

**YAD SUMMARY OF 2018 CRIME BILL  
FOCUS ON AMENDMENTS AFFECTING JUVENILE OFFENDERS<sup>1</sup>**

The following is a summary of the Criminal Justice Reform Bill, Senate Bill 2371, sections 1-239, signed into law on April 13, 2018. It does not provide the complete text for each section. **Sections specifically relevant to juveniles are in bold italic print.**

**Amendments specific to juveniles can be found on the following pages of this summary memo:**

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*Please Note: Although declared an “emergency law,” which usually takes effect immediately, the effective date for the various sections vary from immediately to 90 days, 6 months, or 1 year after the effective date. If a specific section of the Act has a time frame other than “immediately,” it is noted below in the section description.*

#### **M.G.L. c. 4 (Statutes)**

Section 1 of the Act: amends G.L. c. 4, § 7 (Definitions of Statutory Terms) – **defining the age of “criminal majority” as 18**; defines a new term, “offense-based tracking number,” as a unique number to be assigned to felony complaints or indictments for use in electronic communication with other law enforcement agencies.

#### **M.G.L. c. 6 (The Governor ... certain officers... )**

Sections 2-9 of the Act amend multiple sections of chapter 6.

Section 2 of the Act inserts a new section into the chapter, § 116G, that defines “bias free policing” and requires the development of in-service training for police relative to implicit bias, mental health emergencies and de-escalation strategies (effective 90 days after the effective date of this act).

Section 3 of the Act restricts criminal offender record information to “information recorded in criminal proceedings that are not dismissed before arraignment.”

Section 4 of the Act amends § 167 of chapter 6 by inserting the following: ***“if a person under the age of 18 was adjudicated as an adult in superior court or adjudicated as an adult after transfer of a case from a juvenile session to another trial court department, information relating to such criminal offense shall be criminal...”***

Section 6 of the Act treats NGRI as a conviction for CORI purposes.

Section 9 of the Act creates a forensic science oversight board in EOPSS.

#### **M.G.L. c. 6A (Secretary of Public Safety: Functions)**

Section 10 of the Act amends § 18 ¼ of chapter 6A, ***requiring the creation of informational resource booklets regarding CORI rights, sealing records etc. to be given to juvenile and adult offenders upon release.*** It also establishes data collection and reporting standards for criminal justice agencies and the trial courts (effective 90 days after the effective date of the Act);

Section 11 of the Act inserts two new sections into chapter 6A, §§ 18 X and Y, requiring EOPSS to establish and maintain a statewide sexual assault evidence kit tracking system.

#### **M.G.L. c. 7D (MA Office of Information Technology)**

Sections 12 and 13 of the Act require state agencies to adopt standards to comply with federal law and to establish an interagency oversight board to ensure policies relative to agencies’ data collection and dissemination to the public through MA open data portal is achieved (effective 90 days after the effective date of the Act).

#### **M.G.L. c. 10 (Dept. of State Treasurer)**

Sections 14 and 15 of the Act establish a Municipal Police Training Fund and a Human Trafficking Fund (effective 90 days after the effective date of the Act).

**M.G.L. c. 12 (Dept. of the Attorney General and District Attorneys)**

Section 16 of the Act adds a new section, § 34, to chapter 12, requiring DAs to establish pre-arraignment diversion programs for veterans, active service members, persons with substance abuse disorder, and persons with mental illness (effective 90 days after the effective date of the Act).

**M.G.L. c. 18C (Office of the Child Advocate)**

Section 17 of the Act adds a new section, § 14, to chapter 18C, ***convening a child trauma task force pursuant to section 89 of chapter 119 to “study, report and make recommendations on gender responsive and trauma informed approaches to treatment services for juveniles and youthful offenders in the juvenile justice system. Places a priority “on juvenile or youthful offender’s pathways into the juvenile justice system with the goal of reducing the likelihood of recidivism by addressing the unique issues associated with juvenile or youthful offenders including emotional abuse, physical abuse, sexual abuse, emotional neglect, physical neglect, family violence, household substance abuse, household mental illness, parental abuse and household member incarceration”*** (effective 90 days after the effective date of the Act).

