

HOUSE DOCKET, NO. 03569

HOUSE No.
00042

(House – [Enter text], 02/04/2011)



The Commonwealth of Massachusetts

IN THE YEAR TWO THOUSAND ELEVEN

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HOUSE No. 00042

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven.

February 3, 2011

To the Honorable Senate and House of Representatives:

I am filing for your consideration the attached legislative proposal entitled, “An Act Reforming Re-Entry and Community Supervision of Criminal Defendants and Offenders to Strengthen Public Safety.” The Commonwealth’s bifurcated system of community supervision has resulted in a fragmented system that is unable to deliver proper services and or maximize the limited correctional resources within the state.

In an effort to effectively reduce the number of individuals incarcerated and enhance public safety, we must offer true rehabilitation through effective community supervision. Accordingly, I first introduced re-entry and community supervision reform a year ago in my FY 2011 budget proposal. As before, the current proposal centralizes all community supervision of offenders in a unified agency within the Executive Branch, which will supervise defendants from the early pretrial stages of the criminal process through re-entry to the community after incarceration. The model provides a continuum of services to the offender and a comprehensive and accountable system to the public, while also offering the most cost-efficient system. This approach directly addresses issues recently raised in connection with the current systems of probation and parole.

The reform focuses on using evidence-based practices. Relying, in part, on an accepted and validated risk and needs assessment tool and a set of standards and rules consistently applied to offenders, the new Department of Re-entry and Community Supervision (DRCS) will make recommendations regarding the level of supervision required and the appropriate conditions of that supervision. DRCS officers will remain present in the

courthouses, working closely with the judiciary, and will also have a presence in the state prisons and houses of correction with access to institutional records to inform their recommendations to the Parole Board and to formulate supervision plans. The violation process will incorporate a graduated and intermediate sanctions system for all offenders supervised in the community. This model provides certainty as to what the sanction will be, a response that is appropriate and proportional to the violation, and immediate and timely action in applying the sanction. It also offers efficiency through definition and consistency, avoiding unnecessary duplication of services and manipulation of the system.

Through other reforms such as mandatory post-release supervision, the bill creates an additional safety net for the offender's re-entry to the community. All of these measures will reduce recidivism, incarceration rates, and all associated costs while effectively and safely transitioning inmates back to the community.

Other efficiencies include strategically merging locations and services offered by the Office of Community Corrections and the Parole Board's Regional Re-entry Centers to provide resources by region across the state. In addition, electronic monitoring will be merged into the centers and administered through the DRCS to all appropriate offenders. This will allow for a more extensive and efficient use of the centers.

This reform is urgently needed to address our fragmented criminal justice system and provide citizens with a more accountable and effective re-entry and community supervision strategy. Adoption of this bill will strengthen our public safety system and restore the public trust that we are doing all we can to make our streets and communities safer.

Accordingly, I urge your prompt and favorable consideration of this legislation.

Respectfully submitted,

DEVAL L. PATRICK,

Governor.

AN ACT REFORMING RE-ENTRY AND COMMUNITY SUPERVISION OF
CRIMINAL DEFENDANTS AND OFFENDERS TO STRENGTHEN PUBLIC
SAFETY.

SECTION 1. Section 116 of chapter 6 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by inserting after the words "commissioner of probation", in line 20, the following words:- commissioner of re-entry and community supervision, .

SECTION 2. Section 167 of chapter 6 of the General Laws, as so appearing, is hereby amended by inserting after the words “probation or parole”, in line 34, the following words:- , community supervision.

SECTION 3. Section 168 of chapter 6 of the General Laws, as so appearing, is hereby amended by striking out, in lines 6-7, the words “the commissioner of probation”.

SECTION 4. Section 168A of chapter 6 of the General Laws, as so appearing, is hereby amended by inserting after the words “probation department”, in lines 12-13, the following words:- , the department of re-entry and community supervision.

SECTION 5. Section 168A of chapter 6 of the General Laws, as so appearing, is hereby further amended by inserting after the words “commissioner of probation”, in lines 13-14, the following words:- commissioner of re-entry and community supervision.

SECTION 6. Section 172 of chapter 6 of the General Laws, as so appearing, is hereby amended by inserting after the words “a county correctional authority”, in lines 91-92, the following words:- the department of re-entry and community supervision.

SECTION 7. Section 172 of chapter 6 of the General Laws, as so appearing, is hereby further amended by inserting after the word “probation”, in line 102, the following words:- , community supervision.

SECTION 8. Section 172 of chapter 6 is hereby further amended by striking out, in lines 139-140, the words “section one hundred and thirty of chapter one hundred and twenty-seven”, and inserting in place thereof the following words:- ; section five of chapter one hundred and twenty-seven A.

SECTION 9. Section 178F $\frac{3}{4}$ of chapter 6 of the General Laws, as most recently amended by section 42 of chapter 256 of the acts of 2010, is hereby amended by striking out the words “commissioner of probation”, and inserting in place thereof the following words:- the commissioner of re-entry and community supervision.

SECTION 10. Section 183A of chapter 6 of the General Laws, as so appearing, is hereby amended by inserting after the word “institute”, in lines 10-11, the following words:- the commissioner of re-entry and community supervision.

SECTION 11. Section 18 of chapter 6A of the General Laws, as most recently amended by section 45 of chapter 256 of the acts of 2010, is hereby amended by striking out the words “, including the parole board”, and inserting in place thereof the following words:- ; the department of re-entry and community supervision; the parole board.

SECTION 12. Section 18 $\frac{1}{2}$ of chapter 6A of the General Laws, as most recently amended by section 46 of chapter 256 of the acts of 2010, is hereby amended by striking

out, in the third paragraph, the words “corrections, including the parole board and all other agencies within said department”, and inserting in place thereof the following words:- correction, the parole board and the department of re-entry and community supervision.

SECTION 13. Section 14 of chapter 17 of the General Laws, as so appearing, is hereby amended by inserting after the words “commissioner of probation”, in line 5, the following words:- the commissioner of re-entry and community supervision, .

SECTION 14. Sections 4, 5 and 7 of chapter 27 of the General Laws are hereby repealed.

SECTION 15. Section 21 of chapter 62C of the General Laws, as so appearing, is hereby amended by inserting after the words “commissioner of probation”, in line 135, the following words:- or the commissioner of re-entry and community supervision.

SECTION 16. Section 32H of chapter 94C of the General Laws, as most recently amended by section 71 of chapter 256 of the acts of 2010, is hereby amended by striking out, in the second paragraph, the words “or (3)”, and inserting in place thereof the following words:- (3) to engage in employment pursuant to a work release program in accordance with sections 49, 49A, 86F or 86G of chapter 127; or (4).

SECTION 17. Section 3 of chapter 111E of the General Laws, as so appearing, is hereby amended by inserting after the words “commissioner of probation”, in line 4, the following words:- , the commissioner of re-entry and community supervision.

SECTION 18. Section 58 of chapter 119 of the General Laws, as so appearing, is hereby amended by striking out, in lines 43-44, the words “adult probation department”, and inserting in place thereof the following words:- department of re-entry and community supervision.

SECTION 19. Section 1 of chapter 127 of the General Laws, as so appearing, is hereby amended by striking out, in line 4, the words “of the department of correction”, and inserting in place thereof the following words:- appointed by the governor under section 1 of chapter 127A.

SECTION 20. Section 36 of chapter 127 of the General Laws, as so appearing, is hereby amended by inserting after the words “parole board,” in line 5, the following words:- a community supervision or community correction officer, .

SECTION 21. Section 49 of chapter 127 of the General Laws, as so appearing, is hereby amended by striking out, in line 5, the words “eligible for parole”, and inserting in place thereof the following words:- eligible for community supervision.

SECTION 22. Section 49A of chapter 127 of the General Laws, as so appearing, is hereby amended by striking out, in line 4 and in line 31, the words “exclusive of parole”, and inserting in place thereof, in each instance, the following words:- exclusive of community supervision.

SECTION 23. Section 83E of chapter 127 of the General Laws, as so appearing, is hereby amended by striking out, in lines 5-6 and the first time it appears in line 7, the word “parole”, and inserting in place thereof, in each instance, the following words:- community supervision.

SECTION 24. Section 86F of chapter 127 of the General Laws, as so appearing, is hereby amended by striking out, in line 63, the word “parole”, and inserting in place thereof the following words:- community supervision.

SECTION 25. Section 87 of chapter 127 of the General Laws, as so appearing, is hereby amended by inserting after the words “probation officer,” in line 6, the following words:- community supervision, community correction.

SECTION 26. Section 90A of chapter 127 of the General Laws, as so appearing, is hereby amended by striking out, in line 29, the words “release on parole”, and inserting in place thereof the following words:- release to community supervision.

SECTION 27. Section 97 of chapter 127 of the General Laws, as so appearing, is hereby amended by striking out, in line 9, the words “law governing parole”, and inserting in place thereof the following words:- law governing release to community supervision.

SECTION 28. Section 97A of chapter 127 of the General Laws, as so appearing, is hereby amended by striking out, in line 10, the word “parole”, and inserting in place thereof the following words:- release to community supervision.

SECTION 29. Chapter 127 of the General Laws is hereby amended by striking out section 127 and inserting in place thereof the following section:-

Section 127. The governor, upon the written recommendation of the commissioner may appoint any employee of the department of correction a special state police officer for a term of 3 years, unless sooner removed. Officers so appointed may serve warrants issued by the governor or the commissioner and orders of removal or transfer of prisoners issued by the commissioner and warrants issued by any court or trial justice in the commonwealth for the arrest of a person charged with the crime of escape or attempt to escape from a penal institution or from the custody of an officer while being conveyed to or from any that institution, and may perform police duty about the premises of penal institutions. Those special state police officers of the investigative and fugitive

apprehension unit of the department of correction may also perform police duties: (1) when on official duty as a special state police officer of the investigative and fugitive apprehension unit, and in the company of an on-duty police officer or state police officer during the course of that police officer's official duties; (2) to serve arrest warrants or escape warrants issued by any court in the commonwealth for the arrest of any person charged with any crime; and (3) when arresting escapees pursuant to arrest warrants or transporting escapees, over individuals who attempt or threaten to interfere with special state police officers of the investigative and fugitive apprehension unit in the performance of their duties.

SECTION 30. Section 128 of chapter 127 is hereby repealed.

SECTION 31. Section 129C of chapter 127 of the General Laws, as so appearing, is hereby amended by striking out section 129C and inserting in place thereof the following section:-

Section 129C. For the satisfactory conduct of a prisoner confined in a prison camp, the commissioner may grant a deduction of sentence of not more than 2½ days for each month while confined in a prison camp. The deduction of sentence shall be used in computing the minimum term of sentence for release on community supervision or for reducing the term of imprisonment by deduction from the maximum term for which the prisoner may be held under the prisoner's sentence or sentences. A prisoner whose term of imprisonment is reduced shall receive from the commissioner a certificate of discharge on the date which has been determined by the additional deduction from the maximum term of the sentence or sentences.

SECTION 32. Section 129D of chapter 127 of the General Laws, as so appearing, is hereby amended by striking out, in line 14, the words "two and one-half", and inserting in place thereof the following figure:- 5.

SECTION 33. Section 129D of chapter 127 is hereby further amended by striking out, in line 19, the words "seven and one-half", and inserting in place thereof the following figure:- 10.

SECTION 34. Section 129D of chapter 127 is hereby further amended by striking out, in lines 19-26, the last sentence of the first paragraph, and inserting in place thereof the following words:- For a prisoner's successful completion of a program or activity requiring 6 months of satisfactory participation, as designated by the commissioner, the commissioner may grant an additional deduction of sentence of up to 10 days, to be deducted in the month during which successful completion of the designated program or activity is achieved. The further deduction of sentence shall be added to any deduction to

which the prisoner is entitled under said section 129C for reducing the term of imprisonment by deduction from the maximum term for which he may be held under his sentence or sentences, and for reducing from the minimum term of the sentence or sentences the good conduct credits earned under this section for eligibility for release to community supervision as provided under chapter section 8 of chapter 127A.”

SECTION 35. Sections 130, 130A, 131, 131A, 133, 133A, 133B, 133C, 133D, 133D½, 133E and 134 of chapter 127 are hereby repealed.

SECTION 36. Section 135 of chapter 127 of the General Laws, as so appearing, is hereby amended by striking out, in line 13, the words “probation reports”, and inserting in place thereof the following words:- reports of designated court personnel or the department of re-entry and community supervision.

SECTION 37. Section 135 of chapter 127 is hereby further amended by striking out, in line 15, the words “and of all probation officers.”

SECTION 38. Section 135 of chapter 127 is hereby further amended by striking out, in line 24, the word “parole”, and inserting in place thereof the following words:- release to community supervision.

SECTION 39. Chapter 127 of the General Laws is hereby amended by striking out section 136 and inserting in place thereof the following section:-

Section 136. At least 90 days prior to the time a prisoner serving a sentence for a felony first becomes eligible for community supervision, the commissioner shall submit to the department of re-entry and community supervision or to an officer designated by it, all information with regard to the prisoner not already so submitted. This information shall include, in addition to any other pertinent information requested by the department of re-entry and community supervision: (a) a detailed statement as to all infractions of prison rules and discipline, all punishments meted out to the prisoner, and the circumstances connected therewith; (b) the prisoner’s industrial record while in prison and the nature of the prisoner’s occupations while in prison; (c) physical, mental and psychiatric examinations as have been made of the prisoner which so far as practicable shall have been made within 2 months of the time of eligibility for parole. The parole board shall reach its own conclusions as to the desirability of granting the prisoner a community supervision permit.

SECTION 40. Section 146 of chapter 127 of the General Laws, as so appearing, is hereby amended by striking out, in line 15, the word “parole”, and inserting in place thereof the following words:- the parole board.

SECTION 41. Sections 148, 149, 149A, 151A, 151B, 151C, 151D, 151E, 151F, 151G, 151H, 151I, 151J, 151K, 151L, 151M, 151N, 152, 153, 154, 155, 156, 157, 158, 160, 161, 166, 167, 168 and 169 of chapter 127 are hereby repealed.

SECTION 42. The General Laws are hereby amended by inserting after chapter 127 the following chapters:-

CHAPTER 127A

PAROLE BOARD

Section 1. There shall be a parole board, under the supervision and control of the chair of the parole board. The board shall consist of 7 members, to be appointed by the governor, with the advice and consent of the council, for terms of 5 years. The members shall be graduates of an accredited 4-year college or university and shall have had at least 5 years of training and experience in 1 or more of the following fields: parole, probation, corrections, including community corrections and alternative sentencing, law, law enforcement, psychology, psychiatry, sociology, social work or victim services. The membership of the board shall include, insofar as it is possible to select persons with established records of high character who are qualified by knowledge, education or experience as hereinafter provided and who are willing and able to fill promptly an existing vacancy or vacancies, 1 or more of the following: an attorney admitted to practice in Massachusetts, a psychiatrist who is a member in good standing with the American Psychiatric Association, a psychologist certified by the Massachusetts Board of Certification in Psychology, Inc., and a member of the department of re-entry and community supervision. The governor shall designate the chair who shall serve at the pleasure of the governor and may be removed by the governor at any time. The chair shall be the executive and administrative head of the board and shall have the authority and responsibility of directing assignments of members of the board and shall be the appointing and removing authority for members of the parole staff. In the case of the absence or disability of the chair, the governor may designate 1 of the members to act as the chair during such absence or disability.

