) any offense in violation of section 10E of chapter 269.

1952 Section 100K. (a) Notwithstanding the requirements of section 100I and section 100J, a  
1953 court may order the expungement of a record created as a result of criminal court appearance,

1954 juvenile court appearance or dispositions if the court determines that the record was created as a  
1955 result of:

1956 (1) an offense the outcome of which was “not guilty”, “dismissed for want of  
1957 prosecution”, “dismissed at request of complainant”, “nol prossed”, or “no bill”;

1958 (2) an offense the disposition of which was a dismissal by the court after a conviction  
1959 had been overturned by the appeals court;

1960 (3) an offense the disposition of which was a dismissal with prejudice by the court;

1961 (4) false identification of the petitioner or the unauthorized use or theft of the  
1962 petitioner’s identity;

1963 (5) an offense at the time of the creation of the record which at the time of  
1964 expungement is no longer a crime, except in cases where the elements of the original criminal  
1965 offense continue to be a crime under a different designation.

1966 (6) demonstrable errors by law enforcement;

1967 (7) demonstrable errors by civilian or expert witnesses;

1968 (8) demonstrable errors by court employees; or

1969 (9) demonstrable fraud perpetrated upon the court.

1970 (b) The court shall have the discretion to order an expungement pursuant to this section  
1971 based on what is in the best interests of justice. Prior to entering an order of expungement  
1972 pursuant to this section, the court shall hold a hearing if requested by the petitioner or the district  
1973 attorney. Upon an order of expungement, the court shall enter written findings of fact.

1974 (c) The court shall forward an order for expungement pursuant to this section forthwith to  
1975 the clerk of the court where the record was created, to the commissioner and to the commissioner  
1976 of criminal justice information services appointed pursuant to section 167A of chapter 6.

1977 Section 100L. (a) Upon receipt of an order by a court pursuant to section 100F, section  
1978 100G, section 100H or section 100K the commissioner, the clerk of court where the record was  
1979 created and the commissioner of criminal justice information services appointed pursuant to  
1980 section 167A of chapter 6 shall:

1981 (1) expunge the record within the care, custody or control of the office, clerk's office  
1982 or department;

1983 (2) order all criminal justice agencies to expunge the record within their care, custody  
1984 or control;

1985 (3) order the attorney general to expunge the record within her care, custody or  
1986 control;

1987 (4) order the chief of police and the district attorney to expunge the record within  
1988 their care, custody or control; and

1989 (5) upon request of the petitioner who is the subject of the order, order any county  
1990 agency, municipal agency or state agency identified by said petitioner to expunge any records  
1991 within their care, custody or control that pertain to, or would otherwise identify, disclose or  
1992 reference the expunged record.

1993 (b) Any criminal justice agencies receiving an order from the commissioner or the  
1994 commissioner of criminal justice information services appointed pursuant to section 167A of

1995 chapter 6 pursuant to subsection (a), shall forthwith expunge any records within their care,  
1996 custody or control. Upon receipt of the order all criminal justice agencies shall, upon inquiry  
1997 from any party, including without limitation, criminal justice agencies, a county agency, a  
1998 municipal agency or a state agency, inform said party that no record exists.

1999 (c) Upon receipt of an order from the commissioner or the commissioner of criminal  
2000 justice information services appointed pursuant to section 167A of chapter 6 pursuant to  
2001 subsection (a), the attorney general shall forthwith expunge any records within her care, custody  
2002 or control. Upon receipt of the order the attorney general shall, upon inquiry from any party,  
2003 including without limitation, criminal justice agencies, a county agency, a municipal agency or a  
2004 state agency, inform said party that no record exists.

2005 (d) Any chief of police or district attorney receiving an order from the commissioner or  
2006 the commissioner of criminal justice information services appointed pursuant to section 167A of  
2007 chapter 6 pursuant to subsection (a), shall forthwith expunge any records within their care,  
2008 custody or control. Upon receipt of the order all chiefs of police and district attorneys shall, upon  
2009 inquiry from any party, including without limitation, criminal justice agencies, a county agency,  
2010 a municipal agency or a state agency, inform said party that no record exists.

2011 (e) Any county agency, municipal agency or state agency receiving an order from the  
2012 commissioner or the commissioner of criminal justice information services appointed pursuant to  
2013 section 167A of chapter 6 pursuant to subsection (a), shall forthwith expunge any criminal  
2014 records within their care, custody or control. Upon receipt of the order a county agency, a  
2015 municipal agency or a state agency shall, upon inquiry from any party, including without

2016 limitation, criminal justice agencies, a county agency, a municipal agency or a state agency,  
2017 inform said party that no record exists.

2018           Section 100M. No person whose record was expunged pursuant to section 100F, section  
2019 100G, section 100H or section 100K shall be held under any provision of any law to be guilty of  
2020 perjury or otherwise giving a false statement by reason of the person's failure to recite or  
2021 acknowledge such record, or portion thereof, in response to any inquiry made of him or her for  
2022 any purpose.

2023           Section 100N. (a) A record expunged pursuant to section 100F, section 100G, section  
2024 100H or section 100K shall not operate to disqualify a person in any examination, appointment  
2025 or application for employment with any county agency, municipal agency or state agency nor  
2026 shall such expunged records be admissible in evidence or used in any way in any court  
2027 proceedings or hearings before any boards or commissions or in determining suitability for the  
2028 practice of any trade or profession requiring licensure. No county agency, municipal agency or  
2029 state agency shall, directly or indirectly, when determining a person's eligibility for examination,  
2030 appointment or employment with any county agency, municipal agency or state agency require  
2031 the disclosure of a criminal record expunged pursuant to section 100F, section 100G, section  
2032 100H or section 100K. An applicant for examination, appointment or employment with any  
2033 county agency, municipal agency or state agency whose record was expunged pursuant to section  
2034 100F, section 100G, section 100H or section 100K may answer 'no record' with respect to an  
2035 inquiry herein relative to prior arrests, criminal court appearances, juvenile court appearances,  
2036 adjudications, or convictions. An applicant for examination, appointment or employment with  
2037 any county agency, municipal agency or state agency whose record was expunged pursuant to

2038 section 100F, section 100G, section 100H or section 100K may answer ‘no record’ to an inquiry  
2039 herein relative to prior arrests or criminal court appearances.

2040 (b) An application for employment used by any employer which seeks information  
2041 concerning prior arrests or convictions of the applicant shall include the following statement:  
2042 “An applicant for employment with a record expunged pursuant to section 100F, section 100G,  
2043 section 100H or section 100K of chapter 276 of the General Laws may answer ‘no record’ with  
2044 respect to an inquiry herein relative to prior arrests, criminal court appearances or convictions.  
2045 An applicant for employment with a record expunged pursuant to section 100F, section 100G,  
2046 section 100H or section 100K of chapter 276 of the General Laws may answer ‘no record’ to an  
2047 inquiry herein relative to prior arrests, criminal court appearances, juvenile court appearances,  
2048 adjudications or convictions.

2049 Section 100O. A petition for an expungement, any records related to a petition for an  
2050 expungement, records related to judicial proceedings required to hear the petition for an  
2051 expungement or an order of expungement pursuant to section 100F, section 100G, section 100H  
2052 or section 100K shall not be a public records. Any information obtained by a county, municipal  
2053 or state employee acting in their official capacity and related to a petition for or order for an  
2054 expungement shall be confidential information. Within 60 days of ordering an expungement  
2055 pursuant to section 100F, section 100G, section 100H or section 100K the court and the  
2056 commissioner shall expunge all records of the petition, the order and any related proceedings  
2057 within their care, custody or control.



2058           Section 100P. The court shall exclude the general public from any judicial proceeding  
2059 where the court will be hearing a petition for an expungement admitting only such persons as  
2060 may have a direct interest in the case.

2061           Section 100Q. No person shall make records sealed pursuant to section 100A or section  
2062 100B or expunged pursuant to section 100F, section 100G, section 100H or section 100K  
2063 available for inspection in any form by any person.

2064           Section 100R. It shall be a violation of public policy for a district attorney to make plea  
2065 deal contingent on waiving a right to expunge.

2066           Section 100S. In a claim for negligence, an employer or landlord shall be presumed to  
2067 have no notice or ability to know of a record that: (i) has been sealed or expunged; (ii) the  
2068 employer is prohibited from inquiring about pursuant to subsection 9 of section 4 of chapter  
2069 151B; or (iii) concerns crimes that the department of criminal justice information services cannot  
2070 lawfully disclose to an employer or landlord.

2071           Section 100T. Upon sealing a record pursuant to section 100A or section 100B or upon  
2072 receipt of an order of expungement pursuant to section 100F, section 100G, section 100H or  
2073 section 100K the commissioner shall notify the Federal Bureau of Investigation and the United  
2074 States Department of Justice of said sealing or expungement and shall request said Federal  
2075 Bureau of Investigation and the United States Department of Justice seal or expunge the record.

