

The Commonwealth of Massachusetts

JOURNAL OF THE SENATE.



THURSDAY, OCTOBER 26, 2017.

[101]

JOURNAL OF THE SENATE.

Thursday, October 26, 2017.

Met at four minutes past eleven o'clock A.M.

The Senator from Plymouth and Norfolk, Mr. O'Connor led the President members, guests and staff in the recitation of the pledge of allegiance to the flag.

Pledge of allegiance.

Distinguished Guests.

There being no objection, during consideration of the Orders of the Day, the President introduced, on the Rostrum, Shawn Burns, a high school student from Canton. Shawn was recognized for raising over \$5,300 for the American Cancer Society's Making Strides Against Breast Cancer Campaign. His efforts are dedicated to his grandmother, Stephanie, who courageously fought breast cancer for seven years. As part of his fundraising, he challenged local fire departments and police departments to wear pink in October, designing and selling t-shirts and pins with his tagline: Real Men Wear Pink. Shawn was presented with a citation on the Rostrum, the Senate applauded his efforts and he withdrew from the Chamber. He was accompanied by his mother Christine, and other family members.

Shawn Burns.

Reports.

The following reports were severally received and placed on file, to wit:

Report of the Martha's Vineyard Regional Transit Authority (pursuant to Section 8(g) of Chapter 161B of the General Laws) submitting its basic financial statements and supplementary data (received October 23, 2017); and

VTA,-- financial statements. SD2364

Report of the Nantucket Regional Transit Authority (pursuant to Section 8(g) of Chapter 161B of the General Laws) submitting its annual report for the fiscal year 2017 (received October 23, 2017).

NRTA,-- annual report. SD2365

Petitions.

Petitions were severally presented and referred as follows:

By Mr. Cyr, a petition (accompanied by bill) (subject to Joint Rule 12) of Julian Cyr for legislation relative to compliance with the fair minimum wage;

Minimum wage,-- compliance. SD2366

By the same Senator, a petition (accompanied by bill) (subject to Joint Rule 12) of Julian Cyr for legislation to commemorate first landing day;

First landing day. SD2367

By the same Senator, a petition (accompanied by bill) (subject to Joint Rule 12) of Julian Cyr and Sarah K. Peake for legislation to improve oversight of the closure of Pilgrim Nuclear Power Station;

Pilgrim Nuclear Power Station,-- closure. SD2368

By Mr. Ross, a petition (accompanied by bill) (subject to Joint Rule 12) of Richard J. Ross and Shawn Dooley for legislation to establish a sick leave bank for Mary Faulkner, an employee of the Department of Correction; and

Mary Faulkner,-- sick leave. SD2369

By Mr. Timilty, a petition (accompanied by bill) (subject to Joint Rule 12) of Walter F. Timilty for legislation to establish a sick leave bank for Linda Thernize-Williams, an employee of the Department of Transitional Assistance;

Linda Thernize-Williams,-- sick leave. SD2370

Severally, under Senate Rule 20, to the committees on Rules of the two branches, acting concurrently.

Reports of Committees.

By Mr. Welch, for the Senate Committee on Health Care Cost Containment and Reform, pursuant to a special order, a Committee Bill furthering health empowerment and affordability by leveraging transformative health care (Senate, No. 2190);

Health care,--
affordability.

Pursuant to a special order, referred to the committee on Ways and Means.

By Ms. Friedman, for the committee on Public Service, on petition, a Bill relative to the sanctity of collective bargaining (Senate, No. 1475) [Representative DeCoste of Norwell dissenting];

Collective
bargaining,--
sanctity.

Read and, under Senate Rule 27, referred to the committee on Ways and Means.

PAPERS FROM THE HOUSE.

A petition (accompanied by bill, House, No. 3972) of Bradley H. Jones Jr. and Thomas M. McGee (by vote of the town) that the town of Lynnfield be authorized to convey a certain parcel of land to the Lynnfield American Legion,-- **was referred, in concurrence, to the committee on Municipalities and Regional Government.**

Lynnfield,-- land.

A Bill authorizing the Division of Capital Asset Management and Maintenance to grant easements to the town of Lanesborough for the reconstruction of the Narragansett Avenue Bridge over Lake Pontoosuc (House, No. 3920, amended,-- on House, No. 3767),-- **was read and, under Senate Rule 27, referred to the committee on Way and Means.**

Lanesborough,--
Narragansett Avenue
Bridge.

A Bill regarding the composition of the Boston Arts Commission (House, No. 3460,-- on petition) [Local approval received],-- **was read and, under Senate Rule 26, placed in the Orders of the Day for the next session.**

Boston Arts
Commission.

Reports

Of the committee on Community Development and Small Business asking to be discharged from further consideration of the petition (accompanied by bill, House, No. 2807) of Jose F. Tosado and others for legislation to authorize the Department of Transitional Assistance to develop a pilot program to facilitate, encourage and support the ability of low-income residents of the city of Springfield to enter the workforce and reduce the need for public benefit programs,-- and recommending that the same be referred to the committee on Children, Families and Persons with Disabilities;

Springfield,--
workforce.

Of the committee on Public Safety and Homeland Security, asking to be discharged from further consideration of the petition (accompanied by bill, House, No. 3257) of Linda Dean Campbell and others for legislation to authorize municipal police training committee and the creation of crisis intervention team programs,-- and recommending that the same be referred to the committee on Mental Health, Substance Use and Recovery;

Crisis intervention
team programs,
municipal police.

Were severally considered forthwith, under Senate Rule 36, and accepted,

in concurrence.

Resolutions.

The following resolutions (having been filed with the Clerk) were severally considered forthwith and adopted, as follows:-

Resolutions (filed by Mr. Boncore) “congratulating Thomas J. Connelly, Jr. on his retirement”;

Thomas J. Connelly, Jr.

Resolutions (filed by Mr. DiDomenico) “commending the First Church Shelter of Cambridge on the occasion of its thirtieth anniversary”;

First Church Shelter of Cambridge

Resolutions (filed by Mr. Pacheco) “congratulating the Taunton Area Chamber of Commerce, Inc. on its one hundredth anniversary”; and

Taunton Area Chamber of Commerce, Inc.

Resolutions (filed by Mr. Rosenberg) “commending the City of Northampton on its recognition of November 11, 2017 as Jane Addams Day.”

City of Northampton.

Report of Committees.

By Mr. Montigny, for the committees on Rules of the two branches, acting concurrently, that Joint Rule 12 be suspended on the Senate petition of Julian Cyr for legislation relative to an arts license plate.

License plate,-- arts. SD2355

The rules were suspended, on motion of Mr. Ross, and the report was considered forthwith. Joint Rule 12 was suspended; and the petition (accompanied by bill) was referred to the committee on Transportation.

Sent to the House for concurrence.

PAPER FROM THE HOUSE.

The Senate Bill naming a certain bridge in the city of Fall River as the Leonard “Lenny” Kaplan Memorial Bridge (Senate, No. 2098, amended),-- came from the House passed to be engrossed, in concurrence *with an amendment*, in lines 1 and 2 by striking out the words “the parking lot of”.

Fall River,-- bridge naming.

The rules were suspended, on motion of Mr. O’Connor, and the House amendment was considered forthwith and adopted, in concurrence.

Reports of a Committee.

By Ms. Spilka, for the committee on Ways and Means, that the Senate Bill establishing a sick leave bank for Donna Paul, an employee of the Department of Correction (Senate, No. 2166),-- ought to pass.

Donna Paul,-- sick leave.

There being no objection, the rules were suspended, on motion of Mr. Welch, the bill was read a second time, ordered to a third reading, read a third time and passed to be engrossed.

Sent to the House for concurrence.

By Ms. Spilka, for the committee on Ways and Means, that the House Bill establishing a sick leave bank for Jacqueline Staelens, an employee of the Trial Court (House, No. 3886),-- ought to pass.

Jacqueline Staelens,-- sick leave.

There being no objection, the rules were suspended, on motion of Mr. Moore, the bill was read a second time, ordered to a third reading, read a third time and passed to be engrossed, in concurrence, its title having been changed by the committee on Bills in the Third Reading to read as follows: “An Act establishing a sick leave bank for Jacqueline Staelens, an employee of the trial court of the commonwealth”.

By Ms. Spilka, for the committee on Ways and Means, that the House Bill establishing a sick leave bank for Erik Nordahl, an employee of the Massachusetts Rehabilitation Commission (House, No. 3943),-- ought to pass, with an amendment inserting after the word "Nordahl", in line 4, the first time it appears, the following words:- "to care for his spouse".

Erik Nordahl,--
sick leave.

There being no objection, the rules were suspended, on motion of Mr. McGee, the bill was read a second time and was amended, as recommended by the committee on Ways and Means.

The bill, as amended, was then ordered to a third reading, read a third time and passed to be engrossed, in concurrence, with the amendment.

Sent to the House for concurrence in the amendment.

By Ms. Spilka, for the committee on Ways and Means, that the House Bill establishing a sick leave bank for Laura Sypien, an employee of the Department of Mental Health (House, No. 3949),-- ought to pass, with an amendment inserting after the word "Sypien", in line 5, the first time it appears, the following words:- "to care for her spouse".

Laura Sypien,--
sick leave.

There being no objection, the rules were suspended, on motion of Mr. Rodrigues, the bill was read a second time and was amended, as recommended by the committee on Ways and Means.

The bill, as amended, was then ordered to a third reading, read a third time and passed to be engrossed, in concurrence, with the amendment.

Sent to the House for concurrence in the amendment.

PAPERS FROM THE HOUSE

Engrossed Bills.

The following engrossed bills (all of which originated in the House), having been certified by the Senate Clerk to be rightly and truly prepared for final passage, were severally passed to be enacted and were signed by the President and laid before the Governor for his approbation, to wit:

Relative to town meeting members in the town of Burlington (see House, No. 2789);

Bills laid before the
Governor.

Authorizing the town of Burlington to grant 8 additional licenses for the sale of alcoholic beverages to be drunk on the premises (see House, No. 3756, amended); and

Further regulating the appointment of the trustees of the public library of the city of Boston (House, No. 3862, amended).

Orders of the Day.

The Orders of the Day were considered as follows:

Bills

Authorizing the town of Lenox to convey a conservation restriction on certain parcels of land (House, No. 3833, amended);

Second reading bills.

Increasing the exemption for residential property in the town of Provincetown (House, No. 3860, amended); and

Relative to the sewer construction and private way maintenance and improvement fund in the town of Barnstable (House, No. 3953);

Were severally read a second time and ordered to a third reading.

The Senate Bill relative to criminal justice reform (Senate, No. 2170),-- was read a second time.

Criminal justice reform.

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After remarks, pending the question on adoption of the amendment, previously recommended by the committee on Ways and Means, substituting a new draft with the same title (Senate, No. 2185), and pending the main question on ordering the bill to a third reading, Messrs. Tarr, Fattman, O'Connor, Pacheco and Ross moved that the proposed new draft be amended by striking out, in lines 1104, 1138, 1150, and 1162, the figure "\$1,500" and inserting in place thereof, in each instance, the following figure:- "\$1,000".

After debate, the question on adoption of the amendment was determined by a call of the yeas and nays, at a quarter before one o'clock P.M., on motion of Mr. Moore, as follows, to wit (yeas 15 – nays 22) **[Yeas and Nays No. 205]:**

YEAS.

- | | |
|-------------------------|---------------------------------|
| deMacedo, Viriato M. | O'Connor Ives, Kathleen |
| Fattman, Ryan C. | Pacheco, Marc R. |
| Gobi, Anne M. | Rodrigues, Michael J. |
| Humason, Donald F., Jr. | Ross, Richard J. |
| Keenan, John F. | Rush, Michael F. |
| L'Italien, Barbara A. | Tarr, Bruce E. |
| Moore, Michael O. | Timilty, Walter F. – 15. |
| O'Connor, Patrick M. | |

NAYS.

- | | |
|--------------------------|------------------------------|
| Barrett, Michael J. | Friedman, Cindy F. |
| Boncore, Joseph A. | Hinds, Adam G. |
| Brady, Michael D. | Jehlen, Patricia D. |
| Brownsberger, William N. | Lesser, Eric P. |
| Chandler, Harriette L. | Lewis, Jason M. |
| Chang-Diaz, Sonia | Lovely, Joan B. |
| Creem, Cynthia Stone | McGee, Thomas M. |
| Cyr, Julian | Montigny, Mark C. |
| DiDomenico, Sal N. | Rosenberg, Stanley C. |
| Donoghue, Eileen M. | Spilka, Karen E. |
| Eldridge, James B. | Welch, James T. – 22. |

ABSENT OR NOT VOTING.

- Forry, Linda Dorcena – **1.**

The yeas and nays having been completed at eleven minutes before one o'clock P.M., the amendment was *rejected*.

Messrs. Tarr, O'Connor and Ross moved that the proposed new draft be amended by inserting at the end thereof the following sections:-

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“SECTION __. Section 22F of chapter 90 of the General Laws is hereby amended by striking out, in line 57, the word ‘four’ and inserting in place thereof the following word:- ‘five’.

SECTION __. Section 22F of said chapter 90, as so appearing, is hereby further amended by striking out, in lines 66-68, the following sentence:- ‘An appeal to the superior court may be had, in accordance with the provisions of chapter thirty A, from any order of the registrar of motor vehicles made under the provisions of this section.’

SECTION __. Section 22F of said chapter 90 is hereby further amended by inserting at the end thereof the following paragraph:-

Any person previously deemed an habitual offender under this section who has not had their license or right to operate a motor vehicle restored to them by the registrar for a period of more than 5 years and who is convicted of operating a motor vehicle while under the influence of intoxicating liquor or narcotic drugs in violation of paragraph (a) of subdivision (1) of section 24; operating a motor vehicle recklessly or negligently so that the lives and safety of the public might be endangered; making a false statement in an application for a learner's permit or motor vehicle operator's license or in an application for a registration of a motor vehicle; going away without making known his name, residence and the registration number of his vehicle after knowingly colliding with or otherwise causing injury to any person, other vehicle or property, all in violation of paragraph (a) of subdivision (2) of section 24; operating a motor vehicle after suspension or revocation of the person's motor vehicle operator's license or his right to operate motor vehicles in violation of section 23; operating a motor vehicle without a license in violation of section 10; or the commission of any felony in the commission of which a motor vehicle is used, shall be deemed a level 3 habitual traffic offender and the registrar shall immediately revoke such person's license or right to operate and shall not issue a new license or reinstate the right to operate for a period up to life but not less than 5 years from the date of revocation, nor until such person has satisfactorily completed a driver improvement course approved by the registrar and has passed such examination as to his competence to operate motor vehicles as the registrar may require.

Any person previously deemed an habitual offender under this section who has not had their license or right to operate a motor vehicle restored to them by the registrar for a period of more than 5 years and who is convicted of 3 or more convictions of offenses which are required by any provision of law to be reported to the registrar and for which the registrar is authorized or required to suspend or revoke the person's license or right to operate motor vehicles for a period of 30 days or more, shall be deemed a level 2 habitual offender and the registrar shall immediately revoke such person's license or right to operate and shall not issue a new license or reinstate the right to operate to such person for a period of not less than 5 years from the date of revocation nor more than 15 years from such date of revocation, nor until such person has satisfactorily completed a driver improvement course approved by the registrar and has passed such examination as to his competence to operate motor vehicles as the registrar may require. Provided further, that any person previously deemed a level 2 habitual offender under this section who has not had their license or right to operate a motor vehicle restored to them by the registrar for a period of 5 years and is convicted of operating a motor vehicle while under the influence of intoxicating liquor or narcotic drugs in violation of paragraph (a) of subdivision (1) of section 24; operating a motor vehicle recklessly or negligently so that the lives and safety of the public might be endangered; making a false statement in an application for a learner's permit or motor vehicle operator's license or in an application for a registration of a motor vehicle; going away without making known his name, residence and the registration number of his vehicle after knowingly colliding with or otherwise causing injury to any person, other vehicle or property, all in violation of paragraph (a) of subdivision (2) of section 24; operating a motor vehicle after suspension or revocation of the person's motor vehicle operator's license or his right to operate motor vehicles in violation of section 23; operating a motor vehicle without a

license in violation of section 10; or the commission of any felony in the commission of which a motor vehicle is used; or 2 or more convictions of offenses which are required by any provision of law to be reported to the registrar and for which the registrar is authorized or required to suspend or revoke the person's license or right to operate motor vehicles for a period of 30 days or more, shall be deemed a level 3 habitual offender and the registrar shall immediately revoke such person's license or right to operate and shall not issue a new license or reinstate the right to operate for a period up to life but not less than 5 years from the date of revocation, nor until such person has satisfactorily completed a driver improvement course approved by the registrar and has passed such examination as to his competence to operate motor vehicles as the registrar may require. The registrar may revoke from any level 3 habitual offender who has had their license or right to operate restored and who commits an automobile law violation, as defined in section 1 of chapter 90C, the license or right to operate for a period up to life. The registrar may further issue to any habitual traffic offender who has satisfied the durational license revocation requirements provided for in this section a new license or reinstate such person's right to operate under such terms and conditions as the registrar deems appropriate and necessary. Nothing in this section shall limit the authority of the registrar to revoke a license or right to operate or issue a new license or reinstate the right to operate under section 24 of chapter 90. An appeal to the superior court may be had, in accordance with the provisions of chapter 30A, from any order of the registrar of motor vehicles made under the provisions of this section."

After remarks, the amendment was *rejected*.

Messrs. Keenan and O'Connor moved that the proposed new draft be amended by adding the following sections:-

"SECTION X. Section 2 of chapter 275 of the General Laws, as appearing in the 2016 Official Edition, is hereby amended by inserting after the word 'subscribed', in line 5, the following words:- electronically or in person.

SECTION X. Section 2A of chapter 276 of the General Laws, as appearing in the 2016 Official Edition, is hereby amended by inserting before the first sentence, in line 1, the following words:- The signature on the warrant may be made by electronic signature.

SECTION X. Section 2B of chapter 276 of the General Laws, as so appearing, is hereby amended by inserting after the word 'personally', in line 2, the following words:- or through wire or electronic means.

SECTION X. Said section 2B of chapter 276 of the General Laws, as so appearing, is hereby further amended by inserting after the word 'form,' in line 13, the following words:- and the signature therein may be made by electronic signature.

SECTION X. Section 22 of chapter 276 of the General Laws, as so appearing, is hereby amended by inserting after the word 'subscribed', in line 4, the following words:- electronically or in person."

After remarks, the amendment was adopted.

Messrs. Tarr, Fattman and O'Connor, Ms. Gobi and Mr. Ross moved that the proposed new draft be amended by inserting at the end thereof the following sections:-

"SECTION __. Subsection (b) of section 12 of chapter 90 of the General Laws is hereby amended by striking, in line 9, the figure '\$500', and inserting in place thereof the following:- '\$1,000'; and further, by striking, in line 10, the figure '\$1,000', and inserting in place thereof the following :- '\$2,000'.

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SECTION __. Subsection (c) of said section 12 of said chapter 90 of the General Laws is hereby further amended by striking, in line 17, the figure '\$500', and inserting in place thereof the following:- '\$1,000'; and further, by striking, in line 18, the figure '\$1,000', and inserting in place thereof the following:- '\$2,000'.

SECTION __. Section 23 of chapter 90 of the General Laws is hereby amended by inserting after the word 'finding.', in line 118, the following paragraph:-

If the defendant has been previously convicted or assigned to an alcohol or controlled substance education, treatment, or rehabilitation program by a court of the commonwealth or any other jurisdiction because of one or more like violations of the preceding paragraph preceding the date of the commission of the offense, the defendant shall be punished by a fine of not less than \$5,000 and imprisonment in the house of correction for not less than 2 years nor more than 2½ years by imprisonment in the state prison for not less than 2½ years nor more than 5 years, with said sentence to be served consecutively to and not concurrent with any other sentence or penalty. Such sentence shall not be suspended, nor shall any such person be eligible for probation, parole, or furlough or receive any deduction from the sentence for good conduct until the defendant shall have served said 2½ years of such sentence; provided, however, that the commissioner of correction may, on the recommendation of the warden, superintendent or other person in charge of a correctional institution, or of the administrator of a county correctional institution, grant to an offender committed under this paragraph a temporary release in the custody of an officer of such institution only to obtain emergency medical or psychiatric services unavailable at said institution or to engage in employment pursuant to a work release program. Section 87 of chapter 276 shall not apply to any person charged with a violation of this paragraph. Prosecutions commenced under this paragraph shall not be placed on file or continued without a finding.

SECTION __. Said section 23 of said chapter 90 of the General Laws, as so appearing, is hereby further amended by adding the following paragraph:-

Notwithstanding this section or any other general or special law to the contrary, any person convicted of operating a motor vehicle after such person's license or right to operate has been revoked for life, or after notice of such lifetime revocation of the right to operate a motor vehicle has been issued and received by such person or by such person's agent or employer, such person shall be punished by a fine of not less than \$5,000 and by imprisonment in a house of correction for not less than 1 year nor more than 2½ years or in state prison for not less than 2½ years nor more than 5 years; provided, however, that any person who operates a motor vehicle in violation of paragraph (a) of subdivision (1) of section 24, sections 24G or 24L, subsection (a) of section 8 of chapter 90B, sections 8A or 8B of chapter 90B or section 13½ of chapter 265, while said person's license or right to operate has been revoked for life, or after notice of such lifetime revocation of the right to operate a motor vehicle has been issued and received by such person or by such person's agent or employer, such person shall be punished by a fine of not less than \$10,000 and by imprisonment in state prison for not less than 3 years nor more than 10 years. Sentences imposed pursuant to this paragraph shall not be suspended, nor shall any such person be eligible for probation, parole, or furlough or receive any deduction from the sentence for good conduct until the defendant shall have served 5 years of such sentence; provided, however, that the commissioner of correction may, on the recommendation of the warden, superintendent or other person in charge of a correctional institution, or of the administrator of a county correctional institution, grant to an offender committed

UNCORRECTED PROOF.

under this paragraph a temporary release in the custody of an officer of such institution only to obtain emergency medical or psychiatric services unavailable at said institution or to engage in employment pursuant to a work release program. Section 87 of chapter 276 shall not apply to any person charged with a violation of this paragraph. Prosecutions commenced under this paragraph shall not be placed on file or continued without a finding.

SECTION __. Section 24 of said chapter 90 of the General Laws, as so appearing, is hereby amended by striking, in line 145, the word 'five', and inserting in place thereof the following word:- 'ten'."

After debate, the question on adoption of the amendment was determined by a call of the yeas and nays, at five minutes before one o'clock P.M., on motion of Mr. Tarr, as follows, to wit (yeas 14 – nays 23) **[Yeas and Nays No. 206]:**

YEAS.

deMacedo, Viriato M.	O'Connor, Patrick M.
Fattman, Ryan C.	O'Connor Ives, Kathleen
Gobi, Anne M.	Pacheco, Marc R.
Humason, Donald F., Jr.	Rodrigues, Michael J.
Lesser, Eric P.	Ross, Richard J.
Montigny, Mark C.	Tarr, Bruce E.
Moore, Michael O.	Welch, James T. – 14.

NAYS.

Barrett, Michael J.	Hinds, Adam G.
Boncore, Joseph A.	Jehlen, Patricia D.
Brady, Michael D.	Keenan, John F.
Brownsberger, William N.	Lewis, Jason M.
Chandler, Harriette L.	L'Italien, Barbara A.
Chang-Diaz, Sonia	Lovely, Joan B.
Creem, Cynthia Stone	McGee, Thomas M.
Cyr, Julian	Rosenberg, Stanley C.
DiDomenico, Sal N.	Rush, Michael F.
Donoghue, Eileen M.	Spilka, Karen E.
Eldridge, James B.	Timilty, Walter F. – 23.
Friedman, Cindy F.	

ABSENT OR NOT VOTING.

Forry, Linda Dorcena – 1.

The yeas and nays having been completed at two minutes before one o'clock P.M., the amendment was *rejected*.

There being no objection, during consideration of the Orders of the Day, the following matters were considered, as follows:

Report of a Committee.

By Ms. Spilka, for the committee on Ways and Means, that the Senate Bill to diversify the use of the Workforce Training Fund to support the Workforce Competitiveness Trust Fund (Senate, No. 2109),-- ought to pass, with an amendment substituting a new draft with the same title (Senate, No. 2192).

There being no objection, the rules were suspended, on motion of Mr. Lewis, and the bill was read a second time.

After remarks, and pending the question on adoption of the amendment,

Workforce
Competitiveness
Trust Fund.

previously recommended by the committee on Ways and Means, substituting a new draft with the same title (Senate, No. 2192), and pending the main question on ordering the bill to a third reading, Ms. Friedman moved that the proposed new draft be amended by adding the following section:-

“SECTION XX. Section 2WWW of Chapter 29 of the General Laws, as appearing in the 2016 Official Edition, is hereby amended by inserting after the figure ‘\$500,000.’, in line 38, the following sentence:- These grants shall be known as the ‘Senator Kenneth J. Donnelly Workforce Success’ grants.”

After further remarks, the question on adoption of the amendment was determined by a call of the yeas and nays, at sixteen minutes past one o’clock P.M., on motion of Mr. Tarr, as follows, to wit (yeas 38 – nays 0) [**Yeas and Nays No. 207**]:

YEAS.

Barrett, Michael J.	Keenan, John F.
Boncore, Joseph A.	Lesser, Eric P.
Brady, Michael D.	Lewis, Jason M.
Brownsberger, William N.	L'Italien, Barbara A.
Chandler, Harriette L.	Lovely, Joan B.
Chang-Diaz, Sonia	McGee, Thomas M.
Creem, Cynthia Stone	Montigny, Mark C.
Cyr, Julian	Moore, Michael O.
deMacedo, Viriato M.	O'Connor, Patrick M.
DiDomenico, Sal N.	O'Connor Ives, Kathleen
Donoghue, Eileen M.	Pacheco, Marc R.
Eldridge, James B.	Rodrigues, Michael J.
Fattman, Ryan C.	Rosenberg, Stanley C.
Forry, Linda Dorcena	Ross, Richard J.
Friedman, Cindy F.	Rush, Michael F.
Gobi, Anne M.	Spilka, Karen E.
Hinds, Adam G.	Tarr, Bruce E.
Humason, Donald F., Jr.	Timilty, Walter F.
Jehlen, Patricia D.	Welch, James T. – 38.

NAYS – 0.

The yeas and nays having been completed at nineteen minutes past one o'clock P.M., the amendment was adopted.

The Ways and Means amendment, as amended, was then adopted.

The bill (Senate, No. 2192, amended) was then ordered to a third reading and read a third time.

The question on passing the bill to be engrossed was determined by a call of the yeas and nays, at twenty minutes past one o’clock P.M., on motion of Mr. Lewis, as follows, to wit (yeas 38 – nays 0) [**Yeas and Nays No. 208**]:

YEAS.

Barrett, Michael J.	Keenan, John F.
Boncore, Joseph A.	Lesser, Eric P.
Brady, Michael D.	Lewis, Jason M.
Brownsberger, William N.	L'Italien, Barbara A.
Chandler, Harriette L.	Lovely, Joan B.
Chang-Diaz, Sonia	McGee, Thomas M.
Creem, Cynthia Stone	Montigny, Mark C.

UNCORRECTED PROOF.

Cyr, Julian
deMacedo, Viriato M.
DiDomenico, Sal N.
Donoghue, Eileen M.
Eldridge, James B.
Fattman, Ryan C.
Forry, Linda Dorcena
Friedman, Cindy F.
Gobi, Anne M.
Hinds, Adam G.
Humason, Donald F., Jr.
Jehlen, Patricia D.

Moore, Michael O.
O'Connor, Patrick M.
O'Connor Ives, Kathleen
Pacheco, Marc R.
Rodrigues, Michael J.
Rosenberg, Stanley C.
Ross, Richard J.
Rush, Michael F.
Spilka, Karen E.
Tarr, Bruce E.
Timilty, Walter F.
Welch, James T. – **38.**

NAYS – 0.

**The yeas and nays having been completed at twenty-three minutes past one o'clock P.M., the bill was passed to be engrossed.
Sent to the House for concurrence.**

Remarks of Senator Cindy F. Friedman.

Thank you, Mr. President, and through you to the members.

It's an honor to offer this amendment to S.2109, *An Act to diversify the use of the Workforce Training Fund to support the Workforce Competitiveness Trust Fund.*

This amendment is very straightforward. It would rename the grants issued by the Workforce Competitiveness Trust Fund (WCTF) after Senator Kenneth Donnelly in honor of the work he did to advance workforce opportunities in the Commonwealth, specifically to those who are unemployed and often lack a pathway to economic stability.