The positions of chair and each of the other members shall be classified in accordance with section 45 of chapter 30 and the salaries shall be determined in accordance with section 46C of chapter 30. Members shall devote full time to their duties, and no member shall hold any other salaried public office or engage in any activity which is in violation of any law or which interferes or conflicts with the full time service as a member of the parole board and during the incumbency.

Section 2. The parole board shall: (a) within its jurisdiction, as defined in section 4, determine which prisoners in the correctional institutions of the commonwealth or in jails or houses of correction may be released to community supervision, and when and under

what conditions, and the power within such jurisdiction to grant a community supervision permit to any prisoner, and to revoke, revise, alter or amend the same, and the terms and conditions on which it was granted shall remain in the parole board until the expiration of the maximum term of the sentence or sentences for the service of which such prisoner was committed, or until the date which has been determined by deductions from the maximum term of his sentence or sentences for good conduct, or unless otherwise terminated; (b) be the advisory board of pardons with the power and duties as set forth in section 19; (c) make rules relative to the performance of its duties, the calling and conduct of meetings and for the conduct of its employees in the performance of their duties; (d) ensure such rules are available to the public; (e) make an annual report to each justice of the superior, municipal and district courts, each sheriff, the commissioner of re-entry and community supervision and to the commissioner of correction; (f) employ, subject to appropriation and the requirements of chapter 30 and chapter 31, such support staff, hearing officers, clerks, attorneys and other employees and consultants as the work of the board may require.

Any 3 members of the board may be appointed by the chair of the parole board to act as the board for the purpose of granting or revoking of community supervision; provided, however, that for the purpose of considering hearing officer recommendations to the board under paragraph (b) of section 13, any single member of the board may be so appointed. The chair may also designate any member to act in his absence as the executive and administrative head of the board.

Section 3. (a) Former members of the parole board and former judges of the commonwealth whose names have been placed on the list of special parole board members under paragraph (d) may be designated by the secretary of public safety and security, upon application by the chair of the parole board as provided in paragraph (e), to perform such of the duties of parole board members as they are assigned by the chair of the parole board and which they may be willing to undertake.

(b) In performing such services, special members of the parole board shall exercise all powers and authority of the office with respect to matters to which they are assigned. Any decision or vote of a special member shall be equal to any decision or vote of an active member of the parole board.

(c) A special member of the parole board shall receive compensation equivalent to that received by active members of the board and payment of any pension or retirement benefits shall be deemed to have been waived during such service as provided by section 90B of chapter 32. Special members of the board shall be reimbursed for all expenses incurred while so serving, and such staff support, clerical assistance and facilities as are customarily available to active members of the parole board shall be provided.

(d) Any former member of the board or any former judge who is eligible as hereinafter provided, may submit a request to the secretary of public safety and security to be placed on the list of persons who may be designated as special members of the parole board. The secretary may place the name of any former member of the parole board or any former judge on the list of special parole board members. No retired judge shall be designated to serve as a special member of the board if designated and assigned under section 24 of chapter 211, section 16 of chapter 211A or section 14 of chapter 211B, nor shall a judge serving as a special parole board member consider the eligibility for community supervision, commutation or pardon of any inmate who has ever appeared before the judge in the judge's judicial capacity.

(e) The chair of the parole board may apply to the secretary of public safety and security for designation of a special member of the parole board shall be made by certifying that:

(1) a significant number of cases is pending and has been pending for a least 30 days and that the active members of the parole board could not dispose of these cases within 60 days or

(2) a case exists that creates a conflict of interest to the extent that a sitting member or members of the board cannot render a fair and impartial decision. The secretary shall consult with the chair regarding the number of special members of the board to be designated and the length of time their designations shall remain in effect; provided, however, that no more than 3 temporary appointments to the board shall be in effect at the same time; and provided, further, that at no time shall more than 1 temporary appointment serve as a member of the board to dispose of any particular case. In no event may a designation remain in effect for longer than 1 year; provided, however, that the secretary may re-designate an individual as a special parole board member. Any designation may specify that a special parole board member may serve on less than a full-time basis.

(f) The secretary of public safety and security may withdraw an individual's designation as a special parole board member at any time.

(g) Whenever the secretary of public safety and security has designated 1 or more special members of the parole board for the reason that a significant number of cases is pending, the chair of the parole board shall file with the secretary a monthly report on the efforts to address the caseload and shall indicate the number of pending cases.

Section 4. Subject to other provisions of law, community supervision permits, in this chapter also referred to as permits to be at liberty, may be granted by the board to prisoners in state and county correctional institutions serving sentences or total aggregate sentences of 60 days or more; serving sentences suspended in part under sections 1 or 1A

of chapter 279; or serving a special sentence of imprisonment imposed under section 6A of chapter 279, having a committed portion of 60 days or more.

Section 5. (a) No prisoner shall be granted a community supervision permit merely as a reward for good conduct. Permits shall be granted only if the board is of the opinion, after consideration of a risk and needs assessment conducted under sections 5(g) and 5(h) of chapter 127B, that there is a reasonable probability that if the prisoner is released with appropriate conditions and community supervision, the prisoner will live and remain at liberty without violating the law, and that release is not incompatible with the welfare of society. In making this determination, the parole board shall consider whether, during the period of incarceration, the prisoner has participated in available work opportunities and education or treatment programs and demonstrated good behavior. The board shall also consider whether risk reduction programs made available through collaboration with criminal justice agencies would minimize the probability of the prisoner re-offending once released. In making this determination, the board shall not consider the availability of post-release supervision as authorized under chapter 127C.

(b) The record of the decision of the parole board shall contain a summary statement of the case indicating the reasons for the decision. The record of decision shall become a public record and shall be available to the public except for any portion of the decision containing information upon which the decision was made that the board determines is necessary to keep confidential to protect the security of a criminal or civil investigation, to protect anyone from physical harm or to protect the source of any information. All such confidential information shall be segregated from the record of decision and shall not be available to the public. Confidential information may remain secret only as long as publication may defeat the lawful purposes of this section, but no longer. In every case, the terms and conditions shall include payment of any child support due under a support order, as defined in section 1A of chapter 119A, including payment toward any arrearage of support that accrues or has accrued or compliance with any payment plan between the prisoner and the IV-D agency as set forth in chapter 119A; provided, however, that the board shall not revise, alter, amend or revoke any term or condition related to payment of child support unless the community supervision permit itself is revoked.

(c) When the parole board grants a community supervision permit in accordance with this section, the prisoner shall be allowed to go upon community supervision outside prison walls and enclosure according to the terms and conditions as the parole board shall prescribe, but shall remain, while thus under community supervision, subject to the jurisdiction of the parole board until the expiration of the term of imprisonment to which he has been sentenced or until the date which has been determined by deductions from the maximum term of his sentence or sentences for good conduct, including deductions under section 11 of chapter 127B, or until such earlier date as the board determines that it

is in the public interest for the prisoner to be granted a certificate of termination of sentence.

Section 6. The board shall, in releasing a prisoner to community supervision, specify in writing the terms and conditions of such community supervision, and a copy of such terms and conditions shall be given to the person under community supervision. A violation of these terms and conditions shall render the person under community supervision liable to arrest and re-imprisonment.

Section 7. Not less than 7 days prior to the effective date of any community supervision permit, the department of re-entry and community supervision shall notify in writing the department of state police, the police department in the city or town to which the person under community supervision will return, and any certified victim or witness of the supervision, specifying the terms and conditions thereof.

Section 8. Community supervision permits may be granted by the parole board to prisoners subject to its jurisdiction at any time as the board in each case may determine; provided, however, that no prisoner sentenced to the state prison shall be eligible for a permit until the prisoner shall have served the minimum term of sentence under section 24 of chapter 279, as such minimum term of sentence may be reduced by deductions allowed under sections 129C and 129D of chapter 127. Where an inmate is serving 2 or more consecutive or concurrent state prison sentences, a single community supervision eligibility date shall be established for all such sentences. Prisoners who are granted community supervision permits shall remain subject to the jurisdiction of the board until the expiration of the maximum term of sentence or, if a prisoner has 2 or more sentences to be served otherwise than concurrently, until the aggregate maximum term of such sentences, unless earlier terminated by the board under the provisions of section 14. Sentences of imprisonment in the state prison shall not be suspended in whole or in part.

Section 9. (a) Every prisoner who is serving a sentence for life in a correctional institution of the commonwealth, except prisoners confined to the hospital at the Massachusetts Correctional Institution, Bridgewater, and except prisoners serving a life sentence for murder in the first degree, shall be eligible for release to community supervision, and the board shall, within 60 days before the expiration of 15 years of such sentence, conduct a public hearing before the full membership unless a member of the parole board is determined to be unavailable as provided in this section. For the purposes of this section, the term unavailable shall mean that a board member has a conflict of interest to the extent that the member cannot render a fair and impartial decision or that the appearance of a board member would be unduly burdensome because of illness, incapacitation or other circumstance. Whether a parole board member is unavailable for the purposes of this section shall be determined by the chair. Board members shall appear unless the chair determines them to be unavailable. Under no circumstances shall

a parole hearing proceed under this section unless a majority of the board is present at the public hearing. Unless a board member is unavailable due to a conflict of interest, any board member who was not present at the public hearing shall review the record of the public hearing and shall vote in the matter.

(b) At least 30 days before such hearing, the board shall notify in writing the attorney general, the district attorney in whose district sentence was imposed, the chief of police or head of the organized police department of the municipality in which the crime was committed and the victims of the crime for which sentence was imposed, and the officials and victims may appear in person or be represented or make written recommendations to the board, but failure of any or all of the officials to appear or make recommendations shall not delay the procedure of consideration of release to community supervision .

(c) After such hearing the parole board may, by a vote of a majority of its members, grant to such prisoner a community supervision permit to be at liberty upon such terms and conditions as it may prescribe for the unexpired term of the prisoner's sentence. If such permit is not granted, the board shall, at least once in each ensuing 5 year period, consider carefully and thoroughly the merits of each such case on the question of releasing such prisoner to community supervision under section 5, and may, by a vote of a majority of its members, grant such community supervision permit.

(d) Such terms and conditions may be revised, altered and amended, and may be revoked, by the parole board at any time. The violation by the holder of such permit or any of its terms or conditions, or of any law of the commonwealth, may render such permit void, and thereupon, or if such permit has been revoked, the board may order his arrest and his return to prison, in accordance with the provisions of sections 15 and 16 of this chapter and section 15 of chapter 127B.

Section 10. In the case of every prisoner sentenced under section 25 of chapter 279, the parole board shall, within 60 days before the expiration of half of the maximum sentence, and thereafter at least once in each ensuing 2-year period, consider carefully and thoroughly the merits of such case on the question of releasing such person to community supervision under section 5. After such consideration, the parole board may grant to such prisoner a community supervision permit to be at liberty upon such terms and conditions as it may prescribe for the unexpired term of the sentence. Such terms and conditions may be revised, altered and amended, and may be revoked by the board at any time. The violation by the holder of such permit of any of its terms or conditions, or of any law of the commonwealth, shall render such permit void, and thereupon, or if such permit has been revoked, the board may order the arrest and return to prison holder of the permit, in accordance with the provisions of sections 15 and 16 of this chapter and section 15 of chapter 127B. The period which must be served before the prisoner becomes eligible for

community supervision may be reduced by deductions allowed under section 129D of chapter 127.

Section 11. The family members of a deceased victim may represent the victim at any parole hearing for a prisoner serving a sentence for a crime which resulted in the death of such victim or for a crime for which a prisoner is serving a sentence for life in a correctional institution of the commonwealth, except prisoners serving a life sentence for murder in the first degree and prisoners confined to the hospital at the Massachusetts Correctional Institution, Bridgewater. For the purposes of this section, family members shall include: parent, stepparent or guardian of the victim, spouse or person with whom the victim lived and in a relationship similar to marriage, child, stepchild, grandchild, grandparent, sibling, aunt, uncle, niece, nephew and guardian of the minor child or stepchild of the victim.

Section 12. Victims, and parents or legal guardians of minor victims, of a violent crime or a sex offense for which a sentence was imposed, who have been certified by the department of criminal justice information services in accordance with section 172A of chapter 6 and section 3 of chapter 258B, may testify in person at the parole hearing of the perpetrator of the crime of which they were victims, or submit written testimony to the parole board.

For the purpose of this section, “sex offense” shall have the same meaning as set forth in section 178C of chapter 6, and “violent crime” shall be defined as any crime: (a) for which an individual has been sentenced to imprisonment of 1 year or more and (b) that (i) has as an element the use, attempted use or threatened use of physical force or a deadly weapon against the person of another; (ii) is burglary, extortion, arson or kidnapping; (iii) involves the use of explosives; or (iv) otherwise involves conduct that presents a serious risk of physical injury to another.

Section 13. (a) In the case of an inmate committed to a state correctional facility no community supervision permit shall be granted by the parole board until the inmate has been seen by at least 3 members of the board, except when the chair has designated 3 members to act as the board under the provisions of section 2, no community supervision permit shall be granted by the board until the inmate has been seen by at least 2 of the members. No community supervision permit shall be granted until the inmate has been seen according to the provisions of this section and section 5.

(b) In the case of an inmate committed to a jail or house of correction, the chair may designate the department of re-entry and community supervision to make an investigation and to conduct a hearing in lieu of the board for the purpose of ascertaining the suitability of such inmate for a community supervision permit. The staff member designated by the commissioner of the department of re-entry and community supervision shall report

findings of fact and recommendations regarding community supervision and conditions of such supervision to the board. The board may grant or deny a community supervision permit to such inmate after considering the report and recommendations. No community supervision permit shall be granted until the inmate has been seen according to the provisions of paragraphs (a) or (b) and the provisions of section 5.

(c) In the case of an inmate serving a Massachusetts sentence in another state, the chair may request the paroling authority of that state or at the written request of the inmate the federal paroling authority with jurisdiction over the institution in which the inmate is housed to conduct a hearing in lieu of the Massachusetts board for the purpose of ascertaining the suitability of such inmate for a community supervision permit and to report its findings and recommendations regarding community supervision and conditions of community supervision to the board. The board may grant or deny a community supervision permit to such an inmate after considering the report and recommendations. In addition, the parole board may in its discretion require a risk and needs assessment consistent with the provisions of section 5. No community supervision permit shall be granted until such inmate has been seen in accordance with the provisions of paragraphs (a) or (c).

