

SENATE No. 2822

Senate, July 13, 2020 – Text of the Senate amendment (Senator Creem) to the Senate Bill to reform police standards and shift resources to build a more equitable, fair and just commonwealth that values Black lives and communities of color (Senate, No. 2800)

The Commonwealth of Massachusetts

In the One Hundred and Ninety-First General Court
(2019-2020)

1 by inserting the following new sections:-

2 SECTION 1. The purpose of these provisions is to ensure that the Commonwealth
3 establishes systems to collect accurate, consistent, and comprehensive data on juveniles’ contacts
4 with officials in the law enforcement and juvenile justice systems in order to improve
5 comprehensive state planning as required by Title 34 of the United States Code, section 1113.

6 SECTION 2. Section 89 of Chapter 119 of the General Laws, as appearing in section 80
7 of chapter 69 of the acts of 2018, is hereby amended by inserting after the definition of “criminal
8 justice agency” the following paragraph:-

9 “Gender identity and expression” shall be defined pursuant to subsection 59 of section 7
10 of chapter 4 of the General Laws

11 SECTION 3. Section 89 of said Chapter 119, as so appearing, is hereby further amended
12 by inserting after the definition of “racial or ethnic category” the following paragraph:-

13 “Sexual orientation”, having an orientation for or being identified as having an orientation
14 for heterosexuality, bisexuality, or homosexuality.

15 SECTION 4. Section 89 of Chapter 119 of the General Laws, as appearing in section 80
16 of chapter 69 of the acts of 2018, is hereby amended by inserting after the last paragraph the
17 following paragraphs:-

18 (c)The Child Advocate shall create and update as may be appropriate an instrument to
19 record aggregate statistical data at each point of contact identified in sections 4(a)-(i). This
20 instrument shall, at minimum, include age, gender, gender identity and expression, racial or
21 ethnicity category, sexual orientation and type of crime. The child advocate shall give due regard
22 to the census of juveniles when setting forth the racial or ethnic categories in the instrument. The
23 Child Advocate shall consider providing guidance about the manner in which the race and
24 ethnicity information is designated and collected, with consideration of the juveniles' self-
25 reporting of such categories. All Offices and Departments subject to this law shall use this
26 instrument to record contacts.

27 (d) The department of state police, municipal police departments, Massachusetts Bay
28 Transportation Authority police, any school-based police from a local education authority, and
29 any contractor, vendor or service-provider working with such police including any alternative
30 lock-up programs, shall collect the necessary information to complete the instrument identified
31 in subsection (c) for each juvenile subjected to the following contacts for each fiscal year:

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

33 (2) arrest

34 (e) Clerk magistrates shall collect the necessary information to complete the instrument
35 identified in subsection (c) for each juvenile subjected to the following contacts for each fiscal
36 year

- 37 (1) criminal complaint filed
- 38 (2) finding of probable cause;
- 39 (3) complaint issued;
- 40 (4) appeal to judge of the finding by the clerk magistrate; and
- 41 (5) complaint issued after appeal.
- 42 (f) The district attorneys shall collect the necessary information to complete the
- 43 instrument identified in subsection (c) for each juvenile subjected to the following contacts for
- 44 each fiscal year
- 45 (1) referral to and/or use of diversion programming;
- 46 (2) indictment as a youthful offender;
- 47 (3) dismissal of indictment/dismissal of indictment in exchange for other action; and
- 48 (4) prosecution in criminal court under section 74 of chapter 119 of the General Laws.
- 49 (g) The juvenile court department shall collect the necessary information to complete the
- 50 instrument identified in subsection (c) for each juvenile subjected to the following contacts for
- 51 each fiscal year:
- 52 (1) arraignment as a delinquent
- 53 (2) arraignment as a youthful offender;
- 54 (3) referral to and/or use of diversion programming pursuant to section 54A of chapter
- 55 119 of the General Laws;

- 56 (4) imposition of bail or order to hold without bail;
- 57 (5) pre-trial probation pursuant to section 87 of chapter 276 of the General Laws;
- 58 (6) cases which are continued without a finding pursuant to section 18 of chapter 278 and
59 to section 58 of chapter 119 of the General Laws;
- 60 (7) adjudication as a delinquent;
- 61 (8) adjudication as a youthful offender;
- 62 (9) imposition of an adult sentence pursuant to section 58 of chapter 119 of the General
63 Laws;
- 64 (10) sentence to probation;
- 65 (11) commitment to the department of youth services pursuant to section 58 of chapter
66 119 of the General Laws;
- 67 (12) commitment to the department of youth services pursuant to section 2 of chapter 279
68 of the General Laws that are suspended;
- 69 (13) voluntary extensions of commitments to the department of youth services;
- 70 (14) juvenile brought before the court on criminal and non-criminal violations of
71 probation;
- 72 (15) commitments to department of youth services following a probation violation; and
- 73 (16) revocation of a continuation without a finding pursuant to pursuant to section 18 of
74 chapter 278 and to section 58 of chapter 119 of the General Laws;

75 (h) The office of the commissioner of probation shall collect the necessary information to
76 complete the instrument identified in subsection (c) for each juvenile subjected to the following
77 contacts for each fiscal year:

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

79 (2) supervision of pre-trial probation;

80 (3) supervision of continuances without a finding;

81 (4) supervision of youth on probation; and

82 (5) referral to the court for a probation violation.

