

SENATE No. 2200

Senate, October 26, 2017, – Text of the Senate Bill relative to criminal justice reform (being the text of Senate document number 2185, printed as amended)

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:

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

3 Sixtieth, “The age of criminal majority” shall mean the age of 19.

4 Sixty-first, “Offense-based tracking number” shall mean a unique number assigned by a
5 criminal justice agency, as defined in section 167 of chapter 6, for an arrest or charge; provided,
6 however, that any such designation shall conform to the policies of the department of state police
7 and the department of criminal justice information services.

8 SECTION 2. The second paragraph of subsection (a) of section 116A of chapter 6 of the
9 General Laws, as so appearing, is hereby amended by adding the following sentence:- As used in
10 this section, “bias-free policing” shall mean decisions made by law enforcement officers that
11 shall not consider a person’s race, ethnicity, gender, gender identity, religion, mental or physical
12 disability or socioeconomic level.

13 SECTION 3. Said section 116A of said chapter 6, as so appearing, is hereby further
14 amended by striking out, in line 81, the word “and”.

15 SECTION 4. Subsection (b) of said section 116A of said chapter 6, as so appearing, is
16 hereby amended by adding the following 3 clauses:-

17 (16) procedures and techniques to promote bias-free policing;

18 (17) procedures and techniques for handling complaints involving victims, witnesses or
19 suspects with a mental illness or developmental disability and for handling mental health
20 emergencies; and

21 (18) procedures and techniques for civilian interaction and to promote procedural justice,
22 which shall emphasize de-escalation and disengagement tactics and techniques.

23 SECTION 5. Said chapter 6 is hereby further amended by inserting after section 116F
24 the following section: -

25 Section 116G. (a) The municipal police training committee under the direction of the
26 executive office of public safety and security shall establish and develop an in-service training
27 program designed to train law enforcement officials, including municipal, metropolitan and state
28 police, in the following areas:

29 (i) practices and procedures relating to unconscious or implicit bias policing which shall
30 include, but not be limited to, training that examines issues of race, ethnicity, gender, religion,
31 sexual orientation and gender identity and socioeconomic and professional status in relation to
32 policing decisions;

33 (ii) handling mental health emergencies and complaints involving victims, witnesses or
34 suspects with a mental illness or developmental disability, which shall include training related to
35 common behaviors and actions exhibited by such individuals, strategies law enforcement officers
36 may use for reducing or preventing the risk of harm and strategies that involve the least intrusive
37 means of addressing such incidences and individuals while protecting the safety of the law
38 enforcement officer and other persons; provided, however, that training presenters shall include
39 certified mental health practitioners with expertise in the delivery of direct services to individuals
40 experiencing mental health emergencies and victims, witnesses and suspects with a mental
41 illness or developmental disability; and

42 (iii) practices and techniques for law enforcement officers in civilian interaction and to
43 promote procedural justice, which shall emphasize de-escalation and disengagement tactics and
44 techniques and practices and procedures that build community trust and maintain community
45 confidence.

46 (b) The committee shall determine training requirements and minimum standards of the
47 program that all law enforcement agencies throughout the commonwealth shall implement in
48 their practices and training of law enforcement officials.

49 (c) This section shall apply to law enforcement officials who are employed on a full-time
50 basis as a police officer of the department of state police, a municipal police department and the
51 University of Massachusetts police department and environmental police officers in the office of
52 law enforcement.

53 (d) The committee, in consultation with the attorney general and other relevant entities,
54 shall promulgate rules and regulations to carry out this section.

55 SECTION 6. Section 167 of said chapter 6 of the General Laws, as appearing in the 2016
56 Official Edition, is hereby amended by inserting after the definition of “Commissioner” the
57 following definition:-

58 “Conviction”, a finding of guilty or not guilty by reason of insanity.

59 SECTION 7. The definition of “Criminal offender record information” in said section
60 167 of said chapter 6, as so appearing, is hereby amended by striking out the second sentence
61 and inserting in place thereof the following sentence:- Such information shall be restricted to
62 information recorded in criminal proceedings that are not dismissed before arraignment.

63 SECTION 8. Said section 167 of said chapter 6, as so appearing, is hereby further
64 amended by striking out, in lines 38 and 40, the figure “18” and inserting in place thereof, in
65 each instance, the following words:- criminal majority.

66 SECTION 9. Said section 167 of said chapter 6, as so appearing, is hereby further
67 amended by striking out, in lines 41 and 42, the words “18 is adjudicated as an adult” and
68 inserting in place thereof the following words:- criminal majority was tried as an adult in
69 superior court or tried as an adult after transfer of a case from a juvenile session to another trial
70 court department.

71 SECTION 10. Said chapter 6 is hereby further amended by inserting after section 172M
72 the following section:-

73 Section 172N. State and political subdivision licensing authorities shall provide in the
74 licensing requirements for a professional license a list of the categories of crimes that would
75 disqualify an applicant from eligibility for a license. For the purposes of this section, “licensing
76 authority” shall include an agency, examining board, credentialing board, or other office or

77 commission with the authority to impose occupational fees or licensing requirements on a
78 profession.

79 SECTION 11. Said chapter 6 is hereby further amended by striking out section 184A, as
80 so appearing, and inserting in place thereof the following section:-

81 Section 184A. (a) There shall be a forensic science commission in the executive office of
82 public safety and security. The commission shall provide enhanced, objective and independent
83 auditing and oversight of forensic evidence used in criminal matters and analysis done in state
84 and municipal laboratories.

85 The commission shall consist of: the undersecretary for forensic sciences or a designee;
86 and 12 members who shall be appointed by the governor, 1 of whom shall have expertise in
87 forensic science, 1 of whom shall have expertise in cognitive bias, 1 of whom shall be in
88 academia in a research field adjacent to forensic science, 1 of whom shall have expertise in
89 statistics, 1 of whom shall have expertise in forensic laboratory management, 1 of whom shall
90 have expertise in clinical quality management, 2 of whom shall be nominated by the
91 Massachusetts District Attorneys Association, 1 of whom shall be nominated by the attorney
92 general, 1 of whom shall be nominated by the committee of public counsel services, 1 of whom
93 shall be nominated by the Massachusetts Association of Criminal Defense Lawyers, Inc. and 1 of
94 whom shall be nominated by the New England Innocence Project, Inc. A member, other than the
95 undersecretary for forensic sciences or a designee and those nominated by the Massachusetts
96 District Attorneys Association, the attorney general, the committee of public council services and
97 the New England Innocence Project, Inc., shall not be employed by or affiliated with any state or
98 municipal forensic laboratory throughout the term of membership.

99 (b) All appointments shall be for a term of 4 years. A vacancy, other than by expiration of
100 term, shall be filled by the governor for the unexpired term. The chair of the commission shall be
101 elected from among the members appointed. Staff shall be provided by the executive office of
102 public safety and security. The commission shall meet at times and places as is requested by 5 of
103 its members but shall not meet less than quarterly. Members shall not designate a proxy to vote
104 in their absence. Members of the commission shall serve without compensation but shall be
105 reimbursed for reasonable and necessary expenses incurred in the performance of their duties.

106 (c) The commission shall initiate an investigation into any forensic science, technique or
107 analysis used in a criminal matter upon: (i) application by a person alleging that a forensic
108 technique in common use is not scientifically valid if not less than 5 members of the commission
109 agree; or (ii) not less than 5 members of the commission determine that an investigation of a
110 forensic analysis would advance the integrity and reliability of forensic science in the
111 commonwealth.

112 The results of an investigation by the commission, with any resulting recommendations,
113 shall be reported to the executive office of public safety and security, the joint committee on
114 public safety and homeland security, the supreme judicial court, the Massachusetts District
115 Attorneys Association, the attorney general, the committee for public counsel services, the
116 Massachusetts Association of Criminal Defense Lawyers, Inc. and the New England Innocence
117 Project, Inc.

118 (d) The commission shall develop and implement a system for forensic laboratories to
119 report professional negligence or misconduct and any such a facility shall be required to report to
120 the commission such instance of professional negligence and misconduct.

121 (e) The commission shall actively engage stakeholders in the criminal justice system in
122 forensic development initiatives and shall work with stakeholders to improve education and
123 training in forensic science and the law.

124 SECTION 12. Chapter 10 of the General Laws is hereby amended by inserting after
125 section 35EEE the following 2 sections:-

126 Section 35FFF. There shall be established and set up on the books of the commonwealth
127 the Garden of Peace Trust Fund to be used, without further appropriation, for the operation of the
128 Garden of Peace. The fund shall consist of the existing balance held by the Garden of Peace, Inc.
129 and all revenues received by the commonwealth from public and private sources as gifts, grants
130 and donations to support and maintain the Garden of Peace. Any balance in the fund at the end
131 of the fiscal year shall not revert to the General Fund, but shall remain available for expenditure
132 in subsequent years. No expenditure made from the fund shall cause the fund to become
133 deficient at any point during a fiscal year.

134 Section 35GGG. (a) There shall be a Municipal Police Training Fund which shall consist
135 of amounts credited to the fund in accordance with this section. The fund shall be administered
136 by the state treasurer and held in trust exclusively for the purposes of this section. The state
137 treasurer shall be treasurer-custodian of the fund and shall have the custody of its monies and
138 securities.

139 (b) The fund shall consist of: (i) funds transferred from the Marijuana Regulation Fund
140 established in section 14 of chapter 94G; (ii) revenue from appropriations or other money
141 authorized by the general court and specifically designated to be credited to the fund; (iii)
142 interest earned on money in the fund; and (iv) funds from private sources including, but not

143 limited to, gifts, grants and donations received by the commonwealth that are specifically
144 designated to be credited to the fund. Amounts credited to the fund shall not be subject to further
145 appropriation and any money remaining in the fund at the end of a fiscal year shall not revert to
146 the General Fund. The secretary shall annually report the activity of the fund to the clerks of the
147 senate and the house of representatives and the senate and house committees on ways and mean
148 not later than December 31.

149 (c) Expenditures from the fund shall be made to provide funding for:

150 (i) the operating expenses of the municipal police training committee;

151 (ii) basic recruit training for new police officers;

152 (iii) mandatory in-service training for veteran police officers;

153 (iv) specialized training for veteran police officers and reserve and intermittent police
154 officers; and

155 (v) the basic training program for reserve and intermittent police officers.

156 SECTION 13. Section 59 of said chapter 10 of the General Laws, as appearing in the
157 2016 Official Edition, is hereby amended by adding the following sentence:- Annually, not later
158 than October 1, the commissioner of rehabilitation shall report to the clerks of the senate and the
159 house of representatives and the senate and house committees on ways and means on the fund's
160 activity and the balance of the fund.

161 SECTION 14. Section 66 of said chapter 10, as so appearing, is hereby amended by
162 inserting after the words “ways and means”, in line 34, the following words:- and the clerks of
163 the senate and the house of representatives.

164 SECTION 15. Chapter 17 of the General Laws is hereby amended by adding the
165 following section: -

166 Section 21. The registry of vital records and the chief medical examiner shall take
167 measures to record the sex of a decedent that corresponds to the decedent’s gender identity. The
168 registry and the examiner shall also take measures to improve the incidence of the collection of
169 information on the gender identity and sexual orientation of a decedent where a death occurs
170 under any of the following circumstances: (i) a hate crime as defined in section 32 of chapter
171 22C; (ii) death where criminal violence appears to have taken place, regardless of the time
172 interval between the incident and death, and regardless of whether such violence appears to have
173 been the immediate cause of death, or a contributory factor thereto; (iii) suicide, regardless of the
174 time interval between the incident and death; (iv) death under suspicious or unusual
175 circumstances; or (v) death in custody, in a jail or correctional facility.

176 The registry of vital records and the chief medical examiner may provide in its discretion
177 information collected under this section to a requesting authority compiling statistical data. Such
178 data shall contain only aggregate data and no individual names or other personally identifying
179 information or information that could lead to the identification of an individual decedent, or
180 other information that is protected by statute, regulation or executive order.

181 SECTION 16. Section 36 of chapter 22C of the General Laws, as appearing in the 2016
182 Official Edition, is hereby amended by striking out, in line 22, the words “said board” and
183 inserting in place thereof the following words:- the department.

184 SECTION 17. Said section 36 of said chapter 22C, as so appearing, is hereby further
185 amended by adding the following 3 paragraphs:-

186 The department shall transmit criminal case disposition information, including any order
187 of dismissal and any order to seal or expunge a record, to the Federal Bureau of Investigation to
188 provide criminal history record information through the bureau's Interstate Identification Index.

189 The department shall transmit juvenile case disposition information, including any order
190 of dismissal and any order to seal or expunge a record, to the Federal Bureau of Investigation to
191 provide criminal history record information through the bureau's Interstate Identification Index;
192 provided, however, that the department shall include with every transmission of juvenile case
193 disposition information, except those transmitting expungement orders an order to seal such
194 information within the bureau's Interstate Identification Index.

195 The executive office of public safety and security shall implement a fingerprint-supported
196 criminal history system that utilizes a fingerprint-based state identification number as the unique
197 identifier of a person from the point of arrest or charging through each contact the person has
198 with the criminal justice system or juvenile justice system and that provides criminal case
199 disposition and other relevant information to ensure a complete and accurate criminal history.

200 The executive office of public safety and security may promulgate regulations to implement this
201 paragraph.

202 SECTION 18. Chapter 22E of the General Laws is hereby amended by striking out
203 section 3, as so appearing, and inserting in place thereof the following section:-

204 Section 3. (a) A person who is convicted of an offense that is punishable by
205 imprisonment in the state prison and a person adjudicated a youthful offender by reason of an
206 offense that would be punishable by imprisonment in the state prison if committed by an adult

207 shall submit a DNA sample to the department not more than 6 months after the conviction or
208 adjudication or, if incarcerated, within the first 6 months of the incarceration or before release
209 from custody, whichever occurs first.

210 (b) A person who is arrested by virtue of process or is taken into custody by an officer
211 and charged with the commission of an offense: (i) listed in clause (i) of subsection (b) of section
212 25 of chapter 279; or (ii) under section 17 or section 18 of chapter 266, and who upon arrest has
213 been arraigned pursuant to the applicable court rules under the Massachusetts Rules of Criminal
214 Procedure, shall submit a DNA sample to the department.

215 (c) The trial court and probation department shall work in conjunction with the director to
216 establish and implement a system for the electronic notification to the department whenever a
217 person is required to submit a DNA sample under this section. The sample shall be collected by a
218 person authorized under section 4 of this chapter subsequent to arraignment, in accordance with
219 regulations or procedures established by the director. The results of the sample shall be made
220 part of the state DNA database. If the department is unable to complete DNA analysis on a
221 sample provided pursuant to this section or any sample so provided fails to yield a DNA record,
222 the person required to submit a DNA sample pursuant to this section shall, not more than 6
223 months after notice from the director, submit additional DNA samples until DNA analysis is
224 completed and results in the production of a DNA record. The submission of such a DNA sample
225 shall not be stayed pending a sentence appeal, motion for new trial, appeal to an appellate court
226 or other post conviction motion or petition.

227 SECTION 19. Said chapter 22E is hereby further amended by striking out section 5, as
228 appearing in the 2016 Official Edition, and inserting in place thereof the following section:-

229 Section 5. The department shall provide all collection materials, labels and instructions
230 for the collection of DNA samples pursuant to this chapter.

231 SECTION 20. Said chapter 22E is hereby further amended by striking out section 11, as
232 so appearing, and inserting in place thereof the following section:-

233 Section 11. A person required to provide a DNA sample pursuant to this chapter and
234 who, after notice, willfully fails to provide such a DNA sample or the additional DNA samples
235 required by section 3 shall be subject to punishment by a fine of not more than \$2,000 or
236 imprisonment in a jail or house of correction for not more than 6 months or both.

237 SECTION 21. Section 12 of said chapter 22E, as so appearing, is hereby amended by
238 striking out, in line 7, the figure “\$1,000” and inserting in place thereof the following figure:-
239 \$2,000.

240 SECTION 22. Said section 12 of said chapter 22E, as so appearing, is hereby further
241 amended by striking out, in line 8, the words “six months” and inserting in place thereof the
242 following words:- 1 year.

243 SECTION 23. Section 13 of said chapter 22E, as so appearing, is hereby amended by
244 striking out, in line 4, the figure “\$1,000” and inserting in its place thereof the following figure:-
245 \$2,000.

246 SECTION 24. Said section 13 of said chapter 22E, as so appearing, is hereby further
247 amended by striking out, in line 5, the words “six months” and inserting in place thereof the
248 following words:- 1 year.

249 SECTION 25. Section 15 of said chapter 22E, as so appearing, is hereby amended by
250 adding the following 4 paragraphs:-

251 The department shall destroy the DNA sample and any records of a person related to the
252 sample that were taken in connection with a particular alleged designated crime if the sample
253 was collected post-arraignment under subsection (b) of section 3 and any of the following
254 occurs: (i) the felony charge that required the DNA sample is downgraded to a misdemeanor by
255 the prosecuting attorney upon a plea agreement or the person is convicted of a lesser offense that
256 is a misdemeanor other than an offense that constitutes “abuse” as defined in section 1 of chapter
257 209A or a sex offense for which registration is required pursuant to sections 178C to 178P,
258 inclusive, of chapter 6; (ii) the person is acquitted after a trial of the charges that required the
259 taking of the DNA sample; or (iii) the charges that required the taking of the DNA sample are
260 dismissed by either the court or the commonwealth after arraignment unless good cause is shown
261 as to why the sample should not be destroyed.

262 If the person has more than 1 entry in the state DNA database, CODIS or the state DNA
263 data bank, only the entry related to the dismissed case shall be deleted.

264 The trial court and probation department shall work in conjunction with the director to
265 establish and implement a system for the electronic notification to the department whenever a
266 DNA sample is required to be destroyed pursuant to this section. The department shall notify the
267 person upon destroying the DNA sample and completing its responsibilities under this
268 subsection.

269 If a DNA sample is matched to another DNA sample during the course of a criminal
270 investigation, the record of the match shall not be expunged even if the sample itself is expunged
271 in accordance with this section.

272 SECTION 26. Chapter 29 of the General Laws is hereby amended by inserting after
273 section 2XXXX the following 2 sections:-

274 Section 2YYYY. (a) There is hereby established and set up on the books of the
275 commonwealth a separate fund to be known as the Criminal Justice and Community Support
276 Trust Fund. The fund shall be administered by the executive office of public safety and security,
277 in consultation with the department of mental health, which shall contract with county restoration
278 centers and the center of excellence in community policing and behavioral health, established in
279 section 18L½ of chapter 6A, to administer the fund. There shall be credited to the fund any
280 appropriations, grants, gifts or other monies authorized by the general court or other parties and
281 specifically designated to be credited to the fund. The objectives of the fund shall include, but
282 shall not be limited to: supporting jail diversion programs for persons suffering from a mental
283 illness or substance use disorder who interact with law enforcement or the court system during a
284 pre-arrest investigation or the pre-adjudication process in order to divert individuals from lockup
285 facilities and hospital emergency departments to appropriate treatment; developing and providing
286 training for state and municipal law enforcement in evidence-based mental health and substance
287 use crisis response; creating patient-focused ongoing community services for individuals who are
288 frequent users of emergency departments and suffer from serious and persistent mental illness;
289 and providing funding for multi-year restoration center grants for planning and implementing a
290 restoration center within a county in the commonwealth.

291 (b) Monies deposited in the fund that are unexpended at the end of the fiscal year shall
292 not revert to the general fund and shall be available for expenditure in the subsequent year.

293 (c) The fund may apply for and accept subventions, grants, loans, advances and
294 contributions from any source of money, property, labor or other things of value to be held, used
295 and applied in furtherance of this section.

296 (d) The executive office of public safety and security shall file a report to the joint
297 committee on mental health and substance abuse, the joint committee on public safety and
298 homeland security and the senate and house committees on ways and means that detail the fund's
299 activities not later than March 1. Section 2ZZZZ. (a) There shall be a Strong Communities
300 and Crime Prevention Fund. Monies transferred to the fund shall be continuously expended,
301 without regard for fiscal year, exclusively for carrying out the purposes of this section.

302 (b)(1) For the purposes of this section, the term "target population" shall mean any
303 person who meets at least 2 of the following characteristics: (i) is under 25 years of age; (ii) is a
304 victim of violence; (iii) is over 18 years of age and does not have a high school diploma; (iv) has
305 been convicted of a felony; (v) has been unemployed or has had family income below 250 per
306 cent of the federal poverty level for not less than 6 months; or (vi) lives in a census tract where
307 over 20 per cent of the population fall below the federal poverty line.

308 (2) There shall be a board of directors to consist of 13 members to be appointed by the
309 secretary of housing and economic development, with the approval of the governor. The board of
310 directors shall consist of not less than 6 individuals who are, or have been at some time,
311 members of the target population and a combination of appointees with professional case
312 management experience, entrepreneurial or business management experience, professional youth

313 development experience, experience providing professional or vocational training or experience
314 in labor market analysis. The terms of the initial members shall be: 3 shall be appointed for 1
315 year, 3 shall be appointed for 2 years, 3 shall be appointed for 3 years and 3 shall be appointed
316 for 4 years. Upon the expiration of the term of a member, a successor shall be appointed for a
317 term of 4 years. The members shall elect a chair and shall meet not less than bi-annually.
318 Members shall serve without compensation, but shall be reimbursed for expenses necessarily
319 incurred in the performance of their duties. Upon notification by the chair that a vacancy exists,
320 the secretary of housing and economic development shall appoint, with the approval of the
321 governor, another member to fill the unexpired term.

322 (3) The executive office of housing and economic development shall provide staff
323 support to the board of directors. The total expenditure from the fund for administration,
324 including salaries and benefits of supporting staff, shall not exceed 5 per cent of the total amount
325 disbursed by the fund in any given fiscal year.

326 (c)(1) The executive office of public safety and security shall calculate the aggregate
327 annual population of the department of correction and the houses of correction and calculate
328 annually an average marginal cost rate per inmate among the department of correction and the
329 houses of correction based on the actual marginal cost rates used by the department of correction
330 and the houses of correction for their budgeting purposes.

331 (2) The secretary of housing and economic development shall annually determine the
332 difference between the combined population of the department of correction and the houses of
333 correction in fiscal year 2017, multiplied by the rate of total population growth for the
334 commonwealth since fiscal year 2017, and the actual combined population of the department of

335 correction and the houses of correction in that year. The secretary shall multiply the difference
336 by the average marginal cost rate per inmate. Not later than October 1 of each year, the secretary
337 shall certify this calculation to the joint committee on ways and means, the secretary of
338 administration and finance and the comptroller for the prior fiscal year and shall publish the
339 calculation on a public website. The comptroller shall transfer an amount equal to ½ of the
340 product of this calculation to the fund.

341 (d) Monies in the fund shall be competitively granted to develop and strengthen
342 communities heavily impacted by crime and the criminal justice system by creating opportunities
343 for job training, job creation and job placement for those who face high barriers to employment.

344 (e) Eligible grant recipients shall exhibit a model of creating employment opportunities
345 for members of the target population or, in the case of programs serving a target population aged
346 20 years and under, may instead demonstrate a model of building the skills necessary for future
347 employment within such members. Such a model shall be supported by research and evaluation
348 and may include transitional employment programs, social enterprise, pre-apprenticeship or other
349 training programs, school-based or community-based high school dropout prevention and re-
350 engagement programs, cooperative and small business development programs and community-
351 based workforce development programs. Components of a successful program may include, but
352 shall not be not limited to, job training in both “soft skills” and skills identified as lacking in
353 growth industries, stipends or wage subsidies, serving as employer of record with private
354 employers, case management, cognitive behavioral therapy and supports such as child care
355 vouchers or transportation assistance. The fund may give priority to programs that include access
356 to services such as addiction treatment and trauma-informed mental health care as relevant to the
357 fund’s mission, but such services by themselves shall not be eligible for monies from the fund.

358 Training programs that do not include a strong presumption of full employment by a specific
359 employer or entry into a bona fide apprenticeship program recognized by the commonwealth
360 upon successful completion by each participant shall not be eligible for funding; provided,
361 however, that high school dropout prevention and re-engagement programs shall not need to
362 include said presumption.

363 SECTION 27. Section 20 of chapter 31 of the General Laws, as appearing in the 2016
364 Official Edition, is hereby amended by striking out, in lines 10 and 11, the words “18 years” and
365 inserting in place thereof the following words:- criminal majority.

366 SECTION 28. Section 24 of chapter 37 of the General Laws, as so appearing, is hereby
367 amended by striking out, in line 14, the words “18 years” and inserting in place thereof the
368 following words:- criminal majority.

369 SECTION 29. Section 21D of chapter 40 of the General Laws, as so appearing, is hereby
370 amended by striking out the first and second paragraphs and inserting in place thereof the
371 following 3 paragraphs:-

372 A city or town may, by ordinance or by-law that is not inconsistent with this section,
373 provide for the non-criminal disposition of: (i) a misdemeanor eligible for decriminalization
374 under section 70C of chapter 277; (ii) a matter that has been deemed a civil infraction by a
375 general or special law; and (iii) a violation of an ordinance, by-law, rule or regulation of a
376 municipal officer, board or department that is subject to a specific penalty.

377 If a city or town has approved such an ordinance or by-law, a police officer who has
378 probable cause to believe that a person has committed a misdemeanor, civil infraction or
379 violation for which the city or town has allowed non-criminal disposition may ask the person to
380 provide the person’s name or address, where applicable. If, having been advised by the officer

381 that failure to provide the person's name or address may result in the person's arrest, and the
382 person refuses to provide the person's name or address, provides a false name or address or
383 provides a name or address that is not the person's name or address in ordinary use, the person
384 may be arrested without a warrant.

385 Such an ordinance or by-law shall provide that a police officer who has probable cause to
386 believe that a person has committed a misdemeanor, civil infraction or violation may, as an
387 alternative to initiating criminal proceedings, provide to the person alleged to have committed
388 the misdemeanor, civil infraction or violation a written notice to appear before the clerk of the
389 district court with jurisdiction over the misdemeanor, civil infraction or violation during office
390 hours, not later than 21 days after the date of the notice. The notice shall be produced in triplicate
391 and shall contain the name and address, if known, of the person alleged to have committed the
392 offense, the specific offense charged and the time and place of any required appearance. The
393 notice shall be signed by the issuing police officer. If the person alleged to have committed the
394 offense fails, without good cause, to appear in response to the written notice and the court has
395 satisfactory proof of service of the notice, an arrest warrant may be issued and shall be served by
396 any officer authorized to serve criminal process.

397 SECTION 30. Section 98 of chapter 41 of the General Laws, as so appearing, is hereby
398 amended by striking out the second paragraph.

399 SECTION 31. Section 98F of said chapter 41, as so appearing, is hereby amended by
400 striking out, in line 18, the words "or (iii)" and inserting in place thereof the following words:- ,
401 (iii).

402 SECTION 32. Said section 98F of said chapter 41, as so appearing, is hereby further
403 amended by inserting after the figure “209A”, in line 21, the following words:- , or (iv) any entry
404 concerning the arrest of a person who has not yet reached the age of criminal majority.

405 SECTION 33. Section 1 of chapter 46 of the General Laws, as so appearing, is hereby
406 amended by inserting after the word “sex”, in line 23, the following words:- , gender identity as
407 defined in section 7 of chapter 4.

408 SECTION 34. Subsection (b) of section 37P of chapter 71 of the General Laws, as so
409 appearing, is hereby amended by striking out the second paragraph and inserting in place thereof
410 the following paragraph:-

411 In selecting a school resource officer, the chief of police shall consider candidates that the
412 chief believes would strive to foster an optimal learning environment and educational
413 community; provided, however, that the chief of police shall give preference, to the extent
414 practicable, to candidates who have received specialized training in one or more of the following
415 areas: (i) child and adolescent development; (ii) de-escalation and conflict resolution techniques
416 with children and adolescents; (iii) behavioral health disorders in children and adolescents; (iv)
417 alternatives to arrest and other juvenile justice diversion strategies; (v) and behavioral threat
418 assessment methods. The appointment of a school resource officer shall not be based on
419 seniority.

420 The performance of a school resource officer shall be reviewed annually by the
421 superintendent and the chief of police. The superintendent and the chief of police shall enter into
422 a written memorandum of understanding to clearly define the role and duties of the school
423 resource officers. The memorandum shall be placed on file in the office of the school
424 superintendent and police chief. The memorandum shall: (i) state that school resource officers

425 may use arrest, citation and court referral only when necessary to address and prevent real and
426 immediate threats to the physical safety of the members of the school and the wider community;
427 (ii) state that it is the responsibility of school officials to impose discipline for non-violent school
428 infractions such as tardiness, loitering, use of profanity, dress code violations and disruptive or
429 disrespectful behaviors; (iii) set forth protocols for utilizing the expertise of mental health
430 professionals in addressing the needs of students with behavioral and emotional difficulties, in
431 crisis situations and otherwise; (iv) require that a school resource officer devote a significant
432 portion of time that the officer devotes to professional development activities and to school-
433 based or other training that promotes heightened awareness of the challenges faced by students in
434 the school to which the officer is assigned, with an emphasis on professional development
435 activities that impart information regarding child development, including the incidence and
436 impact of adverse childhood experiences, de-escalation techniques and implicit or unconscious
437 bias; (v) specify how the school and police departments will regularly monitor and assure that a
438 school resource officer is complying with the terms of the memorandum and avoiding
439 inappropriate arrest, citation or court referral; and (vi) specify the manner and division of
440 responsibility for collecting and reporting the school-based arrests, citations and court referrals
441 of students to the department of elementary and secondary education in accordance with
442 regulations promulgated by the department, which shall collect and publish disaggregated data in
443 a like manner as school discipline data made available for public review.

444 SECTION 35. Section 8A of chapter 90 of the General Laws, as so appearing, is hereby
445 amended by striking out, in line 33, the words “of the vapors of glue” and inserting in place
446 thereof the following words:- from smelling or inhaling the fumes of any substance having the
447 property of releasing toxic vapors as defined in section 18 of chapter 270.

448 SECTION 36. Section 8A ½ of said chapter 90, as so appearing, is hereby amended by
449 striking out, in lines 29 and 30, the words “the vapors of glue” and inserting in place thereof the
450 following words:- from smelling or inhaling the fumes of any substance having the property of
451 releasing toxic vapors as defined in section 18 of chapter 270.

452 SECTION 37. Section 21 of said chapter 90, as so appearing, is hereby amended by
453 striking out, in line 27, the words “under the influence of the vapors of glue” and inserting in
454 place thereof the following words:- while under the influence from smelling or inhaling the
455 fumes of any substance having the property of releasing toxic vapors as defined in section 18 of
456 chapter 270.

457 SECTION 38. Section 22 of chapter 90 of the General Laws, as so appearing, is hereby
458 amended by striking out subsection (i).

459 SECTION 39. Section 23 of said chapter 90, as so appearing, is hereby amended by
460 inserting after the figure “\$500”, in line 53, the following words:- ; provided, however, that a
461 finding of delinquency shall not be entered against such a person in a proceeding for a complaint
462 issued for violation of this section.

463 SECTION 40. Section 24 of said chapter 90, as so appearing, is hereby amended by
464 striking out, in lines 8 and 759, the words “the vapors of glue” and inserting in place thereof, in
465 each instance, the following words:- while under the influence from smelling or inhaling the
466 fumes of any substance having the property of releasing toxic vapors as defined in section 18 of
467 chapter 270.

468 SECTION 41. Said section 24 of said chapter 90, as so appearing, is hereby further
469 amended by striking out, in lines 22 and 23 and in lines 816 and 817, the words “not be subject
470 to reduction or waiver by the court for any reason” and inserting in place thereof, in each

471 instance, the following words:- be waived or reduced if it will impose a substantial financial
472 hardship on the person or the person's family or dependents.

473 SECTION 42. Said section 24 of said chapter 90, as so appearing, is hereby further
474 amended by striking out, in line 32, the words "not be subject to waiver by the court for any
475 reason" and inserting in place thereof the following words:- be waived or reduced if it will
476 impose a substantial financial hardship on the person or the person's family or dependents.

477 SECTION 43. Said section 24 of said chapter 90, as so appearing, is hereby further
478 amended by striking out, in line 319, the words "or twenty-four E, or" and inserting in place
479 thereof the following word:- or.

480 SECTION 44. Said section 24 of said chapter 90, as so appearing, is hereby further
481 amended by inserting after the figure "(b)", in line 320, the following words:- for being under
482 the influence of a controlled substance or the vapors of glue.

483 SECTION 45. Subparagraph (1) of paragraph (c) of subdivision (1) of said section 24 of
484 said chapter 90, as so appearing, is hereby amended by adding the following paragraph:-

485 Where the license or right to operate of a person has been revoked pursuant to sections
486 24D or 24E or pursuant to paragraph (b) for operating a motor vehicle with a percentage, by
487 weight, of alcohol in the operator's blood of .08 or greater and the person has not been convicted
488 of a like offense or has not been assigned to an alcohol or controlled substance education,
489 treatment or rehabilitation program because of a like offense by a court of the commonwealth or
490 any other jurisdiction preceding the date of the commission of the offense for which the person
491 was convicted, the registrar shall not restore the license or reinstate the right to operate to the
492 person unless the prosecution of the person has been terminated in favor of the defendant, until 1

493 year after the date of conviction; provided, however, that such a person may, after receiving
494 notice of the revocation from the registrar, apply for the issuance of an ignition interlock license.
495 Mandatory restrictions on an ignition interlock license granted by the registrar pursuant to this
496 subparagraph shall include, but shall not be limited to: (i) proof in a format determined by the
497 registrar that a functioning certified ignition interlock device is installed on vehicles that will be
498 operated by the person during the term of the ignition interlock license; and (ii) an attestation that
499 ignition interlock devices will be maintained on all vehicles to be operated by the person. A
500 person with an ignition interlock license shall be prohibited from operating vehicles without an
501 ignition interlock device for the duration of the license. Failure of the person to remain in
502 compliance with court probation shall be cause for immediate revocation of the ignition interlock
503 license. The registrar shall provide notice of a revocation to the person issued the ignition
504 interlock license at the address of record at the registry.

505 SECTION 46. Said section 24 of said chapter 90, as so appearing, is hereby further
506 amended by inserting after the figure “(b)”, in line 347, the following words:- for being under the
507 influence of a controlled substance or the vapors of glue.

508 SECTION 47. Subparagraph (2) of said paragraph (c) of said subdivision (1) of said
509 section 24 of said chapter 90, as so appearing, is hereby amended by striking out the last
510 sentence.