Section 14. (a) The parole board may, by a majority vote of all of the members, issue to a person under community supervision, a certificate of termination of sentence, provided that in the judgment of the board such termination of sentence shall be in the public interest; and provided, further, that in no case will such certificate of termination of sentence be issued unless the person under community supervision has completed at least 1 year of satisfactory community supervision, unless the commissioner of the department of re-entry and community supervision issues a certificate of termination under section 11 of chapter 127B. The board shall furnish a copy of the certificate of termination of sentence to the commissioner of correction and to the judge who ordered the sentence upon the person under community supervision.

(b)(1) Notwithstanding the parole board's authority to issue a certificate of termination of sentence under section (a), after a person sentenced to community supervision for life under section 45 of chapter 265 or section 178H of chapter 6 has been on such supervision for a period of 15 years, such person may petition the parole board for termination of community supervision. Such termination may only occur by a majority vote of all the members. Upon receiving such a petition, the board shall, within 60 days, conduct a hearing before the full membership. At least 30 days prior to a hearing on the petition, the parole board shall cause a criminal history check to be conducted and notify in writing the victims of the crime for which the sentence was imposed, the attorney general, the district attorney in whose district the sentence was imposed, the chief of police or head of the organized police department of the municipality in which the crime was committed and the chief of police or head of the organized police department of the

municipality in which the person resides, of the person's petition for release from supervision. Such officials and victims shall be provided the opportunity to respond to such petition. Such officials and victims may appear in person or be represented or make written recommendations to the parole board, but failure of any or all of such officials to appear or make recommendations shall not delay the termination procedure.

If a victim is deceased at the time the hearing on termination of the sentence is scheduled, the deceased victim may be represented by his relatives in the following order: mother, father, spouse, child, grandchild, brother or sister, niece or nephew.

(2) Prior to the hearing, the petitioner shall be examined, personally interviewed and evaluated by a psychiatrist or licensed psychologist who is an expert in the field of sex offender treatment and who is approved by the parole board. The psychiatrist or psychologist shall file with the parole board written reports of the examinations and diagnosis and the recommendation for the disposition of such petitioner. The petitioner's treatment while on community supervision shall be examined and considered by such psychiatrist or psychologist in such recommendation. Such reports shall be admissible in a hearing conducted under this section. If such petitioner refuses to be personally interviewed by such psychiatrist or psychologist, without good cause, such petitioner shall be deemed to have waived his right to a hearing on the petition and the petition shall be dismissed by the parole board. The cost of such examination and evaluation shall be the responsibility of the petitioner; provided, however, that the board shall establish procedures for cases of hardship or indigency.

(3) At the hearing, the parole board shall call such witnesses as it deems necessary, including the examining psychiatrist or psychologist, the appropriate district attorney, the attorney general, the police chief or the victims of the crime or such crime victims' family members, as the board deems necessary. The petitioner may offer such witnesses and other proof at the hearing as is relevant to the petition.

(4) The parole board shall terminate community supervision for life if the petitioner demonstrates, by clear and convincing evidence, that the petitioner has not committed a sex offense or a kidnapping since the conviction, that the petitioner is not likely to pose a threat to the safety of others and that the public interest is not served by further community supervision of the petitioner.

(5) If a petition for release from supervision is denied by the parole board, such petitioner may not file another such petition for a period of 3 years.

Section 15. The parole board may revoke a permit to be at liberty at any time prior to its expiration.

Section 16. If a permit to be at liberty of a person under community supervision has been revoked, the parole board may order the arrest of the person by any officer qualified to serve civil or criminal process and order the return of the person to the correctional facility to which the person was originally sentenced. A prisoner who has been so returned shall be detained therein according to the terms of the prisoner's original sentence. In computing the period of the prisoner's confinement, the time between the day of the release upon a community supervision permit and the day of issuance of a violation warrant shall be considered as part of the term of the prisoner's original sentence. The time between the day after the issuance of the community supervision violation warrant until the service of the warrant shall not be considered as any part of the term of his original sentence. Service of the community supervision violation warrant shall be made effective forthwith upon arrest and imprisonment of the community supervision violator unless the violator is convicted of commission of a crime or found guilty of violating the conditions of federal parole or probation or another state's parole or probation, then service of the community supervision violation warrant shall not be effective until the expiration of any additional sentences ordered by parole or otherwise. If the community supervision violator is found not guilty of the additional crimes charged or not guilty of violating the conditions of community supervision then service of the warrant on the violator shall be made effective on the date of this issuance of the warrant and the time served by the violator as a result of the community supervision violation warrant lodged as a detainer shall be considered as part of the original sentence. If the disposition of the new criminal charges or charges of violation of probation, community supervision, or parole is without a finding of guilt, the board may retroactively serve the community supervision violation warrant. The provisions of this section shall not be deemed to preclude the board from withdrawing a community supervision violation warrant at any time. In computing the period of the violator's confinement, the time between the day after the issuance of the community supervision violation warrant until the withdrawal of the warrant shall not be considered as any part of the term of the violator's original sentence.

Section 17. (a) In a case in which the governor is authorized by the constitution to grant a pardon, the governor may, with the advice and consent of the council, and upon the written petition of the petitioner, grant it, subject to any conditions, restrictions and limitations provided by the parole board, as the governor considers proper, and the governor may issue a governor's warrant to all proper officers to carry such pardon into effect. Such warrant shall be obeyed and executed instead of the sentence originally awarded.

(b) Every pardon petition shall, before its presentation to the governor, be filed with the parole board, acting as the advisory board of pardons, together with all statements and signatures appended thereto, and shall thereupon become a public record. Upon receipt,

the advisory board of pardons shall process each petition in accordance with the applicable provisions of section 19.

(c) In the case of a prisoner confined under sentence for a felony, no final action or vote shall be taken on such petition until after a public hearing has been held by the council. Such hearing shall be held as soon as is practicable after the filing of the petition with the council. Any action taken by the council on the petition shall be taken by a roll call vote of the members present, recording and voting as yea or nay. The presence of a quorum and the vote of the majority of all members of the council present shall be necessary for the approval or disapproval of a petition. Within 3 days after such vote of the council, a certified copy of such roll call shall be filed with the state secretary for public inspection.

(d) Upon approval of a petition for pardon, the governor shall direct all proper officers to seal all records relating to the offense for which the person received the pardon. Such sealed records shall not disqualify a person in any examination, appointment or application for employment or other benefit, public or private, including, but not limited to credit or housing, licenses, nor shall such sealed record be admissible in evidence or used in any way in any court proceeding or hearing before any board, commission or other agency except in imposing a sentence in subsequent criminal proceedings or in any court proceeding or hearing in which an individual is accused of violating sections 1, 13, 13B, 13C, 13F, 13G, 13H, 14, 15, 15A, 15B, 16, 18, 18A, 18B, 22, 22A, 23, 24, 24B or 26 of chapter 265. On any application or in an interview for employment, or in any other circumstances, where a person is asked whether the person has been convicted of an offense, a person who has received a pardon for such offense may answer in the negative. The attorney general and the person so pardoned may enforce the provisions of this paragraph by an action commenced in the superior court department of the trial court.

(e) The governor, with the advice and consent of the council, may at any time revoke any pardon if the governor determines that there is a misstatement of a material fact knowingly made at the time of the filing of the written petition of the petitioner, or that such pardon was procured by fraud, concealment or misrepresentation or that any provision of this section has not been complied with, and upon such revocation the governor may issue a governor's warrant to all proper officers to take the person so pardoned into custody and return the person to the institution where the person was imprisoned at the time of the granting of the pardon.

Such warrant shall be obeyed and executed by the officers to whom it is issued, and the person whose pardon has been so revoked shall have the same standing in the penal institution to which the person is returned as if the pardon had not been granted, except that the time during which the person has been out of the penal institution upon such pardon, shall not be counted in determining the amount of his sentence remaining to be served upon such return to such institution.

(f) The governor shall, at the end of each calendar year, transmit to the general court, by filing with the clerk of either branch, a list of pardons granted with the advice and consent of the council during such calendar year, together with action of the advisory board of pardons concerning each such pardon, and together with a list of any revocations of pardons made under this section.

(g) The word “pardon” as used in this section shall be deemed to include any exercise of the pardoning power except a respite from sentence.

Section 18. In all cases of petitions for pardons referred to the executive council by the governor, where the petitioner is serving a sentence in the state prison, the executive secretary shall notify the attorney general, and also the district attorney who prosecuted the case. The attorney general and the prosecuting district attorney, or their representatives, may be present at the hearing on the petition by the pardon committee of the executive council, examine the petitioner’s witnesses, and present to the pardon committee full information as to the case of the commonwealth against the petitioner on which the petitioner stands convicted of the crime for which the sentence is being served.

Section 19. (a) The board shall be the advisory board of pardons. The board shall, forthwith, upon receipt of a pardon petition in a case in which the petitioner is confined in a correctional institution of the commonwealth, forward a copy of such petition to the attorney general, the commissioner of correction, the chief of police of the municipality in which the crime was committed, and, if the petitioner was sentenced in the superior court, the district attorney in whose district sentence was imposed, or, if the petitioner was sentenced in a district court, the justice of the court in which sentence was imposed.

Upon receipt of all other petitions, the board shall forward a copy to the attorney general, the chief of police and the district attorney or the justice of the district court, as the case may be; provided, however, that they shall not be required to forward the copies if the petitioner was convicted of a misdemeanor and is not confined.

Within 6 weeks of the receipt of a copy of any petition, the appropriate officials may make written recommendations concerning such petition to the advisory board, but failure of any or all of these officials to make such recommendations, shall not arrest the pardoning procedure in the case.

Within 10 weeks of the original receipt of any petition, the advisory board shall transmit the original petition to the governor, together with its conclusions and recommendations and together with such recommendations as have been received from the above officials; except that if the board shall determine that adequate consideration of the case requires a hearing on its merits by the board, the board shall not be required to submit its recommendations at the end of 10 weeks but shall notify the governor of its intention to hold a hearing; but such hearing shall be held and a report made to the

governor within 6 months of the original receipt of the petition by the board. If the board shall determine that such hearing shall be held, in the case of a petitioner who is confined under sentence for a felony, the attorney general and the district attorney shall be notified of the hearing and they or their representatives given the opportunity to appear, examine the petitioner's witnesses and be heard.

(b) If, in the opinion of the board, the facts stated in their report to the governor are such as to cause undue or unmerited hardship or injury to the petitioner or to other individuals, if made public, the portion of the report containing such facts may be submitted separately from the conclusions and recommendations, and without publicity. However, in all cases a statement containing the facts of the crime or crimes for which a pardon or commutation is sought, the sentence or sentences received, together with all conclusions and recommendations shall be made public when the report is submitted. A copy of the statement, as well as a statement of the majority recommendation of the board, signed by all members concurring, and a certified copy of the petition with all statements and signatures appended thereto, shall be retained by the board as a permanent record open to public inspection at any reasonable time for a period of 10 years from the date the original petition was filed with the board.

(c) The board shall not review the proceedings of the trial court, and shall not consider any questions regarding the correctness, regularity or legality of such proceedings, but shall confine itself solely to matters which properly bear upon the propriety of the extension of clemency to the petitioner. The board, from time to time, may make rules relative to the calling of meetings and to the related proceedings. The board, or any members of the board, may summon witnesses and administer oaths or affirmations. The fees of witnesses before the board shall be the same as for witnesses in civil actions before the courts, and shall be paid from the appropriation for the expenses of the parole board.

Section 20. If a prisoner who has been pardoned upon conditions to be observed and performed by him violates such conditions, the board shall forthwith cause him to be arrested and detained, and the superintendent or keeper, respectively, of the institution in which the prisoner was confined shall receive the prisoner and cause him to be detained until the case can be examined by the governor and council; and the officer who makes the arrest shall forthwith give written notice thereof to the governor and council.

Section 21. The governor and council shall, upon receiving such notice, examine the case of the prisoner; and if it appears by the prisoner's own admission or by evidence that the prisoner has violated the condition of the pardon, the governor, with the advice and consent of the council, shall order the prisoner to be remanded and confined for the unexpired term of the prisoner's sentence, the confinement, if the prisoner is under any other sentence of imprisonment at the time of the order, to begin upon the expiration of

such sentence. In computing the period of the prisoner's confinement, the time between the conditional pardon and subsequent arrest shall not be taken to be part of the term of the sentence. If it appears to the governor and council that the prisoner has not broken the conditions of the conditional pardon, the prisoner shall be discharged.

Section 22. If a prisoner is pardoned or his punishment is commuted, the officer to whom the warrant for such purpose is issued shall, as soon as may be after executing it, make return thereof, signed by him, with his doings thereon, to the secretary's office, and shall file in the office of the clerk of the court in which the person was convicted an attested copy of the warrant and return, and the clerk shall attach a brief abstract thereof to the record of the conviction and sentence.

Section 23. No person shall, in the attempt to procure, or for the procurement of, any pardon, release to community supervision, commutation of or respite from sentence of a prisoner then confined in, or at liberty after having been confined in, any of the penal institutions of this commonwealth, or then under sentence to serve a term of imprisonment in any of the institutions, knowingly pay or offer to pay, or solicit, offer to receive or receive, either by way of gift or of reward or of compensation for services, or otherwise, except for proper legal services, any money or other thing of value, or shall transmit the same from 1 person to another; nor in such attempt or for such procurement shall any person make, or offer or promise to make, or to procure or induce the making of, any appointment to any position, whether or not in the public service.

Section 24. No person shall represent or purport to represent any prisoner then confined in, or at liberty after having been confined in, any of the penal institutions of this commonwealth or then under sentence to serve a term of imprisonment in any of the institutions, in the attempt to procure or for the procurement of any pardon, release to community supervision, commutation of or respite from sentence, unless the person shall first have filed in the office of the state secretary a signed written statement and made under the penalties of perjury, stating in substance that none of the provisions of section 23 has been violated, that such person is acting with the written consent of the prisoner, and that such person has not received or been promised, and does not expect to receive or to be promised, any money or other reward for so acting, except fees or other reward for legal services, the amount of which fees or other reward and a detailed description of which services shall be set forth in such statement. If any person receives any additional fee or other reward for legal services different from that disclosed in the statement referred to in this section, such person shall forthwith file in the same form and manner as the original statement an additional statement setting forth the amount of such additional fees or the exact nature and extent of such reward, with a detailed description of the legal services rendered for such fee or reward. The statements shall be kept as permanent records in the office of the state secretary and shall be open to public inspection at any reasonable time.

