SENATE . . . . . No. 2170

The Commonwealth of Massachusetts

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

SENATE, October 2, 2017

The committee on the Judiciary to whom was referred the petitions (accompanied by bill, Senate, No. 755) of Michael J. Barrett, Marjorie C. Decker, John W. Scibak, Jason M. Lewis and other members of the General Court for legislation to restrict fine time sentences; (accompanied by bill, Senate, No. 757) of Joseph A. Boncore and Leonard Mirra for legislation relative to permitting the court to expunge the records of innocent persons, persons not connected to an alleged offense; (accompanied by bill, Senate, No. 758) of Joseph A. Boncore for legislation to permit the court to expunge the record of persons struggling with substance abuse or charged with possession of certain Class D controlled substances; (accompanied by bill, Senate, No. 759) of Joseph A. Boncore and Alice Hanlon Peisch for legislation relative to civil infractions for juveniles; (accompanied by bill, Senate, No. 760) of Joseph A. Boncore and Jack Lewis for legislation relative to diversion programs; (accompanied by bill, Senate, No. 761) of Joseph A. Boncore, Jason M. Lewis and RoseLee Vincent for legislation relative to judicial relief for substance abuse through diversion; (accompanied by bill, Senate, No. 769) of William N. Brownsberger and Paul R. Heroux for legislation to protect the rights of probationers in drug courts; (accompanied by bill, Senate, No. 770) of William N. Brownsberger, James B. Eldridge, Solomon Goldstein-Rose, Sonia Chang-Diaz and other members of the General Court for legislation to provide community-based sentencing alternatives for primary caretakers of dependent children who have been convicted of non-violent crimes; (accompanied by bill, Senate, No. 777) of William N. Brownsberger, Michael J. Barrett, Marjorie C. Decker, Jack Lewis and other members of the General Court for legislation to reduce the criminalization of poverty; (accompanied by bill, Senate, No. 790) of Sonia Chang-Diaz, Chris Walsh, Jose F. Tosado, Jason M. Lewis and other members of the General Court for legislation to codify juvenile court best practices; (accompanied by bill, Senate, No. 791) of Sonia Chang-Diaz, Chris Walsh, Marjorie C. Decker, Carmine L. Gentile and other

members of the General Court for legislation to increase neighborhood safety and opportunity; (accompanied by bill, Senate, No. 792) of Cynthia S. Creem and District Attorney Marian T. Ryan for legislation relative to costs of appeals by the Commonwealth; (accompanied by bill, Senate, No. 815) of Cynthia S. Creem and Denise Provost for legislation to expand eligibility for diversion to treatment for criminal offenders; (accompanied by bill, Senate, No. 816) of Cynthia S. Creem, Marjorie C. Decker, Jack Lewis, James B. Eldridge and other members of the General Court for legislation to expand juvenile court jurisdiction and district court diversion; (accompanied by bill, Senate, No. 817) of Cynthia S. Creem, Jason M. Lewis, Marjorie C. Decker, Michael J. Barrett and other members of the General Court for legislation relative to testimony in criminal proceedings; (accompanied by bill, Senate, No. 819) of Cynthia S. Creem, Joseph A. Boncore, Denise Provost, Marjorie C. Decker and other members of the General Court for legislation to repeal mandatory minimum sentences for non-violent drug offenses; (accompanied by bill, Senate, No. 827) of Cynthia S. Creem, Jason M. Lewis, Denise Provost and Sal N. DiDomenico for legislation to review of bail for inability to pay; (accompanied by bill, Senate, No. 834) of Kenneth J. Donnelly, Marjorie C. Decker, David M. Rogers, Jason M. Lewis and other members of the General Court for legislation to reform pretrial process; (accompanied by bill, Senate, No. 837) of Eileen M. Donoghue, James R. Miceli, Sarah K. Peake, William Crocker and other members of the General Court for legislation to criminalize the trafficking of carfentanil; (accompanied by bill, Senate, No. 842) of James B. Eldridge, Marjorie C. Decker, Kay Khan and Patricia D. Jehlen for legislation to decriminalize being in the presence of heroin; (accompanied by bill, Senate, No. 845) of James B. Eldridge, Jason M. Lewis, Mary S. Keefe, Marjorie C. Decker and other members of the General Court for legislation relative to the expungement of records of persons falsely accused and juveniles; (accompanied by bill, Senate, No. 847) of James B. Eldridge, Sean Garballey, Jason M. Lewis, Ruth B. Balser and other members of the General Court for legislation to promote restorative justice practices for juveniles and adults; (accompanied by bill, Senate, No. 852) of Jennifer L. Flanagan for legislation to prevent intimidation in all courts of the Commonwealth; (accompanied by bill, Senate, No. 857) of Jennifer L. Flanagan for legislation relative to the solicitation of murder; (accompanied by bill, Senate, No. 858) of Jennifer L. Flanagan, Dylan Fernandes, Kathleen O'Connor Ives and Sonia Chang-Diaz for legislation to increase the penalties for corporate manslaughter; (accompanied by bill, Senate, No. 871) of Adam G. Hinds, William Smitty Pignatelli, Sonia Chang-Diaz and Sal N. DiDomenico for legislation to mandate that offenses for which a pardon has been granted be expunged from criminal offender record information reports; (accompanied by bill, Senate, No. 873) of Patricia D. Jehlen, James B. Eldridge, Marjorie C. Decker, Carmine L. Gentile and other members of the General Court for legislation relative to larceny; (accompanied

by bill, Senate, No. 874) of Patricia D. Jehlen, Sonia Chang-Diaz, Jason M. Lewis, John F. Keenan and other members of the General Court for legislation relative to medical placement of terminal and incapacitated inmates; (accompanied by bill, Senate, No. 876) of Patricia D. Jehlen, Michael J. Barrett, Denise Provost, Paul R. Heroux and other members of the General Court for legislation to decriminalize non-violent and verbal student misconduct; (accompanied by bill, Senate, No. 878) of John F. Keenan, William N. Brownsberger, James M. Cantwell, Richard J. Ross and other members of the General Court for legislation to expand protection under the Good Samaritan law for drug-related overdoses; (accompanied by bill, Senate, No. 881) of John F. Keenan, Timothy R. Whelan and Carlos Gonzalez for legislation to update the definition of fentanyl trafficking; (accompanied by bill, Senate, No. 909) of Mark C. Montigny for legislation relative to corporate criminal conduct; (accompanied by bill, Senate, No. 916) of Michael O. Moore for legislation relative to the definition of attempt in criminal cases; (accompanied by bill, Senate, No. 941) of Michael F. Rush, Linda Dean Campbell and Paul McMurtry for legislation to prohibit solicitation of a felony; (accompanied by bill, Senate, No. 944) of Karen E. Spilka, Marjorie C. Decker, Carmine L. Gentile, James B. Eldridge and other members of the General Court for legislation relative to sealing of juvenile records and expungement of court records; (accompanied by bill, Senate, No. 947) of Karen E. Spilka, Jason M. Lewis, James B. Eldridge, Jack Lewis and other members of the General Court for legislation to promote transparency, best practices, and better outcomes for children and communities; (accompanied by bill, Senate, No. 975) of James E. Timilty for legislation relative to juvenile intimidation of witnesses, jurors and persons furnishing information in connection with criminal proceedings; (accompanied by bill, Senate, No. 979) of James E. Timilty for legislation relative to gang violence and witness intimidation; On so much of the message of His Excellency the Governor for legislation relative to reforming fine time (Senate, No. 2050); (accompanied by bill, House, No. 716) of Bruce J. Ayers and James M. Murphy for legislation to allow local housing authorities access to criminal records of tenants and prospective tenants; (accompanied by bill, House, No. 725) of Antonio F. D. Cabral relative to making drug dealing subject to dangerousness hearing determinations; (accompanied by bill, House, No. 728) of Antonio F. D. Cabral relative to improving the administration and efficiency of the judicial system; (accompanied by bill, House, No. 730) of Daniel Cahill relative to malicious damage to certain motor vehicles; (accompanied by bill, House, No. 741) of Evandro C. Carvalho and others relative to eliminating mandatory minimum sentences related to drug offenses; (accompanied by bill, House, No. 742) of Evandro C. Carvalho and others relative to compensation for victims of homicide; (accompanied by bill, House, No. 745) of Tackey Chan and others relative to juvenile intimidation of witnesses, jurors and persons furnishing information in connection with criminal

proceedings; (accompanied by bill, House, No. 754) of Claire D. Cronin and others relative to testimony of certain parents or minor children; (accompanied by bill, House, No. 755) of Claire D. Cronin and others relative to diversions from juvenile court processing of certain children ; (accompanied by bill, House, No. 756) of Claire D. Cronin and others for legislation to expunge the records of persons falsely accused and juveniles; (accompanied by bill, House, No. 760) of Josh S. Cutler and others relative to the expunging of criminal history records of certain youthful offenders; (accompanied by bill, House, No. 793) of Sean Garballey and others for legislation promoting restorative justice practices; (accompanied by bill, House, No. 794) of Sean Garballey and others relative to the criteria for the release of terminally ill inmates to alternative locations of confinement; (accompanied by bill, House, No. 805) of Colleen M. Garry relative to the criteria for the release of terminally ill inmates to alternative locations of confinement; (accompanied by bill, House, No. 819) of Carlos Gonzalez and others for legislation to decriminalize certain non-violent demonstrations by students; (accompanied by bill, House, No. 820) of Carlos Gonzalez and others relative to eliminating mandatory minimum sentences related to drug offenses; (accompanied by bill, House, No. 821) of Carlos Gonzalez and Russell E. Holmes for legislation to establish guidelines for the releasing of prisoners for medical reasons; (accompanied by bill, House, No. 839) of Paul R. Heroux relative to the standard of proof for juvenile defendants; (accompanied by bill, House, No. 843) of Paul R. Heroux and others relative to the reporting of recidivism reducing program outcomes by the Department of Correction; (accompanied by bill, House, No. 853) of Randy Hunt and others relative to bail fees; (accompanied by bill, House, No. 860) of Bradley H. Jones, Jr. and others for legislation to waive the fee for legal custodians to obtain the criminal record information of certain childcare providers; (accompanied by bill, House, No. 863) of Bradley H. Jones, Jr. and others relative to authorizing the courts of the Commonwealth to establish a system of juvenile restitution; (accompanied by bill, House, No. 874) of Kay Khan relative to the cost of appeals by defendants who are not indigent; (accompanied by bill, House, No. 875) of Kay Khan and others relative to the use of restraints and best practices in juvenile court proceedings; (accompanied by bill, House, No. 883) of David Paul Linsky and others relative to indigent defense counsel; (accompanied by bill, House, No. 884) of David Paul Linsky and others relative to the criminal penalty for certain disorderly persons and disturbers of the peace; (accompanied by bill, House, No. 885) of David Paul Linsky and others relative to the penalty imposed for malicious destruction of property; (accompanied by bill, House, No. 886) of David Paul Linsky and others relative to larceny; (accompanied by bill, House, No. 888) of David Paul Linsky and Marian T. Ryan (Middlesex District Attorney) relative to intimidation in the criminal justice system; (accompanied by bill, House, No. 895) of Jay D. Livingstone relative to the eligibility for diversion to treatment for certain criminal offenders;

(accompanied by bill, House, No. 907) of James R. Miceli and others relative to providing immunity for individuals under age 21 seeking medical assistance for alcohol-related overdoses; (accompanied by bill, House, No.940) of Angelo J. Puppolo, Jr., Brian M. Ashe and John C. Velis for legislation to authorize the Commonwealth to file appeals of bail decisions; (accompanied by bill, House, No. 941) of David M. Rogers and others for legislation to properly punish the solicitation of felony crimes; (accompanied by bill, House, No. 943) of David M. Rogers and others relative to fees for indigent defendants and the verification of indigency; (accompanied by bill, House, No. 953) of Byron Rushing and others relative to the collection and public availability of crime and arrest data; (accompanied by bill, House, No. 963) of Thomas M. Stanley and others for legislation to establish a pilot program to discourage drinking by individuals under the legal drinking age and to provide a non-criminal disposition process for first offenders, including alcohol education; (accompanied by bill, House, No. 967) of Chynah Tyler and others relative to penalties for the crime of larceny; (accompanied by bill, House, No. 969) of Aaron Vega and others relative to the penalties for providing false information to law enforcement officials; (accompanied by bill, House, No. 988) of Timothy R. Whelan and others relative to the definition of fentanyl; (accompanied by bill, House, No. 989) of Bud Williams and others relative to eliminating mandatory minimum sentences related to drug offenses; (accompanied by bill, House, No. 990) of Bud Williams and others for legislation to decriminalize certain non-violent demonstrations by students; (accompanied by bill, House, No. 2248) of Ruth B. Balser and others for legislation to protect certain inmates from unnecessary placement in solitary confinement; (accompanied by bill, House, No. 2249) of Ruth B. Balser and others for legislation to establish a segregation oversight committee on the use of disciplinary segregation and non-disciplinary segregation in correctional institutions; (accompanied by bill, House, No. 2250) of Paul Brodeur, Paul R. Heroux and James B. Eldridge relative to the penalties for tagging structures with paint; (accompanied by bill, House, No. 2251) of Paul Brodeur and others relative to adjournments of examinations and trials; (accompanied by bill, House, No. 2261) of Claire D. Cronin, Michelle M. DuBois and Jeffrey N. Roy relative to permitting the court to expunge criminal charges from the records of innocent persons; (accompanied by bill, House, No. 2308) of Mary S. Keefe and others relative to comprehensive criminal justice reform; (accompanied by bill, House, No. 2309) of Kay Khan and others relative to the sealing and court record expunging of juvenile records; (accompanied by bill, House, No. 2323) of Elizabeth A. Malia and others relative to specialty courts; (accompanied by bill, House, No. 2337) of David M. Rogers and others relative to the reclassification of some low level non-violent felonies as misdemeanors; (accompanied by bill, House, No. 2338) of David M. Rogers and others relative to establishing reasonable limitations on the solitary

confinement of inmates 21 years of age or younger; (accompanied by bill, House, No. 2359) of Chynah Tyler and others relative to making comprehensive changes to the criminal justice system of the Commonwealth; (accompanied by bill, House, No. 3037) of Evandro C. Carvalho and others relative to youthful offenders; (accompanied by bill, House, No. 3047) of Diana DiZoglio and others relative to voluntary civil commitment for alcohol and substance abuse treatment; (accompanied by bill, House, No. 3050) of Lori A. Ehrlich and others relative to the reporting of overdoses of controlled substance, alcohol, or combination of such substances; (accompanied by bill, House, No. 3071) of Russell E. Holmes and others relative to segregation of prisoners and inmates; (accompanied by bill, House, No. 3072) of Russell E. Holmes and others relative to providing community-based sentencing alternatives for primary caretakers of dependent children convicted of non-violent crimes; (accompanied by bill, House, No. 3075) of Daniel J. Hunt and Linda Dorcena Forry relative to the protection of the families of violent crime from intimidation; (accompanied by bill, House, No. 3077) of Mary S. Keefe and others relative to fine time sentences, so-called; (accompanied by bill, House, No. 3078) of Kay Khan and others relative to youthful offenders; (accompanied by bill, House, No. 3079) of Kay Khan and others relative to the treatment and interaction of juveniles within the state justice system and the collection and reporting of statistical data regarding such juveniles by certain state agencies; (accompanied by bill, House, No. 3084) of Elizabeth A. Malia and others relative to criminal offender record information; (accompanied by bill, House, No. 3092) of Christopher M. Markey and others for legislation to authorize the collection of data regarding the use of solitary confinement in prisons, jails and houses of correction; (accompanied by bill, House, No. 3098) of Christopher M. Markey and Alice Hanlon Peisch for legislation to establish parent child testimonial privileges; (accompanied by bill, House, No. 3100) of Christopher M. Markey relative to dangerousness hearings; (accompanied by bill, House, No. 3110) of Joan Meschino and others relative to parole fees assessed upon persons receiving public assistance; (accompanied by bill, House, No. 3116) of David K. Muradian, Jr. and others relative to further regulating the classes and penalties of controlled substances; (accompanied by bill, House, No. 3120) of David M. Rogers and others for legislation to reform pretrial processes; (accompanied by bill, House, No. 3126) of Chynah Tyler and others relative to records of persons falsely accused of crimes; (accompanied by bill, House, No. 3494) of Claire D. Cronin and others relative to supervised medical parole of terminal and extraordinarily incapacitated inmates; (accompanied by bill, House, No. 3579) of Carolyn C. Dykema and others relative to juvenile or youthful offenders; (accompanied by bill, House, No. 3586) of Kay Khan and others relative to re-entry and rehabilitation programs for incarcerated women; and (accompanied by bill, House, No. 3650) of Michael S. Day and Gerard

Cassidy relative to penalties for the crime of larceny,- reports the accompanying bill (Senate, No. 2170)

For the committee,
William N. Brownsberger

SENATE . . . . . No. 2170

The Commonwealth of Massachusetts

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

An Act relative to criminal justice reform.

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

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

Sixtieth, "The age of criminal majority" shall mean the age of 19.

SECTION 2. The definition of "Criminal offender record information" in section 167 of chapter 6 of the General Laws, as so appearing, is hereby amended by striking out the second sentence and inserting in place thereof the following sentence:-

Such information shall be restricted to information recorded in criminal proceedings that are not dismissed before arraignment.

SECTION 3. Said section 167 of said chapter 6, as so appearing, is hereby further amended by striking out, in lines 38, 40, and 41, the figure "18" and inserting in place thereof, in each instance, the following words:- criminal majority.

SECTION 4. Said section 167 of said chapter 6, as so appearing, is hereby further amended by striking out, in lines 41 to 42, the words "is adjudicated as an adult" and inserting in

place thereof the following words:- was tried as an adult in superior court or tried as an adult after transfer of a case from a juvenile session to another trial court department.

SECTION 5. Section 36 of chapter 22C of the General Laws, as so appearing, is hereby amended by striking out, in lines 21 and 22, the words “provided that such records shall remain subject to the regulations of said board”.

SECTION 6. Said section 36 of said chapter 22C, as so appearing, is hereby further amended by adding the following 2 paragraphs:-

The department shall make available criminal case disposition information, including sealing and expungement orders and dismissals, to the Federal Bureau of Investigation to provide criminal history record information through the bureau’s Interstate Identification Index.

The executive office of public safety and security may promulgate regulations that are necessary to facilitate a fingerprint-supported criminal history system that utilizes a fingerprint-based state identification number as the unique identifier of a person from the point of arrest or charging through each contact the person has with the criminal justice system or juvenile justice system and that provides criminal case disposition information to ensure a complete and accurate criminal history.

SECTION 7. Section 20 of chapter 31 of the General Laws, as so appearing, is hereby amended by striking out, in lines 10 and 1, the words “18 years” and inserting in place thereof the following words:- criminal majority.

SECTION 8. Section 24 of chapter 37 of the General Laws, as so appearing, is hereby amended by striking out, in line 14, the words “18 years” and inserting in place thereof the following words:- criminal majority.

SECTION 9. Section 21D of chapter 40 of the General Laws, as so appearing, is hereby amended by striking out the first and second paragraphs and inserting in place thereof the following 3 paragraphs:-

Section 21D. A city or town may, by ordinance or by-law that is not inconsistent with this section, provide for the non-criminal disposition of misdemeanors eligible for decriminalization under section 70C of chapter 277, matters that have been deemed civil infractions by a general or special law and violations of an ordinance, by-law, rule or regulation of a municipal officer, board or department that is subject to a specific penalty.

A police officer who has witnessed a person commit such a violation may request the person to provide the person’s name or address, where applicable. If, having been advised by the officer that failure to provide the person’s name or address may result in the person’s arrest, the person refuses upon the request to state the person’s name or address, where applicable, or states a false name or address or a name or address that is not the person’s name or address in ordinary use, the person may be arrested without a warrant.

An ordinance or by-law shall provide that a person taking cognizance of a misdemeanor, civil infraction or violation of a specific ordinance, by-law, rule or regulation which that person is authorized to enforce may, as an alternative to initiating criminal proceedings, give to the offender who has committed the misdemeanor, civil infraction or violation a written notice to appear before the clerk of the district court that has jurisdiction over the misdemeanor, civil

infraction or violation at any time during office hours, not later than 21 days after the date of the notice. The notice shall be produced in triplicate and shall contain the offender's name, address, if known, the specific offense charged and the time and place of the offender's required appearance. The notice shall be signed by the enforcing person and shall be signed by the offender whenever practicable as an acknowledgement that the notice has been received. If the offender fails, without good cause, to appear in response to the written notice and the court has satisfactory proof of service of the notice, an arrest warrant may be issued and shall be served by any officer authorized to serve criminal process.