2076           Section 100U. The court, the office and the department may promulgate regulations for  
2077 the administration and enforcement of sections 100E through 100T.

2078 SECTION 87A. Section 1 of chapter 276A, as so appearing, is hereby amended by  
2079 striking out, in lines 20 and 21, the words “certified or approved by the commissioner of  
2080 probation under the provisions of section eight,”

2081 SECTION 88. Section 2 of chapter 276A, as appearing in the 2016 Official Edition, is  
2082 hereby amended by striking out, in lines 6 and 7, inclusive, the words “who has reached the age  
2083 of 18 years but has not reached the age of twenty-two,”.

2084 SECTION 88A. Sections 8 and 9 of said chapter 276A are hereby repealed.

2085 SECTION 89. The General Laws are hereby amended by inserting after chapter 276A the  
2086 following chapter:-

2087 CHAPTER 276B.

2088 RESTORATIVE JUSTICE.

2089 Section 1. As used in this chapter the following words shall, unless the context clearly  
2090 requires otherwise, have the following meanings:-

2091 “Restorative justice”, a voluntary process whereby the offenders, victims and members of  
2092 the community collectively identify and address harms, needs and obligations resulting from an  
2093 offense, in order to understand the impact of that offense. An offender shall accept responsibility  
2094 for their actions and the program shall support the offender as they make repair to the victim or  
2095 community in which the harm occurred.

2096 “Community-based restorative justice program”, a voluntary program established on  
2097 restorative justice principles that engages parties to a crime or members of the community in  
2098 order to develop a plan of repair that addresses the needs of the parties and the community.

2099 Programs may include the parties to a case, their supporters, and community members or one-on-  
2100 one dialogues between a victim and offender.

2101 Section 2. Participation in a community-based restorative justice program shall be  
2102 voluntary and may be available to both a juvenile and adult defendant. A juvenile or adult  
2103 defendant may be diverted to a community-based restorative justice program pre-arraignment or  
2104 at any stage of a case with the consent of the district attorney and the victim. Restorative justice  
2105 may be a final case disposition, with judicial approval. If a juvenile or adult defendant  
2106 successfully completes the community-based restorative justice program, the charge shall be  
2107 dismissed. If a juvenile or adult defendant does not successfully complete the program or is  
2108 found to be in violation of program requirements, the case shall be returned to the court in which  
2109 it was arraigned in order to commence with proceedings. Nothing in this chapter shall be  
2110 construed to prohibit pre-arraignment law enforcement based programs.

2111 Section 3. A person shall not be eligible to participate in a community-based restorative  
2112 justice program if that person is charged with: (i) a sexual offense as defined by section 1 of  
2113 chapter 123A; (ii) an offense against a family or household member as defined by section 13M  
2114 of chapter 265; or (iii) an offense resulting in serious bodily injury or death.

2115 Section 4. Participation in a community-based restorative justice program shall not be  
2116 used as evidence or as an admission of guilt, delinquency or civil liability in current or  
2117 subsequent legal proceedings against any participant. Any statement made by a juvenile or adult  
2118 defendant during the course of an assignment to a community-based restorative justice program  
2119 shall be confidential and shall not be subject to disclosure in any judicial or administrative  
2120 proceeding; and no information obtained during the course of such assignment shall be used in

2121 any stage of a criminal investigation or prosecution, or civil or administrative proceeding;  
2122 provided, however, that nothing in this section shall preclude any evidence obtained through an  
2123 independent source or that would have been inevitably discovered by lawful means from being  
2124 admitted at such proceedings.

2125           Section 5. (a) There shall be established a restorative justice advisory committee to  
2126 review community-based restorative justice programs. The advisory committee shall consist of  
2127 17 members: 1 of whom shall be the secretary of public safety and security, or a designee, who  
2128 shall serve as chair; 1 of whom shall be the secretary of health and human services, or a  
2129 designee; 1 of whom shall be a member of the house of representatives appointed by the speaker;  
2130 1 of whom shall be a member of the senate appointed by the senate president; 1 of whom shall be  
2131 the president of the Massachusetts district attorneys association, or a designee; 1 of whom shall  
2132 be the chief counsel of the committee for public counsel services, or a designee; 1 of whom shall  
2133 be the commissioner of probation, or a designee; 1 of whom shall be the president of the  
2134 Massachusetts chiefs of police association, or a designee; 1 of whom shall be the executive  
2135 director of the Massachusetts office for victim assistance, or a designee; 1 of whom shall be the  
2136 executive director of the Massachusetts sheriff's association, or a designee; and 7 of whom shall  
2137 be appointed by the governor, 2 of whom shall be a retired trial court judge and 5 of whom shall  
2138 be representatives of community-based restorative justice programs or a member of the public  
2139 with expertise in restorative justice. Each member of the advisory committee shall serve a 6-year  
2140 term.

2141           (b) The advisory committee may monitor and assist all community-based restorative  
2142 justice programs to which a juvenile or adult defendant may be diverted pursuant to this chapter.

2143 (c) The advisory committee shall track the use of community-based restorative justice  
2144 programs through a partnership with an educational institution and may make legislative, policy  
2145 and regulatory recommendations to aid in the use of community-based restorative justice  
2146 programs, including but not limited to: qualitative and quantitative outcomes for participants;  
2147 recidivism rates of responsible parties; criteria for youth involvement and training; cost savings  
2148 for the commonwealth; training guidelines for restorative justice facilitators; data on gender,  
2149 racial socioeconomic and geographic disparities in the use of community-based restorative  
2150 justice programs; guidelines for restorative justice best practices; and appropriate training for  
2151 community-based restorative programs.

2152 (d) The advisory committee shall annually submit a report with findings and  
2153 recommendations to the governor, the clerks of the house of representatives and senate, and the  
2154 joint committees on the judiciary and public safety and homeland security annually, no later than  
2155 December 31.

2156 SECTION 89A. Chapter 6 of the General Laws, as appearing in the 2016 Official  
2157 Edition, is hereby amended by inserting, after section 116F, the following new section:-

2158 Section 116G. (a) As used in this section, “bias-free policing” shall mean decisions made  
2159 by law enforcement officers that shall not consider a person’s race, ethnicity, sex, gender  
2160 identity, religion, mental or physical disability, immigration status or socioeconomic or  
2161 professional level.

2162 (b) The municipal police training committee, in consultation with the executive office of  
2163 public safety and security, shall establish and develop an in-service training program designed to  
2164 train local law enforcement officials in the following areas:

2165 (i) practices and procedures related to bias-free policing which shall include, but not be  
2166 limited to, examining attitudes and stereotypes that affect the actions and decisions of law  
2167 enforcement officers;

2168 (ii) practices and techniques for law enforcement officers in civilian interaction and to  
2169 promote procedural justice, which shall emphasize de-escalation and disengagement tactics and  
2170 techniques and procedures that build community trust and maintain community confidence; and

2171 (iii) handling mental health emergencies and complaints involving victims, witnesses or  
2172 suspects with a mental illness or developmental disability, which shall include training related to  
2173 common behaviors and actions exhibited by such individuals, strategies law enforcement officers  
2174 may use for reducing or preventing the risk of harm and strategies that involve the least intrusive  
2175 means of addressing such incidences and individuals while protecting the safety of the law  
2176 enforcement officer and other persons; provided, however, that training presenters shall include  
2177 certified mental health practitioners with expertise in the delivery of direct services to individuals  
2178 experiencing mental health emergencies and victims, witnesses and suspects with a mental  
2179 illness or developmental disability.

2180 (c) The committee shall determine training requirements and minimum standards of the  
2181 program that all local law enforcement agencies throughout the commonwealth shall implement  
2182 in their practices and training of law enforcement officials.

2183 SECTION 90. Section 70C of chapter 277 of the General Laws, as appearing in the 2016  
2184 Official Edition, is hereby amended by striking out, in line 8, the word “, chapter 119”.

2185 SECTION 91. Section 1 of chapter 279 of the General Laws, as so appearing, is hereby  
2186 amended by adding the following paragraph:-

2187           When a person is sentenced to pay a fine of any amount, or is assessed fines, fees, costs,  
2188 civil penalties, or other expenses at disposition of a case, the court shall inform that person that:  
2189 (i) nonpayment of the fines, fees, costs, civil penalties or expenses may result in commitment to  
2190 a correctional facility; (ii) payment must be made by a date certain; (iii) failure to appear at such  
2191 date certain or failure to make the payment may result in the issuance of a default; and (iv) if an  
2192 inability to pay exists as the result of a change in financial circumstances or for any other reason,  
2193 the person has a right to address the court if the person alleges that such assessed fines, fees,  
2194 costs, civil penalties or other expenses would cause a substantial financial hardship to the person,  
2195 the person's immediate family or the person's dependents.