When Senator Donnelly started in the Senate, very few people talked about or paid much attention to the WCTF.

But this fund – which supports industry training partnerships with employers, community colleges and community-based training providers to train and place unemployed and underemployed workers – had been quietly making a huge impact:

Addressing the needs of employers by supplying highly trained workers;

Addressing the needs of our economy by supporting the growth of 21st century industries; and

Most importantly, addressing the needs of our unemployed residents by providing access to training opportunities that lead to good jobs in high-demand industries.

Senator Donnelly recognized this and began including funding for the WCTF as one of his top budget priorities each year he was in the Legislature. In addition, he sought to create a steady, more consistent stream of funding for the WCTF and proposed several different vehicles to ensure that this successful workforce training model would continue to grow and serve more workers in need of jobs.

Ken Donnelly never gave up on this effort, nor throughout his career did he relax his constant and vocal support for working families. In fact one of the first bills he filed was the Middle Skills Solutions Act which created middle-skill training opportunities for hundreds of Massachusetts residents and helped develop more efficient pathways to middle-skill credentials that employers are looking for.

Because of the work he did to provide opportunities for our residents,

Remarks of Senator
Cindy F. Friedman.

especially those without easy access to economic opportunity, it is a fitting gesture that as we provide a reliable funding stream for the WCTF, we name the grants that will be made possible by doing this, after Ken Donnelly.

So I ask that the amendment to name the WCTF grants the “*Senator Kenneth J. Donnelly Workforce Success*” Grants be adopted and when a vote is taken, it be taken by a call of the yeas and nays.

And I also want to acknowledge Ken’s wife Judy who is with us today. Welcome, Judy, it is a very special and additional honor to have you with us.

Subsequently, on motion of Ms. Chang-Díaz, the above remarks were ordered printed in the Journal of the Senate.

Recess.

At twenty-eight minutes past one o’clock P.M, at the request of Mr. Tarr, for the purpose of a minority caucus, the President declared a recess; and, at twenty-two minutes past two o’clock P.M., the Senate reassembled, the President in the Chair.

Recess.

PAPER FROM THE HOUSE

Engrossed Bill — Land Taking for Conservation Etc.

An engrossed Bill authorizing the town of Plymouth to exchange a parcel of land held for conservation purposes for a parcel of land in the town of Plymouth (see Senate, No. 2085, amended) (which originated in the Senate), having been certified by the Senate Clerk to be rightly and truly prepared for final passage,-- was put upon its final passage; and, this being a bill providing for the taking of land or other easements used for conservation purposes, etc., as defined by Article XCVII of the Amendments to the Constitution, the question on passing it to be enacted was determined by a call of the yeas and nays, at twenty-three minutes past two o’clock P.M., as follows, to wit (yeas 37 - nays 0) **[Yeas and Nays No. 209]:**

Plymouth,-- land exchange.

YEAS.

- | | |
|--------------------------|-------------------------|
| Barrett, Michael J. | Keenan, John F. |
| Boncore, Joseph A. | Lesser, Eric P. |
| Brady, Michael D. | Lewis, Jason M. |
| Brownsberger, William N. | L'Italien, Barbara A. |
| Chandler, Harriette L. | Lovely, Joan B. |
| Chang-Diaz, Sonia | McGee, Thomas M. |
| Creem, Cynthia Stone | Montigny, Mark C. |
| Cyr, Julian | Moore, Michael O. |
| deMacedo, Viriato M. | O'Connor, Patrick M. |
| DiDomenico, Sal N. | O'Connor Ives, Kathleen |
| Donoghue, Eileen M. | Pacheco, Marc R. |
| Eldridge, James B. | Rodrigues, Michael J. |
| Fattman, Ryan C. | Ross, Richard J. |
| Forry, Linda Dorcena | Rush, Michael F. |
| Friedman, Cindy F. | Spilka, Karen E. |
| Gobi, Anne M. | Tarr, Bruce E. |
| Hinds, Adam G. | Timilty, Walter F. |
| Humason, Donald F., Jr. | Welch, James T. – 37. |
| Jehlen, Patricia D. | |

NAYS – 0.

The yeas and nays having been completed at twenty-two minutes before three o'clock P.M., the bill was passed to be enacted, two-thirds of the members present having agreed to pass the same, and it was signed by the President and laid before the Governor for his approbation.

Report of a Committee.

Mr. Montigny, for the committee on Rules, reported that the following matter be placed in the Orders of the Day for the next session:

The Senate Bill designating certain portions of state highway as the Officer Ronald Tarentino, Jr. memorial highway (Senate, No. 1967) (the committee on Rules having recommended that the bill be amended by substituting a new draft entitled "An Act designating a certain bridge in the town of Auburn and a portion of state highway in the town of Leicester in memory of Officer Ronald Tarentino, Jr.", Senate, No. 2193).

Officer Ronald
Tarentino, Jr.
Memorial Bridge.

There being no objection, the rules were suspended, on motion of Mr. Moore, and the bill was read a second time and amended, as recommended by the committee on Rules.

The bill (Senate, No. 2193) was then ordered to a third reading, read a third time and passed to be engrossed.

Sent to the House for concurrence.

Matter Taken Out of the Notice Section of the Calendar.

There being no objection, the following matter was taken out of the Notice Section of the Calendar and considered as follows:

The Senate Bill relative to sexual violence on higher education campuses (Senate, No. 2081),-- was read a third time.

Sexual violence,--
higher education
campuses.

Ms. Creem, for the committee on Bills in the Third Reading, reported, recommending that the bill be correctly drawn by substituting a new draft with the same title (Senate, No. 2191).

Order Adopted.

Ms. Creem offered the following order, to wit:

Ordered, That further action on the Senate Bill relative to sexual violence on higher education campuses (Senate, No. 2081) (the committee on Bills in the Third Reading having recommended that the bill be correctly drawn by substituting a new draft, Senate, No. 2191) shall be postponed until Thursday, November 2, 2017.

Procedural order.

All amendments to the recommended Bills in the Third Reading new draft (Senate, No. 2191) shall be filed electronically in the office of the Clerk of the Senate by 5:00 P.M., on Monday, October 30, 2017. Further amendments in the third degree to such amendment shall be in order. The Clerk shall further specify the procedure and format for filing all amendments, consistent with this order.

Under the rules, referred to the committee on Rules.

Subsequently, Mr. Montigny, for the said committee, reported, recommending that the order ought to be adopted.

The rules were suspended, on motion of Ms. Creem, and the order was considered forthwith and adopted.

The bill was postponed until Thursday, November 2, with the amendment

pending.

Orders of the Day.

The Orders of the Day were further considered as follows:

The Senate Bill relative to criminal justice reform (Senate, No. 2170),-- was further considered, the main question being on ordering the bill to a third reading.

Criminal justice reform.

Mr. Barrett moved that the proposed new draft be amended in section 117, in proposed subsection (b) of section 145 of chapter 127 of the General Laws, by adding the following sentence:- “A person deemed indigent for the purpose of being offered counsel and who is assigned counsel for the commitment portion of a proceeding solely for the nonpayment of money owed shall not be assessed a fee for such counsel”.

14

The amendment was adopted.

Ms. Forry and Messrs. O'Connor and Welch moved that the proposed new draft be amended by adding the following sections:

15

“SECTION X. Section 4 of chapter 258B of the General Laws, as appearing in the 2014 Official Edition, is hereby amended by inserting after subsection (d) the following subsection:-

Subsection (e). Assume the management and administration of the Garden of Peace, a public memorial garden located on the Plaza of 100 Cambridge Street in Boston to honor victims of homicide.

Receive any gifts or grants of money or property for the purpose of assisting the board in the maintenance and operation of the memorial.

Establish an advisory committee consisting of individuals who have served on the Garden of Peace board or other interested citizens appointed by the board to provide ongoing advice to the VWAB.

SECTION XX. Chapter 10 of the General Laws is hereby amended by inserting after section 35DDD the following section:-

Section 35EEE. There shall be established and set up on the books of the commonwealth a separate fund to be known as the Garden of Peace Trust Fund to be used, without further appropriation, for the operation of the Garden of Peace. The fund shall consist of the existing balance held by the Garden of Peace, Inc. and future donations received from the public for the Garden of Peace. Any balance in the fund at the end of the fiscal year shall not revert to the General Fund, but shall remain available for expenditure in subsequent years. No expenditure made from the fund shall cause the fund to become deficient at any point during a fiscal year.”

After remarks, the question on adoption of the amendment was determined by a call of the yeas and nays, at twelve minutes before three o'clock P.M., on motion of Mr. Tarr, as follows, to wit (yeas 37 – nays 0) [**Yeas and Nays No. 210**]:

YEAS.

Barrett, Michael J.
Boncore, Joseph A.
Brady, Michael D.
Brownsberger, William N.
Chandler, Harriette L.
Chang-Diaz, Sonia
Creem, Cynthia Stone
Cyr, Julian
deMacedo, Viriato M.
DiDomenico, Sal N.

Keenan, John F.
Lesser, Eric P.
Lewis, Jason M.
L'Italien, Barbara A.
Lovely, Joan B.
McGee, Thomas M.
Montigny, Mark C.
Moore, Michael O.
O'Connor, Patrick M.
O'Connor Ives, Kathleen

Donoghue, Eileen M.
Eldridge, James B.
Fattman, Ryan C.
Forry, Linda Dorcena
Friedman, Cindy F.
Gobi, Anne M.
Hinds, Adam G.
Humason, Donald F., Jr.
Jehlen, Patricia D.

Pacheco, Marc R.
Rodrigues, Michael J.
Ross, Richard J.
Rush, Michael F.
Spilka, Karen E.
Tarr, Bruce E.
Timilty, Walter F.
Welch, James T. – 37.

NAYS – 0.

The yeas and nays having been completed at ten minutes before three o'clock P.M., the amendment was adopted.

Messrs. Timilty, Fattman, Pacheco, O'Connor and Tarr moved that the proposed new draft be amended in section 163, by inserting after the word "court interpreter," in lines 1201 to 1202, the words:- "correctional officer,". 16

After remarks, the amendment was adopted.

Mr. McGee, Ms. Jehlen, Messrs. O'Connor and Keenan, Ms. Gobi, Mr. Welch, Ms. Lovely and Mr. Tarr moved that the proposed new draft be amended by inserting the text of Senate document numbered 2195, relative to strengthening public safety and reducing unlicensed driving. 23

The amendment was adopted.

Messrs. Tarr and O'Connor, Ms. Gobi and Mr. Ross moved that the proposed new draft be amended by inserting at the end thereof the following sections:- 30

"SECTION_. Section 26 of chapter 218 of the General Laws, as appearing in the 2016 Official Edition, is hereby amended by inserting after the word 'sixty-six,' in line 21, the following words:- , section 13B of chapter 268.

SECTION_. Section 26 of chapter 218 of the General Laws, as appearing in the 2016 Official Edition, is hereby amended by inserting after the word 'sixty-six,' in line 21, the following words:- , section 13B of chapter 268.

SECTION_. Said section 26 of said chapter 218, as so appearing, is hereby further amended by inserting after the word 'age,' in line 26, the following words:- conspiracy under section 7 of chapter 274, or solicitation to commit a felony under section 8 of chapter 274.

SECTION_. Said section 26 of said chapter 218, as so appearing, is hereby further amended by striking out, in lines 26 to 27, the words 'intimidation of a witness or juror under section thirteen B of chapter two hundred and sixty-eight,'.

SECTION_. Section 1 of chapter 263A of the General Laws, as so appearing, is hereby amended by striking out the definition of 'Critical witness' and inserting in place thereof the following definition:-

'Critical witness', any person who is participating, has participated, or is reasonably expected to participate in a criminal investigation, motion hearing, trial, show cause hearing, or other criminal proceeding, or a proceeding involving an alleged violation of conditions of probation or parole, or the commitment of a sexually dangerous person pursuant to chapter 123A; or who has received a subpoena requiring such participation; who is, or was, in the judgment of the prosecuting officer, a necessary witness at one or more of the aforementioned types of proceedings, and who is or may be endangered by such person's participation in the aforementioned proceeding; or such person's relatives, guardians, friends or associates, who are or may be endangered by such person's participation in the aforementioned proceeding.

UNCORRECTED PROOF.

SECTION __. Chapter 268 of the General Laws is hereby amended by striking out section 13B, as so appearing, and inserting in place thereof the following section:-

Section 13B.

(1) Whoever, directly or indirectly, willfully

(a) threatens, or attempts or causes physical injury, emotional injury, economic injury or property damage to,

(b) conveys a gift, offer or promise of anything of value to, or

(c) misleads, intimidates or harasses;

(2) another person who is

(a) a witness or potential witness,

(b) a person who is or was aware of information, records, documents or objects that relate to a violation of a criminal statute, or a violation of conditions of probation, parole, bail, or other court order,

(c) a judge, juror, grand juror, attorney, victim witness advocate, police officer, federal agent, investigator, clerk, court officer, court reporter, court interpreter, probation officer or parole officer,

(d) a person who is or was attending, or had made known his or her intention to attend a proceeding described in subsection (3)(a), or

(e) a family member of a person described in subsections 2(a) through 2(d);

(3) with the intent to, or with reckless disregard that it may,

(a) impede, obstruct, delay, prevent or otherwise interfere with

(i) a criminal investigation at any stage, a grand jury proceeding, a dangerousness hearing, a motion hearing, a trial or other criminal proceeding of any type, or a parole hearing, or parole violation proceeding, or probation violation proceeding; or

(ii) an administrative hearing, or a probate and family proceeding, juvenile proceeding, housing proceeding, land proceeding, clerk's hearing, court-ordered mediation, or any other civil proceeding of any type; or

(b) punish, harm or otherwise retaliate against any person described in subsection (2) for such person's or such person's family member's participation in any of the proceedings described in subsection (3)(a) shall be punished by imprisonment in the state prison for not more than ten years, or by imprisonment in the house of correction for not more than two and one half years, or by a fine of not less than \$1,000 nor more than \$5,000, or by both such fine and imprisonment; or, if the proceeding which the misconduct is directed at is the investigation or prosecution of a crime punishable by life imprisonment, or the parole of a person convicted of a crime punishable by life imprisonment, shall be punished by imprisonment in the state prison for life or for any term of years.

(4) As used in this section, 'investigator' shall mean an individual or group of individuals lawfully authorized by a department or agency of the federal government, or any political subdivision thereof, or a department or agency of the commonwealth, or any political subdivision thereof, to conduct or engage in an investigation of, prosecution for, or defense of a violation of the laws of the United States or of the commonwealth in the course of his official duties.

(5) As used in this section, 'harass' shall mean to engage in any act directed at a specific person or persons, which act seriously alarms or annoys such person or persons and would cause a reasonable person to suffer substantial emotional distress. Such act shall include, but not be limited to, an act conducted by mail or by use of a telephonic or telecommunication device or electronic communication

device including but not limited to any device that transfers signs, signals, writing, images, sounds, data, or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photo-electronic or photo-optical system, including, but not limited to, electronic mail, internet communications, instant messages or facsimile communications.

(6) A prosecution under this section may be brought in the county in which the criminal investigation, trial, or other proceeding is being conducted or took place, or in the county in which the alleged conduct constituting an offense occurred.”

The amendment was *rejected*.

Messrs. Tarr, O'Connor and Ross moved that the proposed new draft be amended by striking section 9 in its entirety. 32

The amendment was *rejected*.

Messrs. Tarr, O'Connor and Ross moved that the proposed new draft be amended by inserting after section 25, the following 4 sections:- 33

“SECTION X. Said section 31 of said chapter 94C, as so appearing, is hereby further amended by adding to ‘CLASS B’ the following subsection:-

(f) Any substance controlled in Schedule II of Title 21 of the Code of Federal Regulations Part 1308.12, unless specifically excepted or unless listed in another class in this section.

SECTION X. Said section 31 of said chapter 94C, as so appearing, is hereby further amended by adding to ‘CLASS C’ the following subsection:-

(g) Any substance controlled in Schedule III of Title 21 of the Code of Federal Regulations Part 1308.13, unless specifically excepted or unless listed in another class in this section.

SECTION X. Said section 31 of said chapter 94C, as so appearing, is hereby further amended by adding to ‘CLASS D’ the following subsection:-

(c) Any substance controlled in Schedule IV of Title 21 of the Code of Federal Regulations Part 1308.14, unless specifically excepted or unless listed in another class in this section.

SECTION X. Said section 31 of said chapter 94C, as so appearing, is hereby further amended by adding to ‘CLASS E’ the following subsection:-

(c) Any substance controlled in Schedule V of Title 21 of the Code of Federal Regulations Part 1308.15, unless specifically excepted or unless listed in another class in this section.”

After remarks, the amendment was *rejected*.

Messrs. Tarr, Humason, Welch, O'Connor, Lesser and Ross moved that the proposed new draft be amended by inserting at the end thereof the following section:- 35

“SECTION _ . There shall be a pilot program for the purpose of implementing alternatives to incarceration and strengthening pretrial and post-trial options available to prosecutors and judges for responding to certain operating under the influence of alcohol or drug offenses.

The executive office of public safety and security, in consultation with the attorney general, the district attorneys association, and the Massachusetts sheriffs association, shall develop a 3-year pilot program for a county sheriff department to establish a 24/7 sobriety program. The pilot program shall be a competitive grant process. The executive office of public safety and security, in consultation with the attorney general, the district attorneys association, and the Massachusetts sheriffs association, shall develop criteria for grant eligibility, which shall include the implementation of a 24/7 sobriety program which shall be designed to (1) allow for

those selected by a prosecutor and court charged or convicted of a second or subsequent offense of operating a motor vehicle under the influence to participate; (2) allow a court to condition any bond, pre-trial release, the suspended imposition of a sentence, suspended execution of a sentence, or probation upon participation in the 24/7 sobriety program; (3) test to determine the presence and level of alcohol or a controlled substance in an individual's sweat, blood, breath or urine as shown by chemical test or analysis; and (4) provide testing to occur not less than 2 times a day approximately 12 hours apart at multiple testing locations throughout the county.

The executive office of public safety and security, in consultation with the attorney general, the district attorneys association, and the Massachusetts sheriffs association, may promulgate rules and regulations for the pilot program, which may include, though not necessarily limited to:

- (i) regulate the nature and manner of testing;
- (ii) regulate the procedures and apparatus for testing;
- (iii) set user fees; provided, however, that the fees collected shall be deposited into the county sheriff department administering the 24/7 sobriety program; provided, further, however, that fees collected shall be applied and used only toward the costs of twice a day testing, including maintaining equipment, funding support services and ensuring compliance;
- (iv) require and provide for a sobriety data management plan to be used by the executive office of public safety and security and the sheriff department to manage testing, data access, fees and fee payments, and any required reports; and
- (v) allow for those participating in the 24/7 sobriety program, in addition to any and all necessary education, treatment, or rehabilitation programs, to operate a motor vehicle with any conditions imposed by the court, sheriff department, and registrar, notwithstanding section 24 of chapter 90, provided further that any ignition interlock required by law shall not be eliminated, reduced or replaced by the 24/7 sobriety program.

The executive office of public safety and security, in consultation with the attorney general, the district attorneys association, and the Massachusetts sheriffs association shall develop guidelines for review of the sheriff department pilot program. The sheriff department shall participate in any evaluation or accountability process implemented by or authorized by the executive office of public safety and security.”

The amendment was *rejected*.

Messrs. Tarr and O'Connor and Ms. Gobi moved that the proposed new draft be amended by inserting at the end thereof the following sections:-

38

“SECTION 1. Section 178C of Chapter 6 is hereby amended by inserting in after the lines 153-161 the definition of ‘sexually violent predator’ and inserting in place thereof the following:-

‘Sexually Violent Predator’, as determined by the board pursuant to 803 CMR 1.31 or if the offender meets any of the following criteria:

(1) A person who has been convicted of a sexually violent offense or who has been adjudicated as a youthful offender or as a delinquent juvenile by reason of a sexually violent offense, or a person released from incarceration, parole, probation supervision or commitment under chapter 123A or custody with the department of youth services for such a conviction or adjudication, whichever last occurs, or after August 1, 1981, and who suffers from a mental abnormality or personality disorder that makes such person likely to engage in predatory sexually violent offense; or

(2) An offender who has finally been given a level 3 classification who has

been convicted of a sex offense involving a child as defined in this section and or a sexually violent offense as defined in this section, or sexually violent offense pursuant to the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act, 42 U.S.C. section 14071; or

An offender deemed a sexually violent predator and in addition to annual verification, shall appear in person every 90 calendar days at the local police department to verify the registration data on file as established under 803 CMR 1.31.

SECTION 2. Section 178M of Chapter 6 is hereby amended in line 1 by inserting after the word, 'offender' the following:-

Or the Board's General Counsel or its designee.

SECTION 3. Chapter 6 is hereby amended by inserting after section 178Q the following new section:-

6:178R. Audit of the Sex Offender Registry Board

Section 178R. The auditor of the commonwealth shall annually conduct an audit of the operations of the sex offender registry board, and shall examine elements including but not limited to: (1) prioritization of cases, (2) criteria for assignment of cases; (3) manner of keeping and maintaining records pertaining to past violations for registration; (4) the manner and process for the scheduling of cases; and (4) their performance in security timely process and adjudication of classifications.

SECTION 4. Section 3 shall expire on January 1, 2023."

After remarks, the amendment was *rejected*.

Messrs. Tarr and O'Connor, Ms. Gobi and Mr. Timilty moved that the proposed new draft be amended by inserting after section 125 the following section:-

"SECTION X. Section 26 of Chapter 218 of the General Laws, as appearing in the 2016 Official Edition, is hereby amended by striking out, in line 18, the words 'thirteen K' and inserting in place thereof the following two figures:- 13D, 13K."; and

By inserting after section 136 the following section:-

"SECTION X. Section 13D of Chapter 265 of the General Laws, as so appearing, is hereby amended by adding the following paragraph:-

Whoever commits an assault and battery upon a police officer when such person is engaged in the performance of his duties at the time of such assault and battery, causing serious bodily injury, shall be punished by a term of imprisonment in the state prison for not less than 1 year nor more than 10 years, or house of correction for not less than 1 year nor more than 2 ½ years. No sentence imposed under the provisions of this section shall be for less than a mandatory minimum term of imprisonment of one year and a fine of not less than \$500 nor more than \$10,000 may be imposed but not in lieu of the mandatory minimum term of imprisonment. A prosecution commenced under this paragraph shall not be placed on file or continued without a finding and a sentence imposed upon a person convicted of violating this paragraph shall not be suspended or reduced, nor shall such person be eligible for probation, parole, work release, furlough or receive any deduction from his sentence for good conduct until such person shall have served said mandatory minimum term of imprisonment.

And in section 182, by inserting after the figure 269 in line 1379 the following words:- (xi) a violation of section 13D of chapter 265 in which the public employee is alleged to be a police officer."

After debate, the question on adoption of the amendment was determined by a

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UNCORRECTED PROOF.

call of the yeas and nays, at twenty-four minutes past three o'clock P.M., on motion of Mr. Tarr, as follows, to wit (yeas 22 – nays 15) [**Yeas and Nays No. 211**]:

YEAS.

Brady, Michael D.
deMacedo, Viriato M.
Donoghue, Eileen M.
Fattman, Ryan C.
Gobi, Anne M.
Humason, Donald F., Jr.
Keenan, John F.
Lesser, Eric P.
L'Italien, Barbara A.
Lovely, Joan B.
McGee, Thomas M.

Montigny, Mark C.
Moore, Michael O.
O'Connor, Patrick M.
O'Connor Ives, Kathleen
Pacheco, Marc R.
Rodrigues, Michael J.
Ross, Richard J.
Rush, Michael F.
Tarr, Bruce E.
Timilty, Walter F.
Welch, James T. – **22.**

NAYS.

Barrett, Michael J.
Boncore, Joseph A.
Brownsberger, William N.
Chandler, Harriette L.
Chang-Diaz, Sonia
Creem, Cynthia Stone
Cyr, Julian
DiDomenico, Sal N.

Eldridge, James B.
Forry, Linda Dorcena
Friedman, Cindy F.
Hinds, Adam G.
Jehlen, Patricia D.
Lewis, Jason M.
Spilka, Karen E. – **15.**

The yeas and nays having been completed at twenty-seven minutes past three o'clock P.M., the amendment was adopted.

Subsequently, on motion of Mr. Brownsberger, the Senate reconsidered the vote by which the Senate had previously adopted the amendment.

After remarks, the recurring question on adoption of the amendment was determined by a call of the yeas and nays, at a quarter before five o'clock P.M., on motion of Mr. Brownsberger, as follows, to wit (yeas 31 – nays 6) [**Yeas and Nays No. 214**]:

YEAS.

Brady, Michael D.
Chandler, Harriette L.
Cyr, Julian
deMacedo, Viriato M.
DiDomenico, Sal N.
Donoghue, Eileen M.
Fattman, Ryan C.
Forry, Linda Dorcena
Friedman, Cindy F.
Gobi, Anne M.
Hinds, Adam G.
Humason, Donald F., Jr.
Keenan, John F.
Lesser, Eric P.
Lewis, Jason M.

Lovely, Joan B.
McGee, Thomas M.
Montigny, Mark C.
Moore, Michael O.
O'Connor, Patrick M.
O'Connor Ives, Kathleen
Pacheco, Marc R.
Rodrigues, Michael J.
Rosenberg, Stanley C.
Ross, Richard J.
Rush, Michael F.
Spilka, Karen E.
Tarr, Bruce E.
Timilty, Walter F.
Welch, James T. – **31.**

L'Italien, Barbara A.

NAYS.

Boncore, Joseph A.
Brownsberger, William N.
Chang-Diaz, Sonia

Creem, Cynthia Stone
Eldridge, James B.
Jehlen, Patricia D. – 6.

The yeas and nays having been completed at thirteen minutes before five o'clock P.M., the amendment was again adopted.

Adjourn In Memory of Jafet Robles Torres

The Senator from Hampden, Mr. Welch, and the Senator from Suffolk, Ms. Chang-Diaz, moved that when the Senate adjourns today it do so in memory of Jafet Robles Torres.

Mr. Welch and Ms. Chang-Diaz in the Chair, Jafet Robles Torres was a beloved organizer and activist from Springfield, who was killed on September 11, 2017.

Jafet was born in Bayamon, Puerto Rico on December 2, 1983. His family moved to Springfield, Massachusetts when he was 8 months old. Growing up in a low-income neighborhood of Springfield's North End, Jafet witnessed firsthand the harsh realities of poverty and inequity, which resulted in him being pushed out of school and onto the streets at a young age. At 18, Jafet was sentenced to 4 years in prison and upon release at 22, struggled to find work and support his family. Through his experience, he began to recognize the difficulties and challenges he, his family, his neighbors, and his community faced.

Jafet made his way back to school and graduated with his Associates Degree from Holyoke Community College, where he studied history and politics. His journey eventually brought him to Neighbor to Neighbor of Springfield, where his organizing talent elevated him into their leadership development program to become a full-time organizer.

A gifted organizer, Jafet rose as a leader and powerful voice locally, state-wide and nation-wide on the issue dearest to his heart: ending mass incarceration. He helped to lead the Jobs Not Jails campaign for criminal justice reform in Massachusetts. In this role, he organized a powerful chapter that brought together people and families affected by the criminal justice system.

As the Senate continues today's debate on criminal justice reform, we wish to honor Jafet Robles Torres for his relentless advocacy, fierceness, and uncompromising conviction on this issue. He is remembered as a devoted father of four children: Destiny, Jafet Jr., Jasier, and Jozaiah. Jafet was a beloved son, brother, and friend to many.

Moment of Silence.

At the request of the Chair (Mr. Rodrigues), the members, guests and staff stood in a moment of silence and reflection to the memory of Jafet Robles Torres .

Moment of silence.

Orders of the Day.

The Orders of the Day were further considered as follows:

UNCORRECTED PROOF.

The Senate Bill relative to criminal justice reform (Senate, No. 2170),-- was further considered, the main question being on ordering the bill to a third reading. Criminal justice reform.

Messrs. Moore, O'Connor and Ross and Ms. Gobi moved that the proposed new draft be amended in line 1201, by inserting after the phrase "police officer," the following:- "correction officers," 41

The amendment was adopted.

