

SENATE No. 1386

The Commonwealth of Massachusetts

PRESENTED BY:

Cynthia Stone Creem

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act improving juvenile justice data collection.

PETITION OF:

Table with 3 columns: NAME, DISTRICT/ADDRESS, and Date. Rows include Cynthia Stone Creem, Jason M. Lewis, Mike Connolly, Joseph A. Boncore, Adam G. Hinds, Edward J. Kennedy, Cindy F. Friedman, James B. Eldridge, Brendan P. Crighton, Patricia D. Jehlen, Mary S. Keefe, Denise Provost, Sal N. DiDomenico, Michael O. Moore, Michael D. Brady, Jack Patrick Lewis, and Sean Garballey.

Michael J. Barrett
Julian Cyr

Third Middlesex
Cape and Islands

2/1/2019
2/4/2019

SENATE No. 1386

By Ms. Creem, a petition (accompanied by bill, Senate, No. 1386) of Cynthia Stone Creem, Jason M. Lewis, Mike Connolly, Joseph A. Boncore and other members of the General Court for legislation to improve data collection in the juvenile justice system. Public Safety and Homeland Security.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. 1290 OF 2017-2018.]

The Commonwealth of Massachusetts

—————
**In the One Hundred and Ninety-First General Court
(2019-2020)**
—————

An Act improving juvenile justice data collection.

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

1 SECTION 1. The purpose of these provisions is to ensure that the Commonwealth
2 establishes systems to collect accurate, consistent, and comprehensive data on juveniles’ contacts
3 with officials in the law enforcement and juvenile justice systems in order to improve
4 comprehensive state planning as required by Title 34 of the United States Code, section 1113.

5 SECTION 2. Section 89 of Chapter 119 of the General Laws, as appearing in section 80
6 of chapter 69 of the acts of 2018, is hereby amended by inserting after the definition of “criminal
7 justice agency” the following paragraph:-

8 “Gender identity and expression” shall be defined pursuant to subsection 59 of section 7
9 of chapter 4 of the General Laws

10 SECTION 3. Section 89 of said Chapter 119, as so appearing, is hereby further amended
11 by inserting after the definition of “racial or ethnic category” the following paragraph:-

12 ‘Sexual orientation”, having an orientation for or being identified as having an orientation
13 for heterosexuality, bisexuality, or homosexuality.

14 SECTION 4. Section 89 of Chapter 119 of the General Laws, as appearing in section 80
15 of chapter 69 of the acts of 2018, is hereby amended by inserting after the last paragraph the
16 following paragraphs:-

17 (c)The Child Advocate shall create and update as may be appropriate an instrument to
18 record aggregate statistical data at each point of contact identified in sections 4(a)-(i). This
19 instrument shall, at minimum, include age, gender, gender identity and expression, racial or
20 ethnicity category, sexual orientation and type of crime. The child advocate shall give due regard
21 to the census of juveniles when setting forth the racial or ethnic categories in the instrument. The
22 Child Advocate shall consider providing guidance about the manner in which the race and
23 ethnicity information is designated and collected, with consideration of the juveniles’ self-
24 reporting of such categories. All Offices and Departments subject to this law shall use this
25 instrument to record contacts.

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

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

32 (2) arrest

33 (e) Clerk magistrates shall collect the necessary information to complete the instrument
34 identified in subsection (c) for each juvenile subjected to the following contacts for each fiscal
35 year

36 (1) criminal complaint filed

37 (2) finding of probable cause;

38 (3) complaint issued;

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

40 (5) complaint issued after appeal.

41 (f) The district attorneys shall collect the necessary information to complete the
42 instrument identified in subsection (c) for each juvenile subjected to the following contacts for
43 each fiscal year

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

45 (2) indictment as a youthful offender;

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

47 (4) prosecution in criminal court under section 74 of chapter 119 of the General Laws.

48 (g) The juvenile court department shall collect the necessary information to complete the
49 instrument identified in subsection (c) for each juvenile subjected to the following contacts for
50 each fiscal year:

- 51 (1) arraignment as a delinquent
- 52 (2) arraignment as a youthful offender;
- 53 (3) referral to and/or use of diversion programming pursuant to section 54A of chapter
54 119 of the General Laws;
- 55 (4) imposition of bail or order to hold without bail;
- 56 (5) pre-trial probation pursuant to section 87 of chapter 276 of the General Laws;
- 57 (6) cases which are continued without a finding pursuant to section 18 of chapter 278 and
58 to section 58 of chapter 119 of the General Laws;
- 59 (7) adjudication as a delinquent;
- 60 (8) adjudication as a youthful offender;
- 61 (9) imposition of an adult sentence pursuant to section 58 of chapter 119 of the General
62 Laws;
- 63 (10) sentence to probation;
- 64 (11) commitment to the department of youth services pursuant to section 58 of chapter
65 119 of the General Laws;
- 66 (12) commitment to the department of youth services pursuant to section 2 of chapter 279
67 of the General Laws that are suspended;
- 68 (13) voluntary extensions of commitments to the department of youth services;