511 SECTION 48. Said subparagraph (2) of said paragraph (c) of said subdivision (1) of said
512 section 24 of said chapter 90, as so appearing, is hereby further amended by adding the following
513 paragraph:-

514 Where the license or the right to operate of a person has been revoked pursuant to
515 paragraph (b) for operating a motor vehicle with a percentage, by weight, of alcohol in the
516 operator's blood of .08 or greater and the person has been previously convicted of a like offense
517 or assigned to an alcohol or controlled substance education, treatment or rehabilitation program
518 by a court of the commonwealth or any other jurisdiction because of a like offense preceding the
519 date of the commission of the offense for which that person has been convicted, the registrar
520 shall not restore the license or reinstate the right to operate of the person unless the prosecution
521 of that person has been terminated in favor of the defendant, until 1 year after the date of
522 conviction; provided, however, that such person may, after receiving notice from the registrar,
523 apply for the issuance of an ignition interlock license. That person shall provide proof in a format
524 acceptable to the registrar that the person has enrolled in and is successfully completing the
525 residential treatment program in subparagraph (4) of paragraph (a) of subdivision (1) or a
526 treatment program mandated by section 24D or has completed the incarcerated portion of the
527 sentence. Mandatory restrictions on an ignition interlock license granted by the registrar pursuant
528 to this subparagraph shall include, but shall not be limited to: (i) proof in a format determined by
529 the registrar that a functioning certified ignition interlock device is installed on vehicles that will
530 be operated by the person during the term of the ignition interlock license; and (ii) an attestation
531 that ignition interlock devices will be maintained on all vehicles to be operated by the person. A
532 person with an ignition interlock license shall be prohibited from operating vehicles without an
533 ignition interlock device for the duration of the license. Failure of the person to remain in
534 compliance with court probation shall be cause for immediate revocation of the ignition interlock
535 license. The registrar shall provide notice of a revocation to the person issued the ignition
536 interlock license at the address of record at the registry.

537 SECTION 49. Said section 24 of said chapter 90, as so appearing, is hereby further
538 amended by inserting after the figure “(b)”, in line 382, the following words:- for being under the
539 influence of a controlled substance or the vapors of glue.

540 SECTION 50. Subparagraph (3) of said paragraph (c) of said subdivision (1) of said
541 section 24 of said chapter 90, as so appearing, is hereby amended by striking out the last
542 sentence.

543 SECTION 51. Said subparagraph (3) of said paragraph (c) of said subdivision (1) of said
544 section 24 of said chapter 90, as so appearing, is hereby further amended by adding the following
545 paragraph:-

546 Where the license or right to operate of a person has been revoked pursuant to paragraph
547 (b) for operating a motor vehicle with a percentage, by weight, of alcohol in the operator’s blood
548 of .08 or greater and the person has been previously convicted of a like offense or assigned to an
549 alcohol or controlled substance education, treatment or rehabilitation program because of a like
550 offense by a court of the commonwealth or any other jurisdiction 2 times preceding the date of
551 the commission of the offense for which that person has been convicted or where the license or
552 right to operate has been revoked due to a violation section 23 and such revocation was made
553 pursuant to paragraph (b) or section 24D or 24E, the registrar shall not restore the license or
554 reinstate the right to operate to the person, unless the prosecution of the person has terminated in
555 favor of the defendant, until 8 years after the date of conviction; provided, however, that such a
556 person may, after completion of the incarcerated portion of the sentence, apply for an ignition
557 interlock license for the balance of the 8 year revocation period. The person shall provide proof
558 in a format acceptable to the registrar that the person has enrolled in and is successfully

559 completing the residential treatment program in subparagraph (4) of paragraph (a) of subdivision
560 (1) or such treatment program mandated by section 24D. Mandatory restrictions on an ignition
561 interlock license granted by the registrar pursuant to this subparagraph shall include, but shall not
562 be limited to: (i) proof in a format determined by the registrar that a functioning certified ignition
563 interlock device is installed on vehicles that will be operated by the person during the term of the
564 ignition interlock license; and (ii) an attestation that ignition interlock devices will be maintained
565 on all vehicles to be operated by the person. A person with an ignition interlock license shall be
566 prohibited from operating vehicles without an ignition interlock device for the duration of the
567 license. Failure of the person to remain in compliance with court probation shall be cause for
568 immediate revocation of the ignition interlock license. The registrar shall provide notice of a
569 revocation to the person issued the ignition interlock license at the address of record at the
570 registry.

571 SECTION 52. Said section 24 of said chapter 90, as so appearing, is hereby further
572 amended by inserting after the figure “(b)”, in line 417, the following words:- for being under the
573 influence of a controlled substance or the vapors of glue.

574 SECTION 53. Subparagraph (3½) of said paragraph (c) of said subdivision (1) of said
575 section 24 of said chapter 90, as so appearing, is hereby amended by striking out the last
576 sentence.

577 SECTION 54. Said subparagraph (3½) of said paragraph (c) of said subdivision (1) of
578 said section 24 of said chapter 90, as so appearing, is hereby further amended by adding the
579 following paragraph:-

580 Where the license or the right to operate of a person has been revoked pursuant to
581 subsection (b) for operating a motor vehicle with a percentage, by weight, of alcohol in the
582 operator's blood of .08 or greater and the person has been previously convicted of a like offense
583 or assigned to an alcohol or controlled substance education, treatment or rehabilitation program
584 by a court of the commonwealth or any other jurisdiction because of a like offense 3 times
585 preceding the date of the commission of the offense for which the person has been convicted, the
586 registrar shall not restore the license or reinstate the right to operate of that person unless the
587 prosecution of that person has been terminated in favor of the defendant, until 10 years after the
588 date of the conviction; provided, however, that such a person may, after the completion of the
589 incarcerated portion of the sentence, apply for the issuance of an ignition interlock license. The
590 person shall provide proof in a format acceptable to the registrar that the person has enrolled in
591 and is successfully completing the residential treatment program in subparagraph (4) of
592 paragraph (a) of subdivision (1) or a treatment program mandated by section 24D. The ignition
593 interlock license shall not be removed for the life of the person; provided, however, that the
594 person may petition the registrar for removal not less than 10 years after the issuance of the
595 ignition interlock license and not less than every 5 years thereafter. Mandatory restrictions on an
596 ignition interlock license granted by the registrar pursuant to this subparagraph shall include, but
597 shall not be limited to: (i) proof in a format determined by the registrar that a functioning
598 certified ignition interlock device is installed on vehicles that will be operated by the person
599 during the term of the ignition interlock license; and (ii) an attestation that ignition interlock
600 devices will be maintained on all vehicles to be operated by the person. A person with an ignition
601 interlock license shall be prohibited from operating vehicles without an ignition interlock device
602 for the duration of the license. Failure of the person to remain in compliance with probation shall

603 be cause for immediate revocation of the ignition interlock license. The registrar shall provide
604 notice of a revocation to the person issued the ignition interlock license at the address of record
605 at the registry. An aggrieved party may appeal, in accordance with chapter 30A, from an order of
606 the registrar of motor vehicles pursuant to this subparagraph.

607 SECTION 55. Said paragraph (c) of said subdivision (1) of said section 24 of said chapter
608 90, as so appearing, is hereby further amended by striking out subparagraph (3^{3/4}) and inserting in
609 place thereof the following subparagraph:-

610 (3^{3/4}) Where the license or the right to operate of a person has been revoked pursuant to
611 paragraph (b) and that person was previously convicted of a like offense or assigned to an
612 alcohol or controlled substance education, treatment or rehabilitation program by a court of the
613 commonwealth or any other jurisdiction because of a like offense not less than 4 times preceding
614 the date of the commission of the offense for which the person has been convicted, that person's
615 license or right to operate a motor vehicle shall be revoked for the life of that person; provided,
616 however, that such a person may, after completion of the incarcerated portion of the sentence,
617 apply for an ignition interlock license. The person shall provide proof in a format acceptable to
618 the registrar that the person has enrolled in and has successfully completed or is successfully
619 completing the residential treatment program in subparagraph (4) of paragraph (a) of subdivision
620 (1) or a treatment program mandated by section 24D and has completed the incarcerated portion
621 of the sentence. The ignition interlock license shall not be removed for the life of the person;
622 provided, however, that the person may petition the registrar for removal not less than 10 years
623 after the issuance of the ignition interlock license and not less than every 5 years thereafter.
624 Mandatory restrictions on an ignition interlock license granted by the registrar pursuant to this
625 subparagraph shall include, but shall not be limited to: (i) proof in a format determined by the

626 registrar that a functioning certified ignition interlock device is installed on vehicles that will be
627 operated by the person during the term of the ignition interlock license; and (ii) an attestation that
628 ignition interlock devices will be maintained on all vehicles to be operated by the person. A
629 person with an ignition interlock license shall be prohibited from operating vehicles without an
630 ignition interlock device for the duration of the license. Failure of the person to remain in
631 compliance with probation shall be cause for immediate revocation of the ignition interlock
632 license. An aggrieved party may appeal, in accordance with chapter 30A, from an order of the
633 registrar of motor vehicles pursuant to this subparagraph.

634 SECTION 56. Said section 24 of said chapter 90, as so appearing, is hereby further
635 amended by striking out, in line 575, the word “restistrar” and inserting in place thereof the
636 following word:- registrar.

637 SECTION 57. The fourth paragraph of subparagraph (1) of paragraph (f) of said
638 subdivision (1) of said section 24 of said chapter 90, as so appearing, is hereby further amended
639 by striking out the first sentence and inserting in place thereof the following 4 sentences:- A
640 person who refuses to submit to a chemical test or analysis of breath or blood may apply for the
641 issuance of an ignition interlock license, on or after the effective date of the suspension, for the
642 balance of the suspension period imposed by this paragraph. A mandatory restriction on an
643 ignition interlock license granted by the registrar pursuant to this subparagraph shall include, but
644 shall not be limited to: (i) proof in a format determined by the registrar that a functioning
645 certified ignition interlock device is installed on vehicles that will be operated by the person
646 during the term of the ignition interlock license; and (ii) an attestation that ignition interlock
647 devices will be maintained on all vehicles to be operated by the person. A person with an ignition
648 interlock license shall be prohibited from operating vehicles without an ignition interlock device

649 for the duration of the license. A person issued an ignition interlock license pursuant to this
650 subparagraph shall not receive credit against an additional ignition interlock requirement arising
651 from the same incident or from another incident. A defendant, during the suspension period
652 imposed by this paragraph, may immediately, upon the entry of a not guilty finding or dismissal
653 of all charges under this section, section 24G, section 24L or section 13½ of chapter 265, and in
654 the absence of any other alcohol related charges pending against the defendant, apply for and be
655 immediately granted a hearing before the court that took final action on the charges to request the
656 restoration of the person's license.

657 SECTION 58. Subparagraph (2) of said paragraph (f) of said subdivision (1) of said
658 section 24 of said chapter 90, as so appearing, is hereby amended by inserting after the second
659 paragraph the following paragraph:-

660 A person may apply in advance of or after the effective date of a suspension under this
661 subparagraph for the issuance of an ignition interlock license for the balance of the suspension
662 period listed in this paragraph. Mandatory restrictions on an ignition interlock license granted by
663 the registrar pursuant to this subparagraph shall include, but shall not be limited to: (i) proof in a
664 format determined by the registrar that a functioning certified ignition interlock device is
665 installed on vehicles that will be operated by the person during the term of the ignition interlock
666 license; and (ii) an attestation that ignition interlock devices will be maintained on all vehicles to
667 be operated by the person. A person with an ignition interlock license shall be prohibited from
668 operating vehicles without an ignition interlock device for the duration of the license. A
669 suspension for failure of a chemical test or analysis of breath or blood shall run consecutively,
670 both as to any additional suspension periods arising from the same incident and as to each other.

671 A person issued an ignition interlock license pursuant to this subparagraph shall receive day for
672 day credit against an additional ignition interlock requirement arising from the same incident.

673 SECTION 59. Paragraph (g) of said subdivision (1) of said section 24 of said chapter 90,
674 as so appearing, is hereby amended by inserting after the first paragraph the following
675 paragraph:-

676 The application for the issuance of an ignition interlock license for the period during
677 which a person's license, permit or right to operate is suspended pursuant to subparagraph (1) of
678 paragraph (f) shall waive the person's right to a hearing pursuant to this subparagraph.

679 SECTION 60. Said chapter 90 is hereby further amended by striking out section 24½, as
680 so appearing, and inserting in place thereof the following section:-

681 Section 24½. (a) A person whose license has been suspended in the commonwealth or
682 any other jurisdiction by reason of an assignment to an alcohol education, treatment or
683 rehabilitation program or because of a conviction for a violation of subsection (a) of section 24G,
684 or operating a motor vehicle with a percentage by weight of blood alcohol of .08 or greater or
685 while under the influence of intoxicating liquor in violation of paragraph (a) of subdivision (1) of
686 section 24, subsection (b) of said section 24G, section 24L, section 13½ of chapter 265,
687 subsection (a) of section 8 of chapter 90B, section 8A or 8B of said chapter 90B or, in the case of
688 another jurisdiction, for any like offense, shall not be issued a new license or right to operate or
689 have such a license or right to operate restored if the person has previously been so assigned or
690 convicted unless the person provides proof in a format acceptable to the registrar that the person
691 has a functioning certified ignition interlock device installed on all vehicles to be operated by
692 that person as a precondition for the issuance, reissuance or restoration of a license or right to

693 operate. A functioning certified ignition interlock device shall be installed and maintained on all
694 vehicles operated by any such person for a period of 2 years.

695 (b) A person whose license or right to operate is restricted to operating vehicles equipped
696 with a functioning certified ignition interlock device shall have such a device inspected,
697 maintained and monitored in accordance with regulations that shall be promulgated by the
698 registrar. The ignition interlock device shall be calibrated to prevent the motor vehicle from
699 being started with the breath sample provided has an alcohol concentration of 0.025 or more. The
700 ignition interlock device shall remain in place until the registrar receives a declaration from the
701 person's ignition interlock device vendor, in a form provided or approved by the registry,
702 certifying that there have been none of the following incidents in the 6 consecutive months prior
703 to the date the person seeks removal of the device: (i) any attempt to start the vehicle with a
704 breath alcohol concentration of 0.04 or more unless a subsequent test performed within ten
705 minutes registers a breath alcohol concentration lower than 0.04; (ii) failure to take any random
706 test; (iii) failure to pass any random retest with a breath alcohol concentration of 0.025 or lower;
707 (iv) any attempt to remove, tamper or circumvent the proper operation of the device; or (v)
708 failure of the person to appear at the ignition interlock device vendor when required for
709 maintenance, repair, calibration, monitoring, inspection, or replacement of the device.

710 SECTION 61. Section 24D of said chapter 90, as so appearing, is hereby amended by
711 striking out, in lines 4 and in lines 17 and 18, the words “the vapors of glue” and inserting in
712 place thereof, in each instance, the following words:- while under the influence from smelling or
713 inhaling the fumes of any substance having the property of releasing toxic vapors as defined in
714 section 18 of chapter 270.

715 SECTION 62. Said section 24D of said chapter 90, as so appearing, is hereby further
716 amended by inserting after the word “defendant”, in line 65, the following words:- whose
717 disposition resulted from the use of a controlled substance or the vapors of glue.

718 SECTION 63. The fourth paragraph of said section 24D of said chapter 90, as so
719 appearing, is hereby amended by inserting after the fifth sentence the following sentence:-
720 Notwithstanding subparagraph (1) of paragraph (c) of subdivision (1) of section 24,
721 subparagraph (1) of paragraph (f) of subdivision (1) of said section 24 and section 24P, a
722 defendant whose disposition resulted from a conviction or charge of alcohol in their blood of .08
723 or greater or while under the influence of intoxicating liquor may immediately upon entering a
724 program pursuant to this section apply to the registrar for issuance of an ignition interlock license
725 for the probation period. A mandatory restriction on an ignition interlock license granted by the
726 registrar pursuant to this paragraph shall include, but shall not be limited to: (i) proof in a format
727 determined by the registrar that a functioning certified ignition interlock device is installed on
728 vehicles that will be operated by the person during the term of the ignition interlock license; and
729 (ii) an attestation that ignition interlock devices will be maintained on all vehicles to be operated
730 by the person. A person with an ignition interlock license shall be prohibited from operating
731 vehicles without an ignition interlock device for the duration of the license.

732 SECTION 64. Said section 24D of said chapter 90, as so appearing, is hereby further
733 amended by inserting after the word “hardship”, in lines 76 and 81, each time it appears, the
734 following words:- or ignition interlock

735 SECTION 65. Said section 24D of said chapter 90, as so appearing, is hereby further
736 amended by striking out, in lines 138 and 139, the words “cause a grave and serious hardship to
737 such individual or to the family of such individual” and inserting in place thereof the following

738 words:- impose a substantial financial hardship on the person or the person’s family or
739 dependents.

740 SECTION 66. Said section 24D of said chapter 90, as so appearing, is hereby further
741 amended by striking out, in lines 173 and 174, the words “cause a grave and serious hardship to
742 such individual or to the family thereof” and inserting in place thereof the following words:-
743 impose a substantial financial hardship on the person or the person’s family or dependents.

744 SECTION 67. Section 24E of said chapter 90, as so appearing, is hereby amended by
745 inserting after the word “program”, in line 38, the following words:- and may include a written
746 statement by the supervisor of the ignition interlock provider used by the person detailing the
747 person’s compliance with the ignition interlock requirement.

748 SECTION 68. Said section 24E of said chapter 90, as so appearing, is hereby further
749 amended by inserting after the word “operate”, in lines 66 and 67, each time it appears, the
750 following words:- or an ignition interlock license.

751 SECTION 69. Section 24G of said chapter 90, as so appearing, is hereby amended by
752 striking out, in lines 8 and 43, the words “vapors of glue” and inserting in place thereof, in each
753 instance, the following words:- while under the influence from smelling or inhaling the fumes of
754 any substance having the property of releasing toxic vapors as defined in section 18 of chapter
755 270.

756 SECTION 70. Section 24G of said chapter 90, as so appearing, is hereby amended adding
757 the following subsection:-

758 (d) Upon completion of the period of imprisonment prescribed in subsection (a) or (b) for
759 an offense involving operating a motor vehicle with a percentage, by weight, of alcohol in the

760 blood of .08 or greater or while under the influence of intoxicating liquor, a person may apply to
761 the registrar for the issuance of an ignition interlock license for the remainder of the revocation
762 period designated in subsection (c). The registrar may issue such a license under such terms and
763 conditions as appropriate and necessary for the balance of the revocation period listed in this
764 subsection. Mandatory restrictions on an ignition interlock license granted by the registrar
765 pursuant to this subsection shall include, but shall not be limited to: (i) proof in a format
766 determined by the registrar that a functioning certified ignition interlock device is installed on
767 vehicles that will be operated by the person during the term of the ignition interlock license; and
768 (ii) an attestation that ignition interlock devices will be maintained on all vehicles to be operated
769 by the person. A person with an ignition interlock license shall be prohibited from operating
770 vehicles without an ignition interlock device for the duration of the license. Failure of the person
771 to remain in compliance with the sentence or court probation shall be cause for immediate
772 revocation of the ignition interlock license. The registrar shall provide notice a revocation to the
773 person issued the ignition interlock license at the address of record at the registry.

774 SECTION 71. Chapter 90 of the General Laws is hereby amended by striking out section
775 24G, as so appearing, and inserting in place thereof the following section:-

776 Section 24G. (a) Whoever, upon any way or in any place to which the public has a right
777 of access, or upon any way or in any place to which members of the public have access as
778 invitees or licensees, operates a motor vehicle with a percentage, by weight, of alcohol in their
779 blood of .08 or greater, or while under the influence of intoxicating liquor, or of marijuana,
780 narcotic drugs, depressants or stimulant substances, all as defined in section 1 of chapter 94C, or
781 from smelling or inhaling the fumes of any substance having the property of releasing toxic
782 vapors as defined in section 18 of chapter 270, and so operates a motor vehicle recklessly or

783 negligently so that the lives or safety of the public might be endangered, and by any such
784 operation so described causes the death of another person, shall be guilty of homicide by a motor
785 vehicle while under the influence of an intoxicating substance, and shall be punished by
786 imprisonment in the state prison for not less than 2 ½ years or more than 15 years and a fine of
787 not more than \$5,000, or by imprisonment in a jail or house of correction for not less than 1 year
788 nor more than 2 ½ years and a fine of not more than \$5,000. The sentence imposed upon such
789 person shall not be reduced to less than 1 year, nor suspended, nor shall any person convicted
790 under this subsection be eligible for probation, parole, or furlough or receive any deduction from
791 a sentence until such person has served at least 1 year of such sentence; provided, however, that
792 the commissioner of correction may, on the recommendation of the warden, superintendent or
793 other person in charge of a correctional institution or the administrator of a county correctional
794 institution grant to an offender committed under this subsection a temporary release in the
795 custody of an officer of such institution for the following purposes only: (i) to attend the funeral
796 of a relative; (ii) to visit a critically ill relative; (iii) to obtain emergency medical or psychiatric
797 services unavailable at said institution; or (iv) to engage in employment pursuant to a work
798 release program. Prosecutions commenced under this section shall neither be continued without a
799 finding nor placed on file.

800 Section 87 of chapter 276 shall not apply to any person charged with a violation of this
801 subsection.

802 (b) Whoever, upon any way or in any place to which the public has a right of access or
803 upon any way or in any place to which members of the public have access as invitees or
804 licensees, operates a motor vehicle with a percentage, by weight, of alcohol in their blood of .08
805 or greater, or while under the influence of intoxicating liquor, or of marijuana, narcotic drugs,

806 depressants or stimulant substances, all as defined in section 1 of chapter 94C, or from smelling
807 or inhaling the fumes of any substance having the property of releasing toxic vapors as defined in
808 section 18 of chapter 270, or whoever operates a motor vehicle negligently so that the lives or
809 safety of the public might be endangered and by any such operation causes the death of another
810 person, shall be guilty of homicide by a motor vehicle and shall be punished by imprisonment in
811 a jail or house of correction for not less than 30 days nor more than 2 ½ years, or by a fine of not
812 less than \$300 nor more than \$3,000 dollars, or both.

813 (c) Whoever, upon any way or in any place to which the public has a right of access or
814 upon any way or in any place to which members of the public have access as invitees or
815 licensees, operates a motor vehicle recklessly so that the lives or safety of the public might be
816 endangered and by any such operation causes the death of another person, shall be guilty of
817 reckless homicide by a motor vehicle and shall be punished by imprisonment in a jail or house of
818 correction for not more than 2 ½ years, or by imprisonment in the state prison for not more than
819 5 years, or by a fine of not more than \$3,000 dollars, or by both such fine and imprisonment. For
820 the purpose of this section, a person operates recklessly when that person consciously disregards
821 a substantial and unjustifiable risk that the lives or safety of the public might be endangered.

822 (d) When a motor vehicle is the instrument of the offense, the registrar shall revoke the
823 license or right to operate of a person convicted of a violation of subsection (a), (b) or (c), or
824 punished under section 13 of chapter 265, for a period of 10 years after the date of conviction for
825 a first offense. The registrar shall revoke the license or right to operate of a person convicted for
826 a subsequent violation of this section for the life of such person. No appeal, motion for a new
827 trial or exceptions shall operate to stay the revocation of the license or of the right to operate;

828 provided, however, such license shall be restored or such right to operate shall be reinstated if the
829 prosecution of such person ultimately terminates in favor of the defendant.

830 SECTION 72. Section 24L of said chapter 90, as so appearing, is hereby amended by
831 striking out, in lines 8 and 43, the words “vapors of glue” and inserting in place thereof, in each
832 instance, the following words:- while under the influence from smelling or inhaling the fumes of
833 any substance having the property of releasing toxic vapors as defined in section 18 of chapter
834 270.

835 SECTION 73. Section 24L of said chapter 90, as so appearing, is hereby amended by
836 adding the following subdivision:-

837 (5) Upon completion of the period of imprisonment prescribed in subdivision (1) or (2)
838 for an offense involving operating a motor vehicle with a percentage, by weight, of alcohol in the
839 blood of .08 or greater or while under the influence of intoxicating liquor, a person may apply to
840 the registrar for the issuance of an ignition interlock license for the remainder of the revocation
841 period designated in subdivision (4). The registrar may issue such a license under such terms and
842 conditions as appropriate and necessary for the balance of the revocation period listed in this
843 subsection. Mandatory restrictions on an ignition interlock license granted by the registrar
844 pursuant to this subdivision shall include, but shall not be limited to: (i) proof in a format
845 determined by the registrar that a functioning certified ignition interlock device is installed on
846 vehicles that will be operated by the person during the term of the ignition interlock license; and
847 (ii) an attestation that ignition interlock devices will be maintained on all vehicles to be operated
848 by the person. A person with an ignition interlock license shall be prohibited from operating
849 vehicles without an ignition interlock device for the duration of the license. Failure of the person
850 to remain in compliance with the sentence or court probation shall be cause for immediate

851 revocation of the ignition interlock license. The registrar shall provide notice of a revocation to
852 the person issued the ignition interlock license at the address of record at the registry.

853 SECTION 74. Section 24N of said chapter 90, as so appearing, is hereby amended by
854 inserting after the word “days”, in line 38, the following words:- ; provided, however, that such a
855 person may apply, on or after the effective date of the suspension, for the issuance of an ignition
856 interlock license for the balance of the suspension period listed in this subsection; provided
857 further, that mandatory restrictions on an ignition interlock license granted by the registrar
858 pursuant to this section shall include, but shall not be limited to: (i) proof in a format determined
859 by the registrar that a functioning certified ignition interlock device is installed on vehicles that
860 will be operated by the person during the term of the ignition interlock license; and (ii) an
861 attestation that ignition interlock devices will be maintained on all vehicles to be operated by the
862 person. A person with an ignition interlock license shall be prohibited from operating vehicles
863 without an ignition interlock device for the duration of the license. A suspension for failure of a
864 chemical test or analysis of breath or blood shall run consecutively, both as to any additional
865 suspension periods arising from the same incident and as to each other. A person issued an
866 ignition interlock license pursuant to this section shall receive day-for-day credit against any
867 additional ignition interlock requirement arising from the same incident.

868 SECTION 75. Said section 24N of said chapter 90, as so appearing, is hereby further
869 amended by striking out, in lines 58 to 61, inclusive, the words “refusal. No license shall be
870 restored under any circumstances and no restricted or hardship permits shall be issued during the
871 suspension period imposed by this paragraph; provided, however, that the” and inserting in place
872 thereof the following words:- refusal; provided further, that a person who refused to submit to
873 such test or analysis may apply, on or after the effective date of the suspension, for the issuance

874 of an ignition interlock license for the balance of the suspension period listed in this section;
875 provided further, that mandatory restrictions on an ignition interlock license granted by the
876 registrar pursuant to this paragraph shall include, but shall not be limited to: (i) proof in a format
877 determined by the registrar that a functioning certified ignition interlock device is installed on
878 vehicles that will be operated by the person during the term of the ignition interlock license; and
879 (ii) an attestation that ignition interlock devices will be maintained on all vehicles to be operated
880 by the person. A person with an ignition interlock license shall be prohibited from operating
881 vehicles without an ignition interlock device for the duration of the license; provided however,
882 that a suspension for a refusal of either a chemical test or analysis of breath or blood shall run
883 consecutively, both as to any additional suspension periods arising from the same incident and as
884 to each other; provided further, that a person issued an ignition interlock license pursuant to this
885 section shall not receive credit against any additional ignition interlock requirement arising from
886 the same incident; provided further, that a.

887 SECTION 76. Said section 24N of said chapter 90, as so appearing, is hereby further
888 amended by adding the following paragraph:- The application for the issuance of an ignition
889 interlock license for the period during which a person's license, permit or right to operate is
890 suspended pursuant to this section shall waive the person's right to a hearing pursuant to this
891 section.

892 SECTION 77. Section 24W of said chapter 90, as so appearing, is hereby amended by
893 inserting after the words "ways and means", in line 85, the following words:- and the clerks of
894 the senate and the house of representatives.

895 SECTION 78. Section 34J of said chapter 90, as so appearing, is hereby amended by
896 inserting after the figure "\$500", in line 59, the following words:- ; provided, however, that a

897 finding of delinquency shall not be entered against such a person in a proceeding for a complaint
898 issued for violation of this section.

899 SECTION 79. Section 8 of chapter 90B of the General Laws, as so appearing, is hereby
900 amended by striking out, in lines 6 and 508, the words “the vapors of glue” and inserting in place
901 thereof, in each instance, the following words:- from smelling or inhaling the fumes of any
902 substance having the property of releasing toxic vapors as defined in section 18 of chapter 270.

903 SECTION 80. Said section 8 of said chapter 90B, as so appearing, is hereby amended by
904 striking out, in lines 513 and 514, the words “not be subject to reduction or waiver by the court
905 for any reason” and inserting in place thereof the following words:- be waived or reduced if it
906 will impose a substantial financial hardship on the person or the person’s family or dependents.

907 SECTION 81. Section 8A of said chapter 90B, as so appearing, is hereby amended by
908 striking out, in lines 5 and 6, the words “the vapors of glue” and inserting in place thereof the
909 following words:- from smelling or inhaling the fumes of any substance having the property of
910 releasing toxic vapors as defined in section 18 of chapter 270.

911 SECTION 82. Said section 8A of said chapter 90B, as so appearing, is hereby further
912 amended by striking out, in line 36, the words “vapors of glue” and inserting in place thereof the
913 following words:- from smelling or inhaling the fumes of any substance having the property of
914 releasing toxic vapors as defined in section 18 of chapter 270.

915 SECTION 83. Section 8B of said chapter 90B, as so appearing, is hereby amended by
916 striking out, in lines 5 and 6 and 38 and 39, the words “the vapors of glue” and inserting in place
917 thereof, in each instance, the following words:- from smelling or inhaling the fumes of any
918 substance having the property of releasing toxic vapors as defined in section 18 of chapter 270.

919 SECTION 84. Section 26A of said chapter 90B, as so appearing, is hereby amended by
920 striking out, in line 8 and 17, the words “the vapors of glue” and inserting in place thereof, in
921 each instance, the following words:- from smelling or inhaling the fumes of any substance
922 having the property of releasing toxic vapors as defined in section 18 of chapter 270.

923 SECTION 85. Paragraph (6) of subsection (A) of section 3 of chapter 90C of the General
924 Laws, as so appearing, is hereby amended by adding the following subparagraph:-

925 (d) A violator may request a payment plan for the payment of the violator’s assessment to
926 the registrar or the registrar’s authorized agent. If the violator requests a payment plan, the
927 registrar shall determine a monthly payment plan that takes the violator’s ability to pay into
928 consideration; provided, however, that a monthly payment shall not be less than \$25. The
929 payment plan shall be sufficient to discharge the violator of all reinstatement fees and underlying
930 fines assessed to the violator. The term of a payment plan under this section shall be not more
931 than 12 months. During the period of the payment plan, the registrar shall defer any suspension
932 otherwise required by this section as a result of the civil motor vehicle infraction.

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

937 SECTION 86. Class A of section 31 of chapter 94C of the General Laws, as so
938 appearing, is hereby amended by adding the following paragraph:-

939 (d) Unless specifically excepted or unless listed in another schedule, any material,
940 compound, mixture or preparation that contains any quantity of the following substances

941 including its salts, isomers and salts of isomers whenever the existence of such salts, isomers and
942 salts of isomers is possible within the specific chemical designations:

943 (1) Acetyl Fentanyl

944 (2) Carfentanil

945 (3) Fentanyl

946 (4) Cyclopropyl fentanyl

947 (5) Furanyl fentanyl

948 (6) 3-methylfentanyl

949 (7) 3,4-Dichloro-*N*-[2-(dimethylamino)cyclohexyl]-*N*-methylbenzamide also known as u-
950 47700

951 (8) Any synthetic opioid controlled in Schedule I of Title 21 of the Code of Federal
952 Regulations Part 1308.11 or Schedule II of Title 21 of the Code of Federal Regulations Part
953 1308.12, unless specifically excepted or unless listed in another class in this section.

954 SECTION 87. Paragraph (a) of Class B of said section 31 of said chapter 94C, as so
955 appearing, is hereby amended by striking out clause (4) and inserting in place thereof the
956 following clause:-

957 (4) Coca leaves, and their salts, optical and geometric isomers and salts of isomers,
958 excluding coca leaves and extracts of coca leaves from which cocaine, ecgonine and derivatives
959 of ecgonine or their salts have been removed; or cocaine, ecgonine, pseudococaine, allococaine
960 and pseudoallococaine, their derivatives, their salts, isomers and salts of their isomers; or any
961 compound, mixture or preparation which contains any quantity of any substances referred to in
962 this paragraph.

963 SECTION 88. Paragraph (b) of said Class B of said section 31 of said chapter 94C, as so
964 appearing, is hereby amended by striking out clauses (1) to (21), inclusive, and inserting in place
965 thereof the following 20 clauses:-

- 966 (1) Alphaprodine
- 967 (2) Anileridine
- 968 (3) Bezitramide
- 969 (4) Dihydrocodeine
- 970 (5) Diphenoxylate
- 971 (6) Isomethadone
- 972 (7) Levomethorphan
- 973 (8) Levorphanol
- 974 (9) Metazocine
- 975 (10) Methadone
- 976 (11) Methadone-Intermediate, 4-cyano-2-dimethylamino-4, 4-diphenyl butane
- 977 (12) Moramide-Intermediate, 2-methyl-3 morpholine-1, 1-diphenyl-propane carboxylic
978 acid
- 979 (13) Pethidine
- 980 (14) Pethidine-Intermediate-A, 4-cyano-1-methyl-4-phenylpiperidine
- 981 (15) Pethidine-Intermediate-B, ethyl-4-phenylpiperidine-4-carboxylate
- 982 (16) Pethidine-Intermediate-C, 1-methyl-4-phenylpiperidine-4-carboxylic acid
- 983 (17) Phenazocine
- 984 (18) Piminodine
- 985 (19) Racemethorphan

986 (20) Racemorphan

987 SECTION 89. Said chapter 94C is hereby further amended by striking out sections 32 to
988 32C, inclusive, as so appearing, and inserting in place thereof the following 4 sections:-

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

994 Section 32A. A person who knowingly or intentionally manufactures, distributes,
995 dispenses or possesses with intent to manufacture, distribute or dispense a controlled substance
996 in Class B of section 31 shall be punished by imprisonment in the state prison for not more than
997 10 years or in a jail or house of correction for not more than 2½ years, by a fine of not less than
998 \$1,000 nor more than \$10,000 or by both such fine and imprisonment.

999 Section 32B. A person who knowingly or intentionally manufactures, distributes,
1000 dispenses or possesses with intent to manufacture, distribute or dispense a controlled substance
1001 in Class C of section 31 shall be imprisoned in state prison for not more than 5 years or in a jail
1002 or house of correction for not more than 2½ years, by a fine of not less than \$500 nor more than
1003 \$5,000 or by both such fine and imprisonment.

