

SENATE No. 2199

Senate, October 26, 2017 -- Text of Amendment #99 (Senator Tarr) to the Senate Bill relative to criminal justice reform (Senate, No. 2185)

The Commonwealth of Massachusetts

In the One Hundred and Ninetieth General Court
(2017-2018)

1 by striking all after the enacting clause and inserting in place thereof the following:-

2 Section 1 : Notwithstanding any general or special law to the contrary there shall be a
3 task force to evaluate and review the impact and effectiveness of eliminating certain mandatory
4 minimum sentences and to make recommendations on the advisability of making further changes
5 to criminal sentences that impose a mandatory minimum sentence. The evaluation and review
6 shall include, but not be limited to:(i) the impact of such sentences on minority communities or
7 neighborhoods; (ii) the impact of such sentencing policies on access to equal justice, including
8 the impact such policies have on pleading to other crimes; (iii) the impact of such policies on
9 different age groups, including young adults; (iv) an examination of such sentences as compared
10 to other crimes that do not impose a mandatory minimum sentence, including comparisons with
11 other state and federal sentencing schemes; (v) a comparative analysis of the costs of such
12 sentencing policies to the state; (vi) the effectiveness such sentencing policies have on reducing
13 crime; (vii) the advisability of adopting so-called “safety valve” provisions, or other policies
14 which allow for the imposition of a sentence less than the mandatory minimum sentence; and
15 (viii) a review of the effectiveness and advisability of drug sentencing policies that allow intent
16 to be based solely on the weight of the substance.

17 The task force shall consist of 11 members, which shall include the Attorney General or a
18 designee, who shall serve as Chair; the Secretary of the Executive Office of Public Safety or a
19 designee; the Commissioner of Probation or a designee; 1 member designated by the
20 Massachusetts Sentencing Commission; 1 member appointed by the Executive Office of the
21 Trial Court; 1 member designated by the Committee for Public Counsel Services; 1 member
22 designated by the American Civil Liberties Union of Massachusetts; 1 member designated by the
23 Massachusetts District Attorney’s Association; 1 member designated by the Massachusetts
24 Chiefs of Police Association; 1 member designated by Ex-Prisoners and Prisoners Organizing for
25 Community Advancement (EPOCA); and 1 member designated by the Massachusetts Office for
26 Victim Assistance.

27 Not later than January 1, 2020, the task force shall file a final report, which shall include
28 recommendations for legislative or regulatory changes based on their findings, as appropriate,
29 with the clerks of the senate and house of representatives, and the clerks shall forward the report
30 to the senate and house chairs of the joint committee on the judiciary and the senate and house
31 chairs of the joint committee on ways and means.

32 SECTION 2_ . Section 99 of said chapter 272, as so appearing, is hereby amended by
33 striking out, in lines 62, 129, 152, 156, 158, 197, 233, 237, 242, 246, 251, 256, 277, 486 and 574,
34 the word “wire” and inserting in place thereof, in each instance, the following words:- wire,
35 electronic.

36 SECTION 3. Said section 99 of said chapter 272, as so appearing, is hereby further
37 amended by striking out, in lines 92 and 201, the word “wire” and inserting in place thereof the
38 following words:- wire or electronic.

39 SECTION 4.. Said section 99 of said chapter 272, as so appearing, is hereby further
40 amended by striking out, in lines 141, 143, 285, 290, 294, 296, 301, 304 and 305, 307, 313, 378,
41 432, 477, 480 and 589 the words “oral or wire” and inserting in place thereof, in each instance,
42 the following words:- wire, electronic or oral.

43 SECTION 5. Paragraph A of said section 99 of said chapter 272, as so appearing, is
44 hereby amended by striking out the last subparagraph and inserting in place thereof the following
45 2 subparagraphs:-

46 The general court further finds that in certain circumstances normal investigative
47 procedures may not be effective in the investigation of specific illegal acts not associated with
48 organized crime as described in clause 7 of paragraph B. Therefore, law enforcement officials
49 may use modern methods of electronic surveillance, under strict judicial supervision, when
50 investigating those specific crimes development and unrestricted use of modern electronic
51 surveillance devices pose grave dangers to the privacy of all citizens of the commonwealth.
52 Therefore, the secret use of such devices by private individuals shall be prohibited. The use of
53 such devices by law enforcement officials shall be conducted under strict judicial supervision
54 and shall be limited to the investigation of designated offenses as defined in clause 7 of
55 paragraph B. Because the commonwealth has a substantial interest in the investigation and
56 prosecution of designated offenses committed within its borders, this section shall authorize,
57 under appropriate judicial supervision, the interception of electronic communications between
58 parties located outside the commonwealth so long as the designated offense under investigation
59 is one over which the commonwealth has jurisdiction and the listening post is located within the
60 commonwealth.

61 SECTION 6. Paragraph B of said section 99 of said chapter 272, as so appearing, is
62 hereby amended by striking out clause 1 and inserting in place thereof the following clause:-

63 1. "Wire communication" shall mean any aural transfer made in whole or in part through
64 the use of facilities for the transmission of communications by the aid of wire, cable or other like
65 connection between the point of origin and the point of reception, including the use of such
66 connection in a switching station

67 SECTION 7. Said paragraph B of said section 99 of said chapter 272, as so appearing, is
68 hereby further amended by striking out clauses 3 to 5, inclusive, and inserting in place thereof
69 the following 6 clauses:-

70 3. "Communications device" shall mean a device or apparatus which is capable of
71 transmitting, receiving, amplifying or recording an electronic, wire or oral communication.

72 4. "Intercepting device" shall mean a communications device other than a device
73 the ordinary purpose of which is not interception of wire, electronic or oral communication;
74 provided, however, that no body-mounted camera with an audio recording feature shall be
75 considered an intercepting device when such an instrument is worn openly by a uniformed
76 investigative or law enforcement officer or an officer conspicuously displaying the officer's
77 badge of authority or other visible indicator of the officer's status as an investigative or law
78 enforcement officer; provided further, that no hearing aid or similar device which is being used
79 to correct subnormal hearing and no telephone or telegraph instrument, equipment, facility or
80 any component thereof: (i) furnished to a subscriber or user by a communications common
81 carrier in the ordinary course of its business under its tariff and being used by the subscriber or
82 user in the ordinary course of its business; or (ii) being used by a communications common

83 carrier in the ordinary course of its business shall be considered an intercepting device; and
84 provided further, that no vehicle-mounted camera with an audio recording feature shall be
85 considered an intercepting device when it is mounted on a marked law enforcement vehicle or
86 when such camera is used to record a motor vehicle stop or other encounter involving a
87 uniformed law enforcement officer or an officer conspicuously displaying the officer's badge of
88 authority or other visible indicator of the officer's status as an investigative or law enforcement
89 officer.

90 4A. "Interception" shall mean to secretly hear or secretly record or to aid another to
91 secretly hear, view or otherwise inspect or secretly record the contents of a wire, electronic or
92 oral communication contemporaneously with its transmission or conveyance by any person other
93 than a person given prior authority by all parties to such communication; provided, however, that
94 it shall not constitute an interception: (i) if no communications device is used to accomplish the
95 interception; (ii) for an investigative or law enforcement officer to obtain information in real time
96 concerning the existence of a communication and the identity of the parties to a communication
97 but not the contents of the communication itself, where such action has been specifically
98 authorized by the order of a court of competent jurisdiction pursuant to the procedure prescribed
99 by 18 U.S.C. § 3123; (iii) for an investigative or law enforcement officer to record or transmit a
100 wire, electronic or oral communication if the officer is a party to such communication or has
101 been given prior authorization to record or transmit the communication by such a party and if
102 recorded or transmitted in the course of an investigation of a designated offense as defined
103 herein; or (iv) for any person to record a government actor in the performance of official
104 business in public except when such recording unreasonably invades the privacy of a citizen
105 informing on criminal conduct or reporting criminal conduct or a confidential informant.

106 4B. "Contents", when used with respect to any wire, electronic or oral communication,
107 shall mean any information concerning the contents, substance, purport or meaning of that
108 communication, including any spoken words, visual images or written materials.

109 4C. "Electronic communication" shall mean any transfer of signs, signals, writing,
110 images, sounds, data, or intelligence of any nature transmitted in whole or in part by wire, radio,
111 electromagnetic, photoelectronic or photooptical system, but does not include (i) any wire or oral
112 communication, (ii) any communication made through a tone-only paging device, (iii) any
113 communication from a tracking device, or (iv) electronic funds transfer information stored by a
114 financial institution in a communication system used for the electronic storage and transfer of
115 funds

116 SECTION 182. Said paragraph B of said section 99 of said chapter 272, as so appearing,
117 is hereby further amended by striking out clause 7 and inserting in place thereof the following
118 clause:-

119 7. The term "designated offense" shall include (a) the following offenses in connection
120 with organized crime as defined in the preamble:

121 ; the illegal use, possession, theft, transfer or trafficking of one or more firearms, rifles,
122 shotguns, sawed-off shotguns, machine guns, assault weapons, large capacity weapons, covert
123 weapons as defined by section 121 of chapter 140, or silencers; any arson; assault and battery
124 with a dangerous weapon; bribery; any felony burglary; money laundering in violation of chapter
125 267A; enterprise crime in violation of chapter 271A; extortion; forgery; gaming in violation of
126 sections 38, 39, 40, 41 and 43 of chapter 23K and sections 16A and 17 of chapter 271;
127 kidnapping; any felony larceny; lending of money or things of value in violation of the general

128 laws; perjury; any felony involving prostitution; robbery; subornation of perjury; any violation of
129 section 13B of chapter 268; any violation of this section; being an accessory to any fo the
130 foregoing offenses; and conspiracy, attempt or solicitation to commit any of the foregoing
131 offenses; and (b) the following offenses, whether or not in connection with organized crime, as
132 referenced in paragraph 3 of the preamble: any murder or manslaughter, except under section 13
133 ½ of chapter 265; rape as defined in sections 22, 22A, 22B, 22C, 23, 23A, 23B, 24, and 24B of
134 chapter 265; human trafficking in violation of sections 50 through 53 of chapter 265; any
135 violation of chapter 94C involving the trafficking, manufacture, distribution of, or intent to
136 distribute controlled substances; illegal trafficking in weapons; the illegal use or possession of
137 explosives or chemical, radiological or biological weapons; civil rights violation causing bodily
138 injury; intimidation of a witness or potential witness, or a judge, juror, grand juror, prosecutor,
139 defense attorney, probation officer or parole officer; being an accessory to any of the foregoing
140 offenses; and conspiracy, attempt or solicitation to commit any of the foregoing offenses.

141 SECTION 8. Paragraph I of said section 99 of said chapter 272, as so appearing, is
142 hereby amended by striking out clause 2 and inserting in place thereof the following clause:-

143 2. the date of issuance, the date of effect and the termination date which shall not exceed
144 40 days after the date of effect; provided, however, that if physical installation of a device is
145 necessary, the 40-day period shall begin upon the date of installation; provided further, that a
146 warrant shall permit interception of wire, electronic or oral communications for a period not to
147 exceed 30 days; and provided further, that if the effective period of the warrant is to terminate
148 upon the acquisition of particular evidence or information or wire, electronic or oral
149 communication, the warrant shall so provide.

150 SECTION 9. Said paragraph I of said section 99 of said chapter 272, as so appearing, is
151 hereby further amended by striking out clause 6 and inserting in place thereof the following 3
152 clauses:-

153 6. the identity of the agency authorized to intercept the communications and the identity
154 of the person authorizing the application;

155 7. a statement providing for service of the warrant pursuant to paragraph L; provided,
156 however, that if there has been a finding of good cause shown requiring the postponement of
157 such service, a statement of such finding together with the basis therefor shall be included and an
158 alternative direction for deferred service pursuant to subparagraph 2 of said paragraph L; and

159 8. every order and extension thereof shall contain a provision that the authorization to
160 intercept shall be executed as soon as practicable, shall be conducted in such a way as to
161 minimize the interception of communications not otherwise subject to interception under this
162 chapter and shall terminate upon attainment of the authorized objective or in 30 days, whichever
163 first occurs.

164 SECTION 185. Paragraph J of said section 99 of said chapter 272, as so appearing, is
165 hereby amended by striking out the subparagraph 2 and inserting in place thereof the following
166 subparagraph:-

167 2. Upon such application, the judge may issue an order renewing the warrant and
168 extending the authorization for a period not exceeding 30 days from the entry thereof. The order
169 shall specify the grounds for the issuance thereof. The application and an attested copy of the
170 order shall be retained by the issuing judge to be transported to the chief justice in accordance

171 with paragraph N. No renewal shall be granted that shall terminate later than 2 years following
172 the effective date of the warrant.