Messrs. Tarr, O'Connor and Ross moved that the proposed new draft be amended by striking out section 223. 42

The amendment was *rejected*.

Messrs. Tarr, O'Connor and Ross moved that the proposed new draft be amended by striking out section 206. 43

The amendment was *rejected*.

Messrs. Tarr, Pacheco, O'Connor and Ross moved that the proposed new draft be amended by striking out section 203. 44

The amendment was *rejected*.

Ms. Creem and Ms. Jehlen moved that the proposed new draft be amended by striking out section 231 and inserting in place thereof the following language: 149

“SECTION 231: Notwithstanding the provisions of Section 32H of Chapter 94C or any other general or special law to the contrary, a person who is serving a sentence on the effective date of this act for an offense that has been repealed by this Act shall become eligible to receive deductions from his sentence for good conduct under sections 129C and 129D of chapter 127 as of the effective date of this Act.”

After debate, the question on adoption of the amendment was determined by a call of the yeas and nays, at four minutes past four o'clock P.M., on motion of Mr. deMacedo, as follows, to wit (yeas 25 – nays 13) [**Yeas and Nays No. 212**]:

YEAS.

Barrett, Michael J.	Keenan, John F.
Boncore, Joseph A.	Lesser, Eric P.
Brownsberger, William N.	Lewis, Jason M.
Chandler, Harriette L.	L'Italien, Barbara A.
Chang-Diaz, Sonia	McGee, Thomas M.
Creem, Cynthia Stone	Montigny, Mark C.
Cyr, Julian	Moore, Michael O.
DiDomenico, Sal N.	Rodrigues, Michael J.
Eldridge, James B.	Rosenberg, Stanley C.
Forry, Linda Dorcena	Rush, Michael F.
Friedman, Cindy F.	Spilka, Karen E.
Hinds, Adam G.	Welch, James T. – 25.
Jehlen, Patricia D.	

NAYS.

Brady, Michael D.	O'Connor, Patrick M.
deMacedo, Viriato M.	O'Connor Ives, Kathleen
Donoghue, Eileen M.	Pacheco, Marc R.
Fattman, Ryan C.	Ross, Richard J.
Gobi, Anne M.	Tarr, Bruce E.
Humason, Donald F., Jr.	Timilty, Walter F. – 13.
Lovely, Joan B.	

UNCORRECTED PROOF.

The yeas and nays having been completed at seven minutes past four o'clock P.M., the amendment was adopted.

Messrs. Tarr, O'Connor and Ross moved that the proposed new draft be amended by striking section 15 in its entirety. 45

The amendment was *rejected*.

Messrs. Tarr, O'Connor and Ross moved that the proposed new draft be amended by striking out section 200. 46

The amendment was *rejected*.

Messrs. Tarr and O'Connor, Ms. Gobi and Mr. Ross moved that the proposed new draft be amended by striking section 16 in its entirety. 49

The amendment was *rejected*.

Mr. Keenan moved that the proposed new draft be amended by striking in line 94 the word "solely". 50

After remarks, the amendment was adopted.

Messrs. Tarr, O'Connor and Ross moved that the proposed new draft be amended by striking out section 174. 58

After debate, the question on adoption of the amendment was determined by a call of the yeas and nays, at nineteen minutes before five o'clock P.M., on motion of Mr. Tarr, as follows, to wit (yeas 11 – nays 27) [**Yeas and Nays No. 213**]:

YEAS.

Brady, Michael D.
deMacedo, Viriato M.
Fattman, Ryan C.
Gobi, Anne M.
Humason, Donald F., Jr.
Lovely, Joan B.

O'Connor, Patrick M.
O'Connor Ives, Kathleen
Pacheco, Marc R.
Ross, Richard J.
Tarr, Bruce E. – **11.**

NAYS.

Barrett, Michael J.
Boncore, Joseph A.
Brownsberger, William N.
Chandler, Harriette L.
Chang-Diaz, Sonia
Creem, Cynthia Stone
Cyr, Julian
DiDomenico, Sal N.
Donoghue, Eileen M.
Eldridge, James B.
Forry, Linda Dorcena
Friedman, Cindy F.
Hinds, Adam G.
Jehlen, Patricia D.

Keenan, John F.
Lesser, Eric P.
Lewis, Jason M.
L'Italien, Barbara A.
McGee, Thomas M.
Montigny, Mark C.
Moore, Michael O.
Rodrigues, Michael J.
Rosenberg, Stanley C.
Rush, Michael F.
Spilka, Karen E.
Timilty, Walter F.
Welch, James T. – **27.**

The yeas and nays having been completed at sixteen minutes before five o'clock P.M., the amendment was *rejected*.

Messrs. Tarr, Keenan, O'Connor and Ross moved that the proposed new draft be amended by striking section 27 and section 28 in its entirety. 60

After debate, the question on adoption of the amendment was determined by a call of the yeas and nays, at one minute before five o'clock P.M., on motion of Mr. Humason, as follows, to wit (yeas 18 – nays 19) [**Yeas and Nays No. 215**]:

YEAS.

Brady, Michael D.
deMacedo, Viriato M.
Donoghue, Eileen M.
Fattman, Ryan C.
Gobi, Anne M.
Humason, Donald F., Jr.
Keenan, John F.
Lovely, Joan B.
Moore, Michael O.

O'Connor, Patrick M.
O'Connor Ives, Kathleen
Pacheco, Marc R.
Rodrigues, Michael J.
Ross, Richard J.
Rush, Michael F.
Tarr, Bruce E.
Timilty, Walter F.
Welch, James T. – 18.

NAYS.

Barrett, Michael J.
Boncore, Joseph A.
Brownsberger, William N.
Chandler, Harriette L.
Chang-Diaz, Sonia
Creem, Cynthia Stone
Cyr, Julian
DiDomenico, Sal N.
Eldridge, James B.
Forry, Linda Dorcena

Friedman, Cindy F.
Hinds, Adam G.
Jehlen, Patricia D.
Lesser, Eric P.
Lewis, Jason M.
L'Italien, Barbara A.
McGee, Thomas M.
Montigny, Mark C.
Spilka, Karen E. – 19.

The yeas and nays having been completed at five o'clock P.M., the amendment was *rejected*.

Ms. Chandler, Ms. Jehlen and Mr. O'Connor moved that the proposed new draft be amended by adding the following section:-

“SECTION X. There shall be a task force to evaluate and review the impact and effectiveness of eliminating certain mandatory minimum sentences and to make recommendations on the advisability of making further changes to criminal sentences that impose a mandatory minimum sentence. The evaluation and review shall include, but not be limited to: (i) the impact of such sentences on minority communities or neighborhoods; (ii) the impact of such sentencing policies on access to equal justice, including the impact such policies have on pleading to other crimes; (iii) the impact of such policies on different age groups, including young adults; (iv) an examination of such sentences as compared to other crimes that do not impose a mandatory minimum sentence, including comparisons with other state and federal sentencing schemes; (v) a comparative analysis of the costs of such sentencing policies to the state; (vi) the effectiveness such sentencing policies have on reducing crime; (vii) the advisability of adopting so-called ‘safety valve’ provisions, or other policies which allow for the imposition of a sentence less than the mandatory minimum sentence; and (viii) a review of the effectiveness and advisability of drug sentencing policies that allow intent to be based solely on the weight of the substance.

The task force shall consist of 11 members, which shall include the Attorney General or a designee, who shall serve as Chair; the Secretary of the Executive Office of Public Safety or a designee; the Commissioner of Probation or a designee; 1 member designated by the Massachusetts Sentencing Commission; 1 member appointed by the Executive Office of the Trial Court; 1 member designated by the Committee for Public Counsel Services; 1 member designated by the American Civil Liberties Union of Massachusetts; 1 member designated by the Massachusetts District Attorney’s Association; 1 member designated by the Massachusetts Chiefs of Police Association; 1 member designated by Ex-Prisoners

and Prisoners Organizing for Community Advancement (EPOCA); and 1 member designated by the Massachusetts Office for Victim Assistance.

Not later than January 1, 2020, the task force shall file a final report, which shall include recommendations for legislative or regulatory changes based on their findings, as appropriate, with the clerks of the senate and house of representatives, and the clerks shall forward the report to the senate and house chairs of the joint committee on the judiciary and the senate and house chairs of the joint committee on ways and means.”

After remarks, the question on adoption of the amendment was determined by a call of the yeas and nays, at six minutes past five o’clock P.M., on motion of Ms. Chandler, as follows, to wit (yeas 37 – nays 0) **[Yeas and Nays No. 216]:**

YEAS.

- | | |
|--------------------------|-------------------------|
| Barrett, Michael J. | Keenan, John F. |
| Boncore, Joseph A. | Lesser, Eric P. |
| Brady, Michael D. | Lewis, Jason M. |
| Brownsberger, William N. | L’Italien, Barbara A. |
| Chandler, Harriette L. | Lovely, Joan B. |
| Chang-Diaz, Sonia | McGee, Thomas M. |
| Creem, Cynthia Stone | Montigny, Mark C. |
| Cyr, Julian | Moore, Michael O. |
| deMacedo, Viriato M. | O’Connor, Patrick M. |
| DiDomenico, Sal N. | O’Connor Ives, Kathleen |
| Donoghue, Eileen M. | Pacheco, Marc R. |
| Eldridge, James B. | Rodrigues, Michael J. |
| Fattman, Ryan C. | Ross, Richard J. |
| Forry, Linda Dorcena | Rush, Michael F. |
| Friedman, Cindy F. | Spilka, Karen E. |
| Gobi, Anne M. | Tarr, Bruce E. |
| Hinds, Adam G. | Timilty, Walter F. |
| Humason, Donald F., Jr. | Welch, James T. – 37. |
| Jehlen, Patricia D. | |

NAYS – 0.

The yeas and nays having been completed at eight minutes past five o'clock P.M., the amendment was adopted.

Messrs. Tarr, O’Connor and Ross moved that the proposed new draft be amended by striking out section 136. 71

After remarks, the amendment was *rejected*.

Messrs. Tarr, O’Connor and Ross moved that the proposed new draft be amended by striking section 26 in its entirety. 121

After debate, the question on adoption of the amendment was determined by a call of the yeas and nays, at fourteen minutes past five o’clock P.M., on motion of Mr. Tarr, as follows, to wit (yeas 17 – nays 21) **[Yeas and Nays No. 217]:**

YEAS.

- | | |
|-------------------------|-------------------------|
| Brady, Michael D. | O’Connor Ives, Kathleen |
| deMacedo, Viriato M. | Pacheco, Marc R. |
| Donoghue, Eileen M. | Rodrigues, Michael J. |
| Fattman, Ryan C. | Ross, Richard J. |
| Gobi, Anne M. | Rush, Michael F. |
| Humason, Donald F., Jr. | Tarr, Bruce E. |

UNCORRECTED PROOF.

Lovely, Joan B.
Moore, Michael O.
O'Connor, Patrick M.

Timilty, Walter F.
Welch, James T. – 17.

NAYS.

Barrett, Michael J.
Boncore, Joseph A.
Brownsberger, William N.
Chandler, Harriette L.
Chang-Diaz, Sonia
Creem, Cynthia Stone
Cyr, Julian
DiDomenico, Sal N.
Eldridge, James B.
Forry, Linda Dorcena
Friedman, Cindy F.

Hinds, Adam G.
Jehlen, Patricia D.
Keenan, John F.
Lesser, Eric P.
Lewis, Jason M.
L'Italien, Barbara A.
McGee, Thomas M.
Montigny, Mark C.
Rosenberg, Stanley C.
Spilka, Karen E. – 21.

The yeas and nays having been completed at sixteen minutes past five o'clock P.M., the amendment was *rejected*.

Messrs. Tarr and O'Connor, Ms. Gobi and Mr. Ross moved that the proposed new draft be amended by striking section 42 in its entirety.

79

After debate, the question on adoption of the amendment was determined by a call of the yeas and nays, at twenty-eight minutes past five o'clock P.M., on motion of Mr. Tarr, as follows, to wit (yeas 15 – nays 23) [**Yeas and Nays No. 218**]:

YEAS.

Brady, Michael D.
deMacedo, Viriato M.
Fattman, Ryan C.
Gobi, Anne M.
Humason, Donald F., Jr.
Lovely, Joan B.
Moore, Michael O.
O'Connor, Patrick M.

O'Connor Ives, Kathleen
Pacheco, Marc R.
Ross, Richard J.
Rush, Michael F.
Tarr, Bruce E.
Timilty, Walter F.
Welch, James T. – 15.

NAYS.

Barrett, Michael J.
Boncore, Joseph A.
Brownsberger, William N.
Chandler, Harriette L.
Chang-Diaz, Sonia
Creem, Cynthia Stone
Cyr, Julian
DiDomenico, Sal N.
Donoghue, Eileen M.
Eldridge, James B.
Forry, Linda Dorcena
Friedman, Cindy F.

Hinds, Adam G.
Jehlen, Patricia D.
Keenan, John F.
Lesser, Eric P.
Lewis, Jason M.
L'Italien, Barbara A.
McGee, Thomas M.
Montigny, Mark C.
Rodrigues, Michael J.
Rosenberg, Stanley C.
Spilka, Karen E. – 23.

The yeas and nays having been completed at a half past five o'clock P.M., the amendment was *rejected*.

Messrs. Cyr and Eldridge, Ms. Jehlen and Mr. O'Connor moved that the proposed new draft be amended by adding the following section:-

74

“SECTION XX. Chapter 276 of the General Laws is hereby amended by

inserting after section 89A the following new section:-

Section 89B. Probation officers appointed under subsection (f) of section 83 of this chapter may be designated by the commissioner to exclusively supervise young adults, 19 to 26 years of age, who have been placed in the care of probation officers under section 87 so that these individuals may benefit from age appropriate guidance, targeted interventions, and a greater degree of individual attention.

Probation officers designated under this section shall be selected based on their demonstrated experience and commitment to working with young adults and shall perform their services under the direction of the commissioner.

Probation officers designated under this section shall receive specialized training on topics including but not limited to: supervising and counseling young adults, psycho-social and behavioral development of young adults, cultural competency, rehabilitation of young adults, educational programs, and relevant community-based services and programs.”

The amendment was adopted.

Messrs. Tarr, O'Connor and Ross moved that the proposed new draft be amended by striking out section 128.

77

After debate, the question on adoption of the amendment was determined by a call of the yeas and nays, at twelve minutes before six o'clock P.M., on motion of Mr. Tarr, as follows, to wit (yeas 18 – nays 20) [Yeas and Nays No. 219]:

YEAS.

Brady, Michael D.
deMacedo, Viriato M.
Donoghue, Eileen M.
Fattman, Ryan C.
Gobi, Anne M.
Humason, Donald F., Jr.
Lesser, Eric P.
L'Italien, Barbara A.
Moore, Michael O.

O'Connor, Patrick M.
O'Connor Ives, Kathleen
Pacheco, Marc R.
Rodrigues, Michael J.
Ross, Richard J.
Rush, Michael F.
Tarr, Bruce E.
Timilty, Walter F.
Welch, James T. – **18.**

NAYS.

Barrett, Michael J.
Boncore, Joseph A.
Brownsberger, William N.
Chandler, Harriette L.
Chang-Diaz, Sonia
Creem, Cynthia Stone
Cyr, Julian
DiDomenico, Sal N.
Eldridge, James B.
Forry, Linda Dorcena

Friedman, Cindy F.
Hinds, Adam G.
Jehlen, Patricia D.
Keenan, John F.
Lewis, Jason M.
Lovely, Joan B.
McGee, Thomas M.
Montigny, Mark C.
Rosenberg, Stanley C.
Spilka, Karen E. – **20.**

The yeas and nays having been completed at nine minutes before six o'clock P.M., the amendment was *rejected*.

Suspension of Senate Rule 38A.

Ms. Chandler moved that Senate Rule 38A be suspended to allow the Senate to meet beyond the hour of 8:00 P.M.; and the same Senator requested unanimous consent that the rules be suspended without a call of the yeas and nays. There being no objection, the motion was considered forthwith, and it was adopted.

Senate Rule 38A.

Messrs. Fattman, O'Connor and Ross and Ms. Gobi moved that the proposed new draft be amended by inserting after section 1 the following section:-

128

“SECTION 1A. Section 167 of chapter 6 of the General Laws, as so appearing, is hereby amended by inserting after the definition of ‘Commissioner’ the following definition:- ‘Conviction’, a finding of guilty or not guilty by reason of insanity.”

After remarks, the question on adoption of the amendment was determined by a call of the yeas and nays, at sixteen minutes before seven o'clock P.M., on motion of Mr. Fattman, as follows, to wit (yeas 37 – nays 0) [Yeas and Nays No. 220]:

YEAS.

- | | |
|--------------------------|-------------------------|
| Barrett, Michael J. | Keenan, John F. |
| Boncore, Joseph A. | Lesser, Eric P. |
| Brady, Michael D. | Lewis, Jason M. |
| Brownsberger, William N. | L'Italien, Barbara A. |
| Chandler, Harriette L. | Lovely, Joan B. |
| Chang-Diaz, Sonia | McGee, Thomas M. |
| Creem, Cynthia Stone | Montigny, Mark C. |
| Cyr, Julian | Moore, Michael O. |
| deMacedo, Viriato M. | O'Connor, Patrick M. |
| DiDomenico, Sal N. | O'Connor Ives, Kathleen |
| Donoghue, Eileen M. | Pacheco, Marc R. |
| Eldridge, James B. | Rodrigues, Michael J. |
| Fattman, Ryan C. | Ross, Richard J. |
| Forry, Linda Dorcena | Rush, Michael F. |
| Friedman, Cindy F. | Spilka, Karen E. |
| Gobi, Anne M. | Tarr, Bruce E. |
| Hinds, Adam G. | Timilty, Walter F. |
| Humason, Donald F., Jr. | Welch, James T. – 37. |
| Jehlen, Patricia D. | |

NAYS – 0.

The yeas and nays having been completed at thirteen minutes before seven o'clock P.M., the amendment was adopted.

Messrs. Tarr, O'Connor and Ross moved that the proposed new draft be amended by striking out section 143.

61

Pending the question on adoption of the amendment, Ms. Creem moved that the pending amendment (Tarr et al) be amended by striking out the text and inserting in place the following text:- by striking section 143 and inserting in place thereof the following section:-

61.1

“SECTION 143. Said chapter 265 is hereby further amended by striking out section 23, as so appearing, and inserting in place thereof the following section:-

Section 23. Whoever has sexual intercourse with a minor under 16 years of age and: (i) the defendant is more than 2 years older than the minor; or (ii) the minor is under 13 years of age, shall be punished by imprisonment in the state prison for life or for any term of years or, except as otherwise provided, for any term of years in a jail or house of correction; provided, however, that a prosecution commenced under this section shall not be placed on file or continued without a finding.

Notwithstanding section 54 of chapter 119 or any other general or special law

to the contrary, in a prosecution under this section in which the defendant is under the age of criminal majority at the time of the offense, the commonwealth shall only proceed by a complaint in juvenile court or in a juvenile session of a district court.”.

After debate, the further amendment (Creem) was adopted.

The question on adoption of the pending amendment (Tarr), as amended (Creem) was determined by a call of the yeas and nays at sixteen minutes past seven o'clock P.M., on motion of Mr. Pacheco, as follows, to wit (yeas 32 – nays 2) [**Yeas and Nays No. 221**]:

YEAS.

- | | |
|--------------------------|------------------------------|
| Barrett, Michael J. | Keenan, John F. |
| Boncore, Joseph A. | Lesser, Eric P. |
| Brownsberger, William N. | Lewis, Jason M. |
| Chandler, Harriette L. | L'Italien, Barbara A. |
| Chang-Diaz, Sonia | Lovely, Joan B. |
| Creem, Cynthia Stone | McGee, Thomas M. |
| Cyr, Julian | Montigny, Mark C. |
| DiDomenico, Sal N. | Moore, Michael O. |
| Donoghue, Eileen M. | Pacheco, Marc R. |
| Eldridge, James B. | Rodrigues, Michael J. |
| Fattman, Ryan C. | Rosenberg, Stanley C. |
| Forry, Linda Dorcena | Ross, Richard J. |
| Friedman, Cindy F. | Spilka, Karen E. |
| Gobi, Anne M. | Tarr, Bruce E. |
| Hinds, Adam G. | Timilty, Walter F. |
| Jehlen, Patricia D. | Welch, James T. – 32. |

NAYS.

- | | |
|----------------------|-------------------------------------|
| deMacedo, Viriato M. | Humason, Donald F., Jr. – 2. |
|----------------------|-------------------------------------|

ANSWERED “PRESENT”.

- | | |
|----------------------|------------------------------|
| Brady, Michael D. | O'Connor Ives, Kathleen |
| O'Connor, Patrick M. | Rush, Michael F. – 4. |

The yeas and nays having been completed at twenty-two minutes past seven o'clock P.M., the pending amendment (Tarr), as amended (Creem), was adopted.

Recess.

At twenty-nine minutes before eight o'clock P.M, at the request of Mr. Tarr, for the purpose of a minority caucus, the President declared a recess; and, at nine o'clock P.M., the Senate reassembled, the President in the Chair.

Recess.

Orders of the Day.

The Orders of the Day were further considered as follows:

The Senate Bill relative to criminal justice reform (Senate, No. 2170),-- was further considered, the main question being on ordering the bill to a third reading.

Criminal justice reform.

Mr. Rush, Ms. Gobi and Mr. O'Connor moved that the proposed new draft be amended by adding the following section:-

20

“SECTION 156A. Section 37E of said chapter 266, as so appearing, is hereby amended by inserting after subsection (c) the following subsection:-

(c ½) Whoever possesses a tool, instrument or other article adapted, designed or commonly used for accessing a person’s financial services account number or

code, savings account number or code, checking account number or code, brokerage account number or code, credit card account number or code, debit card number or code, automated teller machine number or code, personal identification number, mother's maiden name, computer system password, electronic signature or unique biometric data that is a fingerprint, voice print, retinal image or iris image of another person under circumstances evincing an intent to use or knowledge that some person intends to use the same in the commission of larceny shall be guilty of identity fraud and shall be punished by a fine of not more than \$5,000 or imprisonment in a house of correction for not more than 2 1/2 years, or by both such fine and imprisonment."

The amendment was adopted.

Messrs. Rodrigues, O'Connor, Moore and Montigny moved to amend the proposed new draft in section 182, in proposed section 58A of chapter 276, by striking out subsection (e) and inserting in place thereof the following subsection:-

83

"(e) A defendant detained under this section shall be brought to trial as soon as reasonably possible. For cases prosecuted in juvenile court, district court or Boston municipal court, in the absence of good cause, a defendant shall not be detained under this section for more than 120 days, if older than the age of criminal majority, and for a period of not more than 60 days for a defendant who is younger than the age of criminal majority, excluding any period of delay as defined in Rule 36(b)(2) of the Massachusetts Rules of Criminal Procedure. Defendants indicted and pending prosecution in the superior court shall not be detained under this section for more than 180 days, excluding any period of delay as defined in Rule 36(b)(2) of the Massachusetts Rules of Criminal Procedure. If the defendant's case has not been brought to trial or otherwise resolved by the end of the periods prescribed by this section, excluding any period of delay as defined above, the defendant shall be entitled to a de novo reconsideration of the detention order by the court that originally issued the order."

The amendment was adopted.

Ms. Creem moved that the proposed new draft be amended by striking out section 208 in its entirety and inserting in place the following section:-

94

"SECTION 208. Said section 2 of said chapter 276A, as so appearing, is hereby further amended by striking out, in lines 6 and 7, the words 'but has not reached the age of twenty-two'."

The amendment was adopted.

Mr. Ross moved that the proposed new draft be amended by inserting after section 4 the following section:-

97

"SECTION 4A. Said chapter 6 is hereby further amended by inserting after section 172M the following section:-

Section 172N. State and political subdivision licensing authorities shall provide in the licensing requirements for a professional license a list of the categories of crimes that would disqualify an applicant from eligibility for a license. For the purposes of this section, 'licensing authority' shall include an agency, examining board, credentialing board, or other office or commission with the authority to impose occupational fees or licensing requirements on a profession."

The amendment was adopted.

Ms. Lovely, Mr. Brady, Ms. L'Italien, Mr. O'Connor, Ms. Gobi and Mr. Timilty moved that the proposed new draft be amended by inserting after section 163 the following section:-

104

"SECTION 163A. Said chapter 268 is hereby further amended by inserting

after section 21A the following section:-

Section 21B. A person over the age of 21 who is employed by or contracts with a public or private school, the department of youth services, the department of children and families, the department of mental health, the department of developmental services or a private institution that provides services to clients of such departments, who is a teacher, administrator or a person in a similar position of authority in the school, department or institution and, in the course of such employment or contract or as a result thereof, engages in, within or outside of the school, department or institution, sexual relations with a person who is: (i) under the age of 19, has not received a high school diploma, general educational development certificate or equivalent document and is served by the school, department or institution; or (ii) under the age of 22, has special needs under chapter 71B, has not received a high school diploma, general educational development certificate or equivalent document and is served by the school, department or institution, shall be punished by imprisonment in a state prison for not more than 5 years or in a jail or house of corrections for not more than 2½ years, by a fine of \$10,000 or by both such fine and imprisonment. In a prosecution commenced under this section, an individual served by such a school, department or institution shall be deemed incapable of consent to sexual relations with the person.”

The amendment was adopted.

Ms. Creem and Messrs. Eldridge, Barrett, O'Connor and Timilty moved that the proposed new draft be amended by striking in lines 718-720 the sentence: “A prisoner in restrictive housing shall be offered mental health treatment in accordance with clinical standards adopted by the department.” and inserting in place thereof the following sentence:- “Any such prisoner in restrictive housing shall be offered additional mental health treatment in accordance with clinical standards adopted by the department.”

108

The amendment was adopted.

Ms. Gobi and Mr. O'Connor moved that the proposed new draft be amended by adding the following section:

109

“SECTION XX. Notwithstanding any special or general law to the contrary there shall be a special commission created for the purpose of reviewing the qualifications and scope of practice of qualified examiners as defined in Section 1 of Chapter 123A.

The special commission shall consist of the house of representatives and senate chairs of the joint committee on the judiciary or their designees, who shall serve as co-chairs; the minority leader of the house of representatives or a designee; the minority leader of the senate or a designee; the secretary of the executive office of public safety and security or their designee; the commissioner of the department of corrections or their designee; the commissioner of public health or their designee; the executive director of the Massachusetts District Attorney’s association or their designee; The Executive Director of the MA Office for Victim Assistance or their designee; the Superintendent of the Massachusetts Treatment Center or their designee; The Executive Director of the Committee for Public Counsel Services or their designee; a representative of a professional association with expertise in the assessment and treatment of sexually dangerous persons, and a person with experience in supervision of qualified examiners. The special commission shall consult with the Sex Offender Registry Board, Parole Board, the Department of Probation and others as necessary to complete their work.

The special commission shall conduct a thorough review of the educational and experiential requirements for qualified examiners and the clinical standards and practices and risk assessment criteria used by qualified examiners in conducting an assessment of sexually dangerous persons as defined in section 1 of chapter 123A. The special commission shall determine whether these requirements, standards and practices reflect the current scientific research and best practice evidence in the field and make recommendations for revision of current professional requirements, clinical standards, practices and risk assessment criteria as needed to support effective practice among qualified examiners and to maximally ensure public safety.

The special commission shall submit its report and recommendations, together with drafts of legislation to carry its recommendations into effect, with the clerks of the house and senate on or before August 1, 2018.”

The amendment was adopted.

Ms. Gobi moved that the proposed new draft be amended by adding the following section:-

110

“SECTION XX. Notwithstanding any special or general law to the contrary there shall be a special commission on judicial accountability to study the nomination, selection, appointment, and oversight of judges in the Commonwealth and to develop recommendations to improve accountability including reappointment standards.

