HOUSE DOCKET, NO. 1957 FILED ON: 2/16/2021

HOUSE . . . . . No. 1795

The Commonwealth of Massachusetts

PRESENTED BY:

Liz Miranda

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:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
Liz Miranda	*5th Suffolk*	*2/16/2021*
Lindsay N. Sabadosa	*1st Hampshire*	*2/17/2021*
Patricia A. Duffy	*5th Hampden*	*2/23/2021*
Jason M. Lewis	*Fifth Middlesex*	*2/23/2021*
Joanne M. Comerford	*Hampshire, Franklin and Worcester*	*2/24/2021*
Jack Patrick Lewis	*7th Middlesex*	*2/24/2021*
James J. O'Day	*14th Worcester*	*2/25/2021*
Kay Khan	*11th Middlesex*	*2/25/2021*
Kate Lipper-Garabedian	*32nd Middlesex*	*2/26/2021*
David Henry Argosky LeBoeuf	*17th Worcester*	*2/26/2021*
Tricia Farley-Bouvier	*3rd Berkshire*	*2/26/2021*
Andres X. Vargas	*3rd Essex*	*2/26/2021*
Nika C. Elugardo	*15th Suffolk*	*2/26/2021*
Erika Uyterhoeven	*27th Middlesex*	*3/7/2021*
Danillo A. Sena	*37th Middlesex*	*3/8/2021*
Mary S. Keefe	*15th Worcester*	*3/8/2021*
Elizabeth A. Malia	*11th Suffolk*	*3/15/2021*
Marcos A. Devers	*16th Essex*	*6/30/2021*

Tami L. Gouveia	*14th Middlesex*	*7/1/2021*
Natalie M. Higgins	*4th Worcester*	*9/3/2021*
Christina A. Minicucci	*14th Essex*	*9/8/2021*
Mindy Domb	*3rd Hampshire*	*9/9/2021*
Tram T. Nguyen	*18th Essex*	*10/18/2021*
Tommy Vitolo	*15th Norfolk*	*12/1/2021*

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HOUSE . . . . . No. 1795

By Ms. Miranda of Boston, a petition (accompanied by bill, House, No. 1795) of Liz Miranda and others relative to juvenile justice data collection. The Judiciary.

The Commonwealth of Massachusetts

In the One Hundred and Ninety-Second General Court
(2021-2022)

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:

SECTION 1. The purpose of these provisions is to ensure that the Commonwealth establishes systems to collect accurate, consistent, and comprehensive data on juveniles' contacts with officials in the law enforcement and juvenile justice systems.

SECTION 2. Section 12(a) of Chapter 18C of the General Laws is hereby amended by inserting the words "or any law protecting the confidentiality of juvenile justice records and information" after "20K of chapter 233"

SECTION 3. Chapter 18C of the General Laws is hereby further amended by inserting after section 14, the following section:

Section 15. Collection and Reporting of Juvenile Justice Data

(a) The child advocate shall report statistical data on the juvenile justice system annually by December 31st to the governor, the house and senate chairs of the joint committee on the judiciary, the house and senate chairs of the joint committee public safety and homeland security,

the house and senate chairs of committee on children, families and persons with disabilities, the chief justice of the supreme judicial court and the chief justice of the trial court. The report, which shall be made public, shall include statistics on utilization of the juvenile justice system at various process points as well as information on decisions made at justice system decision points impacting juveniles, as described in Section 89 and Section 90 of Chapter 119 of the General Laws.

(b) The child advocate shall request data from relevant Offices and Departments holding data necessary to complete the aforementioned report at least annually, and may request data be provided on a quarterly basis.

(c) The Child Advocate shall issue guidance or promulgate regulations for the administration and enforcement of this section, including guidance or regulations establishing (1) schedules for the submission, transmission and publication of the data (2) the format and form that the aforementioned data from Offices and Departments shall take, including any requirements that data should be available for manipulation or disaggregation, and the format that transmission of the data shall take (3) the categories and types of data on juvenile interactions with the justice system to be submitted by each agency. The child advocate may request, and all Offices and Departments subject to this law shall provide, individual level data to facilitate analysis, provided that the child advocate shall be bound by any limitations on the use or release of such individual-level data imposed by law upon the party furnishing such information as described in Section 12 of this chapter.