Section 25. Whoever violates any provision of section 23 or 24 shall be punished by a fine of not more than \$5,000 dollars or by imprisonment for not more than 2 years, or both.

Section 26. A copy of sections section 23 to 25, inclusive, shall be printed on the form of any petition for pardon, parole, commutation of or respite from sentence, but shall not be deemed a part of such petition.

CHAPTER 127B

DEPARTMENT OF RE-ENTRY AND COMMUNITY SUPERVISION

Section 1. The purpose of this chapter is to promote the accountability of the criminal justice system to the public by developing a uniform, structured, and evidence-based system for pretrial case management and for sentencing, including the supervised release to the community of criminal defendants and offenders, and without eliminating the discretionary decisions affecting sentencing, and to:

- (1) Promote public safety and protection;
- (2) Promote respect for the law by providing just punishment;
- (3) Ensure that the punishment for a criminal offense is proportionate to the seriousness of the offense and the offender's criminal history;
- (4) Offer offenders an opportunity to rehabilitate through consistent community supervision and continuity of law enforcement supervision; and
- (5) Reduce recidivism.

Section 2. As used in this chapter, the following words shall have the following meanings:-

“Board”, parole board.

“Chair”, the chair of the parole board.

“Chief justice”, the chief justice for administration and management of the trial court.

“Commissioner”, commissioner of re-entry and community supervision.

“Community correction officer”, a community supervision officer appointed as a special state police officer by the governor upon the written recommendation of the commissioner of re-entry and community supervision under section 5(d).

“Community supervision”, that portion of a person’s sentence served in the community subject to the supervision and jurisdiction of the department of re-entry and community supervision.

“Community supervision officer”, an employee of the department of re-entry and community supervision whose duties, designated by the commissioner, include, without limitation, supervision of criminal defendants and sentenced persons, including mandatory post-release community supervision under chapter 127C, and monitoring of their sentences.

“Community supervision and re-entry center”, offices of the department of re-entry and community supervision.

“Community supervision and re-entry center program”, any program that is operated by a state, local or private service agency that has been deemed an appropriate intermediate sanctions program by the department of re-entry and community supervision.

“Community supervision plan”, a written proposal for the community supervision of an individual submitted to the commissioner of re-entry and community supervision or a designee for approval.

“Department”, the department of re-entry and community supervision.

“Electronic monitoring”, monitoring of a person using an electronic person tracking system or other remote monitoring, including, but not limited to, a system using radio frequency or active or passive global positioning system technology.

“Intermediate sanctions program”, any program that has been determined to impose an appropriate sanction upon a person for whom imprisonment may not be necessary or appropriate, including, but not limited to, standard community supervision, intensive supervision, community service, home confinement, weekend jail sentences, day reporting, residential programming, substance abuse treatment, restitution, means-based fines, continuing education, vocational training, special education and psychological counseling.

“Validated risk and needs assessments”, the application of an instrument accepted for use by the department in the determination of several decision points in sentencing and supervision process. The risk and needs may be assessed separately.

Section 3. There shall be a department of re-entry and community supervision under the supervision and control of the commissioner of re-entry and community supervision. The commissioner shall be the executive and administrative head of the department and all officers and employees of the department shall be under the commissioner’s supervision and control. The position of commissioner shall be classified in accordance

with section 45 of chapter 30 and the salary shall be determined in accordance with section 46C of chapter 30. The commissioner shall devote full time during business hours to the duties of the office. The secretary of public safety and security shall appoint, with the approval of the governor, the commissioner who shall serve at the pleasure of the secretary and may be removed by the secretary at any time, subject to the approval of the governor. Any person appointed to the office shall, at the time of the appointment, have had at least 5 years of administrative experience in corrections, including community corrections, and have an established record of high character and qualities of leadership.

Subject to the approval of the secretary of public safety and security, the commissioner may appoint deputies, supervisors and assistants necessary for the performance of the commissioner's duties. The commissioner shall establish reports and forms to be maintained by community supervision officers and community correction officers, procedures to be followed by community supervision officers and community corrections officers and standards and rules of community supervision, including methods and procedures of investigation, assessments, mediation, supervision, case work, record keeping, accounting, caseload and case management.

Section 4. The department of re-entry and community supervision shall: (a) supervise all adults placed on community supervision by the superior, municipal or district court under this chapter, section 87 of chapter 276, section 2 of chapter 276A, or sections 1, 1A, 5, 8 or 8A of chapter 279 or any court order or sentence to a term of community supervision; (b) supervise all prisoners released to community supervision permits granted by the parole board; (c) supervise all prisoners pardoned and released to conditions of community supervision, and report to the governor violations by any such prisoner of the conditions of community supervision applicable to the prisoner's pardon; (d) supervise all persons released to mandatory post-release community supervision under chapter 127C or subject to lifetime community supervision under section 13 of this chapter; and (e) with the agreement of the commissioner of correction or the relevant sheriff, supervise prisoners participating in a pre-trial diversion program under section 20B of chapter 127 or a day reporting, work release or similar program.

Section 5. (a) Subject to appropriation, the commissioner may appoint, assign, transfer or remove community supervision officers and community correction officers to duties and responsibilities at the commissioner's discretion. There shall be 2 job titles in the community supervision officer job series, community supervision officers and community correction officers. Community supervision officers and community correction officers shall be paid by the commonwealth according to schedules established under chapter 30 or in the applicable collective bargaining agreement.

(b) The commissioner shall develop and conduct basic orientation and in-service training programs for community supervision officers and community correction officers to be held at such times and for such periods as the commissioner shall determine.

(c) The community supervision officers and community correction officers shall perform the duties and responsibilities that the commissioner may assign them. Community supervision officer duties shall include: (i) assistance to the court and the parole board as directed by the commissioner; (ii) supervision of persons determined by the department to require lower to moderate levels of supervision placed under community supervision by the superior, municipal or district court under section 87 of chapter 276, section 2 of chapter 276A or sections 1, 1A, 5, 8 or 8A of chapter 279 or any court order or sentence to a term of community supervision, released to parole permits granted by the parole board, released pursuant to a governor's pardon subject to conditions or released to mandatory post-release community supervision; and (iii) any other duties assigned by the commissioner, including conducting presentencing investigations, investigations for the parole board, and administering risk and needs assessments. Community correction officers shall be special state police officers appointed under subsection (d) of this section, whose duties shall include (i) supervision of persons determined by the department to require higher levels of supervision, (ii) all duties of a community supervision officer, and (iii) any such other duties as assigned by the commissioner.

(d) The governor, upon the written recommendation of the commissioner, may appoint any employee of the department as a special state police officer for a term of 3 years, unless sooner removed by the commissioner. Officers so appointed will be community correction officers and may serve warrants issued by the governor, orders of removal or transfer of persons or prisoners issued by the commissioner of correction and warrants issued by any court or trial justice in the commonwealth for the arrest of a person charged with the crime of escape or attempt to escape from a penal institution, from the custody of an officer while being conveyed to or from any such institution, and may perform police duty about the premises of penal institutions. Such special state police officers of the department of re-entry and community supervision may also perform police duties: (i) when on official duty as a community correction officer and in the company of an on-duty police officer or state police officer during the course of such police officer's official duties; (ii) to serve arrest warrants issued by any court in the commonwealth for the arrest of any person charged with any crime or violation of community supervision; (iii) when arresting persons under community supervision pursuant to warrants or detainers of the parole board or transporting the persons under the community supervision; (iv) over individuals who attempt or threaten to interfere with such special state police officers of the department of re-entry and community supervision in the performance of their duties; (v) about the premises of department of re-entry and community supervision facilities,

which facilities shall include, but not be limited to, community supervision and re-entry centers, community supervision programs and locations where the parole board is conducting a hearing or other board business; (vi) including applying for and executing search warrants in the course of an investigation of violations of conditions of community supervision, and upon complaint on oath that such special state police officer has probable cause to believe that a person under conditions of community supervision, for whom a current community supervision arrest warrant is outstanding, is concealed within a house, place, vessel or anywhere within the commonwealth or territorial waters thereof or vehicle of another; (vii) including, after such applying for and executing search warrants in the course of an investigation of violations of conditions of community supervision after notifying the appropriate local police department or the state police and upon complaint on oath that such special state police officer has probable cause to believe that stolen or embezzled property or property obtained by false pretenses, property which has been used as the means of committing a crime, property which has been concealed to prevent a crime from being discovered or property which is unlawfully possessed or kept or concealed for an unlawful purpose is in the possession or control of a person under conditions of community supervision; and (viii) including applying for and executing search warrants in the course of an investigation of violations of persons under conditions of community supervision, and upon complaint on oath that such special state police officer reasonably believes that evidence of a violation of conditions of community supervision is concealed on such person or under such exclusive control. Whenever evidence of a crime has been discovered by such special state police officer, the appropriate local police department or state police shall be notified immediately.

(e) When it comes to the knowledge of a community supervision or community correction officer that the defendant in a criminal case before the court charged with an offense punishable by imprisonment is then on probation in the juvenile court or serving a term of community supervision pursuant to a court order or sentence, release by the parole board, or mandatory post-release supervision, such community supervision or community correction officer shall forthwith certify the fact of the presence of the defendant before such juvenile court, department of re-entry and community supervision, or the parole authorities granting or issuing such release.

(f) The community supervision or community correction officer so assigned by the commissioner shall file with the superior, municipal or district court a pre-sentence investigation report which shall be made available to the parties no less than 7 business days prior to sentencing. The pre-sentence investigation report shall include results of the validated risk assessment of the defendant using the tools adopted by the department to formulate a recommended supervision level. A needs assessment using the tools adopted by the department shall be administered in the discretion of the department in accordance with its procedures or at the request of the court.

(g) In all hearings conducted under section 5 of chapter 127A, the community supervision or community correction officer so assigned by the commissioner shall file with the parole board an investigation report. The investigation report shall include results of the validated risk assessment of the prisoner using the tools adopted by the department to formulate a recommended supervision level. A needs assessment using the tools adopted by the department shall be administered in the discretion of the department in accordance with its procedures or at the request of the parole board. The report shall also address the prisoner's previous criminal career, how the prisoner then regards the crime for which the prisoner is in prison, the prisoner's attitude toward society, toward the sentencing judge, the prosecuting attorney and the arresting officer, and the prisoner's conduct in prison, including extent to which the prisoner has responded to efforts made in prison to improve his mental and moral condition, the nature of the prisoner's occupations while in prison, and a recommendation as to the kind of work the prisoner is best fitted to perform and most likely to succeed at when released.

(h) For each pre-sentence investigation report prepared for the court and each investigative report prepared for the parole board under this section, the community supervision or community correction officer shall obtain information for the use of the court or the parole board relative to persons who are under consideration for release to community supervision, whether directly from the court or from a sentence to a state or county correctional institution, especially as to the details of their offenses and their previous character and history. They may for that purpose require of the police authorities any facts in their possession relative to such persons if the communication thereof will not, in the opinion of the authorities, be detrimental to the public interest. Each community supervision or community correction officer so assigned by the commissioner shall inquire into the nature of a criminal case brought before the superior, municipal or district court in the case of a criminal prosecution before the court charging a person with an offense punishable by imprisonment for more than 1 year or before the parole board if proceeding under section 5 of chapter 127A, and inform the court or parole board, so far as is possible, whether a defendant or prisoner has previously been convicted of a crime. The community supervision or community correction officer shall present to the court or parole board all information the department possesses relative to prior criminal prosecutions, if any, of such person and all other available information including, but not limited to, the information required under this section, before disposition of the case against the person by sentence or community supervision permit. Community supervision and community correction officers shall have access to all criminal offender record information, juvenile records, the statewide domestic violence record keeping system and any other court records necessary for the performance of their official duties.

(i) The community supervision or community correction officer may recommend to the court or the parole board that any person convicted be placed under the supervision of the

department or that any prisoner be released to community supervision. Community supervision and community correction officers shall keep full records of their duties performed, cases assigned, including records of investigations and supervision.

(j) The community supervision or community correction officers designated by the commissioner shall, in accordance with the rules and regulations of the department, supervise, counsel and advise persons ordered or sentenced by the court to a term of community supervision or released to community supervision from a state or county correctional institution, or any other correctional institution and shall assist them in securing employment. They shall also render assistance and counsel to discharged prisoners who are in need of such help, and perform such other duties relative to their sentence, discharge or release as the court or the parole board requires.

Section 6. Except as otherwise provided by law, a community supervision or community correction officer shall, have all the powers of a police officer necessary in the performance of all official duties, and may act in any part of the commonwealth.

Section 7. A term of community supervision shall begin (a) at the time of sentencing if ordered by the superior, municipal or district court; (b) upon completion of the term of incarceration when sentenced by the court under sections 1, 1A, 5, 8 or 8A of chapter 279, or any court order or sentence to a term of community supervision to commence after incarceration; (c) upon issuance of a permit for release to community supervision by the parole board under chapter 127A; or (d) at the commencement of mandatory post-release supervision under chapter 127C.

(a) When a person is sentenced by the superior, municipal or district court to community supervision, the person shall be subject to the conditions of community supervision as of the date of sentencing, unless otherwise ordered by the court.

(b) When a person is sentenced by the superior, municipal or district court to community supervision to commence after a period of incarceration, the person shall be subject to the conditions of community supervision upon completion of the term of confinement as ordered by the court subject to review by the court under section 8(d).

(c) When a person is released to community supervision by the parole board, the person shall be subject to the conditions of community supervision as of the date determined by the parole board.

(d) When a person is released to community supervision for mandatory post-release supervision, the person shall be subject to the conditions of community supervision at the commencement of mandatory post-release supervision under chapter 127C.

(e) When a person is released to community supervision for lifetime community supervision under this chapter, the person shall be subject to the conditions of community supervision at the time of the court order or as of the date determined by the parole board.

Section 8. (a) Every person who is sentenced by the court or released by the parole board to community supervision shall report to and be placed under the supervision of the department. The department shall assess the person's supervision level using the department's designated validated risk assessment tool. A needs assessment using the tools adopted by the department shall be administered at the request of the court or parole board or in the discretion of the department in accordance with its procedures. The department shall be given reasonable opportunity to assess the person and provide the court or parole board with a comprehensive community supervision plan. The community supervision or community correction officer may recommend additional conditions of community supervision based on public safety. At a minimum the conditions shall include:

(1) Report as directed to a community supervision or community correction officer;

(2) Remain within designated geographical boundaries;

(3) Notify the community supervision or community correction officer of any change in the person's address or employment;

(4) Pay supervision fee assessment and all fines;

(5) Disclose the fact of supervision to any mental health or chemical dependency treatment provider; and

(6) Obey all laws.

(b) Unless otherwise provided in the sentencing order of the court, the department may not impose conditions that are contrary to those ordered by the court or the parole board and may not contravene, increase or decrease conditions imposed by either the court or the parole board. The department shall return to the court to request in writing any modifications of the supervision conditions.