83 (i) The department of youth services and any contractor, vendor or service provider
84 working with said department including alternative lock-up programs shall collect the necessary
85 information to complete the instrument identified in subsection (c) for each juvenile subjected to
86 the following contacts for each fiscal year:

87 (1) pre-arraignment detention;

88 (2) pre-trial detention;

89 (3) commitment;

90 (4) level of care including, but not limited to,

91 a. "hardware," secure;

92 b. staff secure;

93 c. residential; and

- 94 d. community placement;
- 95 (5) notice of revocation of grants of conditional liberty;
- 96 (6) hearing on grants of conditional liberty; and
- 97 (7) revocation of grants of conditional liberty for violation of conditions of liberty; and
- 98 (8) voluntary extensions of commitments with the department of youth services.

99 (j) The superior court shall collect the necessary information to complete the instrument
100 identified in subsection (c) for each juvenile subjected to the following contacts for each fiscal
101 year:

- 102 (1) arraignment for murder in the first degree and murder in the second degree; and
- 103 (2) convictions.

104 (k) The department of correction and each sheriff's department shall collect the necessary
105 information to complete the instrument identified in subsection (c) for each juvenile subjected to
106 the following contacts for each fiscal year:

- 107 (1) pre-arraignment detention;
- 108 (2) pre-trial detention;
- 109 (3) post-disposition confinement of youthful offenders; and
- 110 (4) post-conviction confinement for murder.

111 (1) The parole board shall collect the necessary information to complete the instrument
112 identified in subsection (c) for each juvenile subjected to the following contacts for each fiscal
113 year:

114 (1) grant of parole;

115 (2) supervision of parole; and

116 (3) revocation of parole.

117 SECTION 5. Chapter 119 of the General Laws, as appearing in section 80 of chapter 69
118 of the acts of 2018, is hereby amended by inserting after section 89 the following section:

119 Section 90. (a) The Executive Office of Public Safety and Security shall be responsible
120 for assembling the data collected by the below offices and departments on an annual basis. The
121 collected data for each fiscal year shall be published on the Executive Office of Public Safety
122 and Security Website, filed with the clerks of the Massachusetts House and Senate and provided
123 to the Office of the Child Advocate no later than 90 days after the end of that fiscal year. The
124 first such report shall be submitted by January 2, 2020.

125 a. The Commissioner of the Department of Correction

126 b. Sheriffs of each County;

127 c. The Parole Board;

128 d. The Department of the State Police;

129 e. Municipal police departments;

- 130 f. The Massachusetts Bay Transportation Authority Police;
- 131 g. School based police from any local education authority;
- 132 h. Alternative Lock-up Programs; and
- 133 i. any other contractor, vendor or service provider working with school based or other
- 134 police officers.

135 (b) The Attorney General shall be responsible of assembling data collected by District
136 Attorney's Offices on an annual basis. The collected data for each fiscal year shall be published
137 on the Attorney General's website, filed with the clerks of the Massachusetts House and Senate
138 and provided to the Office of the Child Advocate no later than 90 days after the end of that fiscal
139 year. The first such report shall be submitted by January 2, 2020.

140 (c) The Chief Justice for Administration and Management shall be responsible for
141 assembling data collected by judicial officers and court personnel including the Commissioner of
142 Probation, judicial officers and court personnel, and the Executive Director of Community
143 Correction. The data shall be collected on an annual basis. The collected data for each fiscal year
144 shall be published on the Supreme Judicial Court's website, filed with the clerks of the
145 Massachusetts House and Senate and provided to the Office of the Child Advocate no later than
146 90 days after the end of that fiscal year. The first such report shall be submitted by January 2,
147 2020.

148 (d) The Executive Office for Human Services shall be responsible for assembling data
149 collect by the Commissioner of the Department of Youth Services and all department personnel,
150 contractors or vendors working with the Department. The data shall be collected on an annual

151 basis. The collected data for each fiscal year shall be published on the Office's website, filed
152 with the clerks of the Massachusetts House and Senate and provided to the Office of the Child
153 Advocate no later than 90 days after the end of that fiscal year. The first such report shall be
154 submitted by January 2, 2020.

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

159 (f) The annual Juvenile Justice Contact Data Reports from the Executive Offices of
160 Public Safety and Security, Attorney General, Chief Justice for Administration and Management
161 and Executive of Office of Human Services shall be public records.