The special commission shall consist of: three members to be appointed by the governor; two members of the House of Representatives, one of whom to be appointed by the Speaker of the House of Representatives, and the other to be appointed by the minority leader; two members of the Senate, one of whom to be appointed by the President of the Senate, and the other to be appointed by the minority leader; the president of the Massachusetts Bar Association or their designee; the president of the Asian American Lawyers Association of Massachusetts or their designee; president of the Barnstable Bar Association or their designee; the president of the Berkshire County Bar Association or their designee; president of the Boston Bar Association or their designee; president of the Bristol County Bar Association or their designee; president of the Essex County Bar Association or their designee; the president of the Franklin County Bar Association or their designee; president of the Hampden County Bar Association or their designee; president of the Hampshire County Bar Association or their designee; president of the League of Women Voters or their designee; president of the Massachusetts Association of Hispanic Attorneys or their designee; president of the Massachusetts Association of Women Lawyers or their designee; president of the Massachusetts Black Lawyers Association or their designee; president of the Massachusetts Judges Conference or their designee; president of the Massachusetts LGBTQ Bar Association or their designee; president of the Middlesex Bar Association or their designee; president of the Norfolk County Bar Association or their designee; president of the Plymouth County Bar Association or their designee; president of the Suffolk County Bar Association or their designee; president of the Woman’s Bar Association or their designee; and the president of the Worcester County Bar Association or their designee.

The commission shall elect from among its members a chair, a vice chair and any other officers it deems necessary. The members of the commission shall receive no compensation for their services, other than as may be already provided for due to their position outside the commission. The commission may receive such funds to carry out its mission as may be authorized and appropriated or

donated from time to time. The commission may request from all state agencies such information and assistance as the commission may require, which shall be provided as promptly as is reasonably practicable. The commission may: (i) use such voluntary and uncompensated services of private individuals, agencies and organizations as may from time to time be offered and needed; (ii) hold regular, public meetings and fact-finding hearings and other public forums as it may consider necessary. The commission shall convene its first meeting within one month of appointment and shall submit its first report of recommendations not later than December 1, 2017 to the clerks of the House of Representatives and the Senate who shall forward a copy of the report to the House and Senate chairs of the Joint Committee on the Judiciary.”

The amendment was *rejected*.

Ms. Gobi moved that the proposed new draft be amended by inserting after section 17 the following section:-

111

“SECTION 18: Said section 24 of said chapter 90, as so appearing, is hereby further amended by inserting, after the word ‘liquor’ in line 518, the following words:- or is involved in a motor vehicle accident resulting in serious injury or a fatality.”

The amendment was *rejected*.

Messrs. O'Connor, Pacheco and Timilty moved that the proposed new draft be amended by striking sections 29, 30, 31, and 32 in their entirety; and

112

By inserting the following section:-

“SECTION XX. Subsection (c1/2) of Section 32E in Chapter 94C is hereby amended by striking the words ‘10 grams’ in line 123 and inserting thereof the following words:- ‘360 milligrams’.

Said subsection is hereby further amended by striking the words ‘10 grams’ in line 127 and inserting thereof the following words:-‘360 milligrams’.

Said subsection is hereby further amended by striking the words ‘not more than 20 years’ in lines 124 and 125 and inserting thereof the following words:- ‘no less than 5 years’.

SECTION YY. Subsection (c1/2) of Section 32E in Chapter 94C is hereby further amended by inserting, after the second appearance of the word ‘fentanyl’ in line 128, the words:- ‘or any controlled substance defined in paragraph (d) of Class A of section 31’.”

After debate, the question on adoption of the amendment was determined by a call of the yeas and nays at nineteen minutes past nine o'clock P.M., on motion of Mr. O'Connor, as follows, to wit (yeas 9 – nays 28) [**Yeas and Nays No. 222**]:

YEAS.

deMacedo, Viriato M.
Fattman, Ryan C.
Humason, Donald F., Jr.
Moore, Michael O.
O'Connor, Patrick M.

Ross, Richard J.
Rush, Michael F.
Tarr, Bruce E.
Timilty, Walter F. – 9.

NAYS.

Barrett, Michael J.
Boncore, Joseph A.
Brady, Michael D.
Brownsberger, William N.
Chandler, Harriette L.
Chang-Diaz, Sonia

Hinds, Adam G.
Jehlen, Patricia D.
Keenan, John F.
Lesser, Eric P.
Lewis, Jason M.
L'Italien, Barbara A.

Creem, Cynthia Stone
Cyr, Julian
DiDomenico, Sal N.
Donoghue, Eileen M.
Eldridge, James B.
Forry, Linda Dorcena
Friedman, Cindy F.
Gobi, Anne M.

Lovely, Joan B.
McGee, Thomas M.
Montigny, Mark C.
O'Connor Ives, Kathleen
Rodrigues, Michael J.
Rosenberg, Stanley C.
Spilka, Karen E.
Welch, James T. – 28.

ABSENT OR NOT VOTING.

Pacheco, Marc R. – 1.

The yeas and nays having been completed at twenty-two minutes past nine o'clock P.M., the amendment was *rejected*

Messrs. Montigny, Lewis and O'Connor moved that the proposed new draft be amended by inserting after section 145 the following section:-

113

"SECTION 145A. Chapter 265 of the General Laws, as so appearing, is hereby further amended by adding the following section:-

Section 59. (a) At any time after the entry of a judgment of disposition on an indictment or criminal or delinquency complaint for an offense, excluding a felony offense, the court in which it was entered shall, upon motion of the defendant, vacate any conviction, adjudication of delinquency, or continuance without a finding and permit the defendant to withdraw any plea of guilty, plea of nolo contendere, plea of delinquent, or factual admission tendered in association with one or more pleas upon a finding by the court, established by a preponderance of the evidence, that the defendant's participation in the offense was a result of having been a victim of human trafficking as defined by section 20M of chapter 233 or a victim of trafficking in persons under 22 U.S.C. 7102.

(b) For the purposes of this subsection, 'official documentation' shall mean a document issued by a local, state or federal government agency in the agency's official capacity.

Except as provided in this section, the defendant shall have the burden of establishing by a preponderance of the evidence that the defendant's participation in the offense was the result of having been a victim of human trafficking. If the conviction, adjudication of delinquency, or continuance without a finding was for an offense under sections 8, 26 or 53A of chapter 272 or common nightwalking or common streetwalking under section 53 of chapter 272, official documentation of the defendant's status as a victim of human trafficking or trafficking in persons at the time of the offense shall create a rebuttable presumption that the defendant's participation in the offense was a result of having been a victim of human trafficking or trafficking in persons; provided, however, that such documentation shall not be required for granting a motion under this section.

(c) In determining whether the defendant's participation in the offense was a result of having been a victim of human trafficking, the court may consider any evidence it deems appropriate in determining whether the person was a victim of human trafficking.

(d) The rules concerning the admissibility of evidence at criminal trials shall not apply to the presentation and consideration of evidence at a hearing conducted pursuant to this section. The court may, in its discretion, consider any evidence it deems relevant, including, but not limited to, hearsay evidence.

(e) Where a child under the age of 18 was adjudicated delinquent for an offense under sections 8, 26, 53 or 53A of chapter 272, based on allegations of

prostitution, there shall be an irrebuttable presumption that the child's participation in the offense was a result of having been a victim of human trafficking or trafficking in persons.

(f) A motion pursuant to this section may be heard by the justice that originally heard the matter or any sitting justice of the court that originally heard the matter.

(g) Upon vacatur of a conviction, adjudication of delinquency, or continuance without a finding, the court shall enter a plea of not guilty, except if the vacated conviction, adjudication of delinquency, or continuance without a finding was for an offense under sections 8, 26 or 53A of chapter 272 or for common nightwalking or common streetwalking under section 53 of chapter 272, in which case the court shall dismiss the indictment or criminal or delinquency complaint with prejudice. Upon vacatur of a conviction, adjudication of delinquency, or continuance without a finding and the entrance of a plea of not guilty pursuant to this section, it shall be an affirmative defense to the charges against the defendant that the defendant's participation in the offense was a result of having been a victim of human trafficking or trafficking in persons.

(h) The chief justice of the trial court shall prescribe the form in which a motion may be filed under this section.

(i) A conviction, adjudication of delinquency, or continuance without a finding vacated under this section shall be deemed to have been vacated on the merits.";

By inserting after the figure "100F", in line 2196, the following figure:- ", 100H"; and

By inserting after section 204, the following section:-

"SECTION 204A. Chapter 276 of the General Laws, as so appearing, is hereby amended by inserting, after section 100G, the following section:-

Section 100H. (a) In any case wherein a plea of not guilty has been entered by a court pursuant to section 59 of chapter 265 and (i) the criminal complaint is subsequently dismissed; (ii) the defendant is found not guilty by a judge or a jury; (iii) a finding of no probable cause is made by the court; or (iv) a nolle prosequi has been entered, a judge shall, upon motion of the defendant, seal said court appearance and disposition recorded, and the clerk and the probation officers of the courts in which the proceedings occurred or were initiated shall likewise seal the records of the proceedings in their files. Sealed records shall not operate to disqualify a person in any examination, appointment, or application for public employment in the service of the commonwealth or of any political subdivision.

(b) An application used to screen applicants for employment, housing or an occupational or professional license which seeks information concerning prior arrests or convictions or adjudications of delinquency of the applicant shall include in addition to the statement required under section 100A the following statement: "An applicant for employment, housing or an occupational or professional license with a sealed record on file with the commissioner of probation may answer "no record" with respect to an inquiry herein relative to prior arrests or criminal court appearances." The attorney general may enforce the provisions of this section by a suit in equity commenced in the superior court. Notwithstanding this section or any other general or special law to the contrary, the commissioner of probation or the clerk of courts in any district court, superior court, juvenile court, or the Boston municipal court, in response to inquiries by authorized persons other than by a law enforcement agency or a court, shall in the case of a sealed record report that no record exists."

The amendment was adopted.

Ms. Creem and Messrs. Eldridge, Barrett, O'Connor and Cyr moved that the proposed new draft be amended by striking, in lines 744-745, the following words "If a prisoner has been committed to disciplinary restrictive housing, every 6 months; and" and inserting in place the following new words:- "If a prisoner has been committed to disciplinary restrictive housing, no later than 6 months and every 90 days thereafter."; and

The amendment was adopted.

Messrs. Humason and Ross moved that the proposed new draft be amended in section 204 by adding the following section:-

"SECTION 100H. Notwithstanding any general or special law to the contrary, for the purposes of a negligence claim, an employer or landlord shall be presumed to have no notice or ability to know criminal record information that: (i) is contained in a criminal record that has been sealed or expunged; (ii) is in 1 of the categories of information that employers are prohibited from requesting from an applicant under subsection 9 of section 4 of chapter 151B; or (iii) concerns crimes that occurred in the commonwealth that the department of criminal justice information services cannot lawfully disclose to an employer or landlord."

The amendment was adopted.

Ms. Creem and Messrs. Eldridge, Barrett, O'Connor and Cyr moved that the proposed new draft be amended by striking out in section 109, proposed section 39F of chapter 127 and inserting in place thereof the following 2 sections:-

"SECTION 39F. A prisoner who has less than 180 days until that prisoner's mandatory release date or parole release date and who is held in restrictive housing shall be offered reentry programming including, but not limited to: housing assistance, assistance obtaining state and federal benefits, employment readiness training and programming designed to help the person rebuild interpersonal relationships, which may include, but shall not be limited to, anger management and parenting courses.

SECTION 39G. The commissioner shall promulgate regulations to implement sections 39 to 39G, inclusive."

The amendment was adopted.

Ms. Creem and Mr. Hinds moved that the proposed new draft be amended by inserting the text of Senate document numbered 2197, relative to criminal forfeiture.

The amendment was *rejected*.

Messrs. Hinds, Keenan and O'Connor moved that the proposed new draft be amended by adding the following section:-

"SECTION __. Chapter 118E of the General Laws is hereby amended by adding the following section: -

The division shall establish and update as may be appropriate a statewide capacity to track the utilization of behavioral health care services and behavioral health outcomes for persons in the criminal justice system within the Medicaid management information system. The statewide capacity shall collect data that includes records of behavioral health information pertaining to the tracking of persons who are incarcerated in state prison, county house of corrections or department of corrections facilities, who submit a MassHealth application. The information collected for the data field shall be subject to applicable state and federal privacy laws.

The division shall provide, in collaboration with the executive office, the department of public health and the office of the commissioner of probation, an

annual report including, but not limited to, a description and analysis of information relative to health care system analysis and health care service planning for incarcerated persons and policy recommendations to the office of the governor and lieutenant governor, the house and senate committees on ways and means, clerks of the senate and the house of representatives. The initial report shall be completed on or before June 30, 2018.

Pursuant to line item 0330-0613, section 2 of chapter 47 of the Acts of 2017, the Massachusetts trial court shall transfer funds to the executive office for purposes of implementing this section.”

The amendment was *rejected*.

Ms. Creem and Messrs. Eldridge, Barrett and O'Connor moved that the proposed new draft be amended in section 106, by striking out the definition of “Restrictive Housing” and inserting in place thereof the following definition:-

124

“‘Restrictive Housing’, a housing placement where a prisoner is confined to a cell for not less than 21 hours per day.”; and

In section 109, by striking out proposed subsection (e) of section 39B of chapter 127 of the General Laws and inserting in place thereof the following subsection:-

“(e) The commissioner shall promulgate regulations that provide for not less than 2 hours per day of out of cell programming in restrictive housing, consistent with the safety and security of the unit, and to maximize outplacements from restrictive housing consistent with the safety of all persons.”

The amendment was *rejected*.

Messrs. Lewis, O'Connor and Hinds moved that the proposed new draft be amended by inserting the following section:-

126

“SECTION X. Section 47 of chapter 94C of the General Laws, as appearing in the 2014 Official Edition, is hereby amended by inserting after subsection (j) the following subsection:-

(k) (1) The attorney general, each district attorney, and each police department for which the state treasurer has established a special law enforcement trust fund pursuant to subsection (d) shall file an annual report with the treasurer regarding all assets, monies, and proceeds from assets seized pursuant to this section and held by such fund. The report shall provide itemized accounting for all such assets, monies and proceeds from assets within the following asset categories: cash, personal property, conveyances, and real property, including any property disposed of by the office of seized property management within the division of capital asset management and maintenance. Such reports shall be filed on or before January 31 for the preceding calendar year and shall be public records.

(2) The attorney general, each district attorney, and each police department for which the state treasurer has established a special law enforcement trust fund pursuant to subsection (d) shall file an annual report with the treasurer regarding all expenditures therefrom, which shall include, but not be limited to, the following expenses categories: personnel, contractors, equipment, training, private-public partnerships, inter-agency collaborations, and community grants. Such reports shall be filed on or before January 31 for the preceding calendar year and shall be public records.

(3) On or before March 15, the state treasurer shall file a report with the executive office of administration and finance and the house and senate committees on ways and means regarding the aggregate deposits and expenditures, and the ending balances, for each special law enforcement trust fund during the preceding calendar year. Such reports shall be public records.”

The amendment was adopted.

Ms. Creem, Mr. Eldridge and Ms. Jehlen moved that the proposed new draft be amended by striking out section 28 and inserting the following sections:-

129

“SECTION X. Chapter 94C of the General Laws, as so appearing, is hereby further amended by striking out subsection (a) of section 32E and inserting in place thereof the following section:-

Section 32E. (a) Any person who trafficks in marihuana by knowingly or intentionally manufacturing, distributing, dispensing or cultivating or possessing with intent to manufacture, distribute, dispense or cultivate, or by bringing into the commonwealth a net weight of 50 pounds or more of marihuana or a net weight of 50 pounds or more of any mixture containing marihuana shall, if the net weight of marihuana or any mixture thereof is:

(1) Fifty pounds or more, but less than 100 pounds, be punished by a term of imprisonment in the state prison for not more than 15 years or by imprisonment in a jail or house of correction for not more than 2½ years. No sentence imposed under the provisions of this section shall be punished by a fine of more than \$10,000.

(2) One hundred pounds or more, but less than 2,000 pounds, be punished by a term of imprisonment in the state prison for not more than 15 years. No sentence imposed under the provisions of this section shall be punished by a fine of more than \$25,000.

(3) Two thousand pounds or more, but less than 10,000 pounds, be punished by a term of imprisonment in the state prison for not more than 15 years. No sentence imposed under the provisions of this section shall be punished by a fine of more than \$50,000.

(4) Ten thousand pounds or more, be punished by a term of imprisonment in the state prison for not more than 15 years. No sentence imposed under the provisions of this section shall be punished by a fine of more than \$200,000.

SECTION X. Subsection (b) of said section 32E of said chapter 94C, as so appearing, is hereby amended by striking out clauses (1) to (4), inclusive, and inserting in place thereof the following 2 clauses:-

(1) Not less than 100 grams but less than 200 grams, be punished by a term of imprisonment in the state prison for not more than 20 years and by a fine of not more than \$100,000.

(2) Not less than 200 grams, be punished by a term of imprisonment in the state prison for not more than 20 years and by a fine of not more than \$500,000.

SECTION X. Subsection (c) of said section 32E of said chapter 94C, as so appearing, is hereby amended by striking out clauses (1) to (4), inclusive, and inserting in place thereof the following 4 clauses:-

(1) Eighteen grams or more but less than 36 grams, be punished by a term of imprisonment in the state prison for not more than 20 years. No sentence imposed under the provisions of this section shall be punished by a fine of more than \$50,000.

(2) Thirty-six grams or more but less than 100 grams, be punished by a term of imprisonment in the state prison for not more than 20 years. No sentence imposed under the provisions of this section shall be punished by a fine of more than \$50,000.

(3) One hundred grams or more but less than 200 grams, be punished by a term of imprisonment in the state prison for not more than 20 years. No sentence imposed under the provisions of this section shall be punished by a fine of more than \$100,000.

(4) Two hundred grams or more, be punished by a term of imprisonment in the state prison for not more than 20 years. No sentence imposed under the provisions of this section shall be punished by a fine of more than \$500,000.

SECTION X. Chapter 94C of the General Laws, as so appearing, is hereby further amended by striking out section 32F and inserting in place thereof the following section:-

Section 32F. (a) Any person who knowingly or intentionally manufactures, distributes, dispenses, or possesses with intent to manufacture, distribute, or dispense a controlled substance in Class A of section thirty-one to a person under the age of eighteen years shall be punished by a term of imprisonment in the state prison for not more than fifteen years. No sentence imposed under the provisions of this section shall be punished by a fine of more than \$25,000.

(b) Any person who knowingly or intentionally manufactures, distributes, dispenses, or possesses with intent to manufacture, distribute, or dispense a controlled substance in Class B of section thirty-one to a person under the age of eighteen years shall be punished by a term of imprisonment in the state prison for not more than fifteen years. No sentence imposed under the provisions of this section shall be punished by a fine of more than \$25,000.

(c) Any person who knowingly or intentionally manufactures, distributes, dispenses, or possesses with intent to manufacture, distribute, or dispense a controlled substance in Class C of section thirty-one to a person under the age of eighteen years shall be punished by a term of imprisonment in the state prison for not more than fifteen years or in a jail or house of correction for not more than two and one-half years. No sentence imposed under the provisions of this section shall be punished by a fine of more than \$25,000.

(d) Any person who knowingly or intentionally manufactures, distributes, dispenses, or possesses with intent to manufacture, distribute or dispense a controlled substance as defined in clause (4) of paragraph (a) of class B of section thirty-one, to a person under the age of eighteen years shall be punished by a term of imprisonment in the state prison for not more than fifteen years. No sentence imposed under the provisions of this section shall be punished by a fine of more than \$25,000.

SECTION X. Chapter 94C of the General Laws, as so appearing, is hereby further amended by striking out section 32K and inserting in place thereof the following section:-

Section 32K. Any person who knowingly causes, induces or abets a person under the age of eighteen to distribute, dispense or possess with the intent to distribute or dispense any controlled substance as defined herein, or to accept, deliver or possess money used or intended for use in the procurement, manufacture, compounding, processing, delivery, distribution or sale of any such controlled substance shall be punished by imprisonment in the state prison for not more than fifteen years. No sentence imposed under the provisions of this section shall be punished by a fine of more than \$100,000.”

The amendment was *rejected*.

Messrs. Ross and O'Connor moved that the proposed new draft be amended in section 128 by striking, in lines 994-995, the words “Fourth, A parent shall not testify against the parent’s minor child and a minor child shall not testify against the child’s parent” and inserting in place thereof the words “Fourth, A parent shall not be compelled to testify against the parent’s unemancipated, minor child and an unemancipated, minor child shall not be compelled to testify against the child’s parent”.

132

The amendment was *rejected*.

Mr. Eldridge, Ms. Creem, Ms. Jehlen and Messrs. O'Connor and Cyr moved that the proposed new draft be amended in section 104, by striking out lines 655 to 657, inclusive, and inserting in place thereof the following:- “‘Disciplinary restrictive housing’, a placement in restrictive housing in a state correctional facility for disciplinary purposes, for a period not more than six months, after a finding has been made that the prisoner has committed a breach of discipline.” 134

Mr. Rodrigues in the Chair, after remarks, the amendment was *rejected*.

Mr. Eldridge, Ms. Creem, Ms. Jehlen and Mr. Cyr moved that the proposed new draft be amended in section 105, by striking out lines 662 to 665, inclusive, and inserting in place thereof the following:- 135

“‘Placement review’, a multidisciplinary examination to determine whether, notwithstanding any previous finding of a disciplinary breach or exigent circumstances or other circumstances supporting a placement in restrictive housing, restrictive housing is still necessary to reasonably manage risks of harm; when conducted pursuant to clause (iv) or (v) of subsection (a) of section 39B, examiners performing a placement review shall include, but not be limited to, 1 member of the security staff, 1 member of the programming staff, and 1 member of the mental health staff.”

After remarks, the amendment was adopted.

Mr. Eldridge, Ms. Creem, Ms. Jehlen and Messrs. O'Connor and Cyr moved that the proposed new draft be amended in section 109, in proposed section 39D of chapter 127, by striking out proposed subsection (b) and inserting in place thereof the following subsection:- 136

“(b) The commissioner shall publish quarterly, as to each restrictive housing unit within each state correctional facility, and annually, as to each restrictive housing unit within each county correctional facility, the following: (i) the number of prisoners as to whom a finding of serious mental illness has been made and the number of such prisoners held for more than 30 days; (ii) the number of prisoners who have committed suicide or committed non-lethal acts of self-harm; (iii) the number of prisoners according to the reason for their restrictive housing; (iv) as to prisoners in disciplinary restrictive housing, a listing of prisoners with names redacted, including an anonymized identification number that shall be consistent across reports, age, race, gender and ethnicity, whether the prisoner has an open mental health case, the date of the prisoner’s commitment to discipline, the length of the prisoner’s term and a summary of the reason for the prisoner’s commitment; (v) the number of placement reviews conducted under clause (iv) and (v) of subsection (a) of section 39B and the number of prisoners released from restrictive housing as a result of such placement reviews; (vi) the length of original assignment to and total time served in disciplinary restrictive housing for each prisoner released from disciplinary restrictive housing as a result of a placement review; (vii) the count of prisoners released to the community directly or within 30 days of release from restrictive housing; and (viii) such additional information as the commissioner may determine.

Such information shall be published in a commonly available electronic, machine readable format.”

After remarks, the amendment was adopted.

Ms. Creem and Mr. Hinds moved that the proposed new draft be amended by inserting after section 110 the following section:- 139

“SECTION 110A. Section 48 of chapter 127 of the General Laws, as appearing in the 2016 Official Edition, is hereby amended by inserting after the

first paragraph the following paragraph:-

The commissioner shall ensure that at least 1 educational program leading to the award of a high school equivalency certificate is available to persons who are committed to the custody of the department or to a county correctional facility for not less than 6 months and who have not obtained a high school degree or equivalency. Pursuant to section 129D of chapter 127, good conduct credit of 10 days shall be granted to a person who satisfactorily completes an educational program leading to the award of a high school equivalency certificate under this paragraph.”

The amendment was adopted.

Messrs. Rodrigues and O'Connor, Ms. Gobi and Messrs. Ross, Moore and Montigny moved that the proposed new draft be amended in section 182, by striking out, in line 1652, the word "clause" and inserting in place thereof the following:- “clauses (1), (2),”.

140

The amendment was adopted.

Messrs. Eldridge, Lewis, Timilty and DiDomenico, Ms. L'Italien and Messrs. Keenan, O'Connor and Tarr moved that the proposed new draft be amended by adding the following section:-

141

“SECTION XX. There shall be a special commission to study the prevention of suicide among prisoners and correction officers in Massachusetts correctional facilities. The commission shall consist of the secretary of the executive office of public safety or the secretary’s designee who shall serve as chair; the commissioner of the department of correction or the commissioner’s designee; the commissioner of the department of public health or the commissioner’s designee; one person to be appointed by the president of the senate; one person to be appointed by the speaker of the house of representatives; 5 persons to be appointed by the governor, 1 of whom shall be a representative of a legal advocacy organization that has expertise with issues related to prisons and prisoners, 1 of whom shall be a representative of a community organization or public agency that works with prisoners and their families, 1 of whom shall be a representative of an organization that specializes in suicide prevention, 1 of whom shall be a representative of an organization that represents Massachusetts correction officers, and 1 of whom shall be a representative of an organization that represents Massachusetts sheriffs. Each member shall serve without compensation.

The commission shall review the state of suicide prevention programs in Massachusetts’ correctional facilities and develop model plans, recommend program changes, highlight budget priorities and recommend best practices that could be utilized to reduce instances of prisoner and correction officer suicide, and attempted suicide. The commission shall: (i) examine and evaluate the state of jail and prison suicide prevention policies in the commonwealth; (ii) examine and evaluate suicide prevention training for correctional facility staff in the commonwealth; (iii) develop recommendations on ways in which correctional facilities can improve intake screening and bookkeeping; (iv) examine and develop recommendations on methods by which correctional facilities may improve identification, referral, and evaluation of individual suicide risk; (v) provide recommendations for improving communication between detention facility staff and arresting or transporting officers, as well as between detention facility staff and potentially suicidal inmates; (vi) examine and develop recommendations on methods by which correctional facilities may improve housing designated for inmates that are identified as suicidal; (vii) provide recommendations for improving observation and treatment plans for inmates identified as suicidal; (viii)

provide recommendations for improving suicide intervention; (ix) examine and develop recommendations for how correctional facilities may improve or establish practices of postmortem notification, reporting, and mortality-morbidity reviewing; (x) develop recommendations for the provision of mental health counseling services to correction officers that have a need for such services; (xi) examine ways in which correctional facilities can reduce stress, anxiety, and depression among correction officers; and (xii) examine training programs for incoming correction officers and develop recommendations for programs to include a discussion of mental preparedness.

The commission may hold public hearings to assist in the collection and evaluation of data and testimony.

The commission shall submit its findings and recommendations relative to suicide prevention, together with drafts of legislation necessary to carry those recommendations into effect, by filing the same with the clerks of the house of representatives and senate, the house and senate committees on ways and means, the joint committee on public safety and homeland security, and the joint committee on mental health and substance abuse not later than March 31, 2019.”

After remarks, the amendment was adopted.

Ms. Friedman, Mr. Brownsberger, Ms. Jehlen and Mr. Cyr moved that the proposed new draft be amended in section 182, by striking out in line 1564, the words “consider financial resources when setting any conditions” and inserting in place thereof the following words:- “impose a financial condition”.

142

The amendment was adopted.

Ms. Friedman, Ms. Jehlen, Ms. Creem and Mr. Cyr moved that the proposed new draft be amended in section 182 by inserting after the figure “276A”, in line 1498, the following words:- “, a diversion program under section 54A of chapter 119 for a child who is subject to the jurisdiction of the juvenile court”; in said section 182, by inserting after the word “offense”, in line 1546, the following words:- “; provided, however, that a judicial officer shall not consider a prior failure to appear at a court proceeding where a defendant younger than the age of criminal majority failed to appear because the defendant was unable to secure transportation to the proceeding”; and in said section 182, in proposed clause (3) of proposed subsection (e) of proposed section 58 of chapter 276 of the General Laws, by adding the following sentence:- “A defendant younger than the age of criminal majority shall not be detained: (i) because the defendant lacks a suitable, alternative place to live; (ii) to permit convenient administrative access to the defendant; (iii) because the defendant failed to attend school; or (iv) in order to conduct an evaluation pursuant to section 68A of chapter 119 or to provide any other medical or healthcare treatment.”.

143

The amendment was adopted.

Ms. Friedman, Ms. Jehlen and Mr. Cyr moved that the proposed new draft be amended in section 182, in proposed subsection (d) of proposed section 58E of chapter 276 of the General Laws, by inserting after the first sentence the following sentence:- “Aggregate data that concerns pretrial services shall be available to the public in a form that does not allow an individual to be identified.”.

146

The amendment was adopted.

