

SENATE No. 2675

The Commonwealth of Massachusetts

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

SENATE, May 4, 2020.

The committee on Public Safety and Homeland Security to whom was referred the petition (accompanied by bill, Senate, No. 1374) of William N. Brownsberger, Mary S. Keefe, Jason M. Lewis, Joseph A. Boncore and other members of the General Court for legislation relative to access to community corrections,- reports the accompanying bill (Senate, No. 2675). [Senator Tran dissenting].

For the committee,
Michael O. Moore

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**In the One Hundred and Ninety-First General Court
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An Act relative to community corrections.

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. Chapter 211F of the General Laws, as appearing in the 2016 Official
2 Edition, is hereby stricken and inserting in place thereof the following:-

3 § 1. Definitions

4 The following terms as used in this chapter shall have the following meanings:

5 “Commissioner”, the commissioner of probation.

6 “Community justice program”, any program or service that is operated by a state, local or
7 private service agency, that has been deemed an appropriate provider of services by the office of
8 community justice programs including, but not limited to, intensive supervision with treatment,
9 community service, pretrial services programs, reentry services programs, programs designed as
10 an alternative to jail or prison, and any other program or service as the commissioner may so
11 direct; provided, however, that pretrial and reentry services programs shall each be a separate
12 track of programming from intensive supervision with treatment as defined herein.

13 “Community justice plan”, a written proposal submitted to the executive director of the
14 office of community justice programs for approval and funding as a community justice program.

15 “Executive director”, the executive director of the office of community justice programs.

16 “Intensive supervision with treatment”, as determined by the office of community justice
17 programs, a community justice program that provides a combination of interventions, including
18 treatment, services and accountability measures for persons assessed to be at moderate or higher
19 risk for recidivism.

20 § 2. Office of community justice programs; executive director

21 (a) There is hereby established subject to appropriation within the office of the
22 commissioner of probation an office of community justice programs, which shall be used for any
23 criminal justice purpose as determined by the commissioner, and shall establish a continuum of
24 community justice programs statewide.

25 (b) The executive director of the office of community justice programs shall be appointed
26 by the commissioner to establish, oversee and operate a statewide continuum of community
27 justice programs.

28 (c) The executive director shall operate subject to the direction and approval of the
29 commissioner. The office shall, to the extent practicable, utilize existing resources of the office
30 of court management for the purpose of avoiding unnecessary duplication.

31 § 3 Sentence to intensive supervision with treatment; conditions; eligibility

32 (a) Any court exercising jurisdiction is authorized to sentence any eligible person to
33 intensive supervision with treatment.

34 (b) A sentence to intensive supervision with treatment shall be imposed as a condition of
35 probation consistent with chapters 276 and 276A. The court may modify the sentence of a person
36 subject to intensive supervision with treatment in the same manner as if the person had been
37 placed on probation.

38 (c) The commissioner shall develop guidelines for the eligibility of persons for intensive
39 supervision with treatment.

40 (d) No person shall be sentenced to intensive supervision with treatment in lieu of a
41 mandatory minimum term of incarceration set by statute.

42 § 3A. Participation in a pretrial services program in lieu of bail or as condition of release

43 (a) Participation in a pretrial services program may be ordered by the court, in lieu of bail
44 or as a condition of release consistent with sections 57, 58 and 58A of chapter 276. The court
45 may dictate the duration and conditions of the pretrial services program. Any conditions should
46 be imposed to ensure return of the defendant to court or, where permitted by law, to assure the
47 safety of any person or the community.

48 (b) The Massachusetts probation service may utilize pretrial services programs for
49 pretrial supervision consistent with sections 87 and 87A of chapter 276, upon agreement by the
50 person before the court who is charged with an offense or crime.

51 (c) If the sheriff who has custody of a person held on bail under section 57 or 58 of
52 chapter 276 determines that the person would benefit from entering a pretrial services program,
53 the sheriff shall provide a written recommendation of such determination to the court, the
54 commissioner, the prosecuting office and the person or the person's attorney, where applicable.

55 The prosecuting office may notify any victim of the sheriff's recommendation upon receipt of
56 such recommendation. If the commissioner or the prosecuting office objects to such
57 recommendation, the commissioner or prosecuting office shall file written objection with the
58 court within 14 days of receipt of such notice. Upon receipt of such objection, the court may set
59 the matter for hearing. After expiration of the time for filing objections and after hearing, if
60 applicable, the court shall either decline to modify its earlier bail order or make an order under
61 subsection (a) of this section authorizing the person's participation in a pretrial services program.
62 In no event shall the person held on bail be ordered under this paragraph to enter a pretrial
63 services program without that person's consent.

64 (d) Placement of a person in a pretrial services program shall require victim notification
65 as required under subsection (t) of section 3 of chapter 258B.

66 § 3B. Utilization of programs developed by the office of community justice programs for
67 persons not sentenced to intensive supervision with treatment under Sec. 3

68 (a) For any person sentenced to probation supervision who has not been sentenced to
69 intensive supervision with treatment under section 3, the probation department may utilize
70 programs and services offered by the office of community justice programs: (i) for participation
71 in court-ordered programming where such programming is available through the office of
72 community justice programs; or (ii) upon agreement by the person so sentenced.

73 (b) The use of programs and services under subsection (a) of section 3B of this chapter
74 shall not operate as intensive supervision with treatment as defined in section 1.

75 § 3C. Utilization of programs developed by the office of community justice programs for
76 reentry and other criminal justice involved persons

77 (a) The office of community justice programs may provide reentry services programs,
78 which shall not operate as intensive supervision with treatment as defined in section 1 of this
79 chapter, to any person released from incarceration including, but not limited to, any probationer
80 or parolee.

