

An Act relative to criminal justice reform

Section-By-Section Summary

Section 1: Definitions

Definitions for the criminal age of majority and substantial financial hardship are added to the General Laws. The criminal age of majority is set at 18 and a substantial financial hardship is defined as one that leads to an inability to meet the basic human needs of food, shelter, and clothing.

Sections 2 and 3: Standardized Arrest Data Collection

Requires the department of criminal justice to obtain arrest data from Massachusetts criminal justice agencies in a format consistent with the FBI's National Incident-Based Reporting System (NIBRS) and maintain the aggregate information on a publicly accessible website.

Section 4: District Attorney Diversion

Requires the District Attorneys to establish pre-arraignment diversion programs for veteran or active military members, persons with substance abuse disorders, and persons with mental illness.

Section 5: Childhood Trauma Task Force

Requires the Office of the Child Advocate to establish a Childhood Trauma Task Force to study and recommend gender responsive and trauma-informed approaches to treatment of juveniles in the juvenile justice system.

Section 6-10, 101-103: DNA Collection

Requires a convicted felon to submit the required DNA sample to the state police or probation upon conviction or intake to a correctional facility rather than the current practice of submitting the sample within one year of conviction. Adds probation officers to the list of personnel eligible to receive training on collecting the samples.

Section 11: Increased OUI Penalties

Provides increasing punishments for sixth, seventh, eighth, and ninth or subsequent OUI violations.

Sections 12, 12A, 36, 37, 42, 43, 45, 46, 48, 57-59, 63, 65-67, 74-80, 91-95: Fines, Fees, and Restitution

Provides the uniform standard of a substantial financial hardship when evaluating the ability of a person to pay a fine, fee, or restitution and increases the daily credit from \$30 per day to \$90 per day for anyone held for failing to pay a fine or fee. Establishes a grace period during which parole and probation fees may not be assessed for six months after release from incarceration.

Sections 13 and 14: Fentanyl and Carfentanil classified as Class A

Reclassifies Fentanyl from Class B to Class A and classifies Carfentanil as Class A.

Sections 15, 16, 20: Elimination of Minimum Sentences for Certain Drug Offenses

Eliminates the mandatory minimum sentences for: first offense distribution or possession with intent to distribute cocaine, methamphetamine, or phencyclidine; second and subsequent offenses for distribution or possession with intent to distribute cocaine, methamphetamine, or phencyclidine; second and subsequent offenses of distribution or possession with intent to distribute Class B drugs; and second and subsequent offenses of distribution or possession with intent to distribute Class C drugs. Eliminates the statutory minimum sentences for second and subsequent distribution or possession with intent to distribute Class D drugs and distribution or possession with intent to distribute drug paraphernalia.

Sections 18 and 19: Trafficking in Fentanyl or Carfentanil

Imposes a mandatory minimum term of three and one-half years imprisonment for trafficking in 10 grams or more of fentanyl or 10 grams or more of any mixture containing fentanyl then follows the trafficking statute for heroin beginning at 18 grams in establishing increased penalties for increased weight of the substance. Imposes a mandatory minimum term of three and one-half years imprisonment for trafficking in any amount of carfentanil.

Sections 21-27, 90: Delinquent Child

Raises the minimum age of a delinquent child from seven to ten. Excludes civil infractions, violations of municipal ordinances or town by-laws, and first offense misdemeanors with a punishment of not more than six months from adjudications as a delinquent child.

Section 28: Collection of Juvenile Justice Data

Requires the Office of the Child Advocate to create an instrument to record aggregate statistical data for juvenile contacts with the criminal justice system and directs criminal justice agencies to submit the required information. Creates the Juvenile Justice Policy and Data Commission to evaluate policies and procedures and study the implementation of statutory changes related to the juvenile justice system.

Section 29: State Prison

Updates the definition of state prison to include all qualifying facilities.

Section 30: Standardized Jail and House of Correction Data Collection

Requires all Sheriffs to record standard information on all persons committed to a jail or house of correction.

Sections 31, 32, 34: Solitary Confinement

Limits the amount of time that an inmate may be kept in segregation and convenes a board to review segregation decisions in correctional facilities that would result in periods of segregation that extend beyond the new limits. Precludes the use of segregation for juveniles and pregnant women. Establishes a Segregation Oversight Committee to gather and report information regarding the use of segregation and its impact on rates of violence, recidivism, and incarceration costs in correctional institutions.

