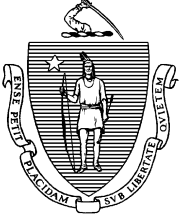


Senate, No. 2583

[Senate, July 30, 2010-- Report of the committee of conference on the disagreeing votes of the two branches, with reference to the House amendments to the Senate Bill reforming the administrative procedures relative to criminal offender record information and pre- and post-trial supervised release (Senate, No. 2220) (*amended by the House* by striking out all after the enacting clause and inserting in place thereof the text of House document numbered 4712; and by striking out the title and inserting in place thereof the following title: “An Act reforming the administration procedures relative to criminal offender record information”)]



The Commonwealth of Massachusetts

IN THE YEAR OF TWO THOUSAND AND TEN

AN ACT REFORMING THE ADMINISTRATIVE PROCEDURES RELATIVE TO CRIMINAL OFFENDER RECORD INFORMATION AND PRE- AND POST-TRIAL SUPERVISED RELEASE

Be it enacted by the Senate and House of Representatives in General Court assembled,

And by the authority of the same, as follows:

1 SECTION 1. Section 116C of chapter 6 of the General Laws, as appearing in the 2008 Official
2 Edition, is hereby amended by striking out, in lines 16 and 31, the words ‘criminal history systems
3 board’ and inserting in place thereof the following words:- department of criminal justice information
4 services.

5 SECTION 2. Section 167 of said chapter 6 of the General Laws, as so appearing, is hereby
6 amended by striking out, in line 2, the words “one hundred and sixty-eight to one hundred seventy-eight”
7 and inserting in place thereof the following words:- 168 to 178L, inclusive.

8 SECTION 3. Said section 167 of said chapter 6, as so appearing, is hereby further amended by
9 inserting before the definition of “Criminal justice agencies” the following 3 definitions:-

10 “All available criminal offender record information”, adult and youthful offender convictions,
11 non-convictions and pending criminal court appearances, but excluding criminal records sealed under
12 section 34 of chapter 94C or sections 100A to 100C, inclusive, of chapter 276 or the existence of such
13 records.

14 “Board”, the criminal record review board established under section 168.

15 “Commissioner”, the commissioner of criminal justice information services under section 167A.

16 SECTION 4. Said section 167 of said chapter 6, as so appearing, is hereby further amended by
17 inserting after the definition of “Criminal justice agencies” the following 2 definitions:-

18 “Criminal offender record information”, records and data in any communicable form compiled
19 by a Massachusetts criminal justice agency which concern an identifiable individual and relate to the
20 nature or disposition of a criminal charge, an arrest, a pre-trial proceeding, other judicial proceedings,
21 sentencing, incarceration, rehabilitation, or release. Such information shall be restricted to that recorded
22 as the result of the initiation of criminal proceedings or any consequent proceedings related thereto.

23 Criminal offender record information shall not include evaluative information, statistical and analytical
24 reports and files in which individuals are not directly or indirectly identifiable, or intelligence
25 information. Criminal offender record information shall be limited to information concerning persons
26 who have attained the age of 17 and shall not include any information concerning criminal offenses or
27 acts of delinquency committed by any person before he attained the age of 17; provided, however, that if
28 a person under the age of 17 is adjudicated as an adult, information relating to such criminal offense
29 shall be criminal offender record information. Criminal offender record information shall not include
30 information concerning any offenses which are not punishable by incarceration.

31 “Department”, the department of criminal justice information services established pursuant to
32 section 167A.

33 SECTION 5. Said section 167 of said chapter 6, as so appearing, is hereby further amended by
34 inserting after the definition of “Evaluative information” the following definition:-

35 “Executive office”, the executive office of public safety and security.

36 SECTION 6. Said section 167 of said chapter 6, as so appearing, is hereby further amended by
37 inserting after the definition of “Interstate systems” the following definition:-

38 “Person”, a natural person, corporation, association, partnership or other legal entity acting as a
39 decision maker on an application or interacting directly with a subject.

40 SECTION 7. Said section 167 of said chapter 6, as so appearing, is hereby further amended by
41 inserting after the definition of “Purge” the following 4 definitions:-

42 “Requestor”, a person, other than a criminal justice agency, submitting a request for criminal
43 offender record information to the department.

44 ‘Secretary’, the secretary of public safety and security.

45 “Self-audit”, an inquiry made by a subject or his legally authorized designee to obtain a log of all
46 queries to the department by any individual or entity, other than a criminal justice agency, for the
47 subject’s criminal offender record information, but excluding any information relative to any query
48 conducted by a criminal justice agency.

49 “Subject”, an individual for whom a request for criminal offender record information is
50 submitted.

51 SECTION 8. Said chapter 6 is hereby further amended by inserting after section 167 the
52 following section:-

53 Section 167A. (a) There shall be within the executive office a department of criminal justice
54 information services which shall be under the supervision and control of a commissioner. The
55 commissioner shall be appointed by the secretary and shall be a person of skill and experience in the
56 field of criminal justice. The commissioner shall be the executive and administrative head of the
57 department and shall be responsible for administering and enforcing the provisions of law relative to the
58 department and to each administrative unit thereof. The commissioner shall serve at the pleasure of the
59 secretary, shall receive such salary as may be determined by law and shall devote his full time to the
60 duties of his office. In the case of an absence or vacancy in the office of the commissioner, or in the case
61 of disability as determined by the secretary, the secretary may designate an acting commissioner to serve
62 as commissioner until the vacancy is filled or the absence or disability ceases. The acting commissioner
63 shall have all the powers and duties of the commissioner and shall have similar qualifications as the
64 commissioner. The commissioner shall not be subject to the provisions of chapter 31 or section 9A of
65 chapter 30.

66 (b) The commissioner may appoint such persons, including experts and consultants, as he shall
67 deem necessary to perform the functions of the department. The provisions of chapter 31 and section 9A
68 of chapter 30 shall not apply to any person holding any such appointment. Every person so appointed to
69 any position in the department shall have experience and skill in the field of such position. So far as
70 practicable in the judgment of the commissioner, appointments to such positions in the department shall
71 be made by promoting or transferring employees of the commonwealth serving in positions which are
72 classified under chapter 31 and such appointments shall at all times reflect the professional needs of the
73 administrative unit affected. If an employee serving in a position which is classified under chapter 31 or
74 in which an employee has tenure by reason of said section 9A of said chapter 30 shall be appointed to a
75 position within the department which is not subject to said chapter 31, the employee shall, upon
76 termination of his service in such position, be restored to the position which he held immediately prior to
77 such appointment; provided, however, that his service in such position shall be determined by the civil

78 service commission in accordance with the standards applied by said commission in administering said
79 chapter 31. Such restoration shall be made without impairment of civil service status or tenure under said
80 section 9A of said chapter 30 and without loss of seniority, retirement or other rights to which
81 uninterrupted service in such prior position would have entitled the employee. During the period of such
82 appointment, each person so appointed from a position in the classified civil service shall be eligible to
83 take any competitive promotional examination for which he would otherwise have been eligible.

84 (c) The department shall provide for and exercise control over the installation, operation and
85 maintenance of data processing and data communication systems, hereinafter called the public safety
86 information system, which shall include, but shall not be limited to, the criminal justice information
87 system. The system shall be designed to ensure the prompt collection, exchange, dissemination and
88 distribution of such public safety information as may be necessary for the efficient administration and
89 operation of criminal justice agencies and to connect such systems directly or indirectly with similar
90 systems in this or other states. The department shall be responsible for all data processing, management
91 of the public safety information system, supervision of all personnel associated with the system and the
92 appointment of all such personnel.

93 (d) The department shall provide access to the public safety information system to criminal
94 justice agencies, as defined in section 167. The department may, subject to chapter 30A, hear and
95 investigate complaints pertaining to misuse of the public safety information system and issue sanctions
96 and penalties for misuse. The commissioner may refer complaints for further review to the criminal
97 record review board, any state or federal agency or prosecuting authority.

98 (e) The department may, in consultation with the board, adopt rules and regulations for: (i) the
99 implementation, administration and enforcement of this section; (ii) the control, installation and
100 operation of the public safety information system accessed and utilized by criminal justice agencies; and
101 the collection, storage, access, dissemination, content, organization and use of criminal offender record

102 information by requestors; provided, however, any consumer reporting agency accessing the criminal
103 offender record information from the department shall be deemed in compliance with any rule or
104 regulation promulgated hereunder so long as its applicable policies are in compliance with the state and
105 federal Fair Credit Reporting Acts.

106 (f) The department shall ensure that no backlog of criminal offender records requests develop
107 that impedes the processing of necessary information related to employment, housing and other essential
108 activities and services. If a backlog develops, the commissioner shall report the nature of the backlog and
109 its impact on services to the secretary of public safety and shall take action to remediate the cause of the
110 backlog.

111 (g) The department may enter into contracts and agreements with, and accept gifts, grants,
112 contributions and bequests of funds from, any department, agency or subdivision of federal, state, county
113 or municipal government and any individual, foundation, corporation, association, or public authority for
114 the purpose of providing or receiving services, facilities or staff assistance in connection with its work.
115 Such funds shall be deposited with the state treasurer and may be expended by the department in
116 accordance with the conditions of the gift, grant, contribution or bequest, without specific appropriation.

117 SECTION 9. Section 168 of said chapter 6, as appearing in the 2008 Official Edition, is hereby
118 amended by striking out the first paragraph and inserting in place thereof the following paragraph:-

119 There shall be a criminal history systems board, hereinafter called the board, consisting of the
120 following persons: the secretary of public safety and security, who shall serve as chair, the secretary of
121 labor and workforce development, the attorney general, the chair of the Massachusetts sentencing
122 commission, the chief counsel for the committee for public counsel services, the chair of the parole
123 board, the commissioner of correction, the commissioner of probation, the commissioner of youth
124 services and the colonel of state police, or their designees, all of whom shall serve ex officio, and 10
125 persons to be appointed by the governor for a term of 3 years, 1 of whom shall represent the

126 Massachusetts District Attorneys Association, 1 of whom shall represent the Massachusetts Sheriffs'
127 Association, 1 of whom shall represent the Massachusetts Chiefs of Police Association, 1 of whom shall
128 represent private users of criminal offender record information, 1 of whom shall be a victim of crime, 1
129 of whom shall be a provider of victim services, 2 of whom shall have experience in the areas of
130 workforce development, ex-offender rehabilitation or economic development and 2 of whom shall be
131 persons who have experience in issues relating to personal privacy. Upon the expiration of the term of
132 any appointive member, the member's successor shall be appointed in a like manner for a term of 3
133 years.

134 SECTION 10. Said section 168 of said chapter 6, as so appearing, is hereby further amended by
135 striking out, in lines 50 and 51, the words "five hundred dollars for each willful violation thereof, after
136 notice and hearing as provided by applicable law" and inserting in place thereof the following words:-
137 \$1,000 for a knowing violation thereof, \$2,500 for a second knowing violation, and \$5,000 for a third or
138 subsequent knowing violation, after notice and hearing as provided by applicable law; provided,
139 however, that the board shall not issue any orders, sanctions or fines against a law enforcement officer
140 who, in good faith, obtains or seeks to obtain or communicates or seeks to communicate criminal
141 offender record information in the furtherance of the officer's official duties.

142 SECTION 11. Said section 168 of said chapter 6, as so appearing, is hereby further amended by
143 striking out the fourth and sixth paragraphs.