SECTION 10. Section 98 of chapter 41 of the General Laws, as so appearing, is hereby amended by striking out the second paragraph.

SECTION 11. Section 98F of said chapter 41, as so appearing, is hereby amended by striking out, in line 18, the words "or (iii) any" and inserting in place thereof the following words:- ; (iii) any.

SECTION 12. Said section 98F of said chapter 41, as so appearing, is hereby further amended by inserting after the figure "209A', in line 21, the following words:- ; or (iv) any entry concerning the arrest of a person who has not yet reached the age of criminal majority.

SECTION 13. Subsection (b) of section 37P of chapter 71 of the General Laws, as so appearing, is hereby amended by striking out the second paragraph and inserting in place thereof the following paragraph:-

In selecting a school resource officer, the chief of police shall assign candidates that the chief believes would strive to foster an optimal learning environment and educational community; provided, however, that the chief of police shall give preference to candidates who

have received specialized training in child and adolescent development, de-escalation and conflict resolution techniques with children and adolescents, behavioral health disorders in children and adolescents, alternatives to arrest and other juvenile justice diversion strategies and behavioral threat assessment methods. The appointment shall not be based solely on seniority. The performance of a school resource officer shall be reviewed annually by the superintendent and the chief of police. The superintendent and the chief of police shall enter into a written memorandum of understanding to clearly define the role and duties of the school resource officers. The memorandum shall be placed on file in the office of the school superintendent and police chief. The memorandum shall: (i) state that school resource officers may use traditional policing techniques, such as arrest, citation and court referral, only when necessary to address and prevent serious, real and immediate threats to the physical safety of the members of the school and the wider community; (ii) state that school resource officers shall not become involved in routine discipline in response to non-violent school infractions such as tardiness, loitering, use of profanity, dress code violations and disruptive or disrespectful behaviors; (iii) set forth protocols for utilizing the expertise of mental health professionals in addressing the needs of students with behavioral and emotional difficulties, in crisis situations and otherwise; (iv) require that a school resource officer devote a significant portion of time that the officer devotes to professional development activities to school-based or other training that promotes heightened awareness of the various challenges faced by students in the school to which the officer is assigned, with an emphasis on professional development activities that impart information regarding child development, including the incidence and impact of adverse childhood experiences, de-escalation techniques and implicit or unconscious bias; (v) specify how the school and police departments will regularly monitor and assure that school resource

officers are complying with the terms of the memorandum and avoiding inappropriate arrest, citation or court referral; and (vi) specify the manner and division of responsibility for collecting and reporting the school-based arrests, citations and court referrals of students to the department of elementary and secondary education in accordance with regulations promulgated by the department, which shall collect and publish disaggregated data in a like manner as school discipline data made available for public review.

SECTION 14. Section 22 of chapter 90 of the General Laws, as so appearing, is hereby amended by striking out subsection (i).

SECTION 15. Section 23 of said chapter 90, as so appearing, is hereby amended by inserting after the figure "$500", in line 53, the following words:- ; provided however, that notwithstanding any general or special law to the contrary, a finding of delinquency shall not be entered against a person against whom such a complaint has been issued and the penalty for such shall be a civil penalty of not more than $500.

SECTION 16. The second paragraph of subparagraph (1) of paragraph (a) of subdivision (1) of section 24 of said chapter 90, as so appearing, is hereby amended by striking out the second sentence and inserting in place thereof the following sentence:-

The assessment shall be waived or reduced if it will cause a substantial financial hardship upon the person or the person's family or dependents.

SECTION 17. The third paragraph of said subparagraph (1) of said paragraph (a) of said subdivision (1) of said section 24 of said chapter 90, as so appearing, is hereby amended by striking out the second sentence and inserting in place thereof the following sentence:-

The assessment shall be waived or reduced if it will cause a substantial financial hardship upon the person or the person's family or dependents.

SECTION 18. The second subparagraph of paragraph (a) of subdivision (2) of said section 24 of said chapter 90, as so appearing, is hereby amended by striking out the second sentence and inserting in place thereof the following sentence:-

The assessment shall be waived or reduced if it will cause a substantial financial hardship upon the person or the person's family or dependents.

SECTION 19. Section 24D of said chapter 90, as so appearing, is hereby amended by striking out, in lines 173 and 174, the words "cause a grave and serious hardship to such individual or to the family thereof," and inserting in place thereof the following words:- impose a substantial financial hardship on the individual or the family or dependents of the individual.

SECTION 20. Section 34J of said chapter 90, as so appearing, is hereby amended by inserting after the figure "$500", in line 59, the following words:- ; provided however, that such a person shall not have a finding of delinquency entered against the person and the penalty for such shall be a civil penalty of not more than $500.

SECTION 21. Section 8 of chapter 90B of the General Laws, as so appearing, is hereby amended by striking out, in lines 513 and 514, the words "not be subject to reduction or waiver by the court for any reason" and inserting in place thereof the following words:- be waived or reduced if it will impose a substantial financial hardship on the person or the family or dependents of the person.

SECTION 22. Paragraph (6) of subsection (A) of section 3 of chapter 90C of the General Laws, as so appearing, is hereby amended by adding the following subparagraph:-

(d) A violator may request a payment plan for the payment of the violator's assessment to the registrar or the registrar's authorized agent. If the violator requests a payment plan, the registrar shall determine a monthly payment plan that takes the violator's ability to pay into consideration; provided, however, that a monthly payment shall be not less than $25. The payment plan shall be sufficient to discharge the violator of all reinstatement fees and underlying fines assessed to the violator. The term of a payment plan under this section shall be not more than 12 months. During the period of the payment plan, the registrar shall defer any suspension otherwise mandated by this section.

If a violator signs a payment plan approved by the registrar and fails to make payments on the plan, the registrar may suspend the violator's license, learner's permit or right to operate without further notice or hearing. The registrar shall promulgate regulations to govern the determination and use of payment plans.

SECTION 23. Class A of section 31 of chapter 94C of the General Laws, as so appearing, is hereby amended by adding the following paragraph:-

(d) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation that contains any quantity of the following substances including its salts, isomers and salts of isomers whenever the existence of such salts, isomers and salts of isomers is possible within the specific chemical designations:

1. Acetyl Fentanyl

2. Carfentanil

3. Fentanyl

4. Any synthetic opioid controlled in Schedule II of Title 21 of the Code of Federal Regulations Part 1308.12, unless specifically excepted or unless listed in another class in this section.

SECTION 24. Paragraph (b) of class B of said section 31 of said chapter 94C, as so appearing, is hereby amended by striking out clauses (6) to (21), inclusive, and inserting in place thereof the following 15 clauses:-

(6) Isomethadone

(7) Levomethorphan

(8) Levorphanol

(9) Metazocine

(10) Methadone

(11) Methadone-Intermediate, 4-cyano-2-dimethylamino-4, 4-diphenyl butane

(12) Moramide-Intermediate, 2-methyl-3 morpholine-1, 1-diphenyl-propane carboxylic acid

(13) Pethidine

(14) Pethidine-Intermediate-A, 4-cyano-1-methyl-4-phenylpiperidine

(15) Pethidine-Intermediate-B, ethyl-4-phenylpiperidine-4-carboxylate

(16) Pethidine-Intermediate-C, 1-methyl-4-phenylpiperidine-4-carboxylic acid

(17) Phenazocine

(18) Piminodine

(19) Racemethorphan

(20) Racemorphan

SECTION 25. Said chapter 94C is hereby further amended by striking out sections 32 to 32B, inclusive, as so appearing, and inserting in place thereof the following 3 sections:-

Section 32. A person who knowingly or intentionally manufactures, distributes, dispenses or possesses with intent to manufacture, distribute or dispense a controlled substance in Class A of section 31 shall be punished by imprisonment in the state prison for not more than 10 years or in a jail or house of correction for not more than 2½ years, by a fine of not less than $1,000 nor more than $10,000 or by both such fine and imprisonment.

Section 32A. A person who knowingly or intentionally manufactures, distributes, dispenses or possesses with intent to manufacture, distribute or dispense a controlled substance in Class B of section 31 shall be punished by imprisonment in the state prison for not more than 10 years or in a jail or house of correction for not more than 2½ years, by a fine of not less than $1,000 nor more than $10,000 or both such fine and imprisonment.

Section 32B. A person who knowingly or intentionally manufactures, distributes, dispenses or possesses with intent to manufacture, distribute or dispense a controlled substance in Class C of section 31 shall be imprisoned in state prison for not more than 5 years or in a jail

or house of correction for not more than 2½ years, by a fine of not less than $500 nor more than $5,000 or both such fine and imprisonment.

SECTION 26. Section 32E of said chapter 94C, as so appearing, is hereby amended by striking out, in lines 46 and 47, the figure “18” and inserting in place thereof, in each instance, the following figure:- 100.

SECTION 27. Subsection (b) of said section 32E of said chapter 94C, as so appearing, is hereby amended by striking out paragraphs (1) to (4), inclusive, and inserting in place thereof the following 2 paragraphs:-

(1) Not less than 100 grams but less than 200 grams, be punished by a term of imprisonment in the state prison for not less than 8 nor more than 20 years. A sentence imposed under this clause shall not be for less than a mandatory minimum term of imprisonment of 8 years and a fine of not less than $10,000 nor more than $100,000 may be imposed; provided, however, that a fine shall not be in lieu of the mandatory minimum term of imprisonment established in this paragraph.

(2) Not less than 200 grams, be punished by a term of imprisonment in the state prison for not less than 12 nor more than 20 years. A sentence imposed under this clause shall not be for less than a mandatory minimum term of imprisonment of 12 years and a fine of not less than $50,000 nor more than $500,000s may be imposed; provided, however, that a fine shall not be in lieu of the mandatory minimum term of imprisonment established in this paragraph.

SECTION 28. Said section 32E of said chapter 94C, as so appearing, is hereby further amended by inserting after the word “thereof”, in line 80, the following words:- , a controlled substance defined in paragraph (d) of Class A of section 31.

SECTION 29. Said section 32E of said chapter 94C, as so appearing, is hereby further amended by inserting after the word “thereof”, in line 85, the first time it appears, the following words:- , a controlled substance defined in paragraph (d) of Class A of section 31.

SECTION 30. Said section 32E of said chapter 94C, as so appearing, is hereby further amended by inserting after the word “thereof”, in line 87, the following words:- , a controlled substance defined in paragraph (d) of Class A of section 31.

SECTION 31. Said section 32E of said chapter 94C, as so appearing, is hereby further amended by inserting after the word “thereof”, in line 89, the first time it appears, the following words:- , a controlled substance defined in paragraph (d) of Class A of section 31.

SECTION 32. Said section 32E of said chapter 94C, as so appearing, is hereby further amended by striking out subsection (c½).

SECTION 33. Section 32H of said chapter 94C, as so appearing, is hereby amended by striking out, in lines 1 to 3, inclusive, the words “paragraph (b) of section thirty-two, paragraphs (b), (c) and (d) of section thirty-two A, paragraph (b) of section thirty-two B, sections” and inserting in place thereof the following word:- sections.

SECTION 34. Said section 32H of said chapter 94C, as so appearing, is hereby further amended by striking out, in lines 3 and 4, the words “thirty-two F and thirty-two J” and inserting in place thereof the following words:- and 32F.

SECTION 35. Said section 32H of said chapter 94C, as so appearing, is hereby further amended by striking out, in lines 16 to 18, inclusive, the words “subsection (c) of Section 32,

subsection (e) of section 32A, subsection (c) of section 32B, subsection (d) of section 32E, or section 32J" and inserting in place thereof the following words:- subsection (d) of section 32E.

SECTION 36. Said section 32H of said chapter 94C, as so appearing, is hereby further amended by striking out, in line 33, the words "18 years of age or older" and inserting in place thereof the following words:- having attained the age of criminal majority.

SECTION 37. Said section 32H of said chapter 94C, as so appearing, is hereby further amended by striking out, in line 34, the figure "18" and inserting in place thereof the following words: the age of criminal majority.

SECTION 38. Section 32I of said chapter 94C, as so appearing, is hereby amended by striking out, in line 10, the words "less than one nor".

SECTION 39. Said section 32I of said chapter 94C, as so appearing, is hereby further amended by striking out, in line 11, the words "less than five hundred nor".

SECTION 40. Said section 32I of said chapter 94C, as so appearing, is hereby further amended by striking out, in line 24, the words "less than fifty nor".

SECTION 41. Section 32J of said chapter 94C is hereby repealed.

SECTION 42. Section 32M of chapter 94C of the General Laws, as amended by section 19 of chapter 55 of the acts of 2017, is hereby further amended by striking out, in line 1, the word "eighteen" and inserting in place thereof the following words:- criminal majority.

SECTION 43. Said section 32M of said chapter 94C, as so amended, is hereby further amended by striking out, in line 6, the figure "18" and inserting in place thereof the following words:- criminal majority.

SECTION 44. Section 34 of said chapter 94C, as appearing in the 2016 Official Edition, is hereby amended by striking out, in lines 14 and 15, the words “less than two and one-half years nor”.

SECTION 45. Said section 34 of said chapter 94C, as so appearing, is hereby further amended by striking out, in lines 42 to 44, inclusive, the words “departmental records which are not public records, maintained by police and other law enforcement agencies, shall not be sealed; and provided further, that”.

SECTION 46. Section 34A of said chapter 94C, as so appearing, is hereby amended by striking out, in lines 4 and 11, the words “sections 34 or 35” and inserting in place thereof, in each instance, the following words:- section 34 or found in violation of a condition of probation or pre-trial release as determined by the courts or a condition of parole as determined by the parole board.

SECTION 47. Said section 34A of said chapter 94C, as so appearing, is hereby further amended by inserting after the word “substance”, in lines 5 and 12, the following words:- or violation.

SECTION 48. Section 35 of said chapter 94C is hereby repealed.

SECTION 49. Section 36 of said chapter 94C, as appearing in the 2016 Official Edition, is hereby amended by striking out, in lines 6 and 7, the words “his eighteenth birthday” and inserting in place thereof the following words:- the age of criminal majority.

SECTION 50. Section 44 of said chapter 94C, as so appearing, is hereby amended by striking out, in lines 5 to 8, inclusive, the words “; provided, however, that departmental records

maintained by police and other law enforcement agencies which are not public records shall not be sealed".

SECTION 51. Section 45 of said chapter 94C is hereby repealed.

SECTION 52. Section 1 of chapter 111E of the General Laws, as appearing in the 2016 Official Edition, is hereby amended by striking out the definition of "Administrator" and inserting in place thereof the following 2 definitions:-

"Addiction specialist", a person who is licensed or certified by the department as a provider of substance abuse treatment or a physician, licensed psychologist, registered nurse or licensed clinical social worker.

"Administrator", the person in charge of the operation of a facility or a penal facility, or the person's designee.

SECTION 53. Section 10 of said chapter 111E, as so appearing, is hereby amended by striking out, in lines 18 to 19, the words "a psychiatrist, or if it is, in the discretion of the court, impracticable to do so, a physician" and inserting in place thereof the following words:- an addiction specialist.

SECTION 54. Said section 10 of said chapter 111E, as so appearing, is hereby further amended by striking out, in lines 23, 25, 31 and 35, the words "psychiatrist or physician" and inserting in place thereof, in each instance, the following words:- addiction specialist.

SECTION 55. Said section 10 of said chapter 111E, as so appearing, is hereby further amended by striking out, in lines 60 and 61, the words "for the first time".

SECTION 56. Said section 10 of said chapter 111E, as so appearing, is hereby further amended by striking out, in lines 61 and 62, the words “not involving the sale or manufacture of dependency related drugs, and” and inserting in place thereof the following word:- and.

SECTION 57. Said section 10 of said chapter 111E, as so appearing, is hereby further amended by striking out, in line 71, the words “for the first time”.

SECTION 58. Said section 10 of said chapter 111E, as so appearing, is hereby further amended by striking out, in lines 72 and 73, the words “not involving the sale or manufacture of dependency related drugs, and” and inserting in place thereof the following word:- and.

SECTION 59. Said section 10 of said chapter 111E, as so appearing, is hereby further amended by striking out, in line 93, the words “psychiatrist or physician” and inserting in place thereof the following words:- addiction specialist.

SECTION 60. Said section 10 of said chapter 111E, as so appearing, is hereby further amended by striking out, in lines 98 to 99, the words “independent psychiatrist, or if it is impracticable to do so, an independent physician” and inserting in place thereof the following words:- addiction specialist.

SECTION 61. Said section 10 of said chapter 111E, as so appearing, is hereby further amended by striking out, in line 104, the words “psychiatrist or physician” and inserting in place thereof the following words:- addiction specialist.

SECTION 62. Said section 10 of said chapter 111E, as so appearing, is hereby further amended by striking out, in lines 124 and 125, the words “independent psychiatrist, or, if none is

available, an independent physician" and inserting in place thereof the following words:- addiction specialist.

SECTION 63. Said section 10 of said chapter 111E, as so appearing, is hereby amended by striking out, in line 184, the words "thirty-two to thirty-two G" and inserting in place thereof the following figures:- 32E to 32G.

SECTION 64. Section 11 of said chapter 111E, as so appearing, is hereby amended by striking in lines 4 and 5, the words "a psychiatrist, or, if, in the discretion of the court, it is impracticable to do so, by a physician" and inserting in place thereof the following words:- an addiction specialist.

SECTION 65. Said section 11 of said chapter 111E, as so appearing, is hereby further amended by striking out, in line 11, lines 16 and 17 and line 18, the words "physician or psychiatrist" and inserting in place thereof the following words:- addiction specialist.

SECTION 66. Section 13A of said chapter 111E, as so appearing, is hereby amended by striking out, in line 9, the word "physician" and inserting in place thereof the following words:- addiction specialist.

SECTION 67. Said section 13A of said chapter 111E, as so appearing, is hereby further amended by striking out, in line 12, the word "physician" and inserting in place thereof the following words:- addiction specialist.

SECTION 68. Section 52 of chapter 119, as so appearing, is hereby further amended by striking out the definition of "Court" and inserting in place thereof the following 2 definitions:-

"Civil infraction", a violation for which a civil proceeding is allowed, for which the court shall not appoint counsel or sentence any term of incarceration and for which a civil penalty may be imposed.

"Court", a division of the juvenile court department.

SECTION 69. Said section 52 of said chapter 119, as so appearing, is hereby further amended by striking out the definition of "Delinquent child" and inserting in place thereof the following definition:-

"Delinquent child", a child between the age of 12 and the age of criminal majority who commits any offense against a law of the commonwealth; provided, however, that such an offense shall not include a civil infraction.

SECTION 70. Said section 52 of said chapter 119, as so appearing, is hereby further amended by striking out, in line 15, the figure "18" and inserting in place thereof the following words:- the age of criminal majority.

SECTION 71. Section 54 of said chapter 119, as so appearing, is hereby amended by striking out, in line 2, the words "seven and 18 years of age" and inserting in place thereof the following figure:- 12 and the age of criminal majority.

SECTION 72. Said section 54 of said chapter 119, as so appearing, is hereby further amended by striking out, in line 21, the words "ages of fourteen and 18" and inserting in place thereof the following words;- age of 14 and the age of criminal majority.

SECTION 73. Said section 54 of said chapter 119, as so appearing, is hereby further amended by striking out the second paragraph.

SECTION 74. Said chapter 119 is hereby further amended by inserting after section 54 the following section:-

Section 54A. (a) The juvenile court shall have jurisdiction to divert to a program, as defined in section 1 of chapter 276A, a child who is subject to the jurisdiction of the juvenile court as the result of a complaint brought under section 54 and who has received a recommendation from the department of probation stating that the child would benefit from participation in the program.

(b) A probation officer of a juvenile court shall, after the appointment of counsel, upon the request of counsel and prior to arraignment, complete an assessment of each child complained of as a delinquent child to enable the judge to consider the suitability of the child for diversion from any further court processing to a program prior to arraignment.

If the child or the probation officer requests a continuance, the court may offer a continuance of not more than 14 days to allow for additional time for the assessment by the department of probation or, where the judge determines it is appropriate, the personnel of a program to determine if the child would benefit from the program. If a case is continued under this section, the child shall not be arraigned and an entry shall not be made into the criminal offender record information systems until a Justice of the juvenile court orders it to resume the ordinary processing of a delinquency proceeding.