173 SECTION 10. Said section 99 of said chapter 272, as so appearing, is hereby further
174 amended by striking out paragraph K and inserting in place thereof the following paragraph:-

175 K. 1. A warrant may be executed pursuant to its terms anywhere in the
176 commonwealth or any other place that facilitates a wire, electronic or oral communication to
177 which at least 1 party is within the commonwealth or which otherwise involves a wire, electronic
178 or oral communication regarding a criminal offense for which criminal jurisdiction would exist
179 in the commonwealth; provided, however, that the listening post is located within the
180 commonwealth.

181 2. A warrant may be executed by the authorized applicant personally or by an
182 investigative or law enforcement officer of the commonwealth designated by the applicant for
183 that purpose or by any designated individual operating under a contract with the commonwealth
184 or a political subdivision thereof acting under the supervision of an investigative or law
185 enforcement officer authorized to execute the warrant.

186 3. A warrant may be executed according to its terms during the hours specified therein
187 and for the period authorized therein or a part thereof. The authorization shall terminate upon the
188 acquisition of the wire, electronic or oral communications, evidence or information described in
189 the warrant. Upon termination of the authorization in the warrant and any renewals thereof, the
190 interception shall immediately cease and any device installed for the purposes of the interception
191 shall be removed as soon thereafter as practicable. Entry upon private premises for the removal
192 of such device shall be deemed to be authorized by the warrant.

193 4. If an intercepted communication is in a code or foreign language and an expert in that
194 code or foreign language is not reasonably available during the interception period, minimization
195 shall be accomplished as soon as practicable after such interception.

196 5. Upon request of the applicant, the issuing judge may direct that a provider of wire or
197 electronic communications service, landlord, custodian, or other person shall furnish the
198 applicant forthwith all information, facilities, and technical assistance necessary to accomplish the
199 interception unobtrusively and with a minimum of interference with the services that the person
200 so ordered by the court accords the party whose communications are to be intercepted. Any
201 provider of wire or electronic communications service, landlord, custodian, or other person
202 furnishing such facilities or technical assistance shall be compensated therefore by the applicant
203 for reasonable expenses incurred in providing such facilities or assistance.

204 SECTION 11. Said section 99 of said chapter 272, as so appearing, is hereby further
205 amended by adding, in line 291, after the words “and premises” the following:-

206 “or through a particularly described electronic account or identity”

207 SECTION 12. Said section 99 of said chapter 272, as so appearing, is hereby further
208 amended by adding, in line 376, after the words “telegraph line”, the following:-

209 “, or electronic account or identity”

210 SECTION 13. Said section 99 of said chapter 272, as so appearing, is hereby further
211 amended by adding, in line 436, after the words “telegraph line”, the following:-

212 “, or the owner or user of the electronic account or identity”

213 SECTION 14. Said section 99 of said chapter 272, as so appearing, is hereby further
214 amended by adding, in line 471, after the words “if any,” the following:-

215 “the electronic account or identity,”

216 SECTION 15. clause D section 99 of Chapter 272 as appearing in the 2016 official
217 edition is hereby amended by inserting after subclause f the following new sub clause:- (g) a
218 listed, labeled emergency monitoring center of critical event signals including but not limited to
219 fire alarms, and burglar alarms that are specifically listed, labeled or approved by nationally
220 recognized testing laboratory under the united states department of labor including but not
221 limited to U.L. or F.M. for signal monitoring in their ordinary course of business

222 SECTION 16. Section 31 of said chapter 94C, as so appearing, is hereby further amended
223 by adding to “CLASS B” the following subsection:-

224 (f) Any substance controlled in Schedule II of Title 21 of the Code of Federal
225 Regulations Part 1308.12, unless specifically excepted or unless listed in another class in this
226 section.

227 SECTION X. Said section 31 of said chapter 94C, as so appearing, is hereby further
228 amended by adding to “CLASS C” the following subsection:-

229 (g) Any substance controlled in Schedule III of Title 21 of the Code of Federal
230 Regulations Part 1308.13, unless specifically excepted or unless listed in another class in this
231 section.

232 SECTION X. Said section 31 of said chapter 94C, as so appearing, is hereby further
233 amended by adding to “CLASS D” the following subsection:-

234 (c) Any substance controlled in Schedule IV of Title 21 of the Code of Federal
235 Regulations Part 1308.14, unless specifically excepted or unless listed in another class in this
236 section.

237 SECTION X. Said section 31 of said chapter 94C, as so appearing, is hereby further
238 amended by adding to “CLASS E” the following subsection:-

239 (c) Any substance controlled in Schedule V of Title 21 of the Code of Federal
240 Regulations Part 1308.15, unless specifically excepted or unless listed in another class in this
241 section

242 SECTION 17_ . Section 28 of said chapter 127, as appearing in the 2016 Official Edition,
243 is hereby amended by inserting after the word “twenty-three” in line 4, the following words:- , of
244 the fingerprint-based state identification number.

245 SECTION 18_ . Chapter 218 is hereby further amended by inserting after section 32 the
246 following section:-

247 Section 32A. An application for a criminal complaint submitted to the district court by a
248 police department against a person arrested for or charged with an offense shall be accompanied
249 by an offense-based tracking number or OBTN. For the purposes of this section, an “OBTN”
250 shall be a unique number assigned by the agency for such arrest or charge. The OBTN format
251 shall be according to the policies of the department of state police and the department of criminal
252 justice information services.

253 An otherwise valid application for a complaint submitted by a police department against
254 a person arrested shall not preclude the issuance of a complaint merely because the application

255 does not include an arrestee's OBTN. If a complaint is issued based on an application for a
256 complaint submitted by a police department against a person arrested that did not include the
257 arrestee's OBTN, the prosecutor shall submit the OBTN of the defendant to the court to be
258 included in the case file.

259 SECTION 19 . Section 35 of said chapter 279 of the General Laws, as so appearing, is
260 hereby amended by inserting after the word “shall”, in line 3, the following words:- , to the
261 extent that an individual has been assigned a fingerprint-based state identification number and
262 that such number has been provided to the court.

263 SECTION 20_ . Said section 35 of said chapter 279 of the General Laws, as so
264 appearing, is hereby further amended by inserting after the word “mittimus”, in line 4, the
265 following words:- the person’s fingerprint-based state identification number,.

266 SECTION 21. Chapter 84C of the General Laws is hereby amended by inserting after
267 section 34A the following section:-

268 Section 34B: Immunity from prosecution under for persons under age 21 seeking medical
269 assistance for self or other experiencing alcohol-related overdose

270 Section 34B. (a) A person under age 21 who, in good faith, seeks medical assistance for
271 someone experiencing an alcohol-related overdose shall not be charged or prosecuted for
272 possession of alcohol under Section 34C of Chapter 138 if the evidence for the charge of
273 possession of alcohol was gained as a result of the seeking of medical assistance; provided, the
274 adherence to the conditions of subsection (c).

275 (b) A person under age 21 who experiences an alcohol -related overdose and is in need of
276 medical assistance and, in good faith, seeks such medical assistance, or is the subject of such a
277 good faith request for medical assistance, shall not be charged or prosecuted under sections
278 Section 34C of Chapter 138 if the evidence for the charge of possession of alcohol was gained as
279 a result of the overdose seeking of medical assistance; provided, the adherence to the conditions
280 of subsection (c).

281 (c) A law enforcement officer, after making a reasonable determination and considering
282 the facts and surrounding circumstances, reasonably believes that all of the following apply, (i)
283 the person either requested medical assistance or acted in concert with another person who
284 requested emergency medical assistance for an individual who reasonably appeared to be in need
285 of medical assistance due to alcohol consumption; (ii) the person provided their full name and
286 other relevant information requested by the law enforcement officer, and (iii) the person
287 remained at the scene with the individual who reasonably appeared to be in need of medical
288 assistance due to alcohol consumption until emergency medical assistance arrived and
289 cooperated with emergency medical assistance personnel and law enforcement officers at the
290 scene.

291 (d) Nothing in this section shall be construed to limit any seizure of evidence or
292 contraband otherwise permitted by law. Nothing in this section shall be construed to limit or
293 abridge the authority of a law enforcement officer to detain or take into custody a person in the
294 course of an investigation or to effectuate an arrest for any offense.

295 SECTION 22_. Chapter 94C of the General Laws is hereby amended by inserting after
296 section 32N the following new section:-

297 SECTION 32O, Controlled Substances Causing Death or Great Bodily Harm

298 (a) Any person who knowingly or intentionally manufactures, distributes, dispenses,
299 delivers, gives away, barter, administers or provides any amount of a controlled substance or
300 counterfeit substance which results in death shall be punished as murder in the second degree as
301 defined by section 1 of chapter 265. (b) Any person who knowingly causes, induces, abets or
302 provides a person with a controlled substance or counterfeit substance which after being injected,
303 inhaled, ingested or otherwise introduced into the body causes unconsciousness, extreme
304 physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the
305 function of a bodily member, organ, or mental faculty shall have caused great bodily harm and
306 shall be punished by imprisonment in the state prison for not less than ten years. (c) Lack of
307 knowledge of any previous health conditions shall not be a defense to any person who violates
308 the provisions of this section.

309 SECTION 23_ . Chapter 94C of the General Laws is hereby amended by inserting the
310 following new section:-

311 Section 32O: Illegal Trafficking of Opioids, Heroin, Firearms

312 (a) Whoever is found guilty for trafficking substances under section 32E paragraphs (c)
313 or (c1/2) of this chapter and is concurrently or separately found guilty under section 10E, 10I, 10J
314 and or 10K of chapter 269 shall be punished by a term of up to life imprisonment in the state
315 prison and a fine of not more than five hundred thousand dollars. A prosecution commenced
316 under this section shall not be placed on file or continued without a finding. A person convicted
317 of violating this section shall not be eligible for furlough, work release, temporary release or

318 receive any deduction from his sentence for good conduct under section 129C or 129D of
319 chapter 127.

320 (b) Whoever being found guilty of any of the provisions in section 32E of this chapter
321 while found to be in possession of a deceptive weapon as defined in section 121 of chapter 140,
322 shall have up to five years added to their sentence

323 SECTION 24_ . Section 22F of chapter 90 of the General Laws is hereby amended by
324 striking out, in line 57, the word “four” and inserting in place thereof the following word:-
325 “five”.

326 SECTION 25. Section 22F of said chapter 90, as so appearing, is hereby further
327 amended by striking out, in lines 66-68, the following sentence:-

328 “An appeal to the superior court may be had, in accordance with the provisions of chapter
329 thirty A, from any order of the registrar of motor vehicles made under the provisions of this
330 section.”

331 SECTION 26 . Section 22F of said chapter 90 is hereby further amended by inserting at
332 the end thereof the following paragraph:-

333 “Any person previously deemed an habitual offender under this section who has not had
334 their license or right to operate a motor vehicle restored to them by the registrar for a period of
335 more than 5 years and who is convicted of operating a motor vehicle while under the influence of
336 intoxicating liquor or narcotic drugs in violation of paragraph (a) of subdivision (1) of section
337 24; operating a motor vehicle recklessly or negligently so that the lives and safety of the public
338 might be endangered; making a false statement in an application for a learner’s permit or motor

339 vehicle operator's license or in an application for a registration of a motor vehicle; going away
340 without making known his name, residence and the registration number of his vehicle after
341 knowingly colliding with or otherwise causing injury to any person, other vehicle or property, all
342 in violation of paragraph (a) of subdivision (2) of section 24; operating a motor vehicle after
343 suspension or revocation of the person's motor vehicle operator's license or his right to operate
344 motor vehicles in violation of section 23; operating a motor vehicle without a license in violation
345 of section 10; or the commission of any felony in the commission of which a motor vehicle is
346 used, shall be deemed a level 3 habitual traffic offender and the registrar shall immediately
347 revoke such person's license or right to operate and shall not issue a new license or reinstate the
348 right to operate for a period up to life but not less than 5 years from the date of revocation, nor
349 until such person has satisfactorily completed a driver improvement course approved by the
350 registrar and has passed such examination as to his competence to operate motor vehicles as the
351 registrar may require.