1004 Section 32C. A person who knowingly or intentionally manufactures, distributes,
1005 dispenses or cultivates, or possesses with intent to manufacture, distribute, dispense or cultivate a
1006 controlled substance in Class D of section 31 shall be imprisoned in a jail or house of correction
1007 for not more than 2 years or by a fine of not less than \$500 nor more than \$5,000, or by both
1008 such fine and imprisonment.

1009 SECTION 90. Section 32E of said chapter 94C, as so appearing, is hereby amended by
1010 striking out, in lines 46 and 47, the figure “18” and inserting in place thereof, in each instance,
1011 the following figure:- 100.

1012 SECTION 91. Subsection (b) of said section 32E of said chapter 94C, as so appearing, is
1013 hereby amended by striking out clauses (1) to (4), inclusive, and inserting in place thereof the
1014 following 2 clauses:-

1015 (1) Not less than 100 grams but less than 200 grams, be punished by a term of
1016 imprisonment in the state prison for not less than 8 nor more than 20 years and by a fine of not
1017 less than \$10,000 nor more than \$100,000; provided, however, that a sentence imposed under
1018 this clause shall not be for less than a mandatory minimum term of imprisonment of 8 years;
1019 provided further, that a fine shall not be imposed in lieu of the mandatory minimum term of
1020 imprisonment established in this clause.

1021 (2) Not less than 200 grams, be punished by a term of imprisonment in the state prison
1022 for not less than 12 nor more than 20 years and by a fine of not less than \$50,000 nor more than
1023 \$500,000; provided, however, that a sentence imposed under this clause shall not be for less than
1024 a mandatory minimum term of imprisonment of 12; provided further, that a fine shall not be
1025 imposed in lieu of the mandatory minimum term of imprisonment established in this clause.

1026 SECTION 92. Said section 32E of said chapter 94C, as so appearing, is hereby further
1027 amended by inserting after the word “thereof”, in line 80, the following words:- , a controlled
1028 substance defined in paragraph (d) of Class A of section 31.

1029 SECTION 93. Said section 32E of said chapter 94C, as so appearing, is hereby further
1030 amended by inserting after the word “thereof”, in line 85, the first time it appears, the following
1031 words:- , a controlled substance defined in paragraph (d) of Class A of section 31.

1032 SECTION 94. Said section 32E of said chapter 94C, as so appearing, is hereby further
1033 amended by inserting after the word “thereof”, in line 87, the following words:- , a controlled
1034 substance defined in paragraph (d) of Class A of section 31.

1035 SECTION 95. Said section 32E of said chapter 94C, as so appearing, is hereby further
1036 amended by inserting after the word “thereof”, in line 89, the first time it appears, the following
1037 words:- , a controlled substance defined in paragraph (d) of Class A of section 31.

1038 SECTION 96. Said section 32E of said chapter 94C, as so appearing, is hereby further
1039 amended by striking out subsection (c½).

1040 SECTION 97. Section 32H of said chapter 94C, as so appearing, is hereby amended by
1041 striking out, in lines 1 to 3, inclusive, the words “paragraph (b) of section thirty-two, paragraphs
1042 (b), (c) and (d) of section thirty-two A, paragraph (b) of section thirty-two B, sections” and
1043 inserting in place thereof the following word:- sections.

1044 SECTION 98. Said section 32H of said chapter 94C, as so appearing, is hereby further
1045 amended by striking out, in lines 3 and 4, the words “thirty-two E thirty-two F and thirty-two J”
1046 and inserting in place thereof the following words:- 32E and 32F.

1047 SECTION 99. Said section 32H of said chapter 94C, as so appearing, is hereby further
1048 amended by striking out, in lines 16 to 18, inclusive, the words “subsection (c) of Section 32,
1049 subsection (e) of section 32A, subsection (c) of section 32B, subsection (d) of section 32E, or
1050 section 32J” and inserting in place thereof the following words:- subsection (d) of section 32E.

1051 SECTION 100. Said section 32H of said chapter 94C, as so appearing, is hereby further
1052 amended by striking out, in line 33, the words “18 years of age or older” and inserting in place
1053 thereof the following words:- having attained the age of criminal majority.

1054 SECTION 101. Said section 32H of said chapter 94C, as so appearing, is hereby further
1055 amended by striking out, in line 34, the figure “18” and inserting in place thereof the following
1056 words:- the age of criminal majority.

1057 SECTION 102. Section 32I of said chapter 94C, as so appearing, is hereby amended by
1058 striking out, in line 10, the words “less than one nor”.

1059 SECTION 103. Said section 32I of said chapter 94C, as so appearing, is hereby further
1060 amended by striking out, in line 11, the words “less than five hundred nor”.

1061 SECTION 104. Said section 32I of said chapter 94C, as so appearing, is hereby further
1062 amended by striking out, in line 24, the words “less than fifty nor”.

1063 SECTION 105. Section 32J of said chapter 94C is hereby repealed.

1064 SECTION 106. Section 32M of said chapter 94C, as amended by section 19 of chapter 55
1065 of the acts of 2017, is hereby further amended by striking out, in line 1, the word “eighteen” and
1066 inserting in place thereof the following words:- criminal majority.

1067 SECTION 107. Said section 32M of said chapter 94C, as so amended, is hereby further
1068 amended by striking out, in line 6, the figure “18” and inserting in place thereof the following
1069 words:- criminal majority.

1070 SECTION 108. Chapter 94C of the General Laws is hereby amended by inserting after
1071 section 32N the following section:-

1072 Section 32O. (a) A person who, while in the course of trafficking or unlawfully
1073 distributing a controlled substance as defined in section 32E, knowingly or intentionally
1074 manufactures, distributes, dispenses, delivers, gives away, barter, administers or provides any
1075 amount of a controlled substance or counterfeit substance which results in death shall be
1076 punished as murder in the second degree as defined by section 1 of chapter 265.

1077 (b) Lack of knowledge of a previous health condition shall not be a defense to a violation
1078 of this section.

1079 SECTION 109. Section 34 of said chapter 94C, as appearing in the 2016 Official Edition,
1080 is hereby amended by striking out, in lines 14 and 15, the words “less than two and one-half
1081 years nor”.

1082 SECTION 110. Said section 34 of said chapter 94C, as so appearing, is hereby further
1083 amended by striking out, in lines 42 to 44, inclusive, the words “departmental records which are
1084 not public records, maintained by police and other law enforcement agencies, shall not be sealed;
1085 and provided further, that”.

1086 SECTION 111. Section 34A of said chapter 94C, as so appearing, is hereby amended by
1087 striking out, in lines 4 and 11, the words “sections 34 or 35” and inserting in place thereof, in
1088 each instance, the following words:- section 34 or found in violation of a condition of probation
1089 or pretrial release as determined by the courts or a condition of parole as determined by the
1090 parole board.

1091 SECTION 112. Said section 34A of said chapter 94C, as so appearing, is hereby further
1092 amended by striking out, in lines 5 and 12, the word “substance” and inserting in place thereof,
1093 in each instance, the following words:- substance or violation.

1094 SECTION 113. Section 35 of said chapter 94C is hereby repealed.

1095 SECTION 114. Section 36 of said chapter 94C, as appearing in the 2016 Official Edition,
1096 is hereby amended by striking out, in lines 6 and 7, the words “his eighteenth birthday” and
1097 inserting in place thereof the following words:- the age of criminal majority.

1098 SECTION 115. Section 44 of said chapter 94C, as so appearing, is hereby amended by
1099 striking out, in lines 5 to 8, inclusive, the words “; provided, however, that departmental records

1100 maintained by police and other law enforcement agencies which are not public records shall not
1101 be sealed”.

1102 SECTION 116. Section 45 of said chapter 94C is hereby repealed.

1103 SECTION 117. Section 47 of said chapter 94C, as appearing in the 2016 Official Edition,
1104 is hereby amended by adding the following subsection:-

1105 (k) (1) The attorney general, each district attorney, and each police department for which
1106 the state treasurer has established a special law enforcement trust fund pursuant to subsection (d)
1107 shall file an annual report with the treasurer regarding all assets, monies, and proceeds from
1108 assets seized pursuant to this section and held by such fund. The report shall provide itemized
1109 accounting for all assets, monies and proceeds from assets within the following asset categories:
1110 cash, personal property, conveyances, and real property, including any property disposed of by
1111 the office of seized property management within the division of capital asset management and
1112 maintenance. Such reports shall be filed not later than January 31 for the preceding calendar year
1113 and shall be public records.

1114 (2) The attorney general, each district attorney, and each police department for which the
1115 state treasurer has established a special law enforcement trust fund pursuant to subsection (d)
1116 shall file an annual report with the treasurer regarding all expenditures therefrom, which shall
1117 include, but not be limited to, the following expense categories: personnel; contractors;
1118 equipment; training; private-public partnerships; inter-agency collaborations; and community
1119 grants. Such reports shall be filed not later than January 31 for the preceding calendar year and
1120 shall be public records.

1121 (3) On or before March 15, the state treasurer shall file a report with the executive office
1122 of administration and finance and the house and senate committees on ways and means regarding
1123 the aggregate deposits and expenditures, and the ending balances, for each special law
1124 enforcement trust fund during the preceding calendar year. Such reports shall be public records.

1125 SECTION 118. Subsection (b) of section 14 of chapter 94G of the General Laws, as
1126 appearing in section 40 of chapter 55 of the acts of 2017, is hereby amended by striking out
1127 clause (iii) and inserting in place thereof the following clause:- (iii) the Municipal Police
1128 Training Fund established in section 35FFF of chapter 10 for the municipal police training
1129 committee established in section 116 of chapter 6.

1130 SECTION 119. Section 1 of chapter 111E of the General Laws, as appearing in the 2016
1131 Official Edition, is hereby amended by striking out the definition of “Administrator” and
1132 inserting in place thereof the following 2 definitions:-

1133 “Addiction specialist”, a licensed physician who specializes in the practice of psychiatry
1134 or addiction medicine, a licensed psychologist, a licensed independent social worker, a licensed
1135 mental health counselor, a licensed psychiatric clinical nurse specialist, a licensed alcohol and
1136 drug counselor I as defined in section 1 of chapter 111J or any other professional considered
1137 qualified by the department to evaluate whether an individual is a drug dependent person.

1138 “Administrator”, the person in charge of the operation of a facility or a penal facility, or
1139 the person’s designee.

1140 SECTION 120. Said section 1 of said chapter 111E, as so appearing, is hereby further
1141 amended by striking out the definitions of “Independent psychiatrist” and “Independent
1142 physician” and inserting in place thereof the following definition:-

1143 “Independent addiction specialist”, an addiction specialist, other than one holding an
1144 office or appointment in a department, board or agency of the commonwealth or in a public
1145 facility or penal facility.

1146 SECTION 121. Section 10 of said chapter 111E, as so appearing, is hereby amended by
1147 striking out, in lines 18 and 19, the words “a psychiatrist, or if it is, in the discretion of the court,
1148 impracticable to do so, a physician,” and inserting in place thereof the following words:- an
1149 addiction specialist.

1150 SECTION 122. Said section 10 of said chapter 111E, as so appearing, is hereby further
1151 amended by striking out, in lines 23, 25, 31, 35, 93 and 104 the words “psychiatrist or physician”
1152 and inserting in place thereof, in each instance, the following words:- addiction specialist.

1153 SECTION 123. Said section 10 of said chapter 111E, as so appearing, is hereby further
1154 amended by striking out, in lines 60 and 61 and in line 71 the words “for the first time”.

1155 SECTION 124. Said section 10 of said chapter 111E, as so appearing, is hereby further
1156 amended by striking out, in lines 61 and 62 and in lines 72 and 73, the words “not involving the
1157 sale or manufacture of dependency related drugs,”.

1158 SECTION 125. Said section 10 of said chapter 111E, as so appearing, is hereby further
1159 amended by striking out, in lines 98 and 99, the words “independent psychiatrist, or if it is
1160 impracticable to do so, an independent physician” and inserting in place thereof the following
1161 words:- independent addiction specialist.

1162 SECTION 126. Said section 10 of said chapter 111E, as so appearing, is hereby further
1163 amended by striking out, in lines 124 and 125, the words “independent psychiatrist, or, if none is
1164 available, an independent physician” and inserting in place thereof the following words:-
1165 independent addiction specialist.

1166 SECTION 127. Said section 10 of said chapter 111E, as so appearing, is hereby further
1167 amended by striking out, in line 184, the words “thirty-two to thirty-two G” and inserting in
1168 place thereof the following words:- 32E to 32G.

1169 SECTION 128. Section 11 of said chapter 111E, as so appearing, is hereby amended by
1170 striking out, in lines 4 and 5, the words “a psychiatrist, or, if, in the discretion of the court, it is
1171 impracticable to do so, by a physician,” and inserting in place thereof the following words:- an
1172 addiction specialist.

1173 SECTION 129. Said section 11 of said chapter 111E, as so appearing, is hereby further
1174 amended by striking out, in line 11, lines 16 and 17 and line 18, the words “physician or
1175 psychiatrist” and inserting in place thereof, in each instance, the following words:- addiction
1176 specialist.

1177 SECTION 130. Section 13A of said chapter 111E, as so appearing, is hereby amended by
1178 striking out, in lines 9 and 12 the word “physician” and inserting in place thereof, in each
1179 instance, the following words:- addiction specialist.

1180 SECTION 131. Section 52 of chapter 119 of the General Laws, as so appearing, is hereby
1181 amended by striking out the definitions of “Court” and “Delinquent Child” and inserting in place
1182 thereof the following 3 definitions:-

1183 “Civil infraction”, a violation for which a civil proceeding is allowed, for which the court
1184 shall not appoint counsel nor impose a sentence of incarceration and for which a civil penalty
1185 may be imposed.

1186 “Court”, a division of the juvenile court department.

1187 “Delinquent child”, a child between the age of 12 and the age of criminal majority who
1188 commits any offense against a law of the commonwealth; provided, however, that such an
1189 offense shall not include a civil infraction.

1190 SECTION 132. Said section 52 of said chapter 119, as so appearing, is hereby further
1191 amended by striking out, in line 15, the figure “18” and inserting in place thereof the following
1192 words:- the age of criminal majority.

1193 SECTION 133. Section 54 of said chapter 119, as so appearing, is hereby amended by
1194 striking out, in line 2, the words “seven and 18 years of age” and inserting in place thereof the
1195 following words:- 12 and the age of criminal majority.

1196 SECTION 134. Said section 54 of said chapter 119, as so appearing, is hereby further
1197 amended by striking the second paragraph and inserting in place thereof the following
1198 paragraph:-

1199 An application for such a complaint submitted to the juvenile court by a police
1200 department against a child arrested for an offense shall be accompanied by an offense-based
1201 tracking number. An application’s failure to include the arrestee’s offense-based tracking number
1202 shall not preclude the issuance of a complaint where there is otherwise a valid application
1203 submitted by a police department against a child. If a complaint is issued based on an application
1204 for a complaint submitted by a police department against a child that did not include the child’s
1205 offense-based tracking number, the prosecutor shall submit the offense-based tracking number of
1206 the child to the court to be included in the case file.

1207 SECTION 135. Said section 54 of said chapter 119, as so appearing, is hereby further
1208 amended by striking out, in line 21, the words “ages of fourteen and 18” and inserting in place
1209 thereof the following words:- age of 14 and the age of criminal majority.

1210 SECTION 136. Said chapter 119 is hereby further amended by inserting after section 54
1211 the following section:-

1212 Section 54A. (a) A juvenile court shall have jurisdiction to divert from further court
1213 processing a child who is subject to the jurisdiction of the juvenile court as the result of an
1214 application for complaint brought under section 54. The court may divert a child to a program as
1215 defined in section 1 of chapter 276A or elsewhere.

1216 (b) A child complained of as a delinquent child may, upon the request of the child,
1217 undergo an assessment prior to arraignment to enable the judge to consider the suitability of the
1218 child for diversion. If a child chooses to request a continuance for the purpose of such an
1219 assessment, the child shall notify the judge prior to arraignment. Upon receipt of such
1220 notification, the judge may grant a 14-day continuance. The department of probation may
1221 conduct such assessment prior to arraignment to assist the judge in making that decision. If the
1222 judge determines it is appropriate, a determination of eligibility by the personnel of a program
1223 may substitute for an assessment. If a case is continued under this subsection, the child shall not
1224 be arraigned and an entry shall not be made into the criminal offender record information system
1225 until a judge issues an order to resume the ordinary processing of a delinquency proceeding. A
1226 judge may order diversion without first ordering an assessment in any case in which the court
1227 finds that sufficient information is available without an assessment.

1228 (c)(1) After the completion of the assessment, the probation officer or, where applicable,
1229 the director of a program to which the child has been referred shall submit to the court and to the
1230 counsel for the child a recommendation as to whether the child would benefit from diversion.

1231 Upon receipt of the recommendation, the judge shall provide an opportunity for both the
1232 commonwealth and counsel for the child to be heard regarding diversion of the child. The judge
1233 shall then make a final determination as to the eligibility of the child for diversion. There shall be
1234 a rebuttable presumption that a child who is otherwise eligible for diversion under subsection (g)
1235 and who is charged with a misdemeanor for which the punishment is a fine, imprisonment in a
1236 jail or house of correction for not more than 6 months or both such fine and imprisonment shall
1237 be eligible for diversion if such child has no outstanding warrants, continuances, appeals or
1238 juvenile court cases pending. The proceedings of a child who is found eligible for diversion shall
1239 be stayed for 90 days unless the judge determines that the interest of justice would best be served
1240 by a lesser period of time or unless extended under subsection (f).

1241 (2) A stay of proceedings shall not be granted under this section unless the child consents
1242 in writing to the terms and conditions of the stay of proceedings and knowingly executes a
1243 waiver of the child's right to a speedy trial on a form approved by the chief justice of the juvenile
1244 court department. Consent shall be given only upon the advice of counsel.

1245 (3) The following shall not be admissible against the child in any proceedings: (i) a
1246 request for assessment; (ii) a decision by the child not to enter a program; (iii) a determination by
1247 probation or by a program that the child would not benefit from diversion; and (iv) any statement
1248 made by the child or the child's family during the course of assessment. Any consent by a child
1249 to a stay of proceedings or any act done or statement made in fulfillment of the terms and
1250 conditions of a stay of proceedings shall not be admissible as an admission, implied or otherwise,
1251 against the child if the stay of proceedings was terminated and proceedings were resumed on the
1252 original complaint. A statement or other disclosure or a record thereof made by a child during the
1253 course of assessment or during the stay of proceedings shall not be disclosed at any time to a

1254 commonwealth or other law enforcement officer in connection with the investigation or
1255 prosecution of any charges against the child or a codefendant.

1256 (4) If a child is found eligible for diversion under this section, the child shall not be
1257 arraigned and an entry shall not be made into the criminal offender record information system
1258 unless a judge issues an order to resume the ordinary processing of a delinquency proceeding. If
1259 a child is found eligible under this section, the eligibility shall not be considered an issuance of a
1260 criminal complaint for the purposes of section 37H½ of chapter 71.

1261 (d) A district attorney may divert any child for whom there is probable cause to issue a
1262 complaint, either before or after the assessment procedure set forth in subsection (b), with or
1263 without the permission of the court and without regard to the limitations in subsection (g). A
1264 district attorney who diverts a case pursuant to this subsection may request a report from a
1265 program regarding the child's status in and completion of the program.

1266 (e) If during the stay of proceedings a child is charged with a subsequent offense, a judge
1267 in the court that entered the stay of proceedings may issue such process as is necessary to bring
1268 the child before the court. When the child is brought before the court, the judge shall afford the
1269 child an opportunity to be heard. If the judge finds probable cause to believe that the child has
1270 committed a subsequent offense, the judge may order that the stay of proceedings be terminated
1271 and that the commonwealth be permitted to proceed on the original complaint as provided by
1272 law.

1273 (f)(1) Upon the expiration of the initial 90-day stay of proceedings, the probation officer
1274 or the program director shall submit to the court a report indicating the successful completion of

1275 diversion by the child or recommending an extension of the stay of proceedings for not more
1276 than an additional 90 days so that the child may complete the diversion program successfully.

1277 (2) If the probation officer or the program director indicates the successful completion of
1278 diversion by a child, the judge may dismiss the original complaint pending against the child. If
1279 the report recommends an extension of the stay of proceedings, the judge may, on the basis of
1280 the report and any other relevant evidence, take such action as the judge deems appropriate,
1281 including the dismissal of the complaint, the granting of an extension of the stay of proceedings
1282 or the resumption of proceedings.

1283 (3) If the conditions of diversion have not been met, the child's attorney shall be notified
1284 prior to the termination of the child from diversion and the judge may grant an extension to the
1285 stay of proceedings if the child provides good cause for failing to comply with the conditions of
1286 diversion.

1287 (4) If the judge dismisses a complaint under this subsection, the court shall, unless the
1288 child objects, enter an order directing expungement of any records of the complaint and related
1289 proceedings maintained by the clerk, the court, the department of criminal justice information
1290 services and the court activity record index.

1291 (g) A child otherwise eligible for diversion under this section shall not be eligible for
1292 diversion if the child charged with a violation of any of the offenses enumerated in section 70C
1293 of chapter 277 other than an offense under: (i) subsection (a) of section 13A of chapter 265; (ii)
1294 sections 13J and 13M of said chapter 265; (iii) sections 13A and 13C of chapter 268; and (iv)
1295 sections 1, 16, 28, 29, 29A and 29B of chapter 272 or if the child is indicted as a youthful
1296 offender.

1297 SECTION 137. Section 58 of said chapter 119, as appearing in the 2016 Official Edition,
1298 is hereby amended by striking out, in line 73, the words “his eighteenth birthday” and inserting
1299 in place thereof the following words:- the age of criminal majority.

1300 SECTION 138. Said section 58 of said chapter 119, as so appearing, is hereby further
1301 amended by striking out, in line 79, the words “his eighteenth birthday” and inserting in place
1302 thereof the following words:- attaining the age of criminal majority.

1303 SECTION 139. Section 60A of said chapter 119, as so appearing, is hereby amended by
1304 striking out, in line 17, the words “his fourteenth and eighteenth birthdays” and inserting in place
1305 thereof the following words:- the age of 14 and the age of criminal majority.

1306 SECTION 140. Said section 60A of said chapter 119, as so appearing, is hereby further
1307 amended by striking out, in line 20, the words “been age 18 or older” and inserting in place
1308 thereof the following words:- attained the age of criminal majority.

1309 SECTION 141. Said section 60A of said chapter 119, as so appearing, is hereby further
1310 amended by striking out, in line 22, the words “were age 18 or older” and inserting in place
1311 thereof the following words:- had attained the age of criminal majority.

1312 SECTION 142. Section 62 of said chapter 119 is hereby repealed.

1313 SECTION 143. Section 63A of said chapter 119, as appearing in the 2016 Official
1314 Edition, is hereby amended by striking out, in line 1, the words “is 19 years of age or older” and
1315 inserting in place thereof the following words:- has attained the age of criminal majority.

1316 SECTION 144. Said section 63A of said chapter 119, as so appearing, is hereby further
1317 amended by striking out, line 2, the figure “18” and inserting in place thereof the following
1318 words:- criminal majority.

1319 SECTION 145. Section 65 of said chapter 119, as so appearing, is hereby amended by
1320 striking out, in line 2, the words “18 years of age” and inserting in place thereof the following
1321 words:- the age of criminal majority.

1322 SECTION 146. Section 66 of said chapter 119, as so appearing, is hereby amended by
1323 striking out, in lines 3 and 5, the words “18 years of age” and inserting in place thereof, in each
1324 instance, the following words:- the age of criminal majority.

1325 SECTION 147. Said chapter 119, as so appearing, is hereby amended by striking out
1326 section 67 and inserting in place thereof the following section:-

1327 Section 67. (a) Whenever a child between the age of 12 and the age of criminal majority
1328 is arrested with or without a warrant, as provided by law, and the court or courts having
1329 jurisdiction over the offense are not in session, the officer in charge shall immediately notify at
1330 least one of the child’s parents, or, if there is no parent, the guardian or custodian with whom the
1331 child resides, or the department of children and families if the child is in the custody and care of
1332 the department. Pending such notice, such child shall be detained under subsection (c).

1333 (b) Upon the acceptance by the officer in charge of said police station or town lockup of
1334 the written promise of said parent, guardian, custodian or representative of the department of
1335 children and families to be responsible for the presence of the child in court at the time and place
1336 when the child is ordered to appear, the child shall be released to said person giving such
1337 promise; provided, however, that if the arresting officer requests in writing that a child between
1338 the age 14 and the age of criminal majority be detained, and if the court issuing a warrant for the
1339 arrest of a child between the age of 14 and the age of criminal majority directs in the warrant that
1340 such child shall be held in safekeeping pending his appearance in court, the child shall be
1341 detained in a police station or town lockup, or a place of temporary custody commonly referred

1342 to as a detention home of the department of youth services, or any other home approved by the
1343 department of youth services pending the child's appearance in court; provided further, that in
1344 the event any child is so detained, the officer in charge of the police station or town lockup shall
1345 notify the parents, guardian, custodian or representative of the department of children and
1346 families of the detention of the child. If a child is detained overnight, the child shall receive a bail
1347 hearing in accordance with section 59 of chapter 276, if applicable.

1348 (c) No child between the age of 14 and the age of criminal majority shall be detained in a
1349 police station or town lockup under (a) or (b) unless the detention facilities for children at such
1350 police station or town lockup have received the approval in writing of the commissioner of youth
1351 services. The department of youth services shall make inspection at least annually of police
1352 stations and town lockups wherein children are detained. If no such approved detention facility
1353 exists in any city or town, the city or town may contract with an adjacent city or town for the use
1354 of approved detention facilities in order to prevent children who are detained from coming in
1355 contact with adult prisoners. A separate and distinct place shall be provided in police stations,
1356 town lockups or places of detention for such children. Nothing in this section shall permit a child
1357 between 14 and the age of criminal majority to be detained in a jail or house of correction.

1358 (d) When a child is arrested who is in the care and custody of the department of children
1359 and families, the officer in charge of the police station or town lockup where the child has been
1360 taken shall immediately contact the department's emergency hotline and notify the on-call
1361 worker of the child's arrest. The on-call worker shall notify the social worker assigned to the
1362 child's case who shall make arrangement for the child's release as soon as practicable if it has
1363 been determined that the child will not be detained.

1364 SECTION 148. Section 68 of said chapter 119, as so appearing, is hereby further
1365 amended by striking out, in lines 1 and 34, the word “seven” and inserting in place thereof, in
1366 each instance, the following figure:- 12.

1367 SECTION 149. Said section 68 of said chapter 119, as so appearing, is hereby further
1368 amended by striking out, in lines 2 and 52, the figure “18” and inserting in place thereof, in each
1369 instance, the following words:- criminal majority.

1370 SECTION 150. Said section 68 of said chapter 119, as so appearing, is hereby further
1371 amended by striking out, in line 3, the words “if unable to furnish bail” and inserting in place
1372 thereof the following words:- if detained pretrial pursuant to paragraph (3) of subsection (e) of
1373 section 58 of chapter 276.

1374 SECTION 151. Said section 68 of said chapter 119, as so appearing, is hereby further
1375 amended by striking out, in line 34, the words “and 18 years of age” and inserting in place
1376 thereof the following words:- years of age and the age of criminal majority.

1377 SECTION 152. Section 68A of said chapter 119, as so appearing, is hereby amended by
1378 striking out, in line 1, the words “seven and 18 years of age” and inserting in place thereof the
1379 following words:- 12 years of age and the age of criminal majority.

1380 SECTION 153. Section 70 of said chapter 119, as so appearing, is hereby amended by
1381 striking out, in line 2, the words “18 years of age” and inserting in place thereof the following
1382 words:- the age of criminal majority.

1383 SECTION 154. Section 72 of said chapter 119, as so appearing, is hereby amended by
1384 striking out, in lines 2 and 3, the words “their eighteenth birthday” and inserting in place thereof
1385 the following words:- the age of criminal majority.

1386 SECTION 155. Said section 72 of said chapter 119, as so appearing, is hereby further
1387 amended by striking out, in lines 10 to 13, inclusive, the words “his eighteenth birthday, and is
1388 not apprehended until between such child’s eighteenth and nineteenth birthday, the court shall
1389 deal with such child in the same manner as if he has not attained his eighteenth birthday” and
1390 inserting in place thereof the following words:- attaining the age of criminal majority and is not
1391 apprehended until between the birthday at which the child attained the age of criminal majority
1392 and the child’s subsequent birthday, the court shall deal with the child in the same manner as if
1393 the child had not attained the age of criminal majority.

1394 SECTION 156. Said section 72 of said chapter 119, as so appearing, is hereby further
1395 amended by striking out, in line 18, the words “their eighteenth birthday” and inserting in place
1396 thereof the following words:- the age of criminal majority.

1397 SECTION 157. Section 72A of chapter 119, as so appearing, is hereby amended by
1398 striking out, in lines 2 and 3, the words “his eighteenth birthday, and is not apprehended until
1399 after his nineteenth birthday, the” and inserting in place thereof the following words:- attaining
1400 the age of criminal majority, and is not apprehended until after attaining the first birthday
1401 following the birthday at which the person attained the age of criminal majority, the.

1402 SECTION 158. Section 72B of said chapter 119, as so appearing, is hereby amended by
1403 striking out, in lines 2 and 3 and 7 and 8, the words “his eighteenth birthday” and inserting in
1404 place thereof, in each instance, the following words:- the person attains the age of criminal
1405 majority.

1406 SECTION 159. Said section 72B of said chapter 119, as so appearing, is hereby further
1407 amended by striking out, in line 25, the words “his eighteenth birthday” and inserting in place
1408 thereof the following words:- the age of criminal majority.

1409 SECTION 160. Said section 72B of said chapter 119, as so appearing, is hereby further
1410 amended by striking out, in line 31, the words “his eighteenth birthday” and inserting in place
1411 thereof the following words:- attaining the age of criminal majority.

1412 SECTION 161. Section 74 of said chapter 119, as so appearing, is hereby amended by
1413 striking out, in lines 3 and 4, the words “his eighteenth birthday” and inserting in place thereof
1414 the following words:- the person attaining the age of criminal majority.

1415 SECTION 162. Said section 74 of said chapter 119, as so appearing, is hereby further
1416 amended by striking out, in line 10, the words “sixteen and 18 years of age” and inserting in
1417 place thereof the following words:- 16 years of age and the age of criminal majority.

1418 SECTION 163. Said section 74 of said chapter 119, as so appearing, is hereby further
1419 amended by striking out, in line 14, the figure “18” and inserting in place thereof the following
1420 words:- criminal majority.

1421 SECTION 164. Section 84 of said chapter 119, as so appearing, is hereby amended by
1422 striking out, in lines 12 and 13, the word “seven and eighteen (or nineteen)” and inserting in
1423 place thereof the following figure:- 12 and 19 (or 20).

1424 SECTION 165. Said chapter 119 is hereby further amended by adding the following 2
1425 sections:-

1426 Section 86. (a) For the purposes of this section and section 87, the following words shall
1427 have the following meanings unless the context clearly requires otherwise:

1428 “Juvenile”, a person appearing before a division of the juvenile court department who is
1429 subject to a delinquency, child requiring assistance or care and protection case or a person under
1430 the age of 21 in a youthful offender case.

1431 “Restraints”, devices that limit voluntary physical movement of an individual, including
1432 leg irons and shackles, which have been approved by the trial court department.

1433 (b) A juvenile shall not be placed in restraints during court proceedings and any restraints
1434 shall be removed prior to the appearance of a juvenile before the court at any stage of a
1435 proceeding unless the justice presiding in the courtroom issues an order and makes specific
1436 findings on the record that: (i) restraints are necessary because there is reason to believe that a
1437 juvenile presents an immediate and credible risk of escape that cannot be curtailed by other
1438 means; (ii) a juvenile poses a threat to the juvenile’s own safety or to the safety of others; or (iii)
1439 restraints are reasonably necessary to maintain order in the courtroom.

1440 (c) The court officer charged with custody of a juvenile shall report any security concern
1441 to the presiding justice. On the issue of courtroom or courthouse security, the presiding justice
1442 may receive information from the court officer charged with custody of a juvenile, a probation
1443 officer or any other source determined by the court to be credible.

1444 The authority to use restraints shall reside solely within the discretion of the presiding
1445 justice at the time that a juvenile appears before the court. A juvenile court justice shall not
1446 impose a blanket policy to maintain restraints on all juveniles or a specific category of juveniles
1447 who appear before the court.

1448 Section 87. A child against whom a complaint is brought under this chapter may
1449 participate in a community-based restorative justice program pursuant to the requirements of
1450 chapter 276B.

1451 SECTION 166. Section 16 of chapter 119A of the General Laws, as appearing in the
1452 2016 Official Edition, is hereby amended by inserting after the word “obligor”, in line 44, the
1453 following words:- ; provided, however, that the IV-D agency has no evidence of the obligor

1454 residing at an address other than the address last known by the IV-D agency; provided further,
1455 that the IV-D agency shall not notify a licensing authority unless the child support arrearage
1456 exceeds an amount equal to 8 weeks obligation or \$500, whichever is greater.

1457 SECTION 167. Chapter 120 of the General Laws is hereby amended by inserting after
1458 section 10 the following section:-

1459 Section 10B. A person detained by and committed to the department of youth services
1460 shall not be placed in involuntary room confinement as a consequence for noncompliance,
1461 punishment or harassment or in retaliation for any conduct.

1462 SECTION 168. Section 15 of said chapter 120, as appearing in the 2016 Official Edition,
1463 is hereby amended by striking out, in line 3 and line 4, the figure “18” and inserting in place
1464 thereof, in each instance, the following words:- the age of criminal majority.

1465 SECTION 169. Section 21 of said chapter 120, as so appearing, is hereby amended by
1466 striking out, in line 17, the words “seven and 18 years of age” and inserting in place thereof the
1467 following words:- 7 years of age and the age of criminal majority.

1468 SECTION 170. Section 1 of chapter 127 of the General Laws, as so appearing, is hereby
1469 amended by inserting after the definition of “Commissioner” the following 2 definitions:

1470 “Disciplinary restrictive housing”, a placement in restrictive housing in a state
1471 correctional facility for disciplinary purposes after a finding has been made that the prisoner has
1472 committed a breach of discipline.

1473 “Exigent circumstances”, circumstances that create an unacceptable risk to the safety of
1474 any person.

1475 SECTION 171. Said section 1 of said chapter 127, as so appearing, is hereby further
1476 amended by inserting after the definition of “Parole board” the following definition:-

1477 “Placement review”, a multidisciplinary examination to determine whether,
1478 notwithstanding any previous finding of a disciplinary breach or exigent circumstances or other
1479 circumstances supporting a placement in restrictive housing, restrictive housing is still necessary
1480 to reasonably manage risks of harm; when conducted pursuant to clause (iv) or (v) of subsection
1481 (a) of section 39B, examiners performing a placement review shall include, but not be limited to,
1482 1 member of the security staff, 1 member of the programming staff, and 1 member of the mental
1483 health staff.