(c) After the completion of the assessment, or upon the expiration of a continuance granted pursuant to paragraph (b), the probation officer or, where applicable, the director of a program to which the child has been referred, shall submit to the court a recommendation as to whether the child would benefit from diversion to a program.

The judge, upon receipt of the recommendation, shall provide an opportunity for a recommendation by the prosecution regarding the diversion of the child. After receiving the report and having provided an opportunity for the prosecution to make its recommendation, the judge shall make a final determination as to the eligibility of the child for diversion. The proceedings of a child who is found eligible for diversion under section (a) shall be stayed for a period of 90 days, unless the judge determines that the interest of justice would best be served by a lesser period of time.

A stay of proceedings shall not be granted pursuant to this section unless the child consents in writing to the terms and conditions of the stay of proceedings and knowingly executes a waiver of the child's right to a speedy trial on a form approved by the chief justice of the juvenile courts. The consent shall be with the advice of the child's counsel. A request for assessment, a decision by the child not to enter a program, a determination by probation or by a program that the child would not benefit from diversion or any statement made by the child during the course of assessment shall not be admissible against the child in any proceedings. Any consent by the child to the stay of proceedings or any act done or statement made in fulfillment of the terms and conditions of the stay of proceedings shall not be admissible as an admission, implied or otherwise, against the child, should the stay of proceedings be terminated and proceedings resumed on the original complaint. A statement or other disclosure or records thereof made by a child during the course of assessment or during the stay of proceedings shall not be disclosed at any time to a prosecutor or other law enforcement officer in connection with the investigation, or prosecution of any charge or charges against the child or any co-defendant.

If a child has been found eligible for diversion under this section, the child shall not be arraigned and an entry shall not be made into the criminal offender record information systems

until a Justice of the juvenile court orders it to resume the ordinary processing of a delinquency or youthful offender proceeding. If a child is found eligible under this section, this eligibility shall not be considered an issuance of a criminal complaint for the purposes of section 37H½ of chapter 71.

(d) A district attorney may divert any child to a program, either before or after the assessment procedure set forth in paragraph (b), with or without the permission of the court and without regard to the limitations in paragraph (f). A district attorney who diverts a case pursuant to this section may request a report from a program regarding the child's status in and completion of the program.

If the child during the stay of proceedings is charged with a subsequent offense, a judge in the court that entered the stay of proceedings may issue such process as is necessary to bring the child before the court. When the child is brought before the court, the judge shall afford the child an opportunity to be heard. If the judge finds probable cause to believe that the child has committed a subsequent offense, the judge may order, when appropriate, that the stay of proceedings be terminated and that the commonwealth be permitted to proceed on the original complaint as provided by law.

(e) Upon the expiration of the initial 90-day stay of proceedings, the probation officer of the juvenile court shall indicate to the court the successful completion of diversion by the child or recommend an extension of the stay of proceedings for not more than an additional 90 days so that the child may complete the diversion program successfully.

If the probation officer indicates the successful completion of diversion by a child, the judge shall dismiss the original complaint pending against the child. If the report recommends an

extension of the stay of proceedings, the judge may, on the basis of the report and any other relevant evidence, take such action as the judge deems appropriate, including the dismissal of the complaint, the granting of an extension of the stay of proceedings or the resumption of proceedings.

If the conditions of diversion have not been met, the child's attorney shall be notified prior to the termination of the child from diversion and the judge may grant an extension to the stay of proceedings if the child reasonably satisfies the court that the child does not have the means to comply with the conditions of diversion.

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

(f) If a child who is otherwise eligible for diversion under this section is charged with a violation of 1 or more of the offenses enumerated in section 70C of chapter 277, other than the offenses in sections 13A, 13J, and 13M of chapter 265, sections 13A and 13C of chapter 268 and sections 1, 4, 16, 28, 29, 29A and 29B of chapter 272, this section shall not apply for the child.

SECTION 75. Section 58 of said chapter 119, as appearing in the 2016 Official Edition, is hereby amended by striking out, in line 79, the word "eighteenth" and inserting in place thereof the following words:- twenty-first.

SECTION 76. Section 60A of said chapter 119, as so appearing, is hereby amended by striking out, in line 17, the words "his fourteenth and eighteenth birthdays" and inserting in place thereof the following words:- the age of 14 and the age of criminal majority.

SECTION 77. Said section 60A of said chapter 119, as so appearing, is hereby further amended by striking out, in line 20, the words “been age 18 or older” and inserting in place thereof the following words:- attained the age of criminal majority.

SECTION 78. Said section 60A of said chapter 119, as so appearing, is hereby further amended by striking out, in line 22, the words “were age 18 or older” and inserting in place thereof the following words:- had attained the age of criminal majority.

SECTION 79. Section 63A of said chapter 119, as so appearing, is hereby amended by striking out, line 2, the figure “18” and inserting in place thereof the following word:- criminal majority.

SECTION 80. Section 65 of said chapter 119, as so appearing, is hereby amended by striking out, in line 2, the words “18 years of age” and inserting in place thereof the following words:- the age of criminal majority.

SECTION 81. Section 66 of said chapter 119, as so appearing, is hereby amended by striking out, in lines 3 and 5, the words “18 years of age”, in lines 3 and 5, and inserting in place thereof, in each instance, the following words:- the age of criminal majority.

SECTION 82. Section 67 of said chapter 119, as so appearing, is hereby amended by striking out, in line 2, the word “seven” and inserting in place thereof the following figure:- 12.

SECTION 83. Said section 67 of said chapter 119, as so appearing, is hereby further amended by striking out, in lines 2 and 3, 20, 21, 37 and 47, the words “18 years of age” and inserting in place thereof, in each instance, the following words:- the age of criminal majority.

SECTION 84. Section 68 of said chapter 119, as so appearing, is hereby amended by striking out, in lines 1 and 34, the word “seven” and inserting in place thereof, in each instance, the following figure:- 12.

SECTION 85. Said section 68 of said chapter 119, as so appearing, is hereby further amended by striking out, in lines 2 and 52, the figure “18” and inserting in place thereof, in each instance, the following words:- criminal majority.

SECTION 86. Said section 68 of said chapter 119, as so appearing, is hereby further amended by striking out, in line 34, the words “18 years of age” and inserting in place thereof the following words;- the age of criminal majority.

SECTION 87. Section 68A of said chapter 119, as so appearing, is hereby amended by striking out, in line 1, the words “seven and 18 years of age” and inserting in place thereof the following words:- 12 and the age of criminal majority.

SECTION 88. Section 70 of said chapter 119, as so appearing, is hereby amended by striking out, in line 2, the words “18 years of age” and inserting in place thereof the following words:- the age of criminal majority.

SECTION 89. Section 72 of said chapter 119, as so appearing, is hereby amended by striking out, in lines 3 and 4, the words “their eighteenth birthday” and inserting in place thereof the following words:- the age of criminal majority.

SECTION 90. Said section 72 of said chapter 119, as so appearing, is hereby further amended by striking out, in lines 10 to 13, inclusive, the words “his eighteenth birthday, and is not apprehended until between such child’s eighteenth and nineteenth birthday, the court shall

deal with such child in the same manner as if he has not attained his eighteenth birthday" and inserting in place thereof the following words:- attaining the age of criminal majority, and is not apprehended until between the birthday at which the child attained the age of criminal majority and the child's subsequent birthday, the court shall deal with the child in the same manner as if the child has not attained the child's age of criminal majority.

SECTION 91. Said section 72 of said chapter 119, as so appearing, is hereby further amended by striking out, in line 18, the words "their eighteenth birthday" and inserting in place thereof the following words:- the age of criminal majority.

SECTION 92. Section 72A of chapter 119, as so appearing, is hereby amended by striking out, in lines 2 and 3, the words "his eighteenth birthday, and is not apprehended until after his nineteenth birthday, the" and inserting in place thereof the following words:- attaining the age of criminal majority, and is not apprehended until after attaining the first birthday following the birthday at which the person attained the age of criminal majority the.

SECTION 93. Section 72B of said chapter 119, as so appearing, is hereby amended by striking out, in lines 2 and 3 and 7 and 8, the words "his eighteenth birthday" and inserting in place thereof the following words:- the person attains the age of criminal majority.

SECTION 94. Said section 72B of said chapter 119, as so appearing, is hereby further amended by striking out, in line 25, the words "his eighteenth birthday" and inserting in place thereof the following words:- the age of criminal majority.

SECTION 95. Said section 72B of said chapter 119, as so appearing, is hereby further amended by striking out, in line 31, the words "his eighteenth birthday" and inserting in place thereof the following words:- the person attaining the age of criminal majority.

SECTION 96. Section 74 of said chapter 119, as so appearing, is hereby amended by striking out, in lines 3 and 4, the words “his eighteenth birthday” and inserting in place thereof the following words:- the person attaining the age of criminal majority.

SECTION 97. Said section 74 of said chapter 119, as so appearing, is hereby further amended by striking out, in line 10, the words “18 years of age” and inserting in place thereof the following words:- the age of criminal majority.

SECTION 98. Said section 74 of said chapter 119, as so appearing, is hereby further amended by striking out, in line 14, the figure “18” and inserting in place thereof the following words:- criminal majority.

SECTION 99. Section 84 of said chapter 119, as so appearing, is hereby amended by striking out, in lines 12 and 13, the word “seven and eighteen (or nineteen)” and inserting in place thereof the following figure:- 12 and 19 (or 20).

SECTION 100. Said chapter 119 is hereby further amended by adding the following 2 sections:-

Section 86. (a) For the purposes of this section and section 87, the following words shall have the following meanings unless the context clearly requires otherwise:

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

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

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

(c) The court officer charged with custody of a juvenile shall report any security concerns to the presiding justice. On the issue of courtroom or courthouse security, the presiding justice may receive information from the court officer charged with custody of a juvenile, a probation officer or any source determined by the court to be credible.

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

Section 87. A child against whom a complaint is brought under this chapter may participate in a community-based restorative justice program pursuant to the requirements of chapter 276B.

SECTION 101. Section 16 of chapter 119A of the General Laws, as appearing in the 2016 Official Edition, is hereby amended by inserting after the word "obligor", in line 44, the following words:- ; provided, however, that the IV-D agency has no evidence of the obligor residing at an address other than the address last known by the IV-D agency; provided further,

that the IV-D agency shall not notify a licensing authority unless the child support arrearage exceeds an amount equal to 8 weeks obligation or $500, whichever is greater.

SECTION 102. Chapter 120 of the General Laws is hereby amended by inserting after section 10 the following section:-

Section 10B. A person detained by and committed to the department of youth services shall not be placed in involuntary room confinement as a consequence for noncompliance, punishment or harassment or in retaliation for any conduct.

SECTION 103. Section 15 of said chapter 120, as appearing in the 2016 Official Edition, is hereby amended by striking out, in line 3 and line 4, the figure “18” and inserting in place thereof, in each instance, the following words:- the age of criminal majority.

SECTION 104. Section 21 of said chapter 120, as so appearing, is hereby amended by striking out, in line 17, the words “18 years of age” and inserting in place thereof the following words:- the age of criminal majority.

SECTION 105. Section 1 of chapter 127 of the General Laws, as so appearing, is hereby amended by inserting after the definition of “Commissioner” the following 3 definitions:

"Disciplinary detention", disciplinary restrictive housing placement for a period not to exceed 15 days in a state correctional facility or 10 days in a county correctional facility for any given offense, during which canteen and visitation privileges may be diminished.

"Disciplinary restrictive housing", a placement in restrictive housing for disciplinary purposes after a finding has been made that the prisoner has committed a breach of discipline.

"Exigent circumstances", circumstances that create an unacceptable risk to the safety of any person.

SECTION 106. Said section 1 of said chapter 127, as so appearing, is hereby further amended by inserting after the definition of “Parole board” the following definition:-

"Placement review", a multidisciplinary review to determine whether, notwithstanding any previous finding of a disciplinary breach or exigent circumstances or other circumstances supporting a placement in restrictive housing, restrictive housing is still necessary to reasonably manage risks of harm.

SECTION 107. Said section 1 of said chapter 127, as so appearing, is hereby further amended by inserting after the definition of “Residential treatment unit” the following definition:-

“Restrictive Housing,” a housing placement where a prisoner is confined to a cell for over 22 hours per day.

SECTION 108. Section 4 of said chapter 127 is hereby repealed.

SECTION 109. Section 28 of said chapter 127, as appearing in the 2016 Official Edition, is hereby amended by inserting after the word “twenty-three” in line 4, the following words:- , of the fingerprint-based state identification number.

SECTION 110. Said chapter 127 is hereby amended by striking out sections 39 and 39A, as so appearing, and inserting in place thereof the following 6 sections:

Section 39. (a) Subject to the limits of this section and section 39A of chapter 127, the superintendent of any state correctional facility or the administrator of any county correctional

facility may authorize the confinement in a restrictive housing unit of any prisoner for the purpose of disciplining the prisoner or if the prisoner's retention in general population poses an unacceptable risk: (i) to the safety of others; (ii) of self-harm; (iii) of damaging or destroying property; or (iv) to the operation of a correctional facility.

(b) In addition to meeting all standards defined by the department of public health, restrictive housing units shall provide: (i) meals that meet the same standards defined by the commissioner as for general population prisoners; (ii) access to showers at least 3 days per week; (iii) rights of visitation and communication by those properly authorized, which authorization may be diminished during disciplinary detention; (iv) access to reading and writing materials unless clinically contraindicated; (v) access to a radio or television if confinement exceeds 30 days; (vi) periodic mental and psychiatric examinations under the supervision of the department of mental health; (vii) such medical and psychiatric treatment as may be clinically indicated under the supervision of the department of mental health; (viii) the same access to canteen purchases and privileges to retain property in their cells as prisoners in the general population at the same facility, except during disciplinary detention or where inconsistent with the security of the unit; (ix) the same access to disability accommodations as prisoners in general population except where inconsistent with the security of the unit; and (x) other rights and privileges as may be established or recognized by the commissioner.

(c) Before placement in restrictive housing, all inmates shall be screened by a qualified mental health professional to determine whether restricted housing is clinically contraindicated based on clinical standards adopted by the department of correction and clinical judgment.

(d) A qualified mental health professional shall make rounds in every restricted housing unit and may conduct an out-of-cell meeting with any inmate for whom a confidential meeting is warranted in the clinician's professional judgment. Inmates shall be evaluated by a qualified mental health professional in accordance with clinical standards adopted by the department of correction and clinical judgment.

Section 39A. (a) A prisoner shall not be held in restrictive housing if a finding has been made pursuant to subsection (c) or (d) of section 39 or otherwise that restrictive housing is clinically contraindicated unless, not later than 72 hours of the finding, the commissioner or designee or the sheriff or designee certifies in writing: (i) the reason why the prisoner may not be safely held in the general population; (ii) that there is no available placement in a secure treatment unit; (iii) efforts that are being undertaken to find appropriate housing; (iv) the status of such efforts; and (v) anticipated time frame for resolution. A copy of the written certification must be provided to the prisoner.

(b) The perception that a prisoner is lesbian, gay, bisexual, transgender, queer or intersex or has a gender identity or expression or sexual orientation uncommon in general population shall not be grounds for placement in restrictive housing.

(c) If a prisoner needs to be separated from general population to protect the prisoner from harm by others, the prisoner shall not be placed in restricted housing, but shall be placed in a housing unit that provides approximately the same conditions, privileges, amenities and opportunities as in general population; provided, however, that the prisoner may be placed in restricted housing for not more than 72 hours while suitable housing is located. A prisoner shall not be held in restrictive housing for the prisoner’s own safety for more than 72 hours unless the

commissioner or designee or the sheriff or designee certifies in writing: (i) the reason why the prisoner may not be safely held in the general population; (ii) that there is no available placement in a unit comparable to general population; (iii) efforts that are being undertaken to find appropriate housing; (iv) the status of such efforts; and (v) anticipated time frame for resolution. A copy of the written certification must be provided to the prisoner.

(d) A prisoner shall not be confined to restrictive housing except pursuant to section 39 or this section.

Section 39B. (a) All prisoners confined to restrictive housing shall receive placement reviews on the following intervals and may receive them more frequently:

(i) If a prisoner is being held in restrictive housing after a finding pursuant to subsections (c) or (d) of section 39, every 72 hours;

(ii) If a prisoner is being held in restrictive housing for the prisoner's own safety, every 72 hours;

(iii) If a prisoner is awaiting adjudication of an alleged disciplinary breach, every 15 days;

(iv) If a prisoner has been committed to disciplinary restrictive housing, every 6 months; and

(v) If any other prisoner is held in restrictive housing, every 90 days.

(b) After a placement review, the prisoner shall be retained in restrictive housing only if the prisoner is determined to pose an unacceptable risk as provided in subsection (a) of section

39 or if the commissioner or designee or the sheriff or designee re-certifies in writing the findings required by subsection (a) or subsection (c) of section 39A.

(c) If a prisoner's placement in restrictive housing may reasonably be expected to last over 60 days, the prisoner shall: (i) have 24 hours written notice of placement reviews; (ii) have the opportunity to participate in reviews in person or in writing; (iii) upon review, if no placement change is ordered be provided, a written statement of reasons; (iv) within 15 days of initial placement and upon placement review, if no placement change is ordered, be advised as to behavior standards and program participation goals that will increase the prisoner's chances of a less restrictive placement upon next placement review.

(d) A prisoner who is committed to a secure treatment unit following an allegation or finding of a disciplinary breach shall receive placement reviews at intervals not less than as frequently as if the prisoner were confined to restrictive housing.

(e) The commissioner shall promulgate regulations to define standards and procedures to maximize out-of-cell activities in restrictive housing and to maximize outplacements from restrictive housing consistent with the safety of all persons.

Section 39C. The commissioner, after consultation with the sheriffs of the several counties, shall promulgate regulations governing the training and qualifications of correction officers, supervisors and managers deployed to restrictive housing.

Section 39D. (a) The commissioner shall publish monthly the number of prisoners held in each restrictive housing unit within each state or county correctional facility.

(b) The commissioner shall publish quarterly as to each restrictive housing unit within each state or county correctional facility: (i) the number of prisoners as to whom a finding of serious mental illness has been made and the number of such prisoners held over 30 days; (ii) the number of prisoners who have committed suicide or committed non-lethal acts of self-harm; (iii) the number of prisoners according to the reason for their restrictive housing; (iv) as to prisoners in disciplinary restrictive housing, a listing of prisoners with name redacted, including institutional identifying number, age, race, gender and ethnicity, whether or not they have an open mental health case and stating the date of their commitment to discipline, the length of their term and a summary of the reasons for their commitment; (v) the count of prisoners released to the community directly or within 30 days of release from restricted housing; and (vi) such additional information as the commissioner may determine.

(c) The administrators of county correctional facilities shall furnish to the commissioner all information that the commissioner deems necessary to support reporting under this section.

Section 39E. Prisoners held in restrictive housing for periods greater than 60 days shall have substantially equivalent access to vocational, educational and rehabilitative programs as the general population to the extent consistent with the safety and security of the unit and shall receive good time for participation at the same rates as the general population.

SECTION 111. Sections 40 and 41 of said chapter 127 are hereby repealed.

SECTION 112. Said chapter 127 is hereby further amended by inserting after section 119 the following section:-

Section 119A.(a) As used in this section, the following words shall have the following meanings unless the context clearly requires otherwise:

"Conditional medical parole plan", a comprehensive written medical and psychosocial care plan that is specific to the prisoner which shall include, but shall not be limited to including: (i) the proposed course of treatment and post-treatment care; (ii) the proposed site for treatment and post-treatment care; (iii) documentation showing that qualified providers are prepared to provide treatment and post-treatment care; and (iv) the financial program in place to cover the cost of the plan for the duration of the conditional medical parole which shall include eligibility for enrollment in commercial insurance or in Medicare or Medicaid or with access to other adequate financial resources for the duration of the conditional medical parole.

"Department", the department of correction.

"Permanent incapacitation", an irreversible physical incapacitation, as determined by a licensed physician, that is a result of a medical condition that was unknown at the time of sentencing, diagnosed after the time of sentencing or, since the time of sentencing, has progressed such that the prisoner does not pose a public safety risk.

"Secretary", the secretary of public safety and security.

"Terminal illness", an incurable condition, as determined by a licensed physician, which is caused by an illness or disease that was unknown at the time of sentencing, diagnosed after the time of sentencing or, since the time of sentencing, has progressed, that will likely cause the death of the prisoner within 18 months and that is so debilitating that the prisoner does not pose a public safety risk.