Ms. Friedman, Ms. Jehlen and Mr. Cyr moved that the proposed new draft be amended in section 182, by inserting after subsection (e), in lines 1831-1836, the following subsection:-

147

“(f) Information about any risk assessment tool, the risk factors it analyzes, the data on which analysis of risk factors is based, the nature and mechanics of any

validation process, and the results of any audits or tests to identify and eliminate bias, shall be a public record and subject to discovery.”

The amendment was adopted.

Ms. Friedman, Ms. Jehlen and Mr. O'Connor moved that the proposed new draft be amended in section 182 by striking out, in line 1477, the word “using” and inserting in place thereof the following words:- “from excessive use of”;

148

By striking out, in line 1516, the word “using” and inserting in place thereof the following words:- “from excessive use of”; and

By striking out, in line 1862, the word “the” and inserting in place thereof the following words:- “excessive”.

The amendment was *rejected*.

Ms. Friedman moved that the proposed new draft be amended inserting the following sections:-

150

“SECTION XX. There shall be a restoration center commission, hereinafter referred to as the commission, within Middlesex County to plan and implement a county restoration center and program for the purposes of diverting persons suffering from mental illness or substance use disorder who interact with law enforcement or the court system during a pre-arrest investigation or the pre-adjudication process from lock-up facilities and hospital emergency departments to appropriate treatment.

The commission shall consist of 20 members: the Middlesex County sheriff, or a designee, who shall serve as co-chair of the commission; a representative from the Massachusetts Association for Mental Health who shall serve as co-chair of the commission; the Middlesex district attorney, or a designee; a representative of the National Alliance for Mental Illness Massachusetts; 2 representatives, appointed by the Middlesex County Chiefs Association, from police departments within Middlesex County that have received critical incident training or have established a local jail diversion program; 2 representatives, appointed by the Association for Behavioral Healthcare, at least one of whom must be a provider organization in Middlesex County with experience operating a local jail diversion program; a member of the senate appointed by the senate president; a member of the house of representatives appointed by the speaker of the house; a representative from the department of mental health with knowledge of sequential intercept mapping and forensic services; a representative from the department of public health with knowledge of sequential intercept mapping and forensic services; a representative from the trial courts with specialty court experience; a representative from the executive office of public safety and security; a representative from MassHealth with knowledge of insurance vehicles, including Medicaid; a representative from the Massachusetts Psychiatric Society with experience in community-based mental health services; a representative from the Massachusetts Psychological Association; a representative from the office of the commissioner of probation within Middlesex County; a representative from the parole board with knowledge of establishing methodologies and analyzing metrics for program fidelity; and a representative from the committee for public counsel services. The commission shall hold its first meeting no later than 30 days after the effective date of this act.

The commission shall develop and implement a 3-year plan to build a restoration center in Middlesex County. In the first year, the commission shall: (1) perform an examination of state and national best practices including, but not limited to, the Bexar County model, which has received national recognition from the Substance Abuse and Mental Health Services Administration for its success in diverting individuals with behavioral health issues away from the criminal justice

system and into appropriate treatment; and (2) review the current capacity of mental health providers within the county to provide behavioral health services to individuals suffering from mental illness or substance use disorders who interact with law enforcement or the court system and the barriers they face to accessing treatment. In the second year, the commission shall develop a jail diversion program and an initial pilot focused on providing integrated community-based services from a centralized location and perform an analysis of potential costs and cost-savings. In the third year, the commission shall develop a restoration center and secure funding for a subsequent 2-year period.

Within 1 year the commission shall submit its findings and recommendations for a restoration center, together with drafts of legislation necessary to carry out those recommendations, including a report on the current capacity to provide behavioral health services to individuals suffering from mental illness or substance use disorder, which shall include, but shall not be limited to, the type of services pre-arrest, pre- and post-release, location of services, type of patients served, and barriers to diverting individuals away from the criminal justice system and into treatment. Within 2 years the commission shall report on the outcome of the pilot programs and provide a full implementation plan for a restoration center, including but not limited to: deliverables, barriers to implementation, and costs. This report shall be submitted to the house and senate committees on ways and means, the joint committee on mental health and substance abuse, the executive office of public safety and security, the executive office of health and human services and the governor. The commission shall thereafter produce an annual report, which shall include, but not be limited to: list of services and programs, populations served, and financial information.

SECTION XX. Chapter 29 of the General Laws is hereby amended by inserting after section 2VVVV the following section:-

Section 2WWWW. Criminal Justice and Community Support Trust Fund.

(a) There is hereby established and set up on the books of the commonwealth a separate fund to be known as the Criminal Justice and Community Support Trust Fund, hereinafter called the fund. The fund shall be administered by the executive office of public safety and security, in consultation with the department of mental health, which shall contract with county restoration centers and the center of excellence in community policing and behavioral health, established in section 18L1/2 of chapter 6A, to administer the fund. There shall be credited to the fund any appropriations, grants, gifts or other monies authorized by the general court or other parties and specifically designated to be credited to the fund. The objectives of the fund shall include, but shall not be limited to: supporting jail diversion programs for persons suffering from a mental illness or substance use disorder who interact with law enforcement or the court system during a pre-arrest investigation or the pre-adjudication process in order to divert individuals from lockup facilities and hospital emergency departments to appropriate treatment; developing and providing training for state and municipal law enforcement in evidence-based mental health and substance use crisis response; creating patient-focused ongoing community services for individuals who are frequent users of emergency departments and suffer from serious and persistent mental illness; and providing funding for multi-year restoration center grants for the purpose of planning and implementing a restoration center within a county in the commonwealth.

(b) Monies deposited in the fund that are unexpended at the end of the fiscal year shall not revert to the General Fund and shall be available for expenditure in the subsequent year.

(c) The fund may apply for and accept subventions, grants, loans, advances and contributions from any source of money, property, labor or other things of value to be held, used and applied in furtherance of this section.

(d) The executive office of public safety and security shall, on or before March 1, file a report to the joint committee on mental health and substance abuse, the joint committee on public safety and homeland security, and the senate and house committees on ways and means detailing the fund's activities."

The amendment was adopted.

Messrs. Welch, O'Connor and Timilty moved that the proposed new draft be amended by inserting the text of Senate document numbered 2198, relative to bail reform.

156

The amendment was *rejected*.

Messrs. Tarr, O'Connor and Ross moved that the proposed new draft be amended by inserting at the end thereof the following:-

161

"SECTION__ Not later than January 1, 2018 the secretary of public safety, in consultation with the county sheriffs in the Commonwealth, shall analyze the incarcerated population of the state so as to determine the number and percentage of inmates serving mandatory minimum sentences by category of offense. Said analysis shall be reported to the clerks of the House and Senate not later than January 31, 2019."

The amendment was *rejected*.

Messrs. Tarr, O'Connor and Ross moved that the proposed new draft be amended by inserting at the end thereof the following section:-

162

"SECTION_ Chapter 93H of the general laws as appearing in the 2016 official edition is hereby amended by inserting at the end thereof the following new section:-

Section_ -The executive office of public safety and security in conjunction with the attorney general shall develop and implement a database whereas citizens can report a breach of security as defined in section 1 of chapter 93H of personal information as defined in section 1 of chapter 93H, provided that law enforcement personnel may have access to said database during the normal course of their duties.

The executive office of public safety and security in conjunction with the attorney general shall annually submit the number of citizens reporting a breach of security to the clerks of the house and senate by December 31st."

The amendment was *rejected*.

The President in the Chair, Messrs. Moore, O'Connor and Ross and Ms. Gobi moved that the proposed new draft be amended in line 3, by striking the number "19" and inserting in place thereof the following:- "18".

26

After debate, the question on adoption of the amendment was determined by a call of the yeas and nays at fourteen minutes past ten o'clock P.M., on motion of Mr. Tarr, as follows, to wit (yeas 17 – nays 20) **[Yeas and Nays No. 223]:**

YEAS.

Brady, Michael D.
deMacedo, Viriato M.
Donoghue, Eileen M.
Fattman, Ryan C.
Gobi, Anne M.
Humason, Donald F., Jr.
Lesser, Eric P.
Montigny, Mark C.

O'Connor, Patrick M.
O'Connor Ives, Kathleen
Rodrigues, Michael J.
Ross, Richard J.
Rush, Michael F.
Tarr, Bruce E.
Timilty, Walter F.
Welch, James T. – 17.

Moore, Michael O.

NAYS.

Barrett, Michael J.
Boncore, Joseph A.
Brownsberger, William N.
Chandler, Harriette L.
Chang-Diaz, Sonia
Creem, Cynthia Stone
Cyr, Julian
DiDomenico, Sal N.
Eldridge, James B.
Forry, Linda Dorcena

Friedman, Cindy F.
Hinds, Adam G.
Jehlen, Patricia D.
Keenan, John F.
Lewis, Jason M.
L'Italien, Barbara A.
Lovely, Joan B.
McGee, Thomas M.
Rosenberg, Stanley C.
Spilka, Karen E. – 20.

ABSENT OR NOT VOTING.

Pacheco, Marc R. – 1.

The yeas and nays having been completed at seventeen minutes past ten o'clock P.M., the amendment was *rejected*.

Messrs. Tarr, O'Connor and Ross moved that the proposed new draft be amended by inserting at the end thereof the following text:-

28

“SECTION__ Chapter 94C of the General Laws is hereby amended by inserting after section 32N the following new section:-

SECTION 32O, Controlled Substances Causing Death or Great Bodily Harm

(a) Any person while in the course of trafficking or unlawfully distributing a controlled substance as defined in Section 32E who knowingly or intentionally manufactures, distributes, dispenses, delivers, gives away, barter, administers or provides any amount of a controlled substance or counterfeit substance which results in death shall be punished as murder in the second degree as defined by section 1 of chapter 265. (b) Lack of knowledge of any previous health conditions shall not be a defense to any person who violates the provisions of this section.”

After remarks, the amendment was adopted.

Messrs. Hinds, Cyr and O'Connor moved that the proposed new draft be amended by adding the following sections:-

57

“SECTION XX. Chapter 17 of the General Laws is hereby amended by adding the following section: -

Section 21. The registry of vital records and the chief medical examiner shall take measures to record the sex of a decedent that corresponds to the decedent's gender identity. Provided further that the registry and the examiner shall take measures to improve the incidence of the collection of information on the gender identity and sexual orientation of a decedent where a death occurs under any of the following circumstances:

- (i) a hate crime as defined in section 32 of chapter 22C;
- (ii) death where criminal violence appears to have taken place, regardless of the time interval between the incident and death, and regardless of whether such violence appears to have been the immediate cause of death, or a contributory factor thereto;
- (iii) suicide, regardless of the time interval between the incident and death;
- (iv) death under suspicious or unusual circumstances; or
- (v) death in custody, in any jail or correctional facility.

The registry of vital records and the chief medical examiner may provide in its discretion information collected under this section to a requesting authority compiling statistical data. Such data shall contain only aggregate data and no

individual names or other personally identifying information or information that could lead to the identification of an individual decedent, or other information that is protected by statute, regulation or executive order.

SECTION XX. Section 1 of chapter 46 of the General Laws as appearing in the 2016 Official Edition is hereby amended by inserting after the word ‘sex,’ in line 23, the following words:- ‘gender identity as defined in section 7 of chapter 4.’”

The amendment was adopted.

Messrs. Pacheco, O'Connor and Timilty moved that the proposed new draft be amended in section 228, by inserting after the word “Inc.”, in line 2450, the following words:- “; 1 member appointed by American Federation of State, County and Municipal Employees Council 93, who shall be an employee of the department of youth services and have not less than 5 years of experience working in a department of youth services secure facility”.

84

The amendment was adopted.

Messrs. Rodrigues, O'Connor and Moore moved that the proposed new draft be amended in section 182, in proposed section 58B of chapter 276, by striking out subsection (d) and inserting in place thereof the following subsection:-

98

“(d) Upon the defendant’s first appearance before the judge that will conduct proceedings for revocation of an order of release under this section, the hearing concerning revocation shall be held immediately unless the defendant or the commonwealth seeks a continuance. During a continuance, the defendant shall be detained without bail unless the judge finds that there are conditions of release that will reasonably assure that the defendant will not pose a danger to the safety of any other person or the community and that the defendant will abide by conditions of release. If the defendant is detained without bail, a continuance on a motion of the defendant shall not be for more than 5 business days, except for good cause, and a continuance on motion of the commonwealth or probation shall not be for more than 3 business days, except for good cause. A defendant detained under an order of revocation and detention shall be brought to trial as soon as reasonably possible. For cases prosecuted in juvenile court, district court or Boston municipal court, in the absence of good cause, a defendant shall not be detained under this section for more than 90 days, if older than the age of criminal majority, and for a period of not more than 60 days for a defendant who is younger than the age of criminal majority, excluding any period of delay as defined in Rule 36(b)(2) of the Massachusetts Rules of Criminal Procedure. Defendants indicted and pending prosecution in the superior court shall not be detained under this section for more than 180 days, excluding any period of delay as defined in Rule 36(b)(2) of the Massachusetts Rules of Criminal Procedure. If the defendant’s case has not been brought to trial or otherwise resolved by the end of the periods prescribed by this section, excluding any period of delay as defined above, the defendant shall be entitled to a de novo reconsideration of the detention order by the court that originally issued the order.”

The amendment was adopted.

Messrs. Tarr, O'Connor and Ross moved that the proposed new draft be amended by inserting the text of Senate document numbered 2199, relative to SAFE.

99

The amendment was *rejected*.

Ms. Jehlen and Mr. O'Connor moved that the proposed new draft be amended by inserting after section 4 the following section:-

105

“SECTION 4A. Said chapter 6 is hereby further amended by striking out

section 184A, as so appearing, and inserting in place thereof the following section:-

Section 184A. (a) There shall be a forensic science commission in the executive office of public safety and security. The commission shall provide enhanced, objective and independent auditing and oversight of forensic evidence used in criminal matters and analysis done in state and municipal laboratories.

The commission shall consist of: the undersecretary for forensic sciences or a designee; and 12 members who shall be appointed by the governor, 1 of whom shall have expertise in forensic science, 1 of whom shall have expertise in cognitive bias, 1 of whom shall be in academia in a research field adjacent to forensic science, 1 of whom shall have expertise in statistics, 1 of whom shall have expertise in forensic laboratory management, 1 of whom shall have expertise in clinical quality management, 2 of whom shall be nominated by the Massachusetts District Attorneys Association, 1 of whom shall be nominated by the attorney general, 1 of whom shall be nominated by the committee of public counsel services, 1 of whom shall be nominated by the Massachusetts Association of Criminal Defense Lawyers, Inc. and 1 of whom shall be nominated by the New England Innocence Project, Inc. A member, other than the undersecretary for forensic sciences or a designee and those nominated by the Massachusetts District Attorneys Association, the attorney general, the committee of public council services and the New England Innocence Project, Inc., shall not be employed by or affiliated with any state or municipal forensic laboratory throughout the term of membership.

(b) All appointments shall be for a term of 4 years. A vacancy, other than by expiration of term, shall be filled by the governor for the unexpired term. The chair of the commission shall be elected from among the members appointed. Staff shall be provided by the executive office of public safety and security. The commission shall meet at times and places as is requested by 5 of its members but shall not meet less than quarterly. Members shall not designate a proxy to vote in their absence. Members of the commission shall serve without compensation but shall be reimbursed for reasonable and necessary expenses incurred in the performance of their duties.

(c) The commission shall initiate an investigation into any forensic science, technique or analysis used in a criminal matter upon: (i) application by a person alleging that a forensic technique in common use is not scientifically valid if not less than 5 members of the commission agree; or (ii) not less than 5 members of the commission determine that an investigation of a forensic analysis would advance the integrity and reliability of forensic science in the commonwealth.

The results of an investigation by the commission, with any resulting recommendations, shall be reported to the executive office of public safety and security, the joint committee on public safety and homeland security, the supreme judicial court, the Massachusetts District Attorneys Association, the attorney general, the committee for public counsel services, the Massachusetts Association of Criminal Defense Lawyers, Inc. and the New England Innocence Project, Inc.

(d) The commission shall develop and implement a system for forensic laboratories to report professional negligence or misconduct and any such a facility shall be required to report to the commission such instance of professional negligence and misconduct.

(e) The commission shall actively engage stakeholders in the criminal justice system in forensic development initiatives and shall work with stakeholders to improve education and training in forensic science and the law.”

The amendment was adopted.

Messrs. Tarr, Fattman, O'Connor and Ross and Ms. Donoghue moved that the proposed new draft be amended by inserting after section 117 the following section:-

3

“SECTION 117A. Chapter 138 of the General Laws is hereby amended by inserting after section 34A the following section:-

Section 34A ½. (a) A person under 21 years of age who, in good faith, seeks medical assistance for someone experiencing an alcohol-related overdose shall not be charged or prosecuted for possession of alcohol under section 34C if the evidence for the charge of possession of alcohol was gained as a result of seeking medical assistance.

(b) A person under 21 years of age who experiences an alcohol-related overdose and is in need of medical assistance and, in good faith, seeks such medical assistance or is the subject of such a good faith request for medical assistance shall not be charged or prosecuted under section 34C if the evidence for the charge of possession of alcohol was gained as a result of seeking medical assistance.

(c) Nothing in this section shall be construed to limit any seizure of evidence or contraband otherwise permitted by law. Nothing in this section shall be construed to limit or abridge the authority of a law enforcement officer to detain or take into custody a person in the course of an investigation or to effectuate an arrest for any offense.”

The amendment was adopted.

Messrs. Montigny, Rodrigues and Eldridge, Ms. Jehlen and Messrs. Pacheco, Timilty and Barrett moved that the proposed new draft be amended by inserting after section 108 the following section:-

4

“SECTION 108A. Said chapter 127 is hereby further amended by inserting after section 36B the following section:-

Section 36C. A correctional institution, jail or house of correction shall not prohibit, eliminate or unreasonably limit in-person visitation of inmates or coerce, compel or otherwise pressure an inmate to forego or limit in-person visitation. For the purposes of this section, an unreasonable limit shall include, but not be limited to, providing an eligible inmate fewer than 2 opportunities for in-person visitation during a 7-day period. A correctional institution, jail or house of correction that elects to use video or other types of electronic devices for inmate communications with visitors shall not make such communications available in lieu of in-person visits prescribed in this section. Nothing in this section shall prohibit the temporary suspension of visitation privileges for good cause including, but not limited to, misbehavior or during a bonafide emergency.

A correctional institution, jail or house of correction may charge a fee for video visitation communication for inmate communications not occurring on site; provided, however, that the fee shall not exceed the operating cost of the communication. Fees collected in excess of operating costs shall be allocated to the fund established under chapter 258C.”

The amendment was adopted.

Messrs. Tarr, Fattman, O'Connor and Pacheco, Ms. Gobi and Mr. Ross moved that the proposed new draft be amended by inserting at the end thereof the following section:-

9

“SECTION __. Chapter 265 of the General Laws is hereby amended by inserting after section 22C the following new section:

Section 22D. Whoever is convicted three or more times, whether subsequent or prior violations of section 13B, 13B½, 13F, 13H, 22, 22A, 22B, 22C, 23, 23A,

23B, 24, 24B, 26, 26C, 26D or 44 of chapter 265; section 3, 4, 4A, 4B, 28, 29A, 29B, 29C, 35, 35A, or 53A (C) or chapter 272, or like violations of the laws of another state, the United States or a military, territorial or Indian tribal authority shall be punished by imprisonment in the state prison for life. The sentence imposed on such person shall not be reduced, or suspended, nor shall any person convicted under this section be eligible for probation, parole, work release, or furlough or receive any deduction from his sentence for good conduct. Prosecutions commenced under this section shall neither be continued without a finding, sealed, nor placed on file.

In any prosecution commenced pursuant to this section, introduction into evidence of a prior adjudication or conviction or a prior finding of sufficient facts by either certified attested copies of original court papers, or certified attested copies of the defendant's biographical and informational data from records of the department of probation, any jail or house of correction or the department of correction shall be prima facie evidence that the defendant before the court had been convicted previously by a court of the commonwealth or any other jurisdiction. Such documentation shall be self-authenticating and admissible, after the commonwealth has established the defendant's guilt on the primary offense, as evidence in any court of the commonwealth to prove the defendant's commission of any prior conviction described therein. The commonwealth shall not be required to introduce any additional corroborating evidence of live witness testimony to establish the validity of such prior conviction."

After remarks, the amendment was *rejected*.

Mr. Cyr, Ms. Jehlen and Messrs. Barrett, Hinds and Timilty moved that the proposed new draft be amended by inserting after section __ the following 3 sections:-

1

"SECTION XX. Chapter 127 of the General Laws is hereby amended by inserting after section 32 the following section:-

Section 32A. Prisoners of correctional institutions, jails, and houses of correction having a gender identity, as defined in section 7 of chapter 4, that differs from sex assigned at birth, with or without a diagnosis of gender dysphoria or any other physical or mental health diagnosis, shall be:

- (a) addressed in a manner consistent with their gender identity;
- (b) provided with access to commissary items, clothing, programming, educational materials, and personal property that are consistent with their gender identity;
- (c) searched by an officer of the same gender identity if the search requires an inmate to remove all clothing or includes a visual inspection of the anal cavity or genitals, provided that the officer's gender identity is consistent with the prisoner's request, and further provided that such a search shall not be conducted for the sole purpose of determining genital status; and
- (d) housed in a correctional facility with inmates with the same gender identity, provided that the placement is consistent with the prisoner's request.

SECTION XX. Chapter 127 of the General Laws is hereby amended by inserting after section 117A the following section:-

Section 117B. A prisoner who requests to initiate treatment related to gender transition or gender dysphoria and is denied treatment shall be offered an opportunity to be referred to an independent healthcare provider with expertise in transgender health care for consultation. A prisoner who previously received a diagnosis of gender dysphoria while in the custody of the department of correction shall not require a new diagnosis to obtain treatment related to gender transition.

SECTION XX. Notwithstanding any general law or special law to the contrary, there shall be a special commission to study the health and safety of lesbian, gay, transgender, queer, and intersex prisoners in Massachusetts correctional institutions, jails, and houses of correction to evaluate current access to appropriate healthcare services and health outcomes.

The special commission shall consist of 8 members, including 1 member from corrections appointed by the department of correction, 1 sheriff appointed by the sheriff's association, 1 former judge appointed by the chief justice of the supreme judicial court, 1 representative of a healthcare provider with expertise in transgender healthcare appointed by the governor, 1 representative appointed by the national association of social workers, 1 representative appointed by Prisoners' Legal Services, 1 representative of an organization specializing in the advocacy, education, direct service, and organizing of currently and formerly incarcerated lesbian, gay, bisexual, queer, and transgender individuals appointed by the attorney general, and 1 representative of legal advocates with expertise in advocating for lesbian, gay, bisexual, queer, transgender, and intersex individuals in the criminal justice system appointed by the attorney general.

The members of the special commission shall be provided full and unfettered access to all Massachusetts state prisons and houses of correction, and shall be allowed to interview prisoners and staff to the extent practicable. The special commission shall gather information that includes, but is not limited to: (1) the number of prisoners who have received diagnoses of gender dysphoria or transition-related healthcare; (2) the number of prisoners who have been denied diagnoses of gender dysphoria or transition-related healthcare; (3) the number of denied requests for an alternative housing or facility placement by prisoners in connection with their gender identity, and the reasons for the denial; and (4) training provided to department staff and contracted health professionals on lesbian, gay, bisexual, queer, transgender, and intersex cultural competency.

The special commission shall produce a report which shall include specific recommendations to improve outcomes, a timeline by which specific tasks or outcomes must be achieved, and recommendations for improving prisoner health and safety, provided that the first report shall be published within one year of the passage of this Act. The special commission shall issue a subsequent and final report evaluating implementation of its recommendations within three years following passage of this Act. The commission shall make reports publicly available and shall deliver copies of said report to the governor, the attorney general, and the joint committee on the judiciary of the general court."

The amendment was adopted.

Messrs. Lewis, O'Connor and Timilty moved that the proposed new draft be amended by inserting after section 13 the following 3 sections:-

48

"SECTION 13A. Section 8A of chapter 90 of the General Laws, as so appearing, is hereby amended by striking out, in line 33, the words 'of the vapors of glue' and inserting in place thereof the following words:- from smelling or inhaling the fumes of any substance having the property of releasing toxic vapors as defined in section 18 of chapter 270.

SECTION 13B. Section 8A ½ of said chapter 90, as so appearing, is hereby amended by striking out, in lines 29 and 30, the words 'the vapors of glue' and inserting in place thereof the following words:- from smelling or inhaling the fumes of any substance having the property of releasing toxic vapors as defined in section 18 of chapter 270.

SECTION 13C. Section 21 of said chapter 90, as so appearing, is hereby

amended by striking out, in line 27, the words ‘under the influence of the vapors of glue’ and inserting in place thereof the following words:- while under the influence from smelling or inhaling the fumes of any substance having the property of releasing toxic vapors as defined in section 18 of chapter 270.”;

By inserting after section 15 the following section:-

“SECTION 15A. Section 24 of said chapter 90, as so appearing, is hereby amended by striking out, in lines 8 and 759, the words ‘the vapors of glue’ and inserting in place thereof, in each instance, the following words:- while under the influence from smelling or inhaling the fumes of any substance having the property of releasing toxic vapors as defined in section 18 of chapter 270.”;

By inserting after section 17 the following section:-

“SECTION 17A. Section 24D of said chapter 90, as so appearing, is hereby amended by striking out, in lines 4 and in lines 17 and 18, the words ‘the vapors of glue’ and inserting in place thereof, in each instance, the following words:- while under the influence from smelling or inhaling the fumes of any substance having the property of releasing toxic vapors as defined in section 18 of chapter 270.”;

By inserting after section 19 the following 2 sections:-

“SECTION 19A. Section 24G of said chapter 90, as so appearing, is hereby amended by striking out, in lines 8 and 43, the words ‘vapors of glue’ and inserting in place thereof, in each instance, the following words:- while under the influence from smelling or inhaling the fumes of any substance having the property of releasing toxic vapors as defined in section 18 of chapter 270.

SECTION 19B. Section 24L of said chapter 90, as so appearing, is hereby amended by striking out, in lines 8 and 43, the words ‘vapors of glue’ and inserting in place thereof, in each instance, the following words:- while under the influence from smelling or inhaling the fumes of any substance having the property of releasing toxic vapors as defined in section 18 of chapter 270.”;

By inserting after section 20 the following section:-

“SECTION 20A. Section 8 of chapter 90B of the General Laws, as so appearing, is hereby amended by striking out, in lines 6 and 508, the words ‘the vapors of glue’ and inserting in place thereof, in each instance, the following words:- from smelling or inhaling the fumes of any substance having the property of releasing toxic vapors as defined in section 18 of chapter 270.”;

By inserting after section 21 the following 4 sections:-

“SECTION 21A. Section 8A of said chapter 90B, as so appearing, is hereby amended by striking out, in lines 5 and 6, the words ‘the vapors of glue’ and inserting in place thereof the following words:- from smelling or inhaling the fumes of any substance having the property of releasing toxic vapors as defined in section 18 of chapter 270.

SECTION 21B. Said section 8A of said chapter 90B, as so appearing, is hereby further amended by striking out, in line 36, the words ‘vapors of glue’ and inserting in place thereof the following words:- from smelling or inhaling the fumes of any substance having the property of releasing toxic vapors as defined in section 18 of chapter 270.

SECTION 21C. Section 8B of said chapter 90B, as so appearing, is hereby amended by striking out, in lines 5 and 6 and 38 and 39, the words ‘the vapors of glue’ and inserting in place thereof, in each instance, the following words:- from smelling or inhaling the fumes of any substance having the property of releasing toxic vapors as defined in section 18 of chapter 270.

SECTION 21D. Section 26A of said chapter 90B, as so appearing, is hereby amended by striking out, in line 8 and 17, the words ‘the vapors of glue’ and

inserting in place thereof, in each instance, the following words:- from smelling or inhaling the fumes of any substance having the property of releasing toxic vapors as defined in section 18 of chapter 270.”; and

By inserting after section 172 the following section:-

“SECTION 172A. Section 10H of said chapter 269, as so appearing, is hereby amended by striking out, in line 7, the words ‘the vapors of glue’ and inserting in place thereof the following words:- from smelling or inhaling the fumes of any substance having the property of releasing toxic vapors as defined in section 18 of chapter 270.”

The amendment was adopted.

There being no objection, during consideration of the Orders of the Day, the following matters were considered, as follows:

Moment of Silence.

At the request of the President, the members, guests and staff stood in a moment of silence and reflection to the memory of Paul D. “Red” Sullivan.