**M.G.L. c. 22C (Dept. of State Police)**

Section 18 of the Act amends § 36 of chapter 22C, requiring the transmission of juvenile and adult fingerprint identification to the FBI, and ***requiring juvenile case disposition information to be transmitted to the FBI simultaneously with an order to seal such information*** (effective July 1, 2019).

**M.G.L. c. 22E (State DNA Database)**

Sections 19-23 of the Act amend sections 3, 4, 5, and 11 of chapter 22E. Highlighted changes include striking out existing § 3 and inserting a new § 3 that states, in relevant part, “Any person who is convicted of an offense that is punishable by imprisonment in the state prison ***and any person adjudicated a youthful offender by reason of an offense that would be punishable by imprisonment in the state prison if committed by an adult shall submit a DNA sample ...***” It also inserts a new § 11 that states “A person required to provide a DNA sample who, after notice, willfully fails to provide such DNA ... shall be subject to ... a fine of not more than \$2000 or imprisonment in a jail or house of correction for not more than 6 months or both.” (Sections 19 and 23 take effect 1 year after the effective date of the Act).

**M.G.L. c. 41 (Officers Employees of Cities, Towns & Districts)**

Section 24 of the Act inserts a new section, § 97B ½, to chapter 41, requiring hospital personnel to inform law enforcement within 24 hours of collecting sexual assault evidence.

Sections 25-26 of the Act amend § 98F providing, in part, ***that any entries concerning “the arrest of a person who has not yet reached 18” are not to be included in police logs open to the public*** (effective December 31, 2018).

**M.G.L. c. 71 (Public Schools – School Resource Officer Procedures)**

Section 27 of the Act amends section § 37P of chapter 71 ***by striking the second paragraph and inserting multiple paragraphs about the selection and duties of School Resource Officers and the establishment of Memoranda of Understanding between schools and police departments.***

***The amendment explicitly states: “SROs shall not use police powers to address traditional school discipline issues, including non-violent disruptive behavior”*** (effective 90 days after the effective date of the Act).

**M.G.L. c. 90 (Motor Vehicles & Aircraft)**

Sections 28-39 of the Act amend §§ 8A, 8A ½, 21, 22, 24, 24D, 24G, 24L, 24W of chapter 90, including, but not limited to, the following: striking the words “of the vapors of glue” and inserting the following “from smelling or inhaling the fumes of any substance having the property of releasing toxic vapors...” and increasing penalties for subsequently operating under the influence.

Section 31 of the Act repeals subsection (i) of §22. Thus, there will no longer be a license suspension imposed upon the issuance of a default or arrest warrant (effective 90 days after the effective date of the Act).

**M.G.L. c. 90B (Motorboats, Other Vessels...)**

Sections 40-44 of the Act amend §§ 8, 8A, 8B, 26A that address operating various vehicles while under the influence by striking the words “vapors of glue” and inserting the following “from smelling or inhaling fumes of any substance having the property of releasing toxic vapors as defined in section 18 of chapter 270.”

**M.G.L. c. 94C (Controlled Substance Act)**

Sections 45-61 of the Act amend §§ 31, 32A, 32B, 32C, 32E, 32H, 32I, 32J, 34A, 35, 47, of chapter 94C. The highlights include the repeal of certain mandatory minimum sentences for convictions of unlawful manufacture, distribution, dispensing, or possessing with intent to manufacture, distribute, dispense or cultivate Class B, Class C, and class D substances (§§ 47-48, 52-56). The Act reclassifies fentanyl and derivatives as a Class A substance and adds them to the same section of the trafficking statute as heroin, morphine and opium and adds a new offense of trafficking in any amount of carfentanyl, punishable up to 20 years with a mandatory minimum of not less than 3 ½ years. (Section 61 of the Act is effective 90 days after the effective date of the Act; sections 45, 46, 49, 50, 51 and 57 apply to offenses committed after the effective date of the Act; sections 47, 48, 52, 53-56, 60 apply to initial convictions occurring on or after the effective date of the Act).

Section 57 of the Act rewrites §32J (School Zone) of chapter 94C, to require, in addition to committing a drug offense within 300 feet of a school between 5 a.m. and midnight and within 100 feet of a public park, the Commonwealth must also prove that the offender used violence or threats or possessed a firearm... or induced another participant to do so, (and if convicted) shall be subject to a mandatory minimum sentence of 2 years and a fine of not less than \$1000 (applies to offenses committed after the effective date of the Act).