2196           SECTION 92. The second paragraph of section 6A of chapter 280 of the General Laws,  
2197 as so appearing is hereby amended by striking out the second sentence and inserting in place  
2198 thereof the following sentence:- The court or justice may waive all or any part of said cost  
2199 assessment upon a finding that such payment would cause a substantial financial hardship to the  
2200 person, the person's immediate family or the person's dependents.

2201           SECTION 93. The first paragraph of section 6B of said chapter 280, as so appearing, is  
2202 hereby amended by striking out the fourth sentence and inserting in place thereof the following  
2203 sentence:-The court or justice may waive all or any part of said assessment upon a finding that  
2204 such payment would cause a substantial financial hardship to the person, the person's immediate  
2205 family or the person's dependents.

2206           SECTION 94. The first paragraph of section 368 of chapter 26 of the acts of 2003 is  
2207 hereby amended by striking out the fourth and fifth sentences and inserting in place thereof the  
2208 following 2 sentences:- The parole board shall waive payment of said parole fee for the first 6

2209 months of parole if it determines that such payment would constitute a substantial financial  
2210 hardship to said person or the person's immediate family or the person's dependents. Any such  
2211 waiver so granted shall continue to be in effect during the period of time that said person is  
2212 determined to be unable to pay the monthly parole fee.

2213 SECTION 95. The second paragraph of said section 368 of said chapter 26 is hereby  
2214 amended by striking out the third and fourth sentences and inserting in place thereof the  
2215 following 2 sentences:- The parole board shall waive payment of said surcharge for the first 6  
2216 months of parole if it determines that such payment would constitute a substantial financial  
2217 hardship to said person or the person's immediate family or the person's dependents. Any such  
2218 waiver so granted shall continue to be in effect during the period of time that said person is  
2219 determined to be unable to pay the monthly parolee victim services surcharge.

2220 SECTION 96. Notwithstanding any special or general law to the contrary, there shall be a  
2221 special commission established to conduct a study on the ability of a defendant to pay fines and  
2222 fees. The commission shall consist of: commissioner of the department of probation, or designee;  
2223 commissioner of the department of revenue, or designee; 1 member of the house of  
2224 representatives to be appointed by the speaker of the house; 1 member of the house of  
2225 representatives to be appointed by the minority leader of the house; 1 member of the senate to be  
2226 appointed by the senate president; 1 member of the senate to be appointed by the senate minority  
2227 leader; 1 member to be appointed by the parole board; 1 member to be appointed by the  
2228 committee for public counsel services; and 1 member to be appointed by the executive director  
2229 of the American Civil Liberties Union of Massachusetts, Inc.

2230 That study shall include, but not be limited to:



2231 (a) the establishment of a uniform definition and standards for evaluating indigency;

2232 (b) the establishment of a uniform definition and standards for evaluating a  
2233 substantial financial hardship; and

2234 (c) the feasibility of enabling the department of probation and the parole board to  
2235 access department of revenue records for the purposes of ascertaining whether a defendant is  
2236 indigent or would suffer a substantial financial hardship if ordered to pay fines or fees.

2237 The department shall file the findings of its study by December 31, 2018, with the clerks  
2238 of the house and the senate, who shall forward the report to the chairmen of the house committee  
2239 on ways and means, the senate committee on ways and means, and the joint committee on the  
2240 judiciary.

2241 SECTION 97. Notwithstanding any special or general law to the contrary, there shall be a  
2242 special commission established to investigate and study the operation and management of the  
2243 Massachusetts state police crime laboratory. The commission shall consist 11 members: 1 of  
2244 whom shall be the secretary of public safety and security or the secretary's designee; 1 of whom  
2245 shall be the secretary of health and human services or the secretary's designee; 1 of whom shall  
2246 be a member of the house of representatives appointed by the speaker of the house; 1 member of  
2247 the house of representatives to be appointed by the minority leader of the house; 1 of whom shall  
2248 be a member of the senate appointed by the senate president; 1 member of the senate to be  
2249 appointed by the senate minority leader; 1 of whom shall be a member appointed by the  
2250 Massachusetts district attorney association; 1 of whom shall be a member appointed by the  
2251 committee for public counsel services; 1 of whom shall be a member appointed by the  
2252 Massachusetts bar association; 1 person appointed by the governor who shall be a member of the

2253 public with expertise in scientific research on or technological development in testing  
2254 capabilities of substances; 1 person appointed by the speaker of the house who shall be a member  
2255 of the public with expertise in scientific research on, or technological development in, testing  
2256 capabilities of substances; 1 person appointed by the senate president who shall be a member of  
2257 the public with expertise in scientific research on or technological development in testing  
2258 capabilities of substances; and 1 person appointed by the attorney general who shall be a member  
2259 of the public with expertise in social welfare or social justice.

2260 The investigation shall include, but not be limited to:

2261 (a) evaluating the capabilities of the crime laboratory and its ability to process  
2262 evidence necessary to comply with the Massachusetts general laws;

2263 (b) establishing professional qualifications necessary to serve as the head of the crime  
2264 laboratory;

2265 (c) determining the proper entity to oversee the crime laboratory and whether it  
2266 would be appropriate to transfer such oversight to another executive agency or to an independent  
2267 executive director;

2268 (d) the feasibility of creating a board to select an independent executive director of  
2269 the crime laboratory;

2270 (e) setting term limits and reappointment standards applicable to the head of the  
2271 crime laboratory.

2272 The commission shall file the findings of its study by December 31, 2018, with the clerks  
2273 of the house and the senate, who shall forward the report to the chairmen of the house committee

2274 on ways and means, the senate committee on ways and means, and the joint committee on the  
2275 judiciary.

2276 SECTION 97A. Notwithstanding any special or general law to the contrary, there shall be  
2277 a special commission established to investigate and study the integrity of forensic analysis  
2278 performed in state and municipal laboratories. The commission shall consist of 11 members who  
2279 shall be appointed by the governor as follows: 1 of whom shall have expertise in forensic  
2280 science; 1 of whom shall have expertise in cognitive bias; 1 of whom shall work in academia in a  
2281 research field adjacent to forensic science; 1 of whom shall have expertise in statistics; 1 of  
2282 whom shall have expertise in forensic laboratory management; 1 of whom shall have expertise in  
2283 clinical quality management; 1 of whom shall be nominated by the Massachusetts District  
2284 Attorneys Association; 1 of whom shall be nominated by the Attorney General of Massachusetts,  
2285 who shall serve as chair; 1 of whom shall be nominated by the Committee of Public Counsel  
2286 Services; 1 of whom shall be nominated by the Massachusetts Association of Criminal Defense  
2287 Lawyers; and 1 of whom shall be nominated by the New England Innocence Project. No  
2288 member, other than those nominated by the Massachusetts District Attorneys Association, the  
2289 Attorney General of Massachusetts, the Committee of Public Counsel Services or the New  
2290 England Innocence Project shall be employed by or affiliated with any state or municipal  
2291 forensic laboratory throughout the term of membership.

2292 The investigation shall include, but not be limited to:

2293 (a) evaluating the manner in which forensic laboratories report professional  
2294 negligence or misconduct;

- 2295 (b) identifying professional negligence or misconduct that could affect the integrity or  
2296 results of forensic analysis;
- 2297 (c) evaluating laboratory accreditation and professional licensing processes;
- 2298 (d) identifying measures to improve the quality of forensic analysis performed in  
2299 laboratories; and
- 2300 (e) recommending improvements to education and training in forensic science.

2301 The commission shall file the findings of its study by December 31, 2018, with the clerks  
2302 of the house and the senate, who shall forward the report to the chairmen of the house committee  
2303 on ways and means, the senate committee on ways and means, and the joint committee on the  
2304 judiciary.

2305 SECTION 98. All appointments to the advisory committee established pursuant to  
2306 section 5 of chapter 276B of the General Laws shall be made not later than October 1, 2018 and  
2307 the first meeting of the advisory committee shall be held not later than December 1, 2018.

2308 SECTION 99. All appointments to the juvenile justice policy and data commission  
2309 established pursuant to section 86 of chapter 119 of the General Laws shall be made not less than  
2310 90 days after the enactment of this legislation.

2311 SECTION 100. All reports established pursuant to subsection (e) of section 41 of chapter  
2312 127 of the General Laws shall be filed beginning July 1, 2019.

2313 SECTION 101. Notwithstanding any general or special law to the contrary, any person  
2314 who has failed to provide a DNA sample as required by section 3 of the chapter 22E of the

2315 General Laws shall not be subject to section 11 of said chapter 22E; provided said person  
2316 provides the required DNA sample within 6 months of the effective date of this act.

2317 SECTION 102. Section 7 shall take effect 6 months after the effective date of this act.

2318 SECTION 103. Sections 13, 14, 15, 16 and 20 shall apply to convictions occurring on or  
2319 after the effective date of this act.