(c) Unless otherwise indicated in a parole board decision, the department shall return to the parole board in accordance with this section to request in writing any modifications of the supervision conditions, provided, however, that the department may modify supervision conditions, as otherwise provided in the parole board's regulations, rules or policies.

(d) In order to effectuate the purposes of this chapter, to avoid requiring redundant conditions or providing duplicated services to a person under community supervision and to relieve a person under community supervision from ineffective conditions and services, when a term of community supervision is ordered by the court to commence after a period of incarceration, upon notification and recommendation of the department, the superior, municipal or district court may review and revise the conditions ordered at the time of sentencing.

Section 9. The superior, municipal or district court may impose as a sentence a term of community supervision. The court may specify service of a sentence of administrative community supervision or supervised community supervision. When such sentence is ordered, the court shall impose conditions of community supervision as provided in this chapter. Such conditions shall be determined based on the sentencing report and recommendations of a community supervision or community corrections officer and the discretion of the court. The conditions of community supervision imposed by a court upon a person under this section, sections 1, 1A, 5, 6A, 8 or 8A of chapter 279, section 87 of chapter 276, section 2 of chapter 276A or any court order or sentence to a term of community supervision may include, but shall not be limited to, participation by the person in specified rehabilitative programs or performance by the person of specified community service work for a stated period of time.

Nothing in this section shall be construed to limit a court from ordering additional conditions when in its discretion such conditions are necessary and are within the department's ability and resources to provide.

Section 10. The parole board may determine which prisoner in a state or county correctional institution may be released to community supervision under section 2 of chapter 127A. When such release is determined the parole board shall impose conditions of community supervision under the provisions of this chapter.

Nothing in this section shall be construed to limit the parole board from ordering additional conditions when in its discretion such conditions are necessary and are within the department's ability and resources to provide.

Section 11. Except for persons ordered to community supervision pursuant to section 87 of chapter 276, section 2 of chapter 276A, or section 13 of chapter 127B, for the satisfactory completion by a person under community supervision of an educational program leading to the award of a high school equivalency certificate, satisfactory performance of said person in completion of any other educational sequence or any vocational training program approved by the commissioner, satisfactory performance of said person for employment or volunteer service, or satisfactory performance of said person in any other program or activity which the commissioner shall deem valuable to

said person's rehabilitation, the commissioner may grant a deduction in addition to any deductions of sentence provided under sections 129C and 129D of chapter 127 of not more than 5 days per program or activity for each month; provided, however, that in no event shall said deductions exceed a maximum monthly total of 10 days. For the successful completion of a program or activity requiring 6 months of satisfactory participation by a person under community supervision, as designated by the commissioner, the commissioner may grant an additional deduction of sentence of up to 10 days, to be deducted in the month during which the person completes the designated program or activity. The deductions earned under this provision shall be applied to the original sentence of community supervision and the certificate of termination shall incorporate the deductions.

Section 12. Under the direction of the commissioner, the department shall oversee and operate programs it has established to provide the tools and services necessary to complete the conditions of a term of community supervision, whether ordered by the court or the parole board. Such programs shall be established to enable the department to identify a comprehensive community supervision plan, which shall include appropriate conditions of supervision and release for recommendation to the court and the parole board, to the extent practicable, without duplicating conditions ineffectively.

The department shall keep a centralized computerized record of every person placed in its supervision, including, but not limited to, records of case management and investigation, supervision, substance abuse or mental health treatment whether inpatient, residential, or outpatient, training, GED classes, employment counseling, employment, violation proceedings, payment of fees and restitution, and any other rehabilitative services provided to the person whether in fulfillment of an ordered condition or otherwise obtained. The department will make every effort to provide such rehabilitative services with consistency, reason, and without unnecessary duplication. Records of the department of correction and the court shall be made available to the department and incorporated into its record to reasonably ensure a complete report of the person's treatment and efforts.

The commissioner shall work in consultation with the Massachusetts sentencing commission, the administrative office of the trial court, the office of the commissioner of probation, the parole board, the department of correction, the department of criminal justice information services and the sheriffs to fulfill the requirements of this section.

Section 13. A person upon whom a sentence of community supervision for life has been imposed under section 45 of chapter 265 or section 178H of chapter 6 shall be subject to the jurisdiction of the parole board and the department of re-entry and community supervision for the term of such sentence.

Except as otherwise provided in this section, a person serving such sentence of community supervision for life shall be subject to the provisions of law governing the department and parole board as if he were a person under community supervision following a term of incarceration. The parole board shall impose terms and conditions for such sentence within 30 days prior to the commencement of community supervision. The terms and conditions may be revised, altered or amended by the parole board at any time.

A person under community supervision for life shall be under the supervision and control of the department in the same manner as a person under community supervision following a term of incarceration. The parole board shall be authorized to establish any conditions of community supervision for life, on an individual basis, as may be necessary to ensure public safety. Such conditions may include protecting the public from such person committing a sex offense or kidnapping as well as promoting the rehabilitation of such person. Such conditions shall include sex offender treatment with a recognized treatment provider in the field for as long as the board deems necessary, and compliance with the requirements of sections 178C to 178P, inclusive, of chapter 6.

Section 14. Any person under community supervision or under community supervision for life for any offense listed within the definition of “sex offense” as defined in section 1 of chapter 123A or “sex offense”, a “sex offense involving a child” or a “sexually violent offense”, as defined in section 178C of chapter 6, shall, as a requirement of such community supervision, wear a global positioning system device, or any comparable device, administered by the department at all times for the length of the community supervision for any such offense. The parole board shall, in addition to any other condition, establish defined geographic exclusion zones including, but not limited to, the areas in and around the victim’s or victims’ residence(s), place of employment and school and other areas defined to minimize the person’s contact with children, if applicable. If the person enters an excluded zone, as defined by the terms of the community supervision, the location data shall be immediately transmitted to the police department in the municipality wherein the violation occurred and the department of re-entry and community supervision, by telephone, electronic beeper, paging device or other appropriate means. If the parole board or the person’s community supervision or community correction officer believes that the person has violated his terms of community supervision by entering an excluded zone as prescribed in this section, a community supervision or community correction officer shall cause the person to be taken into temporary custody in accordance with section 15 of this chapter and sections 15 and 16 of chapter 127A.

The fees incurred by installing, maintaining and operating the global positioning system device, or comparable device, shall be paid by the person under community supervision. If that person establishes his inability to pay such fees, the department may waive them.

Section 15. (a) If a community supervision or community correction officer believes that a person under community supervision following a term of incarceration, or in connection with community supervision for life or mandatory post-release supervision has lapsed or is about to lapse into criminal ways or has associated or is about to associate with criminal company or that the person has violated the conditions of community supervision, the community supervision or community correction officer may, with the consent of a supervisor or other superior officer, issue a warrant for the temporary custody of the person for a period not longer than fifteen days, during which period the community supervision or community correction officer shall notify the commissioner or the commissioner's designee of the action and submit a complete report for final decision by the parole board. The detention of any such person may be further regulated by the rules of the parole board. The parole board shall have the right to withdraw the warrant for temporary custody and such withdrawal shall not affect the validity of any subsequent warrants issued. Upon the withdrawal of the warrant, the time from the issuance of the warrant until the withdrawal shall be considered as part of the original sentence. Such warrant shall constitute sufficient authority to a community supervision or community correction officer and to the superintendent, jailer, or any other person in charge of any jail, house of correction, lockup, or place of detention to whom it is exhibited to hold in temporary custody the person taken pursuant thereto.

(b) Under section 15 of chapter 127A, the parole board may revoke a permit to be at liberty at any time prior to its expiration. An individual who violates a condition of release to community supervision shall be subject to the provisions of section of chapter 127A. The department shall adopt rules and regulations to govern the surrender and violation processes and its hearings which shall include the use of graduated sanctions. Such sanctions shall include at a minimum the following: If the person under community supervision has served the entire period of confinement under his original sentence, the original term of imprisonment shall, upon a first violation, be increased to imprisonment in a house of correction for 30 days if such violation does not otherwise constitute a criminal offense. Upon a second violation, the original term of imprisonment shall be increased to 180 days in the house of correction if such violation does not otherwise constitute a criminal offense. Upon a third or subsequent violation, the original term of imprisonment shall be increased to 1 year in the house of correction if such violation does not otherwise constitute a criminal offense. If such violation otherwise constitutes a criminal offense, the increased term of imprisonment shall be served on and after any sentence received for commission of the new offense.

Section 16. The court may revoke its sentence to a term of community supervision, where the person under the supervision of the department is alleged to have violated 1 or more conditions of community supervision.

Section 17. The department is authorized to impose and enforce a supervision and rehabilitation fee upon any person the parole board releases to community supervision. To the extent possible, without reducing the income of a person under community supervision to such an extent that the potential for successful community reintegration is diminished, the department shall set such fee in an amount that will substantially defray the cost of the community supervision program.

The department shall also establish a fee waiver procedure for hardship and indigency cases.

Section 18. (a) The court shall assess upon every person it places under the supervision of the department, including all persons placed on community supervision for offenses under section 24 of chapter 90, a monthly community supervision fee, hereinafter referred to as “community supervision fee”, in the amount of \$75 per month. The person shall pay the community supervision fee once each month during such time as the person remains supervised by the department. The court shall assess upon every person placed on administrative community supervision a monthly administrative supervision fee, hereinafter referred to as “administrative community supervision fee”, in the amount of \$25 per month. The person shall pay the administrative community supervision fee once each month during such time as the person remains on administrative community supervision. Notwithstanding the foregoing, the court may waive the fees upon any person accused or convicted of a violation of section 1 or 15 of chapter 273, where compliance with an order of support for a spouse or minor child is a condition of community supervision.

The court may not waive payment of these fees unless it determines after a hearing and upon written finding that such payment would constitute an undue hardship on the person or his family due to limited income, employment status or any other factor. Following the hearing and upon such written finding that either or both of the fees would cause such undue hardship: (1) in lieu of payment of the community supervision fee the court shall require the person to perform unpaid community work service at a public or nonprofit agency or facility, as approved and monitored by the department, for not less than 1 day per month and (2) in lieu of payment of the administrative community supervision fee the court shall require the person to perform unpaid community work service at a public or nonprofit agency or facility, as approved and monitored by the department, for not less than 4 hours per month. Such waiver shall be in effect only during the period of time that the person is unable to pay the monthly fee.

The court may waive payment of either or both of the fees in whole or in part if the person is assessed payment of restitution. In such cases, the fees may be waived only to the extent and during the period that restitution is paid in an amount equivalent to the fee.

The community supervision fee shall be collected by the department and transmitted to the state treasurer for deposit into the General Fund. . The state treasurer shall account for all such fees received and report the fees annually, itemized by court division, to the house and senate committees on ways and means.

(b) The court shall also assess upon all persons placed on community supervision, including all persons placed on community supervision for offenses under section 24 of chapter 90, a monthly victim services surcharge, hereinafter referred to as “victim services surcharge”, in the amount of \$5 per month. The person shall pay the victim services surcharge once each month during such time as the person remains on such community supervision.

Notwithstanding the foregoing, the surcharge shall not be assessed upon any person accused or convicted of a violation of section 1 or 15 of chapter 273, where compliance with an order of support for a spouse or minor child is a condition of probation or community supervision.

The court may not waive payment of the surcharge unless it has determined, after a hearing and upon written finding, that such payment would constitute an undue hardship on the person or his family due to limited income, employment status or any other factor. Such waiver shall be in effect only during the period of time that the person is unable to pay his monthly probation fee.

The victim services surcharge shall be collected by the department and shall be transmitted to the state treasurer for deposit into the General Fund of the commonwealth. The state treasurer shall account for all such payments received and report them annually, itemized by court division, to the house and senate committees on ways and means.

Section 19. If a person is placed on community supervision upon condition of restitution or reparation to be made to the person injured in the commission of the offense, and payment is not made at once, the court may order that it shall be made to the community supervision or community correction officer, who shall give receipts for and keep record of all payments to him, pay the money to the person injured and keep the receipt, and notify the clerk of the court whenever the full amount of the money is received or paid in accordance with such order or with any modification.

Section 20. (a) The department shall adopt rules and regulations which shall establish supervision levels based on risk and needs assessments, ranging from minimum community supervision for low-risk persons to maximum community supervision of high-risk persons, with a focus on reducing the risk posed by high-risk persons. Nothing in this section or in the regulations shall limit the authority of the parole board, or the superior, municipal or district court to impose conditions of community supervision, or, in the case of the juvenile court, probation supervision, to protect the public or promote

the rehabilitation of any person and are within the department's ability to provide. The department shall ensure such rules are available to the public.

(b) The department, in consultation with the court and the parole board, shall adopt rules and regulation which shall govern the surrender and violation processes which shall include the use of graduated sanctions, as appropriate, in response to criminal and non-criminal violations of community supervision conditions. Nothing in this section or in the regulations shall limit the authority of the parole board, or the superior, municipal or district court to impose conditions of community supervision, or, in the case of the juvenile court, probation supervision, to protect the public or promote the rehabilitation of any person. In adopting such rules and regulations, the department, together with the court and the parole board, shall amend any rules and regulations, including the rules of court, to be consistent and effectuate the purposes of this chapter and the provisions of section 3 and of chapter 279. The department shall ensure such rules are available to the public.

(c) The department shall also adopt procedures, rules and regulations for the orderly operation of the department, for re-entry and community supervision and community correction officers and the performance of their community supervision duties, including methods and procedures of investigation, sentencing reports, mediation, supervision, case work, record keeping, accounting, caseload and case management, the classification of persons under the department's supervision, the validated risk and needs assessment tools and process for the effective assignment of conditions of community supervision, the factors to consider in establishing a community supervision plan, the eligibility of persons to be placed under the supervision of the department, the establishment of community supervision and re-entry centers and the delivery of services to the persons in order to fulfill the requirements of community supervision.

Section 21. The department of re-entry and community supervision shall develop and implement a public education program about community supervision and corrections, provide technical assistance, training and education to the judiciary and criminal justice system agencies and personnel, and coordinate training for providers.

Section 22. The commissioner shall make an annual report to secretary of public safety and security, the chief justices of the superior, municipal and district courts, each sheriff, the parole board and the commissioner of correction, which shall include information procedures followed by community supervision officers and community correction officers and standards and rules of community supervision, including methods and procedures of investigation, assessment, mediation, supervision, case work, record keeping, accounting, caseload and case management. Said report shall include recommendations for future planning and operation of the department.

Section 23. The commissioner shall make an annual report to the secretary of public safety and security of the assets and factors involved in the administration and application of community supervision and services provided to offenders in the community including but not limited to: (i) an accounting of the budgetary, fiscal, personnel, functional and operational organization, including case management, in the department of re-entry and community supervision, its departments, and employees; and (ii) caseloads including, but not limited to, specifics of the numbers, types, supervision levels, violations and services provided.