Sections 58 and 59 of the Act prevents persons seeking medical assistance for themselves or others experiencing drug related overdose from being found in violation of a condition of probation, parole or pre-release.

Section 60 of the Act repeals §35 so that being at a place where heroin is kept or being in the company of a person in possession thereof is no longer defined as a crime (applies to initial convictions occurring on or after the effective date of the Act).

### **M.G.L. c. 111E (Drug Rehabilitation)**

Sections 62-71 amend §§ 1, 10, 11, and 13E of chapter 111E. In relevant part, the amendments no longer require an examination and report by a physician or psychiatrist to qualify for drug diversion. Now the report can be prepared by an “independent addiction specialist” (effective 90 days after the effective date of the Act).

### **M.G.L. c. 119 (Protection and Care of Children and Proceedings against Them)**

Sections 72-80 of the Act amend §§ 52, 54, 67, 68, 68A, 84, and adds new sections, §§ 86, 87, 88, 89, to chapter 119. The various amendments to chapter 119 are effective 90 days after the effective date of this Act, except for section 74 of the Act which takes effect on July 1, 2019.

***The amendments include, but are not limited to, the following:***

- ***Section 72 defines a delinquent child as a “child between 12 and 18 years of age who commits any offense against a law of the commonwealth; provided, however, that such offense shall not include a civil infraction, a violation of any municipal ordinance or town by-law or a first offense of a misdemeanor for which punishment is a fine, imprisonment in a jail or house of correction for not more than 6 months or both such fine and imprisonment.”***
- ***Section 75 inserts a new section 54A, establishing procedures and criteria for the exercise of judicial discretion to divert a qualifying juvenile to a diversion program prior to arraignment; specifies charges eligible for diversion; specifies procedures if diversion program is successfully completed or if the conditions of diversion have not been met; and establishes procedures for a judicial order directing expungement of any records of the complaint and related proceedings if the judge dismisses the complaint. If eligible for diversion, the juvenile shall not be arraigned and information shall not be entered into CORI; enrollment in diversion “shall not be considered an issuance of a criminal complaint for the purposes of section 37 H1/2 of chapter 71 (school suspension/expulsion). DA may divert where there is probable cause to issue a complaint. If indicted as a youthful offender, one is not eligible for diversion.***
- ***Section 76 rewrites § 67 to require parental notification or “if there is no parent, the guardian or custodian with whom the child resides or ... the department of children and families.” ... If the arresting officer requests that a child between the ages of 14 and 18 be detained, the child can only be detained in a police station or town lockup that has been approved by the Department of Youth Services. Removes the requirement of notifying the probation department of arrested children. If the child is in the care and custody of DCF, DCF must be immediately notified and social worker “shall make arrangements for the child’s release as soon as practicable if it has been determined that the child will not be detained.”***
- ***Section 80 inserts new sections 86, 87, 88, and 89 to chapter 119.***
  - ***§ 86 of chapter 119 defines a juvenile as “a person under the age of 21 in a youthful offender proceeding” and declares: “A juvenile shall not be placed in restraints during court proceedings and any restraints shall be removed prior to the appearance of a juvenile before the court at any stage of a proceeding unless the justice presiding in the courtroom issues an order and makes specific findings on the record that: (i) restraints are necessary because there is reason to believe that a juvenile presents an immediate and credible risk of escape that cannot be curtailed by other means; (ii) a juvenile poses a threat***

*to the juvenile's own safety or to the safety of others; or (iii) restraints are reasonably necessary to maintain order in the courtroom." Further, the new section prohibits a juvenile court judge from imposing "a blanket policy to maintain restraints on all juveniles or on a specific category of juveniles who appear before the court."*