352 Any person previously deemed an habitual offender under this section who has not had
353 their license or right to operate a motor vehicle restored to them by the registrar for a period of
354 more than 5 years and who is convicted of 3 or more convictions of offenses which are required
355 by any provision of law to be reported to the registrar and for which the registrar is authorized or
356 required to suspend or revoke the person's license or right to operate motor vehicles for a period
357 of 30 days or more, shall be deemed a level 2 habitual offender and the registrar shall
358 immediately revoke such person's license or right to operate and shall not issue a new license or
359 reinstate the right to operate to such person for a period of not less than 5 years from the date of
360 revocation nor more than 15 years from such date of revocation, nor until such person has
361 satisfactorily completed a driver improvement course approved by the registrar and has passed

362 such examination as to his competence to operate motor vehicles as the registrar may require.
363 Provided further, that any person previously deemed a level 2 habitual offender under this
364 section who has not had their license or right to operate a motor vehicle restored to them by the
365 registrar for a period of 5 years and is convicted of operating a motor vehicle while under the
366 influence of intoxicating liquor or narcotic drugs in violation of paragraph (a) of subdivision (1)
367 of section 24; operating a motor vehicle recklessly or negligently so that the lives and safety of
368 the public might be endangered; making a false statement in an application for a learner's permit
369 or motor vehicle operator's license or in an application for a registration of a motor vehicle;
370 going away without making known his name, residence and the registration number of his
371 vehicle after knowingly colliding with or otherwise causing injury to any person, other vehicle or
372 property, all in violation of paragraph (a) of subdivision (2) of section 24; operating a motor
373 vehicle after suspension or revocation of the person's motor vehicle operator's license or his
374 right to operate motor vehicles in violation of section 23; operating a motor vehicle without a
375 license in violation of section 10; or the commission of any felony in the commission of which a
376 motor vehicle is used; or 2 or more convictions of offenses which are required by any provision
377 of law to be reported to the registrar and for which the registrar is authorized or required to
378 suspend or revoke the person's license or right to operate motor vehicles for a period of 30 days
379 or more, shall be deemed a level 3 habitual offender and the registrar shall immediately revoke
380 such person's license or right to operate and shall not issue a new license or reinstate the right to
381 operate for a period up to life but not less than 5 years from the date of revocation, nor until such
382 person has satisfactorily completed a driver improvement course approved by the registrar and
383 has passed such examination as to his competence to operate motor vehicles as the registrar may
384 require. The registrar may revoke from any level 3 habitual offender who has had their license or

385 right to operate restored and who commits an automobile law violation, as defined in section 1 of
386 chapter 90C, the license or right to operate for a period up to life. The registrar may further issue
387 to any habitual traffic offender who has satisfied the durational license revocation requirements
388 provided for in this section a new license or reinstate such person's right to operate under such
389 terms and conditions as the registrar deems appropriate and necessary. Nothing in this section
390 shall limit the authority of the registrar to revoke a license or right to operate or issue a new
391 license or reinstate the right to operate under section 24 of chapter 90. An appeal to the superior
392 court may be had, in accordance with the provisions of chapter 30A, from any order of the
393 registrar of motor vehicles made under the provisions of this section.

394 SECTION 27_. Section 24G of chapter 90 of the General Laws is hereby amended by
395 striking the section in its entirety and replacing it with the following section:--

396 Section 24G. (a) Whoever, upon any way or in any place to which the public has a right
397 of access, or upon any way or in any place to which members of the public have access as
398 invitees or licensees, operates a motor vehicle with a percentage, by weight, of alcohol in their
399 blood of eight one-hundredths or greater, or while under the influence of intoxicating liquor, or
400 of marijuana, narcotic drugs, depressants, or stimulant substances, all as defined in section one of
401 chapter ninety-four C, or the vapors of glue, and so operates a motor vehicle recklessly or
402 negligently so that the lives or safety of the public might be endangered, and by any such
403 operation so described causes the death of another person, shall be guilty of homicide by a motor
404 vehicle while under the influence of an intoxicating substance, and shall be punished by
405 imprisonment in the state prison for not less than two and one-half years or more than fifteen
406 years and a fine of not more than five thousand dollars, or by imprisonment in a jail or house of
407 correction for not less than one year nor more than two and one-half years and a fine of not more

408 than five thousand dollars. The sentence imposed upon such person shall not be reduced to less
409 than one year, nor suspended, nor shall any person convicted under this subsection be eligible for
410 probation, parole, or furlough or receive any deduction from his sentence until such person has
411 served at least one year of such sentence; provided, however, that the commissioner of correction
412 may, on the recommendation of the warden, superintendent, or other person in charge of a
413 correctional institution, or the administrator of a county correctional institution, grant to an
414 offender committed under this subsection a temporary release in the custody of an officer of such
415 institution for the following purposes only: to attend the funeral of a relative; to visit a critically
416 ill relative; to obtain emergency medical or psychiatric services unavailable at said institution; or
417 to engage in employment pursuant to a work release program. Prosecutions commenced under
418 this section shall neither be continued without a finding nor placed on file.

419 The provisions of section eighty-seven of chapter two hundred and seventy-six shall not
420 apply to any person charged with a violation of this subsection.

421 (b) Whoever, upon any way or in any place to which the public has a right of access or
422 upon any way or in any place to which members of the public have access as invitees or
423 licensees, operates a motor vehicle with a percentage, by weight, of alcohol in their blood of
424 eight one-hundredths or greater, or while under the influence of intoxicating liquor, or of
425 marijuana, narcotic drugs, depressants or stimulant substances, all as defined in section one of
426 chapter ninety-four C, or the vapors of glue, or whoever operates a motor vehicle negligently so
427 that the lives or safety of the public might be endangered and by any such operation causes the
428 death of another person, shall be guilty of homicide by a motor vehicle and shall be punished by
429 imprisonment in a jail or house of correction for not less than thirty days nor more than two and

430 one-half years, or by a fine of not less than three hundred nor more than three thousand dollars,
431 or both.

432 (c) Whoever, upon any way or in any place to which the public has a right of access or
433 upon any way or in any place to which members of the public have access as invitees or
434 licensees, operates a motor vehicle recklessly so that the lives or safety of the public might be
435 endangered and by any such operation causes the death of another person, shall be guilty of
436 reckless homicide by a motor vehicle and shall be punished by imprisonment in a jail or house of
437 correction for not more than two and one-half years, or by imprisonment in the state prison for
438 not more than ten years, or by a fine of not more than three thousand dollars, or by both such fine
439 and imprisonment. For the purpose of this section, a person operates recklessly when he
440 consciously disregards a substantial and unjustifiable risk that the lives or safety of the public
441 might be endangered.

442 (d) The registrar shall revoke the license or right to operate of a person convicted of a
443 violation of subsection (a), (b), (c) or punished under section 13 of chapter 265 of the General
444 Laws when a motor vehicle is the instrument of the offense for a period of ten years after the
445 date of conviction for a first offense. The registrar shall revoke the license or right to operate of a
446 person convicted for a subsequent violation of this section for the life of such person. No appeal,
447 motion for a new trial or exceptions shall operate to stay the revocation of the license or of the
448 right to operate; provided, however, such license shall be restored or such right to operate shall
449 be reinstated if the prosecution of such person ultimately terminates in favor of the defendant.

450 SECTION 28. Subsection (b) of section 12 of chapter 90 of the General Laws is hereby
451 amended by striking, in line 9, the figure “\$500”, and inserting in place thereof the following:-
452 “\$1,000”; and

453 further, by striking, in line 10, the figure “\$1,000”, and inserting in place thereof the
454 following :-“\$2,000”.

455 SECTION 29. Subsection (c) of said section 12 of said chapter 90 of the General Laws is
456 hereby further amended by striking, in line 17, the figure “\$500”, and inserting in place thereof
457 the following:-“ \$1,000”; and

458 further, by striking, in line 18, the figure “\$1,000”, and inserting in place thereof the
459 following:- “2,000”.

460 SECTION __. Section 23 of chapter 90 of the General Laws is hereby amended by
461 inserting after the word “finding.”, in line 118, the following paragraph:-

462 If the defendant has been previously convicted or assigned to an alcohol or controlled
463 substance education, treatment, or rehabilitation program by a court of the commonwealth or any
464 other jurisdiction because of one or more like violations of the preceding paragraph preceding
465 the date of the commission of the offense, the defendant shall be punished by a fine of not less
466 than \$5,000 and imprisonment in the house of correction for not less than 2 years nor more than
467 2 ½ years by imprisonment in the state prison for not less than 2½ years nor more than 5 years,
468 with said sentence to be served consecutively to and not concurrent with any other sentence or
469 penalty. Such sentence shall not be suspended, nor shall any such person be eligible for
470 probation, parole, or furlough or receive any deduction from the sentence for good conduct until
471 the defendant shall have served said 2½ years of such sentence; provided, however, that the

472 commissioner of correction may, on the recommendation of the warden, superintendent or other
473 person in charge of a correctional institution, or of the administrator of a county correctional
474 institution, grant to an offender committed under this paragraph a temporary release in the
475 custody of an officer of such institution only to obtain emergency medical or psychiatric services
476 unavailable at said institution or to engage in employment pursuant to a work release program.
477 Section 87 of chapter 276 shall not apply to any person charged with a violation of this
478 paragraph. Prosecutions commenced under this paragraph shall not be placed on file or continued
479 without a finding.

480 SECTION 30 . Said section 23 of said chapter 90 of the General Laws, as so appearing, is
481 hereby further amended by adding the following paragraph:-

482 Notwithstanding this section or any other general or special law to the contrary, any
483 person convicted of operating a motor vehicle after such person's license or right to operate his
484 been revoked for life, or after notice of such lifetime revocation of the right to operate a motor
485 vehicle has been issued and received by such person or by such person's agent or employer, such
486 person shall be punished by a fine of not less than \$5,000 and by imprisonment in a house of
487 correction for not less than 1 year nor more than 2 ½ years or in state prison for not less than 2 ½
488 years nor more than 5 years; provided, however, that any person who operates a motor vehicle in
489 violation of paragraph (a) of subdivision (1) of section 24, sections 24G or 24L, subsection (a) of
490 section 8 of chapter 90B, sections 8A or 8B of chapter 90B or section 13½ of chapter 265, while
491 said person's license or right to operate has been revoked for life, or after notice of such lifetime
492 revocation of the right to operate a motor vehicle has been issued and received by such person or
493 by such person's agent or employer, such person shall be punished by a fine of not less than
494 \$10,000 and by imprisonment in state prison for not less than 3 years nor more than 10 years.

495 Sentences imposed pursuant to this paragraph shall not be suspended, nor shall any such person
496 be eligible for probation, parole, or furlough or receive any deduction from the sentence for good
497 conduct until the defendant shall have served 5 years of such sentence; provided, however, that
498 the commissioner of correction may, on the recommendation of the warden, superintendent or
499 other person in charge of a correctional institution, or of the administrator of a county
500 correctional institution, grant to an offender committed under this paragraph a temporary release
501 in the custody of an officer of such institution only to obtain emergency medical or psychiatric
502 services unavailable at said institution or to engage in employment pursuant to a work release
503 program. Section 87 of chapter 276 shall not apply to any person charged with a violation of this
504 paragraph. Prosecutions commenced under this paragraph shall not be placed on file or continued
505 without a finding.

506 SECTION 31. Section 24 of said chapter 90 of the General Laws, as so appearing, is
507 hereby amended by striking, in line 145, the word “five”, and inserting in place thereof the
508 following word:- “ten”.

509 SECTION 32_ . Section 58A of chapter 276 of the General Laws, as appearing in the
510 2016 Official Edition, is hereby amended by striking out, in lines 16 to 17, the words conviction
511 for a.

512 SECTION 33 . There shall be a pilot program for the purpose of implementing
513 alternatives to incarceration and strengthening pretrial and post-trial options available to
514 prosecutors and judges for responding to certain operating under the influence of alcohol or drug
515 offenses.

516 The executive office of public safety and security, in consultation with the attorney
517 general, the district attorneys association, and the Massachusetts sheriffs association, shall
518 develop a 3-year pilot program for a county sheriff department to establish a 24/7 sobriety
519 program. The pilot program shall be a competitive grant process. The executive office of public
520 safety and security, in consultation with the attorney general, the district attorneys association,
521 and the Massachusetts sheriffs association, shall develop criteria for grant eligibility, which shall
522 include the implementation of a 24/7 sobriety program which shall be designed to (1) allow for
523 those selected by a prosecutor and court charged or convicted of a second or subsequent offense
524 of operating a motor vehicle under the influence to participate; (2) allow a court to condition any
525 bond, pre-trial release, the suspended imposition of a sentence, suspended execution of a
526 sentence, or probation upon participation in the 24/7 sobriety program; (3) test to determine the
527 presence and level of alcohol or a controlled substance in an individual's sweat, blood, breath or
528 urine as shown by chemical test or analysis; and (4) provide testing to occur not less than 2 times
529 a day approximately 12 hours apart at multiple testing locations throughout the county.

530 The executive office of public safety and security, in consultation with the attorney
531 general, the district attorneys association, and the Massachusetts sheriffs association, may
532 promulgate rules and regulations for the pilot program, which may include, though not
533 necessarily limited to:

534 (i) regulate the nature and manner of testing;

535 (ii) regulate the procedures and apparatus for testing;

536 (iii) set user fees; provided, however, that the fees collected shall be deposited into the
537 county sheriff department administering the 24/7 sobriety program; provided, further, however,

538 that fees collected shall be applied and used only toward the costs of twice a day testing,
539 including maintaining equipment, funding support services and ensuring compliance;

540 (iv) require and provide for a sobriety data management plan to be used by the executive
541 office of public safety and security and the sheriff department to manage testing, data access,
542 fees and fee payments, and any required reports; and

543 (v) allow for those participating in the 24/7 sobriety program, in addition to any and all
544 necessary education, treatment, or rehabilitation programs, to operate a motor vehicle with any
545 conditions imposed by the court, sheriff department, and registrar, notwithstanding section 24 of
546 chapter 90, provided further that any ignition interlock required by law shall not be eliminated,
547 reduced or replaced by the 24/7 sobriety program.