(b) Notwithstanding any general or special law to the contrary and except as otherwise provided in this section, a prisoner may be eligible for conditional medical parole due to a

terminal illness or permanent incapacitation under the procedures described in subsections (c) and (d).

(c)(1)The superintendent of a correctional facility shall consider a prisoner for conditional medical parole upon a written request by the prisoner, the prisoner's attorney, the prisoner's next of kin, the commissioner's medical provider or a member of the department's staff. The superintendent shall review the request and make a recommendation to the commissioner within 21 days after receipt of the request.

(2) If the superintendent recommends conditional medical parole, the commissioner shall petition the parole board for an order permitting the prisoner to be released within 10 days after receipt of the recommendation. The commissioner shall notify, in writing, the district attorney and the prisoner, the prisoner's attorney, the prisoner's next of kin or the member of the department's staff requesting the release and, if applicable under chapter 258B, the victim or the victim's family that the prisoner is being considered for conditional medical parole. The parties receiving the notice shall have an opportunity to be heard through a written or oral statement as to the release of the prisoner at hearing provided for in subsection (e). The commissioner shall file an affidavit with the petition confirming that the notice has been provided. The commissioner shall file with the petition a conditional medical parole plan and an assessment of the prisoner's medical and psychosocial condition and the risk the prisoner poses to society which shall include:

(i) a written diagnosis by a physician licensed to practice medicine under section 2 of chapter 112; provided, however, that the physician shall be employed by the department or shall be a contract provider used by the department for the evaluation and treatment of prisoners; and

provided further, that the written diagnosis shall include: (A) a description of the terminal illness or permanent incapacitation; and (B) a prognosis concerning the likelihood of recovery from the terminal illness or permanent incapacitation; and

(ii) an assessment of the risk for violence and recidivism that the prisoner poses to society.

(3) If the superintendent denies a request for conditional medical parole, the superintendent shall provide to the prisoner or to the prisoner's attorney, the prisoner's next of kin or the member of the department's staff that requested the release of a prisoner for conditional medical parole on behalf of the prisoner a statement, in writing, of the reason for the denial. A prisoner electing to appeal a denial made by the superintendent shall file an appeal with the commissioner within 30 days after receiving notice of the denial.

(d)(1) A sheriff shall consider a prisoner for conditional medical parole upon a written request filed by the prisoner, the prisoner's attorney, the prisoner's next of kin, the sheriff's medical provider or a member of the sheriff's staff. The sheriff shall review the request and develop a recommendation as to the release of the prisoner.

(2) Whether or not the sheriff recommends in favor of conditional medical parole, the sheriff shall, within 21 days after receipt of the request, transmit on the prisoner's behalf a petition to the parole board for an order permitting the prisoner to be released together with the sheriff's recommendation. The sheriff shall notify, in writing, the district attorney and the prisoner, the prisoner's attorney, the prisoner's next of kin or the member of the sheriff's staff requesting the release and, if applicable under chapter 258B, the victim or the victim's family that the prisoner is being considered for conditional medical parole. The parties receiving the

notice shall have an opportunity to be heard through a written or oral statement as to the release of the prisoner at a hearing provided for in subsection (e). The sheriff shall file an affidavit with the petition confirming that the notice has been provided. The sheriff shall file with the petition a conditional medical parole plan and an assessment of the prisoner's medical and psychosocial condition and the risk the prisoner poses to society which shall include:

(i) a written diagnosis by a physician licensed to practice medicine under section 2 of chapter 112; provided, however, that the physician shall be employed by the department or the sheriff's office or by a hospital or medical facility used by the department or the sheriff's office for the evaluation and treatment of prisoners; and provided further, that the written diagnosis shall include: (A) a description of the terminal illness or permanent incapacitation; and (B) a prognosis concerning the likelihood of recovery from the terminal illness or permanent incapacitation; and

(ii) an assessment of the risk for violence and recidivism that the prisoner poses to society.

(e) The parole board shall conduct a public hearing not later than 15 days after its receipt of the commissioner's or sheriff's petition and shall issue a written decision within 30 days thereafter. The parole board's written decision shall be accompanied by a statement of reasons for the decision, including a determination of each issue of fact or law necessary to the decision. The parole board shall, upon making a determination that a prisoner is terminally ill or permanently incapacitated, release a prisoner under conditional medical parole. A prisoner granted release under this section shall be under the jurisdiction, supervision and control of the parole board. The parole board shall impose terms and conditions for conditional medical parole

that shall apply through the date upon which the prisoner's sentence would have expired. These conditions shall include, but not be limited to, a requirement that:

(i) the released prisoner's care shall be consistent with the care specified in the conditional medical parole plan approved by the board;

(ii) the released prisoner shall cooperate with and comply with the prescribed conditional medical parole plan and with the reasonable requirements of medical providers to whom the released prisoner is to be referred for continued treatment;

(iii) the released prisoner shall comply with any other conditions of release set by the board.

If the prisoner eligible for conditional medical parole pursuant to this section was convicted and serving a sentence pursuant to section 1 of chapter 265, the full membership of the parole board shall conduct the hearing unless a member of the board is determined to be unavailable. For the purposes of this section, the term "unavailable" shall mean that a board member has a conflict of interest to the extent that the board member cannot render a fair and impartial decision or that the appearance of a board member would be unduly burdensome because of illness, incapacitation or other circumstance. Whether a member is unavailable under this section shall be determined by the chair. A parole hearing shall not proceed for a prisoner serving a sentence pursuant to said section 1 of said chapter 265 unless a majority of the board is present at the hearing. For prisoners convicted and serving a sentence pursuant to said section 1 of said chapter 265, a vote of 2/3 of the members present is required to grant conditional medical parole. The parole board shall provide reasonable accommodations for prisoners appearing

before it for a conditional medical parole hearing under this section which shall include, but not limited to, video teleconferencing when appropriate.

Not less than 24 hours before the date of a prisoner's release on conditional medical parole, the parole board shall notify, in writing, the district attorney, the department of state police, the police department in the city or town in which the released prisoner shall reside and, if applicable under chapter 258B, the victim or the victim's family of the prisoner's release and the terms and conditions of the release.

The parole board may revise, alter or amend the terms and conditions of a conditional medical parole at any time. If a parole officer receives credible information that a prisoner has failed to comply with a reasonable condition of the prisoner's release or upon discovery that the terminal illness or permanent incapacitation has improved to the extent that the prisoner would no longer be eligible for conditional medical parole under this section, the parole officer shall immediately arrest a prisoner and bring the prisoner before the board for a hearing. If the board subsequently determines that the prisoner violated a condition of the prisoner's conditional medical parole or that the terminal illness or permanent incapacitation has improved to the extent that the prisoner would no longer be eligible for conditional medical parole pursuant to this section, the prisoner shall resume serving the balance of the sentence with credit given only for the duration of the prisoner's conditional medical parole that was served in compliance with all reasonable conditions set pursuant to this subsection. Revocation of a prisoner's conditional medical parole due to a change in the prisoner's medical condition shall not preclude a prisoner's eligibility for conditional medical parole in the future or for another form of release permitted by law.

(f) A prisoner, commissioner or sheriff aggrieved by a decision denying conditional medical parole made under this section may petition for relief pursuant to section 4 of chapter 249. A decision by the court affirming the parole board's denial of conditional medical parole shall not affect a prisoner's eligibility for any other form of release permitted by law. A decision by the court pursuant to this subsection shall be final but shall be subject to appeal in the manner provided for appeal of civil proceedings. A decision under this subsection shall not preclude a prisoner's eligibility for conditional medical parole in the future.

(g) The commissioner and the secretary shall promulgate rules and regulations necessary to implement this section.

(h) The commissioner, sheriffs and the secretary shall educate, inform and train employees on the requirements of this section and shall provide those employees with appropriate resources and services to implement this section.

(i) The commissioner, the secretary and the parole board shall together file an annual report not later than March 1 with the clerks of the senate and the house of representatives, the chairs of the senate and house committees on ways and means and the senate and house chairs of the joint committee on the judiciary detailing: (i) each prisoner in the custody of the department who is receiving treatment for a terminal illness and each prisoner in the custody of the department who is receiving treatment for a permanent incapacitation, including the race and ethnicity of the prisoner, the offense for which the prisoner was sentenced and a detailed description of the prisoner's physical and mental condition; provided, however, that identifying information shall be withheld from the report; (ii) the number of prisoners in the custody of the department or of the sheriffs who applied for conditional medical parole under this section and

the race and ethnicity of each applicant; (iii) the number of prisoners who have been granted conditional medical parole and the race and ethnicity of each prisoner granted release for the prior fiscal year and the total to date; (iv) the nature of the illness of the applicants for conditional medical parole; (v) the counties to which the prisoners have been released; (vi) the nature of the placement pursuant to the conditional medical parole plan; (vii) the categories of reasons for denial for prisoners who have been denied conditional medical parole; (viii) the number of prisoners who have petitioned for conditional medical parole more than once; (ix) the number of prisoners released who have been returned to the custody of the department or the sheriff and the reasons for those returns; and (x) the number of petitions for relief sought under subsection (f).

SECTION 113. Section 130 of said chapter 127, as appearing in the 2016 Official Edition, is hereby amended by striking out, in line 47, the words ", provided, however, that" and inserting in place thereof the following words:- ; provided, however, that the terms and conditions shall not include payment of a supervision fee; and provided further, that.

SECTION 114. Section 133A of said chapter 127, as so appearing, is hereby amended by striking out, in line 5, the words "18 years" and inserting in place thereof the following words:- criminal majority.

SECTION 115. Said section 133A of said chapter 127, as so appearing, is hereby further amended by adding the following paragraph:-

If a prisoner is indigent and is serving a life sentence for an offense which was committed before the prisoner reached the age of criminal majority, the prisoner shall have the right to have

appointed counsel at the parole hearing and shall have the right to funds for experts as determined by the standards in chapter 261.

SECTION 116. Section 133C of said chapter 127, as so appearing, is hereby amended by striking out, in line 7, the words “18 years” and inserting in place thereof the following words:- criminal majority.

SECTION 117. Section 144 of said chapter 127, as so appearing, is hereby amended by striking out, in line 3, the words “thirty dollars”, and inserting in place thereof the following figure:- $90.

SECTION 118. Said chapter 127 is hereby further amended by striking out section 145, as so appearing, and inserting in place thereof the following section:-

Section 145. (a) A justice of a trial court shall not commit a person to a prison or place of confinement solely for the nonpayment of money owed if such person has shown by a preponderance of the evidence that the person is not able to pay without causing substantial financial hardship to such person or the family or dependents thereof. A court shall determine if a substantial financial hardship exists at a hearing where it shall consider the person’s employment status, earning ability, financial resources, living expenses and any special circumstances that may affect the person’s ability to pay.

(b) A justice of trial court shall not commit a person to a prison or place of confinement solely for the nonpayment of money owed if the person was not offered counsel for the commitment portion of the case. A person determined to be indigent for the purposes of the offer of counsel shall not be assessed a fee for the assistance of counsel.

(c) A justice of the trial court shall consider alternatives to incarceration before committing a person to a prison or place of confinement solely for nonpayment of a fine or any expenses.

(d) A justice of the trial court shall not commit a juvenile to a prison, place of confinement or the department of youth services solely for the nonpayment of money.

SECTION 119. Section 10 of chapter 209A of the General Laws, as so appearing, is hereby amended by striking out the third sentence and inserting in place thereof the following sentence:- In the discretion of the court, the assessment may be reduced or waived if the court finds that the person is indigent or that payment of the assessment would cause substantial financial hardship to the person or the person's family or dependents.

SECTION 120. Chapter 211B of the General Laws is hereby amended by adding the following section:-

Section 22. For the purposes of updating the criminal history record, the trial court shall electronically send to the department of state police all criminal case disposition information for the offender appearing in court, including sealing and expungement orders and dismissals, together with the corresponding offense-based tracking number and fingerprint-based state identification number, to the extent that the convicted individual has been assigned such numbers and such numbers have been provided to the court.

SECTION 121. Section 2A of chapter 211D of the General Laws, as appearing in the 2016 Official Edition, is hereby amended by striking out subsections (f) to (i), inclusive, and inserting in place thereof the following subsection:-

(f) The office of the commissioner of probation shall submit quarterly reports to the house and senate committees on ways and means that shall include, but not be limited to: (i) the number of individuals claiming indigency who are determined to be indigent; (ii) the number of individuals claiming indigency who are determined not to be indigent; (iii) the number of individuals found to have misrepresented wage, tax or asset information; (iv) the number of individuals found to no longer qualify for appointment of counsel upon any re-assessment of indigency required by this section; (v) the total number of times an indigent misrepresentation fee was collected and the aggregate amount of indigent misrepresentation fees collected; (vi) the total number of times indigent but able to contribute counsel fees were collected and waived and the aggregate amount of indigent but able to contribute counsel fees collected and waived; (vii) the average indigent but able to contribute counsel fee that each court division collects; (viii) the total number of times an indigent but able to contribute fee was collected and waived and the aggregate amount of indigent but able to contribute fees collected and waived; (ix) the highest and lowest indigent but able to contribute fee collected in each court division; and (x) other pertinent information to ascertain the effectiveness of indigency verification procedures. The information within such reports shall be delineated by court division, and delineated further by month.

SECTION 122. Subsection (f) of said section 2A of said chapter 211D, as so appearing, is hereby amended by striking out, in lines 106, 108 , 110 and 112, the figure “$150” and inserting in place thereof, in each instance, the following figure:- $100.

SECTION 123. Said subsection (f) of said section 2A of said chapter 211D, as so appearing, is hereby amended by striking out, in lines 106, 108 , 110 and 112, the figure “$150” and inserting in place thereof, in each instance, the following figure:- $50.

SECTION 124. Section 7 of chapter 212 of the General Laws, as so appearing, is hereby amended by inserting after the first sentence the following sentence:- An indictment for any offense shall be accompanied by an offense-based tracking number and fingerprint-based state identification number of the defendant when the corresponding charges result from an arrest.

SECTION 125. Section 26 of chapter 218 of the General Laws, as so appearing, is hereby amended by inserting after the word “sixty-six”, in line 25, the following words:- , section 13B of chapter 268.

SECTION 126. Said section 26 of said chapter 218, as so appearing, is hereby further amended by inserting after the word “age” in line 26, the following words:- , conspiracy under section 7 of chapter 274, solicitation to commit a felony under section 8 of said chapter 274.

SECTION 127. Said chapter 218 is hereby further amended by inserting after section 32 the following section:-

Section 32A. An application for a criminal complaint submitted to the district court by a police department against a person arrested for or charged with an offense shall be accompanied by an offense-based tracking number or OBTN. For the purposes of this section, an “OBTN” shall be a unique number assigned by the agency for such arrest or charge. The OBTN format shall be according to the policies of the department of state police and the department of criminal justice information services.

An otherwise valid application for a complaint submitted by a police department against a person arrested shall not preclude the issuance of a complaint merely because the application does not include an arrestee's OBTN. If a complaint is issued based on an application for a complaint submitted by a police department against a person arrested that did not include the

arrestee's OBTN, the prosecutor shall submit the OBTN of the defendant to the court to be included in the case file.

SECTION 128. Section 20 of chapter 233 of the General Laws, as appearing in the 2016 Official Edition, is hereby amended by striking out clause Fourth and inserting in place thereof the following clause:-

Fourth, Except in a proceeding before an inquest, grand jury, trial of an indictment or complaint or any other criminal, delinquency or youthful offender proceeding where the victim in the proceeding is not a family member and does not reside in the family household, neither a parent nor a minor child of a parent shall testify against the other; provided, however, that for the purposes of this clause, “parent” shall mean the biological or adoptive parent, stepparent, foster parent, legal guardian or any other person who has the right to act in loco parentis for the child; and provided further, that in cases where the victim is a family member and resides in the family household, the parent shall not testify as to any communication with the child that was for the purpose of seeking advice regarding the child’s legal rights.

SECTION 129. Section 13 of chapter 250 of the General Laws, as so appearing, is hereby amended by striking out, in line 3, the figure “18” and inserting in place thereof the following words:- criminal majority.

SECTION 130. Section 8 of chapter 258B of the General Laws, as so appearing, is hereby amended by striking out, in lines 38 to 40, inclusive, the words “severe financial hardship upon the person against whom the assessment is imposed”, and inserting in place thereof the following words:- substantial financial hardship upon the person against whom the assessment is imposed or upon the person’s family or dependents.

SECTION 131. Section 2 of chapter 258E of the General Laws, as so appearing, is hereby amended by striking out, in line 7, the figure "18" and inserting in place thereof the following words:- criminal majority.

SECTION 132. Chapter 263 of the General Laws is hereby amended by striking out section 1A, as so appearing, and inserting in place thereof the following section:-

Section 1A. Whoever is arrested by virtue of process or is taken into custody by an officer and is charged with the commission of a felony or misdemeanor shall be fingerprinted according to the system of the department of state police and photographed. The fingerprints and photographs shall be immediately forwarded to the department of state police to allow a biometric positive identification. The fingerprint record shall be suitable for comparison and shall include an offense-based tracking number, completed description of the offenses charged and other descriptors as required.

The executive office of public safety and security may audit police departments for compliance with this section. The executive office may also issue a temporary waiver from the requirements of this section for a defined period of time to a police department that demonstrates, upon application to the executive office, that it has inadequate resources to implement this section.

SECTION 133. Section 1 of chapter 263A of the General Laws, as so appearing, is hereby amended by striking out the definition of "Critical witness" and inserting in place thereof the following definition:-

"Critical witness", a person who is participating, has participated or is reasonably expected to participate in a criminal investigation, motion hearing, trial, show cause hearing or

other criminal proceeding or a proceeding involving an alleged violation of conditions of probation or parole or the commitment of a sexually dangerous person pursuant to chapter 123A or who has received a subpoena requiring such participation who is, or was, in the judgment of the prosecuting officer, a necessary witness at any of the aforementioned proceedings and who is or may be endangered by such person's participation in any of the aforementioned proceedings; provided, however, that "critical witness" shall also include such person's relatives, guardians, friends or associates who are or may be endangered by the person's participation in any of the aforementioned proceedings.

SECTION 134. Section 2 of chapter 265 of the General Laws, as so appearing, is hereby amended by striking out, in line 7, the words "person's eighteenth birthday" and inserting in place thereof the following words:- person attained the age of criminal majority.

SECTION 135. Said chapter 265 is hereby further amended by striking out section 13, as so appearing, and inserting in place thereof the following section:-

Section 13. (a) Except as hereinafter provided, whoever is found guilty of manslaughter shall be punished by imprisonment in the state prison for not more than 20 years or by a imprisonment in a house of correction for not more than 2 1/2 years and a fine of not more than $1,000. Whoever is found guilty of manslaughter while committing a violation of any provision of section 102 to 102C, inclusive, of chapter 266 shall be punished by imprisonment in the state prison for life or for any term of years.

(b) A corporation that is found guilty of manslaughter shall be punished by a fine of not less than $250,000. If a corporation is found guilty under this section, the appropriate

commissioner or secretary may debar the corporation under section 29F of chapter 29 for not more than 10 years.

SECTION 136. Said chapter 265 is hereby further amended by striking out section 13B, as so appearing, and inserting in place thereof the following section:-

Section 13B. Whoever is found guilty of indecent assault and battery on a minor under the age of 14 shall be punished by imprisonment in the state prison for not more than 10 years or by imprisonment in a house of correction for not more than 2½ years. A prosecution commenced under this section shall neither be continued without a finding nor placed on file. In a prosecution under this section, a minor under the age of 14 years shall be deemed incapable of consenting to any conduct of the defendant for which such defendant is being prosecuted unless: (i) the defendant is not more than 3 years older than the minor; or (ii) the defendant is not more than 2 years older than the minor if the minor is under 12 years of age.

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

SECTION 137. Section 15A of said chapter 265, as so appearing, is hereby amended by striking out, in line 24, the words “18 years of age” and inserting in place thereof the following words:- who has attained the age of criminal majority.

SECTION 138. Said section 15A of said chapter 265, as so appearing, is hereby further amended by striking out, in line 46, the words “is 18 years of age or older” and inserting in place thereof the following words:- has attained the age of criminal majority.

SECTION 139. Section 15B of said chapter 265, as so appearing, is hereby amended by striking out, in line 24, the words “18 years of age or older” and inserting in place thereof the following words:-who has attained the age of criminal majority

SECTION 140. Section 18 of said chapter 265, as so appearing, is hereby amended by striking out, in line 26 and 27, the words “18 years of age or older” and inserting in place thereof the following words:- who has attained the age of criminal majority.