1484 SECTION 172. Said section 1 of said chapter 127, as so appearing, is hereby further
1485 amended by inserting after the definition of “Residential treatment unit” the following
1486 definition:-

1487 “Restrictive Housing”, a housing placement where a prisoner is confined to a cell for
1488 over 22 hours per day; provided, however, that mental health watch shall not be considered
1489 restrictive housing.

1490 SECTION 173. Section 4 of said chapter 127 is hereby repealed.

1491 SECTION 174. Section 16 of said chapter 127, as appearing in the 2016 Official Edition,
1492 is hereby amended by inserting after the word “tuberculosis”, in line 9, the following words:-
1493 “and the presence of drug dependency to be made by the physician or another addiction
1494 specialist, as defined in chapter 111E, including, but not limited to, a determination of whether or
1495 not opioid substitution or medication assisted treatment for opioid addiction is appropriate for the
1496 inmate. An examination pursuant to section 10 of said chapter 111E shall satisfy this
1497 requirement if the examination includes a determination whether opioid substitution or
1498 medication assisted treatment for opioid addiction is appropriate for the inmate. To the extent
1499 practicable, the department of correction shall prioritize placement of inmates that were

1500 receiving opioid substitution or medication assisted treatment for opioid addiction immediately
1501 preceding their incarceration within a facility that provides the same opioid substitution or
1502 medication assisted treatment.

1503 SECTION 175. Section 28 of said chapter 127, as so appearing, is hereby amended by
1504 striking out, in line 4, the word “twenty-three” and inserting in place thereof the following
1505 words:- 23, a record of the fingerprint-based state identification number.

1506 SECTION 176. Said chapter 127 is hereby further amended by inserting after section 32
1507 the following section:-

1508 Section 32A. A prisoner of a correctional institution, jail or house of correction that has a
1509 gender identity, as defined in section 7 of chapter 4, that differs from the prisoner’s sex assigned
1510 at birth, with or without a diagnosis of gender dysphoria or any other physical or mental health
1511 diagnosis, shall be: (i) addressed in a manner consistent with the prisoner’s gender identity; (ii)
1512 provided with access to commissary items, clothing, programming, educational materials and
1513 personal property that is consistent with the prisoner’s gender identity; (iii) searched by an
1514 officer of the same gender identity if the search requires an inmate to remove all clothing or
1515 includes a visual inspection of the anal cavity or genitals; provided, however, that the officer’s
1516 gender identity is consistent with the prisoner’s request; and provided further, that such a search
1517 shall not be conducted for the sole purpose of determining genital status; and (iv) housed in a
1518 correctional facility with inmates with the same gender identity, provided that the placement is
1519 consistent with the prisoner’s request.

1520 SECTION 177. Said chapter 127 is hereby further amended by inserting after section
1521 36B the following section:-

1522 Section 36C. A correctional institution, jail or house of correction shall not prohibit,
1523 eliminate or unreasonably limit in-person visitation of inmates or coerce, compel or otherwise
1524 pressure an inmate to forego or limit in-person visitation. For the purposes of this section, an
1525 unreasonable limit shall include, but not be limited to, providing an eligible inmate fewer than 2
1526 opportunities for in-person visitation during a 7-day period. A correctional institution, jail or
1527 house of correction that elects to use video or other types of electronic devices for inmate
1528 communications with visitors shall not make such communications available in lieu of in-person
1529 visits prescribed in this section. Nothing in this section shall prohibit the temporary suspension
1530 of visitation privileges for good cause including, but not limited to, misbehavior or during a
1531 bonafide emergency.

1532 A correctional institution, jail or house of correction may charge a fee for video visitation
1533 communication for inmate communications not occurring on site; provided, however, that the fee
1534 shall not exceed the operating cost of the communication. Fees collected in excess of operating
1535 costs shall be allocated to the fund established under chapter 258C.

1536 SECTION 178. Said chapter 127 is hereby amended by striking out sections 39 and 39A,
1537 as so appearing, and inserting in place thereof the following 8 sections:-

1538 Section 39. (a) Subject to the limits of this section and section 39A, the superintendent of
1539 a state correctional facility or the administrator of a county correctional facility may authorize
1540 the confinement of a prisoner in a restrictive housing unit to discipline the prisoner or if the
1541 prisoner's retention in general population poses an unacceptable risk: (i) to the safety of others;
1542 (ii) of damage or destruction of property; or (iii) to the operation of a correctional facility.

1543 (b) In addition to meeting all standards defined by the department of public health,
1544 restrictive housing units shall provide: (i) meals that meet the same standards defined by the

1545 commissioner as for general population prisoners; (ii) access to showers not less than 3 days per
1546 week; (iii) rights of visitation and communication by those properly authorized; provided,
1547 however, that the authorization may be diminished for the enforcement of discipline for a period
1548 not to exceed 15 days in a state correctional facility or 10 days in a county correctional facility
1549 for any given offense; (iv) access to reading and writing materials unless clinically
1550 contraindicated; (v) access to a radio or television if confinement exceeds 30 days; (vi) periodic
1551 mental and psychiatric examinations under the supervision of the department of mental health;
1552 (vii) medical and psychiatric treatment that may be clinically indicated under the supervision of
1553 the department of mental health; (viii) the same access to canteen purchases and privileges to
1554 retain property in a prisoner's cell as prisoners in the general population at the same facility;
1555 provided, however, that such access and privileges may be diminished for the enforcement of
1556 discipline for a period not to exceed 15 days in a state correctional facility or 10 days in a county
1557 correctional facility for any given offense or where inconsistent with the security of the unit; (ix)
1558 the same access to disability accommodations as prisoners in general population, except where
1559 inconsistent with the security of the unit; and (x) other rights and privileges as may be
1560 established or recognized by the commissioner.

1561 (c) Before placement in restrictive housing, a prisoner shall be screened by a qualified
1562 mental health professional to determine whether the prisoner has a serious mental illness or
1563 restrictive housing is otherwise clinically contraindicated based on clinical standards adopted by
1564 the department of correction and clinical judgment, provided that clinical standards shall be
1565 promulgated by the department of correction in consultation with the department of mental
1566 health.

1567 (d) A qualified mental health professional shall make rounds in every restrictive housing
1568 unit and may conduct an out-of-cell meeting with a prisoner for whom a confidential meeting is
1569 warranted in the clinician's professional judgment. Prisoners shall be evaluated by a qualified
1570 mental health professional in accordance with clinical standards adopted by the department of
1571 correction and clinical judgment to determine whether the prisoner has a serious mental illness or
1572 restrictive housing is otherwise clinically contraindicated, provided that clinical standards shall
1573 be promulgated by the department of correction in consultation with the department of mental
1574 health.

1575 Section 39A. (a) A prisoner shall not be held in restrictive housing if the prisoner has a
1576 serious mental illness or a finding has been made, pursuant to subsections (c) or (d) of section 39
1577 or otherwise, that restrictive housing is clinically contraindicated unless, not later than 72 hours
1578 after the finding, the commissioner, the sheriff or a designee of the commissioner or sheriff
1579 certifies in writing: (i) the reason why the prisoner may not be safely held in the general
1580 population; (ii) that there is no available placement in a secure treatment unit; (iii) efforts that are
1581 being undertaken to find appropriate housing and the status of the efforts; and (iv) the anticipated
1582 time frame for resolution. A copy of the written certification shall be provided to the prisoner.
1583 Such a prisoner in restrictive housing shall be offered additional mental health treatment in
1584 accordance with clinical standards adopted by the department.

1585 (b) If a prisoner needs to be separated from general population to protect the prisoner
1586 from harm by others, the prisoner shall not be placed in restrictive housing, but shall be placed in
1587 a housing unit that provides approximately the same conditions, privileges, amenities and
1588 opportunities as in general population; provided, however, that the prisoner may be placed in
1589 restrictive housing for not more than 72 hours while suitable housing is located. A prisoner shall

1590 not be held in restrictive housing to protect the prisoner from harm by others for more than 72
1591 hours unless the commissioner, the sheriff or a designee of the commissioner or sheriff certifies
1592 in writing: (i) the reason why the prisoner may not be safely held in the general population; (ii)
1593 that there is no available placement in a unit comparable to general population; (iii) efforts that
1594 are being undertaken to find appropriate housing and the status of the efforts; and (iv) the
1595 anticipated time frame for resolution. A copy of the written certification shall be provided to the
1596 prisoner.

1597 (c) A prisoner who is or is perceived to be lesbian, gay, bisexual, transgender, queer or
1598 intersex or has or is perceived to have a gender identity or expression or sexual orientation
1599 uncommon in general population shall not be grounds for placement in restrictive housing.

1600 (d) A prisoner shall not be confined to restrictive housing except pursuant to section 39 or
1601 this section.

1602 Section 39B. (a) All prisoners confined to restrictive housing shall receive placement
1603 reviews at the following intervals and may receive them more frequently:

1604 (i) If a prisoner is being held pursuant to subsection (a) of section 39A, every 72 hours;

1605 (ii) If a prisoner is being held pursuant to subsection (b) of section 39A, every 72 hours;

1606 (iii) If a prisoner is awaiting adjudication of an alleged disciplinary breach, every 15

1607 days;

1608 (iv) If a prisoner has been committed to disciplinary restrictive housing, no later than 6

1609 months and every 90 days thereafter; and

1610 (v) If a prisoner is being held for any other reason, every 90 days.

1611 (b) After a placement review, the prisoner shall be retained in restrictive housing only if
1612 the prisoner is determined to pose an unacceptable risk as provided in subsection (a) of section

1613 39 or if the commissioner, the sheriff or a designee of the commissioner or sheriff re-certifies, in
1614 writing, the findings required by subsections (a) or (b) of section 39A.

1615 (c) If a prisoner's placement in restrictive housing may reasonably be expected to last
1616 more than 60 days, the prisoner shall: (i) have 24 hours written notice of placement reviews; (ii)
1617 have the opportunity to participate in reviews in person or in writing; (iii) upon review, if no
1618 placement change is ordered, be provided a written statement as to the evidence relied on and the
1619 reasons for the placement decision; and (iv) not more than 15 days after the initial placement and
1620 upon placement review, if no placement change is ordered, be advised as to behavior standards
1621 and program participation goals that will increase the prisoner's chances of a less restrictive
1622 placement upon next placement review.

1623 (d) A prisoner who is committed to a secure treatment unit following an allegation or
1624 finding of a disciplinary breach shall receive placement reviews at intervals not less than as
1625 frequently as if the prisoner were confined to restrictive housing.

1626 (e) The commissioner shall promulgate regulations to define standards and procedures to
1627 maximize out-of-cell activities in restrictive housing and to maximize outplacements from
1628 restrictive housing consistent with the safety of all persons.

1629 Section 39C. The commissioner, after consultation with the sheriffs and the department
1630 of mental health, shall promulgate regulations governing the training and qualifications of
1631 correction officers, supervisors and managers deployed to restrictive housing.

1632 Section 39D. (a) The commissioner shall publish monthly the number of prisoners held in
1633 each restrictive housing unit within each state and county correctional facility.

1634 (b) The commissioner shall publish quarterly, as to each restrictive housing unit within
1635 each state correctional facility, and annually, as to each restrictive housing unit within each

1636 county correctional facility: (i) the number of prisoners as to whom a finding of serious mental
1637 illness has been made and the number of such prisoners held for more than 30 days; (ii) the
1638 number of prisoners who have committed suicide or committed non-lethal acts of self-harm; (iii)
1639 the number of prisoners according to the reason for their restrictive housing; (iv) as to prisoners
1640 in disciplinary restrictive housing, a listing of prisoners with names redacted, including an
1641 anonymized identification number that shall be consistent across reports, age, race, gender and
1642 ethnicity, whether the prisoner has an open mental health case, the date of the prisoner's
1643 commitment to discipline, the length of the prisoner's term and a summary of the reason for the
1644 prisoner's commitment; (v) the number of placement reviews conducted under clause (iv) and
1645 (v) of subsection (a) of section 39B and the number of prisoners released from restrictive
1646 housing as a result of such placement reviews; (vi) the length of original assignment to and total
1647 time served in disciplinary restrictive housing for each prisoner released from disciplinary
1648 restrictive housing as a result of a placement review; (vii) the count of prisoners released to the
1649 community directly or within 30 days of release from restrictive housing; and (viii) such
1650 additional information as the commissioner may determine.

1651 Such information shall be published in a commonly available electronic, machine
1652 readable format.

1653 (c) The administrators of county correctional facilities shall furnish to the commissioner
1654 all information that the commissioner deems necessary to support reporting under this section.

1655 Section 39E. Prisoners held in restrictive housing for a period of more than 60 days shall
1656 have access to vocational, educational and rehabilitative programs to the extent consistent with
1657 the safety and security of the unit and shall receive good time for participation at the same rates
1658 as the general population.

1659 Section 39F. A prisoner who has less than 180 days until that prisoner’s mandatory
1660 release date or parole release date and who is held in restrictive housing shall be offered reentry
1661 programming that shall include, but shall not limited to housing assistance, assistance obtaining
1662 state and federal benefits, employment readiness training and programming designed to help the
1663 person rebuild interpersonal relationships, which may include, but shall not be limited to, anger
1664 management and parenting courses.

1665 Section 39G. The commissioner shall promulgate regulations to implement sections 39 to
1666 39G, inclusive.

1667 SECTION 179. Sections 40 and 41 of said chapter 127 are hereby repealed.

1668 SECTION 180. Section 48 of said chapter 127, as appearing in the 2016 Official Edition,
1669 is hereby amended by inserting after the first paragraph the following paragraph:-

1670 The commissioner shall ensure that at least 1 educational program leading to the award of
1671 a high school equivalency certificate is available to persons who are committed to the custody of
1672 the department or to a county correctional facility for not less than 6 months and who have not
1673 obtained a high school degree or equivalency. Pursuant to section 129D of chapter 127, good
1674 conduct credit of 10 days shall be granted to a person who satisfactorily completes an
1675 educational program leading to the award of a high school equivalency certificate under this
1676 paragraph.

1677 SECTION 181. Said chapter 127 is hereby further amended by inserting after section
1678 117A the following section:-

1679 Section 117B. A prisoner who requests to initiate treatment related to gender transition or
1680 gender dysphoria and is denied treatment shall be offered an opportunity to be referred to an

1681 independent healthcare provider with expertise in transgender health care for consultation. A
1682 prisoner who previously received a diagnosis of gender dysphoria while in the custody of the
1683 department of correction shall not require a new diagnosis to obtain treatment related to gender
1684 transition.

1685 SECTION 182. Said chapter 127 is hereby further amended by inserting after section 119
1686 the following section:-

1687 Section 119A. (a) As used in this section, the following words shall have the following
1688 meanings unless the context clearly requires otherwise:

1689 “Conditional medical parole plan”, a comprehensive written medical and psychosocial
1690 care plan that is specific to the prisoner and includes the proposed course of treatment and post-
1691 treatment care.

1692 “Department”, the department of correction.

1693 “Permanent incapacitation”, a physical or cognitive incapacitation that appears
1694 irreversible, as determined by a licensed physician, and that is so debilitating that the prisoner
1695 does not pose a public safety risk.

1696 “Secretary”, the secretary of the executive office of public safety and security.

1697 “Terminal illness”, a condition that appears incurable, as determined by a licensed
1698 physician, that will likely cause the death of the prisoner in not more than 18 months and that is
1699 so debilitating that the prisoner does not pose a public safety risk.

1700 (b) Notwithstanding any general or special law to the contrary, a prisoner may be eligible
1701 for conditional medical parole due to a terminal illness or permanent incapacitation pursuant to
1702 subsections (c) and (d).

1703 (c)(1)The superintendent of a correctional facility shall consider a prisoner for
1704 conditional medical parole upon a written petition by the prisoner, the prisoner’s attorney, the
1705 prisoner’s next of kin, the commissioner’s medical provider or a member of the department’s
1706 staff. The superintendent shall review the petition and develop a recommendation as to the
1707 release of the prisoner. Whether or not the superintendent recommends in favor of conditional
1708 medical parole, the superintendent shall, not more than 21 days after receipt of the petition,
1709 transmit the petition and the recommendation to the commissioner. The superintendent shall
1710 submit with the recommendation: (i) a conditional medical parole plan; (ii) a written diagnosis
1711 by a physician licensed to practice medicine under section 2 of chapter 112; and (iii) an
1712 assessment of the risk for violence that the prisoner poses to society.

1713 (2) Upon receipt of the petition and recommendation under paragraph (1), the
1714 commissioner shall notify, in writing, the district attorney, the prisoner, the person who
1715 requested the release, if not the prisoner, and, if applicable under chapter 258B, the victim or the
1716 victim’s family that the prisoner is being considered for conditional medical parole. The parties
1717 who receive the notice shall have an opportunity to provide written statements; provided,
1718 however, that if the prisoner was convicted and is serving a sentence under section 1 of chapter
1719 265, the district attorney or victim’s family may request a hearing.

1720 (d)(1) A sheriff shall consider a prisoner for conditional medical parole upon a written
1721 petition filed by the prisoner, the prisoner’s attorney, the prisoner’s next of kin, the sheriff’s
1722 medical provider or a member of the sheriff’s staff. The sheriff shall review the request and
1723 develop a recommendation as to the release of the prisoner. Whether or not the sheriff
1724 recommends in favor of conditional medical parole, the sheriff shall, not more than 21 days after
1725 receipt of the petition, transmit with the petition and the recommendation to the commissioner.

1726 The sheriff shall transmit with the petition: (i) a conditional medical parole plan; (ii) a written
1727 diagnosis by a physician licensed to practice medicine under section 2 of chapter 112; and (iii) an
1728 assessment of the risk for violence that the prisoner poses to society.

1729 (2) Upon receipt of the petition and recommendation under paragraph (1), the
1730 commissioner shall notify, in writing, the district attorney, the prisoner, the person who
1731 requested the release, if not the prisoner and, if applicable under chapter 258B, the victim or the
1732 victim's family that the prisoner is being considered for conditional medical parole. The parties
1733 who receive the notice shall have an opportunity to submit written statements.

1734 (e) The commissioner shall issue a written decision not later than 45 days after receipt of
1735 a petition, which shall be accompanied by a statement of reasons for the commissioner's
1736 decision. If the commissioner determines that a prisoner is terminally ill or permanently
1737 incapacitated such that if the prisoner is released the prisoner will live and remain at liberty
1738 without violating the law and that the release will not be incompatible with the welfare of
1739 society, the prisoner shall be released on conditional medical parole. The parole board shall
1740 impose terms and conditions for conditional medical parole that shall apply through the date
1741 upon which the prisoner's sentence would have expired.

1742 Not less than 24 hours before the date of a prisoner's release on conditional medical
1743 parole, the commissioner shall notify, in writing, the district attorney, the department of state
1744 police, the police department in the city or town in which the prisoner shall reside and, if
1745 applicable under chapter 258B, the victim or the victim's family of the prisoner's release and the
1746 terms and conditions of the release.

1747 (f) A prisoner granted release under this section shall be under the jurisdiction,
1748 supervision and control of the parole board, as if the prisoner had been paroled pursuant to

1749 section 130 of chapter 127. The parole board may revise, alter or amend the terms and conditions
1750 of a conditional medical parole at any time. If a parole officer receives credible information that
1751 a prisoner has failed to comply with a condition of the prisoner's release or upon discovery that
1752 the terminal illness or permanent incapacitation has improved to the extent that the prisoner
1753 would no longer be eligible for conditional medical parole under this section, the parole officer
1754 shall immediately arrest the prisoner and bring the prisoner before the board for a hearing. If the
1755 board determines that the prisoner violated a condition of the prisoner's conditional medical
1756 parole or that the terminal illness or permanent incapacitation has improved to the extent that the
1757 prisoner would no longer be eligible for conditional medical parole pursuant to this section, the
1758 prisoner shall resume serving the balance of the sentence with credit given only for the duration
1759 of the prisoner's conditional medical parole that was served in compliance with all conditions set
1760 pursuant to this subsection. Revocation of a prisoner's conditional medical parole due to a
1761 change in the prisoner's medical condition shall not preclude a prisoner's eligibility for
1762 conditional medical parole in the future or for another form of release permitted by law.

1763 (g) A prisoner or sheriff aggrieved by a decision denying or granting conditional medical
1764 parole made under this section may petition for relief pursuant to section 4 of chapter 249. A
1765 decision by the court affirming or reversing the commissioner's grant or denial of conditional
1766 medical parole shall not affect a prisoner's eligibility for any other form of release permitted by
1767 law. A decision under this subsection shall not preclude a prisoner's eligibility for conditional
1768 medical parole in the future.

1769 (h) The commissioner and the secretary shall promulgate rules and regulations necessary
1770 to implement this section.

1771 (i) The commissioner and the secretary shall file an annual report not later than March 1
1772 with the clerks of the senate and the house of representatives, the senate and house committees
1773 on ways and means and the joint committee on the judiciary detailing, for the prior fiscal year: (i)
1774 the number of prisoners in the custody of the department or of the sheriffs who applied for
1775 conditional medical parole under this section and the race and ethnicity of each applicant; (ii) the
1776 number of prisoners who have been granted conditional medical parole and the race and ethnicity
1777 of each prisoner; (iii) the nature of the illness of the applicants for conditional medical parole;
1778 (iv) the counties to which the prisoners have been released; (v) the number of prisoners who have
1779 been denied conditional medical parole, the reason for the denial and the race and ethnicity of
1780 each prisoner; (vi) the number of prisoners who have petitioned for conditional medical parole
1781 more than once; (vii) the number of prisoners released who have been returned to the custody of
1782 the department or the sheriff and the reason for each prisoner's return; and (viii) the number of
1783 petitions for relief sought pursuant to subsection (g).

1784 SECTION 183. Section 130 of said chapter 127, as appearing in the 2016 Official
1785 Edition, is hereby amended by inserting after the word "that", in line 47, the following words :-
1786 the terms and conditions shall not include payment of a supervision fee; provided further, that.

1787 SECTION 184. Section 133A of said chapter 127, as so appearing, is hereby amended by
1788 striking out, in line 5, the words "18 years" and inserting in place thereof the following words:-
1789 criminal majority.

1790 SECTION 185. Said section 133A of said chapter 127, as so appearing, is hereby further
1791 amended by adding the following paragraph:-

1792 If a prisoner is indigent and is serving a life sentence for an offense that was committed
1793 before the prisoner reached the age of criminal majority, the prisoner shall have the right to have

1794 appointed counsel at the parole hearing and shall have the right to funds for experts as
1795 determined by the standards in chapter 261.

1796 SECTION 186. Section 133C of said chapter 127, as so appearing, is hereby amended by
1797 striking out, in line 7, the words “18 years” and inserting in place thereof the following words:-
1798 criminal majority.

1799 SECTION 187. Section 144 of said chapter 127, as so appearing, is hereby amended by
1800 striking out, in line 3, the words “thirty dollars” and inserting in place thereof the following
1801 figure:- \$90.

1802 SECTION 188. Said chapter 127 is hereby further amended by striking out section 145,
1803 as so appearing, and inserting in place thereof the following section:-

1804 Section 145. (a) A justice of a trial court shall not commit a person to a prison or place of
1805 confinement solely for the nonpayment of money owed if the person has shown by a
1806 preponderance of the evidence that the person is not able to pay without imposing substantial
1807 financial hardship on the person or the person’s family or dependents. A court shall determine if
1808 a substantial financial hardship exists at a hearing where it shall consider the person’s
1809 employment status, earning ability, financial resources, living expenses and any special
1810 circumstances that may affect the person’s ability to pay.

1811 (b) A justice of trial court shall not commit a person to a prison or place of confinement
1812 solely for the nonpayment of money owed if the person was not offered counsel for the
1813 commitment portion of the case. A person deemed indigent for the purpose of being offered
1814 counsel and who is assigned counsel for the commitment portion of a proceeding solely for the
1815 nonpayment of money owed shall not be assessed a fee for such counsel.

1816 (c) A justice of the trial court shall consider alternatives to incarceration before
1817 committing a person to a prison or place of confinement solely for nonpayment of a fine or any
1818 expenses.

1819 (d) A justice of the trial court shall not commit a person who has not reached the age of
1820 criminal majority to a prison, place of confinement or the department of youth services solely for
1821 the nonpayment of money.

1822 SECTION 189. Chapter 138 of the General Laws is hereby amended by inserting after
1823 section 34A the following section:-

1824 Section 34A ½. (a) A person under 21 years of age who, in good faith, seeks medical
1825 assistance for someone experiencing an alcohol-related overdose shall not be charged or
1826 prosecuted for possession of alcohol under section 34C if the evidence for the charge of
1827 possession of alcohol was gained as a result of seeking medical assistance.

1828 (b) A person under 21 years of age who experiences an alcohol-related overdose and is in
1829 need of medical assistance and, in good faith, seeks such medical assistance or is the subject of
1830 such a good faith request for medical assistance shall not be charged or prosecuted under section
1831 34C if the evidence for the charge of possession of alcohol was gained as a result of seeking
1832 medical assistance.

1833 (c) Nothing in this section shall be construed to limit any seizure of evidence or
1834 contraband otherwise permitted by law. Nothing in this section shall be construed to limit or
1835 abridge the authority of a law enforcement officer to detain or take into custody a person in the
1836 course of an investigation or to effectuate an arrest for any offense.

1837 SECTION 190. Section 10 of chapter 209A of the General Laws, as appearing in the
1838 2016 Official Edition, is hereby amended by striking out the third sentence and inserting in place
1839 thereof the following sentence:- The court may reduce or waive the assessment if the court finds
1840 that the person is indigent or that payment of the assessment would cause substantial financial
1841 hardship to the person or the person's family or dependents.

1842 SECTION 191. Chapter 211B of the General Laws is hereby amended by adding the
1843 following section:-

1844 Section 22. For the purposes of updating the criminal history record, the trial court shall
1845 electronically send to the department of state police all criminal case disposition information for
1846 the offender, including sealing and expungement orders and dismissals, together with the
1847 corresponding offense-based tracking number and fingerprint-based state identification number,
1848 to the extent that the offender has been assigned such numbers and the numbers have been
1849 provided to the court.

1850 SECTION 192. Section 2A of chapter 211D of the General Laws, as appearing in the
1851 2016 Official Edition, is hereby amended by striking out, in line 105, the word "A" and inserting
1852 in place thereof the following words:- Except for a person under the age of criminal majority, a.

1853 SECTION 193. Said section 2A of said chapter 211D, as so appearing, is hereby further
1854 amended by striking out, in lines 106, 108, 110 and 112, the figure "\$150" and inserting in place
1855 thereof, in each instance, the following figure:- \$100.

1856 SECTION 194. Subsection (f) of said section 2A of said chapter 211D, as amended by
1857 section 193, is hereby further amended by striking out, each time it appears, the figure "\$100"
1858 and inserting in place thereof, in each instance, the following figure:- \$50.

1859 SECTION 195. Said section 2A of said chapter 211D, as so appearing, is hereby
1860 amended by striking out subsection (f), as so appearing, and inserting in place thereof the
1861 following subsection:-

1862 (f) Notwithstanding any general or special law to the contrary, no person determined to
1863 be indigent shall be assessed a counsel fee.

1864 SECTION 196. Said section 2A of said chapter 211D is hereby amended by striking out
1865 subsection (i), as appearing in the 2016 Official Edition, and inserting in place thereof the
1866 following subsection:-

1867 (i) The trial court shall submit an annual report to the senate and house committees on
1868 ways and means that shall include, but not be limited to: (i) the number of individuals claiming
1869 indigency who are determined to be indigent for the purposes of appointment of counsel; (ii) the
1870 number of individuals claiming indigency who are determined not to be indigent for the purposes
1871 of appointment of counsel; (iii) the total number of times that an indigent but able to contribute
1872 counsel fee was collected or waived and the aggregate amount of indigent but able to contribute
1873 counsel fees collected and waived; (iv) the average indigent but able to contribute counsel fee
1874 that each court division collects; (v) the total number of times that an indigent but able to
1875 contribute fee was collected or waived and the aggregate amount of indigent but able to
1876 contribute fees collected and waived; and (vi) other pertinent information to ascertain the
1877 effectiveness of indigency verification procedures. The information in the report shall be
1878 delineated by court division and delineated further by month.

1879 SECTION 197. Section 7 of chapter 212 of the General Laws, as appearing in the 2016
1880 Official Edition, is hereby amended by inserting after the first sentence the following sentence:-
1881 An indictment for an offense shall be accompanied by the offense-based tracking number and

1882 fingerprint-based state identification number of the defendant when the corresponding charges
1883 result from an arrest.

1884 SECTION 198. Section 26 of chapter 218 of the General Laws, as so appearing, is hereby
1885 amended by striking out, in line 18, the words "thirteen K" and inserting in place thereof the
1886 following two figures:- "13D, 13K."

1887 SECTION 199. Said section 26 of said chapter 218, as so appearing, is hereby amended
1888 by striking out, in line 27, the words "two hundred and sixty-eight" and inserting in place thereof
1889 the following words:- 268, conspiracy under section 7 of chapter 274, solicitation to commit a
1890 felony under section 8 of said chapter 274.

1891 SECTION 200. Said section 26 of said chapter 218, as so appearing, is hereby further
1892 amended by striking out, in lines 26 to 27, the words "intimidation of a witness or juror under
1893 section thirteen B" and inserting in place thereof the following words:- section 13B.

1894 SECTION 201. Said chapter 218 is hereby further amended by inserting after section 32
1895 the following section:-

1896 Section 32A. An application for a criminal complaint submitted to the district court by a
1897 police department against a person arrested for an offense shall be accompanied by an offense-
1898 based tracking number.

1899 An otherwise valid application for a complaint submitted by a police department against
1900 a person arrested shall not preclude the issuance of a complaint merely because the application
1901 does not include an arrestee's offense-based tracking number. If a complaint is issued based on
1902 an application for a complaint submitted by a police department against a person arrested that did
1903 not include the arrestee's offense-based tracking number, the prosecutor shall submit the offense-
1904 based tracking number of the defendant to the court to be included in the case file.

1905 SECTION 202. Section 20 of chapter 233 of the General Laws, as appearing in the 2016
1906 Official Edition, is hereby amended by striking out clause Fourth and inserting in place thereof
1907 the following clause:-

1908 Fourth, A parent shall not testify against the parent’s minor child and a minor child shall
1909 not testify against the child’s parent in a proceeding before an inquest, grand jury, trial of an
1910 indictment or complaint or any other criminal, delinquency or youthful offender proceeding in
1911 which the victim in the proceeding is not a family member and does not reside in the family
1912 household; provided, however, that for the purposes of this clause, “parent” shall mean the
1913 biological or adoptive parent, stepparent, foster parent, legal guardian or other person who has
1914 the right to act in loco parentis for the child; provided further, that in a case in which the victim
1915 is a family member and resides in the family household, the parent shall not testify as to any
1916 communication with the minor child that was for the purpose of seeking advice regarding the
1917 child’s legal rights.

1918 SECTION 203. Section 13 of chapter 250 of the General Laws, as so appearing, is hereby
1919 amended by striking out, in line 3, the figure “18” and inserting in place thereof the following
1920 words:- criminal majority.

1921 SECTION 204. The fifth paragraph of section 4 of chapter 258B of the General Laws, as
1922 so appearing, is hereby amended by adding the following clause:-

1923 (e) assume the management and administration of the Garden of Peace, a public
1924 memorial garden located on the plaza of 100 Cambridge street in the city of Boston to honor
1925 victims of homicide, receive any gifts or grants of money or property for the purpose of assisting
1926 the board in the maintenance and operation of the memorial and establish an advisory committee
1927 which shall consist of individuals who have served on the board of directors of the Garden of

1928 Peace or other interested citizens appointed by the victim witness assistance board to provide
1929 ongoing advice to the board.

1930 SECTION 205. Section 8 of said chapter 258B, as so appearing, is hereby amended by
1931 striking out, in lines 38 to 40, inclusive, the words “severe financial hardship upon the person
1932 against whom the assessment is imposed” and inserting in place thereof the following words:-
1933 substantial financial hardship upon the person against whom the assessment is imposed or upon
1934 the person’s family or dependents.

1935 SECTION 206. Section 2 of chapter 258C of the General Laws, as so appearing, is
1936 hereby amended by inserting after the word “crime”, in line 11, the following words:- ; provided,
1937 however, that a claimant who was a victim under the age of criminal majority shall not be
1938 required to file such report within 5 days.

1939 SECTION 207. Said section 2 of said chapter 258C, as so appearing, is hereby further
1940 amended by striking out, in line 27, the word “shall” and inserting in place thereof the following
1941 word:- may.

1942 SECTION 208. Subsection (e) of said section 2 of said chapter 258C, as so appearing, is
1943 hereby amended by inserting after the second sentence the following sentence:- In the event of a
1944 victim’s death by homicide, an award may be reduced except the costs for appropriate and
1945 modest funeral, burial or cremation services shall be paid by the fund.

1946 SECTION 209. Section 1 of chapter 258D of the General Laws, as so appearing, is
1947 hereby amended by striking out, in line 10, the words “which tend to establish” and inserting in
1948 place thereof the following words:- consistent with.

1949 SECTION 210. Said section 1 of said chapter 258D, as so appearing, is hereby further
1950 amended by adding the following subsection:-

1951 (G) A claimant shall be entitled to entitled to preliminary relief under section subsection
1952 (E) of section 5 upon an initial showing that there is a substantial likelihood of success on the
1953 merits of the case.

1954 SECTION 211. Section 3 of said chapter 258D, as so appearing, is hereby amended by
1955 inserting after the second sentence the following sentence:- Upon motion of the claimant, the
1956 court shall advance the proceeding for expedited discovery and a speedy trial so that it may be
1957 heard and determined with as little delay as possible.

1958 SECTION 212. Subsection (A) of section 5 of said chapter 258D, as so appearing, is
1959 hereby amended by striking out the fourth to sixth sentences, inclusive, and inserting in place
1960 thereof the following sentence:- The court may include, as part of its judgment against the
1961 commonwealth, an order requiring the commonwealth to provide the claimant with services that
1962 are reasonable and necessary to address any deficiencies in the individual's physical and
1963 emotional condition and waive tuition and fees for the claimant for any educational services from
1964 a state or community college in the commonwealth including, but not limited to, the University
1965 of Massachusetts at Amherst and its satellite campuses.

1966 SECTION 213. Said subsection (A) of said section 5 of said chapter 258D, as so
1967 appearing, is hereby further amended by striking out, in line 43, \$500,000, and inserting in place
1968 thereof the following figure:- \$2,000,000.