2320 SECTION 104. Section 87 shall take effect 6 months after the effective date of this act.

2321 SECTION 105. Section 101 of this act is hereby repealed.

2322 SECTION 106. Section 105 of this act shall take effect 6 months after the effective date  
2323 of this act.

2324 SECTION 107. Notwithstanding any general or special law to the contrary, there shall be  
2325 established a panel on justice-involved women to review and report on the impact of this act and  
2326 other criminal statutes on women in the Commonwealth and make recommendations on gender-  
2327 responsive and trauma-informed approaches to address the pre-trial, incarceration, and  
2328 rehabilitation needs of justice-involved women. The task force shall review and consider  
2329 improvements including, but not limited to, family visitation policies, available reproductive  
2330 health care, gender-specific pre-trial services and programming offered within correctional  
2331 institutions, and post-release transitional assistance and supports for women.

2332 Said panel shall be chaired by the commissioner of the department of corrections or a  
2333 designee, and shall consist of the commissioner of the department of children and families or a  
2334 designee, the commissioner of the department of mental health or a designee, the commissioner  
2335 of the department of public health or a designee, the commissioner of the office of probation, a

2336 member of the house of representatives appointed by the speaker of the house, a member of the  
2337 senate appointed by the senate president, a member of the Massachusetts' sheriffs association,  
2338 and persons representing justice-involved women, re-entry programs, trauma-informed programs  
2339 and training, domestic violence prevention, and an individual who has been formally  
2340 incarcerated. Members of the board shall be appointed no later than 60 days after enactment of  
2341 this act. The policy review panel shall meet at least 2 times annually and review reports, data and  
2342 other information related to justice-involved women in the Commonwealth.

2343           The panel shall annually, on or before December 31st, issue a report of its review and  
2344 recommendations to the chairs of the joint committee on the judiciary, house and senate clerks,  
2345 and the Chairs of the Women's Caucus Task Force on Justice Involved Women.

2346           SECTION 108. Chapter 94C, section 32E of the General Laws is hereby amended by  
2347 inserting, after subsection (c) (4), the following section:- (5) Any persons found guilty of  
2348 trafficking heroin or fentanyl that results in the death of the user is to be punished by the terms  
2349 set forth in Chapter 265, Section 13 of the Massachusetts General Laws.

2350           SECTION 109. Notwithstanding any general or special law to the contrary, the  
2351 provisions of section 108 shall not take effect until such time as the executive office for  
2352 administration and finance, in conjunction with the executive office of public safety and security,  
2353 has furnished a study of the legislation's impact on public safety and its impact on the economy  
2354 of the commonwealth and its municipalities, including, but not limited to, a distributional  
2355 analysis of the impact to taxpayers of varying income levels, the current practice of other states,  
2356 anticipated changes in employment levels and other ancillary economic activity to the joint

2357 committee on public safety and homeland security, and until legislation has been filed and  
2358 enacted pursuant to Part 2, Chap. 1, Sec. 1, Art. II of the Constitution.

2359 SECTION 110. Section 26 of Chapter 218 of the General Laws, as appearing in the 2016  
2360 Official Edition, is hereby amended by striking out, in line 18, the words "thirteen K" and  
2361 inserting in place thereof the following two figures:- 13D, 13K.

2362 SECTION 111. Section 13D of Chapter 265 of the General Laws, as so appearing, is  
2363 hereby amended by adding the following paragraph:-

2364 Whoever commits an assault and battery upon a police officer when such person is  
2365 engaged in the performance of his duties at the time of such assault and battery, causing serious  
2366 bodily injury, shall be punished by a term of imprisonment in the state prison for not less than 1  
2367 year nor more than 10 years, or house of correction for not less than 1 year nor more than 2 ½  
2368 years. No sentence imposed under the provisions of this section shall be for less than a  
2369 mandatory minimum term of imprisonment of one year and a fine of not less than \$500 nor more  
2370 than \$10,000 may be imposed but not in lieu of the mandatory minimum term of imprisonment.  
2371 A prosecution commenced under this paragraph shall not be placed on file or continued without  
2372 a finding and a sentence imposed upon a person convicted of violating this paragraph shall not be  
2373 suspended or reduced, nor shall such person be eligible for probation, parole, work release,  
2374 furlough or receive any deduction from his sentence for good conduct until such person shall  
2375 have served said mandatory minimum term of imprisonment.

2376 SECTION 112. The secretary of elder affairs and the secretary of the executive office of  
2377 public safety and security, in consultation with the Attorney General, the Massachusetts chapter  
2378 of AARP, the Massachusetts chapter of the National Academy of Elder Law Attorneys, and a

2379 representative from an Aging Services Access Point, shall report to the general court on elder  
2380 protection laws in the commonwealth. The report shall include, but not be limited to: (i) the  
2381 effectiveness of existing elder protection laws; (ii) the preservation of the autonomy of elders in  
2382 the context of elder protection laws; (iii) additional legislative or regulatory changes that would  
2383 further strengthen elder protection laws; and (iv) opportunities presented by the Elder Abuse  
2384 Prevention and Prosecution Act, Public Law No. 115-70. The report shall be submitted with  
2385 drafts of any recommended legislation to the clerks of the house of representatives and the senate  
2386 and the chairs of the joint committee on elder affairs and the joint committee on the judiciary not  
2387 later than July 31, 2018.

2388           SECTION 113. Notwithstanding any special or general law to the contrary, there shall be  
2389 a special commission established to investigate and study the statutory authority, operations, and  
2390 training of constables. The commission shall consist 11 members: 1 of whom shall be the  
2391 secretary of public safety and security or the secretary's designee; 1 of whom shall be a member  
2392 of the Massachusetts trial court; 1 of whom shall be a member of the house of representatives  
2393 appointed by the speaker of the house; 1 of whom shall be a member of the senate appointed by  
2394 the senate president; 1 of whom shall be a member appointed by the Massachusetts district  
2395 attorney association; 1 of whom shall be a member appointed by the Massachusetts sheriffs  
2396 association; 1 of whom shall be a member appointed by the Massachusetts bar association; 1 of  
2397 whom shall be a member appointed by the Massachusetts chiefs of police association; 1 of whom  
2398 shall be a member appointed by the Massachusetts constables coalition; 1 of whom shall be a  
2399 member appointed by the Massachusetts bay constables association; 1 person appointed by the  
2400 governor who shall be a member of the public with experience in civil process.



2401           The commission shall file the findings of its study by May 31, 2018, with the clerks of  
2402 the house and the senate, who shall forward the report to the chairmen of the house committee on  
2403 ways and means, the senate committee on ways and means, and the joint committee on the  
2404 judiciary.

2405           SECTION 114. Section 18 3/4 of chapter 6A of the General Laws, as appearing in the  
2406 2016 Official Edition, is hereby amended by adding the following subsection:-

2407           (11) to create a uniform booklet of informational material, which shall be provided to  
2408 persons, including juvenile offenders, committed to the custody of the department of correction  
2409 and the sheriffs upon their release from a correctional facility. The booklet shall contain, at a  
2410 minimum: (i) a summary of how and by whom the committed person's criminal offender record  
2411 information may be accessed and distributed pursuant to sections 167 to 178B, inclusive, of  
2412 chapter 6; (ii) an explanation of the process for filing a complaint with the department of  
2413 criminal justice information services regarding the content of, dissemination of or access to  
2414 criminal offender record information; (iii) an explanation of the right to have certain records  
2415 sealed pursuant to section 100A of chapter 276 and a step by step explanation of the process for  
2416 sealing such records; (iv) an explanation of the duration of criminal offender record information;  
2417 (v) contact information for relevant employees and offices of the department; (vi) a list of  
2418 websites with important background on, and explanations of, criminal offender record  
2419 information; and (vi) a list of answers to frequently asked questions about criminal offender  
2420 record information.

2421           SECTION 115. Section 172A of chapter 6 of the General Laws, as appearing in the 2016  
2422 Official Edition, is hereby amended by inserting after the figure "18031(i)", in line 9, the

2423 following words:- , or veterans organizations requesting information relative to employees,  
2424 volunteers and veterans that such organizations shall provide housing for.

2425 SECTION 116. "Section 34A of chapter 268 of the General Laws, as appearing in the  
2426 2012 Official Edition, is hereby amended by striking out the first sentence and inserting in place  
2427 thereof the following sentence:- Whoever knowingly and willfully furnishes a false name, Social  
2428 Security number, date of birth, home address, mailing address or phone number, or other  
2429 information as may be requested for the purposes of establishing the person's identity, to a law  
2430 enforcement officer or law enforcement official following an arrest shall be punished by a fine of  
2431 not more than \$1,000 or by imprisonment in a house of correction for not more than 1 year or by  
2432 both such fine and imprisonment.