SECTION 141. Section 18B of said chapter 265, as so appearing, is hereby amended by striking out, in lines 43 and 44, the figure“18 years of age or over” and inserting in place thereof the following words:- who has attained the age of criminal majority.

SECTION 142. Section 19 of said chapter 265, as so appearing, is hereby amended by striking out, in lines 23 and 24, the words “18 years of age or over” and inserting in place thereof the following words:-who has attained the age of criminal majority.

SECTION 143. Said chapter 265 is hereby further amended by striking out section 23, as so appearing, and inserting in place thereof the following section:-

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

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

SECTION 144. Section 43 of said chapter 265, as so appearing, is hereby amended by striking out, in lines 56 and 89, the words “18 years of age or over” and inserting in place thereof, in each instance, the following words:- who has attained the age of criminal majority.

SECTION 145. The second paragraph of section 47 of said chapter 265, as so appearing, is hereby amended by striking out the last sentence and inserting in place thereof the following sentence:- The court may waive the fees if an offender establishes that the fees would cause a substantial financial hardship upon the offender or the offender’s family or dependents.

SECTION 146. Section 30 of chapter 266, as so appearing, is hereby amended by striking out, in lines 9, 13 and14, 77 and 82, the words “two hundred and fifty dollars” and inserting in place thereof, in each instance, the following figure:- $1,500.

SECTION 147. Said section 30 of said chapter 266, as so appearing, is hereby further amended by striking out, in lines 15 to 23, the words “property was stolen from the conveyance of a common carrier or of a person carrying on an express business, shall be punished for the first offence by imprisonment for not less than six months nor more than two and one half years, or by a fine of not less than fifty nor more than six hundred dollars, or both, and for a subsequent offence, by imprisonment for not less than eighteen months nor more than two and one half years, or by a fine of not less than one hundred and fifty nor more than six hundred dollars, or both” and inserting in place thereof the following words:- value of the property stolen exceeds

$250 but is not more than $500, shall be punished by imprisonment in a jail or house of correction for not more than 1 year or by a fine of not more than $500; or, if the value of the property stolen exceeds $500 but is not more than $1,000, shall be punished by imprisonment in a jail or house of correction for not more than 1 year or by a fine of not more than $1,000; or, if the value of the property stolen exceeds $1,000 but is not more than $1,500, shall be punished by imprisonment in a jail or house of correction for not more than 1 year or by a fine of not more than $2,500.

SECTION 148. Said section 30 of said chapter 266, as so appearing, is hereby further amended by adding the following paragraph:-

(6) A law enforcement officers may arrest without a warrant any person that the officer has probable cause to believe has committed an offense under this section and the value of the property stolen exceeds $250.

SECTION 149. Section 30A of said chapter 266, as so appearing, is hereby amended by striking out, in lines 35 and 42, and in lines 46 and 47, the words “one hundred dollars” and inserting in place thereof, in each instance, the following figure:- $250.

SECTION 150. Section 37A of said chapter 266, as so appearing, is hereby amended by striking out the definition of “Credit card” and inserting in place thereof the following definition:-

“Credit card”, an instrument or device, whether known as a credit card, credit plate or any other name or the code of number used to identify that instrument or device or an account of credit or cash accessed by that instrument or device, issued with or without a fee by an issuer for

the use of the cardholder in obtaining money, goods, services or anything else of value on credit or by debit from a cash account.

SECTION 151. Section 37B of said chapter 266, as so appearing, is hereby amended by striking out, in lines 24 and 25, 29 and 30, 37 and 38 and 45 and 46, the words “two hundred and fifty dollars” and inserting in place thereof, in each instance, the following figure:- $1,500.

SECTION 152. Said section 37B of said chapter 266, as so appearing, is hereby further amended by striking out, in lines 49 and 50, the words “five hundred dollars” and inserting in place thereof the following figure:- $3,000.

SECTION 153. Said section 37B of said chapter 266, as so appearing, is hereby further amended by striking out the last paragraph and inserting in place thereof the following paragraph:-

A law enforcement officer may arrest without a warrant any person that the officer has probable cause to believe has committed an offense under this section and the value of the property stolen exceeds $250.

SECTION 154. Section 37C of said chapter 266, as so appearing, is hereby amended by striking out, in lines 12, 17 and 23, and in lines 31 and32, the words “two hundred and fifty dollars” and inserting in place thereof, in each instance, the following figure:- $1,500.

SECTION 155. Said section 37C of said chapter 266, as so appearing, is hereby further amended by striking out, in lines 39 and 40, the words “two thousand dollars” and inserting in place thereof the following figure:- $5,000.

SECTION 156. Said section 37C of said chapter 266, as so appearing, is hereby further amended by striking out the last paragraph and inserting in place thereof the following paragraph:-

A law enforcement officer may arrest without warrant any person that the officer has probable cause to believe has committed an offense under this section and the value of the property stolen exceeds $250.

SECTION 157. Section 60 of said chapter 266, as so appearing, is hereby amended by striking out, in lines 13, 16 and 20, the figure “$250” and inserting in place thereof, in each instance, the following figure:- $1,500.

SECTION 158. Said section 60 of said chapter 266, as so appearing, is hereby further amended by striking out, in line 15, the figure “$1,000” and inserting in place thereof the following figure:- $2,500.

SECTION 159. Said section 60 of said chapter 266, as so appearing, is hereby further amended by adding the following paragraph:-

A law enforcement officer may arrest without warrant any person that the officer has probable cause to believe has committed an offense under this section and the value of the property stolen exceeds $250.

SECTION 160. Section 126A of said chapter 266, as so appearing, is hereby amended by striking out the second paragraph.

SECTION 161. Section 126B of chapter 266 of the General Laws, as so appearing, is hereby amended by striking out the second paragraph.

SECTION 162. Section 127 of said chapter 266, as so appearing, is hereby amended by striking out, in line 13, the words “two hundred and fifty dollars” and inserting in place thereof the following figure:- $1,500.

SECTION 163. Chapter 268 of the General Laws is hereby amended by striking out section 13B, as so appearing, and inserting in place thereof the following section:-

Section 13B. (a) Whoever willfully, either directly or indirectly: (i) threatens or attempts or causes physical, emotional or economic injury or property damage to; (ii) conveys a gift, offer or promise of anything of value to; or (iii) misleads, intimidates or harasses another person who is a: (A) witness or potential witness; (B) person who is or was aware of information, records, documents or objects that relate to a violation of a criminal law or a violation of conditions of probation, parole, bail or other court order; (C) judge, juror, grand juror, attorney, victim witness advocate, police officer, federal agent, investigator, clerk, court officer, court reporter, court interpreter, probation officer or parole officer; (D) person who is or was attending or a person who had made known an intention to attend a proceeding described in this section; or (E) family member of a person described in this section, with the intent to or with reckless disregard for the fact that it may: (1) impede, obstruct, delay, prevent or otherwise interfere with: (I) a criminal investigation at any stage, a grand jury proceeding, a dangerousness hearing, a motion hearing, a trial or other criminal proceeding of any type or a parole hearing, parole violation proceeding or probation violation proceeding; or (II) an administrative hearing or a probate or family court proceeding, juvenile proceeding, housing proceeding, land proceeding, clerk's hearing, court-ordered mediation or any other civil proceeding of any type; or (2) punish, harm or otherwise retaliate against any such person described in this section for such person or such person’s family member’s participation in any of the proceedings described in this section, shall be punished by

imprisonment in the state prison for not more than 10 years or by imprisonment in the house of correction for not more than 2-1/2 years or by a fine of not less than $1,000 or more than $5,000 or by both such fine and imprisonment. If the proceeding in which the misconduct is directed at is the investigation or prosecution of a crime punishable by life imprisonment or the parole of a person convicted of a crime punishable by life imprisonment, such person shall be punished by imprisonment in the state prison for life or for any term of years.

(b) As used in this section, "investigator" shall mean an individual or group of individuals lawfully authorized by a department or agency of the federal government or any political subdivision thereof or a department or agency of the commonwealth or any political subdivision thereof to conduct or engage in an investigation of prosecution for or defense of a violation of the laws of the United States or of the commonwealth in the course of such individual's or group's official duties.

(c) As used in this section, "harass" shall mean to engage in any act directed at a specific person or group of persons that seriously alarms or annoys such person or group of persons and would cause a reasonable person or group of persons to suffer substantial emotional distress including, but not limited to, an act conducted by mail or by use of a telephonic or telecommunication device or electronic communication device including, but not limited to, a device that transfers signs, signals, writing, images, sounds, data or intelligence of any nature, transmitted in whole or in part by a wire, radio, electromagnetic, photoelectronic or photo-optical system including, but not limited to, electronic mail, internet communications, instant messages and facsimile communications.

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

SECTION 164. Section 10 of chapter 269 of the General Laws, as appearing in the 2016 Official Edition, is hereby amended by striking out, in line 53, the words “18 years of age or older” and inserting in place thereof the following words:- who has attained the age of criminal majority.

SECTION 165. Said section 10 of said chapter 269, as so appearing, is hereby further amended by striking out, in line 55,the words “ages fourteen and 18” and inserting in place thereof the following words:- age 14 and the age of criminal majority.

SECTION 166. Said section 10 of said chapter 269, as so appearing, is hereby further amended by striking out, in lines 223 and 255, the words “18 years of age or over” and inserting in place thereof the following words:- who has attained the age of criminal majority”.

SECTION 167. Section 10E of said chapter 269, as so appearing, is hereby amended by striking out, in lines 40 and 41, the words “18 years of age or over” and inserting in place thereof the following words:- who has attained the age of criminal majority.

SECTION 168. Said section 10E of said chapter 269, as so appearing, is hereby further amended by striking out, in line 42,the figure “18” and inserting in place thereof the following words:- the age of criminal majority.

SECTION 169. Section 10F of said chapter 269, as so appearing, is hereby amended by striking out, in lines 4 and 28, the words “18 years of age or over” and inserting in place thereof the following words:- who has attained the age of criminal majority.

SECTION 170. Said section 10F of said chapter 269, as so appearing, is hereby further amended by striking out, in line 32, the figure “18”and inserting in place thereof the following words:- criminal majority.

SECTION 171. Said section 10F of said chapter 269, as so appearing, is hereby further amended by striking out, in line 50, the words“17 years of age” and inserting in place thereof the following words:- who has attained the age of criminal majority

SECTION 172. Section 10G of chapter 269 of the General Laws, as so appearing, is hereby amended by striking out, in lines 34 and 35, the words “18 years of age or over” and inserting in place thereof the following words:- who has attained the age of criminal majority.

SECTION 173. Section 4 of chapter 272 of the General Laws is hereby repealed.

SECTION 174. Said chapter 272 is hereby further amended by striking out section 40, as so appearing, and inserting in place thereof the following section:-

Section 40. Whoever willfully interrupts or disturbs an assembly of people meeting for a lawful purpose shall be punished by imprisonment for not more than 1month or by a fine of not more than $50; provided, however, that an elementary or secondary school student shall not be charged, adjudicated delinquent or convicted for an alleged violation of this section for such conduct within school buildings or on school grounds or in the course of school-related events.

SECTION 175. Section 53 of said chapter 272, as so appearing, is hereby amended by striking out subsection(b) and inserting in place thereof the following subsection:-

(b) Disorderly persons and disturbers of the peace, for a first offense, shall be punished by a fine of not more than $150; provided, however, that no such person who violates this subsection shall have a finding of delinquency entered against that person for a first offense. For a second or subsequent offense, such person shall be punished by imprisonment in a jail or house of correction for not more than 6 months or by a fine of not more than $200 or by both such fine and imprisonment; provided, however, that an elementary or secondary school student shall not be charged, adjudicated delinquent or convicted for an alleged violation of this subsection for such conduct within school buildings or on school grounds or in the course of school-related events.

SECTION 176. Section 6 of chapter 274 of the General Laws, as so appearing, is hereby amended by striking out, in lines 1 to3, inclusive, the words “by doing any act toward its commission, but fails in its perpetration, or is intercepted or prevented in its perpetration,” and inserting in place thereof the following:- as defined in section 6A.

SECTION 177. Said chapter 274 is hereby further amended by inserting after section 6 the following section:-

Section 6A. (a) A person shall be guilty of an attempt to commit a crime if, acting with the intent otherwise required for commission of the crime, such person:

(i) purposely engages in conduct that would constitute the crime if the attendant circumstances were as the person believes them to be;

(ii) when causing a particular result is an element of the crime, does or omits to do anything with the purpose of causing or with the belief that it will cause such result without further conduct on his part; or

(iii) purposely does or omits to do anything that, under the circumstances as the person believes them to be, is an act or omission constituting a substantial step in a course of conduct planned to culminate in that person’s commission of the crime.

(b) Conduct shall not be held to constitute a substantial step under clause (iii) of subsection (a) unless it is strongly corroborative of the actor's criminal purpose.

(c) A person who engages in conduct designed to aid another to commit a crime that would establish such person’s complicity if the crime were committed by such other person, shall be guilty of an attempt to commit a crime whether or not the crime is committed or attempted by such other person.

(d) When the actor's conduct would otherwise constitute an attempt under subsection clause (2) or (3) of subsection (a), it shall be an affirmative defense that the actor abandoned the effort to commit the crime or otherwise prevented its commission under circumstances which clearly demonstrate a complete and voluntary renunciation of the actor’s criminal purpose. The establishment of such a defense shall not affect the liability of an accomplice who did not join in such abandonment or prevention.

Renunciation of criminal purpose shall not be deemed voluntary if it is motivated, in whole or in part, by circumstances, not present or apparent at the inception of the actor's course of conduct, that increase the probability of detection or apprehension or that make more difficult the accomplishment of the criminal purpose. Renunciation shall not be complete if it is

motivated by a decision to postpone the criminal conduct until a more advantageous time or to transfer the criminal effort to another but similar objective or victim.

SECTION 178. Said chapter 274 is hereby further amended by adding the following section:-

Section 8. Whoever solicits, counsels, advises or otherwise entices another to commit a crime that may be punished by imprisonment in the state prison and who intends that the person, in fact, commit or procure the commitment of the crime alleged shall, except as otherwise provided, be punished:

(i) by imprisonment in the state prison for not more than 20 years or in a jail or house of correction for not more than 2½ half years or by a fine of not more than $10,000 or by both such fine and imprisonment if the intent of the solicitation, counsel, advice or enticement is a crime punishable by imprisonment for life;

(ii) by imprisonment in the state prison for not more than 10 years or in a jail or house of correction for not more than 2½ years or by a fine of not more than $10,000, or by both such fine and imprisonment if the intent of the solicitation, counsel, advice or enticement is a crime punishable by imprisonment in the state prison for at least 10 years;

(iii) by imprisonment in the state prison for not more than 5 years or in a jail or house of correction for not more than 2½ years or by a fine of not more than $5,000 or by both such fine and imprisonment if the intent of the solicitation, counsel, advice or enticement is a crime punishable by imprisonment in the state prison for at least 5 years but not more than 10 years; or

(iv) by imprisonment for not more 2½ years in a jail or house of correction or by a fine of not more than $2,000 or by both such fine and imprisonment, if the intent of the solicitation, counsel, advice or enticement is a crime punishable by imprisonment in the state prison for less than 5 years.

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

SECTION 179. Section 23A of chapter 276 of the General Laws, as appearing in the 2016 Official Edition, is hereby amended by striking out, in lines 24 and 25, the words “and the registry of motor vehicles”.

SECTION 180. Section 30 of said chapter 276, as so appearing, is hereby amended by striking out, in lines 5 and 6, the words “upon a finding of good cause by the court the fee may be waived” and inserting in place thereof the following words:- the court may waive the fee upon a finding of good cause or upon a finding that such a fee would cause a substantial financial hardship to the person or the person’s family or dependents.

SECTION 181. Said section 30 of said chapter 276, as so appearing, is hereby further amended by striking out, in line 11, the words “such person is indigent” and inserting in place thereof the following words:- the fee would cause a substantial financial hardship to the person or the person’s family or dependents.

SECTION 182. Section 42A of said chapter 276, as so appearing, is hereby amended by striking the first 6 paragraphs and inserting in place thereof the following paragraph:-

As part of the disposition of any criminal complaint involving a crime of abuse, as that term is defined in section 1 of chapter 209A, the court may establish such terms and conditions of probation as will insure the safety of the person who has suffered such abuse or threat thereof and will prevent the recurrence of such abuse or threat thereof.

SECTION 183. Said chapter 276 is hereby further amended by striking out sections 57 to 59, inclusive, as so appearing, and inserting in place thereof the following 8 sections:-

Section 57. (a) The following words, as used in sections 57 to 58C, shall have the following meanings unless the context clearly requires otherwise:

"Controlled substance", the same meaning as ascribed to it in section 1 of chapter 94C;

"Crime of abuse", a crime that involves assault and battery, trespass, threat to commit a crime, or any other complaint which involves the infliction, or the imminent threat of infliction, of physical harm upon a person by such person’s family or household member as defined in section 1 of chapter 209A, any violation of an order issued pursuant to section 18 or 34B of chapter 208, section 32 of chapter 209, section 3, 4 or 5 of chapter 209A, section 15 or 20 of chapter 209C, or any act that would constitute abuse, as defined in section 1 of chapter 209A, or a violation sections 13M or 15D of chapter 265;

"Dangerous crime", (i) a felony offense that has as an element of the offense the use, attempted use or threatened use of physical force against the person of another; (ii) burglary and arson; (iii) any other felony that, by its nature, involves a substantial risk that physical force against the person of another may result; (iv) a violation of an order pursuant to section 18, 34B or 34C of chapter 208, section 32 of chapter 209, section 3, 4 or 5 of chapter 209A or section 15 or 20 of chapter 209C; (v) a misdemeanor or felony involving abuse as defined in section 1 of

chapter 209A; (vi) a violation of section 13B of chapter 268; (vii) a third or subsequent violation of section 24 of chapter 90; (viii) a violent crime as defined in section 121 of chapter 140 for which a term of imprisonment was served; (ix) a second or subsequent offense of felony possession of a weapon or machine gun under section 121 of chapter 140; (x) a violation of subsection (c) or subsection (m) of section 10 of chapter 269, except for any violation based on possession of a large capacity feeding device without simultaneous possession of a large capacity weapon; and (xii) a violation of section 10G of chapter 269.

"Financial condition", a secured or unsecured bond.

"Judicial officer", a judge or a clerk or assistant clerk of the superior, district, Boston municipal, juvenile, probate and family or housing court.

"Personal surety", a person who agrees, to the satisfaction of the judicial officer, to ensure the appearance of a juvenile defendant.

"Pretrial services", the pretrial services initiative established in section 58D.

"Release order", an order releasing a defendant on personal recognizance or on conditions, regardless of whether the defendant has satisfied any financial condition.

"Risk assessment tool", an empirically-developed uniform tool validated in the commonwealth that analyzes risk factors, created or chosen and implemented by pretrial services to produce the risk assessment classification for a defendant that will aid the judicial officer in making determinations under sections 58 to 58C, inclusive.

"Secured bond", payment to the court of a specified amount of money which, in the discretion of the judicial officer, would reasonably assure the presence of a criminal defendant as required, taking into consideration the defendant's ability to pay.

"Unsecured bond", a defendant's promise to pay to the court a specified amount of money if the defendant does not appear before the court on a date certain or fails to abide by any conditions of release set under section paragraph (1) of subsection (b) of section 58. The unsecured bond shall be in an amount that in the discretion of the judicial officer would reasonably assure the presence of a defendant as required, taking into consideration the defendant's ability to pay.

(b) Upon the appearance before a judicial officer of a defendant charged with an offense, the judicial officer shall hold a hearing, at which the defendant and defendant's counsel, if any, may participate and inquire into the case, to determine whether the defendant shall be released or detained pending trial of the case as provided in this section and sections 58, 58A and 58B. At the hearing, the judicial officer shall have immediate access to all pending and prior criminal offender record information, board of probation records and police and incident reports related to the defendant, upon oral, telephonic, facsimile or electronic mail request, to the extent practicable. At the conclusion of the hearing, the judicial officer shall issue an order that, pending trial, the defendant shall be:

(i) released on personal recognizance under section subsection (a) of section 58;

(ii) released on financial or other conditions under paragraph (1) of subsection (b) of said section 58;

(iii) detained or released on a condition or combination of conditions under section 58A; or

(iv) temporarily detained for not more than 5 business days to permit revocation of conditional release under section 58B.