1969 SECTION 214. Said section 5 of said chapter 258D, as so appearing, is hereby further
1970 amended by adding the following subsection:-

1971 (E) Upon a ruling in favor of a claimant moving for preliminary relief under subsection
1972 (G) of section 1, the court shall enter an order requiring the commonwealth to provide the
1973 claimant with services that are reasonable and necessary to address any deficiencies in the
1974 individual's physical and emotional condition and waive tuition and fees for the claimant for any
1975 educational services from a state or community college in the commonwealth including, but not
1976 limited to, the University of Massachusetts at Amherst and its satellite campuses.

1977 SECTION 215. Said chapter 258D is hereby further amended by striking out section 6,
1978 as so appearing, and inserting in place thereof the following section:-

1979 Section 6. A claimant who prevails in an action under this chapter shall be entitled to an
1980 award of the costs of the litigation and reasonable attorneys' fees in an amount to be fixed by the
1981 court.

1982 SECTION 216. Section 7 of said chapter 258D, as appearing in the 2016 Official Edition,
1983 is hereby amended by adding the following 2 subsections:-

1984 (E) A settlement agreement under this chapter may include a stipulation or agreement to
1985 an order of expungement or sealing to be entered by the court. Such stipulation or agreement
1986 shall be filed with the court and the court shall enter an order directing the expungement or
1987 sealing of those records of the claimant maintained by the department of criminal justice
1988 information services, the probation department and the sex offender registry that directly pertain
1989 to the claimant's erroneous felony conviction, including documents and other materials and any
1990 biological samples or other materials obtained from the claimant. If the settlement does not
1991 include an agreement to an order of expungement or sealing, the claimant is entitled to seek
1992 expungement or sealing from the court.

1993 (F) For the purposes of this chapter, expungement shall mean the permanent erasure and
1994 destruction of records.

1995 SECTION 217. Section 8 of said chapter 258D, as so appearing, is hereby amended by
1996 striking out, in lines 2 and 6, the figure “2” and inserting in place thereof, in each instance, the
1997 following figure:- 3.

1998 SECTION 218. Section 9 of said chapter 258D, as so appearing, is hereby amended by
1999 striking out subsection (C).

2000 SECTION 219. Section 2 of chapter 258E of the General Laws, as so appearing, is
2001 hereby amended by striking out, in line 7, the figure “18” and inserting in place thereof the
2002 following words:- criminal majority.

2003 SECTION 220. Chapter 263 of the General Laws is hereby amended by striking out
2004 section 1A, as so appearing, and inserting in place thereof the following section:-

2005 Section 1A. Whoever is arrested by virtue of process or is taken into custody by an
2006 officer and is charged with the commission of a felony or misdemeanor shall be fingerprinted
2007 according to the system of the department of state police and photographed. The fingerprints and
2008 photographs shall be immediately forwarded to the department of state police to allow a
2009 biometric positive identification. The fingerprint record shall be suitable for comparison and
2010 shall include an offense-based tracking number, completed description of the offenses charged
2011 and other descriptors as required.

2012 The executive office of public safety and security may audit police departments for
2013 compliance with this section.

2014 SECTION 221. Section 1 of chapter 263A of the General Laws, as so appearing, is
2015 hereby amended by striking out the definition of “Critical witness” and inserting in place thereof
2016 the following definition:-

2017 “Critical witness”, a person who is participating, has participated or is reasonably
2018 expected to participate in a criminal investigation, motion hearing, trial, show cause hearing or
2019 other criminal proceeding or a proceeding involving an alleged violation of conditions of
2020 probation or parole or the commitment of a sexually dangerous person pursuant to chapter 123A
2021 or who has received a subpoena requiring such participation and who is, or was, in the judgment
2022 of the prosecuting officer, a necessary witness at any of the aforementioned proceedings;
2023 provided, however, that “critical witness” shall also include such a person’s relatives, guardians,
2024 friends or associates who are or may be endangered by the person’s participation in any of the
2025 aforementioned proceedings.

2026 SECTION 222. Section 2 of chapter 265 of the General Laws, as so appearing, is hereby
2027 amended by striking out, in line 7, the words “person’s eighteenth birthday” and inserting in
2028 place thereof the following words:- person has attained the age of criminal majority.

2029 SECTION 223. Said chapter 265 is hereby further amended by striking out section 13, as
2030 so appearing, and inserting in place thereof the following section:-

2031 Section 13. (a) Except as hereinafter provided, whoever is found guilty of manslaughter
2032 shall be punished by imprisonment in the state prison for not more than 20 years or by a
2033 imprisonment in a house of correction for not more than 2½ years and a fine of not more than
2034 \$1,000. Whoever is found guilty of manslaughter while committing a violation of sections 102 to
2035 102C, inclusive, of chapter 266 shall be punished by imprisonment in the state prison for life or
2036 for any term of years.

2037 (b) A corporation that is found guilty of manslaughter shall be punished by a fine of not
2038 less than \$250,000. If a corporation is found guilty under this section, the appropriate
2039 commissioner or secretary may debar the corporation under section 29F of chapter 29 for not
2040 more than 10 years.

2041 SECTION 224. Said chapter 265 is hereby further amended by striking out section 13B,
2042 as so appearing, and inserting in place thereof the following section:-

2043 Section 13B. Whoever is found guilty of indecent assault and battery on a minor under
2044 the age of 14 shall be punished by imprisonment in the state prison for not more than 10 years or
2045 by imprisonment in a house of correction for not more than 2½ years. A prosecution commenced
2046 under this section shall not be continued without a finding or placed on file. In a prosecution
2047 under this section, a minor under the age of 14 years shall be deemed incapable of consenting to
2048 any conduct of the defendant for which the defendant is being prosecuted unless: (i) the
2049 defendant is not more than 2 years older than the minor; or (ii) the defendant is not more than 1
2050 years older than the minor if the minor is under 12 years of age.

2051 SECTION 225. Section 13D of said chapter 265, as so appearing, is hereby amended by
2052 adding the following paragraph:-

2053 Whoever commits an assault and battery upon a police officer when such person is
2054 engaged in the performance of the person's duties at the time of the assault and battery, causing
2055 serious bodily injury, shall be punished by a term of imprisonment in the state prison for not less
2056 than 1 year nor more than 10 years or house of correction for not less than 1 year nor more than
2057 2½ years. A sentence imposed under this section shall not be for less than a mandatory minimum
2058 term of imprisonment of 1 year. A fine of not less than \$500 nor more than \$10,000 may be
2059 imposed but not in lieu of the mandatory minimum term of imprisonment. A prosecution

2060 commenced under this paragraph shall not be placed on file or continued without a finding and a
2061 sentence imposed upon a person convicted of violating this paragraph shall not be suspended or
2062 reduced, nor shall such a person be eligible for probation, parole, work release, furlough or
2063 receive any deduction from the person's sentence for good conduct until the person shall have
2064 served the mandatory minimum term of imprisonment.

2065 SECTION 226. Section 15A of said chapter 265, as so appearing, is hereby amended by
2066 striking out, in line 24, the words "18 years of age or over" and inserting in place thereof the
2067 following words:- who has attained the age of criminal majority.

2068 SECTION 227. Said section 15A of said chapter 265, as so appearing, is hereby further
2069 amended by striking out, in line 46, the words "is 18 years of age or older" and inserting in place
2070 thereof the following words:- has attained the age of criminal majority.

2071 SECTION 228. Section 15B of said chapter 265, as so appearing, is hereby amended by
2072 striking out, in line 24, the words "18 years of age or over" and inserting in place thereof the
2073 following words:- who has attained the age of criminal majority.

2074 SECTION 229. Section 18 of said chapter 265, as so appearing, is hereby amended by
2075 striking out, in line 26 and 27, the words "18 years of age or over" and inserting in place thereof
2076 the following words:- who has attained the age of criminal majority.

2077 SECTION 230. Section 18B of said chapter 265, as so appearing, is hereby amended by
2078 striking out, in lines 43 and 44, the figure "18 years of age or over" and inserting in place thereof
2079 the following words:- who has attained the age of criminal majority.

2080 SECTION 231. Section 19 of said chapter 265, as so appearing, is hereby amended by
2081 striking out, in lines 23 and 24, the words "18 years of age or over" and inserting in place thereof
2082 the following words:-who has attained the age of criminal majority.

2083 SECTION 232. Said chapter 265 is hereby further amended by striking out section 23, as
2084 so appearing, and inserting in place thereof the following section:-

2085 Section 23. Whoever has sexual intercourse with a minor under 16 years of age and: (i)
2086 the defendant is more than 2 years older than the minor; or (ii) the minor is under 13 years of
2087 age, shall be punished by imprisonment in the state prison for life or for any term of years or,
2088 except as otherwise provided, for any term of years in a jail or house of correction; provided,
2089 however, that a prosecution commenced under this section shall not be placed on file or
2090 continued without a finding.

2091 Notwithstanding section 54 of chapter 119 or any other general or special law to the
2092 contrary, in a prosecution under this section in which the defendant is under the age of criminal
2093 majority at the time of the offense, the commonwealth shall only proceed by a complaint in
2094 juvenile court or in a juvenile session of a district court.

2095 SECTION 233. Section 43 of said chapter 265, as so appearing, is hereby amended by
2096 striking out, in lines 56 and 89, the words “18 years of age or over” and inserting in place
2097 thereof, in each instance, the following words:- who has attained the age of criminal majority.

2098 SECTION 234. The second paragraph of section 47 of said chapter 265, as so appearing,
2099 is hereby amended by striking out the last sentence and inserting in place thereof the following
2100 sentence:- The court may waive the fees if an offender establishes that the fees would impose a
2101 substantial financial hardship upon the offender or the offender’s family or dependents.

2102 SECTION 235. Said chapter 265 of the General Laws, as so appearing, is hereby further
2103 amended by adding the following section:-

2104 Section 59. (a) At any time after the entry of a judgment of disposition on an indictment
2105 or criminal or delinquency complaint for an offense, excluding a felony offense, the court in
2106 which it was entered shall, upon motion of the defendant, vacate any conviction, adjudication of
2107 delinquency, or continuance without a finding and permit the defendant to withdraw any plea of
2108 guilty, plea of nolo contendere, plea of delinquent, or factual admission tendered in association
2109 with one or more pleas upon a finding by the court, established by a preponderance of the
2110 evidence, that the defendant’s participation in the offense was a result of having been a victim of
2111 human trafficking as defined by section 20M of chapter 233 or a victim of trafficking in persons
2112 under 22 U.S.C. 7102.

2113 (b) For the purposes of this subsection, “official documentation” shall mean a document
2114 issued by a local, state or federal government agency in the agency’s official capacity.

2115 Except as provided in this section, the defendant shall have the burden of establishing by
2116 a preponderance of the evidence that the defendant’s participation in the offense was the result of
2117 having been a victim of human trafficking. If the conviction, adjudication of delinquency, or
2118 continuance without a finding was for an offense under sections 8, 26 or 53A of chapter 272 or
2119 common nightwalking or common streetwalking under section 53 of chapter 272, official
2120 documentation of the defendant’s status as a victim of human trafficking or trafficking in persons
2121 at the time of the offense shall create a rebuttable presumption that the defendant’s participation
2122 in the offense was a result of having been a victim of human trafficking or trafficking in persons;
2123 provided, however, that such documentation shall not be required for granting a motion under
2124 this section.

2125 (c) In determining whether the defendant's participation in the offense was a result of
2126 having been a victim of human trafficking, the court may consider any evidence it deems
2127 appropriate in determining whether the person was a victim of human trafficking.

2128 (d) The rules concerning the admissibility of evidence at criminal trials shall not apply to
2129 the presentation and consideration of evidence at a hearing conducted pursuant to this section.
2130 The court may, in its discretion, consider any evidence it deems relevant, including, but not
2131 limited to, hearsay evidence.

2132 (e) Where a child under the age of 18 was adjudicated delinquent for an offense under
2133 sections 8, 26, 53 or 53A of chapter 272, based on allegations of prostitution, there shall be an
2134 irrebuttable presumption that the child's participation in the offense was a result of having been a
2135 victim of human trafficking or trafficking in persons.

2136 (f) A motion pursuant to this section may be heard by the justice that originally heard the
2137 matter or any sitting justice of the court that originally heard the matter.

2138 (g) Upon vacatur of a conviction, adjudication of delinquency, or continuance without a
2139 finding, the court shall enter a plea of not guilty, except if the vacated conviction, adjudication of
2140 delinquency, or continuance without a finding was for an offense under sections 8, 26 or 53A of
2141 chapter 272 or for common nightwalking or common streetwalking under section 53 of chapter
2142 272, in which case the court shall dismiss the indictment or criminal or delinquency complaint
2143 with prejudice. Upon vacatur of a conviction, adjudication of delinquency, or continuance
2144 without a finding and the entrance of a plea of not guilty pursuant to this section, it shall be an
2145 affirmative defense to the charges against the defendant that the defendant's participation in the
2146 offense was a result of having been a victim of human trafficking or trafficking in persons.

2147 (h) The chief justice of the trial court shall prescribe the form in which a motion may be
2148 filed under this section.

2149 (i) A conviction, adjudication of delinquency, or continuance without a finding vacated
2150 under this section shall be deemed to have been vacated on the merits.

2151 SECTION 236. Section 30 of chapter 266 of the General Laws, as so appearing, is hereby
2152 amended by striking out, in lines 9, 13 and 14, 77 and 82, the words “two hundred and fifty
2153 dollars” and inserting in place thereof, in each instance, the following figure:- \$1,500.

2154 SECTION 237. Said section 30 of said chapter 266, as so appearing, is hereby further
2155 amended by striking out, in lines 16 to 23, the words “property was stolen from the conveyance
2156 of a common carrier or of a person carrying on an express business, shall be punished for the
2157 first offence by imprisonment for not less than six months nor more than two and one half years,
2158 or by a fine of not less than fifty nor more than six hundred dollars, or both, and for a subsequent
2159 offence, by imprisonment for not less than eighteen months nor more than two and one half
2160 years, or by a fine of not less than one hundred and fifty nor more than six hundred dollars, or
2161 both” and inserting in place thereof the following words:- value of the property stolen is more
2162 than \$250 but not more than \$500, shall be punished by imprisonment in a jail or house of
2163 correction for not more than 1 year or by a fine of not more than \$500; or, if the value of the
2164 property stolen is more than \$500 but not more than \$1,000, shall be punished by imprisonment
2165 in a jail or house of correction for not more than 1 year or by a fine of not more than \$1,000; or,
2166 if the value of the property stolen is more than \$1,000 but not more than \$1,500, shall be
2167 punished by imprisonment in a jail or house of correction for not more than 1 year or by a fine of
2168 not more than \$2,500.

2169 SECTION 238. Said section 30 of said chapter 266, as so appearing, is hereby further
2170 amended by adding the following paragraph:-

2171 (6) A law enforcement officer may arrest a person without a warrant that the officer has
2172 probable cause to believe has committed an offense under this section and the value of the
2173 property stolen is more than \$250.

2174 SECTION 239. Section 30A of said chapter 266, as so appearing, is hereby amended by
2175 striking out, in lines 35 and 42 and in lines 46 and 47, the words “one hundred dollars” and
2176 inserting in place thereof, in each instance, the following figure:- \$250.

2177 SECTION 240. Section 37A of said chapter 266, as so appearing, is hereby amended by
2178 striking out the definition of “Credit card” and inserting in place thereof the following
2179 definition:-

2180 “Credit card”, an instrument or device, whether known as a credit card, credit plate or
2181 other name, or the code of number used to identify that instrument or device or an account of
2182 credit or cash accessed by that instrument or device, issued with or without a fee by an issuer for
2183 the use of the cardholder in obtaining money, goods, services or anything else of value on credit
2184 or by debit from a cash account.

2185 SECTION 241. Section 37B of said chapter 266, as so appearing, is hereby amended by
2186 striking out, in lines 24 and 25, 29 and 30, 37 and 38 and 45 and 46, the words “two hundred and
2187 fifty dollars” and inserting in place thereof, in each instance, the following figure:- \$1,500.

2188 SECTION 242. Said section 37B of said chapter 266, as so appearing, is hereby further
2189 amended by striking out, in lines 49 and 50, the words “five hundred dollars” and inserting in
2190 place thereof the following figure:- \$3,000.

2191 SECTION 243. Said section 37B of said chapter 266, as so appearing, is hereby further
2192 amended by striking out the last paragraph and inserting in place thereof the following
2193 paragraph:-

2194 A law enforcement officer may arrest any person without a warrant that the officer has
2195 probable cause to believe has committed an offense under this section and the value of the
2196 property stolen exceeds \$250.

2197 SECTION 244. Section 37C of said chapter 266, as so appearing, is hereby amended by
2198 striking out, in lines 12, 17 and 23, and in lines 31 and 32, the words “two hundred and fifty
2199 dollars” and inserting in place thereof, in each instance, the following figure:- \$1,500.

2200 SECTION 245. Said section 37C of said chapter 266, as so appearing, is hereby further
2201 amended by striking out, in lines 39 and 40, the words “two thousand dollars” and inserting in
2202 place thereof the following figure:- \$5,000.

2203 SECTION 246. Said section 37C of said chapter 266, as so appearing, is hereby further
2204 amended by striking out the last paragraph and inserting in place thereof the following
2205 paragraph:-

2206 A law enforcement officer may arrest any person without warrant that the officer has
2207 probable cause to believe has committed an offense under this section and the value of the
2208 property stolen exceeds \$250.

2209 SECTION 247. Section 37E of said chapter 266, as so appearing, is hereby amended by
2210 inserting after subsection (c) the following subsection:-

2211 (c ½) Whoever possesses a tool, instrument or other article adapted, designed or
2212 commonly used for accessing a person’s financial services account number or code, savings
2213 account number or code, checking account number or code, brokerage account number or code,

2214 credit card account number or code, debit card number or code, automated teller machine
2215 number or code, personal identification number, mother's maiden name, computer system
2216 password, electronic signature or unique biometric data that is a fingerprint, voice print, retinal
2217 image or iris image of another person under circumstances evincing an intent to use or
2218 knowledge that some person intends to use the same in the commission of larceny shall be guilty
2219 of identity fraud and shall be punished by a fine of not more than \$5,000 or imprisonment in a
2220 house of correction for not more than 2½ years or by both such fine and imprisonment.

2221 SECTION 248. Section 60 of said chapter 266, as so appearing, is hereby amended by
2222 striking out, in lines 13, 16 and 20, the figure "\$250" and inserting in place thereof, in each
2223 instance, the following figure:- \$1,500.

2224 SECTION 249. Said section 60 of said chapter 266, as so appearing, is hereby further
2225 amended by striking out, in line 15, the figure "\$1,000" and inserting in place thereof the
2226 following figure:- \$2,500.

2227 SECTION 250. Said section 60 of said chapter 266, as so appearing, is hereby further
2228 amended by adding the following paragraph:-

2229 A law enforcement officer may arrest any person without warrant that the officer has
2230 probable cause to believe has committed an offense under this section and the value of the
2231 property stolen exceeds \$250.

2232 SECTION 251. Section 126A of said chapter 266, as so appearing, is hereby amended by
2233 striking out the second paragraph.

2234 SECTION 252. Section 126B of said chapter 266, as so appearing, is hereby amended by
2235 striking out the second paragraph.

2236 SECTION 253. Section 127 of said chapter 266, as so appearing, is hereby amended by
2237 striking out, in line 13, the words “two hundred and fifty dollars” and inserting in place thereof
2238 the following figure:- \$1,500.

2239 SECTION 254. Chapter 268 of the General Laws is hereby amended by striking out
2240 section 13B, as so appearing, and inserting in place thereof the following section:-

2241 Section 13B. (a) As used in this section, the following words shall have the following
2242 meanings unless the context clearly requires otherwise:

2243 “Investigator”, an individual or group of individuals lawfully authorized by a department
2244 or agency of the federal government or any political subdivision thereof or a department or
2245 agency of the commonwealth or any political subdivision thereof to conduct or engage in an
2246 investigation of, prosecution for, or defense of a violation of the laws of the United States or of
2247 the commonwealth in the course of such individual’s or group’s official duties.

2248 “Harass”, to engage in an act directed at a specific person or group of persons that
2249 seriously alarms or annoys such person or group of persons and would cause a reasonable person
2250 or group of persons to suffer substantial emotional distress including, but not limited to, an act
2251 conducted by mail or by use of a telephonic or telecommunication device or electronic
2252 communication device including, but not limited to, a device that transfers signs, signals, writing,
2253 images, sounds, data or intelligence of any nature, transmitted in whole or in part by a wire,
2254 radio, electromagnetic, photoelectronic or photo-optical system including, but not limited to,
2255 electronic mail, internet communications, instant messages and facsimile communications.

2256 (b) Whoever willfully, either directly or indirectly: (i) threatens, attempts or causes
2257 physical, emotional or economic injury or property damage to; (ii) conveys a gift, offer or
2258 promise of anything of value to; or (iii) misleads, intimidates or harasses another person who is

2259 a: (A) witness or potential witness; (B) person who is or was aware of information, records,
2260 documents or objects that relate to a violation of a criminal law or a violation of conditions of
2261 probation, parole, bail or other court order; (C) judge, juror, grand juror, attorney, victim witness
2262 advocate, police officer, federal agent, investigator, clerk, court officer, court reporter, court
2263 interpreter, correction officer, probation officer or parole officer; (D) person who is or was
2264 attending or a person who had made known an intention to attend a proceeding described in this
2265 section; or (E) family member of a person described in this section, with the intent to or with
2266 reckless disregard for the fact that it may: (1) impede, obstruct, delay, prevent or otherwise
2267 interfere with: (I) a criminal investigation at any stage, a grand jury proceeding, a dangerousness
2268 hearing, a motion hearing, a trial or other criminal proceeding of any type or a parole hearing,
2269 parole violation proceeding or probation violation proceeding; or (II) an administrative hearing
2270 or a probate or family court proceeding, juvenile proceeding, housing proceeding, land
2271 proceeding, clerk's hearing, court-ordered mediation or any other civil proceeding of any type;
2272 or (2) punish, harm or otherwise retaliate against any such person described in this section for
2273 such person or such person's family member's participation in any of the proceedings described
2274 in this section, shall be punished by imprisonment in the state prison for not more than 10 years
2275 or by imprisonment in the house of correction for not more than 2 ½ years or by a fine of not
2276 less than \$1,000 or more than \$5,000 or by both such fine and imprisonment. If the proceeding in
2277 which the misconduct is directed at is the investigation or prosecution of a crime punishable by
2278 life imprisonment or the parole of a person convicted of a crime punishable by life
2279 imprisonment, such person shall be punished by imprisonment in the state prison for not more
2280 than 20 years or by imprisonment in the house of corrections for not more than 2 ½ years or by a
2281 fine of not more than \$10,000 or by both such fine and imprisonment.

2282 (c) A prosecution under this section may be brought in the county in which the criminal
2283 investigation, trial or other proceeding was being conducted or took place or in the county in
2284 which the alleged conduct constituting the offense occurred.

2285 SECTION 255. Said chapter 268 is hereby further amended by inserting after section
2286 21A the following section:-

2287 Section 21B. A person over the age of 21 who is employed by or contracts with a public
2288 or private school, the department of youth services, the department of children and families, the
2289 department of mental health, the department of developmental services or a private institution
2290 that provides services to clients of such departments, who is a teacher, administrator or a person
2291 in a similar position of authority in the school, department or institution and, in the course of
2292 such employment or contract or as a result thereof, engages in, within or outside of the school,
2293 department or institution, sexual relations with a person who is: (i) under the age of 19, has not
2294 received a high school diploma, general educational development certificate or equivalent
2295 document and is served by the school, department or institution; or (ii) under the age of 22, has
2296 special needs under chapter 71B, has not received a high school diploma, general educational
2297 development certificate or equivalent document and is served by the school, department or
2298 institution, shall be punished by imprisonment in a state prison for not more than 5 years or in a
2299 jail or house of corrections for not more than 2½ years, by a fine of \$10,000 or by both such fine
2300 and imprisonment. In a prosecution commenced under this section, an individual served by such
2301 a school, department or institution shall be deemed incapable of consent to sexual relations with
2302 the person.

2303 SECTION 256. Section 10 of chapter 269 of the General Laws, as appearing in the 2016
2304 Official Edition, is hereby amended by striking out, in line 53, the words “18 years of age or

2305 older” and inserting in place thereof the following words:- who has attained the age of criminal
2306 majority.

2307 SECTION 257. Said section 10 of said chapter 269, as so appearing, is hereby further
2308 amended by striking out, in line 55, the words “ages fourteen and 18” and inserting in place
2309 thereof the following words:- age 14 and the age of criminal majority.

2310 SECTION 258. Said section 10 of said chapter 269, as so appearing, is hereby further
2311 amended by striking out, in lines 223 and 255, the words “18 years of age or over” and inserting
2312 in place thereof the following words:- who has attained the age of criminal majority.

2313 SECTION 259. Section 10E of said chapter 269, as so appearing, is hereby amended by
2314 striking out, in lines 40 and 41, the words “18 years of age or over” and inserting in place thereof
2315 the following words:- who has attained the age of criminal majority.

2316 SECTION 260. Said section 10E of said chapter 269, as so appearing, is hereby further
2317 amended by striking out, in line 42, the figure “18” and inserting in place thereof the following
2318 words:- the age of criminal majority.

2319 SECTION 261. Section 10F of said chapter 269, as so appearing, is hereby amended by
2320 striking out, in lines 4 and 28, the words “18 years of age or over” and inserting in place thereof
2321 the following words:- who has attained the age of criminal majority.

2322 SECTION 262. Said section 10F of said chapter 269, as so appearing, is hereby further
2323 amended by striking out, in line 32, the figure “18” and inserting in place thereof the following
2324 words:- criminal majority.

2325 SECTION 263. Said section 10F of said chapter 269, as so appearing, is hereby further
2326 amended by striking out, in line 50, the words “17 years of age” and inserting in place thereof the
2327 following words:- who has attained the age of criminal majority

2328 SECTION 264. Section 10G of said chapter 269, as so appearing, is hereby amended by
2329 striking out, in lines 34 and 35, the words “18 years of age or over” and inserting in place thereof
2330 the following words:- who has attained the age of criminal majority.

2331 SECTION 265. Section 10H of said chapter 269, as so appearing, is hereby amended by
2332 striking out, in line 7, the words “the vapors of glue” and inserting in place thereof the following
2333 words:- from smelling or inhaling the fumes of any substance having the property of releasing
2334 toxic vapors as defined in section 18 of chapter 270.

2335 SECTION 266. Section 4 of chapter 272 of the General Laws is hereby repealed.

2336 SECTION 267. Said chapter 272 is hereby further amended by striking out section 40, as
2337 appearing in the 2016 Official Edition, and inserting in place thereof the following section:-

2338 Section 40. Whoever willfully interrupts or disturbs an assembly of people meeting for a
2339 lawful purpose shall be punished by imprisonment for not more than 1 month or by a fine of not
2340 more than \$50; provided, however, that an elementary or secondary school student shall not be
2341 charged, adjudicated delinquent or convicted for an alleged violation of this section for such
2342 conduct within school buildings or on school grounds or in the course of school-related events.

2343 SECTION 268. Section 53 of said chapter 272, as so appearing, is hereby amended by
2344 striking out subsection(b) and inserting in place thereof the following subsection:-

2345 (b) Disorderly persons and disturbers of the peace shall, for a first offense, be punished
2346 by a fine of not more than \$150; provided, however, that no such person who violates this
2347 subsection shall have a finding of delinquency entered against that person for a first offense. For
2348 a second or subsequent offense, disorderly persons and disturbers of the peace shall be punished
2349 by imprisonment in a jail or house of correction for not more than 6 months or by a fine of not
2350 more than \$200 or by both such fine and imprisonment; provided, however, that an elementary

2351 or secondary school student shall not be charged, adjudicated delinquent or convicted for an
2352 alleged violation of this subsection for such conduct within school buildings or on school
2353 grounds or in the course of school-related events.

2354 SECTION 269. Section 6 of chapter 274 of the General Laws, as so appearing, is hereby
2355 amended by striking out, in lines 1 to 3, inclusive, the words “by doing any act toward its
2356 commission, but fails in its perpetration, or is intercepted or prevented in its perpetration,” and
2357 inserting in place thereof the following:- as defined in section 6A.

2358 SECTION 270. Said chapter 274 is hereby further amended by inserting after section 6
2359 the following section:-

2360 Section 6A. (a) A person shall be guilty of an attempt to commit a crime if, acting with
2361 the intent otherwise required for commission of the crime, such person:

2362 (i) purposely engages in conduct that would constitute the crime if the attendant
2363 circumstances were as the person believes them to be;

2364 (ii) when causing a particular result is an element of the crime, does or omits to do
2365 anything with the purpose of causing or with the belief that it will cause such result without
2366 further conduct on the person’s part; or

2367 (iii) purposely does or omits to do anything that, under the circumstances as the person
2368 believes them to be, is an act or omission constituting a substantial step in a course of conduct
2369 planned to culminate in that person’s commission of the crime.

2370 (b) Conduct shall not be held to constitute a substantial step under clause (iii) of
2371 subsection (a) unless it is strongly corroborative of the actor’s criminal purpose.

2372 (c) A person who engages in conduct designed to aid another to commit a crime that
2373 would establish such person’s complicity if the crime were committed by such other person,

2374 shall be guilty of an attempt to commit a crime whether or not the crime is committed or
2375 attempted by such other person.

2376 (d) When the actor's conduct would otherwise constitute an attempt under clause (ii) or
2377 (iii) of subsection (a), it shall be an affirmative defense that the actor abandoned the effort to
2378 commit the crime or otherwise prevented its commission under circumstances which clearly
2379 demonstrate a complete and voluntary renunciation of the actor's criminal purpose. The
2380 establishment of such a defense shall not affect the liability of an accomplice who did not join in
2381 such abandonment or prevention.

2382 Renunciation of criminal purpose shall not be deemed voluntary if it is motivated, in
2383 whole or in part, by circumstances not present or apparent at the inception of the actor's course
2384 of conduct, that increase the probability of detection or apprehension or that make more difficult
2385 the accomplishment of the criminal purpose. Renunciation shall not be complete if it is
2386 motivated by a decision to postpone the criminal conduct until a more advantageous time or to
2387 transfer the criminal effort to another but similar objective or victim.

2388 SECTION 271. Said chapter 274 is hereby further amended by adding the following
2389 section:-

2390 Section 8. Whoever solicits, counsels, advises or otherwise entices another to commit a
2391 crime that may be punished by imprisonment in the state prison and who intends that the person,
2392 in fact, commit or procure the commission of the crime alleged shall, except as otherwise
2393 provided, be punished:

2394 (i) by imprisonment in the state prison for not more than 20 years or in a jail or house of
2395 correction for not more than 2½ half years or by a fine of not more than \$10,000 or by both such

2396 fine and imprisonment if the intent of the solicitation, counsel, advice or enticement is a crime
2397 punishable by imprisonment for life;

2398 (ii) by imprisonment in the state prison for not more than 10 years or in a jail or house of
2399 correction for not more than 2½ years or by a fine of not more than \$10,000 or by both such fine
2400 and imprisonment if the intent of the solicitation, counsel, advice or enticement is a crime
2401 punishable by imprisonment in the state prison for at least 10 years but not punishable by
2402 imprisonment for life;

2403 (iii) by imprisonment in the state prison for not more than 5 years or in a jail or house of
2404 correction for not more than 2½ years or by a fine of not more than \$5,000 or by both such fine
2405 and imprisonment if the intent of the solicitation, counsel, advice or enticement is a crime
2406 punishable by imprisonment in the state prison for at least 5 years but not more than 10 years; or

2407 (iv) by imprisonment for not more 2½ years in a jail or house of correction or by a fine of
2408 not more than \$2,000 or by both such fine and imprisonment if the intent of the solicitation,
2409 counsel, advice or enticement is a crime punishable by imprisonment in the state prison for less
2410 than 5 years.

2411 If a person is convicted of a crime of solicitation, counsel, advice or enticement for which
2412 crime the penalty for solicitation, counsel, advice or enticement is expressly set forth, in any
2413 other General Law, this section shall not apply and the penalty therefor shall be imposed
2414 pursuant to the other General Law.

2415 SECTION 272. Section 2 of chapter 275 of the General Laws, as appearing in the 2016
2416 Official Edition, is hereby amended by inserting after the word “subscribed”, in line 5, the
2417 following words:- electronically or in person.

2418 SECTION 273. Section 2A of chapter 276 of the General Laws, as so appearing, is
2419 hereby amended by striking out, in line 1, the word “The” and inserting in place thereof the
2420 following words:- The signature on the warrant may be made by electronic signature. The.

2421 SECTION 274. Section 2B of said chapter 276, as so appearing, is hereby amended by
2422 inserting after the word “personally”, in lines 1 and 2, the following words:- or through wire or
2423 electronic means.

2424 SECTION 275. Said section 2B of said chapter 276, as so appearing, is hereby further
2425 amended by inserting after the word “form”, in line 13, the following words:- and the signature
2426 therein may be made by electronic signature.

2427 SECTION 276. Section 22 of said chapter 276, as so appearing, is hereby amended by
2428 inserting after the word “subscribed”, in line 4, the following words:- electronically or in person.

2429 SECTION 277. Section 30 of said chapter 276, as so appearing, is hereby amended by
2430 striking out, in lines 5 and 6, the words “upon a finding of good cause by the court the fee may
2431 be waived” and inserting in place thereof the following words:- the court may waive the fee upon
2432 a finding of good cause or upon a finding that such fee would impose a substantial financial
2433 hardship on the person or the person’s family or dependents.

2434 SECTION 278. Said section 30 of said chapter 276, as so appearing, is hereby further
2435 amended by striking out, in line 11, the words “such person is indigent” and inserting in place
2436 thereof the following words:- the fee would impose a substantial financial hardship on the person
2437 or the person’s family or dependents.

2438 SECTION 279. Section 42A of said chapter 276, as so appearing, is hereby amended by
2439 striking out the first 6 paragraphs and inserting in place thereof the following paragraph:-

2440 As part of the disposition of a criminal complaint involving a crime of abuse as defined in
2441 section 57, the court may establish such terms and conditions of probation as will insure the
2442 safety of the person who has suffered such abuse or threat thereof and will prevent the recurrence
2443 of such abuse or the threat thereof.

2444 SECTION 280. Said chapter 276 is hereby further amended by striking out sections 57 to
2445 59, inclusive, as so appearing, and inserting in place thereof the following 8 sections:-

2446 Section 57. (a) The following words, as used in section 42A and sections 57 to 59,
2447 inclusive, shall have the following meanings unless the context clearly requires otherwise:

2448 “Bail commissioner”, a person other than a statutorily-authorized magistrate or an
2449 assistant clerk of the superior court department appointed by the trial court of the commonwealth
2450 to admit to bail outside of court hours.

