

SENATE No. 931

The Commonwealth of Massachusetts

PRESENTED BY:

Cynthia Stone Creem

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act improving juvenile justice data collection.

PETITION OF:

| NAME: | DISTRICT/ADDRESS: | |
|----------------------------|------------------------------|-----------------|
| <i>Cynthia Stone Creem</i> | <i>Norfolk and Middlesex</i> | |
| <i>Sal N. DiDomenico</i> | <i>Middlesex and Suffolk</i> | <i>2/9/2023</i> |
| <i>Jason M. Lewis</i> | <i>Fifth Middlesex</i> | <i>2/9/2023</i> |

SENATE No. 931

By Ms. Creem, a petition (accompanied by bill, Senate, No. 931) of Cynthia Stone Creem, Sal N. DiDomenico and Jason M. Lewis for legislation to improve data collection in the juvenile justice system. The Judiciary.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. 1558 OF 2021-2022.]

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Third General Court
(2023-2024)**

An Act improving juvenile justice data collection.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. The purpose of these provisions is to ensure that the Commonwealth
2 establishes systems to collect accurate, consistent, and comprehensive data on juveniles’ contacts
3 with officials in the law enforcement and juvenile justice systems.

4 SECTION 2. Section 12(a) of Chapter 18C of the General Laws is hereby amended by
5 inserting the words “or any law protecting the confidentiality of juvenile justice records and
6 information” after “20K of chapter 233”

7 SECTION 3. Chapter 18C of the General Laws is hereby further amended by inserting
8 after section 14, the following section:

9 Section 15. Collection and Reporting of Juvenile Justice Data

10 (a) The child advocate shall report statistical data on the juvenile justice system
11 annually by December 31st to the governor, the house and senate chairs of the joint committee
12 on the judiciary, the house and senate chairs of the joint committee on public safety and
13 homeland security, the house and senate chairs of the committee on children, families and
14 persons with disabilities, the chief justice of the supreme judicial court and the chief justice of
15 the trial court. The report, which shall be made public pursuant to reporting recommendations of
16 the Juvenile Justice Policy and Data Board as required by section 89 of chapter 119, shall include
17 statistics on the utilization of the juvenile justice system at various process points as well as
18 information on decisions made at justice system decision points impacting juveniles, as
19 described in Section 89 and Section 90 of Chapter 119 of the General Laws.

20 (b) The child advocate shall request data from relevant Offices and Departments
21 holding data necessary to complete the aforementioned report at least annually and may request
22 data be provided on a quarterly basis.

23 (c) The Child Advocate shall issue guidance, in consultation with the Juvenile Justice
24 Policy and Data Board, for the administration and enforcement of this section, including
25 guidance establishing (1) schedules for the submission, transmission and publication of the data
26 (2) the format and form that the aforementioned data from Offices and Departments shall take,
27 including any requirements that data should be available for analysis or disaggregation, and the
28 format that transmission of the data shall take (3) the categories and types of data on juvenile
29 interactions with the justice system to be submitted by each agency. The child advocate may
30 request, and all Offices and Departments subject to this law shall provide, individual-level data
31 to facilitate analysis, provided that the child advocate shall be bound by any limitations on the

32 use or release of such individual-level data imposed by law upon the party furnishing such
33 information as described in Section 12 of this chapter.

34 (d) The guidance required by subsection (c) shall, at minimum, require data be
35 provided in such a way as to allow cross tabulated analysis by demographic subgroups including,
36 at a minimum, age at the time of offense, sex/gender, gender identity and expression, racial or
37 ethnicity category, sexual orientation, charge type and level, geographic location such as county
38 or court location, involvement with the Department of Children and Families and any
39 combination thereof. The Child Advocate shall provide guidance about the manner in which
40 demographic data is designated and collected, with consideration of the juveniles' self-reporting
41 of such categories based on data reporting standards issued by the Juvenile Justice Policy and
42 Data Board as required by section 89 of chapter 119.

43 SECTION 4. Section 89 of chapter 119 of the General Laws, as appearing in section 80
44 of chapter 69 of the acts of 2018, is hereby amended by inserting after the definition of "criminal
45 justice agency" the following paragraph:-

46 "Gender identity" shall be defined pursuant to clause 59 of section 7 of chapter 4 of the
47 General Laws

48 SECTION 5. Section 89 of said chapter 119, as so appearing, is hereby further amended
49 by inserting after the definition of "racial or ethnic category" the following paragraph:-

50 "Sexual orientation", having an orientation for or being identified as having an
51 orientation, for heterosexuality, bisexuality, or homosexuality.