(c)(1) A hearing under section 58 shall take place not later than the next day that the superior, district, Boston municipal or juvenile court in the appropriate jurisdiction is in session, provided, however, that if a case involves a crime of abuse as defined in section 1 of chapter 209A, the commonwealth shall be the only party that may move for arraignment within 3 hours of a complaint being signed by a magistrate or a magistrate's designee; and provided further, that a defendant arrested, who has attained the age of 18 years, shall not be admitted to bail sooner than 6 hours after arrest except by a judge in open court.

(2) A hearing under section 58A shall be held immediately upon the motion of the commonwealth unless the defendant, or an attorney for the commonwealth, seeks a continuance. Except for good cause shown, a continuance on motion of the defendant shall not exceed 5 business days and a continuance on motion of an attorney for the commonwealth shall not exceed 3 business days. During a continuance, the individual shall be detained upon a showing that there existed probable cause to arrest the defendant. The commonwealth may move for an initial hearing under section said 58A at any time before disposition of the case. Once a hearing under said section 58A has been commenced, the defendant shall be detained pending completion of the hearing.

(3) In any pending case where the defendant has been initially arraigned in the district, Boston municipal or juvenile court and is being subsequently arraigned in superior court for the

same or related offenses arising out of the same incident, the superior court may conduct a new hearing under section 58 or, upon motion of the commonwealth, under section 58A; provided, however, that any order of the district, Boston municipal or juvenile court concerning the defendant issued under said section 58 or 58A shall remain in effect until the superior court issues a new order under said sections 58 or 58A. In any new hearing in the superior court, the judicial officer shall consider the defendant's compliance with any previously-ordered conditions of release or probation.

(4) Any hearing under section 58 may be reopened by the judicial officer, any hearing under section 58A may be reopened by the judge and any hearing under either said section 58 or 58A may be reopened upon motion of the commonwealth or the defendant if the judicial officer or judge determines by a preponderance of the evidence that: (i) information exists that was not known to the moving party at the time of the hearing or there has been a material change in circumstances; and (ii) such information or change in circumstances has a material bearing on the issue of whether the defendant's detention, defendant's release on conditions or conditions imposed on the defendant are necessary and sufficient to reasonably assure the appearance of the defendant as required and the safety of any other person and the community. In any such reopened hearing, the judicial officer shall consider the defendant's compliance with any previously-ordered conditions of release.

Section 58.

(a) The judicial officer shall order the pretrial release of the defendant on personal recognizance, subject to the condition that the defendant not commit a new offense during the period of release, unless the judicial officer determines, in the exercise of his or her discretion,

that the release will not reasonably assure the appearance of the defendant as required or will endanger the safety of any other person or the community. Upon adoption of a risk assessment tool by the Massachusetts Probation Service, as set forth in section 58D, the judicial officer shall consult the risk assessment tool before making a determination pursuant to this section.

(b) If the judicial officer determines, in the exercise of his or her discretion, that the release described in subsection (a) of this section will not reasonably assure the appearance of the defendant as required or will endanger the safety of any other person or the community:

(1) the judicial officer shall order the pretrial release of the defendant subject to:

(A) the condition that the defendant not commit a new offense during the period of release; and

(B) Assuring appearance. the least restrictive further condition, or combination of conditions, that the judicial officer determines will reasonably assure the appearance of the defendant as required, which may include the condition or combination of conditions that the defendant during the period of release shall:

(i) abide by specified restrictions on personal associations, place of abode, or travel;

(ii) report on a regular basis to a designated law enforcement agency, pretrial services agency, or other agency;

(iii) refrain from use of alcohol or marijuana or any controlled substance without a prescription by a licensed medical practitioner;

(iv) submit to random testing to monitor compliance with any conditions ordered under the previous subsection; provided that a positive test for use of marijuana shall not be

considered a violation of the conditions of pretrial release unless the judicial officer expressly prohibits the use or possession of marijuana as a condition of pretrial release;

(v) comply with a specified curfew or home confinement;

(vi) undergo medical, psychological, or psychiatric treatment, including treatment for substance or alcohol use disorder, if available, and remain in a specified institution if required for that purpose;

(vii) submit to electronic monitoring, provided that any condition of electronic monitoring shall include either specified inclusion or exclusion zones or a curfew or a combination thereof;

(viii) participate in pretrial programming at a community corrections center, as set forth in chapter 211F;

(ix) provide an unsecured or secured bond to satisfy a financial condition that the judicial officer may specify, provided that for offenses that do not carry a penalty of incarceration, no secured bond may be ordered unless the defendant has previously failed to appear and consequently been required to pay an unsecured bond on that offense;

(x) for a juvenile defendant, release to a personal surety;

(xi) participate in a diversion program under chapter 276A, an alternative adjudication program, or a drug, mental health, veteran or other treatment court;

(xii) satisfy any other condition that is reasonably necessary to assure the appearance of the defendant as required; and

(C) Assuring safety. the least restrictive further condition, or combination of conditions, that the judicial officer determines will reasonably assure the safety of any other person and the community, which may include the condition or combination of conditions that the defendant during the period of release shall:

(i) refrain from abusing and harassing an alleged victim of the offense and potential witness(es) who may testify concerning the offense;

(ii) stay away from and have no contact with an alleged victim of the offense and with potential witness(es) who may testify concerning the offense;

(iii) refrain from possessing a firearm, rifle, shotgun, destructive device, or other dangerous weapon;

(iv) comply with a specified curfew or home confinement;

(v) refrain from use of alcohol or marijuana or any controlled substance without a prescription by a licensed medical practitioner and submit to random testing for such alcohol or marijuana or controlled substance; provided that a positive test for use of marijuana shall not be considered a violation of the conditions of pretrial release unless the judicial officer expressly prohibits the use or possession of marijuana as a condition of pretrial release;

(vi) undergo medical, psychological, or psychiatric treatment, including treatment for substance or alcohol use disorder, if available, and remain in a specified institution if required for that purpose;

(vii) submit to electronic monitoring, provided that any condition of electronic monitoring shall include either specified inclusion or exclusion zones or a curfew or a combination thereof;

(viii) satisfy any other condition that is reasonably necessary to assure the safety of any other person and the community.

(2) When setting any conditions under paragraph (b)(1)(B) of this section, the judicial officer shall consider where relevant the following factors concerning the defendant:

(A) any results of a risk assessment tool, when such tool is available as set forth in section 58E of this chapter;

(B) financial resources;

(C) family ties;

(D) any record of convictions;

(E) potential penalty the defendant faces;

(F) any illegal drug distribution or present drug dependence;

(G) any employment record;

(H) any history of mental illness;

(I) any flight to avoid prosecution or fraudulent use of an alias or false identification;

(J) any failure to appear at any court proceedings to answer to an offense;

(K) any prior violation of conditions of release or probation.

(3) When setting any conditions under paragraph (b)(1)(C) of this section, the judicial officer shall consider where relevant the following factors concerning the defendant:

(A) any factors listed in (b)(2)(B)-(K) of this section;

(B) nature and circumstances of the offense charged;

(C) whether the defendant is on release pending adjudication of a prior charge;

(D) whether the acts alleged involve a crime of abuse;

(E) any history of orders issued against the defendant pursuant to the sections referenced in the preceding subparagraph;

(F) any risk that the defendant will obstruct or attempt to obstruct justice, or threaten, injure, or intimidate, or attempt to threaten, injure, or intimidate a prospective witness or juror;

(G) whether the defendant is on probation, parole, or other release pending completion of sentence for any conviction; and

(H) whether the defendant is on release pending sentence or appeal for any conviction.

(4) Financial conditions

(A) A judicial officer may not impose a financial condition to assure the safety of any other person or the community, but may impose a financial condition when necessary to reasonably assure the defendant’s appearance as required.

(B) Where a defendant represents in good faith that the defendant lacks sufficient financial resources to post any secured bond required by the judicial officer, such that the

defendant will likely be detained pretrial, the judicial officer must provide findings of fact and a statement of reasons for the bail decision, either in writing or orally on the record, confirming that the judicial officer considered the defendant's financial resources and explaining why the defendant's risk of non-appearance is so great that no alternative, less restrictive financial or nonfinancial conditions will suffice to assure the defendant’s presence at future court proceedings.

(C) If, after 7 calendar days from the date of an order issued under this section, a defendant, other than a defendant for whom the judicial officer made findings as set forth in subsection (b)(4)(B) of this section, remains detained because of an inability to satisfy a financial condition, the defendant shall, upon application, be entitled to review of the financial condition by a judicial officer of the court with jurisdiction over the offense. If, after that review, the defendant remains detained because of an inability to satisfy a financial condition, the defendant shall, upon application, be entitled to review at 30 day intervals.

(D) For any defendant for whom the judicial officer made findings as set forth in subsection (b)(4)(B) of this section, if, after 60 calendar days the defendant remains detained because of an inability to satisfy a financial condition, the defendant shall, upon application, be entitled to review of the financial condition by a judicial officer of the court with jurisdiction over the offense. If after that review, the defendant remains detained because of an inability to satisfy a financial condition, the defendant shall, upon application, be entitled to review at 90 day intervals.

(E) If the judicial officer imposes a financial condition, the clerk of the court shall accept any money tendered in satisfaction of such financial condition during the regular business hours of that court.

(5) Before ordering the release of any defendant charged with a crime against the person or property of another, the judicial officer shall comply with the domestic abuse inquiry requirements of section 56A of this chapter.

(6) In a release order issued under this subsection, the judicial officer shall:

(A) Include a written statement that sets forth all the conditions to which the release is subject, in a manner sufficiently clear and specific to serve as a guide for the defendant's conduct; and

(B) If the defendant is not released on personal recognizance or unsecured bond, include a written summary of the reasons for denying such release and detailed reasons for imposing any financial condition; and

(C) Advise the defendant of:

(i) The consequences of violating a condition of release, including immediate arrest or issuance of a warrant for the defendant's arrest, revocation of release, and the potential that the defendant may face criminal penalties, including penalties for violating the witness intimidation statute, section 13B of chapter 268; and

(ii) if the defendant is charged with a crime of abuse, informational resources related to domestic violence, which shall include, but are not limited to, a list of certified intimate partner abuse education programs located within or near the court's jurisdiction.

(7) Whenever the judicial officer releases a defendant under this section, the court shall enter in writing on the court docket that the defendant was advised as required in subsection (b)(6)(C)(1) and that docket entry shall constitute prima facie evidence that the defendant was so informed.

(8) In a case involving a crime of abuse, if the defendant is released from the place of detention, the arresting police department shall make a reasonable attempt to notify the victim of the defendant's release, or if the defendant is released by order of a court, the district attorney shall make a reasonable attempt to notify the victim of the defendant's release.

Section 58A. (a)(1) Upon a motion of the attorney for the commonwealth, the judge shall hold a hearing to determine whether any condition in section 58 will reasonably assure the appearance of the defendant, as required, or the safety of any other person or the community, in a case that:

(i) involves a dangerous crime, as that term is defined in section 57 or an offense under clause (3) of paragraph (b) of section 32E, clause (3) or (4) of paragraph (c) of said section 32E, paragraph (c ½) of said section 32E or section 32F of chapter 94C;

(ii) the defendant has an open charge of any crime or offense listed in clause (i);

(iii) the defendant has a conviction for any crime or offense listed in clause (i), unless the defendant has not been incarcerated for a criminal sentence for a crime or offense listed in said clause (i) within the previous 10 years;

(iv) there is a serious risk that the defendant will obstruct or attempt to obstruct justice or threaten, injure or intimidate or attempt to threaten injure, or intimidate a law enforcement

officer, an officer of the court or a prospective witness or juror in a criminal investigation or judicial proceeding; or

(v) the defendant has been charged with a felony and there is a serious risk that the defendant will not appear as required, as demonstrated by prior non-appearance or evidence of plans to flee.

(2) After a hearing pursuant to subsection (c), if the judge finds by clear and convincing evidence that no condition will reasonably assure the appearance of the defendant, as required, or the safety of any other person or the community, the judge shall order that the defendant be detained pending trial. If the judge does not find such clear and convincing evidence, the defendant shall be released, pursuant to section 58, on personal recognizance or unsecured bond or on such conditions as the judge determines to be necessary to reasonably assure the appearance of the defendant, as required, and the safety of another person or the community.

(b) (1) At a hearing under paragraph (1) of subsection (a), the defendant shall:

(i) have the right to be represented by counsel and, if financially unable to obtain such counsel, the defendant shall have counsel appointed;

(ii) be afforded an opportunity to testify;

(iii) be afforded an opportunity to present witnesses, to cross-examine witnesses who appear at the hearing and to present information by proffer or otherwise; provided, however, that before issuing a summons to an alleged victim or a member of the alleged victim's family to appear as a witness at the hearing, the defendant shall demonstrate to the court a good faith and reasonable basis for believing that the testimony from that witness will be material and relevant

to support a conclusion that there are conditions of release that will reasonably assure the safety of another person or the community.

(2) The law concerning admissibility of evidence in criminal trials shall not apply to the presentation and consideration of information at the hearing.

(3) If a defendant has been released pursuant to section 58 and it subsequently appears that there are grounds for the defendant's pretrial detention under paragraph (1) of subsection (a), the attorney for the commonwealth may request a pretrial detention hearing by ex parte written motion. If the court grants the motion of the attorney for the commonwealth, notice shall be given to the defendant and the hearing shall occur as set forth in this section.

(c) In determining whether there are conditions of release that will reasonably assure the appearance of the defendant, as required, and the safety of any other person and the community, a judge shall take into account information available concerning:

(i) the factors listed in clauses (ii) and (iii) of subsection (b) of section 58;

(ii) the weight of the evidence against the defendant; and

(iii) the nature and seriousness of the danger to any person or the community that would be posed by the defendant’s release.

Upon adoption of a risk assessment tool by the office of probation, as set forth in section 58E, the judge shall consult the risk assessment tool before making a determination pursuant to this section.

(d) If after the hearing under this section, the judge determines that detention of the defendant is necessary under paragraph (2) of subsection (a), the judge shall issue an order that:

(i) includes written findings of fact and a written statement of the reasons for the detention; (ii) directs that the defendant be committed to a correction facility separate, to the extent practicable, from persons serving sentences; and (iii) directs that the defendant be afforded reasonable opportunity for private consultation with counsel.

If the judge releases the defendant, the order for release shall comply with section 58.

(e) A defendant detained under this subsection shall be brought to trial as soon as reasonably possible, but in the absence of good cause, the defendant so held shall not be detained for a period exceeding 120 days, excluding any period of delay as defined in subdivision (b)(2) of Rule 36 of the Massachusetts Rules of Criminal Procedure. If the defendant's case has not been brought to trial or otherwise resolved by the end of that 120 day period, excluding any period of delay as defined above, the defendant shall be entitled to a de novo review of the detention order.

(f) Nothing in this section shall be construed as modifying or limiting the presumption of innocence.

Section 58B. (a) A defendant who has been released after a hearing pursuant to section 58, 58A, 59 or 87 and who has violated a condition of release, shall be subject to a revocation of release and an order of detention.

(b) The judge shall enter an order of revocation and detention if after a hearing the judge finds that there: (i) is probable cause to believe that the defendant has committed a dangerous crime while on release, that the defendant has committed any crime other than a dangerous crime while on release or there is clear and convincing evidence that the defendant has violated any other condition of release; and (ii) are no conditions of release that will reasonably assure the

defendant will not pose a danger to the safety of any other person or the community or that the defendant is unlikely to abide by any condition or combination of conditions of release.

(c) If the judge issues a release order under this section, the judge may order any condition or combination of conditions of release under clauses (ii) and (iii) of subsection (b) of section 58.

(d) Upon the defendant's first appearance before the judge that will conduct proceedings for revocation of an order of release under this section, the hearing concerning revocation shall be held immediately unless the defendant or the attorney for the commonwealth seeks a continuance. During a continuance the defendant shall be detained without bail unless the judge finds that there are conditions of release that shall reasonably assure that the defendant will not pose a danger to the safety of any other person or the community and that the defendant will abide by conditions of release. If the defendant is detained without bail, a continuance on a motion of the defendant shall not exceed 5 business days, except for good cause, and a continuance on motion of the attorney for the commonwealth or probation shall not exceed 3 business days, except for good cause. A defendant detained under an order of revocation and detention shall be brought to trial as soon as reasonably possible, but in the absence of good cause, a defendant so held shall not be detained for a period exceeding 90 days excluding any period of delay as defined in subdivision (b)(2) of Rule 36 of the Massachusetts Rules of Criminal Procedure.

Section 58C. (a) A defendant who is released on conditions under section 58 or detained under section 58A pursuant to an order of the district court department, the Boston municipal court department or the juvenile court department, shall upon application be entitled to have the

conditions or order of detention reviewed by the superior court department on the next day that court is in session.

(b) A defendant who is released on conditions under section 58 or ordered detained under section 58A or who is the subject of an order under subsection (a) pursuant to an order of the superior court department, may seek relief from a single justice of the appeals court in extraordinary cases involving a clear and substantial abuse of discretion or clear and substantial error of law.

(c) If a defendant detained under section 58A seeks review under this chapter, the reviewing court shall hear the petition as speedily as practicable but it shall not be more than 5 business days after the defendant files the petition. The judge hearing the review may consider the record below which the commonwealth and the defendant may supplement. The reviewing judge may, after a hearing on the petition for review, order that the petitioner be released on personal recognizance or conditions or, in the judge's discretion to reasonably assure the effective administration of justice, make any other order of recognizance or conditions or remand the petitioner in accordance with the terms of the process by which the petitioner was ordered committed.

Section 58D. (a) There shall be within the office of probation a pretrial services initiative, hereinafter referred to as pretrial services. Pretrial services shall be led by a supervisor of pretrial services. The supervisor shall be a person of ability and experience in the pretrial process, chosen and appointed by the commissioner of probation.

(b) Pretrial services shall perform the following duties for the departments of the trial court of the commonwealth:

(i) develop, in coordination with the court and other criminal justice agencies, programs to minimize unnecessary pretrial detention and violations of conditions of release set under section 58;

(ii) monitor the local implementation of the pretrial services set forth in this section and maintain accurate and comprehensive records of pretrial services activities;

(iii) provide notification to supervised defendants of court appearance obligations and, as needed, require periodic reporting by letter, telephone, electronic communication, personal appearance or by other means designated by pretrial services to verify compliance with conditions of release;

(iv) assist defendants released prior to trial in securing appropriate employment, medical, drug, mental or other health treatment or other needed social services that may increase the defendant's chances of successful compliance with the conditions of release;

(v) prepare a formal report of new charges against defendants released on conditions and present the same to the court and to the prosecuting officer who shall aid pretrial services in presenting such violations; and

(vi) any other duties that the commissioner of probation deems necessary to support the operation of pretrial services.

(c) Pretrial services may be provided by probation staff, including community correction staff, as determined by the commissioner of probation.

(d) A defendant shall not be interviewed by pretrial services unless the defendant has been apprised of the identity and purpose of the interview, the scope of the interview, the right to

counsel and the right to refuse cooperation. Inquiry of the defendant shall carefully exclude questions concerning the details of the current charge. Statements made by the defendant during the interview or evidence derived therefrom shall not be admissible against the defendant in any pending criminal prosecution, including in determining the defendant's guilt or the appropriate disposition, except that such statements and evidence may be used in determining appropriate conditions of release and conditions of probation.

(e) The supervisor of pretrial services shall submit annual reports to the commissioner of probation, the chief justice of the trial court of the commonwealth, the court administrator and the chief justice of the supreme judicial court. The report shall include, but shall not limited to, where available: (i) analysis on demographics of the pretrial population including age, race and sex; (ii) appearance and default rates; (iii) conditions imposed upon release; (iv) caseload of the pretrial services initiative; (v) length of supervision; and (vi) any other analytical data deemed appropriate; provided, however, that any data included in the report is presented only in aggregated form and no individual can be identified by data included in the report.

Section 58E. (a) Subject to appropriation, pretrial services shall create or choose a uniform risk assessment tool that analyzes risk factors to produce a risk assessment classification for a defendant that will aid the judicial officer in determining pretrial release or detention under sections 58, 58A, 58B and 58C. Any such tool shall be tested and validated in the commonwealth to identify and eliminate unintended economic, race, gender or other bias.

Pretrial services shall: (i) establish procedures for screening defendants who are presented in court for a first appearance to assist the trial court in determining any appropriate conditions of release or detention under sections 58, 58A, 58B and 58C; (ii) record and, to the

extent possible, verify information required by the risk assessment tool; and (iii) submit a written report to the judicial officer and to all parties and counsel of record which shall include the results of the risk assessment tool, the defendant's eligibility for diversion, treatment or other alternative adjudication programs and any recommendations concerning any appropriate conditions of release or detention under said sections 58 and 58A.