2451 “Bail magistrate”, a clerk magistrate or assistant clerk magistrate of the district court
2452 department, Boston municipal court department, juvenile court department or housing court
2453 department or a clerk of court of the superior court department or an assistant clerk of the
2454 superior court department who has been approved by the trial court of the commonwealth to
2455 admit people to bail.

2456 “Controlled substance”, the same meaning as ascribed to it in section 1 of chapter 94C;

2457 “Crime of abuse”, a crime or complaint that involves the infliction, or the imminent threat
2458 of infliction, of physical harm upon a person by such person’s family or household member as
2459 defined in section 1 of chapter 209A, which may include assault and battery, trespass and threat
2460 to commit a crime or any violation of an order issued pursuant to section 18, 34B or 34C of
2461 chapter 208, section 32 of chapter 209, section 3, 4 or 5 of chapter 209A or section 15 or 20 of

2462 chapter 209C or any act that would constitute abuse as defined in said section 1 of said chapter
2463 209A or a violation of section 13M or 15D of chapter 265;

2464 “Dangerous crime”, (i) a felony offense that has as an element of the offense, the use,
2465 attempted use or threatened use of physical force against the person of another; (ii) burglary and
2466 arson; (iii) any other felony that, by its nature, involves a substantial risk that physical force
2467 against the person of another may result; (iv) a violation of an order pursuant to section 18, 34B
2468 or 34C of chapter 208, section 32 of chapter 209, section 3, 4 or 5 of chapter 209A or section 15
2469 or 20 of chapter 209C; (v) a misdemeanor or felony involving abuse as defined in section 1 of
2470 said chapter 209A; (vi) a violation of section 13B of chapter 268; (vii) a third or subsequent
2471 violation of section 24 of chapter 90; (viii) a violent crime as defined in section 121 of chapter
2472 140 for which a term of imprisonment may be served; (ix) a second or subsequent offense of
2473 felony possession of a weapon or machine gun as defined in said section 121 of said chapter 140;
2474 (x) a violation of subsection (a), (c) or (m) of section 10 of chapter 269, except for a violation
2475 based on possession of a large capacity feeding device without simultaneous possession of a
2476 large capacity weapon; and (xi) a violation of section 10G of chapter 269; and (xii) a violation of
2477 section 13D of chapter 265 in which the public employee is alleged to be a police officer.

2478 “Financial condition”, a secured or unsecured bond.

2479 “Judicial officer”, a judge or a clerk or assistant clerk of the superior, district, Boston
2480 municipal, juvenile, probate and family or housing court.

2481 “Personal surety”, a person who agrees, to the satisfaction of the judicial officer, to
2482 ensure the appearance of a juvenile defendant.

2483 “Pretrial services”, the pretrial services initiative established in section 58D.

2484 “Release order”, an order releasing a defendant on personal recognizance or on
2485 conditions, regardless of whether the defendant has satisfied any financial condition.

2486 “Risk assessment tool”, an empirically-developed uniform tool validated in the
2487 commonwealth that analyzes risk factors, created or chosen and implemented by pretrial services
2488 to produce a risk assessment classification for a defendant that will aid the judicial officer in
2489 making determinations under sections 58 to 58C, inclusive; provided, however, that a separate,
2490 empirically-developed tool may be used for juveniles.

2491 “Secured bond”, payment to the court of a specified amount of money which, in the
2492 discretion of the judicial officer, would reasonably assure the presence of a criminal defendant as
2493 required, taking into consideration the defendant’s ability to pay.

2494 “Unsecured bond”, a defendant’s promise to pay to the court a specified amount of
2495 money if the defendant does not appear before the court on a date certain; provided, however,
2496 that the unsecured bond shall be in an amount that, in the discretion of the judicial officer, would
2497 reasonably assure the presence of a defendant as required, taking into consideration the
2498 defendant’s ability to pay.

2499 (b) Upon the appearance before a judicial officer of a defendant charged with an offense,
2500 the judicial officer shall hold a hearing, at which the defendant and defendant’s counsel, if any,
2501 may participate and inquire into the case to determine whether the defendant shall be released or
2502 detained pending trial of the case as provided in this section and sections 58 to 58B, inclusive. At
2503 the hearing, the judicial officer shall have immediate access to all pending and prior criminal
2504 offender record information, board of probation records and police and incident reports related to
2505 the defendant, upon oral, telephonic, facsimile or electronic mail request, to the extent

2506 practicable. At the conclusion of the hearing, the judicial officer shall issue an order that,
2507 pending trial, the defendant shall be:

2508 (i) released on personal recognizance under subsection (a) of section 58;

2509 (ii) released on conditions under subsection (b) of said section 58;

2510 (iii) detained or released on a condition or combination of conditions under section 58A;

2511 or

2512 (iv) temporarily detained for not more than 5 business days to permit revocation of
2513 conditional release under section 58B.;

2514 (c)(1) A hearing under section 58 shall take place not later than the next day that the
2515 superior, district, Boston municipal or juvenile court in the appropriate jurisdiction is in session
2516 following the defendant's arrest; provided, however, that if a case involves a crime of abuse, the
2517 commonwealth shall be the only party that may move for arraignment within 3 hours of a
2518 complaint being signed by a clerk magistrate or a clerk magistrate's designee; and provided
2519 further, that a defendant arrested for a crime of abuse who has attained the age of criminal
2520 majority shall not be admitted to bail sooner than 6 hours after arrest except by a judge in open
2521 court.

2522 (2) A hearing under section 58A shall be held immediately upon the first appearance of
2523 the defendant and upon the motion of the commonwealth unless the defendant, or an attorney for
2524 the commonwealth, seeks a continuance. Except for good cause shown, a continuance on motion
2525 of the defendant shall not exceed 5 business days and a continuance on motion of the
2526 commonwealth shall not exceed 3 business days. During a continuance, the individual shall be
2527 detained upon a showing that there existed probable cause to arrest the defendant. Once a hearing

2528 under said section 58A has been commenced, the defendant shall be detained pending
2529 completion of the hearing.

2530 (3) In any pending case where the defendant has been initially arraigned in the district,
2531 Boston municipal or juvenile court and is being subsequently arraigned in superior court for the
2532 same or related offenses arising out of the same incident, the superior court may conduct a new
2533 hearing under section 58 or, upon motion of the commonwealth, under section 58A; provided,
2534 however, that any order of the district, Boston municipal or juvenile court concerning the
2535 defendant issued under said section 58 or 58A shall remain in effect until the superior court
2536 issues a new order under said section 58 or 58A. In any new hearing in the superior court, the
2537 judicial officer shall consider the defendant's compliance with any previously-ordered conditions
2538 of release or probation.

2539 If a defendant has posted bail in the district court or Boston municipal court and has
2540 subsequently been arraigned in the superior court for the same offense, the superior court clerk
2541 shall notify the district court or Boston municipal court clerk holding the defendant's bail of such
2542 arraignment. Upon such notification, any amount tendered by a defendant in satisfaction of a
2543 financial condition in the district court or Boston municipal court shall be carried over to satisfy
2544 a financial condition required by the superior court. The judicial officers' discretion in setting
2545 financial conditions shall not be affected by this paragraph.

2546 (4) Any hearing under section 58 may be reopened by the judicial officer, any hearing
2547 under section 58A or 58B may be reopened by the judge and any hearing under either said
2548 section 58, 58A or 58B may be reopened upon motion of the commonwealth or the defendant if
2549 the judicial officer or judge determines by a preponderance of the evidence that: (i) information
2550 exists that was not known to the moving party at the time of the hearing or there has been a

2551 material change in circumstances; and (ii) such information or change in circumstances has a
2552 material bearing on the issue of whether the defendant's detention or the defendant's release on
2553 conditions or the conditions imposed on the defendant are necessary and sufficient to reasonably
2554 assure the appearance of the defendant as required and the safety of any other person and the
2555 community. In any such reopened hearing, the judicial officer shall consider the defendant's
2556 compliance with any previously-ordered conditions of release.

2557 Section 58. (a) The judicial officer shall order the pretrial release of the defendant on
2558 personal recognizance, subject to the condition that the defendant not commit a new offense
2559 during the period of release, unless the judicial officer determines, in its discretion, that the
2560 release will not reasonably assure the appearance of the defendant as required or will endanger
2561 the safety of any other person or the community. Upon adoption of a risk assessment tool by the
2562 Massachusetts probation service as set forth in section 58E, the judicial officer shall consult the
2563 risk assessment tool before making a determination pursuant to this section.

2564 (b) If the judicial officer determines that the release described in subsection (a) will not
2565 reasonably assure the appearance of the defendant as required or will endanger the safety of any
2566 other person or the community, the judicial officer shall order the pretrial release of the
2567 defendant subject to the condition that the defendant not commit a new offense during the period
2568 of release and shall:

2569 (i) in order to assure the defendant's appearance, impose the least restrictive further
2570 condition or combination of conditions, in writing, which may include that the defendant, during
2571 the period of release, shall:

2572 (1) abide by specified restrictions on personal associations, place of abode and travel;

2573 (2) report on a regular basis to the office of probation including pretrial services or the
2574 office of community corrections;

2575 (3) refrain from using alcohol and marijuana and any controlled substance without a
2576 prescription or certification by a licensed medical practitioner;

2577 (4) submit to random testing to monitor compliance with any conditions ordered pursuant
2578 to subclause (3); provided, however, that a positive test for use of marijuana shall not be
2579 considered a violation of the conditions of pretrial release unless the judicial officer expressly
2580 prohibits the use or possession of marijuana as a condition of pretrial release;

2581 (5) comply with a specified curfew or home confinement;

2582 (6) undergo medical, psychological or psychiatric treatment, including treatment for
2583 substance or alcohol use disorder, if available, and remain in a specified institution if required for
2584 that purpose;

2585 (7) submit to electronic monitoring; provided, however, that any condition of electronic
2586 monitoring shall include either specified inclusion or exclusion zones or a curfew or a
2587 combination thereof;

2588 (8) participate in pretrial programming at a community corrections center pursuant to
2589 chapter 211F; provided, however, that the defendant shall consent to such participation;

2590 (9) provide an unsecured or secured bond to satisfy a financial condition that the judicial
2591 officer may specify; provided, however, that for offenses that do not carry a penalty of
2592 incarceration, no secured bond shall be ordered unless the defendant has previously failed to
2593 appear; provided further, that no financial condition shall be imposed on a defendant under the
2594 age of criminal majority;

2595 (10) for a juvenile defendant, release to a personal surety;

2596 (11) participate in a diversion program under chapter 276A, a diversion program under
2597 section 54A of chapter 119 for a child who is subject to the jurisdiction of the juvenile court, an
2598 alternative adjudication program or a drug, mental health, veteran or other treatment court;
2599 provided, however, that the defendant shall consent to such alternative adjudication program or a
2600 drug, mental health, veteran or other treatment court; and

2601 (12) satisfy any other condition that is reasonably necessary to assure the appearance of
2602 the defendant as required; provided, however, that no condition or combination of conditions
2603 shall be imposed pursuant to clause (i) of subsection (b) that is not reasonably necessary to
2604 assure the appearance of the defendant as required; or

2605 (ii) in order to assure the safety of any other person and the community, impose the least
2606 restrictive further condition or combination of conditions, in writing, which may include that the
2607 defendant, during the period of release, shall:

2608 (1) refrain from abusing and harassing any alleged victims of the offense and any
2609 potential witnesses who may testify concerning the offense;

2610 (2) stay away from and have no contact with any alleged victims of the offense and
2611 potential witnesses who may testify concerning the offense;

2612 (3) refrain from possessing a firearm, rifle, shotgun, destructive device or other
2613 dangerous weapon;

2614 (4) comply with a specified curfew or home confinement;

2615 (5) refrain from using alcohol and marijuana and any controlled substance without a
2616 prescription or certification by a licensed medical practitioner;

2617 (6) submit to random testing to monitor compliance with subclause (5); provided,
2618 however, that a positive test for use of marijuana shall not be considered a violation of the

2619 conditions of pretrial release unless the judicial officer expressly prohibits the use of marijuana
2620 as a condition of pretrial release;

2621 (7) undergo medical, psychological or psychiatric treatment, including treatment for
2622 substance or alcohol use disorder, if available, and remain in a specified institution if required for
2623 that purpose;

2624 (8) submit to electronic monitoring; provided, however, that any condition of electronic
2625 monitoring shall include either specified inclusion or exclusion zones or a curfew or a
2626 combination thereof; and

2627 (9) satisfy any other condition that is reasonably necessary to assure the safety of any
2628 other person and the community; provided, however, that no condition or combination of
2629 conditions shall be imposed clause (ii) of subsection (b) that is not reasonably necessary to
2630 assure the safety of any other person and the community.

2631 (c) When setting any conditions to reasonably assure the appearance of the defendant as
2632 required under clause (i) of subsection (b), the judicial officer shall consider, when relevant, the
2633 following factors concerning the defendant:

2634 (i) financial resources

2635 (ii) any results of a risk assessment tool if such tool is available as set forth in section 58E
2636 of this chapter;

2637 (iii) family ties;

2638 (iv) any record of convictions;

2639 (v) any potential penalty the defendant is facing;

2640 (vi) any illegal drug distribution charges or present drug dependence;

2641 (vii) history records;

2642 (viii) history of mental illness;
2643 (ix) any prior flight to avoid prosecution or fraudulent use of an alias or false
2644 identification;
2645 (x) any prior failure to appear at any court proceeding to answer to an offense; provided,
2646 however, that a judicial officer shall not consider a prior failure to appear at a court proceeding
2647 where a defendant younger than the age of criminal majority failed to appear because the
2648 defendant was unable to secure transportation to the proceeding; and

2649 (xi) any prior violation of conditions of release or probation.

2650 (d) When setting any conditions to reasonably assure the safety of any other person and
2651 the community under clause (ii) of subsection (b), the judicial officer shall consider, when
2652 relevant, the following factors concerning the defendant:

2653 (i) any factors listed in (c)(ii)-(xi);

2654 (ii) the nature and circumstances of the offense charged;

2655 (iii) whether the defendant is on release pending adjudication of a prior charge;

2656 (iv) whether the acts alleged involve a crime of abuse as defined in section 57;

2657 (v) any history of orders issued against the defendant pursuant to section 18 or 34B of
2658 chapter 208, section 32 of chapter 209, section 3, 4 or 5 of chapter 209A or section 15 or 20 of
2659 chapter 209C;

2660 (vi) any specific, articulable risk that the defendant might obstruct or attempt to obstruct
2661 justice or threaten, injure or intimidate or attempt to threaten, injure or intimidate a prospective
2662 witness or juror;

2663 (vii) whether the defendant is on probation, parole or other release pending completion of
2664 a sentence for another conviction; and

2665 (viii) whether the defendant is on release pending sentence or appeal for any conviction.

2666 (e)(1) A judicial officer shall not consider financial resources when setting any
2667 conditions to assure the safety of any other person or the community under clause (ii) of
2668 subsection (b), but may impose a financial condition on a defendant who is older than the age of
2669 criminal majority when necessary to reasonably assure the defendant's appearance as required.

2670 (2) A judicial officer shall not set bail at an amount that the defendant represent, in good
2671 faith, that he or she cannot afford unless the judicial officer finds that the defendant's risk of non-
2672 appearance is so great that no alternative, less restrictive financial or nonfinancial conditions will
2673 suffice to assure the defendant's presence at future court proceedings, and the defendant is likely
2674 to be incarcerated if convicted on the charged offense. If the judicial officer so finds, the judicial
2675 officer shall provide findings of fact and a statement of reasons for the bail decision, either in
2676 writing or orally on the record, stating: (i) that the defendant's risk of non-appearance is so great
2677 that no alternative, less restrictive financial or nonfinancial conditions will suffice to assure the
2678 defendant's presence at future court proceedings; (ii) that it is likely that the defendant will be
2679 incarcerated if convicted on the charged offense; (iii) that the judicial officer considered the
2680 defendant's financial resources and personal circumstances; and (iv) why the commonwealth's
2681 interest in the secured bond amount outweighs any likely adverse impact on the defendant's
2682 employment, education, mental health treatment, substance or alcohol use treatment and primary
2683 caretaker responsibilities.

2684 (3) A judicial officer shall not order that a defendant who is younger than the age of
2685 criminal majority be detained pretrial under this section unless the judicial officer finds that the
2686 defendant's risk of non-appearance is so great that no alternative, less restrictive condition or
2687 combination of conditions will suffice to assure the defendant's presence at future court

2688 proceedings, and the defendant is likely to be incarcerated if convicted on the charged offense. If
2689 the judicial officer so finds, the judicial officer shall provide findings of fact and a statement of
2690 reasons for the decision, either in writing or orally on the record, stating: (i) that the defendant's
2691 risk of non-appearance is so great that no alternative, less restrictive nonfinancial conditions will
2692 suffice to assure the defendant's presence at future court proceedings; (ii) that it is likely that the
2693 defendant will be incarcerated if convicted on the charged offense; (iii) that the judicial officer
2694 considered the defendant's personal circumstances, including any likely adverse impact on the
2695 defendant's employment, education, mental health treatment, substance or alcohol use treatment
2696 and primary caretaker responsibilities.

2697 (4) If after 7 calendar days from the date of an order issued under this section a
2698 defendant, other than a defendant for whom the judicial officer made findings as set forth in
2699 paragraph (2) remains detained because of an inability to satisfy a financial condition, the
2700 defendant shall, upon application, be entitled to reconsideration of the financial condition by the
2701 judicial officer of the court who initially set the financial condition, if available, or otherwise by
2702 a judicial officer of a court with jurisdiction over the offense; provided, however, that a financial
2703 condition set by a judge shall only be reconsidered by a judge. If after that review the defendant
2704 remains detained because of an inability to satisfy a financial condition, the defendant shall, upon
2705 application, be entitled to review at 30-day intervals.

2706 (5) If after 60 calendar days a defendant against whom a judicial officer made findings
2707 pursuant to paragraph (2) remains detained because of an inability to satisfy a financial
2708 condition, the defendant shall, upon application, be entitled to reconsideration of the financial
2709 condition by the judicial officer who initially set the financial condition, if available, or if
2710 unavailable, by a judicial officer of a court with jurisdiction over the offense; provided, however,

2711 that a financial condition set by a judge shall only be reconsidered by a judge. If, after such
2712 review, the defendant remains detained because of an inability to satisfy a financial condition,
2713 the defendant shall, upon application, be entitled to review at 90-day intervals.

2714 (6) If after 15 days a defendant who is younger than the age of criminal majority for whom the
2715 judicial officer made findings pursuant to paragraph (3) remains detained, the defendant shall,
2716 upon application, be entitled to reconsideration of the detention by the judicial officer who
2717 initially made the findings, if available, or if unavailable, by a judicial officer of a court with
2718 jurisdiction over the offense; provided, however, that such a finding made by a judge may only
2719 be reconsidered by a judge. If, after such review, the defendant remains detained, the defendant
2720 shall, upon application, be entitled to review at 15-day intervals.

2721 (7) If a judicial officer imposes a financial condition, the clerk of the court shall accept
2722 any money tendered in satisfaction of such financial condition during the regular business hours
2723 of that court.

2724 (f) Before ordering the release of a defendant charged with a crime against the person or
2725 property of another, the judicial officer shall comply with the domestic abuse inquiry
2726 requirements of section 56A.

2727 (g) In a release order issued under this section, the judicial officer shall:

2728 (i) include a written statement that sets forth all of the conditions to which the release
2729 shall be subject, which shall be set forth in a manner sufficiently clear and specific to serve as a
2730 guide for the defendant's conduct; and

2731 (ii) if a defendant is not released on personal recognizance or unsecured bond, include a
2732 written summary of the reasons for denying release on personal recognizance or unsecured bond
2733 and detailed reasons for imposing any financial condition; and

2734 (iii) advise the defendant of:
2735 (1) the consequences of violating a condition of release, including immediate arrest or the
2736 issuance of a warrant therefor, revocation of release and potential criminal penalties the
2737 defendant may face, including penalties for intimidation of a witness under section 13B of
2738 chapter 268; and

2739 (2) if the defendant is charged with a crime of abuse, informational resources related to
2740 domestic violence which shall include, but not be limited to, a list of certified intimate partner
2741 abuse education programs located within or near the court's jurisdiction.

2742 (h) Whenever a judicial officer releases a defendant under this section, the court shall
2743 enter in writing on the court docket that the defendant was advised as required in clause (iii) of
2744 subsection (g) and that docket entry shall constitute prima facie evidence that the defendant was
2745 so informed.

2746 (i) If a defendant in a case involving a crime of abuse is released from a place of
2747 detention, the arresting police department shall make a reasonable attempt to notify the victim of
2748 the defendant's release or, if the defendant is released by order of a court, the district attorney
2749 shall make a reasonable attempt to notify the victim of the defendant's release.

2750 Section 58A. (a)(1) Upon motion of the commonwealth at the defendant's first
2751 appearance in court, a judge shall hold a hearing to determine whether any condition or
2752 combination of conditions in section 58 will reasonably assure the safety of any other person and
2753 the community in a case:

2754 (i) that involves a dangerous crime as defined in section 57 or an offense under clause (1)
2755 or (2) of subsection (b) of section 32E of chapter 94C, clause (1), (2), (3) or (4) of subsection (c)
2756 of said section 32E of said chapter 94C or section 32F of said chapter 94C;

2757 (ii) where the defendant has an open charge for any crime or offense listed in clause (i);
2758 (iii) where the defendant has a conviction for any crime or offense listed in clause (i),
2759 unless the defendant has not been incarcerated for a crime or offense listed in said clause (i)
2760 within the previous 10 years; or

2761 (iv) where there is a serious risk that the defendant will obstruct or attempt to obstruct
2762 justice or threaten, injure or intimidate or attempt to threaten, injure or intimidate a law
2763 enforcement officer, an officer of the court or a prospective witness or juror in a criminal
2764 investigation or judicial proceeding.

2765 (2) If after a hearing pursuant to this section the judge finds by clear and convincing
2766 evidence that no condition or combination of conditions will reasonably assure the safety of any
2767 other person and the community, the judge shall order that the defendant be detained pending
2768 trial. If the judge does not so find, the defendant shall be released pursuant to section 58 on
2769 personal recognizance or unsecured bond or on such condition or combination of conditions as
2770 the judge determines to be necessary to reasonably assure the appearance of the defendant, as
2771 required, and the safety of any other person and the community.

2772 (b)(1) At a hearing under paragraph (1) of subsection (a), the defendant shall:

2773 (i) have the right to be represented by counsel and, if financially unable to obtain such
2774 counsel, the defendant shall have counsel appointed;

2775 (ii) be afforded an opportunity to testify;

2776 (iii) be afforded an opportunity to present witnesses, to cross examine witnesses who
2777 appear at the hearing and to present information by proffer or otherwise; provided, however, that
2778 before issuing a summons to an alleged victim or a member of the alleged victim's family to
2779 appear as a witness at the hearing, the defendant shall demonstrate to the court a good faith and

2780 reasonable basis for believing that the testimony from that witness will be material and relevant
2781 to support a conclusion that there are conditions of release that will reasonably assure the safety
2782 of any other person and the community.

2783 (2) The law concerning admissibility of evidence in criminal trials shall not apply to the
2784 presentation and consideration of information at the hearing.

2785 (3) If a defendant has been released pursuant to section 58 and it subsequently appears
2786 that there are grounds that have arisen since the release for the defendant's pretrial detention
2787 under paragraph (1) of subsection (a), the commonwealth may request a pretrial detention
2788 hearing by ex parte written motion. If the court grants the commonwealth's motion, which shall
2789 be supported by an affidavit setting forth the factual basis of the additional grounds for detention,
2790 notice shall be given to the defendant and a hearing shall occur as set forth in this section. A
2791 defendant shall not be detained under this paragraph until after a hearing.

2792 (c) In determining whether there are conditions of release that will reasonably assure the
2793 safety of any other person and the community, a judge shall take into account information
2794 available concerning:

2795 (i) the factors listed in subsection (d) of section 58;

2796 (ii) the weight of the evidence against the defendant; and

2797 (iii) the nature and seriousness of the danger to any other person and the community that
2798 would be posed by the defendant's release.

2799 Upon adoption of a risk assessment tool by the office of probation under section 58E, the
2800 judge shall consult the risk assessment tool before making a determination pursuant to this
2801 section.

2802 (d) If, after the hearing under this section, the judge determines that detention of the
2803 defendant is necessary under paragraph (2) of subsection (a), the judge shall issue an order that:
2804 (i) includes written findings of fact and a written statement of the reasons for the detention; (ii)
2805 directs that the defendant be committed to a correction facility separate, to the extent practicable,
2806 from persons serving sentences; and (iii) directs that the defendant be afforded reasonable
2807 opportunity for private consultation with counsel.

2808 If the judge releases the defendant, the order for release shall comply with section 58.

2809 (e) A defendant detained under this section shall be brought to trial as soon as reasonably
2810 possible. For cases prosecuted in juvenile court, district court or Boston municipal court, in the
2811 absence of good cause, a defendant shall not be detained under this section for more than 120
2812 days, if older than the age of criminal majority, and for a period of not more than 60 days for a
2813 defendant who is younger than the age of criminal majority, excluding any period of delay as
2814 defined in Rule 36(b)(2) of the Massachusetts Rules of Criminal Procedure. Defendants indicted
2815 and pending prosecution in the superior court shall not be detained under this section for more
2816 than 180 days, excluding any period of delay as defined in said Rule 36(b)(2) of the
2817 Massachusetts Rules of Criminal Procedure. If the defendant's case has not been brought to trial
2818 or otherwise resolved by the end of the periods prescribed by this section, excluding any period
2819 of delay as defined above, the defendant shall be entitled to a de novo reconsideration of the
2820 detention order by the court that originally issued the order. (f) Nothing in this section shall be
2821 construed to modify or limit the presumption of innocence.

2822 Section 58B. (a) A defendant who has been released after a hearing pursuant to section
2823 58, 58A, 59 or 87 and who has violated a condition of release shall be subject to a revocation of
2824 release and an order of detention.

2825 (b) The judge shall enter an order of revocation and detention if, after a hearing, the judge
2826 finds that: (i) there is probable cause to believe that the defendant has committed a crime while
2827 on release or there is clear and convincing evidence that the defendant has violated any other
2828 condition of release; and (ii) there are no conditions of release that will reasonably assure the
2829 defendant will not pose a danger to the safety of any other person or the community. The judge
2830 may, in the judge's discretion, enter an order of revocation and detention if, after a hearing, the
2831 judge finds that: (i) there is probable cause to believe that the defendant has committed a crime
2832 while on release or there is clear and convincing evidence that the defendant has violated any
2833 condition of release other than committing a crime; and (ii) the defendant is unlikely to abide by
2834 any condition or combination of conditions of release.

2835 (c) If the judge issues a release order under this section, the judge may order any
2836 condition or combination of conditions of release under clause (i) and (ii) of subsection (b) of
2837 section 58.

2838 (d) Upon the defendant's first appearance before the judge that will conduct proceedings
2839 for revocation of an order of release under this section, the hearing concerning revocation shall
2840 be held immediately unless the defendant or the commonwealth seeks a continuance. During a
2841 continuance, the defendant shall be detained without bail unless the judge finds that there are
2842 conditions of release that will reasonably assure that the defendant will not pose a danger to the
2843 safety of any other person or the community and that the defendant will abide by conditions of
2844 release. If the defendant is detained without bail, a continuance on a motion of the defendant
2845 shall not be for more than 5 business days, except for good cause, and a continuance on motion
2846 of the commonwealth or probation shall not be for more than 3 business days, except for good
2847 cause. A defendant detained under an order of revocation and detention shall be brought to trial

2848 as soon as reasonably possible. For cases prosecuted in juvenile court, district court or Boston
2849 municipal court, in the absence of good cause, a defendant shall not be detained under this
2850 section for more than 90 days, if older than the age of criminal majority, and for a period of not
2851 more than 60 days for a defendant who is younger than the age of criminal majority, excluding
2852 any period of delay as defined in Rule 36(b)(2) of the Massachusetts Rules of Criminal
2853 Procedure. Defendants indicted and pending prosecution in the superior court shall not be
2854 detained under this section for more than 180 days, excluding any period of delay as defined in
2855 Rule 36(b)(2) of the Massachusetts Rules of Criminal Procedure. If the defendant's case has not
2856 been brought to trial or otherwise resolved by the end of the periods prescribed by this section,
2857 excluding any period of delay as defined above, the defendant shall be entitled to a de novo
2858 reconsideration of the detention order by the court that originally issued the order.

2859 Section 58C. (a) A defendant who is released on conditions or detained under section 58
2860 or section 58A pursuant to an order of the district court department, the Boston municipal court
2861 department or the juvenile court department shall, upon application, be entitled to have the
2862 conditions or order of detention reviewed de novo by the superior court department on the next
2863 day that court is in session.

2864 (b) A defendant who is released on conditions or detained under section 58 or 58A or
2865 who is the subject of an order under subsection (a) pursuant to an order of the superior court
2866 department may seek relief from a single justice of the appeals court in extraordinary cases
2867 involving a clear and substantial abuse of discretion or a clear and substantial error of law.

2868 (c) A judge hearing a review pursuant to subsection (a) or (b) may consider the record
2869 below which the commonwealth and the defendant may supplement. The reviewing judge may,
2870 after a hearing on the petition for review, order that the petitioner be released on personal

2871 recognizance or on any of the conditions set forth in clause (i) and (ii) of subsection (b) of
2872 section 58 or, in the judge's discretion to reasonably assure the effective administration of
2873 justice, make any other order of recognizance or conditions, or the judge may remand the
2874 petitioner in accordance with the terms of the process by which the petitioner was ordered
2875 committed.

2876 Section 58D. (a) There shall be in the office of probation a pretrial services initiative,
2877 hereinafter referred to as pretrial services. Pretrial services shall be led by a supervisor of pretrial
2878 services. The supervisor shall be a person of ability and experience in the pretrial process who
2879 shall be chosen and appointed by the commissioner of probation.

2880 (b) Pretrial services shall perform the following duties for the departments of the trial
2881 court of the commonwealth:

2882 (i) develop, in coordination with the court and other criminal justice agencies, programs
2883 to minimize unnecessary pretrial detention and violations of conditions of release set forth in
2884 section 58;

2885 (ii) monitor the local implementation of pretrial services as provided in this section and
2886 maintain accurate and comprehensive records of pretrial services' activities;

2887 (iii) provide notification to supervised defendants of court appearance obligations and, as
2888 needed, require periodic reporting by letter, telephone, electronic communication, personal
2889 appearance or by other means designated by pretrial services to verify compliance with
2890 conditions of release;

2891 (iv) assist defendants who are released prior to trial in securing appropriate employment,
2892 medical, drug, mental or other health treatment or other needed social services that may increase
2893 the defendant's chances of successful compliance with the conditions of release;

2894 (v) prepare a formal report of new charges against defendants released on conditions and
2895 present the same to the court and to the prosecuting officer who shall aid pretrial services in
2896 presenting such violations; and

2897 (vi) perform any other duties that the commissioner of probation deems necessary to
2898 support the operation of pretrial services.

2899 (c) Pretrial services may be provided with probation staff, including community
2900 correction staff, as determined by the commissioner of probation.

2901 (d) A defendant shall not be interviewed by pretrial services unless the defendant has
2902 been apprised of the identity and purpose of the interview, the scope of the interview, the right to
2903 counsel and the right to refuse cooperation. Inquiry of the defendant shall carefully exclude
2904 questions concerning the details of the current charge. Statements made by the defendant during
2905 the interview or evidence derived therefrom shall not be admissible against the defendant in any
2906 pending criminal prosecution, including in determining the defendant's guilt or the appropriate
2907 disposition or if the defendant has violated a condition of probation or pretrial release or a
2908 condition of parole, except that such statements and evidence may be used in determining
2909 appropriate conditions of release and conditions of probation.

2910 (e) The supervisor of pretrial services shall submit annual reports to the commissioner of
2911 probation, the chief justice of the trial court, the court administrator, the chief justice of the
2912 supreme judicial court and the clerks of the senate and the house of representatives who shall
2913 forward the report to the senate and house chairs of the joint committee on the judiciary. The
2914 report shall include, but not be limited to, if available: (i) analysis on demographics of the
2915 pretrial population, including age, race and gender; (ii) appearance and default rates; (iii)
2916 conditions imposed upon release; (iv) caseload of the pretrial services initiative; (v) length of

2917 supervision; and (vi) any other analytical data deemed appropriate; provided, however, that any
2918 data included in the report shall be presented only in aggregated form so that no individual can
2919 be identified.

2920 Section 58E. (a) Subject to appropriation, pretrial services shall create or choose a risk
2921 assessment tool that analyzes risk factors to produce a risk assessment classification for a
2922 defendant that will aid the judicial officer in determining pretrial release or detention under
2923 sections 58 to 58C, inclusive. Any such tool shall be tested and validated in the commonwealth
2924 to identify and eliminate unintended economic, race, gender or other bias.

2925 The pretrial services initiative shall: (i) establish procedures for screening defendants
2926 who are presented in court for a first appearance to assist the trial court in determining any
2927 appropriate conditions of release or detention under sections 58 to 58C, inclusive; (ii) record and,
2928 to the extent possible, verify information required by the risk assessment tool; and (iii) submit a
2929 written report to the judicial officer and to all parties and counsel of record which shall include
2930 the results of the risk assessment tool, the defendant's eligibility for diversion, treatment or other
2931 alternative adjudication programs and any recommendations concerning any appropriate
2932 conditions of release or detention under said section 58 and section 58A.

2933 (b) A representative of pretrial services shall, when feasible, be available at any hearing
2934 wherein the judicial officer will be considering the pretrial services written report.

2935 (c) When ordered by the judicial officer, pretrial services shall monitor and supervise
2936 compliance with the conditions of release ordered under section 58 and, when appropriate, shall
2937 proceed under section 58B.

2938 (d) Records created concerning pretrial services, including aggregate data, shall not be
2939 considered criminal offender record information and shall be subject to the same limitations on

2940 disclosure as other records kept by the office of probation. Aggregate data that concerns pretrial
2941 services shall be available to the public in a form that does not allow an individual to be
2942 identified. Subject to redaction for safety and third-party considerations, an individual shall have
2943 access to their own records and information collected or created by pretrial services.

2944 (e) The trial court of the commonwealth, in coordination with pretrial services, shall
2945 develop curricula and make training opportunities available on a rolling basis to all judicial
2946 officers eligible to make decisions under sections 58, 58A, 58B and 59. The training shall
2947 include information on the risk assessment tools, risk assessment scoring and recommended
2948 supervision levels, conditions of release and any other information that the trial court or the
2949 commissioner of probation deem appropriate.