52 SECTION 6. Subsection (b) of section 89 of said chapter 119 of the General Laws, as so
53 appearing, is hereby further amended by striking the words “mental health care system”, and
54 inserting in place thereof the words “mental health care and child welfare systems”

55 SECTION 7. Chapter 119 of the General Laws, as appearing in section 80 of chapter 69
56 of the acts of 2018, is hereby amended by inserting after section 89 the following section:

57 Section 90. Collection and Reporting of Juvenile Justice Data

58 (a) As used in this section the following words shall, unless the context clearly
59 requires otherwise, have the following meaning:—

60 (1) “Justice system decision point” shall refer to set points in the justice process
61 where a criminal justice agency makes a decision which results in a change in a juvenile’s status,
62 including, but not limited to: decisions to refer a juvenile to a diversion program; to arrest a
63 juvenile or issue a court summons; to hold a juvenile in custody prior to arraignment; to file a
64 delinquency or criminal complaint; to advance a delinquency or criminal complaint; to proceed
65 with a prosecution; to make a finding as to legal competency; to issue an indictment; to arraign a
66 juvenile; to dismiss a case; to hold a hearing regarding dangerousness; to detain a juvenile
67 without bail; to transfer a case to district or superior Court; to impose bail; to impose pretrial
68 release conditions; to place a juvenile on an electronic monitoring device, either as a condition of
69 pretrial release, as a condition of probation after disposition of a case to revoke bail; to order a
70 juvenile to be held in detention; to continue a case without a finding; to adjudicate a juvenile; to
71 issue a disposition; to place a juvenile on probation; to issue probation conditions; to commit a
72 juvenile to the Department of Youth Services; to sentence a juvenile to serve time in an adult
73 custodial facility; to refer a juvenile to a court for a probation violation; to revoke a juvenile’s

74 probation; to confine a juvenile; to change a juvenile’s placement type in a custodial facility; to
75 issue a grant of conditional liberty; to grant or revoke a grant of conditional liberty; to grant
76 parole after an initial parole hearing; to grant parole after a subsequent review hearing; to revoke
77 parole; to certify or deny sealing or expungement petition, pursuant to sections 100B, 100F and
78 100G of Chapter 276 of the General Laws.

79 (2) “Juvenile” shall be defined pursuant to Section 89 of Chapter 119 of the General
80 Laws.

81 (b) All criminal justice agencies, as defined by Section 89 of Chapter 119 of the
82 General Laws, shall comply with data requests from the child advocate pursuant to section 15 of
83 Chapter 18C regarding decisions made impacting juveniles at justice system decision points.
84 The attorney general may enforce the provisions of this paragraph by a suit in equity commenced
85 in the superior court.

86 (c) The department of state police, municipal police departments, Massachusetts Bay
87 Transportation Authority police, any police or law enforcement officer stationed at or affiliated
88 with a local education authority, and any contractor, vendor or service-provider working with
89 such police including any alternative lock-up programs, shall collect and provide the necessary
90 information to comply with the data request from the child advocate pursuant to Section 15 of
91 Chapter 18C for each juvenile subjected to the following contacts for each fiscal year, provided
92 on a quarterly basis if requested by the child advocate:

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

94 (2) custodial arrests and issuance of court summons

95 (d) Clerk magistrates shall collect and provide the necessary information to comply
96 with the data request from the child advocate pursuant to Section 15 of Chapter 18C for each
97 juvenile subjected to the following contacts for each fiscal year, provided on a quarterly basis if
98 requested by the child advocate:

99 (1) application for complaint filed;

100 (2) finding of probable cause;

101 (3) diversion from further court proceedings, including referral to and/or use of
102 diversion programming;

103 (4) complaint issued;

104 (5) appeal to judge of the finding by the clerk magistrate; and

105 (6) complaint issued after appeal.