144 SECTION 12. Said chapter 6, as so appearing, is hereby further amended by striking out section
145 168 and inserting in place thereof the following section:-

146 Section 168. (a) There shall be a criminal record review board within the department of criminal
147 justice information services consisting of the following persons: the secretary of public safety and
148 security, who shall serve as chair, the attorney general, the secretary of labor and workforce
149 development, the chair of the Massachusetts sentencing commission, the chief counsel for the committee

150 for public counsel services, the chair of the parole board, the commissioner of correction, the
151 commissioner of probation, the commissioner of youth services, the colonel of state police and the
152 presidents of the Massachusetts District Attorneys Association, the Massachusetts Sheriffs' Association
153 and the Massachusetts Chiefs of Police Association, or their designees, all of whom shall serve ex
154 officio, and 5 persons to be appointed by the governor, 1 of whom shall represent private users of
155 criminal offender record information, 1 of whom shall be a victim of crime, 1 of whom shall have
156 experience in the areas of workforce development or ex-offender rehabilitation and 2 of whom shall be
157 persons who have experience in issues relating to personal privacy. Upon the expiration of the term of
158 any appointive member, his successor shall be appointed in a like manner for a term of 3 years.

159 The chair shall hold regular meetings, 1 of which shall be an annual meeting, and shall notify all
160 board members of the time and place of all meetings. Special meetings may be called at any time by a
161 majority of the board members and shall be called by the chair upon written application of 9 or more
162 members. Members of the board shall serve without compensation but shall be reimbursed for their
163 expenses actually and necessarily incurred in the discharge of their official duties.

164 (b) The board may hear complaints and investigate any incidents alleging that a person that has
165 requested or received criminal offender record information has failed to provide the subject with the
166 criminal offender record information in his possession prior to questioning the subject about his criminal
167 history in connection with a decision regarding employment, volunteer opportunities, housing or
168 professional licensing or in connection with an adverse decision on such an application on the basis of
169 the criminal offender record information. The board may hear complaints and investigate any incidents
170 alleging any other violation of sections 168 to 178A, inclusive, or violation of board rules and
171 regulations. The board may charge and collect a fee, established by the secretary, as a condition for filing
172 a complaint, which fee may be waived upon a finding of indigency. Any complaint filed with the board
173 shall be supported by a written declaration by the complainant that it is made under the penalties of
174 perjury. An answer filed by a responding party shall be signed under the penalties of perjury by an

175 individual with personal knowledge of its contents. In conducting investigations and hearings, the board,
176 or department staff designated by the board, shall have the power to summons witnesses, compel their
177 attendance and testimony, require the production of books, records and documents, administer oaths and
178 have access to all criminal offender record information. The chair of the board may appoint a member,
179 panel of 3 board members or a hearing officer to conduct hearings, according to the standard rules of
180 adjudicatory procedure or other rules which the department may adopt, in consultation with the board.
181 Following review of a complaint by a member, panel or hearing officer, the board, by a vote of two-
182 thirds of the members present and voting, shall issue a ruling as to the findings of the board. In
183 accordance with its findings, the board may issue orders and sanctions enforcing this section and the
184 board's rules and regulations, including, but not limited to, a remand for additional fact finding, the
185 imposition of civil fines payable to the commonwealth not to exceed \$5,000 for each knowing violation
186 and conditions on continued access to criminal offender record information or revocation of access;
187 provided, however, that the board shall not issue any orders, sanctions or fines against a law enforcement
188 officer who, in good faith, obtains or seeks to obtain, or communicates or seeks to communicate criminal
189 offender record information in the furtherance of the officer's official duties. The board may at any time
190 refer a complaint for criminal prosecution under section 178 of this chapter.

191 The board shall make an annual report of the volume and disposition of complaints without
192 identifying data on any complainant or other information that would include criminal offender record
193 information relative to any person reviewed by the board to the governor and file a copy thereof with the
194 state secretary, the attorney general, the clerk of the house of representatives and the clerk of the senate.
195 The annual report shall also be available to the public upon request.

196 SECTION 13. Section 168A of said chapter 6, as so appearing, is hereby amended by striking
197 out, in lines 3 and 4, the words "criminal history systems board" and inserting in place thereof the
198 following word:- department.

199 SECTION 14. Section 168B of said chapter 6, as so appearing, is hereby amended by striking
200 out, in lines 1 and 2, the words ‘criminal history systems board’ and inserting in place thereof the
201 following words:- department.

202 SECTION 15. Section 168C of said chapter 6, as so appearing, is hereby amended by striking
203 out, in lines 4 and 5, the words ‘criminal history systems board’ and inserting in place thereof the
204 following words:- department.

205 SECTION 16. Section 171 of said chapter 6, as so appearing, is hereby amended by striking out, in lines
206 1 and 10, the word ”board” and inserting in place thereof, in each instance, the following word:-
207 department.

208 SECTION 17. Section 171 of said chapter 6, as so appearing, is hereby amended by striking out,
209 in lines 3 to 7, inclusive, the words “(b) assuring the prompt and complete purging of criminal record
210 information, insofar as such purging is required by any statute or administrative regulation, by the order
211 of any court of competent jurisdiction, or to correct any errors shown to exist in such information; and
212 (c) ” and inserting in place thereof the following words:- ;and (b).

213 SECTION 18. Said section 171 of said chapter 6, as so appearing, is hereby further amended by
214 striking out, in lines 35to48, inclusive, the words “Any individual aggrieved by an agency’s decision
215 denying access to evaluative information may appeal the denial in writing within thirty days thereafter to
216 the board or to a three member panel thereof, as the board may determine, and the board or such panel or
217 any court under section one hundred and seventy-seven shall have access to any certificate. The
218 adoption of such regulations by each criminal justice agency shall be subject to the approval of the
219 board, and shall be promulgated within time limits set by the board. If any criminal justice agency
220 holding evaluative information fails to promulgate such regulations, then the board shall promulgate
221 such regulations with respect to that criminal justice agency. Evaluative information shall be subject to

222 the provisions of section one hundred and seventy-two and section one hundred and seventy-eight, as if
223 such information was criminal offender record information.”

224 SECTION 19. Said chapter 6, as so appearing, is hereby further amended by inserting after
225 section 171 the following section:-

226 Section 171A. In connection with any decision regarding employment, volunteer opportunities,
227 housing or professional licensing, a person in possession of an applicant’s criminal offender record
228 information shall provide the applicant with the criminal history record in the person’s possession,
229 whether obtained from the department or any other source prior to questioning the applicant about his
230 criminal history. If the person makes a decision adverse to the applicant on the basis of his criminal
231 history, the person shall also provide the applicant with the criminal history record in the person’s
232 possession, whether obtained from the department or any other source; provided, however, that if the
233 person has provided the applicant with a copy of his criminal offender record information prior to
234 questioning the person is not required to provide the information a second time in connection with an
235 adverse decision based on this information.

236 Failure to provide such criminal history information to an applicant pursuant to this section may
237 subject the offending person to investigation, hearing and sanctions by the board. Nothing in this section
238 shall be construed to prohibit a person from making an adverse decision on the basis of an individual’s
239 criminal history or to provide or permit a claim of an unlawful practice under chapter 151B or an
240 independent cause of action in a court of civil jurisdiction for a claim arising out of an adverse decision
241 based on criminal history except as otherwise provided under chapter 151B.

242 A person who annually conducts 5 or more criminal background investigations, whether
243 criminal offender record information is obtained from the department or any other source, shall maintain
244 a written criminal offender record information policy providing that, in addition to any obligations
245 required by the commissioner by regulation, it will: (i) notify the applicant of the potential adverse

246 decision based on the criminal offender record information; (ii) provide a copy of the criminal offender
247 record information and the policy to the applicant; and (iii) provide information concerning the process
248 for correcting a criminal record.

249 SECTION 20. Section 172 of said chapter 6, as appearing in the 2008 Official Edition, is hereby
250 amended by inserting after the word “privacy”, in lines 14 and 40, the following words, in each
251 instance:- and the importance and value of successful reintegration of ex-offenders.

252 SECTION 21. Said chapter 6, as so appearing, is hereby further amended by striking out section
253 172 and inserting in its place thereof the following section:-

254 Section 172. (a) The department shall maintain criminal offender record information in a
255 database, which shall exist in an electronic format and be accessible via the world wide web. Except as
256 provided otherwise in this chapter, access to the database shall be limited as follows:

257 (1) Criminal justice agencies may obtain all criminal offender record information, including
258 sealed records, for the actual performance of their criminal justice duties. Licensing authorities, as
259 defined in section 121 of chapter 140, may obtain all criminal offender record information, including
260 sealed records, for the purpose of firearms licensing in accordance with sections 121 to 131P, inclusive,
261 of chapter 140. The criminal record review board may obtain all criminal offender record information,
262 including sealed records, for the actual performance of its duties.

263 (2) A requestor authorized or required by statute, regulation or accreditation requirement to
264 obtain criminal offender record information other than that available under clause (3) may obtain such
265 information to the extent and for the purposes authorized to comply with said statute, regulation or
266 accreditation requirement.

267 (3) A requestor or the requestor’s legally designated representative may obtain criminal
268 offender record information for any of the following purposes: (i) to evaluate current and prospective

269 employees including full-time, part-time, contract, internship employees or volunteers; (ii) to evaluate
270 applicants for rental or lease of housing; (iii) to evaluate volunteers for services; and (iv) to evaluate
271 applicants for a professional or occupational license issued by a state or municipal entity. Criminal
272 offender record information made available under this section shall be limited to the following: (i) felony
273 convictions for 10 years following the disposition thereof, including termination of any period of
274 incarceration or custody, (ii) misdemeanor convictions for 5 years following the disposition thereof,
275 including termination of any period of incarceration or custody , and (iii) pending criminal charges,
276 which shall include cases that have been continued without a finding until such time as the case is
277 dismissed pursuant to section 18 of chapter 278; provided, however, that prior misdemeanor and felony
278 conviction records shall be available for the entire period that the subject's last available conviction
279 record is available under this section; and provided further, that a violation of section 7 of chapter 209A
280 and a violation of section 9 of chapter 258E shall be treated as a felony for purposes of this section.

281 (4) Any member of the general public may upon written request to the department and in
282 accordance with regulations established by the department obtain the following criminal offender record
283 information on a subject: (i) convictions for any felony punishable by a term of imprisonment of 5 years
284 or more; (ii) information indicating custody status and placement within the correction system for an
285 individual who has been convicted of any offense and sentenced to any term of imprisonment, and at the
286 time of the request: is serving a sentence of probation or incarceration, or is under the custody of the
287 parole board; (iii) felony convictions for 2 years following the disposition thereof, including any period
288 of incarceration or custody; and (iv) misdemeanor convictions for 1 year following the disposition
289 thereof, including any period of incarceration or custody.

290 (5) A subject who seeks to obtain his own criminal offender record information and the subject's
291 legally designated representative may obtain all criminal offender record information from the
292 department pertaining to the subject under section 175.

293 (6) The commissioner may provide access to criminal offender record information to persons
294 other than those entitled to obtain access under this section, if the commissioner finds that such
295 dissemination to such requestor serves the public interest. Upon such a finding, the commissioner shall
296 also determine the extent of access to criminal offender record information necessary to sustain the
297 public interest. The commissioner shall make an annual report to the governor and file a copy of the
298 report with the state secretary, the attorney general, the clerk of the house of representatives and the clerk
299 of the senate documenting all access provided under this paragraph, without inclusion of identifying data
300 on a subject. The annual report shall be available to the public upon request.

301 (7) Housing authorities operating pursuant to chapter 121B may obtain from the department
302 conviction and pending criminal offender record information for the sole purpose of evaluating
303 applications for housing owned by such housing authority, in order to further the protection and well-
304 being of tenants of such housing authorities.

305 (8) The department of telecommunications and energy may obtain from the department all
306 available criminal offender record information for the purpose of screening applicants for motor bus
307 driver certificates and applicants who regularly transport school age children or students under chapter
308 71B in the course of their job duties. The department of public utilities shall not disseminate such
309 information for any purpose other than to further the protection of children.