2433 SECTION 117. Said chapter 6 of the General Laws, as so appearing in the 2016 Official  
2434 Edition, is hereby further amended by inserting after section 172M the following section:-

2435 Section 172N. State and political subdivision licensing authorities shall provide in the  
2436 licensing requirements for a professional license a list of the specific criminal convictions that  
2437 are directly related to the duties and responsibilities for the licensed occupation that would  
2438 disqualify an applicant from eligibility for a license. For the purposes of this section, "licensing  
2439 authority" shall include an agency, examining board, credentialing board, or other office or  
2440 commission with the authority to impose occupational fees or licensing requirements on a  
2441 profession.

2442 SECTION 118. Section 37E of said chapter 266, as appearing in the 2016 Official  
2443 Edition, is hereby amended by inserting after subsection (c) the following subsection:-

2444 (c ½) Whoever possesses a tool, instrument or other article adapted, designed or  
2445 commonly used for accessing a person’s financial services account number or code, savings  
2446 account number or code, checking account number or code, brokerage account number or code,  
2447 credit card account number or code, debit card number or code, automated teller machine  
2448 number or code, personal identification number, mother’s maiden name, computer system  
2449 password, electronic signature or unique biometric data that is a fingerprint, voice print, retinal  
2450 image or iris image of another person under circumstances evincing an intent to use or  
2451 knowledge that some person intends to use the same in the commission of larceny shall be guilty  
2452 of identity fraud and shall be punished by a fine of not more than \$5,000 or imprisonment in a  
2453 house of correction for not more than 2 1/2 years, or by both such fine and imprisonment.

2454 SECTION 119. Section 8A of chapter 90 of the General Laws, as so appearing, is hereby  
2455 amended by striking out, in line 33, the words “of the vapors of glue” and inserting in place  
2456 thereof the following words:- “from smelling or inhaling the fumes of any substance having the  
2457 property of releasing toxic vapors as defined in section 18 of chapter 270”.

2458 SECTION 120. Section 8A ½ of said chapter 90, as so appearing, is hereby amended by  
2459 striking out, in lines 29 and 30, the words “the vapors of glue” and inserting in place thereof the  
2460 following words:- “from smelling or inhaling the fumes of any substance having the property of  
2461 releasing toxic vapors as defined in section 18 of chapter 270.”

2462 SECTION 121. Section 21 of said chapter 90, as so appearing, is hereby amended by  
2463 striking out, in line 27, the words “under the influence of the vapors of glue” and inserting in  
2464 place thereof the following words:- “while under the influence from smelling or inhaling the

2465 fumes of any substance having the property of releasing toxic vapors as defined in section 18 of  
2466 chapter 270.”;

2467 SECTION 122. Section 24 of said chapter 90, as so appearing, is hereby amended by  
2468 striking out, in lines 8 and 759, the words “the vapors of glue” and inserting in place thereof, in  
2469 each instance, the following words:- “while under the influence from smelling or inhaling the  
2470 fumes of any substance having the property of releasing toxic vapors as defined in section 18 of  
2471 chapter 270.

2472 SECTION 123. Section 24D of said chapter 90, as so appearing, is hereby amended by  
2473 striking out, in lines 4 and in lines 17 and 18, the words “the vapors of glue” and inserting in  
2474 place thereof, in each instance, the following words:- “while under the influence from smelling  
2475 or inhaling the fumes of any substance having the property of releasing toxic vapors as defined in  
2476 section 18 of chapter 270.

2477 SECTION 124. Section 24G of said chapter 90, as so appearing, is hereby amended by  
2478 striking out, in lines 8 and 43, the words “vapors of glue” and inserting in place thereof, in each  
2479 instance, the following words:- while under the influence from smelling or inhaling the fumes of  
2480 any substance having the property of releasing toxic vapors as defined in section 18 of chapter  
2481 270.

2482 SECTION 125. Section 24L of said chapter 90, as so appearing, is hereby amended by  
2483 striking out, in lines 8 and 43, the words “vapors of glue” and inserting in place thereof, in each  
2484 instance, the following words:- while under the influence from smelling or inhaling the fumes of  
2485 any substance having the property of releasing toxic vapors as defined in section 18 of chapter  
2486 270.

2487 SECTION 126. Section 8 of chapter 90B of the General Laws, as so appearing, is hereby  
2488 amended by striking out, in lines 6 and 508, the words “the vapors of glue” and inserting in place  
2489 thereof, in each instance, the following words:- from smelling or inhaling the fumes of any  
2490 substance having the property of releasing toxic vapors as defined in section 18 of chapter 270.

2491 SECTION 127. Section 8A of said chapter 90B, as so appearing, is hereby amended by  
2492 striking out, in lines 5 and 6, the words “the vapors of glue” and inserting in place thereof the  
2493 following words:- from smelling or inhaling the fumes of any substance having the property of  
2494 releasing toxic vapors as defined in section 18 of chapter 270.

2495 SECTION 128. Said section 8A of said chapter 90B, as so appearing, is hereby further  
2496 amended by striking out, in line 36, the words “vapors of glue” and inserting in place thereof the  
2497 following words:- from smelling or inhaling the fumes of any substance having the property of  
2498 releasing toxic vapors as defined in section 18 of chapter 270.

2499 SECTION 129. Section 8B of said chapter 90B, as so appearing, is hereby amended by  
2500 striking out, in lines 5 and 6 and 38 and 39, the words “the vapors of glue” and inserting in place  
2501 thereof, in each instance, the following words:- from smelling or inhaling the fumes of any  
2502 substance having the property of releasing toxic vapors as defined in section 18 of chapter 270.

2503 SECTION 130. Section 26A of said chapter 90B, as so appearing, is hereby amended by  
2504 striking out, in line 8 and 17, the words “the vapors of glue” and inserting in place thereof, in  
2505 each instance, the following words:- from smelling or inhaling the fumes of any substance  
2506 having the property of releasing toxic vapors as defined in section 18 of chapter 270.

2507 SECTION 131. Section 10H of said chapter 269, as so appearing, is hereby amended by  
2508 striking out, in line 7, the words “the vapors of glue” and inserting in place thereof the following

2509 words:- from smelling or inhaling the fumes of any substance having the property of releasing  
2510 toxic vapors as defined in section 18 of chapter 270.

2511 SECTION 132. Said section 2 of said chapter 258C, as so appearing, is hereby further  
2512 amended by striking out, in line 27, the word “shall” and inserting in place thereof the following  
2513 word:- may.

2514 SECTION 133. Subsection (e) of said section 2 of said chapter 258C, as so appearing, is  
2515 hereby amended by inserting after the second sentence the following sentence:- In the event of a  
2516 victim’s death by homicide, an award may be reduced except the costs for appropriate and  
2517 modest funeral, burial or cremation services shall be paid by the fund.

2518 SECTION 134. Section 14B of chapter 269 of the General Laws, as appearing in the  
2519 2014 Official Edition, is hereby amended by adding after paragraph (b) the following  
2520 paragraph:—

2521 (c) whoever makes or causes to be made 3 or more non-emergency calls as determined by  
2522 the PSAP shall be punished by a fine of not more than 250 dollars. Whoever commits a  
2523 subsequent violation of this section shall be punished by a fine of not less than 500 dollars.

2524 SECTION 135. The department of correction, in consultation with the department of  
2525 telecommunications and cable shall study and report on: (i) the cost of local and long distance  
2526 telephone service provided to prisoners in department of correction facilities and county houses  
2527 of correction; (ii) a comparison of the rates with comparable residential telephone service; and  
2528 (iii) information relative to commissions and revenue collected as part of telephone services  
2529 provided to prisoners in department of correction facilities and county houses of correction. The  
2530 report shall be filed with the house and senate chairs of the joint committee on the judiciary, the

2531 house and senate chairs of the joint committee on public safety and security, and the house and  
2532 senate chairs of the joint committee on telecommunications, utilities and energy on or before  
2533 July 1, 2018.

2534 SECTION 136. Chapter 6A of the General Laws, as appearing in the 2016 Official  
2535 Edition, is hereby amended by inserting after section 18V the following section:-

2536 Section 18W. (a) There shall be within the executive office of public safety and security a  
2537 statewide sexual assault evidence kit tracking system. The secretary of public safety and security,  
2538 hereinafter referred to as the secretary, shall convene a multidisciplinary task force composed of  
2539 members that include law enforcement professionals, crime lab personnel, prosecutors, victim  
2540 advocates, victim attorneys, survivors, and sexual assault nurse examiners or sexual assault  
2541 forensic examiners to help develop recommendations for a tracking system and identify funding  
2542 sources. The secretary may contract with state or non-state entities including, but not limited to,  
2543 private software and technology providers, for the creation, operation, and maintenance of the  
2544 system. A sexual assault evidence kit shall include the standardized kit for the collection and  
2545 preservation of evidence in sexual assault or rape cases as designed by the municipal police  
2546 training committee pursuant to section 97B of chapter 41.