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

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

72 (16) revocation of a continuation without a finding pursuant to pursuant to section 18 of
73 chapter 278 and to section 58 of chapter 119 of the General Laws;

74 (h) The office of the commissioner of probation shall collect the necessary information to
75 complete the instrument identified in subsection (c) for each juvenile subjected to the following
76 contacts for each fiscal year:

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

78 (2) supervision of pre-trial probation;

79 (3) supervision of continuances without a finding;

80 (4) supervision of youth on probation; and

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

82 (i) The department of youth services and any contractor, vendor or service provider
83 working with said department including alternative lock-up programs shall collect the necessary
84 information to complete the instrument identified in subsection (c) for each juvenile subjected to
85 the following contacts for each fiscal year:

86 (1) pre-arraignment detention;

87 (2) pre-trial detention;

- 88 (3) commitment;
- 89 (4) level of care including, but not limited to,
- 90 a. “hardware,” secure;
- 91 b. staff secure;
- 92 c. residential; and
- 93 d. community placement;
- 94 (5) notice of revocation of grants of conditional liberty;
- 95 (6) hearing on grants of conditional liberty; and
- 96 (7) revocation of grants of conditional liberty for violation of conditions of liberty; and
- 97 (8) voluntary extensions of commitments with the department of youth services.

98 (j) The superior court shall collect the necessary information to complete the instrument
99 identified in subsection (c) for each juvenile subjected to the following contacts for each fiscal
100 year:

- 101 (1) arraignment for murder in the first degree and murder in the second degree; and
- 102 (2) convictions.

103 (k) The department of correction and each sheriff’s department shall collect the necessary
104 information to complete the instrument identified in subsection (c) for each juvenile subjected to
105 the following contacts for each fiscal year:

- 106 (1) pre-arraignment detention;
- 107 (2) pre-trial detention;
- 108 (3) post-disposition confinement of youthful offenders; and
- 109 (4) post-conviction confinement for murder.

110 (1) The parole board shall collect the necessary information to complete the instrument
111 identified in subsection (c) for each juvenile subjected to the following contacts for each fiscal
112 year:

- 113 (1) grant of parole;
- 114 (2) supervision of parole; and
- 115 (3) revocation of parole.

116 SECTION 5. Chapter 119 of the General Laws, as appearing in section 80 of chapter 69
117 of the acts of 2018, is hereby amended by inserting after section 89 the following section:

118 Section 90. (a) The Executive Office of Public Safety and Security shall be responsible
119 for assembling the data collected by the below offices and departments on an annual basis. The
120 collected data for each fiscal year shall be published on the Executive Office of Public Safety
121 and Security Website, filed with the clerks of the Massachusetts House and Senate and provided
122 to the Office of the Child Advocate no later than 90 days after the end of that fiscal year. The
123 first such report shall be submitted by January 2, 2020.

124 a. The Commissioner of the Department of Correction

- 125 b. Sheriffs of each County;
- 126 c. The Parole Board;
- 127 d. The Department of the State Police;
- 128 e. Municipal police departments;
- 129 f. The Massachusetts Bay Transportation Authority Police;
- 130 g. School based police from any local education authority;
- 131 h. Alternative Lock-up Programs; and
- 132 i. any other contractor, vendor or service provider working with school based or other
133 police officers.

134 (b) The Attorney General shall be responsible of assembling data collected by District
135 Attorney's Offices on an annual basis. The collected data for each fiscal year shall be published
136 on the Attorney General's website, filed with the clerks of the Massachusetts House and Senate
137 and provided to the Office of the Child Advocate no later than 90 days after the end of that fiscal
138 year. The first such report shall be submitted by January 2, 2020.

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

145 90 days after the end of that fiscal year. The first such report shall be submitted by January 2,
146 2020.

147 (d) The Executive Office for Human Services shall be responsible for assembling data
148 collect by the Commissioner of the Department of Youth Services and all department personnel,
149 contractors or vendors working with the Department. The data shall be collected on an annual
150 basis. The collected data for each fiscal year shall be published on the Office's website, filed
151 with the clerks of the Massachusetts House and Senate and provided to the Office of the Child
152 Advocate no later than 90 days after the end of that fiscal year. The first such report shall be
153 submitted by January 2, 2020.

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

158 (f) The annual Juvenile Justice Contact Data Reports from the Executive Offices of
159 Public Safety and Security, Attorney General, Chief Justice for Administration and Management
160 and Executive of Office of Human Services shall be public records.