- *§ 87 of chapter 119, declares that DYS or DOC "shall not place in a secure detention or secure correctional facility any juvenile who has: (1) been charged with or has committed an offense that would not be criminal if committed by an adult, except juvenile who are held in accordance with the interstate compact on juveniles as enacted by the commonwealth; (2) not been charged with any offense; or (3) been alleged to be dependent, neglected or abused. " The new section also prohibits the placement of any juvenile in a facility in which the juvenile may have contact with adult inmates.*
- *§ 88 of chapter 119, declares, "a child against whom a complaint is brought pursuant to this chapter may participate in a community-based restorative justice program pursuant to chapter 276B."*
- *§ 89 of chapter 119 defines the following terms: alternative lock-up program; child advocate; contact; criminal justice agencies; juvenile; office; racial or ethnic category; type of crime. Further, this section establishes a juvenile justice policy and data board, specifying its mission, members, data collection and reporting responsibilities.*

#### **M.G.L. c. 119A (Child Support Enforcement)**

Section 81 of the Act prevents the Dept. of Revenue from suspending licenses for non-payment of child support when there is no evidence of the obligor living at the address last known (effective 90 days after the effective date of the Act).

#### **M.G.L. c. 120 (Department of Youth Services)**

Section 82 of the Act adds a new section, § 10B, that states: ***"A person detained by and committed to the department of youth services shall not be placed in involuntary room confinement as a punishment, harassment or consequence for noncompliance or in retaliation for any conduct."***

#### **M.G.L. c. 125 Correctional Institutions of the Commonwealth)**

Section 83 of the Act amends chapter 125, § 1 by broadening the definition of a state prison beyond that of Cedar Junction.

#### **M.G.L. c. 126 (Jail, House of Correction)**

Section 84 of the Act adds a new section, § 40, to chapter 126, requiring the sheriff to record and report specified data on the inmate population in each jail and house of correction (effective 6 months after the effective date of the Act).

#### **M.G.L. c. 127 (Officers and Inmates of Penal Institutions, Parole)**

Sections 85-100 of the Act amend chapter 127, regarding the administration of correctional institutions, jails or houses of correction. Sections 85-89 and 91-96 take effect on 12/31/18. Highlights include:

- Section 86 of the Act amends § 1 of chapter 127 by adding definitions for disciplinary restrictive housing, exigent circumstances, placement review, and serious mental illness.

- Section 89 of the Act amends § 16 of chapter 127 by requiring “an examination for substance use disorder to be made by a qualified addiction specialist of each inmate in their respective institutions committed for a term of 30 days’ imprisonment or more.”
- Section 91 of the Act inserts a new section, §32A, establishing procedures and protections for prisoners that have a gender identity that differs from that assigned at birth.
- Section 92 of the Act inserts a new section, § 36C, that ensures a correctional institution, jail or house of correction “shall not: (i) prohibit, eliminate, or unreasonably limit in-person visitation of inmates; or (ii) coerce, compel or otherwise pressure an inmate to forego or limit in-person visitation. For the purposes of this section, to unreasonably limit in-person visitation of inmates shall include, but not be limited to, providing an eligible inmate fewer than 2 opportunities for in-person visitation during any 7 day period. ... Nothing in this section shall prohibit the temporary suspension of visitation privileges for good cause including, but not limited to, misbehavior or during a bona fide emergency.”
- Section 93 of the Act strikes out sections 39 and 39A of chapter 127 and inserts 9 sections that specify procedures for the authorization of prisoner confinement in a restrictive unit to “discipline the prisoner or if the prisoner’s retention in general population poses an unacceptable risk: (i) to the safety of others; (ii) of damage or destruction of property; or (iii) to the operation of a correctional facility.” The section addresses meals, access to showers, rights of visitation and communication, access to reading and writing materials, access to radio or television, periodic mental and psychiatric examination, medical and psychiatric treatment, access to canteen, and access to disability accommodations when a prisoner is placed in the restrictive placement. A prisoner may NOT be placed in a restrictive unit to protect the prisoner from harm from others, because of his/her sexual or gender identity, or if they are pregnant. Requirements for periodic placement reviews are specified.
- The new § 39E of chapter 127 states a prisoner held in restrictive housing “for a period of more than 60 days shall have access to vocational, educational and rehabilitative programs to the maximum extent possible consistent with the safety and security of the unit and shall receive good time for participation at the same rates as the general population.
- The new section § 39F of chapter 127 states “any prisoner who has fewer than 180 days until the prisoner’s mandatory release date or parole release date and is held in restrictive housing shall be offered reentry programming that shall include, but not be limited to, substantial resocialization programming in a group setting; regular mental health counseling to assist with the transition, housing assistance, assistance obtaining state and federal benefits, employment readiness training and programming designed to help the person rebuild interpersonal relationships ...”
- Section 95 of the Act requires that at least one educational program leading to a G.E.D. be made available to persons committed for not less than six months.
- Section 96 of the Act enacts a new section, § 48B of chapter 127, which states that a commissioner or superintendent of a correctional facility “may establish young adult correctional units ... (for prisoners) who are 18-24 years of age
- Section 97 of the Act inserts a new section, § 119A, to chapter 127, establishing the criteria and procedures for medical parole “due to terminal illness or permanent incapacitation...”