2547 (b) The statewide sexual assault evidence kit tracking system shall:

2548 (i) track the location and status of sexual assault evidence kits throughout the criminal  
2549 justice process, including; (1) the initial collection in examinations performed at hospitals or  
2550 medical facilities, (2) receipt and storage at a governmental entity, including a local law  
2551 enforcement agency, the department of state police, a district attorney's office or any other  
2552 official body of the commonwealth or of a county, city or town, (3) a hospital or medical facility

2553 that is in possession of forensic evidence pursuant to section 97B, (4) receipt and analysis at  
2554 forensic laboratories, and (5) storage and any destruction after completion of analysis;

2555 (ii) allow hospitals or medical facilities performing sexual assault forensic examinations,  
2556 law enforcement agencies, prosecutors, the crime laboratory within the department of state  
2557 police, the crime laboratory within the Boston police department, and other entities in the  
2558 custody of sexual assault kits to update and track the status and location of sexual assault kits;

2559 (iii) allow victims of sexual assault to anonymously track and receive updates regarding  
2560 the status of their sexual assault kits; and

2561 (iv) use electronic technology or technologies allowing continuous access.

2562 (c) The secretary may use a phased implementation process in order to launch the system  
2563 and facilitate entry and use of the system for required participants. The secretary may phase  
2564 initial participation according to region, volume or other appropriate classifications. All entities  
2565 in the custody of sexual assault evidence kits shall fully participate in the system no later than  
2566 December 1, 2019.

2567 (d) The secretary shall submit a report on the current status and plan for launching the  
2568 system, including the plan for phased implementation, to the general court's joint committee on  
2569 the judiciary, and the governor no later than June 30, 2018.

2570 (e) For the purpose of reports under this section, a sexual assault evidence kit shall be  
2571 assigned to the jurisdiction associated with the law enforcement agency anticipated to receive the  
2572 sexual assault evidence kit or otherwise in the custody of the sexual assault evidence kit.



2573 (f) Any public agency or entity, including its officials and employees, and any hospital  
2574 and its employees providing services to victims of sexual assault may not be held civilly liable  
2575 for damages arising from any release of information or the failure to release information related  
2576 to the statewide sexual assault evidence kit tracking system, so long as the release was without  
2577 gross negligence.

2578 (g) Local law enforcement agencies shall participate in the statewide sexual assault  
2579 evidence kit tracking system established in this section for the purpose of tracking the status of  
2580 all sexual assault evidence kits in the custody of local law enforcement agencies and other  
2581 entities contracting with local law enforcement agencies. Local law enforcement agencies shall  
2582 begin full participation in the system according to the implementation schedule established by  
2583 the secretary, but not later than one year from the effective date of this act.

2584 (h) The director of the crime laboratory within the department of state police shall  
2585 participate in the statewide sexual assault evidence kit tracking system established in this section  
2586 for the purpose of tracking the status of all sexual assault evidence kits in the custody of the  
2587 department of state police and other entities contracting with the department of state police. The  
2588 department of state police shall begin full participation in the system according to the  
2589 implementation schedule established by the secretary, but not later than one year from the  
2590 effective date of this act.

2591 (i) A hospital or medical facility licensed pursuant to chapter 111 shall participate in the  
2592 statewide sexual assault evidence kit tracking system established in this section for the purpose  
2593 of tracking the status of all sexual assault evidence kits collected by or in the custody of hospitals  
2594 and other entities contracting with hospitals. Hospitals shall begin full participation in the system

2595 according to the implementation schedule established by the secretary, but not later than one year  
2596 from the effective date of this act.

2597 (j) District attorney offices shall participate in the statewide sexual assault evidence kit  
2598 tracking system established in this section for the purpose of tracking the status of all sexual  
2599 assault evidence kits. District attorney offices shall begin full participation in the system  
2600 according to the implementation schedule established by the secretary.

2601 (k) A victim connected to a sexual assault evidence kit must be provided notice, in  
2602 writing, by the executive office of public safety and security, 60 days prior to the planned  
2603 destruction of such sexual assault evidence kit.

2604 Section 18X. Annually, on or before September 1st, the following reports regarding the  
2605 previous fiscal year, shall be submitted to the executive office of public safety and security by  
2606 law enforcement agencies, medical facilities, crime laboratories, and any other facilities that  
2607 receive, maintain, store, or preserve sexual assault evidence kits:

2608 A. total number of all kits containing forensic samples collected or received

2609 B. for each kit:

2610 a. date of collection or receipt;

2611 b. category of the kit:

2612 i. sexual assault was reported to law enforcement,

2613 ii. victim chose not to file a report with law enforcement (non-investigatory);

2614 c. status of the kit:

2615 i. medical facilities: date the kit was collected, date the kit was reported to law  
2616 enforcement, and date the kit was picked up by law enforcement;

2617 ii. law enforcement: date the kit was picked up from a medical facility and date the  
2618 kit was delivered to the crime laboratory;

2619 1. For kits belonging to another jurisdiction: the date that the jurisdiction was  
2620 notified and the date it was picked up;

2621 iii. crime laboratories: date the kit was received, from which agency the kit was  
2622 received, date the kit was tested, date the resulting information was entered into CODIS and the  
2623 state DNA databases, and all reasons a kit was not tested or a DNA profile was not created.

2624 C. total number of all kits remaining in possession of the medical facility, law  
2625 enforcement, or laboratory, and all reasons for any kit in possession for more than 30 days.

2626 D. total number of kits destroyed by medical facilities, law enforcement, or  
2627 laboratories, and reason for destruction.

2628 E. The executive office of public safety and security shall compile the information in  
2629 a summary report that includes a list of all agencies or facilities that failed to participate in the  
2630 audit. The annual summary report shall be made publicly available on the executive office of  
2631 public safety and security's website, and shall be submitted to the Governor, the Attorney  
2632 General, and legislative leadership.

2633 This annual report can obtain information from the tracking system established in section  
2634 18W and additional means, such as manual counts and review of records such as case files.

2635 SECTION 137. Section 97B of chapter 41 of the General Laws, as appearing in the 2016  
2636 Official Edition, is hereby amended by striking in line, 41, the words “15 years” and inserting in  
2637 place thereof, the words, “50 years”.

2638 SECTION 138. Chapter 41 of the General Laws, as appearing in the 2016 Official  
2639 Edition, is hereby amended by inserting after section 97B, the following new section:—

2640 Section 97B ½. (a) Any hospital licensed pursuant to chapter 111 and all other medical  
2641 facilities that conduct medical forensic examinations shall notify a local law enforcement agency  
2642 at the time the evidence is obtained and no later than 24 hours after the collection of a new  
2643 sexual assault evidence kit.

2644 (a) Local law enforcement agencies shall:

2645 (1) Take possession of the sexual assault evidence kit from hospitals and other  
2646 medical facilities that conduct medical forensic examinations within 3 business days of  
2647 notification.

2648 (2) Submit new sexual assault evidence kits to the crime laboratory within the  
2649 department of the state police or the crime laboratory within the Boston police department within  
2650 7 business days of taking possession, except that non-investigatory sexual assault evidence kits  
2651 associated with a victim who has not yet filed a report with law enforcement shall not be subject  
2652 to the 7 day requirement. Non-investigatory kits shall be safely stored by law enforcement in a  
2653 manner that preserves evidence for a duration of 50 years or the statute of limitations, whichever  
2654 is longer.

2655 (b) The crime laboratory within the department of the state police shall test all sexual  
2656 assault evidence kits within 30 days of receipt from local law enforcement.

2657 (c) In cases where testing results in a DNA profile, the crime laboratory shall enter  
2658 the full profile into CODIS and the state DNA database.

2659 (d) Each sexual assault evidence kit should be entered into the statewide sexual  
2660 assault evidence kit tracking system pursuant to section 18X of chapter 6A.

2661 SECTION 139. Notwithstanding any special or general law to the contrary, within 180  
2662 days of the enactment of this act, all previously unsubmitted sexual assault evidence kits  
2663 containing forensic samples collected during a medical forensic exam in medical facilities or  
2664 other facilities that collect kits, shall be submitted to law enforcement. Non-investigatory kits  
2665 shall be safely stored by a governmental entity in a manner that preserves evidence for a duration  
2666 of 50 years or the statute of limitations, whichever is longer. Non-investigatory kits shall not be  
2667 transferred to the crime laboratory. Within 180 days of enactment, each law enforcement agency  
2668 shall submit all previously unsubmitted sexual assault evidence kits, including those past the  
2669 state of limitations, to the crime laboratory within the department of the state police. The crime  
2670 laboratory within the department of the state police or an accredited private crime laboratory  
2671 designated by the secretary of public safety and security shall test all previously unsubmitted  
2672 sexual assault kits within 180 days of receipt from local law enforcement. In cases where testing  
2673 results in a DNA profile, the crime laboratory shall enter the full profile into CODIS and the state  
2674 DNA database.