Section 24. Every 3 years, the commissioner shall study the results of the effectiveness of the establishment of the department of re-entry and community supervision. The study shall address the effect on the rate of recidivism, overall spending for corrections and alternative sentencing, and prison commitments. The commissioner shall report the findings to the governor, the joint committees on criminal justice and public safety and the clerks of the house of representatives and the senate.

Section 25. Sections 25 to 39, inclusive, shall be designated and may be known as “the interstate compact for adult offender supervision.” This designation shall, when appropriate, include corresponding provisions of earlier laws.

The compacting states to this interstate compact recognize that each state is responsible for the supervision of adult persons in the community who are authorized under the by-laws and rules of this compact to travel across state lines both to and from each compacting state in such a manner as to track the location of persons, transfer supervision authority in an orderly and efficient manner, and when necessary return persons to the originating jurisdictions. The compacting states also recognize that Congress, by enacting the Crime Control Act, 4 U.S.C. Section 112 (1965), has authorized and encouraged compacts for cooperative efforts and mutual assistance in the prevention of crime. It is the purpose of this compact and the interstate commission created hereunder, through means of joint and cooperative action among the compacting states: to provide the framework for the promotion of public safety and protect the rights of victims through the control and regulation of the interstate movement of persons in the community; to provide for the effective tracking, supervision and rehabilitation of these persons by the sending and receiving states; and to equitably distribute the costs, benefits and obligations of the compact among the compacting states. In addition, this compact shall: create an interstate commission which shall establish uniform procedures to manage the movement between states of adults placed under community supervision and released to the community under the jurisdiction of courts, paroling authorities, corrections or other criminal justice agencies, which shall promulgate rules to achieve the purpose of this compact; ensure an opportunity for input and timely notice to victims and to jurisdictions where defined persons are authorized to travel or to relocate across state lines; establish a system of uniform data collection, access to information on active cases by authorized

criminal justice officials, and regular reporting of compact activities to heads of state councils, state executive, judicial and legislative branches and criminal justice administrators; monitor compliance with rules governing interstate movement of persons and initiate interventions to address and correct noncompliance; and coordinate training and education regarding regulations of interstate movement of persons for officials involved in such activity. The compacting states shall recognize that there is no “right” of any person to live in another state and that duly accredited officers of a sending state may at all times enter a receiving state and there apprehend and retake any person under supervision subject to this compact and by-laws and rules promulgated hereunder. It shall be the policy of the compacting states that the activities conducted by the interstate commission created herein are the formation of public policies and are therefore public business.

Section 26. As used in sections 25 to 39, inclusive, the following words shall, unless the context clearly requires a different meaning have the following meanings:-

“Adult”, individuals legally classified as adults and juveniles treated as adults by court order, statute, or operation of law.

“By-laws”, binding rules established by the interstate commission for its governance, or for directing or controlling the interstate commission’s actions or conduct.

“Compact administrator”, the individual in each compacting state appointed pursuant to the terms of this compact responsible for the administration and management of the state’s supervision and transfer of persons subject to the terms of this compact, the rules adopted by the interstate commission and policies adopted by the state council under this compact.

“Compacting state”, any state which has enacted the enabling legislation for this compact.

“Commissioner”, the voting representative of each compacting state appointed under section 25 of this chapter.

“Interstate commission”, the interstate commission for adult person supervision established by this compact.

“Member”, the commissioner of a compacting state or his designee, who shall be a person officially connected with the commissioner.

“Non compacting state”, any state which has not enacted the enabling legislation for this compact.

“Person”, an adult placed under or subject to supervision as the result of the commission of a criminal offense and released to the community under the jurisdiction of courts, paroling authorities, corrections or other criminal justice agencies.

“Person”, any individual, corporation, business enterprise, or other legal entity, either public or private.

“Rules”, acts of the interstate commission, duly promulgated pursuant to section 29 of this chapter, substantially affecting interested parties in addition to the interstate commission, which shall have the force and effect of law in the compacting states.

“State”, a state within the United States, the District of Columbia and any other territorial possessions of the United States.

“State council”, the resident members of the state council for interstate adult person supervision created by each state under section 25 of this chapter.

Section 27. (a) The compacting states hereby create the interstate commission for adult person supervision.

(b) The interstate commission shall be a body corporate and joint agency of the compacting states.

(c) The interstate commission shall have all the responsibilities, powers and duties set forth herein, including the power to sue and be sued, and such additional powers as may be conferred upon it by subsequent action of the respective legislatures of the compacting states in accordance with the terms of this compact.

(d) The interstate commission shall consist of commissioners duly appointed from each of the member states.

(e) In addition to the commissioners who are the voting representatives of each state, the interstate commission shall include individuals who are not commissioners but who are members of interested organizations; such non-commissioner members shall include a member of the national organizations of governors, legislators, state chief justices, attorneys general and crime victims. All non-commissioner members of the interstate commission shall be ex-officio members. The interstate commission may provide in its by-laws for such additional, ex-officio, non-voting members as it deems necessary.

(f) Each compacting state represented at any meeting of the interstate commission is entitled to 1 vote. A majority of the compacting states shall constitute a quorum for the transaction of business, unless a larger quorum is required through the by-laws of the interstate commission.

(g) The interstate commission shall meet at least once each calendar year. The chairperson may call additional meetings and, upon the request of 27 or more compacting states, shall call additional meetings. Public notice shall be given of all meetings and meetings shall be open to the public.

(h) The interstate commission shall establish an executive committee which shall include commission officers, members and others as shall be determined by the by-laws. The executive committee shall have the power to act on behalf of the interstate commission during periods when the interstate commission is not in session, with the exception of rulemaking power and the power to amend the compact. The executive committee shall oversee the day-to-day activities managed by the executive director and interstate commission staff, administer enforcement and compliance with the provisions of the compact and its by-laws and as directed by the interstate commission, and perform other duties as directed by commission or as set forth in the by-laws.

Section 28. The commissioner of re-entry and community supervision, or his designee, shall serve as the compact administrator and as the state's commissioner on the interstate compact commission. The Massachusetts state council shall be appointed by the compact administrator. The state council shall be comprised of 5 members whose term of office shall be for 4 years. The state council shall meet at least twice a year. The state council may advise the compact administrator or his designee on participation in the interstate commissioner activities and administration of the compact. The state council's membership shall include at least 1 representative from the legislative, judicial and executive branches of government and victims' groups.

Section 29. The interstate commission shall have the following powers and duties:-

(a) to adopt a seal and suitable by-laws governing the management and operation of the interstate commission;

(b) to promulgate rules which shall have the force and effect of statutory law and shall be binding in the compacting states to the extent and in the manner provided in this compact;

(c) to oversee, supervise and coordinate the interstate movement of persons subject to the terms of this compact and any by-laws adopted and rules promulgated by the compact commission;

(d) to enforce compliance with compact provisions, interstate commission rules, and by-laws, using all necessary and proper means including, but not limited to, the use of the judicial process;

(e) to establish and maintain offices;

(f) to purchase and maintain insurance and bonds;

(g) to borrow, accept or contract for services of personnel including, but not limited to, members and their staffs;

(h) to establish and appoint committees and hire staff which it deems necessary for the carrying out of its functions including, but not limited to, an executive committee as required by section 24 of this chapter, which shall have the power to act on behalf of the interstate commission in carrying out its powers and duties hereunder;

(i) to elect or appoint such officers, attorneys, employees, agents, or consultants, and to fix the compensation, define the duties and determine the qualifications thereof; and to establish the interstate commission's personnel policies and programs relating to, among other things, conflicts of interest, rates of compensation and qualifications of personnel;

(j) to accept any and all donations and grants of money, equipment, supplies, materials, and services, and to receive, utilize and dispose of the same;

(k) to lease, purchase, accept contributions or donations of, or to otherwise own, hold, improve or use any property, real, personal or mixed;

(l) to sell, convey, mortgage, pledge, lease, exchange, abandon or otherwise dispose of any property, real, personal or mixed;

(m) to establish a budget and make expenditures and levy dues as provided in section 31;

(n) to sue and be sued;

(o) to provide for dispute resolution among compacting states;

(p) to perform such functions as may be necessary or appropriate to achieve the purposes of this compact;

(q) to report annually to the legislatures, governors, judiciary and state councils of the compacting states concerning the activities of the interstate commission during the preceding year. Such reports shall also include any recommendations that may have been adopted by the interstate commission;

(r) to coordinate education, training and public awareness regarding the interstate movement of persons for officials involved in such activity; and

(s) to establish uniform standards for the reporting, collecting and exchanging of data.

Section 30. (a) The interstate commission shall, by a majority of the members, within 12 months of the first interstate commission meeting, adopt by-laws to govern its conduct

as may be necessary or appropriate to carry out the purposes of the compact including, but not limited to:-

- (1) establishing the fiscal year of the interstate commission;
 - (2) establishing an executive committee and such other committees as may be necessary;
 - (3) providing reasonable standards and procedures:
 - (i) for the establishment of committees; and
 - (ii) governing any general or specific delegation of any authority or function of the interstate commission;
 - (4) providing reasonable procedures for calling and conducting meetings of the interstate commission, and ensuring reasonable notice of each such meeting;
 - (5) establishing the titles and responsibilities of the officers of the interstate commission;
 - (6) providing reasonable standards and procedures for the establishment of the personnel policies and programs of the interstate commission. Notwithstanding any civil service or other similar laws of any compacting state, the by-laws shall exclusively govern the personnel policies and programs of the interstate commission;
 - (7) providing a mechanism for cessation of operations of the interstate commission and the equitable return of any surplus funds that may exist upon the termination of the compact after the payment and reserving of all of its debts and obligations;
 - (8) providing transition rules for start up administration of the compact; and
 - (9) establishing standards and procedures for compliance and technical assistance in administering the compact.
- (b) (1) The interstate commission shall, by a majority of the members, elect from among its members a chairperson and a vice-chairperson, each of whom shall have such authorities and duties as may be specified in the by-laws. The chairperson or, in his or her absence or disability, the vice-chairperson, shall preside at all meetings of the interstate commission. The officers so elected shall serve without compensation or remuneration from the interstate commission, except that, subject to the availability of budgeted funds, the officers shall be reimbursed for any actual and necessary costs and expenses incurred by them in the performance of their duties and responsibilities as officers of the interstate commission.

(2) The interstate commission shall, through its executive committee, appoint or retain an executive director for such period, upon such terms and conditions and for such compensation as the interstate commission may deem appropriate. The executive director shall serve as secretary to the interstate commission, and hire and supervise such other staff as may be authorized by the interstate commission, but shall not be a member.

(c) The interstate commission shall maintain its corporate books and records in accordance with the by-laws.

(d) (1) The members, officers, executive director and employees of the interstate commission shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused or arising out of any actual or alleged act, error or omission that occurred within the scope of interstate commission employment, duties or responsibilities. Nothing in this paragraph, however, shall be construed to protect any such person from suit or liability for any damage, loss, injury or liability caused by the intentional or willful and wanton misconduct of any such person.

(2) The interstate commission shall defend the commissioner of a compacting state, or his representatives or employees, or the interstate commission's representatives or employees, in any civil action seeking to impose liability, arising out of any actual or alleged act, error or omission that occurred within the scope of interstate commission employment, duties or responsibilities, or that the defendant had a reasonable basis for believing occurred within the scope of interstate commission employment, duties or responsibilities if the actual or alleged act, error or omission did not result from intentional wrongdoing on the part of such person.

(3) The interstate commission shall indemnify and hold the commissioner of a compacting state, his appointed designee or employees, or the interstate commission's representatives or employees, harmless in the amount of any settlement or judgment obtained against such persons arising out of any actual or alleged act, error or omission that occurred within the scope of interstate commission employment, duties or responsibilities, or that such persons had a reasonable basis for believing occurred within the scope of interstate commission employment, duties or responsibilities, if the actual or alleged act, error or omission did not result from gross negligence or intentional wrongdoing on the part of such person.

Section 31. (a) The interstate commission shall meet and take such actions as are consistent with the provisions of the compact.

(b) Except as otherwise provided in the compact and unless a greater percentage is required by the by-laws, in order to constitute an act of the interstate commission, such

act shall have been taken at a meeting of the interstate commission and shall have received an affirmative vote of a majority of the members present.

(c) Each member of the interstate commission shall have the right and power to cast a vote to which that compacting state is entitled and to participate in the business and affairs of the interstate commission. A member shall vote in person on behalf of the state and shall not delegate a vote to another member state, except that a state council shall appoint another authorized representative, in the absence of the commissioner from that state, to cast a vote on behalf of the member state at a specified meeting. The by-laws may provide for members' participation in meetings by telephone or other means of telecommunication or electronic communication. Any voting conducted by telephone, or other means of telecommunication or electronic communication shall be subject to the same quorum requirements of meetings at which members are present in person.

(d) The interstate commission shall meet at least once during each calendar year. The chairperson of the interstate commission may call additional meetings at any time and, upon the request of a majority of the members, shall call additional meetings.

(e) The interstate commission's by-laws shall establish conditions and procedures under which the interstate commission shall make its information and official records available to the public for inspection or copying. The interstate commission may exempt from disclosure any information or official records to the extent disclosure of such information or records would adversely affect personal privacy rights or proprietary interests. In promulgating such rules, the interstate commission may make available to law enforcement agencies records and information otherwise exempt from disclosure, and may enter into agreements with law enforcement agencies to receive or exchange information or records subject to nondisclosure and confidentiality provisions.

(f) Public notice shall be given of all meetings and all meetings shall be open to the public, except as set forth in the rules or as otherwise provided in the compact. The interstate commission shall promulgate rules consistent with the principles contained in the Government in Sunshine Act, 5 U.S.C. Section 552(b), as may be amended. The interstate commission and any of its committees may close a meeting to the public if it determines by 2/3 vote that an open meeting would be likely to:-

(1) relate solely to the interstate commission's internal personnel practices and procedures;

(2) disclose matters specifically exempted from disclosure by statute;

(3) disclose trade secrets or commercial or financial information that is privileged or confidential;

- (4) involve accusing any person of a crime, or formally censuring any person;
- (5) disclose information of a personal nature that would constitute a clearly unwarranted invasion of personal privacy;
- (6) disclose investigative records compiled for law enforcement purposes;
- (7) disclose information contained in or related to examination, operating or condition reports prepared by, or on behalf of, or for the use of, the interstate commission relative to a regulated entity for the purpose of regulation or supervision of such entity;
- (8) disclose information, the premature disclosure of which would significantly endanger the life of a person or the stability of a regulated entity; or
- (9) specifically relate to the interstate commission's issuance of a subpoena, or its participation in a civil action or proceeding.