548 The executive office of public safety and security, in consultation with the attorney
549 general, the district attorneys association, and the Massachusetts sheriffs association shall
550 develop guidelines for review of the sheriff department pilot program. The sheriff department
551 shall participate in any evaluation or accountability process implemented by or authorized by the
552 executive office of public safety and security.

553 SECTION 34_. Section 24 of chapter 90 of the General Laws, as appearing in the 2016
554 Official Edition, is hereby amended by striking out, in line 319, the words “or twenty-four E,”.

555 SECTION 35_. Said section 24 of said chapter 90, as so appearing, is hereby further
556 amended by inserting after the figure “(b)”, in line 320, the following words:- for being under the
557 influence of a controlled substance or the vapors of glue.

558 SECTION 36_. Subparagraph (1) of paragraph (c) of subdivision (1) of said section 24 of
559 said chapter 90, as so appearing, is hereby amended by adding the following paragraph:- Where
560 the license or right to operate has been revoked pursuant to sections 24D or 24E or pursuant to
561 paragraph (b), for operating a motor vehicle with a percentage, by weight, of alcohol in the
562 operator's blood of .08 or greater, and such person has not been convicted of a like offense or has
563 not been assigned to an alcohol or controlled substance education, treatment or rehabilitation
564 program because of a like offense by a court of the commonwealth or any other jurisdiction
565 preceding the date of the commission of the offense for which the operator was convicted, the
566 registrar shall not restore the license or reinstate the right to operate to that person unless the
567 prosecution of that person has been terminated in favor of the defendant, until 1 year after the
568 date of conviction; provided, however, that such person may, after receiving notice of the
569 revocation from the registrar, apply for the issuance of an ignition interlock license. Mandatory
570 restrictions on an ignition interlock license granted by the registrar pursuant to this subparagraph
571 shall include, but not be limited to: (i) proof in a format determined by the registrar that a
572 functioning certified ignition interlock device is installed on vehicles that will be operated by the
573 person during the term of the ignition interlock license; and (ii) an attestation that ignition
574 interlock devices will be maintained on all vehicles to be operated by the person. A person with
575 an ignition interlock license shall be prohibited from operating vehicles without an ignition
576 interlock device for the duration of the license. Failure of the operator to remain in compliance
577 with court probation shall be cause for immediate revocation of the ignition interlock license.
578 The registrar shall provide notice of a revocation to the person issued the ignition interlock
579 license at the address of record at the registry.

580 SECTION 37. Said section 24 of said chapter 90, as so appearing, is hereby further
581 amended by inserting after the figure “(b)”, in line 347, the following words:- for being under the
582 influence of a controlled substance or the vapors of glue. SECTION 5. Subparagraph (2) of said
583 paragraph (c) of said subdivision (1) of said section 24 of said chapter 90, as so appearing, is
584 hereby amended by striking out the last sentence.

585 SECTION 38_. Said subparagraph (2) of said paragraph (c) of said subdivision (1) of
586 said section 24 of said chapter 90, as so appearing, is hereby further amended by adding the
587 following paragraph:- Where the license or the right to operate of a person has been revoked
588 pursuant to paragraph (b) for operating a motor vehicle with a percentage, by weight, of alcohol
589 in the operator’s blood of .08 or greater and that person has been previously convicted of a like
590 offense or assigned to an alcohol or controlled substance education, treatment or rehabilitation
591 program by a court of the commonwealth or any other jurisdiction because of a like offense
592 preceding the date of the commission of the offense for which that person has been convicted,
593 the registrar shall not restore the license or reinstate the right to operate of that person unless the
594 prosecution from the registrar, apply for the issuance of an ignition interlock license. That person
595 shall provide proof in a format acceptable to the registrar that the person has enrolled in and is
596 successfully completing the residential treatment program in subparagraph (4) of paragraph (a)
597 of subdivision (1) or a treatment program mandated by section 24D or has completed the
598 incarcerated portion of the sentence. Mandatory restrictions on an ignition interlock license
599 granted by the registrar pursuant to this subparagraph shall include but not be limited to: (i) proof
600 in a format determined by the registrar that a functioning certified ignition interlock device is
601 installed on vehicles that will be operated by the person during the term of the ignition interlock
602 license; and (ii) an attestation that ignition interlock devices will be maintained on all vehicles to

603 be operated by the person. A person with an ignition interlock license shall be prohibited from
604 operating vehicles without an ignition interlock device for the duration of the license. Failure of
605 the operator to remain in compliance with court probation shall be cause for immediate
606 revocation of the ignition interlock license. The registrar shall provide notice of a revocation to
607 the person issued the ignition interlock license at the address of record at the registry.

608 SECTION 39_. Said section 24 of said chapter 90, as so appearing, is hereby amended by
609 inserting after the figure “(b)”, in line 382, the following words:- for being under the influence of
610 a controlled substance or the vapors of glue.

611 SECTION 40. Subparagraph (3) of said paragraph (c) of said subdivision (1) of said
612 section 24 of said chapter 90, as so appearing, is hereby amended by striking out the last
613 sentence.

614 SECTION 41_. Said subparagraph (3) of said paragraph (c) of said subdivision (1) of
615 said section 24 of said chapter 90, as so appearing, is hereby further amended by adding the
616 following paragraph:- Where the license or right to operate of a person has been revoked
617 pursuant to paragraph (b) for operating a motor vehicle with a percentage, by weight, of alcohol
618 in the operator’s blood of .08 or greater and that person has been previously convicted of a like
619 offense or assigned to an alcohol or controlled substance education, treatment or rehabilitation
620 program because of a like offense by a court of the commonwealth or any other jurisdiction 2
621 times preceding the date of the commission of the offense for which that person has been
622 convicted or where the license or right to operate has been revoked due to a violation section 23
623 and such revocation was made pursuant to paragraph (b) or section 24D or 24E, the registrar
624 shall not restore the license or reinstate the right to operate to that person, unless the prosecution

625 of that person has terminated in favor of the defendant, until 8 years after the date of conviction;
626 provided, however, that such person may, after completion of the incarcerated portion of the
627 sentence, apply for an ignition interlock license for the balance of the 8 year revocation period.
628 Such person shall provide proof in a format acceptable to the registrar that the person has
629 enrolled in and is successfully completing the residential treatment program in subparagraph (4)
630 of paragraph (a) of subdivision (1) or such treatment program mandated by section 24D.
631 Mandatory restrictions on an ignition interlock license granted by the registrar pursuant to this
632 subparagraph shall include but not be limited to: (i) proof in a format determined by the registrar
633 that a functioning certified ignition interlock device is installed on vehicles that will be operated
634 by the person during the term of the ignition interlock license; and (ii) an attestation that ignition
635 interlock devices will be maintained on all vehicles to be operated by the person. A person with
636 an ignition interlock license shall be prohibited from operating vehicles without an ignition
637 interlock device for the duration of the license. Failure of the operator to remain in compliance
638 with court probation shall be cause for immediate revocation of the ignition interlock license.
639 The registrar shall provide notice of a revocation to the person issued the ignition interlock
640 license at the address of record at the registry.

641 SECTION 42_. Said section 24 of said chapter 90, as so appearing, is hereby further
642 amended by inserting after the figure “(b)”, in line 417, the following words:- for being under the
643 influence of a controlled substance or the vapors of glue. SECTION 12. Subparagraph (3½) of
644 said paragraph (c) of said subdivision (1) of said section 24 of said chapter 90, as so appearing, is
645 hereby amended by striking out the last sentence.

646 SECTION 43_. Said subparagraph (3½) of said paragraph (c) of said subdivision (1) of
647 said section 24 of said chapter 90, as so appearing, is hereby further amended by adding the

648 following paragraph:- Where the license or the right to operate of a person has been revoked
649 pursuant to subsection (b) for operating a motor vehicle with a percentage, by weight, of alcohol
650 in the operator's blood of .08 or greater and that person has been previously convicted of a like
651 offense or assigned to an alcohol or controlled substance education, treatment or rehabilitation
652 program by a court of the commonwealth or any other jurisdiction because of a like offense 3
653 times preceding the date of the commission of the offense for which the person has been
654 convicted, the registrar shall not restore the license or reinstate the right to operate of that person
655 unless the prosecution of that person has been terminated in favor of the defendant, until 10 years
656 after the date of the conviction; provided, however, that such person may, after the completion of
657 the incarcerated portion of the sentence, apply for the issuance of an ignition interlock license.
658 Such person shall provide proof in a format acceptable to the registrar that the person has
659 enrolled in and is successfully completing the residential treatment program in subparagraph (4)
660 of paragraph (a) of subdivision (1) or a treatment program mandated by section 24D. The
661 ignition interlock license shall not be removed for the life of the person; provided, however, that
662 the person may petition the registrar for removal not less than 10 years after the issuance of the
663 ignition interlock license and not less than every 5 years thereafter. Mandatory restrictions on an
664 ignition interlock license granted by the registrar pursuant to this subparagraph shall include, but
665 not be limited to: (i) proof in a format determined by the registrar that a functioning certified
666 ignition interlock device is installed on vehicles that will be operated by the person during the
667 term of the ignition interlock license; and (ii) an attestation that ignition interlock devices will be
668 maintained on all vehicles to be operated by the person. A person with an ignition interlock
669 license shall be prohibited from operating vehicles without an ignition interlock device for the
670 duration of the license. Failure of the operator to remain in compliance with probation shall be

671 cause for immediate revocation of the ignition interlock license. The registrar shall provide
672 notice of a revocation to the person issued the ignition interlock license at the address of record
673 at the registry. An aggrieved party may appeal, in accordance with chapter 30A, from an order of
674 the registrar of motor vehicles pursuant to this subparagraph.

675 SECTION 44_. Said paragraph (c) of said subdivision (1) of said section 24 of said
676 chapter 90, as so appearing, is hereby further amended by striking out subparagraph (3³/₄) and
677 inserting in place thereof the following subparagraph:- (3³/₄) Where the license or the right to
678 operate of a person has been revoked pursuant to paragraph (b) and that person was previously
679 convicted of a like offense or assigned to an alcohol or controlled substance education, treatment
680 or rehabilitation program by a court of the commonwealth or any other jurisdiction because of a
681 like offense not less than 4 times preceding the date of the commission of the offense for which
682 the person has been convicted, that person's license or right to operate a motor vehicle shall be
683 revoked for the life of that person; provided, however, that such person may, after completion of
684 the incarcerated portion of the sentence, apply for an ignition interlock license. Such person shall
685 provide proof in a format acceptable to the registrar that the person has enrolled in and has
686 successfully completed or is successfully completing the residential treatment program in
687 subparagraph (4) of paragraph (a) of subdivision (1) or a treatment program mandated by
688 section 24D and has completed the incarcerated portion of the sentence. The ignition interlock
689 license shall not be removed for the life of the person; provided, however, that the person may
690 petition the registrar for removal not less than 10 years after the issuance of the ignition interlock
691 license and not less than every 5 years thereafter. Mandatory restrictions on an ignition interlock
692 license granted by the registrar pursuant to this subparagraph shall include, but not be limited to:
693 (i) proof in a format determined by the registrar that a functioning certified ignition interlock

694 device is installed on vehicles that will be operated by the person during the term of the ignition
695 interlock license; and (ii) an attestation that ignition interlock devices will be maintained on all
696 vehicles to be operated by the person. A person with an ignition interlock license shall be
697 prohibited from operating vehicles without an ignition interlock device for the duration of the
698 license. Failure of the operator to remain in compliance with probation shall be cause for
699 immediate revocation of the ignition interlock license. An aggrieved party may appeal, in
700 accordance with chapter 30A, from an order of the registrar of motor vehicles pursuant to this
701 subparagraph. SECTION 15. Said section 24 of said chapter 90, as so appearing, is hereby
702 amended by striking out, in line 575, the word “restistrar” and inserting in place thereof the
703 following word:-registrar.

704 SECTION 45_. The fifth paragraph of subparagraph (1) of paragraph (f) of said
705 subdivision (1) of said section 24 of said chapter 90, as so appearing, is hereby further amended
706 by striking out the first sentence and inserting in place thereof the following 4 sentences:- A
707 person who refuses to submit to a chemical test or analysis of breath or blood may apply for the
708 issuance of an ignition interlock license, on or after the effective date of the suspension, for the
709 balance of the suspension period imposed by this paragraph. A mandatory restriction on an
710 ignition interlock license granted by the registrar pursuant to this subparagraph shall include, but
711 not be limited to: (i) proof in a format determined by the registrar that a functioning certified
712 ignition interlock device is installed on vehicles that will be operated by the person during the
713 term of the ignition interlock license; and (ii) an attestation that ignition interlock devices will be
714 maintained on all vehicles to be operated by the person. A person with an ignition interlock
715 license shall be prohibited from operating vehicles without an ignition interlock device for the
716 duration of the license. A person issued an ignition interlock license pursuant to this

717 subparagraph shall not receive credit against an additional ignition interlock requirement arising
718 from the same incident or from another incident. A defendant, during the suspension period
719 imposed by this paragraph, may immediately, upon the entry of a not guilty finding or dismissal
720 of all charges under this section, section 24G, section 24L or section 13½ of chapter 265, and in
721 the absence of any other alcohol related charges pending against the defendant, apply for and be
722 immediately granted a hearing before the court which took final action on the charges for the
723 purpose of requesting the restoration of the person's license.

