

SENATE No. 940

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 promoting diversion of juveniles to community supervision and services.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Cynthia Stone Creem</i>	<i>Norfolk and Middlesex</i>	
<i>Sal N. DiDomenico</i>	<i>Middlesex and Suffolk</i>	<i>2/9/2023</i>
<i>Jack Patrick Lewis</i>	<i>7th Middlesex</i>	<i>2/9/2023</i>
<i>Jacob R. Oliveira</i>	<i>Hampden, Hampshire and Worcester</i>	<i>3/15/2023</i>
<i>Patricia D. Jehlen</i>	<i>Second Middlesex</i>	<i>3/22/2023</i>
<i>Susan L. Moran</i>	<i>Plymouth and Barnstable</i>	<i>4/6/2023</i>
<i>Lydia Edwards</i>	<i>Third Suffolk</i>	<i>5/10/2023</i>
<i>Joanne M. Comerford</i>	<i>Hampshire, Franklin and Worcester</i>	<i>6/8/2023</i>
<i>Rebecca L. Rausch</i>	<i>Norfolk, Worcester and Middlesex</i>	<i>7/10/2023</i>
<i>John F. Keenan</i>	<i>Norfolk and Plymouth</i>	<i>8/9/2023</i>
<i>Pavel M. Payano</i>	<i>First Essex</i>	<i>1/18/2024</i>

SENATE No. 940

By Ms. Creem, a petition (accompanied by bill, Senate, No. 940) of Cynthia Stone Creem, Sal N. DiDomenico and Jack Patrick Lewis for legislation relative to judicial supervision to promote child well-being. The Judiciary.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. 984 OF 2021-2022.]

The Commonwealth of Massachusetts

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

An Act promoting diversion of juveniles to community supervision and services.

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 54A of chapter 119 of the General Laws, as appearing in the 2020
2 Official Edition, is hereby amended by inserting after the word “assessment”, in line 16, the
3 following sentence:-

4 Any referral to the juvenile court for a child requiring assistance as defined in section
5 twenty-one, in accordance with the provisions of this section and of sections thirty-nine F to
6 thirty-nine I, inclusive, shall not disqualify said child from diversion.

7 SECTION 2. Said section 54A of chapter 119 of the General Laws is hereby further
8 amended by inserting after the word “proceedings”, in line 38, the following words:-

9 “, after consultation with legal counsel,”

10 SECTION 3. Said section 54A of chapter 119 of the General Laws is hereby further
11 amended by striking out, in line 45, the words “(iv) any statement made by the child or the
12 child’s family during the course of assessment” and inserting in place thereof the following
13 language:-

14 (iv) any statement made by the child or the child’s family during the course of
15 assessment; and (v) information obtained during the course of the assessment.

16 SECTION 4. Said section 54A of chapter 119 of the General Laws is hereby further
17 amended by striking out, in line 87, the word “may” and inserting in place thereof the word:-
18 “shall”

19 SECTION 5. Said section 54A of chapter 119 of the General Laws is hereby further
20 amended by inserting after the words “any records of the”, in line 101, the following words:-

21 “assessment and the”

22 SECTION 6. Said Section 54A of chapter 119 of the General Laws is hereby further
23 amended by striking subsection (g) and inserting in place thereof the following subsection:-

24 (g) (1) A child otherwise eligible for diversion pursuant to this section shall not be
25 eligible for diversion:

26 (i) if the child is indicted as a youthful offender;

27 (ii) if the child is charged with an offense that cannot be continued without a finding or
28 placed on file;

29 (iii) unless there is concurrent district court jurisdiction for such offense, if the child is
30 charged with an offense for which a penalty of incarceration greater than five years may be
31 imposed or for which there is minimum term penalty of incarceration; or

32 (iv) if the child is charged with an offense listed under the second sentence of section 70C
33 of chapter 277; provided however, that a child shall be eligible for diversion if the child is
34 charged with an offense under:

35 (A) paragraph (a) of subdivision (2) of section 24 of chapter 90,

36 (B) subsection (a) of section 13A of chapter 265;

37 (C) the first paragraph of section 13D of chapter 265;

38 (D) subsection (a) of section 13M, subsection of chapter 265

39 (E) (b) of section 15A of chapter 265

40 (F) subsection (b) of section 15B of chapter 265;

41 (G) section 13A of chapter 268; or

42 (H) Section 13C of said chapter 268

43 Diversion of juvenile court charges under this chapter shall not preclude a subsequent
44 indictment on the same charges in superior court.

45 SECTION 7. Chapter 276 of the General Laws is hereby amended by inserting after
46 section 100U, the following section:-

47 Section 100V. Notwithstanding any other provision to the contrary, after an arrest of a
48 person under the age of criminal majority, law enforcement and criminal justice agencies shall
49 not transmit fingerprints and any records related to the arrest or filing of a court case against the
50 person to the Federal Bureau of Investigation or the Department of Justice for any offense that
51 occurred before the age of criminal majority, except for purposes of requesting that the Federal
52 Bureau of Investigation or the Department of Justice seal or expunge its records as required by
53 section 100T of this chapter and section 36 of chapter 22C of the General Laws.