(b) A representative of pretrial services shall, where feasible, be available at any hearing where the judicial officer will consider the pretrial services written report.

(c) When ordered by the judicial officer, pretrial services shall monitor and supervise compliance with the conditions of release ordered under section 58 and, where appropriate, shall proceed under section 58B.

(d) Records created concerning pretrial services, including aggregate data, shall not be considered criminal offender record information and shall be subject to the same limitations on disclosure as other records kept by the office of probation. Aggregate data created concerning pretrial services shall be available to the legislature. Subject to redaction for safety and third-party considerations, an individual shall have access to their own records and information collected or created by pretrial services.

(e) The trial court of the commonwealth, in coordination with pretrial services, shall develop curriculum and make training opportunities available on a rolling basis to all judicial officers eligible to make decisions under sections 58, 58A and 59. The training shall include information on the risk assessment tools, risk assessment scoring and recommended supervision levels, conditions of release and any other information the trial court or the commissioner of the probation deems appropriate.

Section 59. (a) As used in this section, the following words shall have the following meanings unless the context clearly requires otherwise:

"Bail commissioner", a person other than a statutorily authorized magistrate or an assistant clerk of the superior court department appointed by the trial court of the commonwealth to admit to bail after court hours.

"Bail magistrate", a clerk-magistrate or assistant clerk-magistrate of the district court department, Boston municipal court department, juvenile court department or housing court department or a clerk of court of the superior court department or an assistant clerk of the superior court department who has been approved by the trial court of the commonwealth to release people on bail.

Other terms shall have the same meanings as the definitions in section 57 of this chapter.

(b) If a person is arrested and charged with an offense, other than murder in the first or second degree or a crime of abuse, a bail commissioner or bail magistrate shall appear as soon as possible, but in no event shall a bail commissioner or bail magistrate appear more than 6 hours after the person’s arrest unless the person lacks the capacity to understand and participate in the bail proceedings. If a person is arrested and charged with a crime of abuse, the bail commissioner or bail magistrate shall not appear sooner than 6 hours after the person’s arrest, but shall appear as soon as possible thereafter.

(c) The bail commissioner or bail magistrate shall order the pretrial release of a person on personal recognizance subject to the condition that the person not commit a new offense during the period of release, unless the bail commissioner or bail magistrate determines that release on

personal recognizance will not reasonably assure the appearance of the person as required or will endanger the safety of any other person or the community.

(d) If the bail commissioner or bail magistrate determines that the release described in subsection (c) will not reasonably assure the appearance of the person as required or will endanger the safety of any other person or the community, the bail commissioner or bail magistrate shall order the pretrial release of the person subject to the: (i) condition that the person not commit a new offense during the period of release; and (ii) least restrictive further condition or combination of conditions that the bail commissioner or bail magistrate determines will reasonably assure the appearance of the person as required and the safety of any other person and the community. This may include the condition or combination of conditions that the person during the period of release shall:

(A) abide by specified restrictions on personal associations, place of abode or travel;

(B) refrain from the use of alcohol or marijuana or any controlled substance without a prescription by a licensed medical practitioner;

(C) comply with a specified curfew or home confinement;

(D) refrain from abusing and harassing an alleged victim of the offense and potential witness who may testify concerning the offense;

(E) stay away from and have no contact with an alleged victim of the offense or with a potential witness who may testify concerning the offense;

(F) refrain from possessing a firearm, rifle, shotgun, destructive device or other dangerous weapon;

(G) provide unsecured or secured bond to satisfy a financial condition that the bail commissioner or bail magistrate may specify; or

(H) satisfy any other condition that is reasonably necessary to assure the appearance of the person as required or the safety of any other person or the community.

(e) When setting conditions under subsection (d), the bail commissioner or bail magistrate shall consider, where relevant, the following factors concerning the person:

(i) financial resources;

(ii) family ties;

(iii) any record of convictions;

(iv) the potential penalty the person faces;

(v) illegal drug distribution or present drug dependence;

(vi) employment records;

(vii) history of mental illness;

(viii) the possibility of flight to avoid prosecution or fraudulent use of an alias or false identification;

(ix) the failure to appear at any court proceedings to answer to a previous offense;

(x) the nature and circumstances of the offense charged;

(xi) if the person is on bail pending adjudication of a prior charge;

(xii) if the acts alleged involve a crime of abuse as defined in section 57;

(xiii) history of orders issued against the person pursuant to subsection (d) of this section;

(xiv) the risk that the person will obstruct or attempt to obstruct justice or threaten, injure or intimidate or attempt to threaten, injure or intimidate a prospective witness or juror;

(xv) if the person is on probation, parole or other release pending completion of sentence for another conviction; and

(xvi) if the person is on release pending sentence or appeal for another conviction.

(f) Bail commissioners and bail magistrates shall not impose a financial condition to assure the safety of any other person or the community, but may impose a financial condition when necessary to reasonably assure the person’s appearance as required. If the person represents in good faith that the person lacks sufficient financial resources to post the secured bond required by the bail commissioner or bail magistrate, such that the person will likely be detained until the next day that court is in session, the bail commissioner or bail magistrate may impose the secured bond only if the bail commissioner or bail magistrate confirms, in writing, that the bail commissioner or bail magistrate considered the person's financial resources and explains why the person's risk of non-appearance is so great that no alternative, less restrictive financial or nonfinancial conditions will suffice to assure the person’s presence at future court proceedings.

(g) Before issuing any release order under this section for a person who is released on bail pending adjudication of a prior charge or is on probation, the bail commissioner or bail

magistrate shall contact the office of probation's electronic monitoring center to inform them of the person's arrest and charge.

(h) In a release order issued under this section, the bail commissioner or bail magistrate shall advise the person of: (i) the consequences of violating a condition of release, including immediate arrest or issuance of a warrant for the person's arrest, revocation of release and the potential that the person may face criminal penalties, including penalties for violating the witness intimidation statute in section 13B of chapter 268; and (ii) informational resources related to domestic violence which shall include, but shall not be limited to, a list of certified intimate partner abuse education programs located within or near the court's jurisdiction if the person is charged with a crime of abuse.

(i) In a case involving a crime of abuse, if the person is released from the place of detention, the arresting police department shall make a reasonable attempt to notify the victim of the person's release.

(j) If a person is charged with a dangerous crime or a crime of abuse, the bail commissioner or bail magistrate shall order the person held until the next day that court is in session if the bail commissioner or bail magistrate determines that no condition or combination of conditions will reasonably assure the appearance of the person as required or the safety of any other person or the community.

(k) When ordering detention under subsection (j), the bail commissioner or bail magistrate shall take into account information available concerning: (i) any relevant factors listed in subsection (e); (ii) the weight of the evidence against the person; and (iii) the nature and

seriousness of the danger to any person or the community that would be posed by the person's release.

(l) The terms and conditions of an order by the bail commissioner or bail magistrate shall remain in effect until the person is brought before the court for arraignment under sections 57, 58 and 58A.

(m) When a bail commissioner or bail magistrate releases a person on conditions under subsection (d), the bail commissioner or bail magistrate shall record the conditions and provide a copy of such conditions to the person and the detaining authority and shall transmit a copy to the court.

(n) If a person released on conditions by a bail commissioner or bail magistrate under subsection (d) violates any such condition, that violation shall be enforceable under section 58B.

(o) Nothing in this section shall be construed as modifying or limiting the presumption of innocence.

(p) Bail commissioners and bail magistrates authorized to release a person on recognizance, release a person on conditions or to detain a person under this section shall be governed by rules established by the chief justice of the trial court of the commonwealth, subject to review by the supreme judicial court.

(q) Nothing in this section shall authorize a bail commissioner or bail magistrate to release a person arrested and charged with first or second degree murder.

SECTION 184. Section 61A of chapter 276 of the General Laws is hereby repealed.

SECTION 185. Said chapter 276 is hereby further amended by striking out section 61B, as appearing in the 2016 Official Edition, and inserting in place thereof the following section:-

Section 61B. No surety under this chapter shall be compensated for acting as such surety.

SECTION 186. Section 79 of chapter 276 of the General Laws is hereby repealed.

SECTION 187. Section 87 of said chapter 276 of the General Laws, as so appearing, is hereby amended by striking out, in line 7, the figure "18" and inserting in place thereof the following words:- criminal majority.

SECTION 188. Said section 87 of said chapter 276, as so appearing, is hereby further amended by striking out, in lines 14 and 15, the words "was eighteen years of age or older" and inserting in place thereof the following words:- had attained the age of criminal majority.

SECTION 189. The first paragraph of section 87A of said chapter 276, as so appearing, is hereby amended by adding the following sentence:-

No person placed on probation shall be found to have violated a condition of probation solely on the basis of possession or use of a controlled substance as prescribed to that person by a health professional registered to prescribe a controlled substance pursuant to chapter 94C, acting within the lawful scope of the health professional's practice and that has been lawfully dispensed pursuant to a valid prescription, or solely on the basis of possession or use of medical marijuana, obtained in compliance with and in quantities consistent with applicable state regulations, if that person received a written certification from a licensed physician for the use of medical marijuana to treat a debilitating medical condition and the person possesses a medical marijuana registration card issued by either the cannabis control commission, pursuant to chapter 94I of the

General Laws, upon the execution of the transfer agreement between the department of public health and the Massachusetts cannabis control commission required pursuant to section 66 of chapter 55 of the acts of 2017 or on December 31, 2018, whichever occurs first or, prior to that time, by the department of public health, and if the quantity in the person's possession is not greater than the amount recommended in the physician's written certification.

SECTION 190. Said section 87A of said chapter 276 of the General Laws, as so appearing, is hereby further amended by striking out the third paragraph and inserting in place thereof the following paragraph:-

The court may waive payment of the fees if it determines after a hearing that such payment would constitute a substantial financial hardship to the person or the person's family. Following the hearing and upon a finding of hardship the court may require said person to perform unpaid community service work at a public or nonprofit agency or facility, as approved and monitored by the probation department, for no more than 4 hours per month in lieu of payment of a probation fee. A waiver shall be in effect only during the period of time that a person is unable to pay the monthly probation fee.

SECTION 191. Said section 87A of said chapter 276 of the General Laws, as so appearing, is hereby further amended by striking out the eighth paragraph and inserting in place thereof the following paragraph:-

The court may waive payment of the fee if it has determined, after a hearing, that the payment would constitute a substantial financial hardship to the person or the person's family. A waiver shall be in effect only for the duration of the period of time that the person is unable to pay the monthly probation fee.

SECTION 192. Section 89A of said chapter 276 of the General Laws, as so appearing, is hereby amended by striking out the figure “18”, in line 3, and inserting in place thereof the following words:- criminal majority.

SECTION 193. Said chapter 276 of the General Laws is hereby amended by striking out section 92, as so appearing, and inserting in place thereof the following section:-

Section 92. (a) In a criminal case where the victim has suffered an actual economic loss that is causally connected to a crime for which the defendant has been convicted after trial, has entered a plea of guilty or nolo contendere, or has admitted to sufficient facts to warrant a finding of guilt, the court may order the defendant to make financial restitution to the victim for such loss as a condition of probation as set forth in this section. As used in this section, "defendant" includes a delinquent child or youthful offender, and "actual economic loss" means the loss of money or property, excluding consequential damages or costs.

(b) Before ordering restitution pursuant to this section, the court shall determine the appropriate length of any probationary period to be served by the defendant, based on the amount of time necessary to rehabilitate the defendant and protect the public. The court shall not order a longer probationary period to enable the defendant to make restitution, except that, where the court determines that there is no reason to impose probation other than to collect restitution, the court may impose a probationary period of 60 days or less for that purpose.

(c) Before ordering restitution pursuant to this section, the court shall also conduct an evidentiary hearing and make findings concerning (1) the amount of actual economic loss suffered by the victim that is causally connected to the defendant's crime, and (2) the amount of restitution that the defendant can pay monthly without causing substantial financial hardship,

taking into account the defendant's financial resources, including the defendant's income and net assets, and the defendant's financial obligations, including the amount necessary to meet basic human needs such as food, shelter, and clothing for the defendant and his or her dependents. At such hearing, the victim may testify regarding the amount of the loss, and the defendant may cross-examine the victim, with such cross-examination limited to the issue of restitution. The defendant may rebut the victim's estimate of the amount of loss with expert testimony or other evidence. The commonwealth shall bear the burden of proving by a preponderance of the evidence the amount of the actual economic loss suffered by the victim that is causally connected to the defendant's crime. The defendant shall bear the burden of proving by a preponderance of the evidence his inability to pay. The hearing need not address issues as to which the commonwealth and the defendant have reached an agreement that has been presented to the court, whether by written stipulation or as part of the defendant's plea of guilty or nolo contendere or admission to sufficient facts to warrant a finding of guilt. Any agreement between the commonwealth and the defendant concerning the amount of the victim's actual economic loss shall be docketed by the clerk.

(d) The total amount of restitution ordered by the court shall not exceed the lesser of: (i) the amount of actual economic loss suffered by the victim that is causally connected to the defendant's crime; and (ii) the amount of restitution that the defendant can pay monthly without causing substantial financial hardship, multiplied by the total number of months of probation ordered by the court in accord with subsection (b).

(e) If the defendant is placed on probation with a condition that he pay restitution to the victim, and payment is not made at once, the court may order that payment shall be made to the clerk of the court, who shall give receipts for and keep record of all payments made to him, pay

the money to the person injured and keep his receipt therefor, and notify the probation officer whenever the full amount of the money is received or paid in accordance with such order or with any modification thereof.

(f) The court may modify the probation condition regarding the payment of restitution based on any material change in the defendant's financial circumstances.

(g) Whenever the court orders the defendant to make restitution under this section, the court may also issue a civil judgment in favor of the victim and against the defendant for the amount of the victim's actual economic loss that is causally connected to the defendant's crime, less the amount of restitution that the defendant has been ordered to pay. Upon the expiration or revocation of the defendant's probation, the victim or the commonwealth may, with notice to the defendant, request the court to amend the civil judgment to include any amount of restitution that the defendant has failed to pay in accord with the restitution order.

(h) Alternatively, if the court does not order the defendant to make restitution under subsection (a), the court may, upon the request of the commonwealth, issue a civil judgment in favor of the victim and against the defendant for the amount of the victim's actual economic loss that is causally connected to the defendant's crime, provided that (1) the defendant has agreed to the amount of such loss as part of the defendant's plea of guilty or nolo contendere or admission to sufficient facts to warrant a finding of guilt, or (2) the court has determined the amount of such loss after a hearing as provided in subsection (c).

(i) A civil judgment issued under subsections (f) or (g) shall be enforceable by the victim, or the commonwealth acting on behalf of the victim, in the same manner as any other civil judgment. In addition to the amount of the civil judgment, the victim shall be entitled to recover

from the defendant reasonable attorney's fees and costs incurred in enforcing or executing such civil judgment.

(j) A civil judgment issued under subsections (f) or (g) shall be dischargeable in bankruptcy.

(k) Nothing herein shall bar the victim from seeking recovery from the defendant in any other civil proceeding, provided that any amount recovered by the victim pursuant to the court's restitution order or the civil judgment issued under subsections (f) or (g) shall be set off against any other civil claim by the victim for the same actual economic loss.

SECTION 194. Section 100A of said chapter 276 of the General Laws, as so appearing, is hereby amended by striking out, in lines 9, 14, and 21, the figure “5” and inserting in place thereof, in each instance, the following figure:- 3.

SECTION 195. Said section 100A of said chapter 276 of the General Laws, as so appearing, is hereby further amended by striking out, in lines 12, 15, and 22, the figure “10” and inserting in place thereof, in each instance, the following figure:- 7.

SECTION 196. Said section 100A of said chapter 276 of the General Laws, as so appearing, is hereby further amended by inserting after the figure “268A”, in line 28, the following words:- , except for convictions for resisting arrest.

SECTION 197. Said section 100A of said chapter 276 of the General Laws, as so appearing, is hereby further amended by striking out, in line 83, the words “for employment used by an employer” and inserting in place thereof the following words:- used to screen applicants for employment, housing or an occupational or professional license.

SECTION 198. Said section 100A of said chapter 276 of the General Laws, as so appearing, is hereby further amended by inserting after the word “employment”, in line 85, the following words:- or for housing or an occupational or professional license.

SECTION 199. Said section 100A of said chapter 276 of the General Laws, as so appearing, is hereby further amended by inserting after the word “employment”, in line 89, the following words:- or for housing or an occupational or professional license.

SECTION 200. Said section 100A of said chapter 276 of the General Laws, as so appearing, is hereby further amended by inserting after the word “employment”, in line 92, the following words:- or for housing or an occupational or professional license.

SECTION 201. Chapter 276 of the General Laws is hereby amended by striking out section 100B, as so appearing, and inserting in place thereof the following section:-

Section 100B. (a) A person having a record of entries of a court appearance in a proceeding pursuant to section 52 to 62 of chapter 119, inclusive, on file in the office of the commissioner of probation may, on a form furnished by the commissioner, signed under the penalties of perjury, request that the commissioner seal that file. The commissioner shall comply with such a request, provided that: (i) the court appearance or disposition, including court supervision, probation, commitment or parole, the records for which are to be sealed, terminated not less than 1 year prior to the request; (ii) said person has not been adjudicated delinquent or found guilty of a criminal offense within the commonwealth during the 1 year preceding the request, except for motor vehicle offenses in which the penalty does not exceed a fine of $550, and was not imprisoned under sentence or committed as a delinquent within the commonwealth within the preceding 1 year; and (iii) the form requesting sealing includes a statement by the

petitioner that the petitioner has not been adjudicated delinquent or found guilty of a criminal offense in any other state, United States possession or in a court of federal jurisdiction, except for the motor vehicle offenses described in clause (ii), and has not been imprisoned under sentence or committed as a delinquent in any state or county during the preceding 1 year.

(b) At the time of dismissal of a case, nolle prosequi, non-adjudication or when imposing a sentence, period of commitment or probation or other disposition under section 58 of said chapter 119, the court shall inform all juveniles in writing of their right to seek sealing under this section and, if the case ended in a dismissal, nolle prosequi, or without an adjudication, the court shall order sealing of the record at the time of the disposition unless the person charged with the offense objects.

(c) Sealed records under this section shall not operate to disqualify a person in any future examination, appointment or application for public service under the government of the commonwealth or any political subdivision thereof, nor shall sealed records be admissible in evidence or used in any way in court proceedings or hearings before boards of commissioners, except in imposing sentence for subsequent offenses in juvenile or criminal proceedings.

Notwithstanding any other provision to the contrary, the commissioner shall report sealed juvenile records to inquiring police and court agencies only as "sealed juvenile record over 1 year old" and to other authorized persons who may inquire as "no record". The information contained in a sealed juvenile record shall be made available to a judge or probation officer who affirms that the person whose record has been sealed has been adjudicated a delinquent or has pleaded guilty or been found guilty of and is awaiting sentence for a crime committed subsequent to the

sealing of such record. That information shall be used only for the purpose of consideration in imposing sentence.

SECTION 202. Section 100C of chapter 276 of the General Laws, as so appearing, is hereby amended by striking out, in line 23, the words “for employment used by an employer” and inserting in place thereof the following words:- used to screen applicants for employment, housing or an occupational or professional license.

SECTION 203. Said section 100C of said chapter 276 of the General Laws, as so appearing, is hereby further amended by inserting after the word “employment”, in line 26, the following words:- or for housing or an occupational or professional license.

SECTION 204. Section 100D of said chapter 276 of the General Laws, as so appearing, is hereby amended by striking out the figure “17”, in line 8, and inserting in place thereof the following words:- criminal majority.

SECTION 205. Said chapter 276 of the General Laws, as so appearing, is hereby further amended by inserting after section 100D the following 3 sections:-

Section 100E. For the purpose of this chapter, the words “expunge”, “expunged” and “expungement” shall mean permanent erasure or destruction of information so that the information is no longer maintained in any file or record in electronic, paper or other physical form.