724 SECTION 46_. Subparagraph (2) of said paragraph (f) of said subdivision (1) of said
725 section 24 of said chapter 90, as so appearing, is hereby amended by inserting after the second
726 paragraph the following paragraph:- A person may apply in advance of or after the effective date
727 of a suspension under this subparagraph, for the issuance of an ignition interlock license for the
728 balance of the suspension period listed in this paragraph. Mandatory restrictions on an ignition
729 interlock license granted by the registrar pursuant to this subparagraph shall include, but not be
730 limited to: (i) proof in a format determined by the registrar that a functioning certified ignition
731 interlock device is installed on vehicles that will be operated by the person during the term of the
732 ignition interlock license; and (ii) an attestation that ignition interlock devices will be maintained
733 on all vehicles to be operated by the person. A person with an ignition interlock license shall be
734 prohibited from operating vehicles without an ignition interlock device for the duration of the
735 license. A suspension for failure of a chemical test or analysis of breath or blood shall run
736 consecutively, both as to any additional suspension periods arising from the same incident, and
737 as to each other. A person issued an ignition interlock license pursuant to this subparagraph shall
738 receive day for day credit against an additional ignition interlock requirement arising from the
739 same incident.

740 SECTION 47_. Paragraph (g) of said subdivision (1) of said section 24 of said chapter
741 90, as so appearing, is hereby amended by inserting after the first paragraph the following
742 paragraph:- The application for the issuance of an ignition interlock license for the period during
743 which a person's license, permit or right to operate is suspended pursuant to subparagraph (1) of
744 paragraph (f) shall waive the person's right to a hearing pursuant to this subparagraph.

745 SECTION 48_. Said chapter 90 is hereby further amended by striking out section 24½, as
746 so appearing, and inserting in place thereof the following section:- Section 24½. (a) No person
747 whose license has been suspended in the commonwealth or any other jurisdiction by reason of an
748 assignment to an alcohol education, treatment or rehabilitation program or because of a
749 conviction for a violation of subsection (a) of section 24G, or operating a motor vehicle with a
750 percentage by weight of blood alcohol of .08 or greater or while under the influence of
751 intoxicating liquor in violation of paragraph (a) of subdivision (1) of section 24, subsection (b) of
752 said section 24G, section 24L, section 131/2 of chapter 265, subsection (a) of section 8 of
753 chapter 90B, section 8A or 8B of said chapter 90B or, in the case of another jurisdiction, for any
754 like offense, shall be issued a new license or right to operate or have such license or right to
755 operate restored if that person has previously been so assigned or convicted unless such person
756 provides proof in a format acceptable to the registrar that the person has a functioning certified
757 ignition interlock device installed on all vehicles to be operated by that person as a precondition
758 for the issuance, reissuance or restoration of a license or right to operate. A functioning certified
759 ignition interlock device shall be installed and maintained on all vehicles operated by any such
760 person for a period of 2 years. (b) Any person whose license or right to operate is restricted to
761 operating vehicles equipped with a functioning certified ignition interlock device shall have such
762 device inspected, maintained and monitored in accordance with regulations which shall be

763 promulgated by the registrar. The ignition interlock device shall be calibrated to prevent the
764 motor vehicle from being started with the breath sample provided has an alcohol concentration of
765 0.025 or more. The ignition interlock device shall remain in place until the registrar receives a
766 declaration from the person's ignition interlock device vendor, in a form provided or approved by
767 the registry, certifying that there have been none of the following incidents in the six consecutive
768 months prior to the date the person seeks removal of the device: (a) any attempt to start the
769 vehicle with a breath alcohol concentration of 0.04 or more unless a subsequent test performed
770 within ten minutes registers a breath alcohol concentration lower than 0.04; (b) failure to take
771 any random test; (c) failure to pass any random retest with a breath alcohol concentration of
772 0.025 or lower; (d) any attempt to remove, tamper or circumvent the proper operation of the
773 device; or (e) failure of the person to appear at the ignition interlock device vendor when
774 required for maintenance, repair, calibration, monitoring, inspection, or replacement of the
775 device.

776 SECTION 49_. Section 24D of said chapter 90, as so appearing, is hereby amended by
777 inserting after the word “defendant”, in line 65, the following words:- whose disposition resulted
778 from the use of a controlled substance or the vapors of glue.

779 SECTION 50_ The fourth paragraph of said section 24D of said chapter 90, as so
780 appearing, is hereby amended by inserting after the fifth sentence the following sentence:-
781 Notwithstanding subparagraph (1) of paragraph (c) of subdivision (2) of section 24,
782 subparagraph (1) of paragraph (f) of subdivision (1) of section 24 and section 24P, a defendant
783 whose disposition resulted from a conviction or charge of alcohol in their blood of .08 or greater
784 or while under the influence of intoxicating liquor may immediately upon entering a program
785 pursuant to this section apply to the registrar for issuance of an ignition interlock license for the

786 probation period. A mandatory restriction on an ignition interlock license granted by the registrar
787 pursuant to this paragraph shall include, but not be limited to:(i) proof in a format determined by
788 the registrar that a functioning certified ignition interlock device is installed on vehicles that will
789 be operated by the person during the term of the ignition interlock license; and (ii) an attestation
790 that ignition interlock devices will be maintained on all vehicles to be operated by the person. A
791 person with an ignition interlock license shall be prohibited from operating vehicles without an
792 ignition interlock device for the duration of the license.

793 SECTION 51_. Said section 24D of said chapter 90, as so appearing, is hereby further
794 amended by inserting after the word “hardship”, in lines 76 and 81, each time it appears, the
795 following words:- or ignition interlock.

796 SECTION 52_. Section 24E of said chapter 90, as so appearing, is hereby amended by
797 inserting after the word “program”, in line 38, the following words:- and may include a written
798 statement by the supervisor of the ignition interlock provider used by such person detailing the
799 person’s compliance with the ignition interlock requirement.

800 SECTION 53_. Said section 24E of said chapter 90, as so appearing, is hereby further
801 amended by inserting after the word “operate”, in lines 66 and 67, each time it appears, the
802 following words:- or an ignition interlock license.

803 SECTION 54_. Section 24G of said chapter 90, as so appearing, is hereby amended
804 adding the following subsection:- (d) Upon completion of the period of imprisonment prescribed
805 in subsection (a) or (b) for an offense involving operating a motor vehicle with a percentage, by
806 weight, of alcohol in the blood of .08 or greater or while under the influence of intoxicating
807 liquor, the person may apply to the registrar for the issuance of an ignition interlock license for

808 the remainder of the revocation period designated in subsection (c). The registrar may issue such
809 license under such terms and conditions as appropriate and necessary for the balance of the
810 revocation period listed in this subsection. Mandatory restrictions on an ignition interlock license
811 granted by the registrar pursuant to this subsection shall include, but not be limited to: (i) proof
812 in a format determined by the registrar that a functioning certified ignition interlock device is
813 installed on vehicles that will be operated by the person during the term of the ignition interlock
814 license; and (ii) an attestation that ignition interlock devices will be maintained on all vehicles to
815 be operated by the person. A person with an ignition interlock license shall be prohibited from
816 operating vehicles without an ignition interlock device for the duration of the license. Failure of
817 the operator to remain in compliance with the sentence or court probation shall be cause for
818 immediate revocation of the ignition interlock license. The registrar shall provide notice a
819 revocation to the person issued the ignition interlock license at the address of record at the
820 registry.

821 SECTION 55 __. Section 24L of said chapter 90, as so appearing, is hereby amended by
822 adding the following subdivision:- (5) Upon completion of the period of imprisonment
823 prescribed in subdivision (1) or (2) for an offense involving operating a motor vehicle with a
824 percentage, by weight, of alcohol in the blood of .08 or greater or while under the influence of
825 intoxicating liquor, the person may apply to the registrar for the issuance of an ignition interlock
826 license for the remainder of the revocation period designated in subdivision (4). The registrar
827 may issue such license under such terms and conditions as appropriate and necessary for the
828 balance of the revocation period listed in this subsection. Mandatory restrictions on an ignition
829 interlock license granted by the registrar pursuant to this subdivision shall include, but not be
830 limited to: include: (i) proof in a format determined by the registrar that a functioning certified

831 ignition interlock device is installed on vehicles that will be operated by the person during the
832 term of the ignition interlock license; and (ii) an attestation that ignition interlock devices will be
833 maintained on all vehicles to be operated by the person. A person with an ignition interlock
834 license shall be prohibited from operating vehicles without an ignition interlock device for the
835 duration of the license. Failure of the operator to remain in compliance with the sentence or court
836 probation shall be cause for immediate revocation of the ignition interlock license. The registrar
837 shall provide notice of a revocation to the person issued the ignition interlock license at the
838 address of record at the registry.

839 SECTION 56. Section 24N of said chapter 90, as so appearing, is hereby amended by
840 inserting after the word “days”, in line 38, the following words:- ; provided, however, that such
841 person may apply, on or after the effective date of the suspension, for the issuance of an ignition
842 interlock license for the balance of the suspension period listed in this subsection; provided
843 further, that mandatory restrictions on an ignition interlock license granted by the registrar
844 pursuant to this section shall include, but not be limited to: (i) proof in a format determined by
845 the registrar that a functioning certified ignition interlock device is installed on vehicles that will
846 be operated by the person during the term of the ignition interlock license; and (ii) an attestation
847 that ignition interlock devices will be maintained on all vehicles to be operated by the person. A
848 person with an ignition interlock license shall be prohibited from operating vehicles without an
849 ignition interlock device for the duration of the license. A suspension for failure of a chemical
850 test or analysis of breath or blood shall run consecutively, both as to any additional suspension
851 periods arising from the same incident and as to each other. A person issued an ignition interlock
852 license pursuant to this section shall receive day-for-day credit against any additional ignition
853 interlock requirement arising from the same incident.

854 SECTION 57. Said section 24N of said chapter 90, as so appearing, is hereby further
855 amended by striking out, in lines 58 to 61, inclusive, the words “refusal. No license shall be
856 restored under any circumstances and no restricted or hardship permits shall be issued during the
857 suspension period imposed by this paragraph; provided, however, that the” and inserting in place
858 thereof the following words:- refusal; provided further, that a person who refused to submit to
859 such test or analysis may apply, on or after the effective date of the suspension, for the issuance
860 of an ignition interlock license for the balance of the suspension period listed in this
861 section; provided further, that mandatory restrictions on an ignition interlock license granted by
862 the registrar pursuant to this paragraph shall include, but not be limited to: (i) proof in a format
863 determined by the registrar that a functioning certified ignition interlock device is installed on
864 vehicles that will be operated by the person during the term of the ignition interlock license; and
865 (ii) an attestation that ignition interlock devices will be maintained on all vehicles to be operated
866 by the person. A person with an ignition interlock license shall be prohibited from operating
867 vehicles without an ignition interlock device for the duration of the license; provided however,
868 that a suspension for a refusal of either a chemical test or analysis of breath or blood shall run
869 consecutively, both as to any additional suspension periods arising from the same incident and as
870 to each other; provided further, that a person issued an ignition interlock license pursuant to this
871 section shall not receive credit against any additional ignition interlock requirement arising from
872 the same incident; and provided further, that a.

873 SECTION 58_. Said section 24N of said chapter 90, as so appearing, is hereby further
874 amended by adding the following paragraph:- The application for the issuance of an ignition
875 interlock license for the period during which a person’s license, permit or right to operate is

876 suspended pursuant to this section shall waive the person's right to a hearing pursuant to this
877 section.

878 SECTION 59. Section 19 of chapter 122 of the acts of 2005 is hereby amended by
879 inserting after the word "registry", in line 7, the following words:- ; provided, however, that
880 approval procedures for ignition interlock device servicing and monitoring entities shall require
881 any entity seeking certification to agree to provide all program costs, including installation,
882 maintenance and removal, at fifty percent cost to a person who presents documentation issued by
883 the registrar that such cost would cause a grave and serious hardship to the offender or the
884 offender's family; provided further, that documentation of grave and serious hardship to the
885 offender or the offender's family shall include, but not be limited to, evidence of a valid
886 electronic benefit transfer card or evidence of a valid MassHealth benefits card; and provided
887 further, that the registrar shall provide notice to a person seeking application for a certified
888 ignition interlock device that the person may obtain a certified ignition interlock device, services
889 and monitoring at fifty percent cost if such cost would cause a grave and serious hardship to the
890 offender or the offender's family.