310 (9) The department of children and families and the department of youth services may obtain
311 from the department data permitted under section 172B.

312 (10) A person providing services in a home or community-based setting for any elderly person
313 or disabled person or who will have direct or indirect contact with such elderly or disabled person or
314 access to such person's files may obtain from the department data permitted under section 172C.

315 (11) The IV-D agency as set forth in chapter 119A may obtain from the department data
316 permitted under section 172D and section 14 of chapter 119A.

317 (12) A long-term care facility, as defined in section 72W of chapter 111, an assisted living
318 residence as defined in section 1 of chapter 19D, and any continuing care facility as defined in section 1
319 of chapter 40D may obtain from the department data permitted under section 172E.

320 (13) The department of early education and care may obtain from the department data permitted
321 under section 172F.

322 (14) Operators of camps for children may obtain from the department data permitted under
323 section 172G.

324 (15) An entity or organization primarily engaged in providing activities or programs to children
325 18 years of age or younger that accepts volunteers may obtain from the department data permitted under
326 section 172H.

327 (16) School committees or superintendents that have contracted with taxicab companies to
328 provide for the transportation of pupils pursuant to section 7A of chapter 71 may obtain from the
329 department data permitted under section 172I.

330 (17) The commissioner of banks may obtain from the department data permitted under section
331 172J, section 3 of chapter 255E and section 3 of chapter 255F.

332 (18) A children's camp or school that plans to employ a person or accept a volunteer for a
333 climbing wall or challenge course program may obtain from the department data permitted under section
334 172K.

335 (19) A victim of a crime, a witness or a family member of a homicide victim, as defined in
336 section 1 of chapter 258B, may obtain from the department data permitted under section 178A.

337 (20) The motor vehicle insurance merit rating board may obtain from the department data
338 permitted under section 183.

339 (21) The department of early education and care, or its designee, may obtain from the
340 department data permitted under sections 6 and 8 of chapter 15D.

341 (22) The district attorney may obtain from the department data permitted under section 2A of
342 chapter 38.

343 (23) A school committee and superintendent of any city, town or regional school district and the
344 principal, by whatever title the position be known, of a public or accredited private school of any city,
345 town or regional school district, may obtain from the department data permitted under section 38R of
346 chapter 71.

347 (24) The Massachusetts Port Authority may obtain from the department data permitted under
348 section 61 of chapter 90.

349 (25) The department of social services may obtain from the department data permitted under
350 section 26A of chapter 119, section 3B of chapter 210 (26) The state racing commission may obtain
351 from the department data permitted under section 9A of chapter 128A.

352 (27) A court, office of jury commissioner, and the clerk of court or assistant clerk may obtain
353 from the department data permitted under section 33 of chapter 234A.

354 (28) The pension fraud unit within the public employee retirement administration commission
355 may obtain from the department data permitted under section 1 of chapter 338 of the acts of 1990.

356 (29) Special education school programs approved under chapter 71B may obtain from the
357 department all criminal offender record information provided for in paragraph (3) of subsection (a).

358 (30) The department shall configure the database to allow for the exchange, dissemination,
359 distribution and direct connection of the criminal record information system to criminal record
360 information systems in other states and relevant federal agencies including the Federal Bureau of
361 Investigation and Immigration and Customs Enforcement that utilize fingerprint or iris scanning and
362 similar databases.

363 (b) Notwithstanding the foregoing, convictions for murder, voluntary manslaughter, involuntary
364 manslaughter, and sex offenses as defined in section 178C of chapter 6 that are punishable by a term of
365 incarceration in state prison shall remain in the database permanently and shall be available to all

366 requestors listed in paragraphs (1) through (3), inclusive, of subsection (a) unless sealed under section
367 100A of chapter 276.

368 (c) The department shall specify the information that a requestor shall provide to query the
369 database, including, but not limited to, the subject's name, date of birth and the last 4 digits of the
370 subject's social security number; provided, however, that a member of the public accessing information
371 under paragraph (4) of subsection (a) shall not be required to provide the last four digits of the subject's
372 social security number. To obtain criminal offender record information concerning a subject pursuant to
373 subsection (a)(2) or (a)(3), the requestor must certify under the penalties of perjury that the requestor is
374 an authorized designee of a qualifying entity, that the request is for a purpose authorized under
375 subsection (a)(2) or (a)(3), and that the subject has signed an acknowledgement form authorizing the
376 requestor to obtain the subject's criminal offender record information. The requestor must also certify
377 that he has verified the identity of the subject by reviewing a form of government-issued identification.
378 Each requestor shall maintain acknowledgement forms for a period of 1 year from the date the request is
379 submitted. Such forms shall be subject to audit by the department. The department may establish rules
380 or regulations imposing other requirements or affirmative obligations upon requestors as a condition of
381 obtaining access to the database; provided, however, that such additional rules and regulations are not in
382 conflict with the state and federal Fair Credit Reporting Acts.

383 In connection with any decision regarding employment, volunteer opportunities, housing or
384 professional licensing, a person in possession of an applicant's criminal offender record information
385 shall provide the applicant with the criminal history record in the person's possession, whether obtained
386 from the department or any other source, (a) prior to questioning the applicant about his criminal history
387 and (b) if the person makes a decision adverse to the applicant on the basis of his criminal history;
388 provided, however, that if the person has provided the applicant with a copy of his criminal offender
389 record information prior to questioning the person is not required to provide the information a second
390 time in connection with an adverse decision based on this information. Failure to provide such criminal

391 history information to the individual in accordance with this section may subject the offending person to
392 investigation, hearing and sanctions by the board.

393 (d) Except as authorized by this section, it shall be unlawful to request or require a person to
394 provide a copy of his criminal offender record information. Violation of this subsection is punishable by
395 the penalties set forth in section 178.

396 (e) No employer or person relying on volunteers shall be liable for negligent hiring practices by
397 reason of relying solely on criminal offender record information received from the department and not
398 performing additional criminal history background checks, unless required to do so by law; provided,
399 however, that the employer made an employment decision within 90 days of obtaining the criminal
400 offender record information and maintained and followed policies and procedures for verification of the
401 subject's identifying information consistent with the requirements set forth in this section and in the
402 department's regulations.

403 No employer shall be liable for discriminatory employment practices for the failure to hire a
404 person on the basis of criminal offender record information that contains erroneous information
405 requested and received from the department, if the employer would not have been liable if the
406 information had been accurate; provided, however, that the employer made an employment decision
407 within 90 days of obtaining the criminal offender record information and maintained and followed
408 policies and procedures for verification of the individual's information consistent with the requirements
409 set forth in this section and the department's regulations.

410 Neither the board nor the department shall be liable in any civil or criminal action by reason of
411 any criminal offender record information or self-audit log that is disseminated by the board, including
412 any information that is false, inaccurate or incorrect because it was erroneously entered by the court or
413 the office of the commissioner of probation.

414 (f) A requestor shall not disseminate criminal offender record information except upon request
415 by a subject; provided, however, that a requestor may share criminal offender record information with
416 individuals within the requesting entity that have a need to know the contents of the criminal offender
417 record information to serve the purpose for which the information was obtained; and provided further,
418 that upon request, a requestor shall share criminal offender record information with the government
419 entities charged with overseeing, supervising, or regulating them. A requestor shall maintain a
420 secondary dissemination log for a period of one year following the dissemination of a subject's criminal
421 offender record information. The log shall include the following information: (i) name of subject; (ii)
422 date of birth of the subject; (iii) date of the dissemination; (iv) name of person to whom it was
423 disseminated; and (v) the purpose for the dissemination. The secondary dissemination log shall be
424 subject to audit by the department.

425 Unless otherwise provided by law or court order, a requestor shall not maintain a copy,
426 electronic or otherwise, of requested criminal offender record information obtained from the department
427 for more than 7 years from the last date of employment, volunteer service or residency or from the date
428 of the final decision of the requestor regarding the subject.

429 (g) The department shall maintain a log of all queries that shall indicate the name of the
430 requestor, the name of the subject, the date of the query, and the certified purpose of the query. A self-
431 audit may be requested for no fee once every 90 days. The commissioner may impose a fee in an
432 amount as determined by the secretary of public safety and security, for self-audit requests made more
433 than once every 90 days. Upon request, the commissioner may transmit the self-audit electronically.
434 Further, if funding is available and technology reasonably allows, the department shall establish a
435 mechanism that will notify a subject, or an advocate or agent designated by the subject, by electronic
436 mail or other communication mechanism whenever a query is made regarding the subject. The self-audit
437 log and query log shall not be considered a public record.

438 (h) Notwithstanding the provisions of this section, the motor vehicle insurance merit rating board
439 may disseminate information concerning convictions of automobile law violations as defined in section
440 1 of chapter 90C, or information concerning a charge of operating a motor vehicle while under the
441 influence of intoxicating liquor that results in assignment to a driver alcohol program as described in
442 section 24D of chapter 90, directly or indirectly, to an insurance company doing motor vehicle insurance
443 business within the commonwealth, or to such insurance company's agents, independent contractors or
444 policyholders to be used exclusively for motor vehicle insurance purposes.

445 (i) Notwithstanding any other provisions of this section, information indicating custody status
446 and placement within the correction system shall be available to any person upon request; provided,
447 however that no information shall be disclosed that identifies family members, friends, medical or
448 psychological history, or any other personal information unless such information is directly relevant to
449 such release or custody placement decision, and no information shall be provided if its release would
450 violate any other provisions of state or federal law.

451 (j) The parole board, subject to sections 130 and 154 of chapter 127, the department of
452 correction, a county correctional authority or a probation officer with the approval of a justice of the
453 appropriate division of the trial court may, in its discretion, make available a summary, which may
454 include references to criminal offender record information or evaluative information, concerning a
455 decision to release an individual on a permanent or temporary basis, to deny such release, or to change
456 the individual's custody status.

457 (k) Notwithstanding any other provision of this section or any other general or special law to the
458 contrary, members of the public who are in fear of an offender may obtain from the department advance
459 notification of the temporary or permanent release of an offender from custody, including but not limited
460 to expiration of a sentence, furlough, parole, work release or educational release. An individual seeking

461 access to advance notification shall verify by a written declaration under the penalties of perjury that the
462 individual is in fear of the offender and that advance notification is warranted for physical safety reasons.

463 (l) Any individual or entity that receives or obtains criminal offender record information from
464 any source in violation of sections 168 through 175 of this chapter, whether directly or through an
465 intermediary, shall not collect, store, disseminate, or use such criminal offender record information in
466 any manner or for any purpose.

467 (m) Notwithstanding this section or chapter 66A, the following shall be public records: (1)
468 police daily logs, arrest registers, or other similar records compiled chronologically; (2) chronologically
469 maintained court records of public judicial proceedings; (3) published records of public court or
470 administrative proceedings, and of public judicial administrative or legislative proceedings; and (4)
471 decisions of the parole board as provided in section 130 of chapter 127.

472 (n) The commissioner, upon the advice of the board, shall promulgate rules and regulations to
473 carry out the provisions of this section.

474 SECTION 22. Said chapter 6, as appearing in the 2008 Official Edition, is hereby further
475 amended by striking out section 172A and inserting in place thereof the following section:-

476 Section 172A. The commissioner shall assess a fee for each request for criminal offender record
477 information or self-audit, according to a fee structure established by the secretary of public safety and
478 security. No fee shall be assessed for a request made by a victim of crime or a witness or a family
479 member of a homicide victim, all as defined in section 1 of chapter 258B, or for a request made by any
480 local, state or federal government entity. The commissioner shall waive the fee or a portion of the fee
481 from such other persons as provided in the department's rules and regulations. The department is
482 authorized to enter into contracts and agreements for reduced or bulk fees for requestors who make
483 extensive use of the database.

