

SENATE No. 01914

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven.

Text of amendment (384) offered by Ms. Creem to the pending Senate Ways and Means amendment (Senate, No. 3) to the House Bill making appropriations for the fiscal year 2012 for the maintenance of the departments, boards, commissions, institutions and certain activities of the Commonwealth, for interest, sinking fund and serial bond requirements and for certain permanent improvements.

Juvenile Justice Data Collection

Ms. Creem moved that the bill be amended by inserting, after Section _____, the following new 6 Sections: -

SECTION _____. Definitions.

As used in sections ____ through ____, inclusive, of this act, -

"contact" means any action or practice by law enforcement personnel or by any other official of the commonwealth or private service provider under contract or other agreement with the commonwealth, in dealing with a juvenile at any stage of the juvenile justice system including, but not limited to, the points of contact listed below in sections 4(a)–(i).

“juvenile” means a youth between the age of seven and seventeen and up to the age of 21 if the individual remains within the jurisdiction of the juvenile court or juvenile justice system, and children aged fourteen to seventeen who are charged with first or second degree murder pursuant to M.G.L.A. 119 § 74;

“alternative lock-up program” means a facility and/or program that provides for the physical care and custody of a youth being held by the police after an arrest and before an arraignment, and includes programs provided by the police, municipal, county or state government, as well as any contractor, vendor or service-provider working with such government entities.

“racial/ethnic category” means the socio-cultural racial and ethnic category of an individual as categorized in a manner that is consistent with the categories established and utilized by the Office of Juvenile Justice and Delinquency Prevention.

“type of crime” means category of crime into which the alleged or proven offense a youth has committed falls as categorized in a manner that is consistent with the categories established and utilized by the National Incident-Based Reporting System.

SECTION _____. The Child Advocate shall create and update as may be appropriate an instrument to record statistical data at each point of contact identified in sections 4(a)-(i). This instrument shall, at minimum, include age, gender, race/ethnicity category, and type of crime. The child advocate shall give due regard to the census of juveniles when setting forth the race/ethnicity categories in the instrument. The Child Advocate shall consider providing guidance about the manner in which the race/ethnicity information is designated and collected, with consideration of the juveniles’ self-reporting of such categories. All Offices and Departments subject to this law shall use this instrument to record contacts.

SECTION _____. (a) The department of state police, municipal police departments, Massachusetts Bay Transportation Authority police, any school-based police from a local education authority, and any contractor, vendor or service-provider working with such police including any alternative lock-up programs, shall collect the necessary information to complete the instrument identified in Section 3 for each juvenile subjected to the following contacts for each fiscal year

- (1) referral to and/or use of diversion programming;
- (2) arrest; and
- (3) pre-arraignment detention;

(b) Clerk magistrates shall collect the necessary information to complete the instrument identified in Section 3 for each juvenile subjected to the following contacts for each fiscal year

- (1) criminal complaint filed
- (2) finding of probable cause;

- (3) complaint issued;
- (4) appeal to judge of the finding by the clerk magistrate; and
- (5) complaint issued after appeal.

(c) The district attorneys shall collect the necessary information to complete the instrument identified in Section 3 for each juvenile subjected to the following contacts for each fiscal year

- (1) referral to and/or use of diversion programming;
 - (2) indictment as a youthful offender;
 - (3) dismissal of indictment/dismissal of indictment in exchange for other action;
- and
- (4) prosecution in criminal court under M.G.L.A. ch. 119 § 74.

(d) The juvenile court department shall collect the necessary information to complete the instrument identified in Section 3 for each juvenile subjected to the following contacts for each fiscal year

- (1) arraignment as a delinquent
- (2) arraignment as a youthful offender;
- (3) referral to and/or use of diversion programming;
- (3) pre-trial probation pursuant to M.G.L.A ch. 276 § 87;
- (4) cases which are continued without a finding, M.G.L.A. ch. 278 § 18 and M.G.L.A. ch. 119 §58 ;
- (5) adjudication as a delinquent;
- (6) adjudication as a youthful offender;
- (7) sentence to probation;
- (8) commitment to the department of youth services pursuant to M.G.L.A. ch. 119 § 58;
- (9) commitment to the department of youth services pursuant to M.G.L.A. ch. 279 s. 2 that are suspended;

(10) extension of commitments to the department of youth services pursuant to M.G.L.A. ch. 120 § §17,18 by consent or order;

(11) juvenile brought before the court on criminal and non-criminal violations of probation; and

(12) commitments to department of youth services following probation violation.

