HOUSE . . . . . No. 4353

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, February 12, 2024.

The committee on the Judiciary, to whom were referred the petition (accompanied by bill, Senate, No. 915) of William N. Brownsberger for legislation relative to indigency, and the petition (accompanied by bill, House, No. 1561) of Daniel J. Hunt for legislation relative to indigency, reports recommending that the accompanying bill (House, No. 4353) ought to pass.

For the committee,

MICHAEL S. DAY.

FILED ON: 2/5/2024

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The Commonwealth of Massachusetts

In the One Hundred and Ninety-Third General Court
(2023-2024)

An Act related to indigency.

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

SECTION 1. Section 27A of chapter 261 of the General Laws as appearing in the 2022 Official Edition is hereby amended by striking out the definition of "indigent" and inserting in place thereof the following definition:-

"Indigent", (a) a person who receives one of the following types of public assistance: transitional aid to families with dependent children, emergency aid to elderly, disabled and children, supplemental nutrition assistance program benefits, refugee cash assistance, need-based veterans' benefits or SSI state supplemental program benefits; (b) a person whose income, after taxes, is 125 per cent or less of the current poverty guidelines established annually by the Department of Health and Human Services pursuant to Section 673(2) of the Omnibus Budget Reconciliation Act of 1981 (42 U.S.C. 9902(2)), as amended; or (c) a person who is unable to pay the fees and costs of the proceeding in which they are involved or is unable to do so without depriving themselves or their dependents of the necessities of life, including food, shelter and clothing, but an inmate shall not be adjudged indigent pursuant to section 27C unless the inmate

has complied with the procedures set forth in section 29 and the court finds that the prisoner is incapable of making payments under the plans set forth in said section 29.

SECTION 2. Section 2A of Chapter 211D, as so appearing, is hereby amended by striking out the second paragraph of subsection (c) and inserting in place thereof the following paragraph:

Any time the court receives information causing its determination of a person's indigency status to be in doubt, the court shall order the chief probation officer or the officer's designee to reassess the financial circumstances of the person to ensure that the person meets the definition of indigency. The chief probation officer or the officer's designee shall prepare, sign and file a written report certifying that the person meets, or does not meet, the definition of indigency.

SECTION 3. Said section 2A of said chapter 211D, as so appearing, is hereby further amended by striking, in lines 87-89, the words ", other than the bi-annual reassessments required by the defendant's representation for the first offense,"

SECTION 4. Said section 2A of said chapter 211D, as so appearing, is further amended by striking out subsections (f), (g) and (h).

SECTION 5. Said section 2A of said chapter 211D, as so appearing, is hereby further amended by striking out subsection (i) and inserting in place thereof the following subsection:-

(i) The office of the commissioner of probations hall submit quarterly reports to the house and senate committees on ways and means that shall include, but not be limited to: (a) the number of individuals claiming indigency who are determined to be indigent; (b) the number of individuals claiming indigency who are determined not to be indigent; (c) the number of

individuals found to have misrepresented wage, tax or asset information; (d) the number of individuals found to no longer qualify for appointment of counsel upon any re-assessment of indigency required by this section; and (e) other pertinent information to ascertain the effectiveness of indigency verification procedures. The information within such reports shall be delineated by court division and delineated further by month.