2950 (f) Information about any risk assessment tool, the risk factors such a tool analyzes, the
2951 data on which the analysis of risk factors is based, the nature and mechanics of any validation
2952 process and the results of any audits or tests to identify and eliminate bias shall be a public
2953 record and subject to discovery.

2954 Section 59. (a) If a defendant is arrested and charged with an offense, other than murder
2955 in the first or second degree or a crime of abuse or treason when the courts having jurisdiction
2956 over the offense are not in session, a bail commissioner or bail magistrate shall appear as soon as
2957 possible but not more than 6 hours after the defendant's arrest unless the defendant lacks the
2958 capacity to understand and participate in the bail proceedings; provided, however, that failure of
2959 a bail commissioner or bail magistrate to appear within the prescribed time shall not constitute
2960 grounds for dismissal of the charges against a defendant. If a defendant is charged with a crime
2961 of abuse, the bail commissioner or bail magistrate shall not appear earlier than 6 hours after the
2962 defendant's arrest but shall appear as soon as possible thereafter.

2963 (b) The bail commissioner or bail magistrate shall order the pretrial release of a defendant
2964 on personal recognizance, subject to the condition that the defendant not commit a new offense
2965 during the period of release, unless the bail commissioner or bail magistrate determines that
2966 release on personal recognizance will not reasonably assure the appearance of the defendant as
2967 required or will endanger the safety of any other person or the community.

2968 (c)(1) If the bail commissioner or bail magistrate determines that the release described in
2969 subsection (b) will not reasonably assure the appearance of the defendant as required or will
2970 endanger the safety of any other person or the community, the bail commissioner or bail
2971 magistrate may order the pretrial release of the defendant subject to the following conditions: (i)
2972 the defendant shall not commit a new offense during the period of release; and (ii) the bail
2973 commissioner or bail magistrate shall impose the least restrictive further condition or
2974 combination of conditions that the bail commissioner or bail magistrate determines will
2975 reasonably assure the appearance of the defendant as required and the safety of any other person
2976 and the community; provided, however, that such conditions may include, but shall not be
2977 limited to, orders that the defendant shall:

2978 (A) abide by specified restrictions on personal associations, places of abode or travel;

2979 (B) refrain from the use of alcohol or marijuana or any controlled substance without a
2980 prescription or certification by a licensed medical practitioner;

2981 (C) comply with a specified curfew or home confinement;

2982 (D) refrain from abusing and harassing any alleged victim of the offense and any
2983 potential witnesses who may testify concerning the offense;

2984 (E) stay away from and have no contact with an alleged victim of the offense or with
2985 potential witnesses who may testify concerning the offense;

2986 (F) refrain from possessing a firearm, rifle, shotgun, destructive device or other
2987 dangerous weapon;

2988 (G) provide unsecured or secured bond to satisfy a financial condition that the bail
2989 commissioner or bail magistrate may specify; provided, that no financial condition shall be
2990 imposed on a defendant who is younger than the age of criminal majority; or

2991 (H) satisfy any other condition that is reasonably necessary to assure the appearance of
2992 the defendant as required or the safety of any other person and the community.

2993 (2) When setting conditions under this subsection, the bail commissioner or bail
2994 magistrate shall consider, when relevant, the following factors concerning the defendant:

2995 (i) financial resources;

2996 (ii) family ties;

2997 (iii) any record of convictions;

2998 (iv) any potential penalty the defendant is facing;

2999 (v) any illegal drug distribution charges or present drug dependence;

3000 (vi) employment records;

3001 (vii) history of mental illness;

3002 (viii) any prior flight to avoid prosecution or fraudulent use of an alias or false
3003 identification;

3004 (ix) any prior failure to appear at any court proceedings to answer to an offense;

3005 (x) the nature and circumstances of the offense charged;

3006 (xi) whether the defendant is on bail pending adjudication of a prior charge;

3007 (xii) whether the acts alleged involve a crime of abuse as defined in section 57;

3008 (xiii) any history of orders issued against the defendant pursuant to section 18 or 34B of
3009 chapter 208, section 32 of chapter 209, section 3, 4 or 5 of chapter 209A or section 15 or 20 of
3010 chapter 209C;

3011 (xiv) any specific, articulable risk that the defendant might obstruct or attempt to obstruct
3012 justice or threaten, injure or intimidate or attempt to threaten, injure or intimidate a prospective
3013 witness or juror;

3014 (xv) whether the defendant is on probation, parole or other release pending completion of
3015 a sentence for another conviction; and

3016 (xvi) whether the defendant is on release pending sentencing or appeal for another
3017 conviction.

3018 (d) Bail commissioners and bail magistrates shall not impose a financial condition to
3019 assure the safety of any other person and the community, but may impose a financial condition
3020 on a defendant who is older than the age of criminal majority when necessary to reasonably
3021 assure the defendant's appearance as required. If the defendant represents in good faith that the
3022 defendant lacks sufficient financial resources to post the secured bond required by the bail
3023 commissioner or bail magistrate such that the defendant will likely be detained until the next day
3024 that court is in session, the bail commissioner or bail magistrate may impose the secured bond
3025 only if the bail commissioner or bail magistrate confirms, in writing, that the bail commissioner
3026 or bail magistrate considered the defendant's financial resources and explains why the
3027 defendant's risk of nonappearance is so great that no alternative, less restrictive financial or
3028 nonfinancial conditions will suffice to assure the defendant's presence at future court
3029 proceedings.

3030 (e) Where a bail commissioner or bail magistrate orders that a defendant who is younger
3031 than the age of criminal majority be detained until the next day that court is in session because no
3032 condition or combination of conditions will reasonably assure the appearance of the defendant as
3033 required, the bail commissioner or bail magistrate shall provide findings of fact and a statement
3034 of reasons for the decision, in writing, explaining why no alternative, less restrictive condition or
3035 combination of conditions will suffice to assure the defendant's presence at future court
3036 proceedings.

3037 (f) Before issuing any release order under this section for a defendant who is released on
3038 bail pending adjudication of a prior charge or is on probation, the bail commissioner or bail
3039 magistrate shall contact the office of probation's electronic monitoring center to inform them of
3040 the defendant's arrest and charge.

3041 (g) In a release order issued under this section, the bail commissioner or bail magistrate
3042 shall advise the defendant of:

3043 (i) the consequences of violating a condition of release, including immediate arrest or
3044 issuance of a warrant therefor, revocation of release and the potential that the defendant may face
3045 criminal penalties, including penalties for intimidation of a witness under section 13B of chapter
3046 268; and

3047 (ii) if the defendant is charged with a crime of abuse, informational resources related to
3048 domestic violence which shall include, but shall not be limited to, a list of certified intimate
3049 partner abuse education programs located within or near the court's jurisdiction.

3050 (h) If the defendant in a case involving a crime of abuse is released from the place of
3051 detention, the arresting police department shall make a reasonable attempt to notify the victim of
3052 the defendant's release.

3053 (i) If a defendant is charged with a dangerous crime or a crime of abuse, the bail
3054 commissioner or bail magistrate shall not be required to set a cash bail and shall order the
3055 defendant held until the next day that the court is in session if the bail commissioner or bail
3056 magistrate determines that no condition or combination of conditions will reasonably assure the
3057 appearance of the defendant as required or the safety of any other person or the community.

3058 (j) When ordering detention under subsection (d) or (e), the bail commissioner or bail
3059 magistrate shall take into account information available concerning: (i) any relevant factors listed
3060 paragraph (2) of subsection (c); (ii) the weight of the evidence against the defendant; and (iii) the
3061 nature and seriousness of the danger to any other person or the community that would be posed
3062 by the defendant's release.

3063 (k) The terms and conditions of an order by a bail commissioner or bail magistrate shall
3064 remain in effect until the defendant is brought before the court for arraignment under sections 57,
3065 58 and 58A.

3066 (l) When a bail commissioner or bail magistrate releases a defendant on conditions under
3067 subsection (c), the bail commissioner or bail magistrate shall record the conditions and provide a
3068 copy of such conditions to the defendant and the detaining authority and shall transmit a copy to
3069 the court.

3070 (m) If a defendant released on conditions by a bail commissioner or bail magistrate under
3071 subsection (c) violates any of the conditions, that violation shall be enforceable under section
3072 58B.

3073 (n) Nothing in this section shall be construed to modify or limit the presumption of
3074 innocence.

3075 (o) Bail commissioners and bail magistrates authorized to release a defendant on
3076 recognizance, release a defendant on conditions or detain a defendant under this section shall be
3077 governed by rules established by the chief justice of the trial court of the commonwealth, subject
3078 to review by the supreme judicial court.

3079 (p) Nothing in this section shall authorize a bail commissioner or bail magistrate to
3080 release a defendant who has been arrested and charged with first or second degree murder.

3081 SECTION 281. Section 61A of chapter 276 of the General Laws is hereby repealed.

3082 SECTION 282. Said chapter 276 is hereby further amended by striking out section 61B,
3083 as appearing in the 2016 Official Edition, and inserting in place thereof the following section:-

3084 Section 61B. No surety under this chapter shall be compensated for acting as surety.

3085 SECTION 283. Section 79 of said chapter 276 is hereby repealed.

3086 SECTION 284. Section 87 of said chapter 276, as appearing in the 2016 Official Edition,
3087 is hereby amended by striking out, in line 7, the figure “18” and inserting in place thereof the
3088 following words:- criminal majority.

3089 SECTION 285. Said section 87 of said chapter 276, as so appearing, is hereby further
3090 amended by striking out, in lines 14 and 15, the words “was eighteen years of age or older” and
3091 inserting in place thereof the following words:- had attained the age of criminal majority.

3092 SECTION 286. The first paragraph of section 87A of said chapter 276, as so appearing, is
3093 hereby amended by adding the following sentence:- No person placed on probation shall be
3094 found to have violated a condition of probation: (i) solely on the basis of possession or use of a
3095 controlled substance that has been lawfully dispensed pursuant to a valid prescription to that
3096 person by a health professional registered to prescribe a controlled substance pursuant to chapter
3097 94C and acting within the lawful scope of the health professional’s practice; or (ii) solely on the

3098 basis of possession or use of medical marijuana obtained in compliance with and in quantities
3099 consistent with applicable state regulations if that person received a written certification from a
3100 licensed physician for the use of medical marijuana to treat a debilitating medical condition and
3101 the person possesses a valid medical marijuana registration card and if the quantity in the
3102 person's possession is not greater than the amount recommended in the physician's written
3103 certification.

3104 SECTION 287. Said section 87A of said chapter 276, as so appearing, is hereby further
3105 amended by striking out the third paragraph and inserting in place thereof the following
3106 paragraph:-

3107 The court may waive payment of the fees if it determines after a hearing that such
3108 payment would impose a substantial financial hardship on the person or the person's family or
3109 dependents. Following the hearing and upon a finding of hardship, the court may require any
3110 such person to perform unpaid community service work at a public or nonprofit agency or
3111 facility, monitored by the probation department, for not more than 4 hours per month in lieu of
3112 payment of a probation fee. A waiver shall be in effect only during the period of time that a
3113 person is unable to pay the monthly probation fee.

3114 SECTION 288. Said section 87A of said chapter 276, as so appearing, is hereby further
3115 amended by striking out the eighth paragraph and inserting in place thereof the following
3116 paragraph:-

3117 The court may waive payment of the fee if it has determined, after a hearing, that the
3118 payment would impose a substantial financial hardship on the person or the person's family or
3119 dependents. A waiver shall be in effect only during the period of time that the person is unable to
3120 pay the monthly probation fee.

3121 SECTION 289. Section 89A of said chapter 276, as so appearing, is hereby amended by
3122 striking out, in line 3, the figure “18” and inserting in place thereof the following words:-
3123 criminal majority.

3124 SECTION 290. Said chapter 276 of the General Laws is hereby amended by inserting
3125 after section 89A the following section:-

3126 Section 89B. Probation officers appointed under subsection (f) of section 83 of this
3127 chapter may be designated by the commissioner to exclusively supervise young adults, who are
3128 19 to 26 years of age and have been placed in the care of probation officers under section 87 so
3129 that these individuals may benefit from age appropriate guidance, targeted interventions and a
3130 greater degree of individual attention.

3131 Probation officers designated under this section shall be selected based on their
3132 demonstrated experience and commitment to working with young adults and shall perform their
3133 services under the direction of the commissioner.

3134 Probation officers designated under this section shall receive specialized training on
3135 topics including but not limited to: supervising and counseling young adults, psycho-social and
3136 behavioral development of young adults, cultural competency, rehabilitation of young adults,
3137 educational programs, and relevant community-based services and programs.

3138 SECTION 291. Said chapter 276 is hereby further amended by striking out section 92, as
3139 appearing in the 2016 Official Edition, and inserting in place thereof the following section:-

3140 Section 92. (a) In a criminal case where the victim has suffered an actual economic loss
3141 that is causally connected to a crime for which the defendant has been convicted, has entered a
3142 plea of guilty or nolo contendere or has admitted to sufficient facts to warrant a finding of guilt,

3143 the court may order the defendant to make financial restitution to the victim for such loss as a
3144 condition of probation as set forth in this section. As used in this section, “defendant” shall
3145 include a delinquent child or youthful offender and “actual economic loss” shall mean the loss of
3146 money or property, excluding consequential damages or costs.

3147 (b) Before ordering restitution pursuant to this section, the court shall determine the
3148 appropriate length of any probationary period to be served by the defendant which shall be based
3149 on the amount of time necessary to rehabilitate the defendant and protect the public. The court
3150 shall not order a longer probationary period to enable the defendant to make restitution;
3151 provided, however, that if the court determines that there is no reason to impose probation other
3152 than to collect restitution, the court may impose a probationary period of 60 days or less for such
3153 purpose.

3154 (c) Before ordering restitution pursuant to this section, the court shall conduct an
3155 evidentiary hearing and make findings concerning: (i) the amount of actual economic loss
3156 suffered by the victim that is causally connected to the defendant's crime; and (ii) the amount of
3157 restitution that the defendant has the ability to pay monthly without causing substantial financial
3158 hardship, taking into account the defendant’s financial resources, including the defendant’s
3159 income and net assets and the defendant’s financial obligations, including the amount necessary
3160 to meet basic human needs such as food, shelter and clothing for the defendant and the
3161 defendant’s family or dependents. The defendant shall bear the burden of proving by a
3162 preponderance of the evidence an inability to pay; provided, however, that the court shall
3163 presume that a defendant under the age of criminal majority is indigent unless the court finds that
3164 the payment would not impose a substantial financial hardship on such person or the person’s
3165 family. At any such hearing, the victim may testify regarding the amount of the loss and the

3166 defendant may cross examine the victim, but such cross-examination shall be limited to the issue
3167 of restitution. The defendant may rebut the victim's estimate of the amount of loss with expert
3168 testimony or other evidence. The commonwealth shall bear the burden of proving by a
3169 preponderance of the evidence the amount of the actual economic loss suffered by the victim that
3170 is causally connected to the defendant's crime. The hearing need not address issues as to which
3171 the commonwealth and the defendant have reached an agreement that has been presented to the
3172 court, whether by written stipulation or as part of the defendant's plea of guilty or nolo
3173 contendere or admission to sufficient facts to warrant a finding of guilt. An agreement between
3174 the commonwealth and the defendant concerning the amount of the victim's actual economic
3175 loss shall be docketed by the clerk.

3176 (d) The total amount of restitution ordered by the court shall not exceed the lesser of: (i)
3177 the amount of actual economic loss suffered by the victim that is causally connected to the
3178 defendant's crime; or (ii) the amount of restitution that the defendant has the ability to pay
3179 monthly without causing substantial financial hardship, multiplied by the total number of months
3180 of probation ordered by the court in accord with subsection (b).

3181 (e) If the defendant is placed on probation with a condition that the defendant pay
3182 restitution to the victim and payment is not made at once, the court may order that the payment
3183 shall be made to the clerk of the court who shall give receipts for and keep a record of all
3184 payments made, pay the money to the person injured and keep a receipt therefor and notify the
3185 probation officer when the full amount of the money is received or paid in accordance with such
3186 order or with any modification thereof.

3187 (f) The court may modify the probation condition regarding the payment of restitution
3188 based on any material change in the defendant's financial circumstances.

3189 (g) If the court orders the defendant to make restitution under this section, the court may
3190 also issue a civil judgment in favor of the victim and against the defendant for the amount of the
3191 victim's actual economic loss that is causally connected to the defendant's crime, less the
3192 amount of restitution that the defendant has been ordered to pay. Upon the expiration or
3193 revocation of the defendant's probation, the victim or the commonwealth may, with notice to the
3194 defendant, request the court to amend the civil judgment to include any amount of restitution that
3195 the defendant has failed to pay in accord with the restitution order.

3196 (h) If the court does not order the defendant to make restitution under subsection (a), the
3197 court may, upon the request of the commonwealth, issue a civil judgment in favor of the victim
3198 and against the defendant for the amount of the victim's actual economic loss that is causally
3199 connected to the defendant's crime; provided, however, that: (i) the defendant shall have agreed
3200 to the amount of such loss as part of the defendant's plea of guilty or nolo contendere or
3201 admission to sufficient facts to warrant a finding of guilt; or (ii) the court has determined the
3202 amount of such loss after a hearing as provided in subsection (c).

3203 (i) A civil judgment issued under subsections (g) or (h) shall be enforceable by the victim
3204 or by the commonwealth acting on behalf of the victim in the same manner as any other civil
3205 judgment. In addition to the amount of the civil judgment, the victim shall be entitled to recover
3206 from the defendant reasonable attorneys' fees and costs incurred in enforcing or executing the
3207 civil judgment.

3208 (j) A civil judgment issued under subsections (g) or (h) shall be dischargeable in
3209 bankruptcy.

3210 (k) Nothing herein shall bar the victim from seeking recovery from the defendant in any
3211 other civil proceeding; provided, however, that any amount recovered by the victim pursuant to

3212 the court's restitution order or the civil judgment under subsections (g) or (h) shall be set off
3213 against any other civil claim by the victim for the same actual economic loss.

3214 SECTION 292. Section 100A of said chapter 276, as so appearing, is hereby amended by
3215 striking out, in lines 9, 14, and 21, the figure "5" and inserting in place thereof, in each instance,
3216 the following figure:- 3.

3217 SECTION 293. Said section 100A of said chapter 276, as so appearing, is hereby further
3218 amended by striking out, in lines 12, 15, and 22, the figure "10" and inserting in place thereof, in
3219 each instance, the following figure:- 7.

3220 SECTION 294. Said section 100A of said chapter 276, as so appearing, is hereby further
3221 amended by inserting after the figure "268A", in line 28, the following words:- , except for
3222 convictions for resisting arrest.

3223 SECTION 295. Said section 100A of said chapter 276, as so appearing, is hereby further
3224 amended by striking out, in line 83, the words "for employment used by an employer" and
3225 inserting in place thereof the following words:- used to screen applicants for employment,
3226 housing or an occupational or professional license.

3227 SECTION 296. Said section 100A of said chapter 276, as so appearing, is hereby further
3228 amended by inserting after the word "employment", in line 85, the following words:- or for
3229 housing or an occupational or professional license.

3230 SECTION 297. Said section 100A of said chapter 276, as so appearing, is hereby further
3231 amended by inserting after the word "employment", in line 89, the following words:- or for
3232 housing or an occupational or professional license.

3233 SECTION 298. Said section 100A of said chapter 276, as so appearing, is hereby further
3234 amended by inserting after the word “employment”, in line 92, the following words:- or for
3235 housing or an occupational or professional license.

3236 SECTION 299. Said chapter 276 is hereby amended by striking out section 100B, as so
3237 appearing, and inserting in place thereof the following section:-

3238 Section 100B. (a) A person having a record of entries of a court appearance in a
3239 proceeding pursuant to section 52 to 62 of chapter 119, inclusive, on file in the office of the
3240 commissioner of probation may, on a form furnished by the commissioner, signed under the
3241 penalties of perjury, request that the commissioner seal that file. The commissioner shall comply
3242 with such a request, provided that: (i) the court appearance or disposition, including court
3243 supervision, probation, commitment or parole, the records for which are to be sealed, terminated
3244 not less than 1 year prior to the request; (ii) said person has not been adjudicated a delinquent
3245 child or youthful offender or found guilty of a criminal offense within the commonwealth during
3246 the 1 year preceding the request, except for motor vehicle offenses in which the penalty does not
3247 exceed a fine of \$550, and was not imprisoned under sentence or committed as a delinquent child
3248 or youthful offender within the commonwealth within the preceding 1 year; and (iii) the form
3249 requesting sealing includes a statement by the petitioner signed under the penalties of perjury
3250 that the petitioner has not been adjudicated a delinquent child or youthful offender or found
3251 guilty of a criminal offense in any other state, United States possession or in a court of federal
3252 jurisdiction, except for the motor vehicle offenses described in clause (ii), and has not been
3253 imprisoned under sentence or committed as a delinquent or youthful offender in any state or
3254 county during the preceding 1 year.

3255 (b) At the time of dismissal of a case, nolle prosequi, without adjudication or when
3256 imposing a sentence, period of commitment or probation or other disposition under section 58 of
3257 said chapter 119, the court shall inform all juvenile defendants in writing of their right to seek
3258 sealing under this section and, if the case ended in a dismissal, nolle prosequi, or without
3259 adjudication, the court shall order sealing of the record at the time of the disposition unless the
3260 person charged with the offense objects.

3261 (c) Records sealed under this section shall not disqualify a person in any examination,
3262 appointment or application for public service in the service of the commonwealth or any political
3263 subdivision thereof, nor shall sealed records be admissible in evidence or used in any way in
3264 court proceedings or hearings before a court, board or commission to which the person is a party,
3265 except in imposing sentence for subsequent offenses in juvenile or criminal proceedings.

3266 Notwithstanding any other provision to the contrary, the commissioner shall report sealed
3267 juvenile records to inquiring police and court agencies only as “sealed juvenile record over 1
3268 year old” and to other authorized persons who may inquire as “no record”. The information
3269 contained in a sealed juvenile record shall be made available to a judge or probation officer who
3270 affirms that the person whose record has been sealed has been adjudicated a delinquent child or
3271 youthful offender or has pleaded guilty or been found guilty of and is awaiting sentence for a
3272 crime committed subsequent to the sealing of such record. That information shall be used only
3273 for the purpose of consideration in imposing sentence.

3274 SECTION 300. Section 100C of said chapter 276, as so appearing, is hereby amended by
3275 striking out, in line 23, the words “for employment used by an employer” and inserting in place
3276 thereof the following words:- used to screen applicants for employment, housing or an
3277 occupational or professional license.

3278 SECTION 301. Said section 100C of said chapter 276, as so appearing, is hereby further
3279 amended by inserting after the word “employment”, in line 26, the following words:- , housing
3280 or an occupational or professional license.

3281 SECTION 302. Section 100D of said chapter 276, as so appearing, is hereby amended by
3282 striking out the figure “17”, in line 8, and inserting in place thereof the following words:-
3283 criminal majority.

3284 SECTION 303. Said chapter 276, as so appearing, is hereby further amended by inserting
3285 after section 100D the following 5 sections:-

3286 Section 100E. For the purpose of this chapter, the words “expunge”, “expunged” and
3287 “expungement” shall mean permanent erasure or destruction of information so that the
3288 information is no longer maintained in any file or record in electronic, paper or other physical
3289 form and such that no individual or entity including, but not limited to, criminal justice agencies
3290 as defined under section 167 of chapter 6, has access to criminal offender record information
3291 related to the expunged charge or charges.

3292 Section 100F. (a) Notwithstanding section 100A or any other general or special law to the
3293 contrary, a person of any age having a record of entries of a court appearance in a proceeding
3294 pursuant to section 52 to 62 of chapter 119, inclusive, on file with the office of the commissioner
3295 of probation may, on a form furnished by the commissioner, petition that misdemeanor
3296 convictions or adjudications or misdemeanor cases ending in a dismissal, nolle prosequi or
3297 without adjudication be expunged if the offense was committed before the person reached the
3298 age of criminal majority and the person files a petition with a judge in the court in which the
3299 appearance or disposition occurred. Notice shall also be given to the office of probation. The
3300 court shall comply with such a request, provided, that: (i) the court appearance or disposition,

3301 including court supervision, probation, commitment or parole, the records of which are to be
3302 sealed, terminated not less than 3 years before the request; (ii) the petitioner has not been
3303 adjudicated a delinquent child or youthful offender or found guilty of a new criminal offense
3304 within the commonwealth during the preceding 3 years, except for motor vehicle offenses in
3305 which the penalty does not exceed a fine of \$550; and (iii) the form requesting expungement
3306 includes a statement by the petitioner signed under the penalties of perjury that the petitioner has
3307 not been adjudicated a delinquent child or youthful offender or found guilty of a criminal offense
3308 in any other state, United States possession or in a court of federal jurisdiction, except for the
3309 motor vehicle offenses described in clause (ii), and has not been imprisoned under sentence or
3310 committed as a delinquent or youthful offender in any state or county during the preceding 3
3311 years. If a petition is granted by the court pursuant to this section, the clerks and probation
3312 officers of the courts in which the proceedings at issue occurred or were initiated shall expunge
3313 all records of the proceedings in their files.

3314 (b) At the time of dismissal of a case, nolle prosequi, without adjudication or when
3315 imposing a sentence, period of commitment or probation or other disposition under section 58 of
3316 said chapter 119, the court shall inform, in writing, all eligible individuals of their right to seek
3317 expungement under this section.

3318 (c) A charge that is expunged shall not disqualify a person in any examination,
3319 appointment or application for public employment in the service of the commonwealth or any
3320 political subdivision thereof, nor shall such charges and convictions be used against a person in
3321 court proceedings or hearings before a court, board or commission to which the person is a party.

3322 (d) If the court orders expungement of records, the person whose records have been
3323 expunged, when applying for employment, housing, occupational or professional licensing, may

3324 answer “no record” as to any charge expunged pursuant to this section in response to an inquiry
3325 regarding prior arrests, court appearances or criminal cases.

3326 Section 100G. If a case is sealed or expunged pursuant to section 7 of chapter 258D or
3327 section 100A, 100B, 100C, 100F, 100H or 104 of this chapter, every mention of the defendant’s
3328 name and address shall be redacted from entries in the logs maintained under section 98F of
3329 chapter 41.

3330 Section 100H. Notwithstanding any general or special law to the contrary, for the
3331 purposes of a negligence claim, an employer or landlord shall be presumed to have no notice or
3332 ability to know criminal record information that: (i) is contained in a criminal record that has
3333 been sealed or expunged; (ii) is in 1 of the categories of information that employers are
3334 prohibited from requesting from an applicant under subsection 9 of section 4 of chapter 151B; or
3335 (iii) concerns crimes that occurred in the commonwealth that the department of criminal justice
3336 information services cannot lawfully disclose to an employer or landlord.

3337 Section 100I. (a) In any case wherein a plea of not guilty has been entered by a court
3338 pursuant to section 59 of chapter 265 and (i) the criminal complaint is subsequently dismissed;
3339 (ii) the defendant is found not guilty by a judge or a jury; (iii) a finding of no probable cause is
3340 made by the court; or (iv) a nolle prosequi has been entered, a judge shall, upon motion of the
3341 defendant, seal said court appearance and disposition recorded, and the clerk and the probation
3342 officers of the courts in which the proceedings occurred or were initiated shall likewise seal the
3343 records of the proceedings in their files. Sealed records shall not operate to disqualify a person in
3344 any examination, appointment, or application for public employment in the service of the
3345 commonwealth or of any political subdivision.

3346 (b) An application used to screen applicants for employment, housing or an occupational
3347 or professional license which seeks information concerning prior arrests or convictions or
3348 adjudications of delinquency of the applicant shall include in addition to the statement required
3349 under section 100A the following statement: “An applicant for employment, housing or an
3350 occupational or professional license with a sealed record on file with the commissioner of
3351 probation may answer ‘no record’ with respect to an inquiry herein relative to prior arrests or
3352 criminal court appearances.” The attorney general may enforce the provisions of this section by a
3353 suit in equity commenced in the superior court. Notwithstanding this section or any other
3354 general or special law to the contrary, the commissioner of probation or the clerk of courts in any
3355 district court, superior court, juvenile court, or the Boston municipal court, in response to
3356 inquiries by authorized persons other than by a law enforcement agency or a court, shall in the
3357 case of a sealed record report that no record exists.

3358 SECTION 304. Said chapter 276 is hereby further amended by adding the following
3359 section:-

3360 Section 104. After a court appearance has reached its final disposition, including
3361 termination of court supervision, probation, commitment or parole, upon motion of the defendant
3362 and after notice to the district attorney and the commissioner of probation, who shall be given the
3363 opportunity to be heard, a court may order expungement of all records related to the court
3364 appearance if the court determines by clear and convincing evidence that expungement is in the
3365 interest of justice because: (i) the complaint was issued against the named defendant because of
3366 misidentification by law enforcement or court employees; (ii) the named defendant has no
3367 connection to the alleged criminal activity; (iii) the named defendant was prosecuted because
3368 another person impersonated the defendant or used the defendant’s name when arrested by

3369 police; (iv) there was fraud on the court related to the claim that the defendant committed the
3370 offense; or (v) there was lack of probable cause for initiation of the complaint. The court shall
3371 enter written findings of fact in response to any motion filed under this section and shall
3372 immediately provide a certified copy of the order and findings of fact to the named defendant
3373 and the commissioner of probation. Upon receipt of a certified copy of an order expunging
3374 records, the commissioner of probation shall expunge records of court appearances and case
3375 disposition in the commissioner's files and the clerk and the probation officers of the courts in
3376 which the proceedings occurred or were initiated shall expunge the records of the proceedings
3377 from their files.

3378 If the court orders expungement of the records, the person whose records have been
3379 expunged, when applying for employment, housing, occupational or professional licensing may
3380 answer "no record" as to any charge expunged pursuant to this section in response to an inquiry
3381 regarding prior arrests, court appearances or criminal cases. A charge that is expunged shall not
3382 disqualify a person in any examination, appointment or application for public employment in the
3383 service of the commonwealth or any other political subdivision thereof, nor shall such charges or
3384 convictions be used against a person in court proceedings or hearings before a court, board or
3385 commission to which the person is a party.

3386 Upon receipt of an expungement order, the state police shall expunge said cases from any
3387 records in its custody.

3388 SECTION 305. Section 1 of chapter 276A of the General Laws, as appearing in the 2016
3389 Official Edition, is hereby amended by striking out, in lines 20 and 21, the words "certified or
3390 approved by the commissioner of probation under the provisions of section eight,".

3391 SECTION 306. Section 2 of said chapter 276A, as so appearing, is hereby further
3392 amended by striking out, in lines 6 and 7, the words “but has not reached the age of twenty-two”.

3393 SECTION 307. Said section 2 of said chapter 276A, as so appearing, is hereby amended
3394 by striking out, in lines 6 and 10, the words “18 years” and inserting in place thereof, in each
3395 instance, the following words:- criminal majority.

3396 SECTION 308. Said chapter 276A is hereby amended by striking out section 4, as so
3397 appearing, and inserting in place thereof the following section:-

3398 Section 4. In the event that an individual is charged with a violation of 1 or more of the
3399 offenses enumerated in section 70C of chapter 277, other than the offenses in subsection (a) of
3400 section 13A of chapter 265 and sections 13A and 13C of chapter 268, this chapter shall not apply
3401 to that defendant.

3402 SECTION 309. Section 5 of said chapter 276A, as so appearing, is hereby amended by
3403 inserting after the word “prosecution”, in line 10, the following words:- and any victims as
3404 defined by section 1 of chapter 258B.

3405 SECTION 310. Sections 8 and 9 of said chapter 276A are hereby repealed.

3406 SECTION 311. Said chapter 276A is hereby further amended by adding the following
3407 section:-

3408 Section 12. Nothing in this chapter or chapter 276B shall be interpreted to limit or in any
3409 way govern the authority of a district attorney or a police department to divert an offender, or to
3410 require a district attorney or police department to accept an offender into a program that they
3411 operate.

3412 SECTION 312. The General Laws are hereby amended by inserting after chapter 276A
3413 the following chapter:-

3414 CHAPTER 276B.

3415 RESTORATIVE JUSTICE.

3416 Section 1. As used in this chapter, the following words shall have the following meanings
3417 unless the context clearly requires otherwise:

3418 “Restorative justice”, a voluntary process whereby the offenders, victims and members of
3419 the community collectively identify and address harms, needs and obligations resulting from an
3420 offense in order to understand the impact of that offense; provided, however, that restorative
3421 justice requires an offender’s acceptance of responsibility for their actions and supports the
3422 offender as the offender makes repair to the victim or community in which the harm occurred.

3423 “Community-based restorative justice program”, a program, which may include the
3424 parties to a case, their supporters and community members, or one-on-one dialogues between a
3425 victim and offender, established on restorative justice principles that engages parties to a crime
3426 or members of the community in order to develop a plan of repair that addresses the needs of the
3427 parties and the community.

3428 Section 2. Participation in a community-based restorative justice program shall be
3429 voluntary and shall be available to both juvenile and adult defendants. A juvenile or adult
3430 defendant may be diverted to a community-based restorative justice program at any stage of a
3431 case, beginning immediately post arraignment, with the consent of the district attorney and the
3432 victim. Restorative justice may be used as a means of disposition, with judicial approval. In such
3433 a case, if the court finds that a juvenile or adult defendant successfully completed the restorative
3434 justice program, the charge shall be dismissed. If the court finds that a juvenile or adult
3435 defendant did not successfully complete the program or is in violation of program requirements,
3436 the case shall be returned to the court in order to commence with proceedings.

3437 Section 3. A person shall not be eligible to participate in a community-based restorative
3438 justice program if that person is charged with: (i) a sexual offense as defined by section 1 of
3439 chapter 123A; (ii) an offense against a family or household member as defined by subsection (c)
3440 of section 13M of chapter 265; or (iii) an offense resulting in serious bodily injury.

3441 Section 4. Participation in a community-based restorative justice program shall not be
3442 used as evidence or as an admission of guilt, delinquency or civil liability in legal proceedings.
3443 Statements made by a juvenile or adult defendant or a victim during the course of an assignment
3444 to a community-based restorative justice program shall be confidential and shall not be subject to
3445 disclosure in any judicial or administrative proceeding; provided, however, that nothing in this
3446 section shall preclude any evidence obtained through an independent source or that would have
3447 been inevitably discovered by lawful means from being admitted at such proceedings.