Moment of silence.

PAPERS FROM THE HOUSE.

A Bill making appropriations for the fiscal year 2017 to provide for supplementing certain existing appropriations and for certain other activities and projects (House, No. 3979,-- on House, No. 3869, in part),-- was read.

Supplemental appropriations.

There being no objection, the rules were suspended, on motion of Ms. Spilka, and the bill was read a second time.

Pending the question on ordering the bill to a third reading, the same Senator moved that the bill be amended by striking out all after the enacting clause and inserting in place thereof the text of Senate documents numbered 2194.

The amendment was adopted.

Mr. Tarr doubted the vote and asked for a call of the yeas and nays; and a sufficient number having arisen, the yeas and nays were ordered

After remarks, the question on adoption of the amendment was determined by a call of the yeas and nays, at twenty-five minutes before twelve o’clock midnight. on the motion of the same Senator as follows, to wit (yeas 28 – nays 8) [**Yeas and Nays No. 224**]:

YEAS.

- | | |
|--------------------------|-------------------------|
| Barrett, Michael J. | Jehlen, Patricia D. |
| Boncore, Joseph A. | Keenan, John F. |
| Brady, Michael D. | Lesser, Eric P. |
| Brownsberger, William N. | Lewis, Jason M. |
| Chandler, Harriette L. | L’Italien, Barbara A. |
| Chang-Diaz, Sonia | Lovely, Joan B. |
| Creem, Cynthia Stone | McGee, Thomas M. |
| Cyr, Julian | Montigny, Mark C. |
| DiDomenico, Sal N. | O’Connor Ives, Kathleen |
| Donoghue, Eileen M. | Rodrigues, Michael J. |
| Eldridge, James B. | Rush, Michael F. |
| Forry, Linda Dorcena | Spilka, Karen E. |
| Friedman, Cindy F. | Timilty, Walter F. |

Hinds, Adam G.

Welch, James T. – 28.

NAYS.

deMacedo, Viriato M.

Moore, Michael O.

Fattman, Ryan C.

O'Connor, Patrick M.

Gobi, Anne M.

Ross, Richard J.

Humason, Donald F., Jr.

Tarr, Bruce E. – 8.

ABSENT OR NOT VOTING.

Pacheco, Marc R. – 1.

The yeas and nays having been completed at twenty-three minutes before twelve o'clock midnight, the amendment was adopted.

The bill, as amended, was then ordered to a third reading, read a third time and passed to be engrossed, in concurrence, with the amendment, its title having been changed by the committee on Bills in the Third Reading to read as follows: "An Act making appropriations for the fiscal year 2017 to provide for final deficiencies and for certain other activities and projects".

Sent to the House for concurrence in the amendment.

Suspension of Senate Rule 38A½.

Ms. Chandler moved that Senate Rule 38A½ be suspended to allow the Senate to meet beyond the hour of twelve o'clock midnight; and the same Senator requested unanimous consent that the rules be suspended without a call of the yeas and nays. There being no objection, the motion was considered forthwith, and it was adopted.

Senate Rule 38A½.

Orders of the Day.

The Orders of the Day were further considered as follows:

The Senate Bill relative to criminal justice reform (Senate, No. 2170),-- was further considered, the main question being on ordering the bill to a third reading.

Criminal justice reform.

Messrs. O'Connor and Humason, Ms. Gobi and Messrs. Ross and Timilty moved that the proposed new draft be amended by inserting the following section:-

116

“SECTION XX. Section 32E of Chapter 94C is hereby amended by inserting, after subsection (c1/2), the following new subsection:-

(x) Any person who trafficks in carfentanil, by knowingly or intentionally manufacturing, distributing, dispensing or possessing with intent to manufacture, distribute or dispense or by bringing into the commonwealth a net weight of more than 1 milligram of carfentanil shall be punished by imprisonment in the state prison for no less than five years and no more than fifty years. No sentence imposed under the provisions of this clause shall be for less than a mandatory minimum term of imprisonment of five years and a fine of not less than fifty thousand nor more than five hundred thousand dollars may be imposed but not in lieu of the mandatory minimum term of imprisonment, as established herein.

For purposes of this subsection, ‘carfentanil’ shall include any compound, mixture, powder, or derivative of carfentanil containing at least 1 milligram of carfentanil.”

After debate, the question on adoption of the amendment was determined by a call of the yeas and nays, at eleven minutes before twelve o'clock midnight, on motion of Mr. O'Connor, as follows, to wit (yeas 15 – nays 22) **[Yeas and Nays**

No. 225]:

YEAS.

deMacedo, Viriato M.
Donoghue, Eileen M.
Fattman, Ryan C.
Gobi, Anne M.
Humason, Donald F., Jr.
Lovely, Joan B.
Montigny, Mark C.
Moore, Michael O.

O'Connor, Patrick M.
O'Connor Ives, Kathleen
Ross, Richard J.
Rush, Michael F.
Tarr, Bruce E.
Timilty, Walter F.
Welch, James T. – 15.

NAYS.

Barrett, Michael J.
Boncore, Joseph A.
Brady, Michael D.
Brownsberger, William N.
Chandler, Harriette L.
Chang-Diaz, Sonia
Creem, Cynthia Stone
Cyr, Julian
DiDomenico, Sal N.
Eldridge, James B.
Forry, Linda Dorcena

Friedman, Cindy F.
Hinds, Adam G.
Jehlen, Patricia D.
Keenan, John F.
Lesser, Eric P.
Lewis, Jason M.
L'Italien, Barbara A.
McGee, Thomas M.
Rodrigues, Michael J.
Rosenberg, Stanley C.
Spilka, Karen E. – 22.

ABSENT OR NOT VOTING.

Pacheco, Marc R. – 1.

The yeas and nays having been completed at nine minutes before twelve o'clock midnight, the amendment was *rejected*.

Messrs. Keenan, O'Connor, Pacheco and Hinds moved that the proposed new draft be amended in section 109, by inserting after the words "judgment", in line 704, the following words:- " , provided that clinical standards shall be promulgated by the department of correction in consultation with the department of mental health"; in said section 109, by inserting after the word "contraindicated", in line 710, the following words:- " , provided that clinical standards shall be promulgated by the department of correction in consultation with the department of mental health"; in said section 109, by striking out, in lines 719 and 720, the words "in accordance with clinical standards adopted by the department" and inserting in place thereof the words:- "by a qualified mental health professional in accordance with clinical standards adopted by the department of correction in consultation with the department of mental health"; and in said section 109, by inserting after the word "sheriffs", in line 765, the following words:- "and the department of mental health".

10

The amendment was adopted.

Messrs. Tarr and O'Connor, Ms. Gobi and Mr. Ross moved that the proposed new draft be amended by inserting after section 19 the following section:-

11

"SECTION 19A. Chapter 90 of the General Laws is hereby amended by striking out section 24G, as so appearing, and inserting in place thereof the following section:-

Section 24G. (a) Whoever, upon any way or in any place to which the public has a right of access, or upon any way or in any place to which members of the public have access as invitees or licensees, operates a motor vehicle with a percentage, by weight, of alcohol in their blood of eight one-hundredths or greater,

or while under the influence of intoxicating liquor, or of marijuana, narcotic drugs, depressants or stimulant substances, all as defined in section 1 of chapter 94C, or from smelling or inhaling the fumes of any substance having the property of releasing toxic vapors as defined in section 18 of chapter 270, and so operates a motor vehicle recklessly or negligently so that the lives or safety of the public might be endangered, and by any such operation so described causes the death of another person, shall be guilty of homicide by a motor vehicle while under the influence of an intoxicating substance, and shall be punished by imprisonment in the state prison for not less than 2 1/2 years or more than 15 years and a fine of not more than \$5,000, or by imprisonment in a jail or house of correction for not less than 1 year nor more than 2 1/2 years and a fine of not more than \$5,000. The sentence imposed upon such person shall not be reduced to less than 1 year, nor suspended, nor shall any person convicted under this subsection be eligible for probation, parole, or furlough or receive any deduction from his sentence until such person has served at least 1 year of such sentence; provided, however, that the commissioner of correction may, on the recommendation of the warden, superintendent or other person in charge of a correctional institution, or the administrator of a county correctional institution, grant to an offender committed under this subsection a temporary release in the custody of an officer of such institution for the following purposes only: (i) to attend the funeral of a relative; (ii) to visit a critically ill relative; (iii) to obtain emergency medical or psychiatric services unavailable at said institution; or (iv) to engage in employment pursuant to a work release program. Prosecutions commenced under this section shall neither be continued without a finding nor placed on file.

Section 87 of chapter 276 shall not apply to any person charged with a violation of this subsection.

(b) Whoever, upon any way or in any place to which the public has a right of access or upon any way or in any place to which members of the public have access as invitees or licensees, operates a motor vehicle with a percentage, by weight, of alcohol in their blood of eight one-hundredths or greater, or while under the influence of intoxicating liquor, or of marijuana, narcotic drugs, depressants or stimulant substances, all as defined in section 1 of chapter 94C, or from smelling or inhaling the fumes of any substance having the property of releasing toxic vapors as defined in section 18 of chapter 270, or whoever operates a motor vehicle negligently so that the lives or safety of the public might be endangered and by any such operation causes the death of another person, shall be guilty of homicide by a motor vehicle and shall be punished by imprisonment in a jail or house of correction for not less than 30 days nor more than 2 1/2 years, or by a fine of not less than \$300 nor more than \$3,000 dollars, or both.

(c) Whoever, upon any way or in any place to which the public has a right of access or upon any way or in any place to which members of the public have access as invitees or licensees, operates a motor vehicle recklessly so that the lives or safety of the public might be endangered and by any such operation causes the death of another person, shall be guilty of reckless homicide by a motor vehicle and shall be punished by imprisonment in a jail or house of correction for not more than 2 1/2 years, or by imprisonment in the state prison for not more than 5 years, or by a fine of not more than \$3,000 dollars, or by both such fine and imprisonment. For the purpose of this section, a person operates recklessly when he consciously disregards a substantial and unjustifiable risk that the lives or safety of the public might be endangered.

(d) When a motor vehicle is the instrument of the offense, the registrar shall

revoke the license or right to operate of a person convicted of a violation of subsection (a), (b) or (c), or punished under section 13 of chapter 265 of the General Laws, for a period of 10 years after the date of conviction for a first offense. The registrar shall revoke the license or right to operate of a person convicted for a subsequent violation of this section for the life of such person. No appeal, motion for a new trial or exceptions shall operate to stay the revocation of the license or of the right to operate; provided, however, such license shall be restored or such right to operate shall be reinstated if the prosecution of such person ultimately terminates in favor of the defendant.”

The amendment was adopted.

Ms. Forry and Mr. O'Connor moved that the proposed new draft be amended by adding the following sections:

17

“SECTION X. Section 2(e) of chapter 258C of the General Laws, as appearing in the 2014 Official Edition, is hereby amended by striking the word ‘shall’ in the second instance in which it appears and inserting in place thereof the word ‘may’.

SECTION XX. Said section 2(e), as so appearing, is further amended by inserting after the second sentence thereof the following sentence:-

In the event of a victim’s death by homicide, said award may be reduced except the costs for appropriate and modest funeral, burial, and/or cremation services shall be paid by the fund.”

After remarks, the amendment was adopted.

Messrs. Rush and O'Connor moved that the proposed new draft be amended by striking out section 42 and inserting in place thereof the following:-

18

“SECTION 42: Section 32J. Any person who violates the provisions of section thirty-two, thirty-two A, thirty-two B, thirty-two E, or thirty-two F while in or on, or within 300 feet of the real property comprising a public or private accredited preschool, accredited headstart facility, elementary, vocational, or secondary school if the violation occurs between 5:00 a.m. and midnight, whether or not in session, or within one hundred feet of a public park or playground shall be punished by a term of imprisonment in the state prison for not less than two and one-half nor more than fifteen years or by imprisonment in a jail or house of correction for not less than two nor more than two and one-half years. No sentence imposed under the provisions of this section shall be for less than a mandatory minimum term of imprisonment of two years. A fine of not less than one thousand nor more than ten thousand dollars may be imposed but not in lieu of the mandatory minimum two year term of imprisonment as established herein. In accordance with the provisions of section eight A of chapter two hundred and seventy-nine such sentence shall begin from and after the expiration of the sentence for violation of section thirty-two, thirty-two A, thirty-two B, thirty-two E or thirty-two F.

Lack of knowledge of school boundaries shall not be a defense to any person who violates the provisions of this section.

Any person serving a mandatory minimum sentence for violating this section shall be eligible for parole after serving one-half of the maximum term of the sentence if the sentence is to a house of correction, except that such person shall not be eligible for parole upon a finding of any 1 of the following aggravating circumstances:

(i) the defendant used violence or threats of violence or possessed a firearm, rifle, shotgun, machine gun or a weapon described in paragraph (b) of section 10 of chapter 269, or induced another participant to do so, during the commission of the

offense;

(ii) the defendant engaged in a course of conduct whereby he directed the activities of another who committed any felony in violation of chapter 94C.

(iii) the offense was committed during the commission or attempted commission of the a violation of section 32F or section 32K of chapter 94C.

A condition of such parole may be enhanced supervision; provided, however, that such enhanced supervision may, at the discretion of the parole board, include, but shall not be limited to, the wearing of a global positioning satellite tracking device or any comparable device, which shall be administered by the board at all times for the length of the parole.”

The amendment was *rejected*.

Messrs. Tarr, O'Connor and Ross moved that the proposed new draft be amended by inserting after section 6 the following 8 sections:-

36

“SECTION 6A. Chapter 22E of the General Laws is hereby amended by striking out section 3, as so appearing, and inserting in place thereof the following section:-

Section 3. (a) A person who is convicted of an offense that is punishable by imprisonment in the state prison and a person adjudicated a youthful offender by reason of an offense that would be punishable by imprisonment in the state prison if committed by an adult shall submit a DNA sample to the department not more than 6 months after the conviction or adjudication or, if incarcerated, within the first 6 months of the incarceration or before release from custody, whichever occurs first.

(b) A person who is arrested by virtue of process or is taken into custody by an officer and charged with the commission of an offense: (i) listed in clause (i) of subsection (b) of section 25 of chapter 279; or (ii) under section 17 or section 18 of chapter 266, and who upon arrest has been arraigned pursuant to the applicable court rules under the Massachusetts Rules of Criminal Procedure, shall submit a DNA sample to the department.

(c) The trial court and probation department shall work in conjunction with the director to establish and implement a system for the electronic notification to the department whenever a person is required to submit a DNA sample under this section. The sample shall be collected by a person authorized under section 4 of this chapter subsequent to arraignment, in accordance with regulations or procedures established by the director. The results of the sample shall be made part of the state DNA database. If the department is unable to complete DNA analysis on a sample provided pursuant to this section or any sample so provided fails to yield a DNA record, the person required to submit a DNA sample pursuant to this section shall, not more than 6 months after notice from the director, submit additional DNA samples until DNA analysis is completed and results in the production of a DNA record. The submission of such a DNA sample shall not be stayed pending a sentence appeal, motion for new trial, appeal to an appellate court or other past conviction motion or petition.

SECTION 6B. Said chapter 22E is hereby further amended by striking out section 5, as so appearing, and inserting in place thereof the following section:-

Section 5. The department shall provide all collection materials, labels and instructions for the collection of DNA samples pursuant to this chapter.

SECTION 6C. Said chapter 22E is hereby further amended by striking out section 11, as so appearing, and inserting in place thereof the following section:-

Section 11. A person required to provide a DNA sample pursuant to this chapter and who, after notice, willfully fails to provide such a DNA sample or the

additional DNA samples required by section 3 shall be subject to punishment by a fine of not more than \$2,000 or imprisonment in a jail or house of correction for not more than 6 months or both.

SECTION 6D. Section 12 of said chapter 22E, as so appearing, is hereby amended by striking out, in line 7, the figure '\$1,000' and inserting in place thereof the following figure:- \$2,000.

SECTION 6E. Said section 12 of said chapter 22E, as so appearing, is hereby further amended by striking out, in line 8, the words 'six months' and inserting in place thereof the following words:- 1 year.

SECTION 6F. Section 13 of said chapter 22E, as so appearing, is hereby amended by striking out, in line 4, the figure '\$1,000' and inserting in its place thereof the following figure:- \$2,000.

SECTION 6G. Said section 13 of said chapter 22E, as so appearing, is hereby further amended by striking out, in line 5, the words 'six months' and inserting in place thereof the following words:- 1 year.

SECTION 6H. Section 15 of said chapter 22E, as so appearing, is hereby amended by adding the following 4 paragraphs:-

The department shall destroy the DNA sample and any records of a person related to the sample that were taken in connection with a particular alleged designated crime if the sample was collected post-arraignment under subsection (b) of section 3 and any of the following occurs: (i) the felony charge that required the DNA sample is downgraded to a misdemeanor by the prosecuting attorney upon a plea agreement or the person is convicted of a lesser offense that is a misdemeanor other than an offense that constitutes 'abuse' as defined in section 1 of chapter 209A or a sex offense for which registration is required pursuant to sections 178C to 178P, inclusive, of chapter 6; (ii) the person is acquitted after a trial of the charges that required the taking of the DNA sample; or (iii) the charges that required the taking of the DNA sample are dismissed by either the court or the commonwealth after arraignment unless good cause is shown as to why the sample should not be destroyed.

If the person has more than 1 entry in the state DNA database, CODIS or the state DNA data bank, only the entry related to the dismissed case shall be deleted.

The trial court and probation department shall work in conjunction with the director to establish and implement a system for the electronic notification to the department whenever a DNA sample is required to be destroyed pursuant to this section. The department shall notify the person upon destroying the DNA sample and completing its responsibilities under this subsection.

If a DNA sample is matched to another DNA sample during the course of a criminal investigation, the record of the match shall not be expunged even if the sample itself is expunged in accordance with this section."

The amendment was adopted.

Messrs. Tarr and O'Connor, Ms. Gobi and Mr. Ross moved that the proposed new draft be amended by striking out section 231.

40

After debate, the question on adoption of the amendment was determined by a call of the yeas and nays, at one minute before twelve o'clock midnight, on motion of Mr. Tarr, as follows, to wit (yeas 13 – nays 24) **[Yeas and Nays No. 226]:**

YEAS.

Brady, Michael D.
deMacedo, Viriato M.
Donoghue, Eileen M.
Fattman, Ryan C.

O'Connor, Patrick M.
O'Connor Ives, Kathleen
Ross, Richard J.
Rush, Michael F.

Gobi, Anne M.
Humason, Donald F., Jr.
Lovely, Joan B.

Tarr, Bruce E.
Timilty, Walter F. – 13.

NAYS.

Barrett, Michael J.
Boncore, Joseph A.
Brownsberger, William N.
Chandler, Harriette L.
Chang-Diaz, Sonia
Creem, Cynthia Stone
Cyr, Julian
DiDomenico, Sal N.
Eldridge, James B.
Forry, Linda Dorcena
Friedman, Cindy F.
Hinds, Adam G.

Jehlen, Patricia D.
Keenan, John F.
Lesser, Eric P.
Lewis, Jason M.
L'Italien, Barbara A.
McGee, Thomas M.
Montigny, Mark C.
Moore, Michael O.
Rodrigues, Michael J.
Rosenberg, Stanley C.
Spilka, Karen E.
Welch, James T. – 24.

ABSENT OR NOT VOTING.

Pacheco, Marc R. – 1.

The yeas and nays having been completed at one minute past twelve o'clock midnight, the amendment was *rejected*.

Messrs. O'Connor and Ross moved that the proposed new draft be amended by striking out, in lines 62, 129, 152, 156, 158, 197, 233, 237, 242, 246, 251, 256, 277, 486 and 574, the word "wire" and inserting in place thereof, in each instance, the following words:- "wire, electronic".; and

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By adding the following sections:

"SECTION 177. Said section 99 of said chapter 272, as so appearing, is hereby further amended by striking out, in lines 92 and 201, the word 'wire' and inserting in place thereof the following words:- wire or electronic.

SECTION 178. Said section 99 of said chapter 272, as so appearing, is hereby further amended by striking out, in lines 141, 143, 285, 290, 294, 296, 301, 304 and 305, 307, 313, 378, 432, 477, 480 and 589 the words 'oral or wire' and inserting in place thereof, in each instance, the following words:- wire, electronic or oral.

SECTION 179. Paragraph A of said section 99 of said chapter 272, as so appearing, is hereby amended by striking out the last subparagraph and inserting in place thereof the following 2 subparagraphs:-

The general court further finds that in certain circumstances normal investigative procedures may not be effective in the investigation of specific illegal acts not associated with organized crime as described in clause 7 of paragraph B. Therefore, law enforcement officials may use modern methods of electronic surveillance, under strict judicial supervision, when investigating those specific crimes.

The general court further finds that the uncontrolled development and unrestricted use of modern electronic surveillance devices pose grave dangers to the privacy of all citizens of the commonwealth. Therefore, the secret use of such devices by private individuals shall be prohibited. The use of such devices by law enforcement officials shall be conducted under strict judicial supervision and shall be limited to the investigation of designated offenses as defined in clause 7 of paragraph B. Because the commonwealth has a substantial interest in the investigation and prosecution of designated offenses committed within its borders,

this section shall authorize, under appropriate judicial supervision, the interception of electronic communications between parties located outside the commonwealth so long as the designated offense under investigation is one over which the commonwealth has jurisdiction and the listening post is located within the commonwealth.

SECTION 180. Paragraph B of said section 99 of said chapter 272, as so appearing, is hereby amended by striking out clause 1 and inserting in place thereof the following clause:-

1. 'Wire communication' shall mean any aural transfer made in whole or in part through the use of facilities for the transmission of communications by the aid of wire, cable or other like connection between the point of origin and the point of reception, including the use of such connection in a switching station

SECTION 181. Said paragraph B of said section 99 of said chapter 272, as so appearing, is hereby further amended by striking out clauses 3 to 5, inclusive, and inserting in place thereof the following 6 clauses:-

3. 'Communications device' shall mean a device or apparatus which is capable of transmitting, receiving, amplifying or recording an electronic, wire or oral communication.

4. 'Intercepting device' shall mean a communications device other than a device the ordinary purpose of which is not interception of wire, electronic or oral communication; provided, however, that no body-mounted camera with an audio recording feature shall be considered an intercepting device when such an instrument is worn openly by a uniformed investigative or law enforcement officer or an officer conspicuously displaying the officer's badge of authority or other visible indicator of the officer's status as an investigative or law enforcement officer; provided further, that no hearing aid or similar device which is being used to correct subnormal hearing and no telephone or telegraph instrument, equipment, facility or any component thereof: (i) furnished to a subscriber or user by a communications common carrier in the ordinary course of its business under its tariff and being used by the subscriber or user in the ordinary course of its business; or (ii) being used by a communications common carrier in the ordinary course of its business shall be considered an intercepting device; and provided further, that no vehicle-mounted camera with an audio recording feature shall be considered an intercepting device when it is mounted on a marked law enforcement vehicle or when such camera is used to record a motor vehicle stop or other encounter involving a uniformed law enforcement officer or an officer conspicuously displaying the officer's badge of authority or other visible indicator of the officer's status as an investigative or law enforcement officer.

4A. 'Interception' shall mean to secretly hear or secretly record or to aid another to secretly hear, view or otherwise inspect or secretly record the contents of a wire, electronic or oral communication contemporaneously with its transmission or conveyance by any person other than a person given prior authority by all parties to such communication; provided, however, that it shall not constitute an interception: (i) if no communications device is used to accomplish the interception; (ii) for an investigative or law enforcement officer to obtain information in real time concerning the existence of a communication and the identity of the parties to a communication but not the contents of the communication itself, where such action has been specifically authorized by the order of a court of competent jurisdiction pursuant to the procedure prescribed by 18 U.S.C. § 3123; (iii) for an investigative or law enforcement officer to record or transmit a wire, electronic or oral communication if the officer is a party to such

communication or has been given prior authorization to record or transmit the communication by such a party and if recorded or transmitted in the course of an investigation of a designated offense as defined herein; or (iv) for any person to record a government actor in the performance of official business in public except when such recording unreasonably invades the privacy of a citizen informing on criminal conduct or reporting criminal conduct or a confidential informant.

4B. 'Contents', when used with respect to any wire, electronic or oral communication, shall mean any information concerning the contents, substance, purport or meaning of that communication, including any spoken words, visual images or written materials.

4C. 'Electronic communication' shall mean any transfer of signs, signals, writing, images, sounds, data, or intelligence of any nature transmitted in whole or in part by wire, radio, electromagnetic, photoelectronic or photooptical system, but does not include (i) any wire or oral communication, (ii) any communication made through a tone-only paging device, (iii) any communication from a tracking device, or (iv) electronic funds transfer information stored by a financial institution in a communication system used for the electronic storage and transfer of funds

SECTION 182. Said paragraph B of said section 99 of said chapter 272, as so appearing, is hereby further amended by striking out clause 7 and inserting in place thereof the following clause:-

7. The term 'designated offense' shall include (a) the following offenses in connection with organized crime as defined in the preamble: the illegal use, possession, theft, transfer or trafficking of one or more firearms, rifles, shotguns, sawed-off shotguns, machine guns, assault weapons, large capacity weapons, covert weapons as defined by section 121 of chapter 140, or silencers; any arson; assault and battery with a dangerous weapon; bribery; any felony burglary; money laundering in violation of chapter 267A; enterprise crime in violation of chapter 271A; extortion; forgery; gaming in violation of sections 38, 39, 40, 41 and 43 of chapter 23K and sections 16A and 17 of chapter 271; kidnapping; any felony larceny; lending of money or things of value in violation of the general laws; perjury; any felony involving prostitution; robbery; subornation of perjury; any violation of section 13B of chapter 268; any violation of this section; being an accessory to any of the foregoing offenses; and conspiracy, attempt or solicitation to commit any of the foregoing offenses; and (b) the following offenses, whether or not in connection with organized crime, as referenced in paragraph 3 of the preamble: any murder or manslaughter, except under section 13 ½ of chapter 265; rape as defined in sections 22, 22A, 22B, 22C, 23, 23A, 23B, 24, and 24B of chapter 265; human trafficking in violation of sections 50 through 53 of chapter 265; any violation of chapter 94C involving the trafficking, manufacture, distribution of, or intent to distribute controlled substances; illegal trafficking in weapons; the illegal use or possession of explosives or chemical, radiological or biological weapons; civil rights violation causing bodily injury; intimidation of a witness or potential witness, or a judge, juror, grand juror, prosecutor, defense attorney, probation officer or parole officer; being an accessory to any of the foregoing offenses; and conspiracy, attempt or solicitation to commit any of the foregoing offenses.

SECTION 183. Paragraph I of said section 99 of said chapter 272, as so appearing, is hereby amended by striking out clause 2 and inserting in place thereof the following clause:-

2. the date of issuance, the date of effect and the termination date which shall not exceed 40 days after the date of effect; provided, however, that if physical

installation of a device is necessary, the 40-day period shall begin upon the date of installation; provided further, that a warrant shall permit interception of wire, electronic or oral communications for a period not to exceed 30 days; and provided further, that if the effective period of the warrant is to terminate upon the acquisition of particular evidence or information or wire, electronic or oral communication, the warrant shall so provide.

SECTION 184. Said paragraph I of said section 99 of said chapter 272, as so appearing, is hereby further amended by striking out clause 6 and inserting in place thereof the following 3 clauses:-

6. the identity of the agency authorized to intercept the communications and the identity of the person authorizing the application;

7. a statement providing for service of the warrant pursuant to paragraph L; provided, however, that if there has been a finding of good cause shown requiring the postponement of such service, a statement of such finding together with the basis therefor shall be included and an alternative direction for deferred service pursuant to subparagraph 2 of said paragraph L; and

8. every order and extension thereof shall contain a provision that the authorization to intercept shall be executed as soon as practicable, shall be conducted in such a way as to minimize the interception of communications not otherwise subject to interception under this chapter and shall terminate upon attainment of the authorized objective or in 30 days, whichever first occurs.

SECTION 185. Paragraph J of said section 99 of said chapter 272, as so appearing, is hereby amended by striking out the subparagraph 2 and inserting in place thereof the following subparagraph:-

2. Upon such application, the judge may issue an order renewing the warrant and extending the authorization for a period not exceeding 30 days from the entry thereof. The order shall specify the grounds for the issuance thereof. The application and an attested copy of the order shall be retained by the issuing judge to be transported to the chief justice in accordance with paragraph N. No renewal shall be granted that shall terminate later than 2 years following the effective date of the warrant.

