

**CONFERENCE COMMITTEE REPORT  
AN ACT RELATIVE TO CRIMINAL JUSTICE REFORM**

**JUVENILES**

- Raises the minimum age of criminal responsibility from **seven to twelve**.
- Decriminalizes first offense misdemeanors for which a punishment is a fine or imprisonment of not more than 6 months and decriminalizes the offenses of disturbing a public assembly and disorderly conduct committed by students on school grounds.
- Eliminates license revocation as a penalty for vandalism and expands Good Samaritan protections for alcohol incapacitation.
- Establishes a Juvenile Justice Policy and Data Board to analyze and report on impacts of legislation, diversion, and programs within the juvenile justice system.
- Creates a Childhood Trauma Task Force to study and recommend gender responsive and trauma-informed approaches to treatment of juveniles in the juvenile justice system.
- Authorizes creation of young adult units within correctional facilities.
- Establishes a task force to examine and study the treatment and impact of the court system and the correctional system on individuals ages 18 to 24.
- Limits the shackling of juveniles and prohibits the placement of a person in DYS custody in involuntary room confinement as a punishment.

**DIVERSION AND RESTORATIVE JUSTICE**

- Expands diversion programs to the Juvenile Court and removes the existing age restrictions on diversion in the District Court.
- Requires district attorneys to create pre-arraignment diversion programs for active armed service members, veterans, and individuals with substance abuse disorders and mental illness.
- Allows a victim's testimony to be considered during requests for diversion.
- Establishes restorative justice as a voluntary program available to adults and juveniles pre-arraignment to help victims and offenders.
- Allows a defendant to have a judge consider his or her role as a primary caretaker of a dependent child before imposing a sentence.

## **BAIL REFORM**

- Establishes that bail should not be set at an amount higher than what would reasonably assure the appearance of the person before the court and requires that a person's financial resources be taken into account when determining bail.
- Requires written or orally recorded findings as to why nonfinancial conditions or an affordable amount would not assure the person's appearance if bail is set at an amount that is likely to lead to the long term pre-trial detention of the person.
- Allows judges to use community correction programs for pre-trial release.

## **MANDATORY MINIMUMS AND DRUG CRIMES**

- Eliminates mandatory minimum sentences for certain low level drug offenses that do not involve trafficking or minors.
- Adds Carfentanil and U-47700 to Class A and moves Fentanyl from Class B to Class A. Adopts the federal schedule for synthetic opioids that are not otherwise classified into Class A.
- Strengthens the current Fentanyl trafficking law by changing 10 net grams of fentanyl to 10 grams of a mixture containing fentanyl, and adding a minimum penalty of 3.5 years.
- Establishes a penalty for anyone who knowingly trafficks in Carfentanil in any amount by imprisonment for 3.5 to 20 years.

## **CORI REFORM AND EXPUNGEMENT**

- Reduces the wait time to seal a conviction from **10 years to 7 years for a felony, and from 5 years to 3 years** for a misdemeanor. It also allows a conviction for resisting arrest to be sealed.
- Expands the ability of an applicant with a sealed record to be able to answer "no record" on **housing applications, and professional and occupational license applications.**
- Establishes protections for businesses and landlords who shall be presumed to have no notice or ability to know about criminal records that have been sealed or expunged.
- Creates expungement for the first time in Massachusetts; currently records can only be sealed. This bill establishes a process for expunging certain juvenile and criminal records for young adults (18-21), and permits the court to expunge records in cases where there was fraud upon the court or where the offense is no longer a crime.

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

### **FELONY THRESHOLDS**

- Increases the threshold for a felony from \$250 to \$1,200 for theft and destruction of property offenses.

### **FINES AND FEES**

- Establishes a uniform standard by which certain fines and fees may be reducible or waivable upon a showing that a “substantial financial hardship” would result from the imposition of the fees.
- Increases the daily incarceration credit from \$30/day to \$90/day in order to reduce the time spent in confinement for not paying fines or expenses.
- Adds a one year grace period after release from custody during which a person shall not be assessed parole fees, and adds a six month grace period after release from custody for supervised or administrative probation fees.

### **SOLITARY CONFINEMENT AND MEDICAL PAROLE**

- Establishes regulation and accountability surrounding the use of restrictive housing.
- Requires regular reviews and mental health screenings of inmates in restrictive housing to be evaluated for return to general population.
- Expands access to vocational, educational and rehabilitative programs for prisoners in restrictive housing.
- Creates a restrictive housing oversight committee to collect data on the use of segregation and its impact on inmates, violence, recidivism, and costs. The committee will report this data annually to the legislature.
- Prohibits the use of restrictive housing for pregnant women.
- Establishes a process through which an inmate with a terminal illness or permanent incapacitation, an inmate’s family, an inmate’s medical provider, or institutional staff may initiate a petition to have the inmate medically paroled.

## **PROTECTIONS FOR HUMAN TRAFFICKING VICTIMS**

- Allows for vacating a conviction or adjudication as a delinquent child of certain prostitution offenses and simple possession of a controlled substance if a court finds that the defendant participated in the offense while a victim of human trafficking.
- Provides the Victims of Human Trafficking Fund with additional sources of fee revenue.

## **CORPORATE MANSLAUGHTER**

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

## **SOLICITATION**

- Creates the crime of solicitation that is tied to the severity of the underlying crime.

## **INCREASED OUI PENALTIES**

- Updates the OUI laws to include increasing penalties for a sixth, seventh, eighth, and ninth or subsequent offense. This allows for enhanced punishments for the most egregious and dangerous re-offenders.

## **SEXUAL ASSAULT TRACKING SYSTEM**

- Directs EOPSS to convene a task force to develop and implement a statewide sexual assault tracking system to be used by law enforcement agencies, hospitals and medical facilities and district attorneys.
- Requires EOPSS to ensure that statewide policies and procedures for contact with victims are adopted.

## **DNA COLLECTION**

- Under current law, an adult convicted of a felony and a juvenile adjudicated as a youthful offender for committing an offense punishable by state prison time shall submit a DNA sample to the state police within one year of conviction/adjudication or release from incarceration, whichever occurs first.
- This legislation removes the one year waiting period to submit a DNA sample and requires the sample to be collected forthwith upon conviction, within 10 days of intake to a correctional facility, or as a condition of probation to avoid a delay or failure to collect the required sample.

## DATA COLLECTION AND SPECIAL COMMISSIONS

- Creates comprehensive data collection initiatives to evaluate policy changes in this bill and in the Council of State Governments legislation. Along with data collection for solitary, medical parole, and juveniles, this bill establishes data collection practices to include:
  - National Incident-Based Data Reporting (NIBRS)- standardizes arrest data across the Commonwealth.
  - Probation Central File (PCF) number- allows for cross-tracking through the criminal justice system.
  - Sheriffs Inmate Management System (SIMS)- establishes uniform data collection in county jails and Houses of Correction.
  - Offense- based tracking number – requires a unique identifying number for each arrest or charge to track offenses and dispositions.
  - Fingerprint-based state identification number - ensures the accurate identification of individuals through the criminal justice system and allows for efficient updating of records upon disposition, sealing, or expungement.
- Creates a forensic science oversight board to investigate and study the state police crime lab and forensic techniques used in the Commonwealth. The legislation also creates a special commission to study the ability of a defendant to pay fines and fees.
- Establishes a justice-involved women panel that shall review and report on the impact of criminal justice laws on women. The panel shall make recommendations on gender-responsive and trauma-informed approaches to address the needs of justice-involved women.