(d) The guidance or regulations required by subsection (c) shall, at minimum, require data be provided in such a way as to allow analysis by demographic subgroups including, at a

minimum, age at the time of offense, sex/gender, gender identity and expression, racial or ethnicity category, sexual orientation, charge type and level, geographic location such as county or court location, and any combination thereof. The Child Advocate shall provide guidance about the manner in which demographic data is designated and collected, with consideration of the juveniles' self-reporting of such categories.

SECTION 4. Section 89 of chapter 119 of the General Laws, as appearing in section 80 of chapter 69 of the acts of 2018, is hereby amended by inserting after the definition of "criminal justice agency" the following paragraph:-

"Gender identity" shall be defined pursuant to clause 59 of section 7 of chapter 4 of the General Laws

SECTION 5. Section 89 of said chapter 119, as so appearing, is hereby further amended by inserting after the definition of "racial or ethnic category" the following paragraph:-

"Sexual orientation", having an orientation for or being identified as having an orientation, for heterosexuality, bisexuality, or homosexuality.

SECTION 6. Subsection (b) of section 89 of said chapter 119 of the General Laws, as so appearing, is hereby further amended by striking the words "mental health care system", and inserting in place thereof the words "mental health care and child welfare systems"

SECTION 7. Chapter 119 of the General Laws, as appearing in section 80 of chapter 69 of the acts of 2018, is hereby amended by inserting after section 89 the following section:

Section 90. Collection and Reporting of Juvenile Justice Data

(a) As used in this section the following words shall, unless the context clearly requires otherwise, have the following meaning:—

(1) "Justice system decision point" shall refer to set points in the justice process where a criminal justice agency makes a decision which results in a change in a juvenile's status, including, but not limited to: decisions to refer a juvenile to a diversion program; to arrest a juvenile or issue a court summons; to hold a juvenile in custody prior to arraignment; to file a delinquency or criminal complaint; to advance a delinquency or criminal complaint; to proceed with a prosecution; to make a finding as to legal competency; to issue an indictment; to arraign a juvenile; to dismiss a case; to hold a hearing regarding dangerousness; to detain a juvenile without bail; to transfer a case to district or superior Court; to impose bail; to impose pretrial release conditions; to revoke bail; to admit a juvenile to detention; to continue a case without a finding; to adjudicate a juvenile; to issue a disposition; to place a juvenile on probation; to issue probation conditions; to commit a juvenile to the Department of Youth Services; to sentence a juvenile to serve time in an adult custodial facility; to refer a juvenile to a court for a probation violation; to revoke a juvenile's probation; to confine a juvenile; to change a juvenile's placement type in a custodial facility; to issue a grant of conditional liberty; to revoke a grant of conditional liberty; to grant parole after an initial parole hearing; to grant parole after a subsequent review hearing; to revoke parole; to certify or deny sealing or expungement petition, pursuant to sections 100B, 100F and 100G of Chapter 276 of the General Laws.

(2) "Juvenile" shall be defined pursuant to Section 89 of Chapter 119 of the General Laws.

(b) All criminal justice agencies, as defined by Section 89 of Chapter 119 of the General Laws, shall comply with data requests from the child advocate pursuant to section 15 of Chapter 18C regarding decisions made impacting juveniles at justice system decision points. The attorney general may enforce the provisions of this paragraph by a suit in equity commenced in the superior court.