For every meeting closed under this subsection, the interstate commission's chief legal officer shall publicly certify that, in his opinion, the meeting may be closed to the public, and shall reference each relevant exempting provision. The interstate commission shall keep minutes which shall fully and clearly describe all matters discussed in any meeting and shall provide a full and accurate summary of any actions taken, and the reasons therefore, including a description of each of the views expressed on any item and the record of any roll call vote. All documents considered in connection with any action shall be identified in such minutes.

(g) The interstate commission shall collect standardized data concerning the interstate movement of persons as directed through its by-laws and rules which shall specify the data to be collected, the means of collection and data exchange and reporting requirements.

Section 32. (a) The interstate commission shall promulgate rules in order to effectively and efficiently achieve the purposes of the compact including transition rules governing administration of the compact during the period in which it is being considered and enacted by the states.

(b) Rulemaking shall occur pursuant to the criteria set forth in this section and the by-laws and rules adopted pursuant thereto. Such rulemaking shall substantially conform to the principles of the federal Administrative Procedure Act, 5 U.S.C.S. section 551 et seq., and the Federal Advisory Committee Act, 5 U.S.C.S. app. 2, section 1 et seq., as may be amended.

(c) All rules and amendments shall become binding as of the date specified in each rule or amendment.

(d) If a majority of the legislatures of the compacting states rejects a rule, by enactment of a statute or resolution in the same manner used to adopt the compact, then such rule shall have no further force and effect in any compacting state.

(e) When promulgating a rule, the interstate commission shall:-

(1) publish the proposed rule stating with particularity the text of the rule which is proposed and the reason for the proposed rule;

(2) allow persons to submit written data, facts, opinions and arguments, which shall be publicly available;

(3) provide an opportunity for an informal hearing; and

(4) promulgate a final rule and its effective date, if appropriate, based on the rulemaking record.

Not later than 60 days after a rule is promulgated, any interested person may file a petition in the United States District Court for the District of Columbia or in the Federal District Court where the interstate commission's principal office is located for judicial review of such rule. If the court finds that the interstate commission's action is not supported by substantial evidence, as defined in the Administrative Procedure Act, in the rulemaking record, the court shall hold the rule unlawful and set it aside.

(f) Subjects to be addressed within 12 months after the first meeting shall, at a minimum, include:-

(1) notice to victims and opportunity to be heard;

(2) person registration and compliance;

(3) violations or returns;

(4) transfer procedures and forms;

(5) eligibility for transfer;

(6) collection of restitution and fees from persons;

(7) data collection and reporting;

(8) the level of supervision to be provided by the receiving state;

(9) transition rules governing the operation of the compact and the interstate commission during all or part of the period between the effective date of the compact and the date on which the last eligible state adopts the compact; and

(10) mediation, arbitration and dispute resolution.

(g) The existing rules governing the operation of the previous compact superseded by this chapter shall be null and void 12 months after the first meeting of the interstate commission created hereunder.

(h) Upon determination by the interstate commission that an emergency exists, it may promulgate an emergency rule which shall become effective immediately upon adoption, provided that the usual rulemaking procedures provided hereunder shall be retroactively applied to the rule as soon as reasonably possible, but in no event later than 90 days after the effective date of the rule.

Section 33. (a) (1) The interstate commission shall oversee the interstate movement of adult persons in the compacting states and shall monitor such activities being administered in non-compacting states which may significantly affect compacting states.

(2) The courts and executive agencies in each compacting state shall enforce this compact and shall take all actions necessary and appropriate to effectuate the compact's purposes and intent.

(3) In any judicial or administrative proceeding in a compacting state pertaining to the subject matter of this compact which may affect the powers, responsibilities or actions of the interstate commission, the interstate commission shall be entitled to receive all service of process in any such proceeding, and shall have standing to intervene in the proceeding for all purposes.

(b) The compacting states shall report to the interstate commission on issues or activities of concern to them, and cooperate with and support the interstate commission in the discharge of its duties and responsibilities. The interstate commission shall attempt to resolve any disputes or other issues which are subject to the compact and which may arise among compacting states and non-compacting states. The interstate commission shall enact a by-law or promulgate a rule providing for both mediation and binding dispute resolution for disputes among the compacting states.

(c) The interstate commission, in the reasonable exercise of its discretion, shall enforce this compact using any or all means set forth herein.

Section 34. (a) The interstate commission shall pay or provide for the payment of the reasonable expenses of its establishment, organization and ongoing activities.

(b) The interstate commission shall levy on and collect an annual assessment from each compacting state to cover the cost of the internal operations and activities of the interstate commission and its staff which assessments shall total an amount sufficient to cover the interstate commission's annual budget as approved each year. The aggregate annual

assessment amount shall be allocated based upon a formula to be determined by the interstate commission, taking into consideration the population of the state and the volume of interstate movement of persons in each compacting state and shall promulgate a rule binding upon all compacting states which governs such assessment.

(c) The interstate commission shall not incur any obligations of any kind prior to securing the funds adequate to meet the same; nor shall the interstate commission pledge the credit of any compacting state, except by and with the authority of such compacting state.

(d) The interstate commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the interstate commission shall be subject to the audit and accounting procedures established under its by-laws except that all receipts and disbursements of funds handled by the interstate commission shall be audited annually by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the interstate commission.

Section 35. (a) Any state is eligible to become a compacting state.

(b) The compact shall become effective and binding upon legislative enactment of the compact into law by no less than 35 of the states. The initial effective date shall be the later of July 1, 2001, or upon enactment into law by the 35th jurisdiction. Thereafter it shall become effective and binding, as to any other compacting state, upon enactment of the compact into law by that state. The governors of non-member states, or their designees, shall be invited to participate in interstate commission activities on a non-voting basis prior to adoption of the compact by all states and territories of the United States.

(c) Amendments to the compact may be proposed by the interstate commission for enactment by the compacting states. No amendment shall become effective and binding upon the interstate commission and the compacting states unless and until it is enacted into law by unanimous consent of the compacting states.

Section 36. (a) (1) Once effective, the compact shall continue in force and remain binding upon each and every compacting state. A compacting state may withdraw from the compact by enacting a statute specifically repealing the statute which enacted the compact into law.

(2) The effective date of withdrawal is the effective date of the repeal.

(3) The withdrawing state shall immediately notify the chairperson of the interstate commission, in writing, upon the introduction of legislation repealing this compact in the withdrawing state.

(4) The interstate commission shall notify the other compacting states of the withdrawing state's intent to withdraw within 60 days of its receipt thereof.

(5) The withdrawing state shall be responsible for all assessments, obligations and liabilities incurred through the effective date of withdrawal, including any obligations, the performance of which extend beyond the effective date of withdrawal.

(6) Reinstatement following withdrawal of any compacting state shall occur upon the withdrawing state reenacting the compact or upon such later date as determined by the interstate commission.

(b) (1) If the interstate commission determines that any compacting state has at any time defaulted in the performance of any of its obligations or responsibilities under the compact, the by-laws or any duly promulgated rules the interstate commission may impose any or all of the following penalties:

(i) fines, fees and costs in such amounts as are deemed to be reasonable as fixed by the interstate commission;

(ii) remedial training and technical assistance as directed by the interstate commission; and

(iii) suspension and termination of membership in the compact. Suspension shall be imposed only after all other reasonable means of securing compliance under the by-laws and rules have been exhausted. Immediate notice of suspension shall be given by the interstate commission to the governor, the chief justice or chief judicial officer of the state; the majority and minority leaders of the defaulting state's legislature, and the state council.

(2) The grounds for default shall include, but not be limited to, failure of a compacting state to perform such obligations or responsibilities imposed upon it by this compact, interstate commission by-laws or duly promulgated rules. The interstate commission shall immediately notify the defaulting state, in writing, of the penalty imposed by the interstate commission on the defaulting state pending a cure of the default. The interstate commission shall stipulate the conditions and the time period within which the defaulting state shall cure its default. If the defaulting state fails to cure the default within the time period specified by the interstate commission, in addition to any other penalties imposed herein, the defaulting state may be terminated from the compact upon an affirmative vote of a majority of the compacting states and all rights, privileges and benefits conferred by this compact shall be terminated from the effective date of suspension.

(3) Within 60 days of the effective date of termination of a defaulting state, the interstate commission shall notify the governor, the chief justice or chief judicial officer

and the majority and minority leaders of the defaulting state's legislature and the state council of such termination.

(4) The defaulting state shall be responsible for all assessments, obligations and liabilities incurred through the effective date of termination, including any obligations, the performance of which extends beyond the effective date of termination.

(5) The interstate commission shall not bear any costs relating to the defaulting state unless otherwise mutually agreed upon between the interstate commission and the defaulting state.

(6) Reinstatement following termination of any compacting state requires both a reenactment of the compact by the defaulting state and the approval of the interstate commission pursuant to the rules.

(c) The interstate commission may, by majority vote of the members, initiate legal action in the United States District Court for the District of Columbia or, at the discretion of the interstate commission, in the Federal District wherein the interstate commission's offices are located, has its offices to enforce compliance with the compact, its duly promulgated rules and by-laws, against any compacting state in default. In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation, including reasonable attorneys' fees.

(d) The compact dissolves effective upon the date of the withdrawal or default of the compacting state which reduces membership in the compact to 1 compacting state.

Upon the dissolution of this compact, the compact shall become null and void and shall be of no further force or effect, and the business and affairs of the interstate commission shall be terminated and any surplus funds shall be distributed in accordance with the by-laws.

Section 37. (a) The provisions of this compact shall be severable, and if any phrase, clause, sentence or provision is deemed unenforceable, the remaining provisions of the compact shall be enforceable.

(b) The provisions of this compact shall be liberally constructed to effectuate its purposes.

Section 38. (a) (1) Nothing herein prevents the enforcement of any other law of a compacting state that is not inconsistent with this compact.

(2) All compacting states' laws conflicting with this compact are superseded to the extent of the conflict.

(b) (1) All lawful actions of the interstate commission, including all rules and by-laws promulgated by the interstate commission, are binding upon the compacting states.

(2) All agreements between the interstate commission and the compacting states are binding in accordance with the terms thereof.

(3) Upon the request of a party to a conflict over meaning or interpretation of interstate commission actions, and upon a majority vote of the compacting states, the interstate commission may issue advisory opinions regarding such meaning or interpretation.

(4) In the event any provision of this compact exceeds the constitutional limits imposed on the legislature of any compacting state, the obligations, duties, powers or jurisdiction sought to be conferred by such provision upon the interstate commission shall be ineffective and such obligations, duties, powers or jurisdiction shall remain in the compacting state and shall be exercised by the agency thereof to which such obligations, duties, powers or jurisdiction are delegated by law in effect at the time this compact becomes effective.

Section 39. Wherever, in any general or special law, there are used in connection with adult or youthful offender criminal proceedings in the superior, district or municipal court, the following words: (a) probation, (b) probation officer, (c) department of probation, (d) commissioner of probation, (e) office of the commissioner of probation, or (f) words having the same connotation as (a)-(e) above, the words shall, unless the context otherwise requires, refer to the department of re-entry and community supervision established in this chapter, the programs and services it administers, or the commissioner of re-entry and community supervision or such officer or employee of the department of re-entry and community supervision as the commissioner from time to time may designate. This section shall not apply to the use of the words in connection with juvenile proceedings or proceedings in the probate and family court.

Wherever, in any general or special law, there are used in connection with adult or youthful offender criminal proceedings in the superior, district or municipal court, the following words: (a) parole, (b) parole permits, (c) parole supervision, or (d) words having the same connotation as (a)-(c), the words shall, unless the context otherwise requires, refer to the programs and services administered by the department of re-entry and community supervision. This section shall not apply to the use of the words in connection with juvenile proceedings or proceedings in the probate and family court.

Section 40. Notwithstanding any general or special law to the contrary, the secretary of administration and finance may authorize the transfer of funds between the department of correction, the department of re-entry and community supervision and the parole board as necessary to achieve the purposes of chapters 127, 127A, 127B, 127C; provided, that no transfer authorized by this section shall exceed 7 per cent of the amount appropriated for

an item; and provided further, that the transfer may be made only with the written approval of the heads of the sending and receiving agencies and of the secretary of public safety and security.

CHAPTER 127C

MANDATORY POST-RELEASE SUPERVISION

Section 1. All sentences of incarceration to state prison shall include a period of post-release supervision, excluding sentences for those prisoners for whom community supervision eligibility is determined by section 9 of chapter 127A. Except as provided in this chapter, for individuals who complete the incarceration portion of their sentences without supervised release or are re-incarcerated for the remainder of the sentence for violating the terms of community supervision, the period of mandatory post-release supervision shall be 25 per cent of the maximum term of incarceration imposed at sentencing up to a maximum period of supervision of 2 years, but in no case less than 9 months. Where an individual is sentenced to incarceration on multiple offenses to be served concurrently, the greater of the maximum terms imposed at sentencing shall be used to calculate the mandatory post-release supervision period. Mandatory post-release supervision as established in this chapter shall not be imposed upon any individual who successfully completes a period of community supervision imposed by a court at sentencing, upon an individual who is granted a community supervision permit under chapter 127A and successfully completes a period of community supervision, or upon an individual sentenced to lifetime community supervision under section 45 of chapter 265 or section 178H of chapter 6. An individual subject to this chapter may be supervised in another jurisdiction in accordance with sections 25 through 39 of chapter 127B and shall be considered on community supervision pursuant to a decision of the parole board for the purposes of supervision.

Section 2. Upon release, an individual sentenced to a term of incarceration in a state prison for any length of time shall be subject to the supervision and jurisdiction of the department of re-entry and community supervision during the period of mandatory post-release supervision and shall be subject to the law, rules and regulations governing community supervision. The commissioner of re-entry and community supervision shall establish regulations to be implemented by the department for post-release supervision consistent with applicable provisions of chapters 127, 127A and 127B. The regulations shall establish supervision levels based on risk and needs assessments, ranging from minimum community supervision for low-risk persons to maximum community supervision of high-risk persons, with a focus on reducing the risk posed by high-risk persons. The regulations shall include the use of graduated sanctions as appropriate in response to non-criminal violations of community supervision conditions and, in the discretion of the parole board, for low-level criminal violations. The regulations shall

also establish guidelines with specific benchmarks, which if achieved by an individual shall reduce the period of time in which such individual is subject to post-release supervision. Nothing in this section or in the regulations shall limit the authority of the parole board, the superior, municipal or district court to impose conditions of community supervision, or, in the case of the juvenile court, probation supervision to protect the public or promote the rehabilitation of any person.

Section 3. An individual subject to mandatory post-release supervision who has successfully completed 6 months of supervision shall be eligible for early termination of that supervision. Early termination shall only occur in accordance with procedures provided in the parole board regulations. In proceedings for early termination of mandatory post-release supervision, the parole board's considerations shall include, but not be limited to, the amount of time the individual has successfully spent under post-release supervision, efforts and achievements in the areas of employment, housing, education, counseling, substance abuse treatment and required testing programs, and any other circumstances that are relevant to the individual case.