106 (e) The district attorneys shall collect and provide the necessary information to
107 comply with the data request from the child advocate pursuant to Section 15 of Chapter 18C for
108 each juvenile subjected to the following contacts for each fiscal year, provided on a quarterly
109 basis if requested by the child advocate:

110 (1) decision not to proceed with prosecution, including but not limited to entering a
111 nolle prosequi or moving to dismiss a case;

112 (2) diversion from further court proceedings, including referral to and/or use of
113 diversion programming;

- 114 (3) decision to proceed with dangerousness hearing pursuant to section 58A of
115 chapter 276
- 116 (4) indictment as a youthful offender;
- 117 (5) dismissal of indictment/dismissal of indictment in exchange for other action; and
- 118 (6) prosecution in criminal court under section 74 of chapter 119 of the General
119 Laws.
- 120 (f) The juvenile court department shall collect and provide the necessary information
121 to comply with the data request from the child advocate pursuant to Section 15 of Chapter 18C
122 for each juvenile subjected to the following contacts for each fiscal year, provided on a quarterly
123 basis if requested by the child advocate:
- 124 (1) arraignment as a delinquent
- 125 (2) arraignment as a youthful offender;
- 126 (3) diversion from further court proceedings, including referral to and/or use of
127 diversion programming pursuant to section 54A of chapter 119 of the General Laws;
- 128 (4) court hearing on dangerousness pursuant to section 58A of chapter 276 of the
129 General Laws;
- 130 (5) competency hearing;
- 131 (6) transfer of case to adult criminal court under section 72A of chapter 119 of the
132 General Laws;

- 133 (7) imposition of bail or order to hold without bail;
- 134 (8) imposition of pretrial release conditions, including pre-trial probation pursuant to
135 section 87 of chapter 276 of the General Laws;
- 136 (9) bail revocation hearings;
- 137 (10) cases which are continued without a finding pursuant to section 18 of chapter 278
138 and to section 58 of chapter 119 of the General Laws;
- 139 (11) dismissal of charges;
- 140 (12) adjudication as a delinquent;
- 141 (13) adjudication as a youthful offender;
- 142 (14) imposition of an adult sentence pursuant to section 58 of chapter 119 of the
143 General Laws;
- 144 (15) disposition, including but not limited to:
- 145 i. sentence to probation;
- 146 ii. commitment to the department of youth services pursuant to section 58 of chapter
147 119 of the General Laws;
- 148 (16) commitment to the department of youth services pursuant to section 2 of chapter
149 279 of the General Laws that are suspended;
- 150 (17) juvenile surrendered on criminal and non-criminal violations of probation;
- 151 (18) commitments to department of youth services following a probation violation; and

152 (19) revocation of a continuation without a finding pursuant to section 18
153 of chapter 278 and to section 58 of chapter 119 of the General Laws;

154 (g) The office of the commissioner of probation shall collect and provide the
155 necessary information to comply with the data request from the child advocate pursuant to
156 Section 15 of Chapter 18C for each juvenile subjected to the following contacts for each fiscal
157 year, provided on a quarterly basis if requested by the child advocate:

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

159 (2) supervision of pre-trial probation;

160 (3) supervision of continuances without a finding;

161 (4) supervision of juvenile on probation; and

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

163 (6) number of petitions and number of allowances and denials on petitions for
164 sealing, pursuant to section 100B of Chapter 276 of the General Laws;

165 (7) number of petitions and number of allowances and denials of petitions for
166 expungement, pursuant to sections 100F, 100G and 100H of Chapter 276 of the General Laws;

167 (8) number of petitions and number of allowances and denials of petitions for
168 expungement, pursuant to section 100K of Chapter 276 of the General Laws;

169 (9) number of petitions and number of allowances and denials on petitions for
170 sealing, pursuant to section 100A of Chapter 276 of the General Laws;

171 (10) number of juveniles on GPS monitoring, disaggregated by race, ethnicity, gender,
172 county, court, length of time on GPS

173 (h) The department of youth services and any contractor, vendor or service provider
174 working with said department including alternative lock-up programs shall collect and provide
175 the necessary information to comply with the data request from the child advocate pursuant to
176 Section 15 of Chapter 18C for each juvenile subjected to the following contacts for each fiscal
177 year, provided on a quarterly basis if requested by the child advocate:

178 (1) pre-arraignment detention;

179 (2) pre-trial detention;

180 (3) commitment;

181 (4) placement type, including, but not limited to, security level

182 (5) notice of revocation of grants of conditional liberty;

183 (6) hearing on grants of conditional liberty; and

184 (7) revocation of grants of conditional liberty for violation of conditions of liberty; and

185 (8) voluntary extensions of commitments with the department of youth services.