Section 33: Uniform Identification Procedures

Requires the officer in charge of a penal institution to record an inmate's probation central file (PCF) number upon admittance to the facility in addition to the existing identifying information.

Section 35: Medical Parole

Establishes an independent Medical Parole Board and a process through which a prisoner with a terminal illness or permanent incapacitation may petition to be transferred out of a correctional institution to a more appropriate facility. A prisoner released under these provisions would be under the jurisdiction, supervision, and control of the parole board.

Section 38, 39: Extending Good Samaritan Protections to Under-21 Alcohol Incapacitation

Allows a person experiencing, or witnessing someone experience, alcohol-related incapacitation to not be prosecuted for underage possession or consumption of alcohol if they are seeking medical assistance.

Sections 40 and 41: Employment Discrimination

Prevents an employer from discriminating against an applicant for employment for failing to provide information on a misdemeanor conviction over three years old.

Section 44: Corporate Manslaughter

Establishes the criminal offense of manslaughter by a business organization.

Sections 47, 60, and 61: Eliminating Loss of a Driver's License

Eliminates the penalty of a one-year loss of one's driver's license for the offenses of vandalism, tagging, and malicious damage to a motor vehicle.

Sections 49-56, 62: Felony Thresholds

Increases from \$250 to \$750 the felony threshold for larceny, misuse of a credit card, fraudulent use of a credit card, receiving stolen goods, and damage to property.

Section 64: Solicitation

Creates a criminal offense of solicitation to commit a crime and establishes increasing penalties determined by the punishments for the underlying offense.

Sections 68-73: Bail

Amends existing bail statutes to clarify that bail should be set at an amount no higher than what would reasonably assure the person's appearance before the court after taking the person's financial resources into account. However, bail may be set at an amount higher than the person can afford if neither alternative nonfinancial conditions nor affordable bail would adequately assure the person's appearance before the court. If bail is set at an amount likely to lead to long term pre-trial detention for an inability to pay, the person setting bail must provide recorded findings and a statement as to why an affordable amount of bail or other nonfinancial conditions would not reasonably assure the person's appearance before the court.

Sections 81-86: Sealing of a Criminal Record

Reduces the wait time to seal a misdemeanor conviction from five years to three years and a felony conviction from ten years to seven years. Allows for the sealing of a conviction for resisting arrest. For sealed convictions, allows a person to answer 'no record' on applications for housing and employment and prevents a professional or occupational licensing board from denying an application solely on the basis of an existing sealed record of conviction unless an adjudicatory hearing is held. For sealed non-convictions, allows a person to answer 'no record' on applications for employment, housing, and occupational licenses.

Section 87: Expungement of Criminal and Juvenile Records

Establishes a process through which eligible juvenile adjudications, eligible adult convictions, and eligible juvenile and adult non-convictions may be expunged. Furthermore, the court may expunge a record created through fraud upon the court, misidentification of the defendant, or a record that pertains to an offense that is no longer a crime if justice would best be served by the expungement.

Section 88: District Court Diversion

Eliminates the age restriction on those eligible for diversion programs in the District Courts.

Section 89: Restorative Justice

Establishes a Restorative Justice Advisory Committee to review, monitor, and assist all community-based restorative justice programs. Allows for adults and juveniles to voluntarily enter restorative justice programs prior to arraignment and at the consent of the district attorney and victim.

Section 96: Commission to Study Payment of Fines and Fees

Establishes a special commission to conduct a study on the ability of a defendant to pay fines and fees and determine the feasibility of allowing the department of probation to access department of revenue records for the purpose of making indigency and financial hardship determinations.

Section 97: Commission to Study the Crime Lab

Establishes a special commission to investigate and study the operation and management of the Massachusetts state police crime laboratory.

Section 98: Restorative Justice Advisory Committee

Requires the appointments to the Restorative Justice Advisory Committee to be made not later than October 1, 2018 and the first meeting must be held not later than December 1, 2018.

Section 99: Juvenile Justice Policy and Data Commission

Requires the appointments to the Juvenile Justice Policy and Data Commission to be made not less than 90 days after enactment of the legislation.

Section 100: Segregation Reports

Requires all correctional institution reports to the Segregation Oversight Committee and the Legislature to be filed beginning on July 1, 2019.

Sections 104-106: Effective Dates