484 The department shall be authorized, subject to appropriation, to retain a portion of the revenues
485 received by the commonwealth under this section for the following purposes: to assist ex-offenders in
486 obtaining and maintaining employment, including, but not limited to, workforce development training
487 and other applicable training programs, training and auditing requestors described in subsection (a) of
488 section 172, providing education and assistance regarding the correction of criminal records, including
489 but not limited to, training judges, providing the necessary information to employers and other
490 applicable persons in possession of an applicant’s criminal offender record information, and to operate
491 and maintain the public safety information system and the criminal records review board.

492 SECTION 23. Said chapter 6, as so appearing, is hereby further amended by inserting after
493 section 172B the following section:-

494 Section 172B 1/2. Municipalities may, by local ordinance, require applicants for licenses in
495 specified occupations to submit a full set of fingerprints for the purpose of conducting a state and
496 national criminal history records check pursuant to sections 168 and 172 and 28 U.S.C. §534.
497 Fingerprint submissions may be submitted by the licensing authority to the identification unit within the
498 department of state police through the criminal history systems board, or its successor, for a state
499 criminal records check and to the Federal Bureau of Investigation for a national criminal records check.

500 Municipalities may, by local ordinance, establish the appropriate fee charged to applicants for
501 administering a fingerprinting system. For the purposes of section 2LLL of chapter 29, \$30 of the fee
502 shall be deposited into the Firearms Fingerprint Identity Verification Trust Fund and the remainder of the
503 fee may be retained by the licensing authority for costs associated with the administration of the system.

504 SECTION 24. Section 172C of said chapter 6, as so appearing, is hereby amended by striking
505 out, in lines 30 and 31, the words “criminal history systems board” and inserting in place thereof the
506 following word:- department.

507 SECTION 25. Said chapter 6 is hereby further amended by striking out section 172E, as so
508 appearing, and inserting in place thereof the following section:-

509 Section 172E. Notwithstanding any provision of section 172 to the contrary, criminal offender
510 record information shall be available to a long term care facility, as defined in section 72W of chapter
511 111, an assisted living residence as defined in section 1 of chapter 19D, and to any continuing care
512 facility as defined in section 1 of chapter 40D, for the purpose of evaluating applicants under final
513 consideration as, or an individual currently working as, an employee, a volunteer or a provider of care,
514 treatment, education, training, transportation, delivery of meals, instruction, counseling, supervision,
515 recreation or other services for an elderly or disabled person or for the purpose of evaluating applicants
516 under final consideration for, or an individual currently working in, a position involving direct or indirect
517 contact with such elderly or disabled persons or access to such persons' personal information. A long-
518 term care facility, assisted living residence or continuing care facility shall obtain all available criminal
519 offender record information from the department on such applicant or current staff member. A long-term
520 care facility, assisted living residence or continuing care facility which obtains information under this
521 section shall prohibit the dissemination of such information for any purpose other than to further the
522 protection of the elderly or the disabled; provided, further that dissemination among and between long
523 term care facilities, assisted living residences or continuing care facilities shall be permitted.

524 SECTION 26. Section 172G of said chapter 6, as so appearing, is hereby amended by striking
525 out, in line 5, the words 'criminal history systems board' and inserting in place thereof the following
526 word:- department.

527 SECTION 27. Section 172H of said chapter 6, as so appearing, is hereby amended by striking
528 out, in line 4, the words "that accepts volunteers,".

529 SECTION 28. Said section 172H of said chapter 6, as so appearing, is hereby further amended
530 by striking out, in line 5, the words ‘criminal history systems board’ and inserting in place thereof the
531 following word:- department.

532 SECTION 29. Said section 172H of said chapter 6, as so appearing, is hereby further amended
533 by striking out, in line 6, the words “a volunteer” and inserting in place thereof the following words:- an
534 employee, volunteer, vendor or contractor.

535 SECTION 30. Section 172I of said chapter 6, as so appearing, is hereby amended by striking
536 out, in lines 8 and 9, the words “criminal history systems board” and inserting in place thereof the
537 following word:- department.

538 SECTION 31. Section 172J of said chapter 6, as so appearing, is hereby amended by striking
539 out, in line 4, the words ‘criminal history systems board,’ and inserting in place thereof the following
540 word:- department.

541 SECTION 32. Section 172K of said chapter 6 of the General Laws, inserted by section 1 of
542 chapter 43 of the acts of 2009, is hereby amended by striking out, each time they appear, the words
543 “criminal history systems board” and inserting in place thereof the following words:- department.

544 SECTION 33. Section 173 of said chapter 6, as so appearing, is hereby amended by striking out,
545 in line 1, the words “The board”, and inserting in place thereof the following words:- The commissioner
546 may approve research programs to obtain criminal offender record information; provided, however, that
547 said research programs shall not publish any information that either identifies or tends to identify the
548 subject of the criminal offender record information, and the commissioner.

549 SECTION 34. Said section 173 of said chapter 6, as so appearing, is hereby further amended by
550 striking out, in lines 7, 9 and 10 the word “board”, and inserting in place thereof, in each instance, the
551 following word:- commissioner.

552 SECTION 35. Said chapter 6, as so appearing, is hereby further amended by striking out section
553 175 and inserting in place thereof the following section:-

554 Section 175. A subject shall have the right to inspect, and if practicable, obtain a copy of all
555 criminal offender record information from the department that refers to the subject. The commissioner
556 shall publish and furnish, upon request, guidelines for individuals on how to correct inaccurate or
557 incomplete information. Subject to appropriation, the department shall provide assistance to individuals
558 that have requested assistance to correct inaccurate or incomplete criminal offender record information.
559 Such assistance shall include but not be limited to cooperation with appropriate entities to correct,
560 modify or appropriately supplement criminal offender record information that has been determined to be
561 inaccurate or incomplete. If criminal offender record information is corrected by the office of the
562 commissioner of probation or the courts, any corrections made by such commissioner or court shall be
563 transmitted forthwith to the department and the department's database shall reflect the corrected criminal
564 offender record information.

565 Requestors shall prescribe reasonable hours and places for subjects to inspect their criminal
566 offender record information under subsection (f) of section 172 and shall impose such additional
567 restrictions as are reasonably necessary both to ensure the record's security and to verify the identities of
568 those who seek to inspect them.

569 SECTION 36. Said chapter 6 is hereby further amended by striking out section 178, as so
570 appearing, and inserting in place thereof the following 2 sections:-

571 Section 178. An individual or entity who knowingly requests, obtains or attempts to obtain
572 criminal offender record information or a self-audit from the department under false pretenses,
573 knowingly communicates or attempts to communicate criminal offender record information to any other
574 individual or entity except in accordance with the provisions of sections 168 through 175, or knowingly
575 falsifies criminal offender record information, or any records relating thereto, or who requests or requires

576 a person to provide a copy of his or her criminal offender record information except as authorized
577 pursuant to section 172, shall for each offense be punished by imprisonment in a jail or house of
578 correction for not more than 1 year or by a fine of not more than \$5,000 or by both such fine and
579 imprisonment, and in the case of an entity that is not a natural person, the amount of the fine may not be
580 more than \$50,000 for each violation.

581 An individual or entity who knowingly requests, obtains or attempts to obtain juvenile
582 delinquency records from the department under false pretenses, knowingly communicates or seeks to
583 communicate juvenile criminal records to any other individual or entity except in accordance with the
584 provisions of sections 168 through 175, or knowingly falsifies juvenile criminal records, shall for each
585 offense be punished by imprisonment in a jail or house of correction for not more than 1 year or by a fine
586 of not more than \$7,500, or by both such fine and imprisonment, and in the case of an entity that is not a
587 natural person, the amount of the fine may not be more than \$75,000 for each violation.

588 This section shall not apply to, and no prosecution shall be brought against, a law enforcement
589 officer who, in good faith, obtains or seeks to obtain or communicates or seeks to communicate criminal
590 offender record information in the furtherance of his or her official duties.

591 Section 178 ½. Whoever uses criminal offender record information to commit a crime against
592 the subject of the criminal offender record information or to engage in harassment of the subject, shall be
593 punished by a fine of not more than \$5,000 or by imprisonment in a jail or house of correction for not
594 more than 1 year, or by both such fine and imprisonment. For purposes of this section, "harassment"
595 shall mean willfully and maliciously engaging in a knowing pattern of conduct or series of acts over a
596 period of time directed at a specific person, which seriously alarms that person and would cause a
597 reasonable person to suffer emotional distress.

598 SECTION 37. Said chapter 6 is hereby further amended by striking out section 178A, as so
599 appearing, and inserting in place thereof the following section:-

600 Section 178A. A victim of crime, witness or family member of a homicide victim, all as defined
601 by section 1 of chapter 258B, may obtain all available criminal offender record information of the person
602 accused or convicted of said crime. Criminal justice agencies may also disclose to such persons such
603 additional information, including, but not limited to, evaluative information, as such agencies determine
604 is reasonably necessary for the security and well being of such persons.

605 SECTION 38. Section 178C of said chapter 6, as so appearing, is hereby amended by striking
606 out, in lines 12 and 13 and in line 51, the words “criminal history systems board” and inserting in place
607 thereof, in each instance, the following word:- department.

608 SECTION 39. Section 178D of said chapter 6, as so appearing, is hereby amended by striking
609 out, in line 2, the words “criminal history systems board” and inserting in place thereof the following
610 word:- department.

611 SECTION 40. Section 178F of chapter 6, as so appearing, is hereby amended by striking out, in
612 lines 14 to 16, inclusive, the words “A sex offender who lists a homeless shelter as his residence shall
613 verify registration data every 45 days” and inserting in place thereof the following words: - A homeless
614 sex offender shall verify registration data every 30 days.

615 SECTION 41. Section 178F^{1/2} of chapter 6, as so appearing, is hereby amended by striking out,
616 in lines 14 to 15, the words “Such sex offender who lists a homeless shelter as his residence shall appear
617 in person at such local police department every 45 days” and inserting in place thereof the following
618 words:- A homeless sex offender shall appear in person at such local police department every 30 days.

619 SECTION 42. Said chapter 6, as so appearing, is hereby amended by inserting, after section
620 178F^{1/2},the following section:-

621 Section 178F^{3/4}. A homeless sex offender shall wear a global positioning system device, or any
622 comparable device, administered by the commissioner of probation.

623 SECTION 43. Section 178K of said chapter 6, as so appearing, is hereby amended by striking
624 out, in lines 1 to 2, the words “in the criminal history systems board, but not subject to its jurisdiction”,
625 and inserting in place thereof the following words:- in the executive office of public safety and security.

626 SECTION 44. Section 183 of said chapter 6, as so appearing, is hereby amended by striking out,
627 in lines 27 and 32, the words ‘criminal history systems board’ and inserting in place thereof, in each
628 instance, the following words:- department of criminal justice information services.

629 SECTION 45. Chapter 6A of the General Laws, as so appearing, is hereby amended by striking
630 out section 18 and inserting in place thereof the following section:-

631 Section 18. The following state agencies are hereby declared to be within the executive office of
632 public safety and security: the department of public safety; the department of fire services; the office of
633 grants and research and the highway safety division; the municipal police training committee; the
634 Massachusetts department of criminal justice information services; the state 911 department; the
635 department of state police; the office of the chief medical examiner; the Massachusetts emergency
636 management agency; the military department; the department of correction, including the parole board;
637 the sex offender registry board; and all other agencies and boards within said departments, committees
638 and boards.

639 SECTION 46. Section 18 $\frac{1}{2}$ of said chapter 6A, as so appearing, is hereby amended by striking
640 out, in line 10, the words “criminal history systems board” and inserting in place thereof the following
641 words:- department of criminal justice information services.

