

LEGISLATIVE SUMMARY

AN ACT RELATIVE TO CRIMINAL JUSTICE REFORM

An Act relative to criminal justice reform builds upon the gains made in the legislation implementing the recommendations of the Council of State Governments. This legislation implements important reforms in the criminal justice system.

JUVENILES

This legislation raises the minimum age of criminal responsibility from seven to ten, and decriminalizes certain low level misdemeanor offenses for juveniles. It also eliminates license revocation as a penalty for juveniles and expands Good Samaritan protections for alcohol incapacitation.

This bill establishes a Juvenile Justice Policy and Data Commission to analyze and report on impacts of legislation, diversion, and programs within the juvenile justice system. It also establishes a Childhood Trauma Task Force to study and recommend gender responsive and trauma-informed approaches to treatment of juveniles in the juvenile justice system.

DIVERSION AND RESTORATIVE JUSTICE

Currently, district court diversion programs are only available to defendants up to the age of 22. This legislation expands district court diversion by removing the age restriction.

This legislation requires district attorneys to create pre-arraignment diversion programs for **active armed service members, veterans, and individuals with substance abuse disorders and mental illness**. Diverting these groups of individuals prior to arraignment will prevent the creation of a criminal record and provide them with more appropriate services and programs.

This bill establishes restorative justice as a voluntary program available to adults and juveniles pre-arraignment to help victims and offenders.

BAIL REFORM

This legislation establishes that bail should not be set at an amount higher than what would reasonably assure the appearance of the person before the court and requires that a person's financial resources be taken into account when determining bail.

Bail may be authorized at a higher amount if neither alternative nonfinancial conditions, nor a bail amount that the person can afford, would adequately assure the person's appearance. If bail is set at an amount that is likely to lead to the long term pre-trial detention of the person, findings and a statement must be recorded explaining why nonfinancial conditions or an affordable amount would not assure the persons appearance at trial.

MANDATORY MINIMUMS

This legislation eliminates mandatory minimum sentences for certain low level drug offenses that do not involve trafficking or minors.

EXPUNGEMENT

This legislation creates expungement for the first time in Massachusetts; currently records can only be sealed. This bill establishes a process for expunging certain juvenile and criminal records for young adults (18-21), and permits the court to expunge records in cases where there was fraud upon the court or where the offense is no longer a crime.

This bill prevents third party data mining companies from disseminating expunged records and directs the commissioner of probation to request the FBI and DOJ to seal or expunge a record.

CORI REFORM

This legislation builds upon the CORI reforms made in 2010. It reduces the wait time to seal a conviction from **10 years to 7 years for a felony, and from 5 years to 3 years** for a misdemeanor. It also allows a conviction for resisting arrest to be sealed.

This bill expands the ability of an applicant with a sealed record to be able to answer “no record” on housing applications and creates an appeal process for applicants who have been denied a professional license due to a sealed record of a conviction.

It also establishes protections for businesses and landlords who shall be presumed to have no notice or ability to know about criminal records that have been sealed or expunged.

FELONY THRESHOLDS

This legislation increases the threshold for felony larceny from \$250 to \$750.

FINES AND FEES

This legislation establishes a uniform standard by which certain fines and fees may be reducible or waivable upon a showing that a “substantial financial hardship” would result from the imposition of the fees.

This legislation also increases the daily incarceration credit from \$30/day to \$90/day in order to reduce the time spent in confinement for not paying fines or expenses. It adds a six month grace period after release from custody during which a person shall not be assessed parole fees or supervised or administrative probation fees if that person can show a substantial financial hardship.

SOLITARY CONFINEMENT

This legislation sets limits on the length of time an inmate can be held in solitary confinement without review for disciplinary or administrative reasons. It creates a segregation review board to review and approve the extraordinary circumstance in which an inmate is held in solitary confinement longer than the allowed upon limits in the bill.

It also creates a segregation oversight committee to collect data on the use of segregation and its impact on inmates, violence, recidivism, and cost. The committee will report this data annually to the legislature.

This bill precludes the use of segregation for pregnant women and juveniles.

MEDICAL PAROLE

Under current Massachusetts law, there is no specific mechanism to release a terminally ill or incapacitated inmate from incarceration for medical reasons. This legislation establishes an independent medical parole board and a process through which an inmate with a terminal illness or permanent incapacitation, an inmate's family, an inmate's medical provider, or institutional staff may initiate a petition to have the inmate medically paroled.

CORPORATE MANSLAUGHTER

This legislation creates a penalty of a fine of not more than \$250,000 and optional debarment of up to 10 years for a corporation or other business organization that is convicted of manslaughter.

SOLICITATION

This legislation creates the crime of solicitation that is tied to the severity of the underlying crime.

CARFENTANIL AND FENTANYL TRAFFICKING

This legislation adds Carfentanil to Class A and moves Fentanyl from Class B to Class A.

This bill also strengthens the current Fentanyl trafficking law by changing 10 net grams of fentanyl to 10 grams of a mixture containing fentanyl, and adding a minimum penalty of 3.5 years.

It creates the strongest law in the nation for trafficking Carfentanil. This legislation establishes a penalty for anyone who knowingly trafficks in Carfentanil in any amount by imprisonment for 3.5 to 20 years.

INCREASED OUI PENALTIES

The existing OUI laws provide for specified penalties up to a fifth offense. This legislation updates the OUI laws to include increasing penalties for a sixth, seventh, eighth, and ninth or subsequent offense. This allows for enhanced punishments for the most egregious and dangerous re-offenders.

DNA COLLECTION

Under current law, an adult convicted of a felony and a juvenile adjudicated as a youthful offender for committing an offense punishable by state prison time shall submit a DNA sample to the state police within one year of conviction/adjudication or release from incarceration whichever occurs first.

This legislation removes the one year waiting period to submit a DNA sample and requires the sample to be collected forthwith, or upon intake to a correctional facility.

DATA COLLECTION AND SPECIAL COMMISSIONS

This legislation creates comprehensive data collection initiatives to evaluate policy changes in this bill and in the Council of State Governments legislation.

Along with data collection for solitary, medical parole, and juveniles, this bill establishes data collection practices to include:

- National Incident-Based Data Reporting (NIBRS)- standardizes arrest data across the Commonwealth.
- Probation Central File (PCF) number- allows for cross tracking through the criminal justice system.
- Sheriffs Inmate Management System (SIMS)- establishes uniform data collection in county jails and Houses of Correction.

This legislation creates a special commission to investigate and study the state police crime lab and a special commission to study the ability of a defendant to pay fines and fees.