186 (i) The district and superior court shall collect and provide the necessary information
187 to comply with the data request from the child advocate pursuant to Section 15 of Chapter 18C
188 for each juvenile subjected to the following contacts for each fiscal year, provided on a quarterly
189 basis if requested by the child advocate:

190 (1) arraignment for murder in the first degree and murder in the second degree; and
191 (2) convictions.

192 (j) The department of correction and each sheriff's department shall collect and
193 provide the necessary information to comply with the data request from the child advocate
194 pursuant to Section 15 of Chapter 18C for each juvenile subjected to the following contacts for
195 each fiscal year, provided on a quarterly basis if requested by the child advocate:

- 196 (1) pre-arraignment detention;
- 197 (2) pre-trial detention;
- 198 (3) post-disposition confinement of youthful offenders; and
- 199 (4) post-conviction confinement for murder.

200 (k) The parole board shall collect and provide the necessary information to comply
201 with the data request from the child advocate pursuant to Section 15 of Chapter 18C for each
202 juvenile subjected to the following contacts for each fiscal year, provided on a quarterly basis if
203 requested by the child advocate:

- 204 (1) grant of parole after an initial parole hearing;
- 205 (2) grant of parole after a subsequent review hearing;
- 206 (3) supervision of parole; and
- 207 (4) revocation of parole.

208 (l) The Executive Office of Public Safety and Security shall be responsible for
209 assembling the data requested by the child advocate pursuant to Section 15 of Chapter 18C
210 collected by the below offices and departments. Said data shall be provided to the Office of the
211 Child Advocate no later than 75 days after the end of the fiscal year or quarter if the child
212 advocate requests data on a quarterly basis.

- 213 1. The Commissioner of the Department of Correction
- 214 2. Sheriffs of each County;
- 215 3. The Parole Board;
- 216 4. The Department of the State Police;
- 217 5. Municipal police departments;
- 218 6. The Massachusetts Bay Transportation Authority Police;
- 219 7. School based police, including those from any local education authority;
- 220 8. Alternative Lock-up Programs; and
- 221 9. any other contractor, vendor or service provider working with school based or
222 other police officers.

223 (m) The Massachusetts District Attorneys Association shall be responsible of
224 assembling data requested by the child advocate pursuant to Section 15 of Chapter 18C collected
225 by District Attorney's Offices. Said data shall be provided to the Office of the Child Advocate no
226 later than 75 days after the end of the fiscal year or quarter if the child advocate requests data on
227 a quarterly basis.

228 (n) The Court Administrator shall be responsible for assembling data requested by the
229 child advocate pursuant to Section 15 of Chapter 18C collected by judicial officers and court
230 personnel including the Commissioner of Probation, judicial officers and court personnel, and
231 the Executive Director of Community Correction. Said data shall be provided to the Office of the
232 Child Advocate no later than 75 days after the end of the fiscal year or quarter if the child
233 advocate requests data on a quarterly basis.

234 (o) The Department of Youth Services shall be responsible for assembling data
235 requested by the child advocate pursuant to Section 15 of Chapter 18C collect by all department
236 personnel, contractors or vendors working with the Department. Said data shall be provided to
237 the Office of the Child Advocate no later than 75 days after the end of the fiscal year or quarter if
238 the child advocate requests data on a quarterly basis.

239 (p) Notwithstanding any law to the contrary, the child advocate may request, and all
240 Offices and Departments subject to this law shall provide upon request, individual level data to
241 facilitate analysis by the Office of the Child Advocate, provided that the child advocate shall be
242 bound by any limitations on the use or release of such individual-level data imposed by law upon
243 the party furnishing such information as described in Section 12 of Chapter 18C. Any individual
244 data described or acquired under the provisions of this section shall be used only for statistical
245 purposes and may not be disseminated if it contains data that reveal the identity of an individual
246 who had contact with the juvenile justice system within the meaning of this chapter.

247 (q) If any Offices or Departments subject to this law are unable to fulfill the data
248 request made by the child advocate, in whole or in part, they shall submit to the child advocate a
249 report detailing what data could not be provided, stating clearly the reason data could not be

250 provided, and clearly documenting the efforts the Office or Department has made and will make
251 to ensure data can be provided in the future. If the data cannot be provided due to budgetary
252 constraints, the Office or Department shall provide a budget detailing the additional funding
253 required to fulfill the data request. These reports on data availability shall be included in the
254 annual juvenile justice data report of the child advocate pursuant to Section 15 of Chapter 18C
255 and shall be a matter of public record.