2675 SECTION 140. No later than December 1, 2019, the executive office of public safety and  
2676 security shall ensure that statewide policies and procedures for law enforcement shall be adopted

2677 concerning contact with victims and notification concerning sexual assault evidence kits. The  
2678 policies and procedures shall be evidence-based and survivor-focused and shall require:

2679       A.     Each agency to designate at least one person, who is trained in trauma and victim  
2680 response, to receive all inquiries concerning sexual assault evidence kits and to serve as a liaison  
2681 between the agency and the victim.

2682       B.     Victims of sexual assault be provided with the contact information for the  
2683 designated liaison(s) at the time that a sexual assault evidence kit is collected.

2684             In advance or at the time of the medical forensic examination or law enforcement  
2685 interview, medical professionals, victim advocates, law enforcement officers, and district  
2686 attorneys shall provide victims of sexual assault with a physical document developed by the  
2687 executive office of public safety and security identifying their rights under law.

2688             Under this section all victims of sexual assault shall have the right to:

2689       C.     Consult with a sexual assault victim advocate who has confidentiality and  
2690 privilege; waiving the right to a victim advocate in one instance does not negate this right. The  
2691 medical facility, law enforcement officer, and prosecutor shall inform the victim of this right  
2692 prior to commencement of a medical forensic examination or law enforcement interview, and  
2693 shall not continue unless such right is knowingly and voluntarily waived.

2694       D.     Information, upon request, of the location, testing date and testing results of a kit,  
2695 whether a DNA sample was obtained from the kit, whether or not there are matches to DNA  
2696 profiles in state and federal databases and the estimated destruction date for the kit, if applicable,  
2697 in a manner of communication designated by the victim.

2698 E. Be informed when there is any change in the status of their case, including if the  
2699 case has been closed or reopening of the case.

2700 F. Designate a person of the victim's choosing to act as a recipient of the information  
2701 provided under this subsection.

2702 G. Be informed about how to file a report with law enforcement and have their  
2703 sexual assault evidence kit tested in the future, if the victim chose not to file a report or have the  
2704 kit tested at the time the kit was collected.

2705 H. Be informed about the right to apply for victim compensation.

2706 SECTION 141. Notwithstanding any general or special law to the contrary, the  
2707 multidisciplinary task force established by section 136 of this act shall consider available funding  
2708 opportunities, including, but not limited to the following grant programs: Bureau of Justice  
2709 Sexual Assault Kit Initiative (SAKI) grant program; the Sexual Assault Forensic Evidence-  
2710 Inventory, Tracking and Reporting Program (SAFE-ITR) grant; the DNA Capacity Enhancement  
2711 and Backlog Reduction (Debbie Smith) grant; the Edward Byrne Memorial Justice Assistance  
2712 Grant (JAG) Program; and the Victims of Crime Act Victim Assistance grant. The  
2713 multidisciplinary task force shall also investigate opportunities to utilize software from outside  
2714 jurisdictions, including, but not limited to the Idaho State Police and the city of Portland,  
2715 Oregon's free tracking software.

2716 SECTION 142. There shall be a special commission to study the prevention of suicide  
2717 among correction officers in Massachusetts correctional facilities. The commission shall consist  
2718 of the secretary of the executive office of public safety or the secretary's designee who shall  
2719 serve as chair; the commissioner of the department of correction or the commissioner's designee;

2720 the commissioner of the department of public health or the commissioner's designee; the  
2721 commissioner of the department of mental health or the commissioner's designee; one person  
2722 appointed by the speaker of the house of representatives; one person appointed by the minority  
2723 leader in the house of representatives; one person appointed by the president of the senate; one  
2724 person appointed by the minority leader of the senate; one person appointed by the president of  
2725 the Massachusetts correction officers federated union or their designee; one person appointed by  
2726 the president of the Massachusetts Psychological Society or their designee; one person appointed  
2727 by the president of the new England police benevolent association or their designee; 2 persons to  
2728 be appointed by the governor; 1 of whom shall be a representative of an organization that  
2729 specializes in suicide prevention; 1 of whom shall be a representative of an organization that  
2730 represents Massachusetts sheriffs. Each member shall serve without compensation.

2731           The commission shall review the state of suicide prevention programs in Massachusetts'  
2732 correctional facilities and develop model plans, recommend program changes, highlight budget  
2733 priorities and recommend best practices that could be utilized to reduce instances of correction  
2734 officer suicide, and attempted suicide. The commission shall: (i) examine and evaluate the state  
2735 of jail and prison suicide prevention policies in the commonwealth; (ii) examine and evaluate  
2736 suicide prevention training for correctional facility staff in the commonwealth; (iii) provide  
2737 recommendations for improving suicide identification and intervention for correctional facility  
2738 staff in the commonwealth; (iv) develop recommendations for the provision of mental health  
2739 counseling services to correction officers that have a need for such services; (v) examine ways in  
2740 which correctional facilities can reduce stress, anxiety, and depression among correction officers;  
2741 and (vi) examine training programs for incoming correction officers and develop  
2742 recommendations for programs to include a discussion of mental preparedness.



2743           The commission may hold public hearings to assist in the collection and evaluation of  
2744 data and testimony.

2745           The commission shall submit its findings and recommendations relative to suicide  
2746 prevention, together with drafts of legislation necessary to carry those recommendations into  
2747 effect, by filing the same with the clerks of the house of representatives and senate, the house  
2748 and senate committees on ways and means, the joint committee on public safety and homeland  
2749 security, and the joint committee on mental health and substance abuse not later than September  
2750 30, 2018.

2751           SECTION 143. Section 1 of Chapter 127 of the General Laws, as appearing in the 2016  
2752 Official Edition, is hereby amended by inserting before the definition of “Commissioner” the  
2753 following definition:

2754           “Behavioral health counseling,” any non-pharmacological intervention carried out by a  
2755 qualified behavioral health professional in a therapeutic context at an individual, family, or group  
2756 level. Interventions may include structured, professionally administered interventions delivered  
2757 in person or interventions delivered remotely via telemedicine.

2758           SECTION 144. Section 1 of said chapter 127, as so appearing, is hereby amended by  
2759 inserting after the definition of “Parole board” the following definition:

2760           “Qualified addiction specialist,” a treatment provider who is a physician licensed by the  
2761 board of registration of medicine, a licensed advanced practice registered nurse, or a licensed  
2762 physician assistant, and who has a minimum of 6 months experience treating individuals with  
2763 substance use disorder or is a licensed DATA-waiver practitioner under the federal  
2764 Comprehensive Addiction and Recovery Act of 2016, Public Law 114-198.

2765 SECTION 145. Section 16 of said chapter 127, as so appearing, is hereby amended by  
2766 inserting at the end thereof the following new paragraph:-

2767 The superintendents of the correctional institutions of the commonwealth, and the  
2768 keepers and superintendents of jails and houses of correction shall also cause an examination for  
2769 drug use disorder to be made by a qualified addiction specialist of each inmate in their respective  
2770 institutions committed for a term of thirty days' imprisonment or more; provided, that if an  
2771 inmate is diagnosed with drug use disorder, the report of such examination shall include a  
2772 determination of whether or not opioid substitution or medication assisted treatment for opioid  
2773 addiction are appropriate for the inmate; and provided further, that this requirement may be  
2774 satisfied by relying on the report of an examination made pursuant to section 10 of chapter 111E,  
2775 if said report includes a determination of whether or not opioid substitution or medication  
2776 assisted treatment for opioid addiction are appropriate for the inmate.

2777 SECTION 146. Chapter 127, as so appearing, is hereby amended by inserting after  
2778 section 224 the following section:—

2779 Section 224A. The commissioner of correction, in consultation with the Department of  
2780 Public Health, Bureau of Substance Addiction Services, shall develop criteria for the selection of  
2781 houses of correction and state prisons to participate in a pilot program to investigate the broader  
2782 provision of opioid substitution therapies for addiction in correction facilities, and shall select  
2783 houses of correction and state prisons to participate in said pilot program according to these  
2784 criteria. Selected facilities shall maintain or provide for the capacity to possess, dispense, and  
2785 administer all drugs approved by the federal Food and Drug Administration for use in opioid  
2786 substitution therapy for addiction, and shall make such treatment available to any inmate for

2787 whom such treatment is found to be appropriate pursuant to section 16. Treatment established  
2788 under this section shall include behavioral health counseling for individuals diagnosed with drug  
2789 use disorder and said counseling services shall be consistent with current therapeutic standards  
2790 for these therapies in a community setting. A facility selected under this section shall not be  
2791 required to maintain or provide an opioid substitution therapy that is not included in the  
2792 MassHealth drug list and is not a MassHealth covered benefit. A facility must ensure access to a  
2793 qualified addiction specialist who is a licensed DATA-waiver practitioner under the federal  
2794 Comprehensive Addiction and Recovery Act of 2016, Public Law 114-198.