(e) The office of the commissioner of probation shall collect the necessary information to complete the instrument identified in Section 3 for each juvenile subjected to the following contacts for each fiscal year

(1) referral to and/or use of diversion programming;

(2) supervision of pre-trial probation;

(3) supervision of continuances without a finding; and

(4) supervision of youth on probation;

(f) The department of youth services and any contractor, vendor or service provider working with said department including alternative lock-up programs shall collect the necessary information to complete the instrument identified in Section 3 for each juvenile subjected to the following contacts for each fiscal year

(1) pre-trial detention;

(2) commitment;

(3) level of care including, but not limited to,

a. "hardware," secure;

b. staff secure;

c. residential; and

d. community placement;

(4) notice of revocation of grants of conditional liberty;

(5) hearing on grants of conditional liberty;

(6) youth placed in secure for violation of conditions of liberty;

(7) extensions of commitments pursuant to M.G.L.A. ch. 120 § §17,18 sought by the department of youth services; and

(8) extensions pursuant to M.G.L.A. ch. 120 § §17,18 by consent or order.

(g) The superior court shall collect the necessary information to complete the instrument identified in Section 3 for each juvenile subjected to the following contacts for each fiscal year

(1) arraignment for murder in the first degree and murder in the second degree;
and

(2) convictions.

(h) The department of correction and each sheriff's department shall collect the necessary information to complete the instrument identified in Section 3 for each juvenile subjected to the following contacts for each fiscal year

(1) prearrest detention;

(2) pretrial detention;

(3) post-disposition confinement of youthful offenders; and

(4) post-conviction confinement for Murder.

(i) The parole board shall collect the necessary information to complete the instrument identified in Section 3 for each juvenile subjected to the following contacts for each fiscal year

(1) grant of parole;

(2) supervision of parole; and

(3) revocation of parole.

SECTION _____. (a) The Executive Office of Public Safety and Security shall be responsible for assembling the data collected by the below offices and departments on an annual basis. The collected data for each fiscal year shall be published on the Executive Office of Public Safety and Security Website, filed with the clerks of the Massachusetts House and Senate and provided to the Office of the Child Advocate no later than 90 days after the end of that fiscal year. The first such report shall be submitted by January 2, 2012.

a. The Commissioner of the Department of Correction

b. Sheriffs of each County;

c. The Parole Board;

- d. The Department of the State Police;
- e. Municipal police departments;
- f. The Massachusetts Bay Transportation Authority Police;
- g. School based police from any local education authority;
- h. Alternative Lock-up Programs; and
- i. any other contractor, vendor or service provider working with school based or other police officers.

(b) The Attorney General shall be responsible of assembling data collected by District Attorney's Offices on an annual basis. The collected data for each fiscal year shall be published on the Attorney General's website, filed with the clerks of the Massachusetts House and Senate and provided to the Office of the Child Advocate no later than 90 days after the end of that fiscal year. The first such report shall be submitted by January 2, 2012.

(c) The Chief Justice for Administration and Management shall be responsible for assembling data collected by judicial officers and court personnel including the Commissioner of Probation, judicial officers and court personnel, and the Executive Director of Community Correction. The data shall be collected on an annual basis. The collected data for each fiscal year shall be published on the Supreme Judicial Court's website, filed with the clerks of the Massachusetts House and Senate and provided to the Office of the Child Advocate no later than 90 days after the end of that fiscal year. The first such report shall be submitted by January 2, 2012.

(d) The Executive Office for Human Services shall be responsible for assembling data collect by the Commissioner of the Department of Youth Services and all department personnel, contractors or vendors working with the Department. The data shall be collected on an annual basis. The collected data for each fiscal year shall be published on the Office's website, filed with the clerks of the Massachusetts House and Senate and provided to the Office of the Child Advocate no later than 90 days after the end of that fiscal year. The first such report shall be submitted by January 2, 2012.

SECTION _____. Any individual data described or acquired under the provisions of this chapter shall be used only for statistical purposes and may not be disseminated if it contains data that reveal the identity of an individual who had contact with the juvenile justice system within the meaning of this chapter.

SECTION _____. The annual Juvenile Justice Contact Data Reports from the Executive Offices of Public Safety and Security, Attorney General, Chief Justice for

Administration and Management and Executive of Office of Human Services shall be public records.