642 SECTION 47. Section 18 $\frac{3}{4}$ of said chapter 6A, as so appearing, is hereby amended by striking
643 out, in lines 2 and 3, the words ‘criminal history systems board’ and inserting in place thereof the
644 following words:- department of criminal justice information services.

645 SECTION 48. Section 4 of chapter 18C of the General Laws, as so appearing, is hereby
646 amended by striking out, in lines 22 and 23, the words “executive director of the criminal history
647 systems board” and inserting in place thereof the following words:- commissioner of the department of
648 criminal justice information services.

649 SECTION 49. Section 1 of chapter 22A of the General Laws, as so appearing , is hereby
650 amended by striking out the definition of ‘Board’.

651 SECTION 50. Said section 1 of said chapter 22A, as so appearing, is hereby further amended by
652 inserting after the definition of ‘Central register’ the following definition:-

653 ‘Department’, the department of criminal justice information services.

654 SECTION 51. Section 3 of said chapter 22A, as so appearing, is hereby amended by striking
655 out, in line 10, the word ‘board’ and inserting in place thereof the following word:- department.

656 SECTION 52. Section 32 of chapter 22C of the General Laws, as so appearing, is hereby
657 amended by striking out, in line 4, the words ‘criminal history systems board’ and inserting in place
658 thereof the following words:- department of criminal justice information services.

659 SECTION 53. Section 36 of said chapter 22C, as so appearing, is hereby amended by striking
660 out, in line 17, the words “criminal history systems board” and inserting in place thereof the following
661 words:- department of criminal justice information services.

662 SECTION 54. Section 38 of said chapter 22C, as so appearing, is hereby amended by striking
663 out, in line 25, the words “criminal history systems board” and inserting in place thereof the following
664 words:- department of criminal justice information services.

665 SECTION 55. Section 9 of chapter 22E of the General Laws, as so appearing, is hereby
666 amended by striking out, in line 5, the words ‘criminal history systems board’ and inserting in place
667 thereof the following words:- department of criminal justice information services.

668 SECTION 56. Chapter 30A of the General Laws, as so appearing, is hereby amended by
669 inserting after section 1C the following section:-

670 Section 1D. The criminal record review board shall be subject to sections 1 to 8, inclusive, and
671 shall not otherwise be subject to this chapter.

672 SECTION 57. Section 36A of chapter 40 of the General Laws, as appearing in the 2008 Official
673 Edition, is hereby amended by striking out, in line 25, the words ‘criminal history systems board’ and
674 inserting in place thereof the following words:- department of criminal justice information services.

675 SECTION 58. Section 10 of chapter 66 of the General Laws, as so appearing, is hereby
676 amended by striking out, in line 50, the words “executive director of the criminal history systems board”
677 and inserting in place thereof the following words:- commissioner of the department of criminal justice
678 information services.

679 SECTION 59. Said section 10 of said chapter 66, as so appearing, is hereby further amended by
680 striking out, in lines 50 and 51, the words “criminal history systems board” and inserting in place thereof
681 the following words:- department of criminal justice information services.

682 SECTION 60. Section 1 of chapter 71 of the General Laws, as appearing in the 2008 Official
683 Edition, shall be amended by inserting after the word “development” , in line 19, the following words:-
684 safe and healthy relationships with a focus on preventing sexual and domestic violence.

685 SECTION 61. Chapter 71 of the General Laws, as appearing in the 2008 Official Edition, is
686 hereby amended by inserting after section 2B the following section:-

687 Section 2C. Each school district in the commonwealth, subject to appropriation, shall implement
688 a specific policy and discipline code to address teen dating violence in public schools. The policy shall
689 clearly state that dating violence will not be tolerated and shall include guidelines for addressing alleged
690 incidents of dating violence. The policy may include a teen dating violence prevention task force
691 comprised of staff, students and parents to provide awareness training and education for the school
692 community. Topics to be covered in the policy include, without limitation, defining the issue of teen
693 dating violence, recognizing warning signs, identifying issues of confidentiality, safety and appropriate
694 legal school-based interventions.

695 SECTION 62. Section 38R of chapter 71 of the General Laws, as so appearing, is hereby
696 amended by striking out, in lines 5 and 6 and in lines 11 and 12, the words “criminal history systems
697 board” and inserting in place thereof, in each instance, the following words:- department of criminal
698 justice information services.

699 SECTION 63. Section 24 of chapter 90 of the General Laws, as so appearing, is hereby
700 amended by striking out, in line 705, the words “criminal history systems board” and inserting in place
701 thereof the following words:- department of criminal justice information services.

702 SECTION 64. Section 24N of chapter 90 of the General Laws, as so appearing, is hereby
703 amended by striking out, in lines 31, 44 and 83, the words “criminal history systems board” and inserting
704 in place thereof, in each instance, the following words:- department of criminal justice information
705 services.

706 SECTION 65. Section 52 of chapter 93 of the General Laws, as so appearing, is hereby amended
707 by inserting after the word “more;”, in line 21, the following word:- or.

708 SECTION 66. Said section 52 of said chapter 93, as so appearing, is hereby further amended by
709 striking out, in lines 24 to 27, inclusive, the words “; or (3) the employment of any individual at annual
710 salary which equals or which may reasonably be expected to equal twenty thousand dollars or more”.

711 SECTION 67. Section 32 of chapter 94C of the General Laws, as so appearing, is hereby
712 amended by adding the following subsection:-

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

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

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

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

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

728 SECTION 68. Section 32A of said chapter 94C, as so appearing, is hereby amended by adding
729 the following subsection:-

730 (e) Any person serving a mandatory minimum sentence for violating this section shall be
731 eligible for parole after serving one-half of the maximum term of the sentence if the sentence is to the
732 house of correction, provided that said person shall not be eligible for parole upon a finding of any one
733 of the following aggravating circumstances:

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

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

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

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

745 SECTION 69. Section 32B of said chapter 94C, as so appearing, is hereby amended by adding
746 the following subsection:-

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

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

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

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

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

762 SECTION 70. Section 32E of said chapter 94C, as so appearing, is hereby amended by adding
763 the following subsection:-

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

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

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

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

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

779 SECTION 71. Section 32H of said chapter 94C, as so appearing, is hereby amended by striking
780 out the second paragraph and inserting in place thereof the following paragraph:-

781 A person convicted of violating said sections shall not, until he shall have served the mandatory
782 minimum term of imprisonment established in said sections, be eligible for probation, furlough, work
783 release or receive any deduction from his sentence for good conduct under sections 129C and 129D of
784 chapter 127, nor shall he be eligible for parole except as authorized pursuant to subsection (c) of Section
785 32, subsection (e) of section 32A, subsection (c) of section 32B, subsection (d) of section 32E, or section
786 32J; provided, however, that the commissioner of correction, on the recommendation of the warden,
787 superintendent or other person in charge of the correctional institution, or a sheriff, on the
788 recommendation of the administrator of a county correctional institution, may grant to said offender a
789 temporary release, subject to the rules and regulations of the institution and under the direction, control
790 and supervision of the officers thereof, for the following purposes: (1) to attend the funeral of a relative,
791 to visit a critically ill relative, to obtain emergency medical or psychiatric services unavailable at said
792 institution; (2) to participate in education, training, or employment programs established under section
793 48 of chapter 127; or (3) to participate in a program to provide services under section 49B or 49C of
794 chapter 127. Section 87 of chapter 276 shall not apply to any person, 17 years of age or older, charged
795 with a violation of said sections, or to any child between age 14 and 17, so charged by indictment under
796 section 54 of chapter 119.

797 SECTION 72. Section 32J of said chapter 94C, as so appearing, is hereby amended by adding
798 the following paragraph:-

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

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

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

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

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

814 SECTION 73. Section 34 of chapter 101 of the General Laws, as so appearing, is hereby
815 amended by striking out, in line 91 and in lines 96 and 97, the words 'criminal history systems board'
816 and inserting in place thereof, in each instance, the following words:- department of criminal justice
817 information services.

818 SECTION 74. Section 71 of chapter 111 of the General Laws, as so appearing, is hereby
819 amended by striking out, in lines 43 and 44, the words “criminal history systems board” and inserting in
820 place thereof the following words:- department of criminal justice information services.

821 SECTION 75. Section 12A ½ of chapter 112 of the General Laws, as so appearing, is hereby
822 amended by striking out, in line 5, the words “criminal history systems board” and inserting in place
823 thereof the following words:- department of criminal justice information services.

824 SECTION 76. Section 9 of chapter 123A of the General Laws, as so appearing, is hereby
825 amended by striking out, in line 51, the words ‘criminal history systems board’ and inserting in place
826 thereof the following words:- department of criminal justice information services.

827 SECTION 77. Section 14 of chapter 123A of the General Laws, as so appearing, is hereby
828 amended by striking out the first sentence and inserting in place thereof the following 2 sentences:- The
829 district attorney, or the attorney general at the request of the district attorney, may petition the court for a
830 trial. In any trial held pursuant to this section, either the person named in the petition or the petitioning
831 party may demand, in writing, that the case be tried to a jury and, upon such demand, the case shall be
832 tried to a jury.

833 SECTION 78. Section 2 of chapter 127 of the General Laws, as so appearing, is hereby
834 amended by striking out, in lines 5 and 6, the words ‘criminal history systems board’ and inserting in
835 place thereof the following words:- department of criminal justice information services.

836 SECTION 79. Said chapter 127 is hereby further amended by inserting after section 20A the
837 following section:-

838 Section 20B. The sheriff of any county and, in the case of women who are committed as pretrial
839 detainees to the Massachusetts Correctional Institution at Framingham, the commissioner of correction,
840 subject to rules and regulations established in accordance with this section, may permit a detainee who is

841 committed to a jail awaiting disposition of any criminal matter, except those being held for offenses
842 listed in this section, to be classified to a pretrial diversion program operated by the sheriff's office in the
843 county where the court that committed the detainee is sitting.

844 The sheriff may extend the limits of the place of confinement of a detainee for the purpose of
845 participation in this program and shall establish a classification system to determine the suitability of
846 detainees who may be potential participants in this program. A person permitted to be away from the jail
847 due to participation in this program may be accompanied by an employee of the sheriff's office in the
848 discretion of the sheriff or his designee.

849 For the duration of his participation in the program, the detainee shall be deemed to be in
850 custody as a pretrial detainee for the purpose of receiving credit pursuant to section 129B of chapter 127
851 and section 33A of chapter 279 toward any sentence he may receive, and may be charged with escape
852 pursuant to section 16 of chapter 268 should he leave the place to which he is classified pursuant to his
853 participation in the program without authorization or should he escape from custody while he is being
854 transported pursuant to his participation in the program. Additionally for the duration of his participation
855 in this program only, the detainee may receive additional deductions from any sentence that may be
856 imposed for the offense for which he was detained, for participation in work, education or treatment
857 programs designated by the sheriff pursuant to section 129D of chapter 127.

858 A detainee shall not be eligible to participate in this program if he is charged with: murder; any
859 offense that carries the possibility of a life sentence; a violation of: paragraph (b) of 32 of chapter 94C;
860 paragraphs (b), (c) and (d) of section 32A of said chapter 94C; paragraph (b) of 32B of said chapter 94C;
861 sections 32B, 32E, 32F, 32J, 32K or 37 of said chapter 94C; a violation of section 13, 14, 15, 15A, 15B,
862 16, 17, 18, 18A, 19, 20, 21, 24B, 25, 26 or 26A of chapter 265; section 17, 34 or 35 of chapter 272; or
863 an attempt to commit any offense referred to in these sections; or if he is detained under subsection (3) of
864 section 58A of chapter 276. No sex offender, or sexually dangerous person as defined in section 1 of

865 chapter 123A or any person who is charged with committing a sexual offense as defined in said section 1
866 of said chapter 123A shall be eligible to participate in this program. Placement of an individual in such
867 program shall require victim notification as required under clause (t) of section 3 of chapter 258B.