3448 Section 5. There shall be a restorative justice advisory committee to review community-
3449 based restorative justice programs. The advisory committee shall consist of the following
3450 members: 1 member appointed by the senate president and 1 member appointed by the speaker
3451 of the house of representatives, who shall serve as co-chairs of the advisory committee; the
3452 secretary of public safety and security or a designee; the secretary of health and human services
3453 or a designee; the president of the Massachusetts District Attorneys Association or a designee;
3454 the chief counsel of the committee for public counsel services or a designee; the commissioner of
3455 probation or a designee; the president of the Massachusetts Chiefs of Police Association
3456 Incorporated or a designee; the executive director of the Massachusetts office for victim
3457 assistance or a designee; and 7 members appointed by the governor, 1 of whom shall be a retired
3458 Massachusetts trial court judge and 6 of whom shall be representatives of community-based
3459 restorative justice programs. Each member of the advisory committee shall serve a 6 year term,

3460 except for members appointed because of their official title, who shall be members for as long as
3461 they hold that title.

3462 The advisory committee shall monitor and assist all community-based restorative justice
3463 programs to which a juvenile or adult defendant may be diverted pursuant to this chapter. The
3464 advisory committee shall track the use of community-based restorative justice programs through
3465 a partnership with an educational institution and shall make legislative, policy and regulatory
3466 recommendations to aid in the use of community-based restorative justice programs on topics
3467 including, but not limited to: (i) qualitative and quantitative outcomes for participants; (ii)
3468 recidivism rates of responsible parties; (iii) criteria for youth involvement and training; (iv) cost
3469 savings for the commonwealth; (v) training guidelines for restorative justice facilitators; (vi) data
3470 on racial, socioeconomic and geographic disparities in the use of community-based restorative
3471 justice programs; (vii) guidelines for restorative justice best practices; (viii) appropriate training
3472 and funding sources for community-based restorative programs; and (ix) plans for the expansion
3473 of restorative justice programs and opportunities throughout the commonwealth.

3474 Annually, not later than December 31, the advisory committee shall submit a report with
3475 findings and recommendations to the governor and to the clerks of the senate and house of
3476 representatives.

3477 SECTION 313. Section 70C of chapter 277 of the General Laws, as appearing in the
3478 2016 Official Edition, is hereby amended by striking out, in line 8, the words “, chapter 119”.

3479 SECTION 314. Said section 70C of said chapter 277, as so appearing, is hereby further
3480 amended by striking out, in lines 10 and 11, the figures “13B1/2, 13B3/4, 13C, 14, 14B, 15, 15A,
3481 16, 17, 18, 19, 20, 22A, 22B, 22C, 23, 23A, 23B” and inserting in place thereof the following
3482 figures:- 13C, 14, 14B, 15, 15A, 16, 17, 18, 19, 20, 23.

3483 SECTION 315. Said section 70C of said chapter 277, as so appearing, is hereby further
3484 amended by inserting after the figure “28”, in line 14, the following figure:- , 29.

3485 SECTION 316. Section 1 of chapter 279 of the General Laws, as so appearing, is hereby
3486 amended by inserting after the fourth sentence the following 2 sentences:-

3487 When a person is sentenced to pay a fine of any amount, or is assessed fines, fees, costs,
3488 civil penalties or other expenses at disposition of a case, the court shall inform the person that: (i)
3489 nonpayment of the fines, fees, costs, civil penalties or expenses may result in commitment to a
3490 prison or place of confinement; (ii) payment must be made by a date certain; (iii) failure to
3491 appear at such date certain or failure to make the payment may result in the issuance of a default;
3492 and (iv) if an inability to pay exists as the result of a change in financial circumstances or for any
3493 other reason, the person has a right to address the court on that inability to pay. A person may not
3494 be committed or detained on a delinquency or youthful offender case for failure to pay a fee, fine
3495 or costs.

3496 SECTION 317. Said chapter 279 is hereby further amended by inserting after section 6A
3497 the following section:-

3498 Section 6B. (a) As used in this section the following terms shall have the following
3499 meanings:-

3500 “Dependent child”, a person who is younger than 18 years of age.

3501 “Primary caretaker of a dependent child”, a parent with whom a child has a primary
3502 residence or a woman who has given birth to a child after or while awaiting her sentencing
3503 hearing and who expresses a willingness to assume responsibility for the housing, health and
3504 safety of that child; provided, that a parent who, in the best interest of the child, has arranged for

3505 the temporary care of the child in the home of a relative or other responsible adult shall not for
3506 that reason be excluded from the definition of “primary caretaker of a dependent child”.

3507 (b) Unless a sentence of incarceration is required by law, a defendant, upon conviction,
3508 shall have the right to have the court consider the defendant’s status as primary caretaker of a
3509 dependent child before imposing sentence. A defendant shall request such consideration, by
3510 motion supported by affidavit, not more than 10 days after the entry of judgment. Upon receipt
3511 of such a motion supported by affidavit, the court shall make written findings concerning the
3512 defendant’s status as a primary caretaker of a dependent child and the availability of appropriate
3513 individually assessed, non-incarcerative sentence alternatives. The court shall not impose a
3514 sentence of incarceration without first making such written findings.

3515 SECTION 318. Section 24 of said chapter 279, as appearing in the 2016 Official Edition,
3516 is hereby amended by striking out, in lines 18, 23 and 28, the words “person’s eighteenth
3517 birthday” and inserting in place thereof, in each instance, the following words:- person reaches
3518 the age of criminal majority.

3519 SECTION 319. Section 35 of said chapter 279, as so appearing, is hereby amended by
3520 inserting after the word “shall”, in line 3, the following words:- , to the extent that an individual
3521 has been assigned a fingerprint-based state identification number and that such number has been
3522 provided to the court.

3523 SECTION 320. Said section 35 of said chapter 279, as so appearing, is hereby further
3524 amended by inserting after the word “mittimus”, in line 4, the following words:- the person’s
3525 fingerprint-based state identification number,.

3526 SECTION 321. Section 6A of chapter 280 of the General Laws, as so appearing, is
3527 hereby amended by striking out the fourth sentence and inserting in place thereof the following

3528 sentence:- The court or justice may waive all or part of the cost assessment, the payment of
3529 which would impose a substantial financial hardship on the person convicted or the person's
3530 family or dependents.

3531 SECTION 322. Section 6B of said chapter 280, as so appearing, is hereby amended by
3532 striking out the words "18 years", in line 3, and inserting in place thereof the following words:-
3533 criminal majority.

3534 SECTION 323. Section 368 of chapter 26 of the acts of 2003 is hereby repealed.

3535 SECTION 324. Section 19 of chapter 122 of the acts of 2005 is hereby amended by
3536 inserting after the word "registry", in line 7, the following words:- ; provided, however, that
3537 approval procedures for ignition interlock device servicing and monitoring entities shall require
3538 any entity seeking certification to agree to provide all program costs, including installation,
3539 maintenance and removal, at 50 per cent cost to a person who presents documentation issued by
3540 the registrar that such cost would cause a substantial financial hardship on the offender or the
3541 offender's family; provided further, that documentation of substantial financial hardship on the
3542 offender or the offender's family shall include, but shall not be limited to, evidence of a valid
3543 electronic benefit transfer card or evidence of a valid MassHealth benefits card; and provided
3544 further, that the registrar shall provide notice to a person seeking application for a certified
3545 ignition interlock device that the person may obtain a certified ignition interlock device, services
3546 and monitoring at 50 per cent cost if such cost would cause a substantial financial hardship on
3547 the offender or the offender's family.

3548 SECTION 325. Said section 19 of said chapter 122 is hereby further amended by
3549 inserting after the word "vehicles", in line 10, the following words:- ; provided, however, that
3550 reporting shall ensure compliance with an entity's responsibly pursuant to clause (2) including,

3551 but not limited to, standard charges for installation, service, maintenance and removal of a device
3552 and percentages of the entity's standard program costs waived pursuant to said clause (2).

3553 SECTION 326. Clause (6) of said section 19 of said chapter 122 is hereby amended by
3554 striking out subclauses (a) to (c), inclusive, and inserting in place thereof the following 3
3555 clauses:- (i) of inspection of the certified ignition interlock device for accurate operation by an
3556 entity approved by the registrar not less than once every 30 days, as promulgated by the registrar,
3557 for the duration of any license ignition interlock device restriction;

3558 (ii) that the ignition interlock device shall be monitored, maintained and serviced not less
3559 than every 30 days, as promulgated by the registrar, by an entity approved by the registrar; and

3560 (iii) that the costs to install and maintain the certified ignition interlock device shall be
3561 borne by the operator unless the operator presents valid evidence of a substantial financial
3562 hardship on the individual.

3563 SECTION 327. Said section 19 of said chapter 122 is hereby further amended by striking
3564 out clause (8) and inserting in place thereof the following clause:-

3565 (8) violation of the required inspection, monitoring or reporting requirements may result,
3566 after hearing, in up to a 2-year extension of the ignition interlock license or a permanent
3567 revocation of an ignition interlock license and up to an additional 10-year license suspension
3568 during which such a person may not be eligible for an ignition interlock license.

3569 SECTION 328. Said section 19 of said chapter 122 is hereby further amended by striking
3570 out clause (9) and inserting in place thereof the following clause:-

3571 (9) a schedule for phasing in requirements that ignition interlock devices be equipped
3572 with cameras or other means of positively identifying the person providing the ignition interlock
3573 breath alcohol concentration test.

3574 SECTION 329. The commissioner of correction and the secretary of public safety and
3575 security shall promulgate rules and regulations necessary to implement section 119A of chapter
3576 127 of the General Laws not later than 6 months after the effective date of this act.

3577 SECTION 330. The commissioner of correction shall select houses of correction and
3578 state prisons to participate in a pilot program to investigate the broader provision of opioid
3579 substitution therapies for addiction in correction facilities. Selected facilities shall maintain or
3580 provide for the capacity to possess, dispense and administer drugs approved by the federal Food
3581 and Drug Administration for use in opioid substitution therapy for addiction and shall make such
3582 treatment available to any inmate for whom such treatment is found to be appropriate under
3583 section 16 of chapter 127 of the General Laws. A facility selected under this section shall not be
3584 required to maintain or provide an opioid substitution therapy that is not included in the
3585 MassHealth drug list.

3586 The pilot shall also ensure that an inmate receiving opioid substitution or medication
3587 assisted treatment for opioid addiction immediately preceding their incarceration, shall continue
3588 the treatment unless the inmate voluntarily discontinues the treatment or unless an addiction
3589 specialist, as defined in chapter 111E of the General Laws, determines that the treatment is no
3590 longer appropriate.

3591 Not later than November 1, 2018, and by November 1 of each subsequent year that the
3592 pilot program is in place, selected facilities shall report to the commissioner of correction the
3593 following information: (i) the cost of the pilot program to the facility related; (ii) the type and

3594 prevalence of opioid substitutions and medication assisted treatments provided through the pilot
3595 program; (iii) the number of inmates who continued to receive the same opioid substitution or
3596 medication assisted treatment as they received prior to incarceration; (iv) the number of inmates
3597 who voluntarily discontinued the opioid substitution or medication assisted treatment that they
3598 received prior to incarceration; (v) the number of inmates who discontinued the opioid
3599 substitution or medication assisted treatment that they received prior to incarceration due to a
3600 determination by an addiction specialist; (vi) a review of the facility's practices related to opioid
3601 substitution and medication assisted treatment prior to inclusion in the pilot program; and (vii)
3602 any other information requested by the department of correction related to the administration of
3603 the pilot program.

3604 The department of correction, in consultation with the department of public health, shall
3605 provide a report of the findings collected from selected facilities to the chairs of the joint
3606 committee on mental health and substance abuse and the house and senate committees on ways
3607 and means not later than January 1 of each year of the pilot program detailing: (i) the cost of the
3608 pilot program in the prior year; (ii) the projected cost associated with expanding the pilot
3609 program to additional houses of correction and correctional institutions for the coming year of
3610 the pilot program based on prior year costs; (iii) the type and prevalence of opioid substitutions
3611 and medication assisted treatments provided through the pilot program; (v) a summary of
3612 changes to facility practices related to opioid substitution and medication assisted treatment
3613 related to the pilot program; and (v) the aggregated results of: (A) the number of inmates who
3614 continued to receive the same opioid substitution or medication assisted treatment as they
3615 received prior to incarceration; (B) the number of inmates who voluntarily discontinued the
3616 opioid substitution or medication assisted treatment that they received prior to incarceration; and

3617 (C) the number of inmates who discontinued the opioid substitution or medication assisted
3618 treatment that they received prior to incarceration due to a determination by an addiction
3619 specialist.

3620 The department of correction shall select facilities for participation in the pilot program
3621 in the following manner: (i) for the first year, the Massachusetts alcohol and substance abuse
3622 center and at least 2 houses of correction and 2 state prisons shall be included in the pilot
3623 program; (ii) for the second year, at least 30 per cent of houses of correction and state prisons
3624 shall be included in the pilot program; (iii) for the third year, at least 60 per cent of houses of
3625 correction and state prisons shall be included in the pilot program; and (iv) for the fourth year,
3626 all houses of correction and state prisons shall be included in the pilot program.

3627 SECTION 331. The secretary of elder affairs and the secretary of the executive office of
3628 public safety and security shall report to the general court on elder protection laws in the
3629 commonwealth. The report shall include, but not be limited to: (i) the effectiveness of existing
3630 elder protection laws; (ii) additional legislative or regulatory changes that would further
3631 strengthen elder protection laws; and (iii) opportunities presented by the Elder Abuse Prevention
3632 and Prosecution Act, Public Law No. 115-70. The report shall be submitted with drafts of any
3633 recommended legislation to the clerks of the house of representatives and the senate and the
3634 chairs of the joint committee on elder affairs and the joint committee on the judiciary not later
3635 than July, 2018.

3636 SECTION 332. Not later than July 1, 2018, the commissioner of corrections and the
3637 sheriffs shall provide a plan to the chairs of the senate and house committees on ways and means
3638 as to the resources needed to comply with section 178 The plan shall include an accounting of
3639 efforts to reduce the population in restrictive housing so as to facilitate program improvements.

3640 SECTION 333. There shall be a juvenile justice data task force to make
3641 recommendations on coordinating and modernizing the juvenile justice data systems and reports
3642 that are developed and maintained by state agencies and the courts. The task force shall consist
3643 of the following members or their designees: the chief justice of the trial court; the chief justice
3644 of the juvenile court; the secretary of health and human services; the commissioner of probation;
3645 the commissioner of youth services; the commissioner of children and families; the
3646 commissioner of mental health; the commissioner of transitional assistance; the executive
3647 director of Citizens for Juvenile Justice, Inc.; the president of the Massachusetts Society for the
3648 Prevention of Cruelty to Children; the executive director of the Children’s League of
3649 Massachusetts, Inc.; the executive director to the Massachusetts District Attorneys Association;
3650 the chief counsel of the committee for public counsel services; the child advocate; the chair of
3651 the juvenile justice advisory committee; a representative of the Massachusetts Chiefs of Police
3652 Association; and 2 members appointed by the governor, 1 of whom shall have experience or
3653 expertise related to the juvenile justice system or the design and implementation of juvenile
3654 justice data systems or both and 1 of whom shall be an independent expert in state administrative
3655 data systems.

3656 The task force shall conduct not less than 1 public hearing. The task force shall analyze
3657 the capacities and limitations of the data systems and networks used to collect and report state
3658 and local juvenile caseload and outcome data. The analysis shall include the following: (i) a
3659 review of the relevant data systems, studies and models from the commonwealth and other
3660 states; (ii) identification of changes or upgrades to current data collection processes to remove
3661 inefficiencies, track and monitor state agency and court-involved juveniles and facilitate the
3662 coordination of information sharing between relevant agencies and the courts; (iii) identification

3663 of racial and ethnic disparities apparent within the juvenile justice system and ways to reduce
3664 such disparities; and (iv) any other matters which the task force determines may improve the
3665 collection and interagency coordination of juvenile justice data.

3666 The task force shall file a report on the options for improving interagency coordination,
3667 modernization and upgrading of state and local juvenile justice data and information systems.
3668 The report shall include, but not be limited to: (i) recommended additional collection and
3669 reporting responsibilities for agencies, departments or providers; (ii) recommendations for the
3670 creation of a web-based statewide clearinghouse or information center that would make relevant
3671 juvenile justice information on operations, caseloads, dispositions and outcomes available in a
3672 user-friendly, query-based format for stakeholders and members of the public, including an
3673 assessment of the feasibility of implementing such a system; and (iii) a plan for improving the
3674 current juvenile justice reporting requirements, including streamlining and consolidating current
3675 requirements without sacrificing meaningful data collection and including a detailed analysis of
3676 the information technology and other resources necessary to implement improved data
3677 collection. The report shall be filed with the clerks of the senate and the house of representatives
3678 not later than January 1, 2019, and the clerks shall forward the report to the senate and house
3679 chairs of the joint committee on the judiciary and the senate and house chairs of the joint
3680 committee on children, families and persons with disabilities.

3681 SECTION 334. There shall be a task force to evaluate how to collect fingerprint-based
3682 identification where the person against whom a complaint was issued or an indictment was made
3683 was not arrested. The task force shall consist of the following members or their designees: the
3684 secretary of public safety and security, who shall serve as chair; the chief justice of the trial
3685 court; and the president of the Massachusetts Chiefs of Police Association Incorporated. Not

3686 later than December 1, 2018, the task force shall file a report of its recommendations with the
3687 clerks of the senate and house of representatives, and the clerks shall forward the report to the
3688 senate and house chairs of the joint committee on the judiciary and the senate and house chairs of
3689 the joint committee on public safety and homeland security.

3690 SECTION 335. There shall be a task force to evaluate the advisability, feasibility and
3691 impact of raising the age of juvenile court jurisdiction to defendants younger than 21 years of
3692 age. The study shall include, but not be limited to:(i) the benefits and disadvantages of including
3693 19 and 20 year olds in the juvenile justice system; (ii) the impact of integrating 19 and 20 year
3694 olds into the under-19 population in the care and custody of the department of youth services;
3695 (iii) the ability to segregate young adults in the care and custody of the department of youth
3696 services from younger juveniles in such care; and (iv) the potential costs to the state court system
3697 and state and local law enforcement. The task force shall consider resources and facilities, if any,
3698 that could be reallocated from the adult system to the juvenile system and the advisability and
3699 feasibility of establishing a separate young adult court. The task force shall consist of the
3700 following members or their designees: the secretary of the executive office of public safety and
3701 security; the commissioner of youth services; the commissioner of the department of children
3702 and families; the commissioner of the department of correction; the commissioner of probation;
3703 the chief justice of the district court; the chief justice of the Boston municipal court; the chief
3704 justice of the superior court; the chief justice of the juvenile court department; the director of the
3705 juvenile court clinic; a designee of the Massachusetts District Attorneys Association; the chief
3706 counsel of the committee for public counsel services; 1 member appointed by the governor, who
3707 shall have expertise in the neurological development of young adults; 1 member appointed by the
3708 speaker of the house of representatives; 1 member appointed by the president of the senate; 1

3709 member appointed by the minority leader of the house of representatives; 1 member appointed
3710 by the minority leader of the senate; the executive director of Citizens for Juvenile Justice, Inc.; 1
3711 member appointed by American Federation of State, County and Municipal Employees Council
3712 93, who shall be an employee of the department of youth services and have not less than 5 years
3713 of experience working in a department of youth services secure facility; and the child advocate.
3714 The task force shall select a chair from its members. Not later than January 1, 2019, the task
3715 force shall file a final report with the clerks of the senate and house of representatives, and the
3716 clerks shall forward the report to the senate and house chairs of the joint committee on the
3717 judiciary and the senate and house chairs of the joint committee on ways and means.

3718 SECTION 336. There shall be a task force to evaluate and review the impact and
3719 effectiveness of eliminating certain mandatory minimum sentences and to make
3720 recommendations on the advisability of making further changes to criminal sentences that
3721 impose a mandatory minimum sentence. The evaluation and review shall include, but shall not
3722 be limited to: (i) the impact of such sentences on minority communities or neighborhoods; (ii)
3723 the impact of such sentences on access to equal justice, including the impact such sentences have
3724 on pleading to other crimes; (iii) the impact of such sentences on different age groups, including
3725 young adults; (iv) an examination of such sentences as compared to other crimes that do not
3726 impose a mandatory minimum sentence, including comparisons with other state and federal
3727 sentencing schemes; (v) a comparative analysis of the costs of such sentences to the
3728 commonwealth; (vi) the effectiveness of such sentences on reducing crime; (vii) the advisability
3729 of adopting so-called “safety valve” provisions, or other policies that allow for the imposition of
3730 a sentence less than the mandatory minimum sentence; and (viii) a review of the effectiveness

3731 and advisability of drug sentencing policies that allow intent to be based solely on the weight of
3732 the substance.

3733 The task force shall consist of the attorney general or a designee, who shall serve as
3734 chair; the secretary of public safety and security or a designee; the commissioner of probation or
3735 a designee; 1 member designated by the Massachusetts sentencing commission; 1 member
3736 designated by the executive office of the trial court; 1 member designated by the committee for
3737 public counsel services; 1 member designated by the American Civil Liberties Union of
3738 Massachusetts, Inc.; 1 member designated by the Massachusetts District Attorneys Association;
3739 1 member designated by the Massachusetts Chiefs of Police Association Incorporated; 1 member
3740 designated by Ex-Prisoners and Prisoners Organizing for Community Advancement; and 1
3741 member designated by the Massachusetts office for victim assistance.

3742 Not later than January 1, 2020, the task force shall file a final report, which shall include
3743 recommendations for legislative or regulatory changes based on the task force's findings, as
3744 appropriate, with the clerks of the senate and house of representatives. The clerks shall forward
3745 the report to the joint committee on the judiciary and the joint committee on ways and means.

3746 SECTION 337. There shall be a special commission to study the prevention of suicide
3747 among prisoners and correction officers in correctional facilities in the commonwealth. The
3748 commission shall consist of: the secretary of public safety and security or the a designee, who
3749 shall serve as chair; the commissioner of correction or a designee; the commissioner of public
3750 health or a designee; 1 person appointed by the senate president; 1 person appointed by the
3751 speaker of the house of representatives; and 5 persons appointed by the governor, 1 of whom
3752 shall be a representative of a legal advocacy organization that has expertise with issues related to
3753 prisons and prisoners, 1 of whom shall be a representative of a community organization or public

3754 agency that works with prisoners and their families, 1 of whom shall be a representative of an
3755 organization that specializes in suicide prevention, 1 of whom shall be a representative of an
3756 organization that represents correction officers in the commonwealth and 1 of whom shall be a
3757 representative of an organization that represents sheriffs of the commonwealth. Each member
3758 shall serve without compensation.

3759 The commission shall review the state of suicide prevention programs in correctional
3760 facilities in the commonwealth and develop model plans, recommend program changes,
3761 highlight budget priorities and recommend best practices that can be utilized to reduce instances
3762 of prisoner and correction officer suicide and attempted suicide. The commission shall: (i)
3763 examine and evaluate the state of jail and prison suicide prevention policies in the
3764 commonwealth; (ii) examine and evaluate suicide prevention training for correctional facility
3765 staff in the commonwealth; (iii) develop recommendations on ways in which correctional
3766 facilities can improve intake screening and bookkeeping; (iv) examine and develop
3767 recommendations on methods by which correctional facilities may improve identification,
3768 referral and evaluation of individual suicide risk; (v) provide recommendations for improving
3769 communication between detention facility staff and arresting or transporting officers, as well as
3770 between detention facility staff and potentially suicidal inmates; (vi) examine and develop
3771 recommendations on methods by which correctional facilities may improve housing designated
3772 for inmates that are identified as suicidal; (vii) provide recommendations for improving
3773 observation and treatment plans for inmates identified as suicidal; (viii) provide
3774 recommendations for improving suicide intervention; (ix) examine and develop
3775 recommendations for how correctional facilities may improve or establish practices of
3776 postmortem notification, reporting and mortality-morbidity reviewing; (x) develop

3777 recommendations for the provision of mental health counseling services to correction officers
3778 that have a need for such services; (xi) examine ways in which correctional facilities can reduce
3779 stress, anxiety and depression among correction officers; and (xii) examine training programs for
3780 incoming correction officers and develop recommendations for programs to include a discussion
3781 of mental preparedness.

3782 The commission may hold public hearings to assist in the collection and evaluation of
3783 data and testimony. The commission shall file its findings and recommendations relative to
3784 suicide prevention, together with drafts of legislation necessary to carry those recommendations
3785 into effect, with the clerks of the senate and house of representatives, the senate and house
3786 committees on ways and means, the joint committee on public safety and homeland security and
3787 the joint committee on mental health and substance abuse not later than March 31, 2019.

3788 SECTION 338. There shall be a restoration center commission in the former county of
3789 Middlesex to plan and implement a county restoration center and program to divert persons
3790 suffering from mental illness or substance use disorder who interact with law enforcement or the
3791 court system during a pre-arrest investigation or the pre-adjudication process from lock-up
3792 facilities and hospital emergency departments to appropriate treatment.

3793 The commission shall consist of: the Middlesex sheriff or a designee, who shall serve as
3794 co-chair; a representative from the Massachusetts Association for Mental Health, Inc., who shall
3795 serve as co-chair; the Middlesex district attorney or a designee; a representative of the National
3796 Alliance on Mental Illness of Massachusetts, Inc.; 2 representatives appointed by the Middlesex
3797 County Chiefs of Police Association from police departments in the former county of Middlesex
3798 who have received critical incident training or have established a local jail diversion program; 2

3799 representatives appointed by the Association for Behavioral Healthcare, Inc., at least one of
3800 whom shall be be a provider organization in the former county of Middlesex with experience
3801 operating a local jail diversion program; 1 member of the senate; 1 member of the house of
3802 representatives; a representative from the department of mental health with knowledge of
3803 sequential intercept mapping and forensic services; a representative from the department of
3804 public health with knowledge of sequential intercept mapping and forensic services; a
3805 representative from the trial court with specialty court experience; a representative from the
3806 executive office of public safety and security; a representative from MassHealth with knowledge
3807 of insurance vehicles, including Medicaid; a representative from the Massachusetts Psychiatric
3808 Society, Inc. with experience in community-based mental health services; a representative from
3809 The Massachusetts Psychological Association, Inc.; a representative from the office of the
3810 commissioner of probation within the former county of Middlesex; a representative from the
3811 parole board with knowledge of establishing methodologies and analyzing metrics for program
3812 fidelity; and a representative from the committee for public counsel services. The commission
3813 shall hold its first meeting not more than 30 days after the effective date of this act.

3814 The commission shall develop and implement a 3-year plan to build a restoration center
3815 in the former county of Middlesex. In the first year, the commission shall: (i) perform an
3816 examination of state and national best practices including, but not limited to, the Bexar County
3817 model, which has received national recognition from the federal Substance Abuse and Mental
3818 Health Services Administration for its success in diverting individuals with behavioral health
3819 issues away from the criminal justice system and into appropriate treatment; and (ii) review the
3820 current capacity of mental health providers within the former county to provide behavioral health
3821 services to individuals suffering from mental illness or substance use disorders who interact with

3822 law enforcement or the court system and the barriers they face to accessing treatment. In the
3823 second year, the commission shall develop a jail diversion program and an initial pilot focused
3824 on providing integrated community-based services from a centralized location and perform an
3825 analysis of potential costs and cost-savings. In the third year, the commission shall develop a
3826 restoration center and secure funding for a subsequent 2-year period.

3827 Within 1 year, the commission shall submit its findings and recommendations for a
3828 restoration center, together with drafts of legislation necessary to carry out those
3829 recommendations, including a report on the current capacity to provide behavioral health
3830 services to individuals suffering from mental illness or substance use disorder, which shall
3831 include, but shall not be limited to, the type of services pre-arrest, pre- and post-release, location
3832 of services, type of patients served and barriers to diverting individuals away from the criminal
3833 justice system and into treatment. Within 2 years, the commission shall report on the outcome of
3834 the pilot programs and provide a full implementation plan for a restoration center including, but
3835 not limited to, deliverables, barriers to implementation and costs. The report shall be submitted
3836 to the senate and house committees on ways and means, the joint committee on mental health
3837 and substance abuse, the executive office of public safety and security, the executive office of
3838 health and human services and the governor. The commission shall thereafter produce an annual
3839 report, which shall include, but shall not be limited to: a list of services and programs,
3840 populations served and financial information.

3841 SECTION 339. Notwithstanding any general law or special law to the contrary, there
3842 shall be a special commission to study the health and safety of lesbian, gay, transgender, queer,
3843 and intersex prisoners in the correctional institutions, jails and houses of correction of the

3844 commonwealth in order to evaluate current access to appropriate healthcare services and health
3845 outcomes.

3846 The special commission shall consist of: 1 member appointed by the department of
3847 correction who works in corrections; 1 sheriff appointed by the Massachusetts Sheriffs
3848 Association; 1 former judge appointed by the chief justice of the supreme judicial court; 1
3849 member appointed by the governor who shall be a representative of a healthcare provider with
3850 expertise in transgender healthcare; 1 member appointed by the national association of social
3851 workers; 1 member appointed by Prisoners' Legal Services; and 2 members appointed by the
3852 attorney general, 1 of whom shall be a representative of an organization specializing in the
3853 advocacy, education, direct service and organizing of currently and formerly incarcerated
3854 lesbian, gay, bisexual, queer and transgender individuals and 1 of whom shall be a representative
3855 of legal advocates with expertise in advocating for lesbian, gay, bisexual, queer, transgender and
3856 intersex individuals in the criminal justice system.

3857 The members of the special commission shall be provided full and unfettered access to all
3858 state prisons and houses of correction in the commonwealth and shall be allowed to interview
3859 prisoners and staff to the extent practicable. The special commission shall gather information that
3860 includes, but shall not be limited to: (i) the number of prisoners who have received diagnoses of
3861 gender dysphoria or transition-related healthcare; (ii) the number of prisoners who have been
3862 denied diagnoses of gender dysphoria or transition-related healthcare; (iii) the number of denied
3863 requests for an alternative housing or facility placement by prisoners in connection with their
3864 gender identity and the reasons for the denial; and (iv) training provided to department staff and
3865 contracted health professionals on lesbian, gay, bisexual, queer, transgender and intersex cultural
3866 competency.

3867 The special commission shall produce a report that shall include specific
3868 recommendations to improve outcomes, a timeline by which specific tasks or outcomes shall be
3869 achieved and recommendations for improving prisoner health and safety that shall be published
3870 not more than 1 year after the passage of this act. The special commission shall issue a
3871 subsequent and final report evaluating implementation of its recommendations not more than 3
3872 years after the passage of this act. The commission shall make the reports publicly available and
3873 shall deliver copies of the reports to the governor, the attorney general and the joint committee
3874 on the judiciary.

3875 SECTION 340. Notwithstanding any general or special law to the contrary, there shall be
3876 a special commission created to review the qualifications and scope of practice of qualified
3877 examiners, as defined in section 1 of chapter 123A.

3878 The special commission shall consist of the senate and house chairs of the joint
3879 committee on the judiciary or their designees, who shall serve as co-chairs; the minority leader of
3880 the house of representatives or a designee; the minority leader of the senate or a designee; the
3881 secretary of public safety and security or a designee; the commissioner of correction or a
3882 designee; the commissioner of public health or a designee; the executive director of the
3883 Massachusetts District Attorneys Association or a designee; the executive director of the
3884 Massachusetts office of victim assistance or a designee; the superintendent of the Massachusetts
3885 treatment center or a designee; the executive director of the committee for public counsel
3886 services or a designee; a representative of a professional association with expertise in the
3887 assessment and treatment of sexually dangerous persons; and a person with experience in
3888 supervision of qualified examiners. The special commission shall consult with the sex offender

3889 registry board, the parole board, the department of probation and others as necessary to complete
3890 the commission's work.

3891 The special commission shall conduct a thorough review of the educational and
3892 experiential requirements for qualified examiners and the clinical standards and practices and
3893 risk assessment criteria used by qualified examiners in conducting an assessment of sexually
3894 dangerous persons, as defined in section 1 of chapter 123A. The special commission shall
3895 determine whether these requirements, standards and practices reflect the current scientific
3896 research and best practice evidence in the field and make recommendations for revision of
3897 current professional requirements, clinical standards, practices and risk assessment criteria as
3898 needed to support effective practice among qualified examiners and to maximally ensure public
3899 safety.

3900 The special commission shall submit its report and recommendations, together with drafts
3901 of legislation to carry its recommendations into effect, with the clerks of the senate and house not
3902 later than August 1, 2018.

3903 SECTION 341. Notwithstanding any general or special law to the contrary, juvenile
3904 records including, but not limited to, juvenile conviction data, juvenile arrest data or juvenile
3905 sealed record data shall not be shared with the registry of motor vehicles, except when a
3906 consequence of a sentencing decision is related to operating a motor vehicle, in which case such
3907 data may be shared by the court, probation, district attorney, law enforcement agencies, the
3908 department of criminal justice information services or any other agency or entity that lawfully
3909 possesses such records.

3910 SECTION 342. The executive office of public safety and security may issue a temporary
3911 waiver from the requirements of section 1A of chapter 263 for a defined period of time to a

3912 police department that demonstrates, upon application to the executive office, that it has
3913 inadequate resources to implement that section.

3914 SECTION 343. Notwithstanding section 32H of chapter 94C or any other general or
3915 special law to the contrary, as of the effective date of this act a person who is serving a sentence
3916 for an offense that has been repealed by this act shall be eligible to receive deductions from that
3917 person's sentence for good conduct under sections 129C and 129D of chapter 127.

3918 SECTION 344. Sections 39 to 39D, inclusive, and 39F of chapter 127 of the General
3919 Laws, inserted by section 178, and section 179 shall take effect on July 1, 2018.

3920 SECTION 345. Section 39E of said chapter 127, inserted by said section 178 shall take
3921 effect on January 1, 2019.

3922 SECTION 346. Sections 8, 27, 28, 97, 100, 101, 106, 107, 114, the definition of
3923 "Delinquent child" in section 131, 132, 133, 135, 137, 138, 139, 140, 141, 143, 144, 145, 146,
3924 148, 149, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 168, 169, 184,
3925 185, 186, 203, 219, 222, 226, 227, 228, 229, 230, 231, 232, 233, 256, 257, 258, 259, 260, 261,
3926 262, 263, 264, 284, 285, 289, 291, 300, 302, 303, 307 , and 322 shall take effect January 1, 2019.

3927 SECTION 347. Sections 30, 116, 134, 175, 191, 197, 201, 220, 319, and 320 shall take
3928 effect on July 1, 2019.

3929 SECTION 348. Section 85 shall take effect on September 1, 2018.

3930 SECTION 349. Section 193 shall take effect on July 1, 2018.

3931 SECTION 350. Section 194 shall take effect on July 1, 2019.

3932 SECTION 351. Sections 195 and 196 shall take effect on July 1, 2020.

3933 SECTION 352. Sections 223A to 223E, inclusive, shall take effect on August 1, 2018.