Section 100F. Notwithstanding section 100A or any other general or special law to the contrary, a person of any age who has a record of juvenile or criminal court appearances and dispositions on file with the office of the commissioner of probation may petition that

misdemeanor convictions or adjudications or misdemeanor cases ending in a dismissal, nolle prosequi or without adjudication be expunged if the offense was committed before the person turned 18 years of age and the person files a petition with a judge in the court in which the appearance or disposition occurred. The form of the petition shall be furnished by the commissioner of probation. Before a petition is filed, the person shall have: (i) completed a sentence or disposition imposed by the court or, where applicable, a period of commitment or probation imposed pursuant to section 58 of chapter 119; (ii) not been adjudicated delinquent or found guilty of a new criminal offense in the commonwealth or any other state, territory or district of the United States or in a court of federal jurisdiction, except for motor vehicle offenses in which the penalty does not exceed a fine of $550, and was not imprisoned under sentence or committed as a juvenile in any state or county before the completion of that person's juvenile sentence; and (iii) not been adjudicated delinquent or found guilty of a new criminal offense in the commonwealth or any other state, territory or district of the United States or in a court of federal jurisdiction, except for motor vehicle offenses in which the penalty does not exceed a fine of $550, and was not imprisoned under sentence or committed as a juvenile in any state or county before the completion of that person's juvenile sentence since the completion of a sentence or disposition imposed by the court or, where applicable, a period of commitment or probation imposed pursuant to said section 58 of said chapter 119. The court may, in the discretion of the court, upon motion of that person, expunge the appearance or disposition recorded for a misdemeanor conviction or adjudication or a misdemeanor case ending in a dismissal, nolle prosequi or without adjudication if the offense was committed before the person reached the age of 18 years. For any petition granted by the court pursuant to this section, the

clerks and probation officers of the courts in which the proceedings at issue occurred or were initiated shall expunge the records of the proceedings in their files.

No individual or entity including, but not limited to, criminal justice agencies as defined under section 167 of chapter 6, shall have access to criminal offender record information related to the expunged charge or charges. If the court orders expungement of records, the person whose records have been expunged, when applying for employment, housing, or occupational licensing, may answer "no record" as to any charge expunged pursuant to this section in response to an inquiry regarding prior arrests, court appearances or criminal cases. A charge that is expunged shall not disqualify a person in any examination, appointment or application for public employment in the service of the commonwealth or any other political subdivision thereof, nor shall such charges and convictions be used against a person in court proceedings or hearings before a court, board or commission to which the person is a party.

Upon receipt of an expungement order, the state police shall submit such order to the Interstate Identification Index and, upon confirmation that the case or cases have been expunged from said index, shall also expunge said case or cases from all records in its custody. The court shall, at the time of imposing a sentence, disposition or period of commitment or probation pursuant to section 58 of chapter 119, inform, in writing, all eligible individuals of their right to seek expungement under this section.

Section 100G. If a case is sealed or expunged pursuant to section 7 of chapter 258D or section 100A, 100B, 100C, 100F or 104 of this chapter, every mention of the defendant's name and address shall be redacted from entries in the logs maintained under section 98F of chapter 41.

SECTION 206. Chapter 276 of the General Laws is hereby further amended by adding the following section:-

Section 104. After a court appearance has reached its final disposition, including termination of court supervision, probation, commitment or parole, upon motion of the defendant and after notice to the district attorney, who shall be given the opportunity to be heard, a court may order expungement of all records related to the court appearance if the court determines that expungement is in the interest of justice because: (i) the complaint was issued against the named defendant because of misidentification or other errors by law enforcement or court employees; (ii) the named defendant was determined to have no connection to the alleged criminal activity; (iii) the named defendant was prosecuted because another person impersonated the defendant, or used the defendant's name when arrested by police; (iv) there was fraud on the court related to the claim that the defendant committed the offense; or (v) there was lack of probable cause for initiation of the complaint or violation of a constitutional right related to initiation of the complaint. The court shall enter written findings of fact when it orders expungement of records under this section and shall immediately provide a certified copy of the order and findings of fact to the named defendant and the commissioner of probation. The commissioner of probation shall expunge said court appearance and the disposition recorded in the commissioner's files and the clerk and the probation officers of the courts in which the proceedings occurred or were initiated shall expunge the records of the proceedings from their files. No individual or other entity including, but not limited to, criminal justice agencies as defined under section 167 of chapter 6, shall have access to expunged criminal offender record information related to the expunged charge or charges.

If the court orders expungement of the records, the person whose records have been expunged, when applying for employment, housing, or occupational licensing, may answer “no record” as to any charge expunged pursuant to this section in response to an inquiry regarding prior arrests, court appearances or criminal cases. A charge that is expunged shall not disqualify a person in any examination, appointment or application for public employment in the service of the commonwealth or any other political subdivision thereof, nor shall such charges and convictions be used against a person in court proceedings or hearings before a court, board or commission to which the person is a party.

Upon receipt of an expungement order, the state police shall submit such order to the Interstate Identification Index and, upon confirmation that the case or cases have been expunged from said index, shall also expunge said cases from any records in its custody.

SECTION 207. Section 1 of chapter 276A of the General Laws, as appearing in the 2016 Official Edition, is hereby amended by striking out, in lines 20 and 21, the words “certified or approved by the commissioner of probation under the provisions of section eight”.

SECTION 208. Section 2 of said chapter 276A of the General Laws, as so appearing, is hereby amended by striking out, in lines 6 and 10, the words “18 years” and inserting in place thereof the following words:- criminal majority.

SECTION 209. Said section 2 of said chapter 276A of the General Laws, as so appearing, is hereby further amended by striking out, in line 7, the words “twenty-two” and inserting in place thereof the following figure:- 26.

SECTION 210. Said chapter 276A of the General Laws is hereby amended by striking out section 4, as so appearing, and inserting in place thereof the following section:-

Section 4. In the event that an individual is charged with a violation of 1 or more of the offenses enumerated in section 70C of chapter 277, other than the offenses in section 13A of chapter 265 and sections 13A and 13C of chapter 268, this chapter shall not apply to that defendant.

SECTION 211. Section 5 of said chapter 276A of the General Laws, as so appearing, is hereby amended by inserting after the word “prosecution”, in line 10, the following words:- and any victims as defined by section 1 of chapter 258B.

SECTION 212. Sections 8 and 9 of said chapter 276A of the General Laws are hereby repealed.

SECTION 213. Said chapter 276A of the General laws is hereby further amended by adding the following section:-

Section 12. Nothing in this chapter or chapter 276B shall be interpreted to limit or in any way govern the authority of a district attorney or a police department to divert an offender or to require a district attorney or police department to accept an offender into a program that they operate.

SECTION 214. The General Laws are hereby amended by inserting after chapter 276A the following chapter:-

CHAPTER 276B.

RESTORATIVE JUSTICE.

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

"Restorative justice", a voluntary process whereby the offenders, victims and members of the community collectively identify and address harms, needs and obligations resulting from an offense in order to understand the impact of that offense. Restorative justice requires an offender's acceptance of responsibility for their actions and supports the offender as they make repair to the victim or community in which the harm occurred.

"Community-based restorative justice program", a program established on restorative justice principles that engages parties to a crime or members of the community in order to develop a plan of repair that addresses the needs of the parties and the community. Programs may include the parties to a case, their supporters and community members, or one-on-one dialogues between a victim and offender.

Section 2. Participation in a community-based restorative justice program shall be voluntary and shall be available to both juvenile and adult defendants. A juvenile or adult defendant may be diverted to a community-based restorative justice program at any stage of a case, beginning immediately post arraignment and with the consent of the district attorney and the victim. Restorative justice may be contemplated as a means of disposition, with judicial approval. If a juvenile or adult defendant successfully completes the restorative justice program, the charge will be dismissed. If a juvenile or adult defendant does not successfully complete the program or is found to be in violation of program requirements, the case shall be returned to the court in which it was arraigned in order to commence with proceedings.

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

of chapter 265; or (iii) an offense resulting in substantial impairment of the physical condition including any burn, subdural hematoma, injury to any internal organ, any injury which occurs as the result of repeated harm to any bodily function or organ including human skin or any physical condition which substantially imperils a person's health or welfare. A person charged with an offense that resulted in the fracture of a bone is not automatically ineligible, but may be considered ineligible in light of the facts and circumstances of the case.

Section 4. Participation in a community-based restorative justice program shall not be used as evidence or as an admission of guilt, delinquency or civil liability in current or subsequent legal proceedings. Statements made by a juvenile or adult defendant or a victim during the course of an assignment to a community-based restorative justice program shall be confidential and shall not be subject to disclosure in any judicial or administrative proceeding; provided, however, that nothing in this section shall preclude any evidence obtained through an independent source or that would have been inevitably discovered by lawful means from being admitted at such proceedings.

Section 5. There shall be established a restorative justice advisory committee to review community-based restorative justice programs. The advisory committee shall consist of 16 members: 1 person who shall be appointed by the senate president and 1 person who shall be appointed by the speaker of the house of representatives, who shall serve as co-chairs of the advisory committee; the secretary of public safety and Security or a designee; the secretary of health and human services or a designee; the president of the Massachusetts District Attorneys Association or a designee; the chair of the committee for public counsel services or a designee; the commissioner of probation or a designee; the president of the Massachusetts Chiefs of Police Association Incorporated or a designee; the executive director of the Massachusetts office for

victim assistance or a designee; and 7 persons to be appointed by the governor, 1 of whom shall be a retired Massachusetts trial court judge and 6 of whom shall be representatives of community-based restorative justice programs. Each member of the advisory committee shall serve a 6 year term and members appointed because of their official title shall be members for as long as they hold that title.

The advisory committee shall monitor and assist all community-based restorative justice programs to which a juvenile or adult defendant may be diverted pursuant to this chapter. The advisory committee shall track the use of community-based restorative justice programs through a partnership with an educational institution and shall make legislative, policy and regulatory recommendations to aid in the use of community-based restorative justice programs including, but not limited to: (i) qualitative and quantitative outcomes for participants; (ii) recidivism rates of responsible parties; (iii) criteria for youth involvement and training; (iv) cost savings for the commonwealth; (v) training guidelines for restorative justice facilitators; (vi) data on racial, socioeconomic and geographic disparities in the use of community-based restorative justice programs; (vii) guidelines for restorative justice best practices; (viii) appropriate training and funding sources for community-based restorative programs; and (ix) plans for the expansion of restorative justice programs and opportunities throughout the commonwealth.

Annually, not later than December 31, the advisory committee shall submit a report with findings and recommendations to the governor and to the clerks of the senate and house of representatives.

Initial appointments to the advisory committee shall be made not later than October 1, 2018. The first meeting of the advisory committee shall be held not later than December 1, 2018.

SECTION 215. Section 70C of chapter 277 of the General Laws, as appearing in the 2016 Official Edition, is hereby amended by striking out, in line 8, the words ", chapter 119".

SECTION 216. Said section 70C of said chapter 277 of the General Laws, as so appearing, is hereby further amended by striking out, in lines 10 and 11, the figures "13B1/2, 13B3/4, 13C, 14, 14B, 15, 15A, 16, 17, 18, 19, 20, 22A, 22B, 22C, 23, 23A, 23B" and inserting in place thereof the following figures:- 13C, 14, 14B, 15, 15A, 16, 17, 18, 19, 20, 23.

SECTION 217. Said section 70C of said chapter 277 of the General Laws, as so appearing, is hereby further amended by inserting after the figure "28", in line 14, the following figure:- , 29.

SECTION 218. Section 1 of chapter 279 of the General Laws, as so appearing, is hereby amended by inserting after the fourth sentence the following sentence:-

When a person is sentenced to pay a fine of any amount, or is assessed fines, fees, costs, civil penalties or other expenses at disposition of a case, the court shall inform that person that: (i) nonpayment of the fines, fees, costs, civil penalties or expenses may result in commitment to a prison or place of confinement; (ii) payment must be made by a date certain; (iii) failure to appear at such date certain or failure to make the payment may result in the issuance of a default; and (iv) if an inability to pay exists as the result of a change in financial circumstances or for any other reason, the person has a right to address the court on inability to pay. A person may not be committed on a delinquency or youthful offender case for failure to pay a fee, fine or costs.

SECTION 219. Said chapter 279 of the General Laws is hereby further amended by inserting after section 6A the following section:-

Section 6B. (a) As used in this section the following terms shall have the following meanings:-

"Dependent child", a person who is younger than 18 years of age.

“Primary caretaker of a dependent child”, a parent with whom a child has a primary residence or a woman who has given birth to a child after or while awaiting her sentencing hearing and who expresses a willingness to assume responsibility for the housing, health and safety of that child. A parent who, in the best interest of the child, has arranged for the temporary care of the child in the home of a relative or other responsible adult shall not for that reason be excluded from the definition of "primary caretaker of a dependent child".

(b) Unless a sentence of incarceration is required by law, a defendant, upon conviction, shall have the right to have the court impose a sentence only after consideration of the defendant’s primary caretaker status. A defendant shall request such consideration, by motion supported by affidavit, not more than 10 days after the entry of judgment. Upon receipt of such a motion supported by affidavit, the court shall make written findings concerning the defendant’s primary caregiver status and the availability of appropriate individually assessed non-incarcerative sentence alternatives. The court shall not impose a sentence of incarceration without first making such written findings.

SECTION 220. Section 35 of said chapter 279 of the General Laws, as so appearing, is hereby amended by inserting after the word “shall”, in line 3, the following words:- , to the extent that an individual has been assigned a fingerprint-based state identification number and that such number has been provided to the court.

SECTION 221. Said section 35 of said chapter 279 of the General Laws, as so appearing, is hereby further amended by inserting after the word “mittimus”, in line 4, the following words:- the person’s fingerprint-based state identification number,.

SECTION 222. Section 6A of chapter 280 of the General Laws, as so appearing, is hereby amended by striking out the fourth sentence and inserting in place thereof the following sentence:-

The court or justice may waive all or part of the cost assessment, the payment of which would cause a substantial financial hardship to the person convicted or to that person’s family.

SECTION 223. Section 6B of said chapter 280 of the General Laws, as so appearing, is hereby amended by striking out the words “18 years”, in line 3, and inserting in place thereof the following words:- criminal majority.

SECTION 224. Section 368 of chapter 26 of the acts of 2003 is hereby repealed.

SECTION 225. The commissioner of correction and the secretary of public safety and security shall promulgate rules and regulations necessary to implement section 119A of chapter 127 of the General Laws not later than 6 months after the effective date of this act.

SECTION 226. Not later than July 1, 2018, the commissioner of corrections shall provide a plan to the chairs of the senate and house committees on ways and means as to the resources needed to comply with section 106. The plan shall include an accounting for efforts to reduce the population in restricted housing so as to facilitate program improvements.

SECTION 227. There shall be a juvenile justice data task force to make recommendations on coordinating and modernizing the juvenile justice data systems and reports

that are developed and maintained by state agencies and the courts. The task force shall consist of the following members or their designees: the chief justice of the trial court; the chief justice of the juvenile court; the secretary of health and human services; the commissioner of probation; the commissioner of youth services; the commissioner of children and families; the commissioner of mental health; the commissioner of transitional assistance; the executive director of Citizens for Juvenile Justice, Inc.; the president of the Massachusetts Society for the Prevention of Cruelty to Children; the executive director of the Children's League of Massachusetts, Inc.; the executive director to the Massachusetts District Attorneys Association; the chief counsel of the committee for public counsel services; the child advocate; the chair of the juvenile justice advisory committee; a representative of the Massachusetts Chiefs of Police Association; and 2 members to be appointed by the governor, 1 of whom shall have experience or expertise related to the juvenile justice system or the design and implementation of juvenile justice data systems or both and 1 of whom shall be an independent expert in state administrative data systems.

The task force shall conduct not less than 1 public hearing. The task force shall analyze the capacities and limitations of the data systems and networks used to collect and report state and local juvenile caseload and outcome data. The analysis shall include all of the following: (i) a review of the relevant data systems, studies and models from the commonwealth and other states; (ii) identification of changes or upgrades to current data collection processes to remove inefficiencies, track and monitor state agency and court-involved juveniles and facilitate the coordination of information sharing between relevant agencies and the courts; (iii) identification of racial and ethnic disparities apparent within the juvenile justice system and ways to reduce

such disparities; and (iv) any other matters which the task force determines may improve the collection and interagency coordination of juvenile justice data.

The task force shall file a report on the options for improving interagency coordination, modernization and upgrading of state and local juvenile justice data and information systems. The report shall include, but not be limited to: (i) recommended additional collection and reporting responsibilities for agencies, departments or providers; (ii) recommendations for the creation of a web-based statewide clearinghouse or information center that would make relevant juvenile justice information on operations, caseloads, dispositions and outcomes available in a user-friendly, query-based format for stakeholders and members of the public, including an assessment of the feasibility of implementing such a system; and (iii) a plan for improving the current juvenile justice reporting requirements, including streamlining and consolidating current requirements without sacrificing meaningful data collection and including a detailed analysis of the information technology and other resources necessary to implement improved data collection. The report shall be filed with the clerks of the senate and the house of representatives not later than January 1, 2018, and the clerks shall forward the report to the senate and house chairs of the joint committee on the judiciary and the senate and house chairs of the joint committee on children, families and persons with disabilities.

SECTION 228. There shall be a task force to evaluate how to collect fingerprint-based identification where the person against whom a complaint was issued or an indictment was made was not arrested. The task force shall consist of the following members or their designees: the secretary of public safety and security or a designee, who shall serve as chair; the chief justice of the trial court; and the president of the Massachusetts Chiefs of Police Association Incorporated. Not later than December 1, 2018, the task force shall file a report of its recommendations with

the clerks of the senate and house of representatives, and the clerks shall forward the report to the senate and house chairs of the joint committee on the judiciary and the senate and house chairs of the joint committee on public safety and homeland security.

SECTION 229. There shall be a task force to evaluate the advisability, feasibility and impact of raising the age of juvenile court jurisdiction to defendants younger than 21 years of age. The study shall include, but not be limited to, the benefits and disadvantages of including 19 and 20 year olds in the juvenile justice system, the impact of integrating 19 and 20 year olds into the under-19 population in the care and custody of the department of youth services, the ability to segregate young adults in the care and custody of the department of youth services from younger juveniles in such care, and the potential costs to the state court system and state and local law enforcement. The task force shall consider resources and facilities, if any, that could be reallocated from the adult system to the juvenile system and the advisability and feasibility of establishing a separate young adult court. The task force shall consist of the following members or their designees: the secretary of the executive office of public safety; the commissioner of the department of youth services; the commissioner of the department of children and families; the commissioner of the department of corrections; the commissioner of probation; the chief justice of the juvenile court department; the director of the juvenile court clinic; a designee of the Massachusetts district attorneys association; the chief counsel of the committee for public counsel services; 1 member appointed by the governor, who shall have expertise in the neurological development of young adults; 1 member appointed by the speaker of the house of representatives; 1 member appointed by the president of the senate; 1 member appointed by the minority leader of the house of representatives; and 1 member appointed by the minority leader of the senate. The task force shall select a chair from its members. Not later than January 1,

2019, the task force shall file a final report with the clerks of the senate and house of representatives, and the clerks shall forward the report to the senate and house chairs of the joint committee on the judiciary and the senate and house chairs of the joint committee on ways and means.

SECTION 230. Notwithstanding any general or special law to the contrary, juvenile records including, but not limited to, juvenile conviction data, juvenile arrest data or juvenile sealed record data shall not be shared with the registry of motor vehicles, except when a consequence of a sentencing decision is related to operating a motor vehicle, in which case such data may be shared by the court, probation, district attorney, law enforcement agencies, the department of criminal justice information services or any other agency or entity that lawfully possesses such records.

SECTION 231. Sections 39 to 39D, inclusive, of chapter 127 of the General Laws, inserted by said section 110, shall take effect on July 1, 2018.

SECTION 232. Section 39E of said chapter 127, inserted by section 110, shall take effect on January 1, 2019.

SECTION 233. The last sentence in subsection (c) of section 100B of chapter 276 of the General Laws, inserted by section 201, shall take effect on January 1, 2019.

SECTION 234. Sections 1, 3, 7, 8, 33, 36, 37, 42, 43, 49, 69, 70, 71, 72, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 103, 104, 114, 115, 116, 129, 131, 134, 137, 138, 139, 140, 141, 142, 144, 164, 165, 166, 167, 168, 169, 170, 171, 172, 187, 192, 204, 208, and 223 shall take effect January 1, 2019.

SECTION 235. Sections 10, 51, 109, 120, 124, 127, 132, 205, 220, and 221 shall take effect on July 1, 2019.

SECTION 236. Section 22 shall take effect on September 1, 2018.

SECTION 237. The last paragraph of section 206 shall take effect on January 1, 2019.

SECTION 238. Section 121 shall take effect on July 1, 2020.

SECTION 239. Section 122 shall take effect on July 1, 2018.

SECTION 240. Section 123 shall take effect on July 1, 2019.