868 SECTION 80. Section 2 of chapter 127 of the General Laws, as so appearing, is hereby
869 amended by striking out, in lines 5 and 6, the words “criminal history systems board” and inserting in
870 place thereof the following words:- department of criminal justice information services.

871 SECTION 81. Section 28 of said chapter 127, as so appearing, is hereby amended by striking
872 out, in line 9, the words “criminal history systems board” and inserting in place thereof the following
873 words:- department of criminal justice information services.

874 SECTION 82. Section 29 of said chapter 127, as so appearing, is hereby amended by striking
875 out, in line 13, the words “criminal history systems board” and inserting in place thereof the following
876 words:- department of criminal justice information services.

877 SECTION 83. Section 133E of said chapter 127, as so appearing, is hereby amended by striking
878 out, in line 3, the words “criminal history systems board” and inserting in place thereof the following
879 words:- department of criminal justice information services.

880 SECTION 84. Section 122 of chapter 140 of the General Laws, as appearing in the 2008
881 Official Edition, is hereby amended by striking out, in lines 21 and 22, the words “executive director of
882 the criminal history systems board” and inserting in place thereof the following words:- commissioner of
883 the department of criminal justice information services.

884 SECTION 85. Section 122A of said chapter 140, as so appearing, is hereby amended by striking
885 out, in line 5, the words “criminal history systems board” and inserting in place thereof the following
886 words:- department of criminal justice information services.

887 SECTION 86. Said section 122A of said chapter 140, as so appearing, is hereby further
888 amended by striking out, in lines 5 and 6 and in lines 9 and 10, the words “executive director of the
889 criminal history systems board” and inserting in place thereof, in each instance, the following words:-
890 commissioner of the department of criminal justice information services.

891 SECTION 87. Section 122B of said chapter 140, as so appearing, is hereby amended by striking
892 out, in lines 14 and 15 and in lines 24 and 25, the words “executive director of the criminal history
893 systems board” and inserting in place thereof, in each instance, the following words:- commissioner of
894 the department of criminal justice information services.

895 SECTION 88. Section 123 of said chapter 140, as so appearing, is hereby amended by striking
896 out, in lines 7 and 8 line 27, and in lines 106 and 107, the words “executive director of the criminal
897 history systems board” and inserting in place thereof, in each instance, the following words:-
898 commissioner of the department of criminal justice information services.

899 SECTION 89. Section 125 of said chapter 140, as so appearing, is hereby amended by striking
900 out, in lines 11 and 12, the words “executive director of the criminal history systems board” and
901 inserting in place thereof the following words:- commissioner of the department of criminal justice
902 information services.

903 SECTION 90. Section 127 of said chapter 140, as so appearing, is hereby amended by striking
904 out, in line 6, the words “executive director of the criminal history systems board” and inserting in place
905 thereof the following words:- commissioner of the department of criminal justice information services.

906 SECTION 91. Section 128A of said chapter 140, as so appearing, is hereby amended by striking
907 out, in lines 27 and 28, the words “executive director of the criminal history systems board” and
908 inserting in place thereof the following words:- commissioner of the department of criminal justice
909 information services.

910 SECTION 92. Section 128B of said chapter 140, as so appearing, is hereby amended by striking
911 out, in lines 11 and 12, the words “executive director of the criminal history systems board” and
912 inserting in place thereof the following words:- commissioner of the department of criminal justice
913 information services.

914 SECTION 93. Section 129B of said chapter 140, as so appearing, is hereby amended by striking
915 out, in lines 112, 148 and 159, the words “executive director of the criminal history systems board” and
916 inserting in place thereof the following words:- commissioner of the department of criminal justice
917 information services.

918 SECTION 94. Section 129C of said chapter 140, as so appearing, is hereby amended by striking
919 out, in lines 12 and 13 and in lines 16 and 17, the words “executive director of the criminal history
920 systems board” and inserting in place thereof, in each instance, the following words:- commissioner of
921 the department of criminal justice information services.

922 SECTION 95. Section 130B of said chapter 140, as so appearing, is hereby amended by striking
923 out, in line 2, the words “criminal history systems board” and inserting in place thereof the following
924 words:- department of criminal justice information services.

925 SECTION 96. Said section 130B of said chapter 140, as so appearing, is hereby further
926 amended by striking out, in line 4, the words “criminal history systems board appointed by the executive
927 director” and inserting in place thereof the following words:- department of criminal justice information
928 services appointed by the commissioner.

929 SECTION 97. Section 131 of said chapter 140, as so appearing, is hereby amended by striking
930 out, in lines 55 and 56, line 163, and in lines 193 and 194, the words “executive director of the criminal
931 history systems board,” and inserting in place thereof, in each instance, the following words:-
932 commissioner of the department of criminal justice information services.

933 SECTION 98. Section 131½ of said chapter 140, as so appearing, is hereby amended by
934 striking out, in lines 6 and 7, the words “criminal history systems board,” and inserting in place thereof
935 the following words:- department of criminal justice information services.

936 SECTION 99. Section 131A of said chapter 140, as so appearing, is hereby amended by striking
937 out, in line 12 and 13, the words “executive director of the criminal history systems board,” and inserting
938 in place thereof the following words:- commissioner of the department of criminal justice information
939 services.

940 SECTION 100. Section 25 of chapter 151A of the General Laws, as so appearing, is hereby
941 amended by striking out, in lines 251 and 252 and in line 254, the words “criminal history systems
942 board,” and inserting in place thereof, in each instance, the following words:- department of criminal
943 justice information services.

944 SECTION 101. Section 4 of chapter 151B of the General Laws, as so appearing, is hereby
945 amended by inserting, after subsection 9, the following subsection:-

946 9½. For an employer to request on its initial written application form criminal offender record
947 information; provided, however, that except as otherwise prohibited by subsection 9, an employer may
948 inquire about any criminal convictions on an applicant’s application form if: (i) the applicant is applying
949 for a position for which any federal or state law or regulation creates mandatory or presumptive
950 disqualification based on a conviction for 1 or more types of criminal offenses; or (ii) the employer or an
951 affiliate of such employer is subject to an obligation imposed by any federal or state law or regulation
952 not to employ persons, in either 1 or more positions, who have been convicted of 1 or more types of
953 criminal offenses.

954 SECTION 102. Section 7 of chapter 152 of the General Laws, as so appearing, is hereby
955 amended by striking out, in line 42 and in lines 44 and 45, the words “criminal history systems board,”

956 and inserting in place thereof, in each instance, the following words:- department of criminal justice
957 information services.

958 SECTION 103. Section 6 of chapter 209A of the General Laws, as so appearing, is hereby
959 amended by striking out, in line 97, the words “criminal history systems board” and inserting in place
960 thereof the following words:- department of criminal justice information services.

961 SECTION 104. Section 34A of chapter 215 of the General Laws, as so appearing, is hereby
962 amended by striking out, in lines 47 and 48, the words “criminal history systems board,” and inserting in
963 place thereof the following words:- department of criminal justice information services.

964 SECTION 105. Section 21 of chapter 233 of the General Laws, as so appearing, is hereby
965 amended by inserting, at the end, the following paragraph:-

966 Upon order of the court, a party may obtain a witness’s criminal offender record information
967 from the department of criminal justice information services.

968 SECTION 106. Section 3 of chapter 255E of the General Laws, as so appearing, is hereby
969 amended by striking out, in line 12, the words ‘criminal history systems board,’ and inserting in place
970 thereof the following words:- department of criminal justice information services.

971 SECTION 107. Section 1 of chapter 258C of the General Laws, as so appearing, is hereby
972 amended by inserting after the definition of “Crime” the following definition:-

973 “Crime scene cleanup”, the removal of, or the attempted removal of, blood or other stains that
974 are the direct result of the commission of a crime or other dirt and debris caused by the processing of the
975 crime scene; provided, however, that crime scene cleanup shall not include the replacement or repair of
976 property damaged during the commission of the crime, in accordance with section 4.

977 SECTION 108. Section 1 of chapter 258C of the General Laws, as so appearing, is hereby
978 amended by inserting after the definition of “Out-of-pocket loss” the following definition:-

979 “Security measures”, the replacement, repair or installation of locks, windows or other security
980 devices deemed to be reasonably necessary for the promotion of the victim’s safety by the program
981 director after taking into consideration the nature of the crime in accordance with section 4.

982 SECTION 109. Subsection (f) of section 2 of said chapter 258C of the General Laws is hereby
983 repealed.

984 SECTION 110. Subsection (b) of section 3 of said chapter 258C, as so appearing, is hereby
985 amended by striking out paragraph (1) and inserting in place thereof the following 2 paragraphs:-

986 (1)(A) The maximum award or compensation for funeral and burial expenses shall be \$6,500.
987 A legal guardian, dependent or other family member of the victim or a person who actually incurs
988 funeral and burial expenses directly related to the death of a victim shall be eligible for compensation for
989 such funeral and burial expenses.

990 (B) The maximum award or compensation for expenses other than funeral and burial expenses
991 associated with the interment of a victim whose death is the direct result of a crime shall be \$800. For
992 purposes of this subsection compensable expenses shall include, but not be limited to, transportation of
993 the victim to the location of interment, travel of a legal guardian or family member to accompany the
994 victim to the location of interment, memorial markers at the location of interment or other associated
995 expenses as determined by the program director in accordance with section 4.

996 SECTION 111. Said section 3 of said chapter 258C, as so appearing, is hereby further amended,
997 in lines 22 and 25, by striking out the words “one hundred and eighteen F,” and inserting in place thereof
998 the following word:- 118G.

999 SECTION 112. Said section 3 of said chapter 258C, as so appearing, is hereby further amended
1000 by inserting after the word “victim” , in line 40, the following words:- , parent or legal guardian of a
1001 victim who is a minor in accordance with section 4.

1002 SECTION 113. Subsection (b) of said section 3 of said chapter 258C, as so appearing, is hereby
1003 further amended by adding the following 3 subparagraphs:-

1004 (G) Expenses incurred for professional crime scene cleanup services necessary as the direct
1005 result of the commission of a crime at a private residence or in a motor vehicle that is owned or leased by
1006 a victim, family member or other dependent shall be compensable in accordance with this chapter;
1007 provided, however, that the maximum amount of compensation shall not exceed \$1,500.

1008 (H) A victim shall be eligible for compensation for the reasonable replacement costs of clothing
1009 and bedding seized as evidence or rendered unusable as the result of a criminal investigation that is the
1010 direct result of a crime; provided, however, that the maximum compensable amount shall not exceed
1011 \$250.

1012 (I) A victim or a family member residing with the victim at the time a crime is committed, shall
1013 be eligible for compensation for the costs associated with the implementation of security measures;
1014 provided, however, that the maximum compensable amount shall not exceed \$500.

1015 SECTION 114. Section 8 of said chapter 258C, as so appearing, is hereby amended by striking
1016 out, in line 1, the word “fifteen” and inserting in place thereof the following figure:- 20

1017 SECTION 115. Said section 8 of said chapter 258C, as so appearing, is hereby further amended
1018 by striking out, in line 12, the word “twenty”, and inserting in place thereof the following figure:- 30.

1019 SECTION 116. Section 9 of said chapter 258C, as so appearing, is hereby amended by striking
1020 out, in line 7, the word “twenty” and inserting in place thereof the following figure:- 30.

1021 SECTION 117. Section 10 of said chapter 258C, as so appearing, is hereby amended by
1022 inserting after the word “insurance,” in line 6, the following words:- , including, but not limited to,
1023 homeowner’s insurance, renter’s insurance, automobile insurance.