(c) The department of state police, municipal police departments, Massachusetts Bay Transportation Authority police, any police or law enforcement officer stationed at or affiliated with a local education authority, and any contractor, vendor or service-provider working with such police including any alternative lock-up programs, shall collect and provide the necessary information to comply with the data request from the child advocate pursuant to Section 15 of Chapter 18C for each juvenile subjected to the following contacts for each fiscal year, provided on a quarterly basis if requested by the child advocate:

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

(2) custodial arrests and issuance of court summons

(d) Clerk magistrates shall collect and provide the necessary information to comply with the data request from the child advocate pursuant to Section 15 of Chapter 18C for each juvenile subjected to the following contacts for each fiscal year, provided on a quarterly basis if requested by the child advocate:

(1) application for complaint filed;

(2) finding of probable cause;

(3) diversion from further court proceedings, including referral to and/or use of diversion programming;

(4) complaint issued;

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

(6) complaint issued after appeal.

(e) The district attorneys shall collect and provide the necessary information to comply with the data request from the child advocate pursuant to Section 15 of Chapter 18C for each juvenile subjected to the following contacts for each fiscal year, provided on a quarterly basis if requested by the child advocate:

(1) decision not to proceed with prosecution, including but not limited to entering a nolle prosequi or moving to dismiss a case;

(2) diversion from further court proceedings, including referral to and/or use of diversion programming;

(3) decision to proceed with dangerousness hearing pursuant to section 58A of chapter 276

(4) indictment as a youthful offender;

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

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

(f) The juvenile court department shall collect and provide the necessary information to comply with the data request from the child advocate pursuant to Section 15 of Chapter 18C for each juvenile subjected to the following contacts for each fiscal year, provided on a quarterly basis if requested by the child advocate:

(1) arraignment as a delinquent

(2) arraignment as a youthful offender;

(3) diversion from further court proceedings, including referral to and/or use of diversion programming pursuant to section 54A of chapter 119 of the General Laws;

(4) court hearing on dangerousness pursuant to section 58A of chapter 276 of the General Laws;

(5) competency hearing;

(6) transfer of case to adult criminal court under section 72A of chapter 119 of the General Laws;

(7) imposition of bail or order to hold without bail;

(8) imposition of pretrial release conditions, including pre-trial probation pursuant to section 87 of chapter 276 of the General Laws;

(9) bail revocation hearings;

(10) cases which are continued without a finding pursuant to section 18 of chapter 278 and to section 58 of chapter 119 of the General Laws;

(11) dismissal of charges;

(12) adjudication as a delinquent;

(13) adjudication as a youthful offender;

(14) imposition of an adult sentence pursuant to section 58 of chapter 119 of the General Laws;

(15) disposition, including but not limited to:

I. sentence to probation;

ii. commitment to the department of youth services pursuant to section 58 of chapter 119 of the General Laws;

(16) commitment to the department of youth services pursuant to section 2 of chapter 279 of the General Laws that are suspended;

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

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

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

(g) The office of the commissioner of probation shall collect and provide the necessary information to comply with the data request from the child advocate pursuant to Section 15 of

Chapter 18C for each juvenile subjected to the following contacts for each fiscal year, provided on a quarterly basis if requested by the child advocate:

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

(2) supervision of pre-trial probation;

(3) supervision of continuances without a finding;

(4) supervision of juvenile on probation; and

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

(6) number of petitions and number of allowances and denials on petitions for sealing, pursuant to section 100B of Chapter 276 of the General Laws;

(7) number of petitions and number of allowances and denials of petitions for expungement, pursuant to sections 100F, 100G and 100H of Chapter 276 of the General Laws;

(8) number of petitions and number of allowances and denials of petitions for expungement, pursuant to section 100K of Chapter 276 of the General Laws.

(9) number of petitions and number of allowances and denials on petitions for sealing, pursuant to section 100A of Chapter 276 of the General Laws;

(h) The department of youth services and any contractor, vendor or service provider working with said department including alternative lock-up programs shall collect and provide the necessary information to comply with the data request from the child advocate pursuant to Section 15 of Chapter 18C for each juvenile subjected to the following contacts for each fiscal year, provided on a quarterly basis if requested by the child advocate:

(1) pre-arraignment detention;

(2) pre-trial detention;

(3) commitment;

(4) placement type, including, but not limited to, security level

(5) notice of revocation of grants of conditional liberty;

(6) hearing on grants of conditional liberty; and

(7) revocation of grants of conditional liberty for violation of conditions of liberty; and

(8) voluntary extensions of commitments with the department of youth services.