- Section 98 of the Act amends § 133A of chapter 127 by adding the following: ***“if a prisoner is indigent and is serving a life sentence for an offense that was committed before the prisoner reached 18 years of age, the prisoner shall have the right to have appointed counsel at the parole hearing and shall have the right to funds for an expert pursuant to chapter 261.”***
- Section 100 of the Act amends § 145 of chapter 127 by replacing the existing section, now prohibiting commitment of a person to a correctional facility for non-payment of fees/fines if such person can establish by a preponderance of the evidence that the person is unable to pay the fine without causing substantial financial hardship to the person or their immediate family. ***“A justice of the trial court shall not commit a person who has not yet reached 18 years of age to a prison, place of confinement or the department of youth services solely for the non-payment of money.”***

#### **M.G.L. c. 138 (Alcoholic Liquors)**

Sections 101-102 of the Act amends § 1 by adding a definition of alcohol-related incapacitation and ***provides protection from prosecution for a person under the age of 21 who, in good faith, seeks medical assistance for someone experiencing alcohol related incapacitation, or is the subject of such a good faith request for medical assistance.***

#### **M.G.L. c. 151B (Discrimination by Employers ...)**

Sections 103 and 104 of the Act amends §4 of chapter 151B making it an unlawful employment practice to request or use information against a person by reason of his failure to furnish information regarding a conviction of a misdemeanor where the date of conviction or completion of incarceration occurred 3 (reduced down from 5) years prior or anything related that has been sealed or expunged.

#### **M.G.L. c. 209A (Abuse Prevention)**

Section 105 of the Act allows the court to waive the assessment fee for persons referred to certified batterers program if it “would constitute a substantial financial hardship for the person or the person’s family. “

#### **M.G.L. c. 211B (Trial Court)**

Section 106 amends § 22 of chapter 211B, requiring the trial court to update the department of state police electronically for each offender appearing in court for purposes of updating the criminal history record, including dispositions, sealing and expungement orders. This section of the Act takes effect on 7/1/2019.

#### **M.G.L. c. 211D (CPCS)**

Section 107 of the Act amends § 2A of chapter 211D, ***eliminating indigent counsel fee for juveniles.***

#### **M.G.L. c. 212 (Superior Court)**

Section 108 of the Act amends § 7 of chapter 212, requiring offense-based tracking numbers and fingerprint based state IDs to accompany felony indictments. This section of the Act takes effect on 7/1/2019.



#### **M.G.L. c. 218 (District Court)**

Section 109 amends § 26 of chapter 218, clarifying that the district court and the BMC have original jurisdiction concurrent with the superior court over witness intimidation, conspiracy and solicitation to commit a felony.

Section 110 amends § 32A of chapter 218, requiring an application for a criminal complaint be accompanied by an offense based tracking number. This section of the Act takes effect on 7/1/2019.

#### **M.G.L. c. 233 (Witnesses & Evidence)**

Section 111 of the Act amends § 20 of chapter 233, **creating a parent-child privilege *where the victim in the proceeding is not a family member and does not reside in the family household. A parent is also disqualified from testifying to any communication with the minor child for the purpose of seeking advice regarding the child's legal rights, even if the victim is a family member who resides in the household.*** "Parent" is defined as a "biological or adoptive parent, stepparent, legal guardian or other person who has the right to act in loco parentis for the child." **This section applies to offenses committed after the effective date of the Act.**

#### **M.G.L. c. 258B (Rights of Victims & Witnesses of Crime)**

Section 112 of the Act amends § 8 of chapter 258B, standardizing when court assessments fees may be waived.