1024 SECTION 118. Section 7 of chapter 258D of the General Laws, as so appearing, is hereby
1025 amended by striking out, in lines 4 and 5, the words ‘criminal history systems board’ and inserting in
1026 place thereof the following words:- department of criminal justice information services.

1027 SECTION 119. Chapter 265 of the General Laws is hereby amended by adding the following
1028 section:-

1029 Section 48. A sex offender, as defined by section 178C of chapter 6, who engages in ice cream
1030 truck vending, as defined in section 25 of chapter 270, shall be punished by imprisonment in the house
1031 of correction for not more than 2½ years or by a fine of \$1,000, or by both such fine and imprisonment.
1032 A police officer or officer authorized to serve criminal process may arrest, without a warrant, any person
1033 whom he has probable cause to believe has violated this section.

1034 SECTION 120. Section 13B of chapter 268 of the General Laws, as so appearing, is hereby
1035 amended by striking out clauses (iv) and (v) and inserting in place thereof the following 2 clauses:-

1036 (iv) a person who is furthering a civil or criminal proceeding, including criminal investigation,
1037 grand jury proceeding, trial, other criminal proceeding of any type, probate and family proceeding,
1038 juvenile proceeding, housing proceeding, land proceeding, clerk’s hearing, court ordered mediation, any
1039 other civil proceeding of any type; or

1040 (v) a person who is or was attending or had made known his intention to attend a civil or
1041 criminal proceeding, including criminal investigation, grand jury proceeding, trial, other criminal
1042 proceeding of any type, probate and family proceeding, juvenile proceeding, housing proceeding, land
1043 proceeding, clerk’s hearing, court-ordered mediation, any other civil proceeding of any type with the

1044 intent to impede, obstruct, delay, harm, punish or otherwise interfere thereby, or do so with reckless
1045 disregard, with such a proceeding shall be punished by imprisonment in a jail or house of correction for
1046 not more than 2 and one-half years or by imprisonment in a state prison for not more than 10 years, or by
1047 a fine of not less than \$1,000 nor more than \$5,000, or by both such fine and imprisonment.

1048 SECTION 121. Section 16 of chapter 268 of the General Laws, as so appearing, is hereby
1049 amended by inserting after the word “branch,” in line 10, the following words:- or who knowingly
1050 disables or attempts to disable or defeat electronic monitoring of the prisoner,.

1051 SECTION 122 Chapter 270 of the General Laws is hereby amended by adding the following
1052 section:-

1053 Section 25. (a) For the purposes of this section, the following words shall have the following
1054 meanings:-

1055 “Ice cream”, any frozen dairy or frozen water-based food product.

1056 “Ice cream truck”, any motor vehicle used for selling, displaying or offering to sell ice cream.

1057 “Ice cream truck vending”, the selling, displaying or offering to sell ice cream or any other
1058 prepackaged food product from an ice cream truck.

1059 “Permitting authority”, the chief of police or the board or officer having control of the police in a
1060 city or town, or person authorized by them.

1061 (b) No person shall engage in ice cream truck vending unless he shall have been issued a valid
1062 permit to do so by the permitting authority within the municipality wherein the permit applicant lives or
1063 intends to operate an ice cream truck. Such permit shall be conspicuously displayed and clearly visible
1064 on the windshield of any ice cream truck operated or from which ice cream or any other prepackaged

1065 food product is sold. Whoever violates this section shall be assessed a fine of \$500. Each day that such
1066 person is in operation in violation of this section may be considered a separate violation.

1067 (c) The department of public safety shall adopt regulations relative to the annual permitting of
1068 ice cream truck vendors. Such regulations shall include, but not be limited to:

1069 (i) a requirement that all applications for an ice cream truck vending permit or
1070 applications for renewal thereof shall include the applicant's fingerprints and a current photo of the
1071 applicant;

1072 (ii) adoption of a uniform permit application and permit form, to be used by all
1073 municipalities;

1074 (iii) a requirement that a permitting authority conduct an investigation into the criminal
1075 history of a permit applicant to determine eligibility therefore; and

1076 (iv) a provision restricting a permitting authority from issuing an ice cream truck
1077 vending permit to any sex offender, as defined by section 178C of chapter 6 of the General Laws.

1078 SECTION 123. Section 23A of chapter 276 of the General Laws, as so appearing, is hereby
1079 amended by striking out, in line 8 and in lines 21 and 22, the words 'criminal history systems board,' and
1080 inserting in place thereof, in each instance, the following words:- department of criminal justice
1081 information services.

1082 SECTION 124. Section 23B of said chapter 276, as so appearing, is hereby amended by striking
1083 out, in line 9 and lines 10 and 11, and in lines 12 and 13, the words 'criminal history systems board,' and
1084 inserting in place thereof, in each instance, the following words:- department of criminal justice
1085 information services.

1086 SECTION 125. Section 58A of chapter 276 of the General Laws, as so appearing, is hereby
1087 amended by striking out subsection (1) and inserting in place thereof the following subsection:-

1088 (1) The commonwealth may move, based on dangerousness, for an order of pretrial detention or
1089 release on conditions for a felony offense that has as an element of the offense the use, attempted use or
1090 threatened use of physical force against the person of another or any other felony that, by its nature,
1091 involves a substantial risk that physical force against the person of another may result, including the
1092 crimes of burglary and arson whether or not a person has been placed at risk thereof, or a violation of an
1093 order pursuant to section 18, 34B or 34C of chapter 208, section 32 of chapter 209, section 3, 4 or 5 of
1094 chapter 209 A or section 15 or 20 of chapter 209C, or arrested and charged with a misdemeanor or
1095 felony involving abuse as defined in section 1 of said chapter 209A or while an order of protection
1096 issued under said chapter 209A was in effect against such person, an offense for which a mandatory
1097 minimum term of 3 years or more is prescribed in chapter 94C, arrested and charged with a violation of
1098 section 13B of chapter 268 or a third or subsequent conviction for a violation of section 24 of chapter 90,
1099 or arrested and charged with a violation of paragraph (a), (c) or (m) of section 10 of chapter 269;
1100 provided, however, that the commonwealth may not move for an order of detention under this section
1101 based on possession of a large capacity feeding device without simultaneous possession of a large
1102 capacity weapon; or arrested and charged with a violation of section 10G of said chapter 269.

1103 SECTION 126. Section 100 of said chapter 276, as so appearing, is hereby amended by striking
1104 out, in line 30, the words “criminal history systems board” and inserting in place thereof the following
1105 words:- department of criminal justice information services.

1106 SECTION 127. Said section 100 of said chapter 276, as so appearing, is hereby further amended
1107 by striking out, in line 33, the word “board” and inserting in place thereof the following word:-
1108 department.

1109 SECTION 128. Section 100A of chapter 276 of the General Laws, as so appearing, is hereby
1110 amended by striking the first paragraph and inserting in place thereof the following paragraph:-

1111 Any person having a record of criminal court appearances and dispositions in the commonwealth
1112 on file with the office of the commissioner of probation may, on a form furnished by the commissioner
1113 and signed under the penalties of perjury, request that the commissioner seal the file. The commissioner
1114 shall comply with the request provided that: (1) the person's court appearance and court disposition
1115 records, including any period of incarceration or custody for any misdemeanor record to be sealed
1116 occurred not less than 5 years before the request; (2) the person's court appearance and court disposition
1117 records, including any period of incarceration or custody for any felony record to be sealed occurred not
1118 less than 10 years before the request; (3) the person had not been found guilty of any criminal offense
1119 within the commonwealth in the case of a misdemeanor, 5 years before the request, and in the case of a
1120 felony, 10 years before request, except motor vehicle offenses in which the penalty does not exceed a
1121 fine of \$50; (4) the form includes a statement by the petitioner that he has not been convicted of any
1122 criminal offense in any other state, United States possession or in a court of federal jurisdiction, except
1123 such motor vehicle offenses, as aforesaid, and has not been imprisoned in any state or county in the case
1124 of a misdemeanor, within the preceding 5 years, and in the case of a felony, within the preceding 10
1125 years; and (5) the person's record does not include convictions of offenses other than those to which this
1126 section applies. This section shall apply to court appearances and dispositions of all offenses; provided,
1127 however, that this section shall not apply in case of convictions for violations of sections 121 to 131H,
1128 inclusive, of chapter 140 or for violations of chapter 268 or chapter 268A.

1129 SECTION 129. Said section 100A of said chapter 276, as so appearing, is hereby further
1130 amended by inserting, after line 40, the following clauses:-

1131 5. Any violation of section 7 of chapter 209A or section 9 of chapter 258E shall be treated as a
1132 felony.

1133 6. Sex offenses, as defined in section 178C of chapter 6, shall not be eligible for sealing for 15
1134 years following their disposition, including termination of supervision, probation or any period of
1135 incarceration, or for so long as the offender is under a duty to register in the commonwealth or in any
1136 other state where the offender resides or would be under such a duty if residing in the commonwealth,
1137 whichever is longer; provided, however, that any sex offender who has at any time been classified as a
1138 level 2 or level 3 sex offender, pursuant to section 178K of chapter 6, shall not be eligible for sealing of
1139 sex offenses.

1140 SECTION 130. Said section 100A of said chapter 276, as so appearing, is hereby further
1141 amended by inserting after the word “proceedings”, in line 52, the following words:- “, and except that in
1142 any proceedings under sections 1 to 39I, inclusive, of chapter 119, sections 2 to 5, inclusive, of chapter
1143 201, chapters 208, 209, 209A, 209B, 209C, or sections 1 to 11A, inclusive, of chapter 210, a party
1144 having reasonable cause to believe that information in a sealed criminal record of another party may be
1145 relevant to (1) an issue of custody or visitation of a child, (2) abuse, as defined in section 1 of chapter
1146 209A or (3) the safety of any person may upon motion seek to introduce the sealed record into evidence.
1147 The judge shall first review such records in camera and determine those records that are potentially
1148 relevant and admissible. The judge shall then conduct a closed hearing on the admissibility of those
1149 records determined to be potentially admissible; provided, however, that such records shall not be
1150 discussed in open court and, if admitted, shall be impounded and made available only to the parties, their
1151 attorneys and court personnel who have a demonstrated need to receive them.

1152 SECTION 131. Section 100C of said chapter 276, as so appearing, is hereby amended by
1153 striking out, in lines 11to12, inclusive, the words “except in cases in which an order of probation has
1154 been terminated,”.

1155 SECTION 132. Said section 100C of said chapter 276, as so appearing, is hereby further
1156 amended by inserting after the word “commissioner”, in line 29, the following words:- or the clerk of
1157 courts in any district or superior court or the Boston municipal court.

1158 SECTION 133. Said chapter 276 is hereby amended by inserting after section 100C the
1159 following section:-

1160 Section 100D. Notwithstanding any provision of section 100A, 100B, or 100C of this chapter,
1161 criminal justice agencies as defined in section 167 of chapter 6 shall have immediate access to, and be
1162 permitted to use as necessary for the performance of their criminal justice duties, any sealed criminal
1163 offender record information as defined in section 167 of chapter 6 and any sealed information
1164 concerning criminal offenses or acts of delinquency committed by any person before he attained the age
1165 of 17.

1166 SECTION 134. Section 1 of chapter 279 of the General Laws, as so appearing, is hereby
1167 amended by striking out, in line 42, the words ‘criminal history systems board’ and inserting in place
1168 thereof the following words:- department of criminal justice information services.