(I) The district and superior court shall collect and provide the necessary information to comply with the data request from the child advocate pursuant to Section 15 of Chapter 18C for each juvenile subjected to the following contacts for each fiscal year, provided on a quarterly basis if requested by the child advocate:

(1) arraignment for murder in the first degree and murder in the second degree; and

(2) convictions.

(j) The department of correction and each sheriff's department shall collect and provide the necessary information to comply with the data request from the child advocate pursuant to Section 15 of Chapter 18C for each juvenile subjected to the following contacts for each fiscal year, provided on a quarterly basis if requested by the child advocate:

(1) pre-arraignment detention;

(2) pre-trial detention;

(3) post-disposition confinement of youthful offenders; and

(4) post-conviction confinement for murder.

(k) The parole board shall collect and provide the necessary information to comply with the data request from the child advocate pursuant to Section 15 of Chapter 18C for each juvenile subjected to the following contacts for each fiscal year, provided on a quarterly basis if requested by the child advocate:

(1) grant of parole after an initial parole hearing;

(2) grant of parole after a subsequent review hearing;

(3) supervision of parole; and

(4) revocation of parole.

(l) The Executive Office of Public Safety and Security shall be responsible for assembling the data requested by the child advocate pursuant to Section 15 of Chapter 18C collected by the below offices and departments. Said data shall be provided to the Office of the Child Advocate no later than 75 days after the end of the fiscal year or quarter if the child advocate requests data on a quarterly basis.

1.The Commissioner of the Department of Correction

2. Sheriffs of each County;

3. The Parole Board;

4. The Department of the State Police;

5. Municipal police departments;

6. The Massachusetts Bay Transportation Authority Police;

7. School based police, including those from any local education authority;

8. Alternative Lock-up Programs; and

9. any other contractor, vendor or service provider working with school based or other police officers.

(m) The Massachusetts District Attorneys Association shall be responsible of assembling data requested by the child advocate pursuant to Section 15 of Chapter 18C collected by District Attorney's Offices. Said data shall be provided to the Office of the Child Advocate no later than 75 days after the end of the fiscal year or quarter if the child advocate requests data on a quarterly basis.

(n) The Court Administrator shall be responsible for assembling data requested by the child advocate pursuant to Section 15 of Chapter 18C collected by judicial officers and court personnel including the Commissioner of Probation, judicial officers and court personnel, and the Executive Director of Community Correction. Said data shall be provided to the Office of the Child Advocate no later than 75 days after the end of the fiscal year or quarter if the child advocate requests data on a quarterly basis.

(o) The Department of Youth Services shall be responsible for assembling data requested by the child advocate pursuant to Section 15 of Chapter 18C collect by all department personnel, contractors or vendors working with the Department. Said data shall be provided to the Office of

the Child Advocate no later than 75 days after the end of the fiscal year or quarter if the child advocate requests data on a quarterly basis.

(p) Notwithstanding any law to the contrary, the child advocate may request, and all Offices and Departments subject to this law shall provide upon request, individual level data to facilitate analysis by the Office of the Child Advocate, provided that the child advocate shall be bound by any limitations on the use or release of such individual-level data imposed by law upon the party furnishing such information as described in Section 12 of Chapter 18C. Any individual data described or acquired under the provisions of this section shall be used only for statistical purposes and may not be disseminated if it contains data that reveal the identity of an individual who had contact with the juvenile justice system within the meaning of this chapter.

(q) If any Offices or Departments subject to this law are unable to fulfill the data request made by the child advocate, in whole or in part, they shall submit to the child advocate a report detailing what data could not be provided, stating clearly the reason data could not be provided, and clearly documenting the efforts the Office or Department has made and will make to ensure data can be provided in the future. If the data cannot be provided due to budgetary constraints, the Office or Department shall provide a budget detailing the additional funding required to fulfill the data request. These reports on data availability shall be included in the annual juvenile justice data report of the child advocate pursuant to Section 15 of Chapter 18C and shall be a matter of public record.