SECTION 186. Said section 99 of said chapter 272, as so appearing, is hereby further amended by striking out paragraph K and inserting in place thereof the following paragraph:-

K. 1. A warrant may be executed pursuant to its terms anywhere in the commonwealth or any other place that facilitates a wire, electronic or oral communication to which at least 1 party is within the commonwealth or which otherwise involves a wire, electronic or oral communication regarding a criminal offense for which criminal jurisdiction would exist in the commonwealth; provided, however, that the listening post is located within the commonwealth.

2. A warrant may be executed by the authorized applicant personally or by an investigative or law enforcement officer of the commonwealth designated by the applicant for that purpose or by any designated individual operating under a contract with the commonwealth or a political subdivision thereof acting under the supervision of an investigative or law enforcement officer authorized to execute the warrant.

3. A warrant may be executed according to its terms during the hours specified therein and for the period authorized therein or a part thereof. The authorization shall terminate upon the acquisition of the wire, electronic or oral communications, evidence or information described in the warrant. Upon termination of the authorization in the warrant and any renewals thereof, the

interception shall immediately cease and any device installed for the purposes of the interception shall be removed as soon thereafter as practicable. Entry upon private premises for the removal of such device shall be deemed to be authorized by the warrant.

4. If an intercepted communication is in a code or foreign language and an expert in that code or foreign language is not reasonably available during the interception period, minimization shall be accomplished as soon as practicable after such interception.

5. Upon request of the applicant, the issuing judge may direct that a provider of wire or electronic communications service, landlord, custodian, or other person shall furnish the applicant forthwith all information, facilities, and technical assistance necessary to accomplish the interception unobtrusively and with a minimum of interference with the services that the person so ordered by the court accords the party whose communications are to be intercepted. Any provider of wire or electronic communications service, landlord, custodian, or other person furnishing such facilities or technical assistance shall be compensated therefore by the applicant for reasonable expenses incurred in providing such facilities or assistance.

SECTION X. Said section 99 of said chapter 272, as so appearing, is hereby further amended by adding, in line 291, after the words ‘and premises’ the following:- ‘or through a particularly described electronic account or identity’.

SECTION Y. Said section 99 of said chapter 272, as so appearing, is hereby further amended by adding, in line 376, after the words ‘telegraph line’, the following:- ‘, or electronic account or identity’.

SECTION Z. Said section 99 of said chapter 272, as so appearing, is hereby further amended by adding, in line 436, after the words ‘telegraph line’, the following:- ‘, or the owner or user of the electronic account or identity’.

SECTION XX. Said section 99 of said chapter 272, as so appearing, is hereby further amended by adding, in line 471, after the words ‘if any,’ the following:- ‘the electronic account or identity.’”

After debate, the question on adoption of the amendment was determined by a call of the yeas and nays, at twenty-seven minutes past twelve o’clock midnight, on motion of Mr. O’Connor, as follows, to wit (yeas 14 – nays 22) [**Yeas and Nays No. 227**]:

YEAS.

Brownsberger, William N.
deMacedo, Viriato M.
Donoghue, Eileen M.
Fattman, Ryan C.
Gobi, Anne M.
Humason, Donald F., Jr.
Moore, Michael O.

O’Connor, Patrick M.
O’Connor Ives, Kathleen
Rodrigues, Michael J.
Ross, Richard J.
Rush, Michael F.
Tarr, Bruce E.
Timilty, Walter F. – 14.

NAYS.

Barrett, Michael J.
Boncore, Joseph A.
Brady, Michael D.
Chandler, Harriette L.
Chang-Diaz, Sonia
Creem, Cynthia Stone
Cyr, Julian

Hinds, Adam G.
Jehlen, Patricia D.
Keenan, John F.
Lesser, Eric P.
Lewis, Jason M.
L’Italien, Barbara A.
Lovely, Joan B.

DiDomenico, Sal N.
Eldridge, James B.
Forry, Linda Dorcena
Friedman, Cindy F.

McGee, Thomas M.
Montigny, Mark C.
Spilka, Karen E.
Welch, James T. – 22.

ABSENT OR NOT VOTING.

Pacheco, Marc R. – 1.

The yeas and nays having been completed at twenty-nine minutes past twelve o'clock midnight, the amendment was *rejected*.

Messrs. Keenan and Fattman, Ms. Lovely and Messrs. Eldridge, Barrett, Hinds, Ross, O'Connor and Timilty moved that the proposed new draft be amended by inserting after section 107 the following section:-

“SECTION 107A. Section 16 of said chapter 127, as appearing in the 2016 Official Edition, is hereby amended by inserting after the word ‘tuberculosis’, in line 9, the following words:- ‘and the presence of drug dependency to be made by the physician or another addiction specialist, as defined in chapter 111E, including, but not limited to, a determination of whether or not opioid substitution or medication assisted treatment for opioid addiction is appropriate for the inmate. An examination pursuant to section 10 of said chapter 111E shall satisfy this requirement if the examination includes a determination whether opioid substitution or medication assisted treatment for opioid addiction is appropriate for the inmate. To the extent practicable, the department of correction shall prioritize placement of inmates that were receiving opioid substitution or medication assisted treatment for opioid addiction immediately preceding their incarceration within a facility that provides the same opioid substitution or medication assisted treatment’.”; and by inserting after section 224 the following section:

“SECTION 224A. The commissioner of correction shall select houses of correction and state prisons to participate in a pilot program to investigate the broader provision of opioid substitution therapies for addiction in correction facilities. Selected facilities shall maintain or provide for the capacity to possess, dispense and administer drugs approved by the federal Food and Drug Administration for use in opioid substitution therapy for addiction and shall make such treatment available to any inmate for whom such treatment is found to be appropriate under section 16 of chapter 127 of the General Laws. A facility selected under this section shall not be required to maintain or provide an opioid substitution therapy that is not included in the MassHealth drug list.

The pilot shall also ensure that an inmate receiving opioid substitution or medication assisted treatment for opioid addiction immediately preceding their incarceration, shall continue the treatment unless the inmate voluntarily discontinues the treatment or unless an addiction specialist, as defined in chapter 111E of the General Laws, determines that the treatment is no longer appropriate.

Not later than November 1, 2018, and by November 1 of each subsequent year that the pilot program is in place, selected facilities shall report to the commissioner of correction the following information: (i) the cost of the pilot program to the facility related; (ii) the type and prevalence of opioid substitutions and medication assisted treatments provided through the pilot program; (iii) the number of inmates who continued to receive the same opioid substitution or medication assisted treatment as they received prior to incarceration; (iv) the number of inmates who voluntarily discontinued the opioid substitution or medication assisted treatment that they received prior to incarceration; (v) the number of inmates who discontinued the opioid substitution or medication assisted

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treatment that they received prior to incarceration due to a determination by an addiction specialist; (vi) a review of the facility’s practices related to opioid substitution and medication assisted treatment prior to inclusion in the pilot program; and (vii) any other information requested by the department of correction related to the administration of the pilot program.

The department of correction, in consultation with the department of public health, shall provide a report of the findings collected from selected facilities to the chairs of the joint committee on mental health and substance abuse and the house and senate committees on ways and means not later than January 1 of each year of the pilot program detailing: (i) the cost of the pilot program in the prior year; (ii) the projected cost associated with expanding the pilot program to additional houses of correction and correctional institutions for the coming year of the pilot program based on prior year costs; (iii) the type and prevalence of opioid substitutions and medication assisted treatments provided through the pilot program; (v) a summary of changes to facility practices related to opioid substitution and medication assisted treatment related to the pilot program; and (v) the aggregated results of: (A) the number of inmates who continued to receive the same opioid substitution or medication assisted treatment as they received prior to incarceration; (B) the number of inmates who voluntarily discontinued the opioid substitution or medication assisted treatment that they received prior to incarceration; and (C) the number of inmates who discontinued the opioid substitution or medication assisted treatment that they received prior to incarceration due to a determination by an addiction specialist.

The department of correction shall select facilities for participation in the pilot program in the following manner: (i) for the first year, the Massachusetts alcohol and substance abuse center and at least 2 houses of correction and 2 state prisons shall be included in the pilot program; (ii) for the second year, at least 30 per cent of houses of correction and state prisons shall be included in the pilot program; (iii) for the third year, at least 60 per cent of houses of correction and state prisons shall be included in the pilot program; and (iv) for the fourth year, all houses of correction and state prisons shall be included in the pilot program.”

The amendment was adopted.

Messrs. Tarr, O'Connor and Ross moved that the proposed new draft be amended by striking out section 112. 80

The amendment was *rejected*.

Messrs. Rodrigues, O'Connor, Moore and Montigny moved that the proposed new draft be amended in section 182, by inserting after the word “magistrate”, in line 1937, the following words:- “shall not be required to set a cash bail and”. 82

The amendment was adopted.

Messrs. O'Connor and Ross moved that the proposed new draft be amended by inserting after section 13, the following section:- 90

“SECTION ZZ. Section 370 of Chapter 71 of the General Laws, as appearing in the 2016 Official Edition, is hereby amended by striking out the second sentence of the definition of ‘Cyber-bullying’ and inserting in place thereof the following sentence:-

Cyber-bullying shall also include: (i) the creation of a web page or blog in which the creator assumes the identity of another person; (ii) the knowing impersonation of another person as the author of posted content or messages; or (iii) the violation of sections 29D or 107 of chapter 272, if the creation, impersonation or violation creates any of the conditions enumerated in clauses (i) to (v), inclusive, of the definition of bullying.”

By inserting after section 64, the following two sections:-

“SECTION X. Chapter 119 of the General Laws is hereby amended by inserting after section 39L the following section:-

Section 39M. If a child is alleged to be a juvenile delinquent by reason of violating sections 29B, 29C, or 29D of chapter 272, unless the district attorney or the attorney general objects in writing stating the reasons for his objection, the court shall, if arraignment has not yet occurred, indefinitely stay arraignment and direct that the child enter and complete an educational diversion program approved by the district attorney or the attorney general. If the district attorney or the attorney general objects, the minor shall not be diverted and the case shall be arraigned in the ordinary course. If the court finds that the child has failed to complete the diversion program, the court shall bring the case forward, arraign the child and restore the delinquency complaint to the docket for further proceedings. If arraignment has already occurred, unless the district attorney or the attorney general objects in writing stating the reasons for his objection, at which point the case must proceed in the ordinary course, the court shall place the child on pretrial probation under section 87 of chapter 276. The conditions of such probation shall include, but not be limited to, completion of an educational diversion program approved by the district attorney or attorney general. If the child fails to substantially comply with the conditions of probation, the court shall restore the delinquency to the docket for trial or further proceedings.

SECTION X. Section 24C of Chapter 265 of the General Laws as appearing in the 2014 Official Edition is hereby amended by inserting after the figure ‘265,’ in line 8, the following words:- or an arrest, investigation or complaint for unlawful sexual surveillance under section 105 of chapter 272, or an arrest, investigation or complaint for the harmful distribution of sexually explicit visual material under section 107 of said chapter 272.”;

By inserting after section 173, the following 2 sections:-

SECTION X. Chapter 272 of the General Laws is hereby amended by inserting after section 29C the following section:-

Section 29D. Whoever is a minor and violates sections 29B or 29C of this chapter may be charged with being a delinquent child or youthful offender in accordance with the provisions of chapter 119 or, in the sole discretion of the attorney for the Commonwealth, may instead be charged with being a delinquent child in accordance with the provisions of chapter 119 for engaging in peer to peer dissemination of explicit visual material, which shall be deemed a misdemeanor offense against the commonwealth. Adjudication as a delinquent child for engaging in peer to peer dissemination of explicit visual material shall not be deemed a ‘sex offense’ under section 178C of chapter 6 of the general laws.

SECTION X. Section 31 of Chapter 272 of the General Laws as appearing in the 2016 Official Edition is hereby amended by striking out, in lines 1 to 3, the words ‘twenty-eight, twenty-eight C, twenty-eight D, twenty-eight E, twenty-nine, twenty-nine A, twenty-nine B, thirty and thirty D,’ and inserting in place thereof the following 10 figures:- 28, 28C, 28D, 28E, 29, 29A, 29B, 30, 30D and 107.”

By inserting after section 175, the following 3 sections:-

SECTION X. Subsection (b) of section 105 of said chapter 272, as appearing in the 2016 Official Edition, is hereby amended by adding the following paragraph:-

Whoever willfully photographs, videotapes or electronically surveils another person who is nude or partially nude, when that person is in a gymnasium, athletic facility, restroom, or changing area, such that the person would have a reasonable

expectation of privacy in not being so photographed, videotaped or electronically surveilled, and does so without that person's consent, shall be punished by imprisonment in the house of correction for not more than 2 ½ years or by a fine of not more than \$5,000, or by both such fine and imprisonment.

SECTION X. Subsection (c) of said section 105 of said chapter 272, as so appearing, is hereby amended by striking out, in line 45, the words 'and second' and inserting in place thereof the following words:- , second or fourth.

SECTION X. Said Chapter 272 is hereby amended by adding the following section:-

Section 107. (a) As used in this section, the following terms shall have the following meanings:

'Distribute', give, sell, transfer, disseminate, publish, upload, circulate, broadcast, or engage in any other form of transmission, electronic or otherwise.

'Harm', physical injury, financial injury or substantial emotional distress.

'Identifiable', identifiable from the visual material itself or information offered in connection with the visual material.

'Partially nude', the exposure of the human genitals, buttocks, pubic area or female breast below a point immediately above the top of the areola.

(b) Whoever knowingly distributes visual material depicting another identifiable person who is nude, partially nude, or engaged in sexual conduct, when the distribution would cause a reasonable person to suffer harm, and does so with the intent to harm, harass, intimidate, threaten or coerce, or with reckless disregard for the likelihood that the person depicted or the person receiving will suffer harm, and, at the time of the distribution, knew or should have known that the depicted identifiable person did not consent to the distribution shall be punished by imprisonment in the state prison for not more than 5 years, or in the house of correction for not more than 2 ½ years, or by a fine of not more than \$10,000, or both. For purposes of this subsection, consent to the creation of visual material shall not, by itself, constitute consent to the distribution of the visual material or any part, representation or reproduction thereof.

(c) Subsection (b) shall not apply to:

(1) visual material involving nudity, partial nudity or sexual conduct that is both (i) voluntary and (ii) in a public or commercial setting or in a place where a person does not have a reasonable expectation of privacy;

(2) distribution made in the public interest, including the reporting of unlawful conduct;

(3) lawful and common practices of: law enforcement, criminal reporting, corrections, legal proceedings, or medical treatment;

(4) distribution of visual material that constitutes a matter of public concern;

or

(5) interactive computer services, as defined in 47 U.S.C. § 230(f)(2), or information services or telecommunications services, as defined in 47 U.S.C. § 153, for content solely provided by another person.

This subsection shall not preclude other remedies available at law.

(d) Whoever threatens to commit the crime set forth in subsection (b) shall be punished by imprisonment in the state prison for not more than 5 years, or in the house of correction for not more than 2 ½ years, or by a fine of not more than \$10,000, or both.

(e) In a prosecution under this section, a justice of the superior court, district court or juvenile court may issue appropriate orders to restrain or prevent the unlawful distribution of visual material in violation of this section.

(f) A copy of visual material that is part of any court record arising from a prosecution under this section shall not be open to public inspection and shall only be made available by court personnel to a law enforcement officer, prosecuting attorney, defendant's attorney, defendant, or victim connected to such prosecution for inspection, unless otherwise ordered by the court.” and

In section 237, by striking out the word “Section” in line 237 and inserting in place thereof the following words:- “Sections ZZ and”.

After debate, the question on adoption of the amendment was determined by a call of the yeas and nays, at twenty-two minutes before one o'clock A.M., on motion of Mr. O'Connor, as follows, to wit (yeas 18 – nays 19) **[Yeas and Nays No. 228]**:

YEAS.

Brady, Michael D.
deMacedo, Viriato M.
Donoghue, Eileen M.
Fattman, Ryan C.
Gobi, Anne M.
Humason, Donald F., Jr.
Keenan, John F.
Lesser, Eric P.
Lovely, Joan B.

Moore, Michael O.
O'Connor, Patrick M.
O'Connor Ives, Kathleen
Rodrigues, Michael J.
Ross, Richard J.
Rush, Michael F.
Tarr, Bruce E.
Timilty, Walter F.
Welch, James T. – **18.**

NAYS.

Barrett, Michael J.
Boncore, Joseph A.
Brownsberger, William N.
Chandler, Harriette L.
Chang-Diaz, Sonia
Creem, Cynthia Stone
Cyr, Julian
DiDomenico, Sal N.
Eldridge, James B.
Forry, Linda Dorcena

Friedman, Cindy F.
Hinds, Adam G.
Jehlen, Patricia D.
Lewis, Jason M.
L'Italien, Barbara A.
McGee, Thomas M.
Montigny, Mark C.
Rosenberg, Stanley C.
Spilka, Karen E. – **19.**

ABSENT OR NOT VOTING.

Pacheco, Marc R. – **1.**

The yeas and nays having been completed at twenty minutes before one o'clock A.M., the amendment was *rejected*.

Ms. Lovely, Ms. L'Italien, Messrs. O'Connor and Ross and Ms. Gobi moved that the proposed new draft be amended by inserting at the end thereof the following sections:-

“SECTION XX. Section 2 of Chapter 258C of the General Laws, as appearing in the 2014 Official Edition, is hereby amended by inserting after the word ‘crime’, in line 11, the following words:- ; provided, however, that a claimant who was a victim under the age of criminal majority shall not be required to file such report within 5 days.”

The amendment was adopted.

Ms. Jehlen moved that the proposed new draft be amended by striking out, beginning in line 103, the words “school resource officers shall not use arrest, citation, and court referral in response to” and inserting in place thereof the following:- “it is the responsibility of school officials to impose discipline for”.

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The amendment was adopted.

Messrs. Tarr, O'Connor and Ross moved that the proposed new draft be amended by striking section 195 in its entirety.

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After debate, the question on adoption of the amendment was determined by a call of the yeas and nays, at twelve minutes before one o'clock A.M., on motion of Mr. Tarr, as follows, to wit (yeas 8 – nays 28) [**Yeas and Nays No. 229**]:

YEAS.

Brady, Michael D.
deMacedo, Viriato M.
Fattman, Ryan C.
Humason, Donald F., Jr.

O'Connor, Patrick M.
O'Connor Ives, Kathleen
Ross, Richard J.
Tarr, Bruce E. – **8.**

NAYS.

Barrett, Michael J.
Boncore, Joseph A.
Brownsberger, William N.
Chandler, Harriette L.
Chang-Diaz, Sonia
Creem, Cynthia Stone
Cyr, Julian
DiDomenico, Sal N.
Donoghue, Eileen M.
Eldridge, James B.
Forry, Linda Dorcena
Friedman, Cindy F.
Gobi, Anne M.
Hinds, Adam G.

Jehlen, Patricia D.
Keenan, John F.
Lesser, Eric P.
Lewis, Jason M.
L'Italien, Barbara A.
Lovely, Joan B.
McGee, Thomas M.
Montigny, Mark C.
Moore, Michael O.
Rodrigues, Michael J.
Rush, Michael F.
Spilka, Karen E.
Timilty, Walter F.
Welch, James T. – **28.**

ABSENT OR NOT VOTING.

Pacheco, Marc R. – **1.**

The yeas and nays having been completed at ten minutes before one o'clock A.M., the amendment was *rejected*.

Messrs. Eldridge and Barrett, Ms. L'Italien, Ms. Chang-Diaz and Messrs. Cyr, Hinds, Ross and Humason moved that the proposed new draft be amended by inserting after section 1 the following 4 sections:-

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“SECTION 1A. The second paragraph of subsection (a) of section 116A of chapter 6 of the General Laws, as so appearing, is hereby amended by adding the following sentence: - As used in this section, ‘bias-free policing’ shall mean decisions made by law enforcement officers that shall not consider a person’s race, ethnicity, gender, gender identity, religion, mental or physical disability or socioeconomic level.

SECTION 1B. Said section 116A of said chapter 6, as so appearing, is hereby further amended by striking out, in line 81, the word ‘and’.

SECTION 1C. Subsection (b) of said section 116A of said chapter 6, as so appearing, is hereby amended by adding the following 3 clauses:-

(16) procedures and techniques to promote bias-free policing;

(17) procedures and techniques for handling complaints involving victims, witnesses or suspects with a mental illness or developmental disability and for handling mental health emergencies; and

(18) procedures and techniques for civilian interaction and to promote procedural justice, which shall emphasize de-escalation and disengagement tactics

and techniques.

SECTION 1D. Said chapter 6 is hereby further amended by inserting after section 116F the following section: -

Section 116G. (a) The municipal police training committee under the direction of the executive office of public safety and security shall establish and develop an in-service training program designed to train law enforcement officials, including municipal, metropolitan and state police, in the following areas:

(i) practices and procedures relating to unconscious or implicit bias policing which shall include, but not be limited to, training that examines issues of race, ethnicity, gender, religion, sexual orientation and gender identity and socioeconomic and professional status in relation to policing decisions;

(ii) handling mental health emergencies and complaints involving victims, witnesses or suspects with a mental illness or developmental disability, which shall include training related to common behaviors and actions exhibited by such individuals, strategies law enforcement officers may use for reducing or preventing the risk of harm and strategies that involve the least intrusive means of addressing such incidences and individuals while protecting the safety of the law enforcement officer and other persons; provided, however, that training presenters shall include certified mental health practitioners with expertise in the delivery of direct services to individuals experiencing mental health emergencies and victims, witnesses and suspects with a mental illness or developmental disability; and

(iii) practices and techniques for law enforcement officers in civilian interaction and to promote procedural justice, which shall emphasize de-escalation and disengagement tactics and techniques and practices and procedures that build community trust and maintain community confidence.

(b) The committee shall determine training requirements and minimum standards of the program that all law enforcement agencies throughout the commonwealth shall implement in their practices and training of law enforcement officials.

(c) This section shall apply to law enforcement officials who are employed on a full-time basis as a police officer of the department of state police, a municipal police department and the University of Massachusetts police department and environmental police officers in the office of law enforcement.

(d) The committee, in consultation with the attorney general and other relevant entities, shall promulgate rules and regulations to carry out this section.”;

By inserting after section 4 the following section:-

“SECTION 4A. Chapter 10 of the General Laws is hereby amended by inserting after section 35EEE the following section:-

Section 35FFF. (a) There shall be a Municipal Police Training Fund which shall consist of amounts credited to the fund in accordance with this section. The fund shall be administered by the state treasurer and held in trust exclusively for the purposes of this section. The state treasurer shall be treasurer-custodian of the fund and shall have the custody of its monies and securities.

(b) The fund shall consist of: (i) funds transferred from the Marijuana Regulation Fund established in section 14 of chapter 94G; (ii) revenue from appropriations or other money authorized by the general court and specifically designated to be credited to the fund; (iii) interest earned on money in the fund; and (iv) funds from private sources including, but not limited to, gifts, grants and donations received by the commonwealth that are specifically designated to be credited to the fund. Amounts credited to the fund shall not be subject to further appropriation and any money remaining in the fund at the end of a fiscal year shall

not revert to the General Fund. The secretary shall annually report the activity of the fund to the clerks of the senate and the house of representatives and the senate and house committees on ways and means not later than December 31.

(c) Expenditures from the fund shall be made to provide funding for:

(i) the operating expenses of the municipal police training committee;

(ii) basic recruit training for new police officers;

(iii) mandatory in-service training for veteran police officers;

(iv) specialized training for veteran police officers and reserve and intermittent police officers; and

(v) the basic training program for reserve and intermittent police officers.”;

and by inserting after section 52 the following section:-

“SECTION 52A. Subsection (b) of section 14 of chapter 94G of the General Laws, as appearing in section 40 of chapter 55 of the acts of 2017, is hereby amended by striking out clause (iii) and inserting in place thereof the following clause:- (iii) the Municipal Police Training Fund established in section 35FFF of chapter 10 for the municipal police training committee established in section 116 of chapter 6.”

After remarks, the question on adoption of the amendment was determined by a call of the yeas and nays, at five minutes before one o'clock A.M., on motion of Mr. Eldridge, as follows, to wit (yeas 37 – nays 0) [**Yeas and Nays No. 230**]:

YEAS.

Barrett, Michael J.
Boncore, Joseph A.
Brady, Michael D.
Brownsberger, William N.
Chandler, Harriette L.
Chang-Diaz, Sonia
Creem, Cynthia Stone
Cyr, Julian
deMacedo, Viriato M.
DiDomenico, Sal N.
Donoghue, Eileen M.
Eldridge, James B.
Fattman, Ryan C.
Forry, Linda Dorcena
Friedman, Cindy F.
Gobi, Anne M.
Hinds, Adam G.
Humason, Donald F., Jr.
Jehlen, Patricia D.

Keenan, John F.
Lesser, Eric P.
Lewis, Jason M.
L'Italien, Barbara A.
Lovely, Joan B.
McGee, Thomas M.
Montigny, Mark C.
Moore, Michael O.
O'Connor, Patrick M.
O'Connor Ives, Kathleen
Rodrigues, Michael J.
Rosenberg, Stanley C.
Ross, Richard J.
Rush, Michael F.
Spilka, Karen E.
Tarr, Bruce E.
Timilty, Walter F.
Welch, James T. – **37.**

NAYS – 0.

ABSENT OR NOT VOTING.

Pacheco, Marc R. – **1.**

The yeas and nays having been completed at three minutes before one o'clock A.M., the amendment was adopted.

Ms. Creem and Mr. Hinds moved that the proposed new draft be amended by striking section 70 and inserting in place thereof the following section:-

“SECTION 70. Said chapter 119 is hereby further amended by inserting after section 54 the following section:-

Section 54A. (a) A juvenile court shall have jurisdiction to divert from further court processing a child who is subject to the jurisdiction of the juvenile court as the result of an application for complaint brought under section 54. The court may divert a child to a program as defined in section 1 of chapter 276A or elsewhere.

(b) A child complained of as a delinquent child may, upon the request of the child, undergo an assessment prior to arraignment to enable the judge to consider the suitability of the child for diversion. If a child chooses to request a continuance for the purpose of such an assessment, the child shall notify the judge prior to arraignment. Upon receipt of such notification, the judge may grant a 14-day continuance. The department of probation may conduct such assessment prior to arraignment to assist the judge in making that decision. If the judge determines it is appropriate, a determination of eligibility by the personnel of a program may substitute for an assessment. If a case is continued under this subsection, the child shall not be arraigned and an entry shall not be made into the criminal offender record information system until a judge issues an order to resume the ordinary processing of a delinquency proceeding. A judge may order diversion without first ordering an assessment in any case in which the court finds that sufficient information is available without an assessment.

(c)(1) After the completion of the assessment, the probation officer or, where applicable, the director of a program to which the child has been referred shall submit to the court and to the counsel for the child a recommendation as to whether the child would benefit from diversion.

Upon receipt of the recommendation, the judge shall provide an opportunity for both the commonwealth and counsel for the child to be heard regarding diversion of the child. The judge shall then make a final determination as to the eligibility of the child for diversion. There shall be a rebuttable presumption that a child who is otherwise eligible for diversion under subsection (g) and who is charged with a misdemeanor for which the punishment is a fine, imprisonment in a jail or house of correction for not more than 6 months or both such fine and imprisonment shall be eligible for diversion if such child has no outstanding warrants, continuances, appeals or juvenile court cases pending. The proceedings of a child who is found eligible for diversion shall be stayed for 90 days unless the judge determines that the interest of justice would best be served by a lesser period of time or unless extended under subsection (f).

(2) A stay of proceedings shall not be granted under this section unless the child consents in writing to the terms and conditions of the stay of proceedings and knowingly executes a waiver of the child's right to a speedy trial on a form approved by the chief justice of the juvenile court department. Consent shall be given only upon the advice of counsel.

(3) The following shall not be admissible against the child in any proceedings: (i) a request for assessment; (ii) a decision by the child not to enter a program; (iii) a determination by probation or by a program that the child would not benefit from diversion; and (iv) any statement made by the child or the child's family during the course of assessment. Any consent by a child to a stay of proceedings or any act done or statement made in fulfillment of the terms and conditions of a stay of proceedings shall not be admissible as an admission, implied or otherwise, against the child if the stay of proceedings was terminated and proceedings were resumed on the original complaint. A statement or other disclosure or a record thereof made by a child during the course of assessment or during the stay of proceedings shall not be disclosed at any time to a commonwealth or other law enforcement officer in connection with the investigation or prosecution of any charges against the child

or a codefendant.