#### **M.G.L. c. 258C (Compensation of Victims of Violent Crime)**

Sections 113-115 of the Act amends § 2 of chapter 258C which provides procedures for compensation to crime victims. **The Act waives the 5 day timely reporting requirement for victims under the age of 18.**

#### **M.G.L. c. 258D (Compensation for Certain Erroneous Felony Convictions)**

Sections 116-124 of the Act amend §§ 1, 3, 5, 6, 7, 8, 9, of chapter 258D amending the procedures in wrongful conviction cases, including, but not limited to, increasing the cap for those seeking compensation from \$500,000 to \$1,000,000.

#### **M.G.L. c. 263 (Rights of Persons Accused of Crime)**

Section 125 of the Act amends § 1A of chapter 263, requiring finger printing upon felony arrest (effective on 7/1/2019).

#### **M.G.L. c. 263A (Witness Protection in Criminal Matters)**

Section 126 of the Act amends § 1 of chapter 263A, expanding the definition of a critical witness.

#### **M.G.L. c. 265 (Crimes against the Person)**

Section 127 of the Act amends § 13 of chapter 265, establishing a new crime of corporate manslaughter (maximum penalty \$250,000).

Section 128 of the Act amends §13D of chapter 265, adding a specific felony offense of assault and battery on a police officer causing serious bodily injury during the officer's course of duty, which cannot be CWO'ed or placed on file, with a 1 year mandatory minimum (max penalty 10 years).

Sections 129-132 of the Act amend §§ 47, 54 and 57 of chapter 265 respectively, standardizing when the court may waive GPS fees for sex offenders ("would cause substantial hardship to the

offender or the person's immediate family or the person's dependents....) and requiring fines collected as punishment for enticement of child under age 18 to engage in prostitution to be directed to the Victims of Human Trafficking Fund (Sections 130-132 take effect 90 days after the effective date of the Act).

Section 132 of the Act adds a new section to chapter 265, § 59 allowing vacation of an adjudication or conviction of certain offenses, including simple possession of a controlled substance, upon a finding by the court "of a reasonable probability that the defendant's participation in the offense was a result of having been a human trafficking victim as defined by § 20M of chapter 233... **Further "[w]here a child under the age of 18 was adjudicated delinquent for an offense under...chapter 272, based on allegations of prostitution, there shall be a rebuttable presumption that the child's participation in the offense was a result of having been a victim of human trafficking..."** (effective 90 days after the effective date of the Act).

#### **M.G.L. c. 266 (Crimes against Property)**

Sections 133-154 of the Act amend §§ 27A, 28, 29, 30, 30A, 37A, 37B, 37C, 37E, 60, 108, 111B, 126A, 126B, 127 of chapter 266, including, but not limited to, allowing that a conviction or adjudication for malicious destruction to a motor vehicle shall not result in loss of license; allowing for modification of restitution order for stealing a motor vehicle based on hardship; raises the threshold for felony larceny from \$250 to \$1200; raises the shoplifting threshold to \$250; raises the threshold for felony credit card misuse from \$250 to \$1200; raises the threshold of felony destruction of property from \$250 to \$1200. The police may arrest without a warrant for misdemeanor larceny and receiving where the value of the property was more than \$250.

#### **M.G.L. c. 268 (Crimes against Public Justice)**

Section 155 of the Act inserts a new section, § 13B, to chapter 268, expanding the scope of what constitutes witness intimidation and increases punishment for such offenses.

Section 156 of the Act amends section 34A of chapter 268 expanding the crime of providing false information to law enforcement to include providing a false address, date of birth, home address, mailing address, phone number or other information at arrest.

#### **M.G.L. c. 269 (Crimes against Public Peace)**

Section 157 of the Act amends section 10H of chapter 269 by amending the offense of carrying a loaded firearm while "under the influence" to include smelling or inhaling vapors of glue or other toxic vapors.

Section 158 of the Act requires the court to consider a defendant's ability to pay restitution when charged with willful and malicious communication of false information to 911.