891 SECTION 60. Said section 19 of said chapter 122 of the acts of 2005 is hereby further
892 amended by inserting after the word "vehicles", in line 10, the following words:- ; provided,
893 however, that reporting shall ensure compliance with an entity's responsibly pursuant to clause
894 (2) including, but not limited to, standard charges for installation, service, maintenance and
895 removal of a device and percentages of the entity's standard program costs waived pursuant to
896 said clause (2).

897 SECTION 61. Clause (6) of said section 19 of said chapter 122 of the acts of 2005 is
898 hereby amended by striking out clauses (a) to (c), inclusive, and inserting in place thereof the
899 following 3 clauses:- (i) of inspection of the certified ignition interlock device for accurate
900 operation by an entity approved by the registrar not less than once every 30 to 60 days, as
901 promulgated by the registrar, for the duration of any license ignition interlock device restriction;
902 (ii) that the ignition interlock device shall be monitored, maintained and serviced not less than
903 every 30 to 60 days, as promulgated by the registrar, by an entity approved by the registrar; and
904 (iii) that the costs to install and maintain the certified ignition interlock device shall be borne by
905 the operator unless the operator presents valid evidence of a grave and serious hardship;

906 SECTION 62_. Said section 19 of said chapter 122 of the acts of 2005 is hereby further
907 amended by striking out clause (8) and inserting in place thereof the following clause:- violation
908 of the required inspection, monitoring or reporting requirements may result, after hearing, in up
909 to a 2 year extension of the ignition interlock license or a permanent revocation of an ignition
910 interlock license and up to an additional 10-year license suspension during which such person
911 may not be eligible for an ignition interlock license.

912 SECTION 63_. Said section 19 of chapter 122 of the acts of 2005 is hereby further
913 amended by striking out clause (9) and inserting in place thereof the following clause:- (9) a
914 schedule for phasing in requirements that ignition interlock devices be equip with cameras or
915 other means of positively identifying the person providing the ignition interlock breath alcohol
916 concentration test.

917 SECTION 64_. Said section 19 of said chapter 122 of the acts of 2005 is hereby amended
918 by adding the following clause at the end thereof:-

919 This act shall take effect on January 1, 2018."

920 SECTION 65 _clause (1) (a) (1) of section 24 of chapter 90 as appearing in the 2016
921 official is hereby amended by inserting after line 177 the following paragraphs:-

922 If the defendant has been previously convicted or assigned to an alcohol or controlled
923 substance education, treatment or rehabilitation program by a court of the commonwealth or any
924 other jurisdiction because of a like offense five times preceding the date of the commission of the
925 offense for which he has been convicted, the defendant shall be punished by a fine of not less
926 than four thousand nor more than one hundred thousand dollars and by imprisonment for not less
927 than five years or by a fine of not less than four thousand nor more than one hundred thousand
928 dollars and by imprisonment in the state prison for not less than five years nor more than ten
929 years; provided, however, that the sentence imposed upon such person shall not be reduced to
930 less than thirty-six months, nor suspended, nor shall any such person be eligible for probation,
931 parole, or furlough or receive any deduction from his sentence for good conduct until he shall
932 have served thirty-six months of such sentence; provided, further, that the commissioner of
933 correction may, on the recommendation of the warden, superintendent, or other person in charge
934 of a correctional institution, or the administrator of a county correctional institution, grant to an
935 offender committed under this subdivision a temporary release in the custody of an officer of
936 such institution for the following purposes only: to attend the funeral of a relative; to visit a
937 critically ill relative; to obtain emergency medical or psychiatric services unavailable at said
938 institution; to engage in employment pursuant to a work release program; or for the purposes of
939 an aftercare program designed to support the recovery of an offender who has completed an
940 alcohol or controlled substance education, treatment or rehabilitation program operated by the
941 department of correction; and provided, further, that the defendant may serve all or part of such

942 thirty-six months sentence to the extent that resources are available in a correctional facility
943 specifically designated by the department of correction for the incarceration and rehabilitation of
944 drinking drivers.

945 If the defendant has been previously convicted or assigned to an alcohol or controlled
946 substance education, treatment or rehabilitation program by a court of the commonwealth or any
947 other jurisdiction because of a like offense six or more times preceding the date of the
948 commission of the offense for which he has been convicted, the defendant shall be punished by a
949 fine of not less than eight thousand nor more than two hundred thousand dollars and by
950 imprisonment for not less than twenty years or by a fine of not less than eight thousand nor more
951 than two hundred thousand dollars and by imprisonment in the state prison for not less than
952 twenty years; provided, however, that the sentence imposed upon such person shall not be
953 reduced to less than one hundred eighty months, nor suspended, nor shall any such person be
954 eligible for probation, parole, or furlough or receive any deduction from his sentence for good
955 conduct until he shall have served one hundred and eighty months of such sentence; provided,
956 further, that the commissioner of correction may, on the recommendation of the warden,
957 superintendent, or other person in charge of a correctional institution, or the administrator of a
958 county correctional institution, grant to an offender committed under this subdivision a
959 temporary release in the custody of an officer of such institution for the following purposes only:
960 to attend the funeral of a relative; to visit a critically ill relative; to obtain emergency medical or
961 psychiatric services unavailable at said institution; to engage in employment pursuant to a work
962 release program; or for the purposes of an aftercare program designed to support the recovery of
963 an offender who has completed an alcohol or controlled substance education, treatment or
964 rehabilitation program operated by the department of correction; and provided, further, that the

965 defendant may serve all or part of such one hundred and eighty months sentence to the extent
966 that resources are available in a correctional facility specifically designated by the department of
967 correction for the incarceration and rehabilitation of drinking drivers.

968 SECTION 66_ . Section 3 of chapter 22E of the General Laws is hereby amended by
969 striking the section in its entirety and inserting in place thereof the following:-

970 Section 3. (a) Any person who is convicted of an offense that is punishable by
971 imprisonment in the state prison and any person adjudicated a youthful offender by reason of an
972 offense that would be punishable by imprisonment in the state prison if committed by an adult
973 shall submit a DNA sample to the department within 6 months of such conviction or adjudication
974 or, if incarcerated, within the first 6 months of such incarceration or before release from custody,
975 whichever occurs first.

976 (b) Any person who is arrested by virtue of process, or is taken into custody by an officer
977 and charged with the commission of: (i) an offense listed in clause (i) of subsection (b) of section
978 25 of chapter 279; or (ii) section 17 or section 18 of chapter 266, and who upon arrest has been
979 arraigned pursuant to the applicable court rules under the Massachusetts Rules of Criminal
980 Procedure, shall submit a DNA sample to the department.

981 (c) The trial court and probation department shall work in conjunction with the director to
982 establish and implement a system for the electronic notification to the department whenever a
983 person is required to submit a DNA sample under this section. The sample shall be collected by a
984 person authorized under section 4 of this chapter subsequent to arraignment, in accordance with
985 regulations or procedures established by the director. The results of such sample shall be made
986 part of the state DNA database. In the event the department is unable to complete DNA analysis

987 on a sample provided pursuant to this section or any sample so provided fails to yield a DNA
988 record, the person required to submit a DNA sample pursuant to this section shall, within 6
989 months of notice from the director, submit additional DNA samples until DNA analysis is
990 completed and results in the production of a DNA record. The submission of such DNA sample
991 shall not be stayed pending a sentence appeal, motion for new trial, appeal to an appellate court
992 or other post conviction motion or petition.

993 SECTION 2. Section 5 of chapter 22E of the General Laws is hereby amended by
994 striking the section in its entirety and inserting in place thereof the following:-

995 Section 5. The department shall provide all collection materials, labels and instructions
996 for the collection of DNA samples pursuant to this chapter.

997 SECTION 3. Section 11 of chapter 22E of the General Laws is hereby amended by
998 striking the section in its entirety and inserting in place thereof the following:-

999 Section 11. Any person required to provide a DNA sample pursuant to this chapter and
1000 who, after notice, fails to provide such DNA sample or such additional DNA samples as required
1001 by section 3 shall be subject to punishment by a fine of not more than \$2,000 or imprisonment in
1002 a jail or house of correction for not more than six months or both for each such offense. Each day
1003 a person fails, as required by section 3, to submit a DNA sample shall, until such DNA sample is
1004 so provided, constitute a separate offense.

1005 SECTION 4. Section 12 of chapter 22E of the General Laws is hereby amended, in line
1006 6, by striking out the figure “\$1,000” and inserting in its place thereof the following figure:-
1007 “\$2,000”; and is hereby further amended, in line 7, by striking out the words “six months” and
1008 inserting in place thereof the following:- 1 year.

1009 SECTION 5. Section 13 of chapter 22E of the General Laws, as appearing in the 2014
1010 official edition, is hereby amended by striking, in line 4, the figure “\$1,000” and inserting in its
1011 place thereof the following:- “\$2,000”; and is hereby further amended, in line 5, by striking the
1012 words “six months” and inserting in place thereof the following:- 1 year.

1013 SECTION 6. Section 15 of chapter 22E of the General Laws is hereby amended by
1014 adding the following subsections:-

1015 (b) The department shall destroy the DNA sample and any records of a person related to
1016 the sample that were taken in connection with a particular alleged designated crime if the sample
1017 was collected post-arraignment under subsection (b) of section 3, and any of the following
1018 occurs: the felony charge which required the DNA sample is downgraded to a misdemeanor by
1019 the prosecuting attorney upon a plea agreement or the person is convicted of a lesser offense that
1020 is a misdemeanor other than one constituting abuse as defined in section 1 of chapter 209A or a
1021 sex offense for which registration is required pursuant to sections 178C to 178P of chapter 6; (ii)
1022 the person is acquitted after a trial of the charges which required the taking of the DNA sample;
1023 or (iii) the charges which required the taking of the DNA sample are dismissed by either the
1024 court or the state after arraignment unless good cause is shown why the sample should not be
1025 destroyed.

1026 (c) If the person has more than one entry in the state DNA database, CODIS, or the state
1027 DNA data bank, only the entry related to the dismissed case shall be deleted.

1028 (d) The trial court and probation department shall work in conjunction with the director to
1029 establish and implement a system for the electronic notification to the department whenever a
1030 DNA sample is required to be destroyed pursuant to this section. The department shall notify the

1031 person upon destroying the DNA sample and completing its responsibilities under this
1032 subsection.

1033 (e) If a DNA sample is matched to another DNA sample during the course of a criminal
1034 investigation, the record of the match shall not be expunged even if the sample itself is expunged
1035 in accordance with the provisions of this section.

1036 SECTION 67_. Notwithstanding any general or special law to the contrary, the
1037 municipal police training council shall incorporate into its required curriculum training and
1038 standards for the proper identification of mental health issues and protocols for the proper
1039 response to said issues"

1040 SECTION 68_. Section 18 of chapter 17 of the general laws is hereby amended by
1041 inserting at the end thereof the following new subsection-(d) The bureau of substance abuse
1042 services shall create and maintain a Municipal Treatment Referral Network to provide referrals
1043 for treatment beds as requested by municipal police departments who are seeking to provide
1044 treatment to people who have voluntarily appeared at the municipal police department seeking
1045 treatment

1046 SECTION 69_. Section 90 of chapter 276 of the general laws is hereby amended by
1047 inserting at the end thereof the following:- shall also include in his report to the court any mental
1048 health and substance abuse treatment needs and recommendations for treatment if applicable

1049 SECTION 70_. Notwithstanding any general or special to the contrary the secretary of
1050 the executive office of public safety and security in conjunction with the chiefs of police
1051 association shall develop and implement a system to ensure that all police departments at all
1052 times have at least one person trained to identify and respond to incidents involving mental

1053 health and substance abuse, and develop a grant program to assist municipal police departments
1054 for the training required under this section

1055 SECTION 71_ . Chapter 10 of the General Laws as appearing in the 2016 official edition
1056 is hereby amended by inserting after section 35DDD the following new section:-

1057 There shall be established upon the books of the commonwealth a separate fund to be
1058 known as the comprehensive police training fund. The secretary of public safety and security
1059 shall be the trustee of the fund and may expend monies from the fund, without further
1060 appropriation; provided, however, that funds are expended for municipal police training, crisis
1061 intervention training initiative as established in this amendment, the municipal treatment referral
1062 network established in this amendment and the diversion planning and coordination council
1063 established in this amendment.

1064 The fund shall consist of: (i) any appropriations, bond proceeds or other monies
1065 authorized or transferred by the general court and specifically designated to be credited to the
1066 fund; (ii) five percent of revenue generated from the sale of marijuana as established under
1067 chapter 55 of the acts of 2017 (iii) \$100 assessment from convicted of drug trafficking under
1068 chapter 94C (iv) funds from section 53 and section 54 of chapter 23K ; (iv) any interest earned
1069 on monies in the fund; and (v) any funds from private sources including, but not limited to, gifts,
1070 grants and donations received by the commonwealth that are specifically designated to be
1071 credited to the fund, the state shall provide a match \$1 for every \$1 of funds from private sources
1072 not to exceed ten million dollars (vi) any federal grants and the secretary shall apply for any
1073 available federal funds or grants. The secretary of education may incur expenses and the
1074 comptroller may certify for payments amounts in anticipation of expected receipts, but no

1075 expenditure shall be made from the fund which shall cause the fund to be in deficit at the close of
1076 a fiscal year. Amounts credited to the fund shall not be subject to further appropriation and
1077 monies remaining in the fund at the end of a fiscal year shall not revert to the General Fund. The
1078 secretary shall report annually not later than October 1 to the clerks of the house and senate and
1079 the house and senate committees on ways and means on the fund's activity.