81 (b) Any person who has previously been sentenced to probation supervision, even if that
82 person is no longer being supervised by the Massachusetts probation service, may utilize
83 programs and services offered by the office of community justice programs. The use of programs
84 and services under this section shall not operate as intensive supervision with treatment as
85 defined in section 1.

86 § 4. Community justice plans

87 (a) The executive director is hereby authorized and directed to develop and implement
88 standards for a contracting process for community justice plans, as follows:

89 (1) A community justice plan shall include:

90 (A) the type of programs and services offered such as, intensive supervision with
91 treatment, pretrial services or reentry services and the interventions to be made therein, such as
92 cognitive behavioral therapy, employment counseling, educational support, etc.

93 (B) a description of the administrative, capital and operating costs of the programs;

94 (C) a description of methods by which the state, local or private service agency shall
95 implement the community justice program with fidelity to evidence-based practices;

96 (D) a description of the knowledge, skill and experience of the state, local or private
97 service agency in the fields of criminal justice, human services and social sciences.

98 (2) Subject to appropriation, the executive director shall select plans for funding. All
99 contracts shall provide that the executive director may suspend funding or may assume
100 administrative responsibility for any community justice programs not in compliance with
101 standards, or if the public safety is threatened.

102 (3) The executive director shall monitor programs for compliance with the goals of this
103 chapter, and shall provide technical assistance, training and education to providers in developing
104 and operating community justice programs.

105 (b) Subject to an agreement between the commissioner and the secretary of public safety
106 and subject to appropriation, the resources of community justice programs shall be utilized by
107 the parole board for the purpose of parole supervision and the department of correction for the
108 purpose of reentry.

109 § 5. Annual report

110 The commissioner shall submit an annual report no later than January 15 of each year,
111 commencing January 15, 2021, to the governor, the joint committees on the judiciary, mental
112 health, substance use and recovery, public health and public safety and homeland security and
113 the clerks of the house of representatives and the senate. The report shall include but shall not be
114 limited to the following information:

115 (1) a statistical report of the utilization of community justice programs, including a list of
116 all community justice programs operated under the office of community justice programs;

117 (2) the effectiveness of the office of community justice programs in reducing prison
118 commitments, reducing pretrial detention and increasing the court appearance rate and the
119 metrics used to evaluate said effectiveness;

120 (3) fiscal audits on the expenditure of state funds;

121 (4) the results of any investigations into community justice program noncompliance with
122 community justice plans;

123 (4) any other relevant information or recommendations provided by the commissioner.

124 SECTION 2: Section 57 of chapter 276 of the General Laws, as amended by chapter 69
125 of the Acts of 2018, is hereby amended by striking out the last paragraph and inserting in place
126 thereof the following paragraph:- Participation in intensive supervision with treatment pursuant
127 to chapter 211F as pretrial treatment may be ordered by the court, in lieu of bail, or as a
128 condition of release; provided, however, that the defendant shall consent to such participation.
129 The following shall not be admissible against the person in any proceedings: (i) a request to
130 engage in a pretrial treatment program; (ii) a decision not to enter a pretrial treatment program;
131 (iii) any statement made by the person during the course of a pretrial treatment program
132 assessment. A statement or other disclosure or a record thereof made by a person during the
133 course of a pretrial treatment program assessment shall not be disclosed at any time to the
134 commonwealth or other law enforcement officer in connection with the investigation or
135 prosecution of any charges against the person or a codefendant.

136 SECTION 3: Section 58 of chapter 276 of the General Laws, as amended by chapter 69
137 of the Acts of 2018, is hereby amended by striking out the last paragraph and inserting in place
138 thereof the following paragraph:- Participation in intensive supervision with treatment pursuant

139 to chapter 211F as pretrial treatment may be ordered by the court, in lieu of bail, or as a
140 condition of release; provided, however, that the defendant shall consent to such participation.
141 The following shall not be admissible against the person in any proceedings: (i) a request to
142 engage in a pretrial treatment program; (ii) a decision not to enter a pretrial treatment program;
143 (iii) any statement made by the person during the course of a pretrial treatment program
144 assessment. A statement or other disclosure or a record thereof made by a person during the
145 course of a pretrial treatment program assessment shall not be disclosed at any time to the
146 commonwealth or other law enforcement officer in connection with the investigation or
147 prosecution of any charges against the person or a codefendant.

148 SECTION 4: Section 58A of chapter 276 of the General Laws, as amended by chapter
149 69 of the Acts of 2018, is hereby amended by striking out, in lines 94-97 the following words
150 “Participation in a community corrections program pursuant to chapter 211F may be ordered by
151 the court or as a condition of release; provided, however, that the defendant shall consent to such
152 participation” and by inserting in place thereof:- Participation in intensive supervision with
153 treatment pursuant to chapter 211F as pretrial treatment may be ordered by the court, in lieu of
154 bail, or as a condition of release; provided, however, that the defendant shall consent to such
155 participation. The following shall not be admissible against the person in any proceedings: (i) a
156 request to engage in a pretrial treatment program; (ii) a decision not to enter a pretrial treatment
157 program; (iii) any statement made by the person during the course of a pretrial treatment
158 program assessment. A statement or other disclosure or a record thereof made by a person during
159 the course of a pretrial treatment program assessment shall not be disclosed at any time to the
160 commonwealth or other law enforcement officer in connection with the investigation or
161 prosecution of any charges against the person or a codefendant.