1169 SECTION 135. Notwithstanding any general or special law to the contrary, this section shall
1170 facilitate the orderly transfer of the employees, proceedings, rules and regulations, property and legal
1171 obligations of the criminal history systems board, as the transferor agency, to the department of criminal
1172 justice information services, as the transferee agency, as follows:

1173 (a) Subject to appropriation, the employees of the criminal history systems board, including
1174 those who immediately before the effective date of this act hold permanent appointment in positions
1175 classified under chapter 31 of the General Laws or have tenure in their positions as provided by section
1176 9A of chapter 30 of the General Laws or do not hold such tenure, or hold confidential positions, are
1177 hereby transferred to the department of criminal justice information services, without interruption of
1178 service within the meaning of said section 9A of said chapter 31, without impairment of seniority,

1179 retirement or other rights of the employee, and without reduction in compensation or salary grade,
1180 notwithstanding any change in title or duties resulting from such reorganization, and without loss of
1181 accrued rights to holidays, sick leave, vacation and benefits, and without change in union representation
1182 or certified collective bargaining unit as certified by the state labor relations commission or in local
1183 union representation or affiliation. Any collective bargaining agreement in effect immediately before the
1184 transfer date shall continue in effect and the terms and conditions of employment therein shall continue
1185 as if the employees had not been so transferred. The reorganization shall not impair the civil service
1186 status of any such reassigned employee who immediately before the effective date of this act either holds
1187 a permanent appointment in a position classified under chapter 31 of the General Laws or has tenure in a
1188 position by reason of section 9A of chapter 30 of the General Laws.

1189 Notwithstanding any general or special law to the contrary, all such employees shall continue to
1190 retain their right to collectively bargain pursuant to chapter 150E of the General Laws and shall be
1191 considered employees for the purposes of said chapter 150E.

1192 Nothing in this section shall be construed to confer upon any employee any right not held
1193 immediately before the date of said transfer, or to prohibit any reduction of salary grade, transfer,
1194 reassignment, suspension discharge layoff or abolition of position not prohibited before such date.

1195 (b) All petitions, requests, investigations and other proceedings appropriately and duly brought
1196 before or referred to the executive director of the criminal history systems board by the transferor agency
1197 and pending before the executive director before the effective date of this act, shall continue unabated
1198 and remain in force, but shall be assumed and completed by the department of criminal justice
1199 information services.

1200 (c) All orders, rules and regulations duly made and all approvals duly granted by the criminal
1201 history systems board, which are in force immediately before the effective date of this act, shall continue

1202 in force and shall thereafter be enforced by the department of criminal justice information systems, until
1203 superseded, revised, rescinded or canceled, in accordance with law.

1204 (d) All books, papers, records, documents, equipment, buildings, facilities, cash and other
1205 property, both personal and real, including all such property held in trust, which immediately before the
1206 effective date of this act are in the custody of the criminal history systems board shall be transferred to
1207 the department of criminal justice information services.

1208 (e) All duly existing contracts, leases and obligations of the criminal history systems board shall
1209 continue in effect but shall be assumed by the department of criminal justice information services. No
1210 existing right or remedy of any character shall be lost, impaired or affected by this act.

1211 SECTION 136. The Massachusetts department of criminal justice information systems, in
1212 consultation with the information technology division, shall regularly report on its progress in building
1213 the information technology system necessary to fulfill the requirements established in subsection (a) of
1214 section 172 of chapter 6 of the General Laws, as amended by section 21 of this act. The department shall
1215 file such reports with the joint committee on the judiciary, the joint committee on public safety and
1216 homeland security, the house and senate committees on bonding, capital expenditures and state assets
1217 and the house and senate committees on ways and means and shall post such reports on the department's
1218 publicly-accessible website. The department shall file such reports 6, 12, 15 and 18 months after the
1219 effective date of this act, and at 3-month intervals thereafter, if necessary, until the project is complete.
1220 Each report shall include a description of the progress made in the planning, design and construction of
1221 the system since the preceding report, and shall include a comparison of actual expenditures to budgeted
1222 expenditures and of budgeted timelines to actual timelines. Each report shall also include a certification
1223 as to whether the department expects the complete information technology system to be fully operational
1224 18 months after the effective date of this act.

1225 SECTION 137. Notwithstanding the provisions of sections 32, 32A, 32B, 32E, and 32J of
1226 chapter 94C of the General Laws, or any other general or special law to the contrary, a person serving a
1227 mandatory minimum sentence for violating any provision of the above-referenced sections as of the
1228 effective date of this act, shall be eligible for parole after serving one-half of the maximum term of the
1229 sentence if the sentence is to a house of correction; provided, however, that said person shall not be
1230 eligible for parole if the parole board finds that any one of the following aggravating circumstances
1231 apply:

1232 (i) the defendant used violence or threats of violence or possessed a firearm, rifle, shotgun,
1233 machine gun or a weapon described in paragraph (b) of section 10 of chapter 269, or induced another
1234 participant to do so, during the commission of the offense;

1235 (ii) the defendant engaged in a course of conduct whereby he directed the activities of another
1236 who committed a felony in violation of Chapter 94C; or

1237 (iii) the offense was committed during the commission or attempted commission of the offenses
1238 set forth in section 32F or section 32K of chapter 94C.

1239 SECTION 138. The executive office of public safety, in conjunction with the department of
1240 public health, the trial court, the department of probation and the office of community correction, shall
1241 promulgate regulations establishing a resource guide for law enforcement personnel, sheriffs and judges
1242 on substance abuse treatment programs and options, including but not limited to, providing information
1243 on civil commitment programs, jail diversion and public and private treatment options, including the
1244 Massachusetts Alcohol and Substance Abuse Center, the Men's Addiction Treatment Center and the
1245 Women's Addiction Treatment Center. The Bureau of Substance Abuse Services shall provide technical
1246 assistance related to producing said resource guide.

1247 SECTION 139. The executive office of public safety and security and the department of
1248 correction, in conjunction with the department of public health, shall adopt regulations to create a

1249 substance abuse education program in state prisons and houses of corrections. Such program shall focus
1250 on, but not be limited to, screening inmates for substance use disorders, preparing inmates with
1251 substance use disorders for reentry into the community, providing training relative to obtaining housing,
1252 employment and the necessary substance abuse treatment once an inmate is released.

1253 SECTION 140. The department of probation, in conjunction with the criminal history systems
1254 board shall conduct a study on rehabilitation. That study shall include an examination of:

1255 (a) enabling a person convicted of or adjudicated delinquent by reason of any felony or
1256 misdemeanor charges in the commonwealth or a person who has been charged with a crime in the
1257 commonwealth but which charges did not result in a conviction to petition the superior court of the trial
1258 court department in the county in which he then resides for a certificate of rehabilitation, or a certificate
1259 of recovery and rehabilitation if the charges were a consequence of substance abuse, for ascertainment
1260 and declaration of the fact of his rehabilitation or recovery and rehabilitation if certain conditions are
1261 met, for example if the person: (1) has not been sentenced to incarceration since being discharged from a
1262 felony or misdemeanor or since the termination of any ancillary proceedings related to such felony or
1263 misdemeanor including, but not limited to, any period of probation, parole or continuation; (2) is not the
1264 subject of a probationary or parole term for the commission of any other felony or misdemeanor; (3)
1265 presents satisfactory evidence of 2 years residence in the commonwealth prior to the filing of the
1266 petition; (4) has demonstrated a period of rehabilitation, as provided in section 176C of the General
1267 Laws, and (5) in the case of a person seeking a certificate of recovery and rehabilitation, has completed a
1268 substance abuse treatment program approved by the bureau of substance abuse treatment services;

1269 (b) the standard the petitioner must demonstrate his rehabilitation or recovery;

1270 (c) the duration of rehabilitation required to be eligible for a certificate of rehabilitation or
1271 recovery;

1272 (d) any recommended provision of notice of the filing of a petition to the district attorney of the
1273 county in which a petition is filed, to the district attorney of the county in which the petitioner was
1274 convicted of an offense, to the attorney general and to the governor;

1275 (e) whether a petitioner for a certification of rehabilitation or recovery may be represented by
1276 counsel and whether the court shall appoint counsel for certain petitioners;

1277 (f) whether the court in which the petition is filed may require such testimony as it deems
1278 necessary, and who should be required to produce and pay for the cost of production of all records and
1279 reports relating to the petitioner and the offense for which he was charged;

1280 (g) which information the court may request upon the filing of the application for a certificate,
1281 from the district attorney in which the petition was filed including, but not limited to: the place of
1282 residence of the petitioner; the criminal record of the petitioner as shown by the records of the
1283 Department of Justice; any representation made to the court by the petitioner; the conduct of the
1284 petitioner during his period of rehabilitation; and any other information the court may deem necessary in
1285 making its determination;

1286 (h) under what conditions a court should deny a petition for a certificate of rehabilitation or
1287 recovery;

1288 (i) under what conditions a court should issue a certificate of rehabilitation or recovery and
1289 whether such a certificate should become a part of the petitioner's criminal offender record information;

1290 (j) to whom the court should forward such a certificate and whether any recommendations
1291 should be included;

1292 (k) whether such a certificate should be provided to any person lawfully seeking information
1293 relative to the offense for which a petitioner has received a certificate;

1294 (l) whether any forms would be required to effectuate such a process and who should develop
1295 them;

1296 (m) any notice requirements that are recommended for defendants or individuals being released
1297 from custody, discharged from probation or parole, or concluding substance abuse treatment;

1298 (n) any other factors that may or may not be included within the determination of whether to
1299 issue a benefit granted by the awarding of such a certificate;

1300 (o) any rights that an individual who has been denied the benefits of attaining a certificate of
1301 rehabilitation or recovery should have, including the right to appeal such a decision;

1302 (p) what the appropriate forum should be for such an appeal; and

1303 (q) any punishments that should be levied against an individual who fraudulently uses such a
1304 certificate.

1305 The department shall report its findings to the clerks of the house and senate by December 31,
1306 2010, who shall forward that report to the chairmen of the house committee on ways and means, the
1307 senate committee on ways and means and the joint committee on mental health and substance abuse.

1308 SECTION 141. The parole board shall conduct a study to determine the benefit and cost of
1309 establishing a substance abuse treatment program to be included as a requirement for individuals during
1310 a period of post-release supervision.

1311 The board shall file the findings of its study by December 31, 2010, with the clerks of the house
1312 and the senate, who shall forward the report to the chairmen of the house committee on ways and means,
1313 the senate committee on ways and means, the joint committee on mental health and substance abuse and
1314 the joint committee on the judiciary.

1315 SECTION 142. The department of corrections, in consultation with the department of public
1316 health shall conduct a study on the establishment of jail diversion programs for nonviolent low-level
1317 offenders with substance use disorders. The study shall include, but not be limited to, the establishment
1318 of jail diversion programs, innovative ways for the courts to divert substance abusers from the criminal
1319 justice system into specified substance abuse treatment options and the cost estimates for implementing
1320 such a program.

1321 The department shall file the findings of its study by December 31, 2010, with the clerks of the
1322 house and the senate, who shall forward the report to the chairmen of the house committee on ways and
1323 means, the senate committee on ways and means and the joint committee on mental health and substance
1324 abuse.

1325 SECTION 143. The administrative office of the trial court shall conduct a study to examine the
1326 bail review process including, but not limited to, personal recognizance, challenges to the amount of bail
1327 for an accused and the provision of notice to a petitioner relative to future court appearances. The
1328 administrative office shall report to the joint committee on the judiciary not later than December 31,
1329 2010.

1330 SECTION 144. The department of public safety shall adopt the regulations required under
1331 section 25 of chapter 270 of the General Laws, not later than 90 days from the effective date of this act.

1332 SECTION 145. Sections 2 to 8, inclusive, 12, 16 to 26, inclusive, 28, 30, 31, 33 to 37, inclusive,
1333 56, 62, 65 to 67, inclusive, 105, 119, 122, 128 to 133, inclusive, and 135 shall take effect 18 months from
1334 the effective date of this act.

1335 SECTION 146. Section 144 shall take effect 180 days from the effective date of this act.