1080 Section 72_. Section 53 of the Chapter 23K is hereby amended by striking “Gaming
1081 Revenue Fund established in section 59”and inserting in place thereof the following:- “the
1082 comprehensive police training fund established in chapter 10”

1083 Section 73_. Section 54 of the Chapter 23K is hereby amended by striking “Gaming
1084 Revenue Fund established in section 59”and inserting in place thereof the following:- “the
1085 comprehensive police training fund established in chapter 10”

1086 SECTION 74_. Notwithstanding any general or special law to the contrary there shall be
1087 established the diversion and planning and coordination council, the council shall consist of
1088 seven members one of whom shall be designated by the trial court, one of whom shall be a
1089 appointed of the Massachusetts district attorney’s association, one of whom shall be appointed
1090 by the Massachusetts chiefs of police association, one of whom shall be appointed by the
1091 governor, one of whom shall be appointed by the attorney general, and one of whom shall be the
1092 secretary of public safety and security of their designee who shall serve as chair and the
1093 executive office of public safety and security shall provide staff support, one of whom shall be
1094 appointed by the commissioner of probation and one of whom shall be appointed by the colonel
1095 of the state police.

1096 The council shall research and identify the most effective diversion methods that also
1097 protect public safety, and develop criteria for the certification of diversion programs and certify
1098 such programs. The council shall annually submit a report and any recommendations to the
1099 clerks of the house and senate and the joint committee on the judiciary and the joint committee
1100 on public safety and security by December 31.

1101 SECTION 75_. Section 26 of chapter 218 of the General Laws, as appearing in the 2016
1102 Official Edition, is hereby amended by inserting after the word “sixty-six,” in line 21, the
1103 following words:- , section 13B of chapter 268.

1104 SECTION 76_. Section 26 of chapter 218 of the General Laws, as appearing in the 2016
1105 Official Edition, is hereby amended by inserting after the word “sixty-six,” in line 21, the
1106 following words:- , section 13B of chapter 268.

1107 SECTION 77_. Said section 26 of said chapter 218, as so appearing, is hereby further
1108 amended by inserting after the word “age,” in line 26, the following words:-

1109 conspiracy under section 7 of chapter 274, or solicitation to commit a felony under
1110 section 8 of chapter 274.

1111 SECTION 78_. Said section 26 of said chapter 218, as so appearing, is hereby further
1112 amended by striking out, in lines 26 to 27, the words intimidation of a witness or juror under
1113 section thirteen B of chapter two hundred and sixty-eight,.

1114 SECTION 79_. Section 1 of chapter 263A of the General Laws, as so appearing, is
1115 hereby amended by striking out the definition of “Critical witness” and inserting in place thereof
1116 the following definition:-

1117 “Critical witness”, any person who is participating, has participated, or is reasonably
1118 expected to participate in a criminal investigation, motion hearing, trial, show cause hearing, or
1119 other criminal proceeding, or a proceeding involving an alleged violation of conditions of
1120 probation or parole, or the commitment of a sexually dangerous person pursuant to chapter
1121 123A; or who has received a subpoena requiring such participation; who is, or was, in the
1122 judgment of the prosecuting officer, a necessary witness at one or more of the aforementioned
1123 types of proceedings, and who is or may be endangered by such person’s participation in the
1124 aforementioned proceeding; or such person’s relatives, guardians, friends or associates, who are
1125 or may be endangered by such person’s participation in the aforementioned proceeding.

1126 SECTION __. Chapter 268 of the General Laws is hereby amended by striking out section
1127 13B, as so appearing, and inserting in place thereof the following section:-

1128 Section 13B.

1129 (1) Whoever, directly or indirectly, willfully

1130 (a) threatens, or attempts or causes physical injury, emotional injury, economic injury or
1131 property damage to,

1132 (b) conveys a gift, offer or promise of anything of value to, or

1133 (c) misleads, intimidates or harasses;

1134 (2) another person who is

1135 (a) a witness or potential witness,

1136 (b) a person who is or was aware of information, records, documents or objects that relate
1137 to a violation of a criminal statute, or a violation of conditions of probation, parole, bail, or other
1138 court order,

1139 (c) a judge, juror, grand juror, attorney, victim witness advocate, police officer, federal
1140 agent, investigator, clerk, court officer, court reporter, court interpreter, probation officer or
1141 parole officer,

1142 (d) a person who is or was attending, or had made known his or her intention to attend a
1143 proceeding described in subsection (3)(a), or

1144 (e) a family member of a person described in subsections 2(a) through 2(d);

1145 (3) with the intent to, or with reckless disregard that it may,

1146 (a) impede, obstruct, delay, prevent or otherwise interfere with

1147 (i) a criminal investigation at any stage, a grand jury proceeding, a dangerousness
1148 hearing, a motion hearing, a trial or other criminal proceeding of any type, or a parole hearing, or
1149 parole violation proceeding, or probation violation proceeding; or

1150 (ii) an administrative hearing, or a probate and family proceeding, juvenile proceeding,
1151 housing proceeding, land proceeding, clerk's hearing, court-ordered mediation, or any other civil
1152 proceeding of any type; or

1153 (b) punish, harm or otherwise retaliate against any person described in subsection (2) for
1154 such person's or such person's family member's participation in any of the proceedings
1155 described in subsection (3)(a) shall be punished by imprisonment in the state prison for not more
1156 than ten years, or by imprisonment in the house of correction for not more than two and one half

1157 years, or by a fine of not less than \$1,000 nor more than \$5,000, or by both such fine and
1158 imprisonment; or, if the proceeding which the misconduct is directed at is the investigation or
1159 prosecution of a crime punishable by life imprisonment, or the parole of a person convicted of a
1160 crime punishable by life imprisonment, shall be punished by imprisonment in the state prison for
1161 life or for any term of years.

1162 (4) As used in this section, “investigator” shall mean an individual or group of
1163 individuals lawfully authorized by a department or agency of the federal government, or any
1164 political subdivision thereof, or a department or agency of the commonwealth, or any political
1165 subdivision thereof, to conduct or engage in an investigation of, prosecution for, or defense of a
1166 violation of the laws of the United States or of the commonwealth in the course of his official
1167 duties.

1168 (5) As used in this section, “harass” shall mean to engage in any act directed at a specific
1169 person or persons, which act seriously alarms or annoys such person or persons and would cause
1170 a reasonable person to suffer substantial emotional distress. Such act shall include, but not be
1171 limited to, an act conducted by mail or by use of a telephonic or telecommunication device or
1172 electronic communication device including but not limited to any device that transfers signs,
1173 signals, writing, images, sounds, data, or intelligence of any nature transmitted in whole or in
1174 part by a wire, radio, electromagnetic, photo-electronic or photo-optical system, including, but
1175 not limited to, electronic mail, internet communications, instant messages or facsimile
1176 communications.

1177 (6) A prosecution under this section may be brought in the county in which the criminal
1178 investigation, trial, or other proceeding is being conducted or took place, or in the county in
1179 which the alleged conduct constituting an offense occurred.

1180 SECTION 80_. Notwithstanding any general or special law to the contrary subject to
1181 appropriation there shall be created within the department of corrections, the bureau of
1182 correctional support which shall develop and coordinate support for programs for mental health
1183 and substance abuse at all Massachusetts prisons and correctional facilities. Said bureau shall
1184 also research and develop best practices for treatment of mental health and substance abuse
1185 issues within one year to address any deficiencies in current services. Said best practices and a
1186 budget to implement shall be submitted to the executive office of administration and finance, and
1187 the house and senate committees on ways and means annually by December 31.

1188 SECTION 81_. Said chapter 127 is hereby further amended by inserting after section
1189 119 the following section:-

1190 Section 119A. (a) As used in this section, the following words shall have the following
1191 meanings unless the context clearly requires otherwise:

1192 “Conditional medical parole plan”, a comprehensive written medical and psychosocial
1193 care plan that is specific to the prisoner and includes the proposed course of treatment and post-
1194 treatment care.

1195 “Department”, the department of correction.

1196 “Permanent incapacitation”, a physical or cognitive incapacitation that appears
1197 irreversible, as determined by a licensed physician, and that is so debilitating that the prisoner
1198 does not pose a public safety risk.

1199 “Secretary”, the secretary of the executive office of public safety and security.

1200 “Terminal illness”, a condition that appears incurable, as determined by a licensed
1201 physician, that will likely cause the death of the prisoner in not more than 18 months and that is
1202 so debilitating that the prisoner does not pose a public safety risk.

1203 (b) Notwithstanding any general or special law to the contrary, a prisoner may be eligible
1204 for conditional medical parole due to a terminal illness or permanent incapacitation pursuant to
1205 subsections (c) and (d).

1206 (c)(1)The superintendent of a correctional facility shall consider a prisoner for
1207 conditional medical parole upon a written petition by the prisoner, the prisoner’s attorney, the
1208 prisoner’s next of kin, the commissioner’s medical provider or a member of the department’s
1209 staff. The superintendent shall review the petition and develop a recommendation as to the
1210 release of the prisoner. Whether or not the superintendent recommends in favor of conditional
1211 medical parole, the superintendent shall, not more than 21 days after receipt of the petition,
1212 transmit the petition and the recommendation to the commissioner. The superintendent shall
1213 submit with the recommendation: (i) a conditional medical parole plan; (ii) a written diagnosis
1214 by a physician licensed to practice medicine under section 2 of chapter 112; and (iii) an
1215 assessment of the risk for violence that the prisoner poses to society.

1216 (2) Upon receipt of the petition and recommendation under paragraph (1), the
1217 commissioner shall notify, in writing, the district attorney, the prisoner, the person who

1218 requested the release, if not the prisoner, and, if applicable under chapter 258B, the victim or the
1219 victim's family that the prisoner is being considered for conditional medical parole. The parties
1220 who receive the notice shall have an opportunity to provide written statements; provided,
1221 however, that if the prisoner was convicted and is serving a sentence under section 1 of chapter
1222 265, the district attorney or victim's family may request a hearing.

1223 (d)(1) A sheriff shall consider a prisoner for conditional medical parole upon a written
1224 petition filed by the prisoner, the prisoner's attorney, the prisoner's next of kin, the sheriff's
1225 medical provider or a member of the sheriff's staff. The sheriff shall review the request and
1226 develop a recommendation as to the release of the prisoner. Whether or not the sheriff
1227 recommends in favor of conditional medical parole, the sheriff shall, not more than 21 days after
1228 receipt of the petition, transmit with the petition and the recommendation to the commissioner.
1229 The sheriff shall transmit with the petition: (i) a conditional medical parole plan; (ii) a written
1230 diagnosis by a physician licensed to practice medicine under section 2 of chapter 112; and (iii) an
1231 assessment of the risk for violence that the prisoner poses to society.

1232 (2) Upon receipt of the petition and recommendation under paragraph (1), the
1233 commissioner shall notify, in writing, the district attorney, the prisoner, the person who
1234 requested the release, if not the prisoner and, if applicable under chapter 258B, the victim or the
1235 victim's family that the prisoner is being considered for conditional medical parole. The parties
1236 who receive the notice shall have an opportunity to submit written statements.

1237 (e) The commissioner shall issue a written decision not later than 45 days after receipt of
1238 a petition, which shall be accompanied by a statement of reasons for the commissioner's
1239 decision. If the commissioner determines that a prisoner is terminally ill or permanently

1240 incapacitated such that if the prisoner is released the prisoner will live and remain at liberty
1241 without violating the law and that the release will not be incompatible with the welfare of
1242 society, the prisoner shall be released on conditional medical parole. The parole board shall
1243 impose terms and conditions for conditional medical parole that shall apply through the date
1244 upon which the prisoner's sentence would have expired.

1245 Not less than 24 hours before the date of a prisoner's release on conditional medical
1246 parole, the commissioner shall notify, in writing, the district attorney, the department of state
1247 police, the police department in the city or town in which the prisoner shall reside and, if
1248 applicable under chapter 258B, the victim or the victim's family of the prisoner's release and the
1249 terms and conditions of the release.