#### **M.G.L. c. 272 (Crimes against Chastity Morality Decency and Good Order)**

Section 159 of the Act inserts a new section 40 to chapter 272 that ***decriminalizes the charge of disturbing a school or assemblies as applied to elementary or secondary school students.*** As applied to adults, the section amends the possible punishment for the crime. ***The section states: "an elementary or secondary student shall not be adjudged a delinquent child for an alleged violation of this section for such conduct within school buildings or on school grounds or in the course of school related events."***

Section 160 of the Act inserts a new section, §53(b) to chapter 272 that ***decriminalizes disorderly acts and disturbing the peace for elementary or secondary school students that occur "within school buildings or on school grounds or in the course of school-related events."*** As applied to adults, the section amends the possible punishment for the crime.

Section 161 of the Act inserts a new section, §107, to chapter 272, requiring the transition of funds collected as fines for violations of §§ 8 and 53(a) and (b) into the Victims of Human Trafficking Trust Fund. This section takes effect 90 days after the effective date of the Act.

**M.G.L. c. 274 (Felonies, Accessories, and Attempts)**

Section 162 of the Act adds a new section, § 8, to chapter 274 defining the crime of, and punishments for, enticing others to commit a felony.

**M.G.L. c. 276 (Search Warrants ... Arrest Examination ...Bail)**

Sections 163-185 of the Act amends §§ 30, 31, 57, 58, 58A, 59, 61A, 61B, 87A, 89A, 89B, 92A, 99G. Sections 168, 172, and 185 take effect 90 days after the effective date of the Act.

Highlights include:

- Standardizing when fees may be waived for defaulting on one's bail when the fee would cause financial hardship to person or person's family;
- Requiring that if bail is set in an amount that is likely to result in long term pre-trial detention, the person setting bail must provide written or recorded reasons as to why neither alternative or non-financial conditions were imposed;
- Allowing a dangerousness hearing for a charge of a third or subsequent OUI within 10 years of the previous conviction;
- Expands the length of detention after a dangerousness hearing in superior court from 120 days to 180 days; remains 120 days for other courts;
- Prohibiting the assessment of monthly probation fees after release from prison or the house of correction for said person's first 6 months of such probation and may be waived for subsequent periods upon a finding of financial hardship;
- Establishing a cohort of probation officers to work exclusively with "young adults," ages 18-24;
- Establishing a pre-trial service initiative in the office of probation.

Sections 186-194 amend §§ 100A, 100C of chapter 276, regarding sealing of criminal records. These sections take effect 6 months after the effective date of the Act. Highlights include reducing the timeline for sealing misdemeanors from 5 to 3 years and for sealing felonies from 10 years to 7 years; clarifying that persons with sealed record can answer "no record" when applying for housing, employment, or occupational or professional licenses. Additionally, an adult may now move to seal a conviction for resisting arrest.

Section 195 of the Act creates a new statutory regime for ***expungement of records where the offense for which the record was created occurred prior to the petitioner's 21<sup>st</sup> birthday***; the offense must be one that specifically qualifies for expungement; if the offense was a qualifying felony, it must have occurred not less than 7 years prior to the date of the petition; if the offense was a qualifying misdemeanor, it must have occurred not less than 3 years prior to the petition; and the petitioner must not have other criminal or juvenile dispositions. ***The criteria for expungement are provided in new sections, §§ 100I, 100J, and 100K of chapter 276 and should be carefully reviewed. If Probation determines that the record is eligible for expungement, a judge will then determine whether to expunge the record in the interests of justice. Pursuant to new section 100N, expunged records are not admissible as evidence in any court proceeding.*** This section takes effect 6 months after the effective date of the Act.

**M.G.L. c. 276A (Dist. Ct, Pretrial Diversion)**

Sections 196-201 of the Act amends §§ 1,2,4,5,8,9 and 12 of chapter 276A including, but not limited to, removing the requirement that probation certify or approve diversion programs; removes the previous age limitations (i.e., 18-22) for diversion; clarifies that diversion and restorative justice chapters do not limit the discretion of the D.A. or the police to divert.

**M.G.L. c. 276B (Restorative Justice)**

Section 202 of the Act establishes a new chapter of the general laws, chapter 276B, that establishes ***community-based restorative justice programs, available to both juvenile and adult defendants***, prior to conviction or adjudication. Eliminates the age restrictions for eligible offenders, and specifies the crimes not eligible for diversion, including where a penalty of incarceration greater than five years may be imposed. Establishes a restorative justice advisory committee.