(4) If a child is found eligible for diversion under this section, the child shall not be arraigned and an entry shall not be made into the criminal offender record information system unless a judge issues an order to resume the ordinary processing of a delinquency proceeding. If a child is found eligible under this section, the eligibility shall not be considered an issuance of a criminal complaint for the purposes of section 37H½ of chapter 71.

(d) A district attorney may divert any child for whom there is probable cause to issue a complaint, either before or after the assessment procedure set forth in subsection (b), with or without the permission of the court and without regard to the limitations in subsection (g). A district attorney who diverts a case pursuant to this subsection may request a report from a program regarding the child's status in and completion of the program.

(e) If during the stay of proceedings a child is charged with a subsequent offense, a judge in the court that entered the stay of proceedings may issue such process as is necessary to bring the child before the court. When the child is brought before the court, the judge shall afford the child an opportunity to be heard. If the judge finds probable cause to believe that the child has committed a subsequent offense, the judge may order that the stay of proceedings be terminated and that the commonwealth be permitted to proceed on the original complaint as provided by law.

(f)(1) Upon the expiration of the initial 90-day stay of proceedings, the probation officer or the program director shall submit to the court a report indicating the successful completion of diversion by the child or recommending an extension of the stay of proceedings for not more than an additional 90 days so that the child may complete the diversion program successfully.

(2) If the probation officer or the program director indicates the successful completion of diversion by a child, the judge may dismiss the original complaint pending against the child. If the report recommends an extension of the stay of proceedings, the judge may, on the basis of the report and any other relevant evidence, take such action as the judge deems appropriate, including the dismissal of the complaint, the granting of an extension of the stay of proceedings or the resumption of proceedings.

(3) If the conditions of diversion have not been met, the child's attorney shall be notified prior to the termination of the child from diversion and the judge may grant an extension to the stay of proceedings if the child provides good cause for failing to comply with the conditions of diversion.

(4) If the judge dismisses a complaint under this subsection, the court shall, unless the child objects, enter an order directing expungement of any records of the complaint and related proceedings maintained by the clerk, the court, the department of criminal justice information services and the court activity record index.

(g) A child otherwise eligible for diversion under this section shall not be eligible for diversion if the child charged with a violation of any of the offenses enumerated in section 70C of chapter 277 other than an offense under: (i) subsection (a) of section 13A of chapter 265; (ii) sections 13J and 13M of said chapter 265; (iii) sections 13A and 13C of chapter 268; and (iv) sections 1, 16, 28, 29, 29A and 29B of chapter 272 or if the child is indicted as a youthful offender."

The amendment was adopted.

Ms. Friedman, Ms. Jehlen and Mr. Cyr moved that the proposed new draft be amended in section 182, by inserting after clause (xi), in line 1547, the following

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clause:-

“(xii) any conditions set under clause (i) of subsection (b) that may interfere with the defendant’s ability to maintain or seek employment, or meet educational, training, medical, therapeutic or primary caretaker commitments.”;

By inserting after clause (viii), in line 1563, the following clause:-

“(ix) any conditions set under clause (ii) of subsection (b) that may interfere with the defendant’s ability to maintain or seek employment, or meet educational, training, medical, therapeutic or primary caretaker commitments.”; and

By inserting after clause (xvi), in lines 1899-1900, the following clause:-

“(xvii) any conditions set under paragraph (1) of subsection (c) that may interfere with the defendant’s ability to maintain or seek employment, or meet educational, training, medical, therapeutic or primary caretaker commitments.”

The amendment was *rejected*.

Ms. Friedman, Ms. Jehlen and Mr. Cyr moved that the proposed new draft be amended in section 182, by inserting after the word “upon”, in line 1425, the following words:- “the first appearance of the defendant and upon”;

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By striking out, in lines 1430-1431, the sentence “The commonwealth may move for a hearing under said section 58A at any time before disposition of the case.”;

By inserting after the word “commonwealth”, in line 1648, the following words:- “at the defendant’s first appearance in court”;

By inserting after the word “grounds”, in line 1683, the following words:- “that have arisen since the release”;

By inserting after the word “motion”, in line 1685, the following words:- “, which must be supported by affidavit setting forth the factual basis of the additional grounds for detention”; and

By inserting after the word “section.”, in line 1686, the following sentence:- “No defendant shall be detained under this paragraph until after a hearing.”

The amendment was adopted.

Messrs. Tarr, O'Connor and Ross moved that the proposed new draft be amended by inserting at the end thereof the following sections:-

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"SECTION_. Clause (1) (a) (1) of section 24 of chapter 90 as appearing in the 2016 official is hereby amended by inserting after line 177 the following paragraphs:-

If the defendant has been previously convicted or assigned to an alcohol or controlled substance education, treatment or rehabilitation program by a court of the commonwealth or any other jurisdiction because of a like offense five times preceding the date of the commission of the offense for which he has been convicted, the defendant shall be punished by a fine of not less than four thousand nor more than one hundred thousand dollars and by imprisonment for not less than five years or by a fine of not less than four thousand nor more than one hundred thousand dollars and by imprisonment in the state prison for not less than five years nor more than ten years; provided, however, that the sentence imposed upon such person shall not be reduced to less than thirty-six months, nor suspended, nor shall any such person be eligible for probation, parole, or furlough or receive any deduction from his sentence for good conduct until he shall have served thirty-six months of such sentence; provided, further, that the commissioner of correction may, on the recommendation of the warden, superintendent, or other person in charge of a correctional institution, or the administrator of a county correctional institution, grant to an offender committed under this subdivision a temporary release in the custody of an officer of such institution for the following purposes

only: to attend the funeral of a relative; to visit a critically ill relative; to obtain emergency medical or psychiatric services unavailable at said institution; to engage in employment pursuant to a work release program; or for the purposes of an aftercare program designed to support the recovery of an offender who has completed an alcohol or controlled substance education, treatment or rehabilitation program operated by the department of correction; and provided, further, that the defendant may serve all or part of such thirty-six months sentence to the extent that resources are available in a correctional facility specifically designated by the department of correction for the incarceration and rehabilitation of drinking drivers.

If the defendant has been previously convicted or assigned to an alcohol or controlled substance education, treatment or rehabilitation program by a court of the commonwealth or any other jurisdiction because of a like offense six or more times preceding the date of the commission of the offense for which he has been convicted, the defendant shall be punished by a fine of not less than eight thousand nor more than two hundred thousand dollars and by imprisonment for not less than twenty years or by a fine of not less than eight thousand nor more than two hundred thousand dollars and by imprisonment in the state prison for not less than twenty years; provided, however, that the sentence imposed upon such person shall not be reduced to less than one hundred eighty months, nor suspended, nor shall any such person be eligible for probation, parole, or furlough or receive any deduction from his sentence for good conduct until he shall have served one hundred and eighty months of such sentence; provided, further, that the commissioner of correction may, on the recommendation of the warden, superintendent, or other person in charge of a correctional institution, or the administrator of a county correctional institution, grant to an offender committed under this subdivision a temporary release in the custody of an officer of such institution for the following purposes only: to attend the funeral of a relative; to visit a critically ill relative; to obtain emergency medical or psychiatric services unavailable at said institution; to engage in employment pursuant to a work release program; or for the purposes of an aftercare program designed to support the recovery of an offender who has completed an alcohol or controlled substance education, treatment or rehabilitation program operated by the department of correction; and provided, further, that the defendant may serve all or part of such one hundred and eighty months sentence to the extent that resources are available in a correctional facility specifically designated by the department of correction for the incarceration and rehabilitation of drinking drivers."

The amendment was *rejected*.

Messrs. McGee, Lesser, Cyr and Brady, Ms. Chang-Diaz, Messrs. Lewis and Eldridge, Ms. Friedman, Ms. Jehlen, Messrs. Boncore, Keenan, Hinds and O'Connor, Ms. Forry, Ms. L'Italien, Messrs. Montigny and Humason, Ms. Lovely and Messrs. Welch, Ross, deMacedo, Rush and Moore moved that the proposed new draft be amended by inserting after section 6 the following section:-

152

"SECTION 6(a).

Chapter 29 of the General Laws is hereby amended by inserting after Section 2XXXX the following section:-

SECTION 2YYYY. (a) There shall be established a Strong Communities and Crime Prevention Fund. Monies transferred to the fund shall be continuously expended, without regard for fiscal year, exclusively for carrying out the purposes of this section.

(b)(1) There shall be a board of directors to consist of thirteen members to be

appointed by the secretary of housing and economic development, with the approval of the governor. Said board of directors shall consist of not less than six (6) individuals who are, or have been at some time, members of the target population as defined in subsection (d) of this chapter; and a combination of appointees with professional case management experience, entrepreneurial or business management experience, professional youth development experience, experience providing professional or vocational training, or experience in labor market analysis. The terms of the initial members shall be as follows: three shall be appointed for one year, three shall be appointed for two years, three shall be appointed for three years, and three shall be appointed for four years. Upon the expiration of the term of a member, a successor shall be appointed for a term of four years. Said members shall elect a chairman and shall meet at least bi-annually. They shall serve without compensation, but shall be reimbursed for expenses necessarily incurred in the performance of their duties. Upon notification by the chairman that a vacancy exists, the secretary of housing and economic development shall appoint, with the approval of the governor, another member to fill the unexpired term.

(2) The executive office of housing and economic development shall provide staff support to the board of directors. The total expenditure from the fund for administration, including salaries and benefits of supporting staff shall not exceed 5% of the total amount disbursed by the fund in any given fiscal year.

(c)(1) It shall be the duty of the executive office of public safety and security to calculate the aggregate annual population of the department of corrections and the houses of corrections, and to calculate annually an average marginal cost rate per inmate among the department of corrections and the houses of corrections, based on the actual marginal cost rates used by the department of corrections and the houses of corrections for their budgeting purposes.

(2) The secretary of housing and economic development shall annually determine the difference between the combined population of the department of corrections and the houses of corrections in fiscal year 2017, multiplied by the rate of total population growth for the commonwealth since fiscal year 2017, and the actual combined population of the department of corrections and the houses of corrections in that year. The secretary shall multiply said difference by the average marginal cost rate per inmate. Not later than October 1 in each year the secretary shall certify this calculation to the joint committee on ways and means, the secretary of administration and finance, and the comptroller for the prior fiscal year, and shall publish said calculation on a public website. The comptroller shall transfer an amount equal to one half of the product of this calculation to the fund.

(d) Monies in the fund shall be competitively granted for the purpose of developing and strengthening communities heavily impacted by crime and the criminal justice system, by creating opportunities for job training, job creation, and job placement for those who face high barriers to employment. The target population is defined as any person who meets two or more of the following characteristics: (i) is under 25 years of age; (ii) is a victim of violence; (iii) does not have a high school diploma (if over 18 years of age); (iv) has been convicted of a felony; (v) has been unemployed or has had family income below 250% of the federal poverty level for six months or more; or (vi) lives in a census tract where over 20% of the population fall below the federal poverty line.

(e) Eligible grant recipients shall exhibit a model of creating employment opportunities for members of the target population, or, in the case of programs serving a target population aged 20 years and under, may instead demonstrate a

model of building within such members the skills necessary for future employment. Such model shall be supported by research and evaluation, and may include transitional employment programs; social enterprise; pre-apprenticeship or other training programs; school- or community-based high school dropout prevention and re-engagement programs; cooperative and small business development programs; and community-based workforce development programs. Components of successful programs may include, but are not limited to: job training in both 'soft skills' and skills identified as lacking in growth industries; stipends or wage subsidies; serving as employer of record with private employers; case management; cognitive behavioral therapy; and supports such as child care vouchers or transportation assistance. The fund may give priority to programs that include access to services such as addiction treatment and trauma-informed mental health care as relevant to the fund's mission, but such services by themselves are not eligible for monies from the fund. Training programs that do not include a strong presumption of full employment by a specific employer, or entry into a bona fide apprenticeship program recognized by the commonwealth, upon successful completion by each participant shall not be eligible for funding; provided that high school dropout prevention and re-engagement programs need not include said presumption."

The amendment was adopted.

Messrs. Welch and O'Connor, Ms. Gobi and Mr. Timilty moved that the proposed new draft be amended by inserting at the end thereof the following section:-

157

"SECTION X: Section 13 1/2 of chapter 265 of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by striking out the number '5', in lines 4 and 6 and 9, and inserting in place thereof the number '10'."

The amendment was *rejected*.

Messrs. Welch and O'Connor, Ms. Gobi and Mr. Timilty moved that the proposed new draft be amended by inserting at the end thereof the following section:-

158

"SECTION X. Chapter 90 of the General Laws is hereby amended by striking out Section 24G (a) as appearing in the 2012 Official Edition, and inserting in place thereof the section:-

Section 24G. (a) Whoever, upon any way or in any place to which the public has a right of access, or upon any way or in any place to which members of the public have access as invitees or licensees, operates a motor vehicle with a percentage, by weight, of alcohol in their blood of eight one-hundredths or greater, or while under the influence of intoxicating liquor, or of marihuana, narcotic drugs, depressants, or stimulant substances, all as defined in section one of chapter ninety-four C, or the vapors of glue, and so operates a motor vehicle recklessly or negligently so that the lives or safety of the public might be endangered, and by any such operation so described causes the death of another person, shall be guilty of homicide by a motor vehicle while under the influence of an intoxicating substance, and shall be punished by imprisonment in the state prison for not less than five years or more than fifteen years and a fine of not more than five thousand dollars, or by imprisonment in a jail or house of correction for not less than two and a half years and a fine of not more than five thousand dollars. The sentence imposed upon such person shall not be reduced to less than two and a half years, nor suspended, nor shall any person convicted under this subsection be eligible for probation, parole, or furlough or receive any deduction from his sentence until such person has served at least two and a half years of such sentence; provided,

however, that the commissioner of correction may, on the recommendation of the warden, superintendent, or other person in charge of a correctional institution, or the administrator of a county correctional institution, grant to an offender committed under this subsection a temporary release in the custody of an officer of such institution for the following purposes only: to attend the funeral of a relative; to visit a critically ill relative; to obtain emergency medical or psychiatric services unavailable at said institution; or to engage in employment pursuant to a work release program. Prosecutions commenced under this section shall neither be continued without a finding nor placed on file.

The provisions of section eighty-seven of chapter two hundred and seventy-six, shall not apply to any person charged with a violation of this subsection.

SECTION 2. Said chapter 90 is hereby further amended by striking out subsection (b) and inserting in place thereof the section:-

(b) Whoever, upon any way or in any place to which the public has a right of access or upon any way or in any place to which members of the public have access as invitees or licensees, operates a motor vehicle with a percentage, by weight, of alcohol in their blood of eight one-hundredths or greater, or while under the influence of intoxicating liquor, or of marihuana, narcotic drugs, depressants or stimulant substances, all as defined in section one of chapter ninety-four C, or the vapors of glue, or whoever operates a motor vehicle recklessly or negligently so that the lives or safety of the public might be endangered and by any such operation causes the death of another person, shall be guilty of homicide by a motor vehicle and shall be punished by imprisonment in a jail or house of correction for not less two and one-half years, and by a fine of not less than three hundred nor more than three thousand dollars.”

The amendment was *rejected*.

Messrs. Tarr, O'Connor and Ross moved that the proposed new draft be amended by striking section 13 in its entirety. 159

The amendment was *rejected*.

Ms. Jehlen, Mr. Eldridge, Ms. Friedman, Messrs. Lewis and Montigny, Ms. Chang-Diaz and Messrs. O'Connor, Cyr and Hinds moved that the proposed new draft be amended by inserting after section 130 the following 10 sections:- 2

“SECTION 130A. Section 1 of chapter 258D of the General Laws, as so appearing, is hereby amended by striking out, in line 10, the words ‘which tend to establish’ and inserting in place thereof the following words:- consistent with.

SECTION 130B. Said section 1 of said chapter 258D, as so appearing, is hereby further amended by adding the following subsection:-

(G) A claimant shall be entitled to preliminary relief under section subsection (E) of section 5 upon an initial showing that there is a substantial likelihood of success on the merits of the case.

SECTION 130C. Section 3 of said chapter 258D, as so appearing, is hereby amended by inserting after the second sentence the following sentence:- Upon motion of the claimant, the court shall advance the proceeding for expedited discovery and a speedy trial so that it may be heard and determined with as little delay as possible.

SECTION 130D. Subsection (A) of section 5 of said chapter 258D, as so appearing, is hereby amended by striking out the fourth to sixth sentences, inclusive, and inserting in place thereof the following sentence:- The court may include, as part of its judgment against the commonwealth, an order requiring the commonwealth to provide the claimant with services that are reasonable and necessary to address any deficiencies in the individual's physical and emotional

condition and waive tuition and fees for the claimant for any educational services from a state or community college in the commonwealth including, but not limited to, the University of Massachusetts at Amherst and its satellite campuses.

SECTION 130E. Said subsection (A) of said section 5 of said chapter 258D, as so appearing, is hereby further amended by striking out, in line 43, '\$500,000', and inserting in place thereof the following figure:- \$2,000,000.

SECTION 130F. Said section 5 of said chapter 258D, as so appearing, is hereby further amended by adding the following subsection:-

(E) Upon a ruling in favor of a claimant moving for preliminary relief under subsection (G) of section 1, the court shall enter an order requiring the commonwealth to provide the claimant with services that are reasonable and necessary to address any deficiencies in the individual's physical and emotional condition and waive tuition and fees for the claimant for any educational services from a state or community college in the commonwealth including, but not limited to, the University of Massachusetts at Amherst and its satellite campuses.

SECTION 130G. Said chapter 258D is hereby further amended by striking out section 6, as so appearing, and inserting in place thereof the following section:-

Section 6. A claimant who prevails in an action under this chapter shall be entitled to an award of the costs of the litigation and reasonable attorneys' fees in an amount to be fixed by the court.

SECTION 130H. Section 7 of said chapter 258D, as so appearing, is hereby amended by adding the following 2 subsections:-

(E) A settlement agreement under this chapter may include a stipulation or agreement to an order of expungement or sealing to be entered by the court. Such stipulation or agreement shall be filed with the court and the court shall enter an order directing the expungement or sealing of those records of the claimant maintained by the department of criminal justice information services, the probation department and the sex offender registry that directly pertain to the claimant's erroneous felony conviction, including documents and other materials and any biological samples or other materials obtained from the claimant. If the settlement does not include an agreement to an order of expungement or sealing, the claimant is entitled to seek expungement or sealing from the court.

(F) For the purposes of this chapter, expungement shall mean the permanent erasure and destruction of records.

SECTION 130I. Section 8 of said chapter 258D, as so appearing, is hereby amended by striking out, in lines 2 and 6, the figure '2' and inserting in place thereof, in each instance, the following figure:- 3.

SECTION 130J. Section 9 of said chapter 258D, as so appearing, is hereby amended by striking out subsection (C)."

The amendment was adopted.

Mr. Rodrigues in the Chair, Messrs. Tarr and O'Connor, Ms. Gobi and Mr. Ross moved that the proposed new draft be amended by inserting at the end thereof the following section:-

"SECTION__ : Section 59 of chapter 10 as appearing in the 2016 official edition is hereby amended by inserting at the end thereof the following:- The commissioner of rehabilitation shall report annually not later than October 1 to the clerks of the house and senate and the house and senate committees on ways and means on the fund's activity and the balance of the fund." and

By inserting at the end thereof the following new sections:-

"SECTION__ : Section 66 of chapter 10 as appearing in the 2016 official edition is hereby amended by inserting after the words 'ways and means' the

following:- and the clerks of the house and the senate.

SECTION __: Section 24W of chapter 90 as appearing in the 2016 official edition is hereby amended by inserting after the words ‘ways and means’ the following:- and the clerks of the house and the senate.”

After remarks, the amendment was adopted.

Messrs. O'Connor, Ross, Timilty and Tarr moved that the proposed new draft be amended by inserting at the end the following section:-

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“SECTION X. The secretary of elder affairs and the secretary of the executive office of public safety and security shall report to the legislature on elder protection laws in the Commonwealth. The report shall include, but not be limited to: (i) the effectiveness of existing elder protection laws; (ii) additional legislative or regulatory changes that would further strengthen elder protection laws; and (iii) opportunities presented by the Elder Abuse Prevention and Prosecution Act, Public Law No. 115-70. The report shall be submitted with drafts of any recommended legislation, if any, to the clerks of the house of representatives and the senate, and the chairs of the joint committee on elder affairs and the joint committee on the judiciary not later than July, 2018.”

The amendment was adopted.

The President in the Chair, Ms. Spilka moved that the proposed new draft be amended by striking out section 5 and inserting in place thereof the following section:-

160

“SECTION 5. Section 36 of chapter 22C of the General Laws, as so appearing, is hereby amended by striking out, in line 22, the words ‘said board’ and inserting in place thereof the following words:- the department.”;

In section 6, by inserting after the word “information”, in line 33, the first time it appears, the following words:- “, except those transmitting expungement orders,”;

In section 182, in proposed section 57, in proposed subsection (b), by striking out clauses (iii) to (v), inclusive, and inserting in place thereof the following 2 clauses:-

“(iii) detained or released on a condition or combination of conditions under section 58A; or

(iv) temporarily detained for not more than 5 business days to permit revocation of conditional release under section 58B.”;

In said section 182, by striking out, in line 1422, the words “bail magistrate or a bail magistrate’s” and inserting in place thereof the following words:- “clerk magistrate or a clerk magistrate’s”;

In said section 182, in proposed section 57, in proposed subsection (c), by striking out paragraph (3) and inserting in place thereof the following paragraph:-

“(3) In any pending case where the defendant has been initially arraigned in the district, Boston municipal or juvenile court and is being subsequently arraigned in superior court for the same or related offenses arising out of the same incident, the superior court may conduct a new hearing under section 58 or, upon motion of the commonwealth, under section 58A; provided, however, that any order of the district, Boston municipal or juvenile court concerning the defendant issued under said section 58 or 58A shall remain in effect until the superior court issues a new order under said section 58 or 58A. In any new hearing in the superior court, the judicial officer shall consider the defendant’s compliance with any previously-ordered conditions of release or probation.

If a defendant has posted bail in the district court or Boston municipal court and has subsequently been arraigned in the superior court for the same offense, the

superior court clerk shall notify the district court or Boston municipal court clerk holding the defendant's bail of such arraignment. Upon such notification, any amount tendered by a defendant in satisfaction of a financial condition in the district court or Boston municipal court shall be carried over to satisfy a financial condition required by the superior court. The judicial officers' discretion in setting financial conditions shall not be affected by this paragraph.”;

In said section 182, by striking out, in line 1472, the words “or orally on the record”;

In said section 182, by striking out, in line 1475, the words “a the office of probation, a pretrial services agency” and inserting in place thereof the following words:- “the office of probation including pretrial services”;

In said section 182, by striking out, in line 1507, the words “or orally on the record”;

In said section 182, by striking out, in line 1542, the word “records” and inserting in place thereof the following word:- “history”;

In said section 182, by striking out, in line 1627, the word “and”, the first time it appears, and inserting in place thereof the following word:- “, which”;

In said section 182, by striking out, in line 1629, the words “it shall”;

In said section 182, by striking out, in line 1630, the word “and” and inserting in place thereof the following word:- “or”;

By inserting after section 218 the following section:-

“SECTION 218A. Section 24 of said chapter 279, as appearing in the 2016 Official Edition, is hereby amended by striking out, in lines 18, 23 and 28, the words ‘person’s eighteenth birthday’ and inserting in place thereof, in each instance, the following words:- person reaches the age of criminal majority.”; and

In section 17F, inserted by amendment number 23, by inserting after the word “prosecution” the following words:- “of that person has been terminated in favor of the defendant, until 1 year after the date of conviction; provided, however, that such person may, after receiving notice”.

The amendment was adopted.

The Ways and Means amendment, as amended, was then adopted.

The bill (Senate, No. 2185, amended) was then ordered to a third reading and read a third time.

After remarks, the question on passing the bill to be engrossed was determined by a call of the yeas and nays, at twenty-one minutes past one o'clock A.M., on motion of Ms. Spilka, as follows, to wit (yeas 27 — nays 10) **[Yeas and Nays No. 231]:**

YEAS.

Barrett, Michael J.
Boncore, Joseph A.
Brady, Michael D.
Brownsberger, William N.
Chandler, Harriette L.
Chang-Diaz, Sonia
Creem, Cynthia Stone
Cyr, Julian
DiDomenico, Sal N.
Eldridge, James B.
Forry, Linda Dorcena
Friedman, Cindy F.
Hinds, Adam G.

Keenan, John F.
Lesser, Eric P.
Lewis, Jason M.
L'Italien, Barbara A.
Lovely, Joan B.
McGee, Thomas M.
Montigny, Mark C.
Moore, Michael O.
Rodrigues, Michael J.
Rosenberg, Stanley C.
Spilka, Karen E.
Timilty, Walter F.
Welch, James T. – 27.

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Jehlen, Patricia D.

NAYS.

deMacedo, Viriato M.

O'Connor, Patrick M.

Donoghue, Eileen M.

O'Connor Ives, Kathleen

Fattman, Ryan C.

Ross, Richard J.

Gobi, Anne M.

Rush, Michael F.

Humason, Donald F., Jr.

Tarr, Bruce E. – 10.

ABSENT OR NOT VOTING.

Pacheco, Marc R. – 1.

The yeas and nays having been completed at twenty-four minutes past one o'clock A.M., the bill was passed to be engrossed [For text of Senate Bill, printed as amended, see Senate, No. 2200].

Sent to the House for concurrence.

Order Adopted.

On motion of Mr. Tarr,--

Ordered, That when the Senate adjourns today, it adjourn to meet again today at one o'clock P.M. and that the Clerk be directed to dispense with the printing of a calendar.

Time of meeting.

Adjourn In Memory of Paul D. "Red" Sullivan

The Senator from the Plymouth and Bristol, Mr. Brady, moved that when the Senate adjourns today, it do so in memory Paul D. "Red" Sullivan.

Mr. Brady in the Chair, Paul D. "Red" Sullivan of Brockton passed away at the age of 83.

A native of Roxbury and Dorchester where he played in the Boston Park Baseball League, Paul went on to serve in the U.S Army during the Korean War. Following his service in the Korean War Paul was involved with the Brockton D.P.W for over 30 years and went on to be a Plymouth County Deputy Sheriff for 18 years. Along with being a 32nd degree Mason with Baelis Sanford Lodge and a member of Shedad Grotto, Shiners Aleppo, and order of Eastern Star Scottish Rite.

Paul's love for politics lead him to be a State Committeeman for the 2nd Plymouth and Bristol, Past Chairman of the Ward 5 City Committee, Chairman of the Brockton Democratic City Committee, Plymouth County Democratic League, Trustee for the Brockton War Memorial, Brockton Park Commissioner, member of the Ireland's Own of Brockton Color Guard, named "Mr. Democrat" in 1995 and awarded a nameplate at the Brockton City Council Chambers. Paul was constantly involved in various campaigns local, state, and federal, working to put up the first of many lawn signs in Brockton for Steve Grossman's campaign for treasurer, collecting hundreds of signatures for Congressman Joseph Kennedy's campaign, and the Brockton coordinator for Senator Ted Kennedy's campaigns. In one of Paul's proudest political moments he was selected as a 1996 Electoral Alternate to the Electoral College of Massachusetts at the Democratic National Convention in Chicago and was invited to the 52nd Presidential Inauguration of President William Clinton.

Paul was the son of the late Margaret and Thomas Sullivan; husband of the late Jean L. (Robinson) Sullivan; beloved father of Paula Bonazzoli and her husband Vinnie of Swampscott (and their 2 children, Danielle and Matthew),

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Nancy Jones of Brockton (and her four children, Mark (his daughters Sammy and Ella), John (his sons Aiden, Brennan and Connor), Stacy (her daughter Isabella) and Leslie, Robert Anderson of Brockton, and the late Beverly Piscatelli (and her two daughters Tara (her son Tucker) and Daiva (her daughter McKenna and her son Braylon); brother of the late Thomas J. Sullivan Jr. and Edward J. Sullivan; and an uncle of many.

The President in the Chair, accordingly, as a mark of respect in memory of Jafet Robles Torres and Paul D. “Red” Sullivan, at twenty-seven minutes past one o’clock A.M., on motion of Mr. Tarr, the Senate adjourned to meet again today at one o’clock P.M.