2795         The pilot shall also ensure that an inmate receiving opioid substitution or medication  
2796 assisted treatment for opioid addiction immediately preceding their incarceration, shall continue  
2797 the treatment unless the inmate voluntarily discontinues the treatment or unless an addiction  
2798 specialist, as defined in chapter 111E of the General Laws, determines that the treatment is no  
2799 longer appropriate.

2800         Not later than November 1, 2018, and by November 1 of each subsequent year that the  
2801 pilot program is in place, selected facilities shall report to the commissioner of correction the  
2802 following information: (i) the cost of the pilot program to the facility related; (ii) the type and  
2803 prevalence of opioid substitutions and medication assisted treatments provided through the pilot  
2804 program; (iii) the number of inmates who continued to receive the same opioid substitution or  
2805 medication assisted treatment as they received prior to incarceration; (iv) the number of inmates  
2806 who voluntarily discontinued the opioid substitution or medication assisted treatment that they  
2807 received prior to incarceration; (v) the number of inmates who discontinued the opioid  
2808 substitution or medication assisted treatment that they received prior to incarceration due to a  
2809 determination by an addiction specialist; (vi) a review of the facility's practices related to opioid

2810 substitution and medication assisted treatment prior to inclusion in the pilot program; and (vii)  
2811 any other information requested by the department of correction related to the administration of  
2812 the pilot program.

2813           The department of correction, in consultation with the department of public health, shall  
2814 provide a report of the findings collected from selected facilities to the chairs of the joint  
2815 committee on mental health and substance abuse and the house and senate committees on ways  
2816 and means not later than January 1 of each year of the pilot program detailing: (i) the cost of the  
2817 pilot program in the prior year; (ii) the projected cost associated with expanding the pilot  
2818 program to additional houses of correction and correctional institutions for the coming year of  
2819 the pilot program based on prior year costs; (iii) the type and prevalence of opioid substitutions  
2820 and medication assisted treatments provided through the pilot program; (v) a summary of  
2821 changes to facility practices related to opioid substitution and medication assisted treatment  
2822 related to the pilot program; and (v) the aggregated results of: (A) the number of inmates who  
2823 continued to receive the same opioid substitution or medication assisted treatment as they  
2824 received prior to incarceration; (B) the number of inmates who voluntarily discontinued the  
2825 opioid substitution or medication assisted treatment that they received prior to incarceration; and  
2826 (C) the number of inmates who discontinued the opioid substitution or medication assisted  
2827 treatment that they received prior to incarceration due to a determination by an addiction  
2828 specialist.

2829           The department of correction shall select facilities for participation in the pilot program  
2830 in the following manner: (i) for the first year, the Massachusetts alcohol and substance abuse  
2831 center and at least 2 houses of correction and 2 state prisons shall be included in the pilot  
2832 program; (ii) for the second year, at least 30 per cent of houses of correction and state prisons

2833 shall be included in the pilot program; (iii) for the third year, at least 60 per cent of houses of  
2834 correction and state prisons shall be included in the pilot program; and (iv) for the fourth year,  
2835 all houses of correction and state prisons shall be included in the pilot program.

2836 SECTION 147. Said 119 is hereby further amended by adding the following section:-

2837 Section 86. (a) For the purposes of this section the following words shall have the  
2838 following meanings unless the context clearly requires otherwise:

2839 “Juvenile”, a person appearing before a division of the juvenile court department who is  
2840 subject to a delinquency, child requiring assistance or care and protection case or a person under  
2841 the age of 21 in a youthful offender case.

2842 “Restraints”, devices that limit voluntary physical movement of an individual, including  
2843 leg irons and shackles, which have been approved by the trial court department.

2844 (b) A juvenile shall not be placed in restraints during court proceedings and any restraints  
2845 shall be removed prior to the appearance of a juvenile before the court at any stage of a  
2846 proceeding unless the justice presiding in the courtroom issues an order and makes specific  
2847 findings on the record that: (i) restraints are necessary because there is reason to believe that a  
2848 juvenile presents an immediate and credible risk of escape that cannot be curtailed by other  
2849 means; (ii) a juvenile poses a threat to the juvenile’s own safety or to the safety of others; or (iii)  
2850 restraints are reasonably necessary to maintain order in the courtroom.

2851 (c) The court officer charged with custody of a juvenile shall report any security concern  
2852 to the presiding justice. On the issue of courtroom or courthouse security, the presiding justice

2853 may receive information from the court officer charged with custody of a juvenile, a probation  
2854 officer or any other source determined by the court to be credible.

2855           The authority to use restraints shall reside solely within the discretion of the presiding  
2856 justice at the time that a juvenile appears before the court. A juvenile court justice shall not  
2857 impose a blanket policy to maintain restraints on all juveniles or a specific category of juveniles  
2858 who appear before the court.

2859           SECTION 148. Chapter 127 of the General Laws is hereby amended by inserting after  
2860 section 36B the following section:-

2861           Section 36C. A correctional institution, jail, or house of correction shall not prohibit,  
2862 eliminate, or unreasonably limit in-person visitation of inmates; or coerce, compel, or otherwise  
2863 pressure an inmate to forego or limit in-person visitation. For the purposes of this section, an  
2864 unreasonable limit shall include, but not be limited to, providing an eligible inmate fewer than 2  
2865 opportunities for in-person visitation during any 7-day period.

2866           A correctional institution, jail, or house of correction may use video or other types of  
2867 electronic devices for inmate communication with visitors; provided that such communications  
2868 shall be in addition to, and may not replace, in-person visitation, as prescribed in this section.

2869           A correctional institution, jail, or house of correction may charge a fee for video  
2870 visitation communication for inmate communications not occurring on site; provided, however,  
2871 that the fee shall not exceed the operating cost of the communication. Fees collected in excess of  
2872 operating costs shall be allocated to the fund established under chapter 258C.

2873           Nothing in this section shall prohibit the temporary suspension of visitation privileges for  
2874 good cause including, but not limited to, misbehavior or during a bonafide emergency.

2875           SECTION 149. Sections 40 and 41 of this act shall take effect 6 months after the  
2876 effective date of this act.

2877           SECTION 150. Section 2 of Chapter 258C of the General Laws, as appearing in the  
2878 2014 Official Edition, is hereby amended by inserting after the word “crime”, in line 11, the  
2879 following words:- ; “provided, however, that a claimant who was a victim under the age of  
2880 criminal majority shall not be required to file such report within 5 days.

2881           SECTION 151. Section 178Q of chapter 6 of the General Laws, as appearing in the 2016  
2882 Official Edition, is hereby amended by inserting at the end thereof, the following:- The sex  
2883 offender registry board shall, within 60 days of initial sex offender registration and annual sex  
2884 offender registration, report to the department of revenue, the department of transitional  
2885 assistance and the registry of motor vehicles the amount of any sex offender registration fee  
2886 owed by the sex offender. The department of revenue shall intercept payment of such fee from  
2887 tax refunds due to persons who owe all or a portion of such fee. The registry of motor vehicles  
2888 shall not issue or renew a person’s driver’s license or motor vehicle registration for any vehicle  
2889 subsequently purchased by such person until it receives notification from the sex offender  
2890 registry board that the fee has been collected.

2891           SECTION 152. Sections 84 and 87 of this act shall take effect 6 months after the  
2892 effective date of this act.

2893           SECTION 153. Sections 81, 82, 83, 84, 85 and 86 of this act shall take effect 6 months  
2894 after the effective date of this act.

2895 SECTION 154. Section 127 in chapter 266 is hereby amended by striking out the section  
2896 in its entirety and replacing it with the following:

2897 Section 127. Whoever destroys or injures the personal property, dwelling house or  
2898 building of another in any manner or by any means not particularly described or mentioned in  
2899 this chapter shall, if such destruction or injury is willful and malicious, be punished by  
2900 imprisonment in the state prison for not more than ten years or by a fine of three thousand dollars  
2901 or three times the value of the damage caused to the property so destroyed or injured, whichever  
2902 is greater and imprisonment in jail for not more than two and one-half years; or if such  
2903 destruction or injury is wanton, shall be punished by a fine of one thousand dollars or three times  
2904 the value of the damage to the property so destroyed or injured, whichever is greater, or by  
2905 imprisonment for not more than two and one-half years; if the value of the damage to the  
2906 property so destroyed or injured is not alleged to exceed one thousand dollars, the punishment  
2907 shall be by a fine of three times the value of the damage to property or by imprisonment for not  
2908 more than two and one-half years; provided, however, that where a fine is levied pursuant to the  
2909 value of the damage to the property destroyed or injured, the court shall, after conviction,  
2910 conduct an evidentiary hearing to ascertain the value of the damage to the property so destroyed  
2911 or injured. The words "personal property", as used in this section, shall also include  
2912 electronically processed or stored data, either tangible or intangible, and data while in transit.