1250 (f) A prisoner granted release under this section shall be under the jurisdiction,
1251 supervision and control of the parole board, as if the prisoner had been paroled pursuant to
1252 section 130 of chapter 127. The parole board may revise, alter or amend the terms and conditions
1253 of a conditional medical parole at any time. If a parole officer receives credible information that
1254 a prisoner has failed to comply with a condition of the prisoner's release or upon discovery that
1255 the terminal illness or permanent incapacitation has improved to the extent that the prisoner
1256 would no longer be eligible for conditional medical parole under this section, the parole officer
1257 shall immediately arrest the prisoner and bring the prisoner before the board for a hearing. If the
1258 board determines that the prisoner violated a condition of the prisoner's conditional medical
1259 parole or that the terminal illness or permanent incapacitation has improved to the extent that the
1260 prisoner would no longer be eligible for conditional medical parole pursuant to this section, the
1261 prisoner shall resume serving the balance of the sentence with credit given only for the duration
1262 of the prisoner's conditional medical parole that was served in compliance with all conditions set

1263 pursuant to this subsection. Revocation of a prisoner's conditional medical parole due to a
1264 change in the prisoner's medical condition shall not preclude a prisoner's eligibility for
1265 conditional medical parole in the future or for another form of release permitted by law.

1266 (g) A prisoner or sheriff aggrieved by a decision denying or granting conditional medical
1267 parole made under this section may petition for relief pursuant to section 4 of chapter 249. A
1268 decision by the court affirming or reversing the commissioner's grant or denial of conditional
1269 medical parole shall not affect a prisoner's eligibility for any other form of release permitted by
1270 law. A decision under this subsection shall not preclude a prisoner's eligibility for conditional
1271 medical parole in the future.

1272 (h) The commissioner and the secretary shall promulgate rules and regulations necessary
1273 to implement this section.

1274 (i) The commissioner and the secretary shall file an annual report not later than March 1
1275 with the clerks of the senate and the house of representatives, the senate and house committees
1276 on ways and means and the joint committee on the judiciary detailing, for the prior fiscal year: (i)
1277 the number of prisoners in the custody of the department or of the sheriffs who applied for
1278 conditional medical parole under this section and the race and ethnicity of each applicant; (ii) the
1279 number of prisoners who have been granted conditional medical parole and the race and ethnicity
1280 of each prisoner; (iii) the nature of the illness of the applicants for conditional medical parole;
1281 (iv) the counties to which the prisoners have been released; (v) the number of prisoners who have
1282 been denied conditional medical parole, the reason for the denial and the race and ethnicity of
1283 each prisoner; (vi) the number of prisoners who have petitioned for conditional medical parole
1284 more than once; (vii) the number of prisoners released who have been returned to the custody of

1285 the department or the sheriff and the reason for each prisoner’s return; and (viii) the number of
1286 petitions for relief sought pursuant to subsection (g).

1287 SECTION 82. The commissioner of correction and the secretary of public safety and
1288 security shall promulgate rules and regulations necessary to implement section 119A of chapter
1289 127 of the General Laws not later than 6 months after the effective date of this act.

1290 SECTION 83_. Section 1 of chapter 127 of the General Laws, as so appearing, is hereby
1291 amended by inserting after the definition of “Commissioner” the following 2 definitions:

1292 “Disciplinary restrictive housing”, a placement in restrictive housing in a state
1293 correctional facility for disciplinary purposes after a finding has been made that the prisoner has
1294 committed a breach of discipline.

1295 “Exigent circumstances”, circumstances that create an unacceptable risk to the safety of
1296 any person.

1297 SECTION 84_. Said section 1 of said chapter 127, as so appearing, is hereby further
1298 amended by inserting after the definition of “Parole board” the following definition:-

1299 “Placement review”, a multidisciplinary examination to determine whether,
1300 notwithstanding any previous finding of a disciplinary breach or exigent circumstances or other
1301 circumstances supporting a placement in restrictive housing, restrictive housing is still necessary
1302 to reasonably manage risks of harm.

1303 SECTION 85_. Said section 1 of said chapter 127, as so appearing, is hereby further
1304 amended by inserting after the definition of “Residential treatment unit” the following
1305 definition:-

1306 “Restrictive Housing”, a housing placement where a prisoner is confined to a cell for
1307 over 22 hours per day; provided, however, that mental health watch shall not be considered
1308 restrictive housing.

1309 SECTION 86 __. Section 4 of said chapter 127 is hereby repealed

1310 SECTION 87. Said chapter 127 is hereby amended by striking out sections 39 and 39A,
1311 as so appearing, and inserting in place thereof the following 8 sections:

1312 Section 39. (a) Subject to the limits of this section and section 39A, the superintendent of
1313 a state correctional facility or the administrator of a county correctional facility may authorize
1314 the confinement of a prisoner in a restrictive housing unit to discipline the prisoner or if the
1315 prisoner’s retention in general population poses an unacceptable risk: (i) to the safety of others;
1316 (ii) of damage or destruction of property; or (iii) to the operation of a correctional facility.

1317 (b) In addition to meeting all standards defined by the department of public health,
1318 restrictive housing units shall provide: (i) meals that meet the same standards defined by the
1319 commissioner as for general population prisoners; (ii) access to showers not less than 3 days per
1320 week; (iii) rights of visitation and communication by those properly authorized; provided,
1321 however, that the authorization may be diminished for the enforcement of discipline for a period
1322 not to exceed 15 days in a state correctional facility or 10 days in a county correctional facility
1323 for any given offense; (iv) access to reading and writing materials unless clinically
1324 contraindicated; (v) access to a radio or television if confinement exceeds 30 days; (vi) periodic
1325 mental and psychiatric examinations under the supervision of the department of mental health;
1326 (vii) medical and psychiatric treatment that may be clinically indicated under the supervision of
1327 the department of mental health; (viii) the same access to canteen purchases and privileges to

1328 retain property in a prisoner's cell as prisoners in the general population at the same facility;
1329 provided, however, that such access and privileges may be diminished for the enforcement of
1330 discipline for a period not to exceed 15 days in a state correctional facility or 10 days in a county
1331 correctional facility for any given offense or where inconsistent with the security of the unit; (ix)
1332 the same access to disability accommodations as prisoners in general population, except where
1333 inconsistent with the security of the unit; and (x) other rights and privileges as may be
1334 established or recognized by the commissioner.

1335 (c) Before placement in restrictive housing, a prisoner shall be screened by a qualified
1336 mental health professional to determine whether the prisoner has a serious mental illness or
1337 restrictive housing is otherwise clinically contraindicated based on clinical standards adopted by
1338 the department of correction in consultation with the department of mental health..

1339 (d) A qualified mental health professional shall make rounds in every restrictive housing
1340 unit and may conduct an out-of-cell meeting with a prisoner for whom a confidential meeting is
1341 warranted in the clinician's professional judgment. Prisoners shall be evaluated by a qualified
1342 mental health professional in accordance with clinical standards adopted by the department of
1343 correction and clinical judgment to determine whether the prisoner has a serious mental illness or
1344 restrictive housing is otherwise clinically contraindicated.

1345 Section 39A. (a) A prisoner shall not be held in restrictive housing if the prisoner has a
1346 serious mental illness or a finding has been made, pursuant to subsections (c) or (d) of section 39
1347 or otherwise, that restrictive housing is clinically contraindicated unless, not later than 72 hours
1348 after the finding, the commissioner, the sheriff or a designee of the commissioner or sheriff
1349 certifies in writing: (i) the reason why the prisoner may not be safely held in the general

1350 population; (ii) that there is no available placement in a secure treatment unit; (iii) efforts that are
1351 being undertaken to find appropriate housing and the status of the efforts; and (iv) the anticipated
1352 time frame for resolution. A copy of the written certification shall be provided to the prisoner. A
1353 prisoner in restrictive housing shall be offered mental health treatment by a qualified mental
1354 health professional in accordance with clinical standards adopted by the department in
1355 consultation with the department of mental health

1356 (b) If a prisoner needs to be separated from general population to protect the prisoner
1357 from harm by others, the prisoner shall not be placed in restrictive housing, but shall be placed in
1358 a housing unit that provides approximately the same conditions, privileges, amenities and
1359 opportunities as in general population; provided, however, that the prisoner may be placed in
1360 restrictive housing for not more than 72 hours while suitable housing is located. A prisoner shall
1361 not be held in restrictive housing to protect the prisoner from harm by others for more than 72
1362 hours unless the commissioner, the sheriff or a designee of the commissioner or sheriff certifies
1363 in writing: (i) the reason why the prisoner may not be safely held in the general population; (ii)
1364 that there is no available placement in a unit comparable to general population; (iii) efforts that
1365 are being undertaken to find appropriate housing and the status of the efforts; and (iv) the
1366 anticipated time frame for resolution. A copy of the written certification shall be provided to the
1367 prisoner.

1368 (c) A prisoner who is or is perceived to be lesbian, gay, bisexual, transgender, queer or
1369 intersex or has or is perceived to have a gender identity or expression or sexual orientation
1370 uncommon in general population shall not be grounds for placement in restrictive housing.

1371 (d) A prisoner shall not be confined to restrictive housing except pursuant to section 39 or
1372 this section.

1373 Section 39B. (a) All prisoners confined to restrictive housing shall receive placement
1374 reviews at the following intervals and may receive them more frequently:

1375 (i) If a prisoner is being held pursuant to subsection (a) of section 39A, every 72 hours;

1376 (ii) If a prisoner is being held pursuant to subsection (b) of section 39A, every 72 hours;

1377 (iii) If a prisoner is awaiting adjudication of an alleged disciplinary breach, every 15
1378 days;

1379 (iv) If a prisoner has been committed to disciplinary restrictive housing, every 6 months;

1380 and

1381 (v) If a prisoner is being held for any other reason, every 90 days.

1382 (b) After a placement review, the prisoner shall be retained in restrictive housing only if
1383 the prisoner is determined to pose an unacceptable risk as provided in subsection (a) of section
1384 39 or if the commissioner, the sheriff or a designee of the commissioner or sheriff re-certifies, in
1385 writing, the findings required by subsections (a) or (b) of section 39A.

1386 (c) If a prisoner's placement in restrictive housing may reasonably be expected to last
1387 more than 60 days, the prisoner shall: (i) have 24 hours written notice of placement reviews; (ii)
1388 have the opportunity to participate in reviews in person or in writing; (iii) upon review, if no
1389 placement change is ordered, be provided a written statement as to the evidence relied on and the
1390 reasons for the placement decision; and (iv) not more than 15 days after the initial placement and
1391 upon placement review, if no placement change is ordered, be advised as to behavior standards

1392 and program participation goals that will increase the prisoner's chances of a less restrictive
1393 placement upon next placement review.

1394 (d) A prisoner who is committed to a secure treatment unit following an allegation or
1395 finding of a disciplinary breach shall receive placement reviews at intervals not less than as
1396 frequently as if the prisoner were confined to restrictive housing.

1397 (e) The commissioner shall promulgate regulations to define standards and procedures to
1398 maximize out-of-cell activities in restrictive housing and to maximize outplacements from
1399 restrictive housing consistent with the safety of all persons.

1400 Section 39C. The commissioner, after consultation with the sheriffs and the department
1401 of mental health, shall promulgate regulations governing the training and qualifications of
1402 correction officers, supervisors and managers deployed to restrictive housing

1403 Section 39D. (a) The commissioner shall publish monthly the number of prisoners held in
1404 each restrictive housing unit within each state and county correctional facility.

1405 (b) The commissioner shall publish quarterly as to each restrictive housing unit within
1406 each state or county correctional facility: (i) the number of prisoners as to whom a finding of
1407 serious mental illness has been made and the number of such prisoners held more than 30 days;
1408 (ii) the number of prisoners who have committed suicide or committed non-lethal acts of self-
1409 harm; (iii) the number of prisoners according to the reason for their restrictive housing; (iv) as to
1410 prisoners in disciplinary restrictive housing, a listing of prisoners with names redacted, including
1411 an anonymized identification number that shall be consistent across reports, age, race, gender
1412 and ethnicity, whether the prisoner has an open mental health case, the date of the prisoner's
1413 commitment to discipline, the length of the prisoner's term and a summary of the reason for the

1414 prisoner's commitment; (v) the count of prisoners released to the community directly or within
1415 30 days of release from restrictive housing; and (vi) such additional information as the
1416 commissioner may determine.

1417 (c) The administrators of county correctional facilities shall furnish to the commissioner
1418 all information that the commissioner deems necessary to support reporting under this section.

1419 Section 39E. Prisoners held in restrictive housing for a period of more than 60 days shall
1420 have access to vocational, educational and rehabilitative programs to the extent consistent with
1421 the safety and security of the unit and shall receive good time for participation at the same rates
1422 as the general population.

1423 Section 39F. The commissioner may promulgate regulations to implement sections 39 to
1424 39F, inclusive.

1425 SECTION 88. Sections 40 and 41 of said chapter 127 are hereby repealed.

1426 SECTION 89 __. Notwithstanding and general or special law to the contrary the executive
1427 office of health and human services in conjunction with the executive office of public safety and
1428 security shall develop within one year of the effective date of this at a plan to provide eligibility
1429 and capacity for a new diversion program for those with mental health issues that protects public
1430 safety to be known as the mental health diversion program. Said program must be certified by
1431 the diversion planning and coordination council established in this amendment.