**M.G.L. c. 277 (Indictments & Proceedings before Trial)**

Sections 203-205 of the Act amends section 70C of chapter 277, **permitting conversion of violations of municipal ordinances, town by-laws, or misdemeanor offenses committed by juveniles to civil infractions.**

**M.G.L. c. 279 (Judgment & Execution)**

Section 206 amends §1 of chapter 279 by adding a paragraph that declares whenever a person is sentenced to pay any amount or is assessed fines, costs etc., the person must be informed of the consequences for nonpayment and if an inability to pay exists, the person has a right to address the court.

Section 207 of the Act adds a new section to chapter 279, § 6B, defining “dependent child” and “primary caretaker” and declaring, unless a sentence of incarceration is required by law, the court may, upon conviction, consider the defendant’s status as a primary caretaker before imposing a sentence (effective 90 days after the effective date of the Act).

**M.G.L. c. 280 (Fines and Forfeitures)**

Sections 208 and 209 of the Act amend §§ 6A and 6B of chapter 280, allowing a court to waive all or part of any assessment based on a finding of financial hardship to the person or immediate family of the person.

**Section 368 of chapter 26 of the Acts of 2003**

Sections 210-213 of the Act amends the above by eliminating parole fees and victim services surcharges for the first year someone is on parole and standardizes the waiver procedure for both thereafter if such payment would constitute a substantial hardship to said person or the person’s family.

**THE FOLLOWING SECTIONS OF THE ACT DO NOT AMEND EXISTING STATUTES BUT REQUIRE ACTION WITHIN SPECIFIED TIMELINES:**

Sections 214-216 of the Act require the sexual assault evidence kit backlog to be addressed within 180 days of the Act and requires the establishment of effective statewide policies and practices for victim contact and victim rights in sexual assault cases.

Section 217 of the Act establishes a commission to study the ability of a defendant to pay fines and fees.

Section 218 of the Act establishes a commission to study “the health and safety of lesbian, gay, bisexual, transgender, queer and intersex prisoners” to evaluate current access to appropriate healthcare and health outcomes for such prisoners while incarcerated in MA facilities.

Section 219 of the Act establishes a commission to study the prevention of suicide among MA correctional officers.

Section 220 of the Act establishes a bail reform commission to evaluate policies and procedures related to the current bail system.

Section 221 of the Act establishes a commission to study the treatment and impact of individuals ages 18 to 24 in the court and correctional systems.

Section 222 of the Act requires designated agencies to provide a report to the general court on elder protection laws.

Section 223 of the Act establishes a panel on justice-involved women to make recommendations on gender-responsive and trauma informed approaches to address the pre-trial, incarceration and rehabilitation needs of justice-involved women.

Section 224 of the Act requires the department of correction, in consultation with the department of telecommunications, to study and report on the cost of local and long distance calls for prisoners no later than December 31, 2018.

Section 225 of the Act establishes a restoration center commission in Middlesex County to plan and implement a county restoration center to divert persons with mental illness or substance use disorders from lock-up facilities.

Section 226 of the Act establishes a commission to review the qualifications and scope of practice of qualified examiners as in section 1 of chapter 123A. The report is due no later than December 31, 2018.

Section 227 of the Act grants EOPSS the discretion to issue a temporary waiver for police departments unable to meet the requirements of section 1A of chapter 263. This section takes effect on 7/1/2019.

Section 228 of the Act allows EOPSS to use a phased implementation process to implement the sexual assault evidence tracking system. However all entities must fully participate in the system no later than December 1, 2019.

Section 229 of the Act requires that all appointments to the juvenile justice policy and data board shall be made “not less than 90 days after the effective date of the Act.”

Section 230 of the Act requires regulations required by sections 39B and 39E of chapter 127 shall be promulgated no later than 12/31/18.

Section 231 of the Act declares that all appointments to the advisory committee established in section 5 of chapter 276B shall be made no later than 10/1/2018 and the first meeting shall occur no later than 21/1/2018.

Sections 232-239 of the Act establish the timelines for the effective dates of the various sections of the Act.

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