Section 4. An individual who violates a condition of mandatory post-release supervision shall be subject to this section and to modification or revocation proceedings initiated by the department of re-entry and community supervision through the parole board. The laws and regulations governing community supervision violation proceedings shall govern these modification or revocation proceedings. In all proceedings under this section, an individual who violates a condition of mandatory post-release supervision and such violation does not otherwise constitute a criminal offense may be placed under increased supervision, subjected to other conditions and intermediate sanctions, or upon a determination that such alternative sanctions are not appropriate, incarcerated as follows: Upon a first violation, the individual may be incarcerated for a period no greater than 2 months or the maximum remaining period of post incarceration supervision, whichever is less. Upon a second violation, the prisoner may be incarcerated for a period no greater than 6 months or the maximum remaining period of post incarceration supervision, whichever is less. Upon a third or subsequent violation the prisoner may be incarcerated for a period no greater than 12 months or the maximum remaining period of post incarceration supervision, whichever is less. In all cases where the individual is not being incarcerated for a violation, the individual shall be subject to the graduated sanctions policy of the department of re-entry and community supervision. In the case of any violation for use of controlled substances or an offense for operating under the influence of drugs or alcohol where the individual is not incarcerated for the violation, the period of mandatory post-release supervision may be extended to accommodate an appropriate substance abuse program, but the total shall not exceed the maximum supervisory period permitted under section 1 of this chapter. For any violation of the conditions of

mandatory post-release supervision, the period of supervision shall be stayed during a period of incarceration and it shall be resumed upon release. If the violation constitutes a criminal offense, the period of incarceration shall be served on and after any sentence received as a result of the new offense. Upon subsequent release, the greater of the maximum sentences of the original offense and subsequent offense shall be used to calculate the new mandatory post-release supervision period.

Section 5. Mandatory post-release supervision shall be considered stayed under the following circumstances: (a) the individual is immediately committed to the custody of any other state or of the United States to serve a period of incarceration less than the post-release supervision period required under this chapter; (b) the individual is immediately committed to the custody of the United States immigration authorities; or (c) the individual is committed pursuant to an order of custody under chapter 123A.

Section 6. Mandatory post-release supervision shall be considered completed under the following circumstances: (a) except as provided in sections 3 and 4, the individual serves a post-release supervision period of 25 per cent of the maximum term of incarceration imposed at sentencing up to a maximum period of supervision of 2 years, but in no case less than 9 months; (b) the individual is granted early termination under section 3; (c) upon completion of the sentence, the individual is immediately committed to the custody of any other state or of the United States to serve a period of incarceration greater than or equal to the post-release supervision period required under this chapter; or (d) upon completion of the sentence, the individual is physically removed from the United States by immigration authorities for the purpose of permanent deportation.

SECTION 43. Section 32 of chapter 209 of the General Laws, as so appearing, is hereby amended by inserting after the words "local police", in line 48, the following words:- , community supervision, community correction.

SECTION 44. Section 2 of chapter 211D, as so appearing, is hereby amended by striking out, in line 16, the words "probation department of the appointing court", and inserting in place thereof the following words:- department of re-entry and community supervision.

SECTION 45. Section 2 ½ of chapter 211D, as so appearing, is hereby amended by striking out, in lines 3, 7, 10, 13, 32, 33-34, 37, 41, 43, 44, 53, 65, 66, 83, the words "chief probation", and inserting in place thereof, in each instance, the following words:- community supervision.

SECTION 46. Section 2 ½ of chapter 211D, as so appearing, is hereby further amended by striking out, in line 113, the words "office of the commissioner of

probation", and inserting in place thereof the following words:- department of re-entry and community supervision.

SECTION 47. Section 5 of chapter 211D, as so appearing, is hereby amended by striking out, in lines 10-11, the words "from the probation officer a written report containing the probation officer's opinion", and inserting in place thereof the following words:- from the community supervision or community correction officer a written report containing the officer's opinion.

SECTION 48. Section 1 of chapter 211E of the General Laws, as so appearing, is hereby amended by inserting after the words "commissioner of probation, or his designee", in line 22, the following words:- the commissioner of re-entry and community supervision, or his designee.

SECTION 49. Section 3 of chapter 211E of the General Laws, as so appearing, is hereby amended by inserting after the words "intensive supervision probation", in line 34, the following words:- community supervision or intensive community supervision.

SECTION 50. Section 3 of chapter 211E of the General Laws, as so appearing, is hereby further amended by inserting after the words "commissioner of probation", in line 142, the following words:- the commissioner of re-entry and community supervision;.

SECTION 51. Chapter 211F of the General Laws is hereby repealed.

SECTION 52. Section 26A of chapter 218 of the General Laws, as so appearing, is hereby amended by striking out the last paragraph and inserting in place thereof the following:-

In any case heard in a jury waived session on the Boston municipal court department or a district court department where a defendant is placed on community supervision, he shall thereafter be supervised by a community supervision officer assigned by the commissioner of re-entry and community supervision.

SECTION 53. Section 81 of chapter 218, as so appearing, is hereby amended by inserting after the word "probation", in lines 9-10, the following words:- or community supervision.

SECTION 54. Section 62C of chapter 221 of the General Laws, as so appearing, is hereby amended by striking subsection (g) and inserting in place thereof the following subsection:-

(g) hold preliminary hearings to determine whether there is probable cause to believe that a person on probation, community supervision or both has violated the terms of probation or community supervision.

SECTION 55. Section 24B of chapter 234 of the General Laws, as so appearing, is hereby amended by striking out, in line 1, the words “commissioner of probation” and inserting in place thereof the following words:- clerk of court.

SECTION 56. Section 3 of chapter 258B of the General Laws, as so appearing, is hereby amended by inserting after the word “probation”, in line 52, the following words:- , community supervision or community correction officer.

SECTION 57. Section 3 of chapter 258B is hereby further amended by inserting after the words “probation”, in lines 93, 95, 96, 97 and 98, in each instance, the following words:- , community supervision or community correction officer.

SECTION 58. Section 3 of chapter 258B is hereby further amended by striking out subsection (o) and inserting in place thereof the following subsection:-

(o) for victims, to request that restitution be an element of the final disposition of a case and to obtain assistance from the prosecutor in the documentation of the victim's losses. If restitution is ordered as part of a case disposition, the victim has the right to receive from the probation department or department of re-entry and community supervision a copy of the schedule of restitution payments and the name and telephone number of the probation officer, the community supervision or community correction officer or other official who is responsible for supervising the defendant's payments. If the offender seeks to modify the restitution order, the offender's supervising probation officer or community supervision or community correction officer shall provide notice to the victim and the victim shall have the right to be heard at any hearing relative to the proposed modification.

SECTION 59. Section 3 of chapter 258B is hereby further amended by inserting after the words “probation”, in line 121, the following words:- , community supervision.

SECTION 60. Section 3 of chapter 258B is hereby further amended by inserting after the words “probation”, in line 123, the following words:- the community supervision or community correction officer.

SECTION 61. Section 3 of chapter 258B is hereby further amended by striking out, in line 132, the words "parole eligibility", and inserting in place thereof the following words:- eligibility for release to community supervision.

SECTION 62. Section 3 Chapter 258B is hereby further amended by striking out subsection (t) and inserting in place thereof the following subsection:-

(t) for victims and witnesses, to be informed by the prosecutor about their notification rights and their right to receive criminal offender record information under section 178A of chapter 6, and to receive reasonable advance notice from the department of criminal

justice information systems or the appropriate custodial authority, using the most recent contact information provided by the victim or witness, whenever the defendant receives a temporary, provisional or final release from custody, whenever a defendant is moved from a secure facility to a less-secure facility, including electronic monitoring or remote monitoring, whenever the defendant escapes from custody, and whenever the defendant is placed in the custody of a sheriff, the department of correction, or the department of youth services as a result of a department of re-entry and community supervision surrender hearing.

SECTION 63. Section 9 of chapter 258B of the General Laws, as so appearing, is hereby amended by inserting after the word “programs”, in line 13, the following words:- , the department of re-entry and community supervision.

SECTION 64. Section 12 of chapter 258B of the General Laws, as so appearing, is hereby amended by inserting after the word “clerks”, in line 2, the following words:- , department of re-entry and community supervision officers.

SECTION 65. Section 9 of chapter 258E of the General Laws as added by chapter 23 of the acts of 2010, as so appearing, is hereby amended by striking out the first two paragraphs and inserting in place thereof the following:-

When considering a complaint filed under this chapter, the court shall order a review of the records contained within the court activity record information system and the statewide domestic violence recordkeeping system, as provided in chapter 188 of the acts of 1992 and maintained by the administrative office of the trial court, and shall review the resulting data to determine whether the named defendant has a civil or criminal record involving violent crimes or abuse. Upon receipt of information that an outstanding warrant exists against the named defendant, a judge shall order that the appropriate law enforcement officials be notified and shall order that any information regarding the defendant's most recent whereabouts shall be forwarded to these officials. In all instances in which an outstanding warrant exists, the court shall make a finding, based upon all of the circumstances, as to whether an imminent threat of bodily injury exists to the petitioner. In all instances in which an imminent threat of bodily injury is found to exist, the judge shall notify the appropriate law enforcement officials of this finding and the officials shall take all necessary actions to execute the outstanding warrant as soon as is practicable.

Whenever the court orders that the defendant refrain from harassing the plaintiff or have no contact with the plaintiff under section 3, 5 or 6, the clerk or clerk-magistrate shall transmit: (i) to the administrative office of the trial court information for filing in the court activity record information system or the statewide domestic violence recordkeeping system as provided in said chapter 188 of the acts of 1992 or in a

recordkeeping system created by the administrative office of the trial court to record the issuance of, or violation of, prevention orders issued pursuant to this chapter; and (ii) 2 certified copies of each order and 1 copy of the complaint and summons forthwith to the appropriate law enforcement agency which, unless otherwise ordered by the court, shall serve 1 copy of each order upon the defendant, together with a copy of the complaint and order and summons. The law enforcement agency shall promptly make its return of service to the court. The administrative office of the trial court may develop and implement a statewide harassment prevention order recordkeeping system.

SECTION 66. Chapter 265 of the General Laws is hereby amended by striking out section 45 and inserting in place thereof the following section:-

Section 45. Any person convicted of violating section 13B, 13B1/2, 13F, 13H, 22, 22A, 22B, 23, 23A, 24, 24B or 26 of this chapter or of an attempt to violate any of those sections under section 6 of chapter 274, after 1 or more prior convictions of indecent assault and battery on a child under the age of 14, aggravated indecent assault and battery on a child under 14, indecent assault and battery on a person 14 or older, assault of a child with intent to commit rape, rape of a child with force, aggravated rape of a child with force, rape and abuse of a child, aggravated rape and abuse of a child, rape, aggravated rape, assault with intent to commit rape, unnatural and lascivious acts, drugging for sex, kidnap or of any offense which is the same as or necessarily includes the same elements of the offense shall, in addition to the term of imprisonment authorized by such section, be punished by a term of community supervision for life, to be served under the jurisdiction of the parole board, as set forth in section 13 of chapter 127A. The sentence of community supervision for life shall commence immediately upon the expiration of the term of imprisonment imposed upon the person by the court or upon the person's release from probation supervision or upon discharge from commitment to the treatment center under section 9 of chapter 123A, whichever occurs first.

SECTION 67. Chapter 265 of the General Laws is hereby amended by striking out section 47 and inserting in place thereof the following section:-

Section 47. Any person who is placed on community supervision for any offense listed within the definition of "sex offense", a "sex offense involving a child" or a "sexually violent offense", as defined in section 178C of chapter 6, shall, as a requirement of any term of community supervision, wear a global positioning system device, or any comparable device, administered by the commissioner of re-entry and community supervision, at all times for the length of the community supervision for any the offense. The commissioner of re-entry and community supervision, in addition to any other conditions, shall establish defined geographic exclusion zones including, but not limited to, the areas in and around the victim's residence, place of employment and school and other areas defined to minimize the offender's contact with children, if applicable. If the

offender enters an excluded zone, as defined by the terms of the community supervision, the offender's location data shall be immediately transmitted to the police department in the municipality wherein the violation occurred and the commissioner of re-entry and community supervision, by telephone, electronic beeper, paging device or other appropriate means. If the commissioner or the offender's community supervision or community correction officer has probable cause to believe that the offender has violated this term of the community supervision, the commissioner or the offender's community supervision or community correction officer shall arrest the offender under section 3 of chapter 279. Otherwise, the commissioner shall cause a notice of surrender to be issued to the offender.

SECTION 68. Section 18 of Chapter 275 is hereby repealed.

SECTION 69. Section 30 of chapter 276 of the General Laws, as so appearing, is hereby amended by inserting after the word "probation", in line 9, the following words:-, community supervision or community correction.

SECTION 70. Section 42A of chapter 276 of the General Laws, as so appearing, is hereby amended by inserting after the word "probation", in line 14, the following words:- or community supervision.

SECTION 71. Section 42A of chapter 276 is hereby further amended by inserting after the word "probation", in line 24, the following words:- or community supervision.

SECTION 72. Section 42A of chapter 276 is hereby further amended by inserting after the word "probation", in line 28, the following words:- , community supervision or community correction.

SECTION 73. Section 57 of chapter 276 of the General Laws, as so appearing, is hereby amended by striking out, in line 42, the words "from its probation officer".

SECTION 74. Chapter 276 of the General Laws, as so appearing, is hereby further amended by striking out section 58 and inserting in place thereof the following section:-

Section 58. A justice or a clerk or assistant clerk of the district court, a bail commissioner or master in chancery, in accordance with the applicable provisions of section 57, shall, when a person is held under arrest or committed either with or without a warrant for an offense other than an offense punishable by death, or, upon the motion of the commonwealth, for an offense enumerated in section 58A or for any offense on which a warrant of arrest has been issued by the superior court, hold a hearing in which the defendant and his counsel, if any, may participate and inquire into the case and shall admit the person to bail on his personal recognizance without surety unless the justice, clerk or assistant clerk, bail commissioner or master in chancery determines, in the

exercise of his discretion, that this release will not reasonably assure the appearance of the person before the court. In his determination under this section as to whether release will reasonably assure the appearance of the person before the court, the justice, clerk or assistant clerk, bail commissioner or master in chancery shall, on the basis of any information which he can reasonably obtain, take into account the nature and circumstances of the offense charged, the potential penalty the person faces, the person's family ties, financial resources, employment record and history of mental illness, his reputation and the length of residence in the community, his record of convictions, if any, any illegal drug distribution or present drug dependency, any flight to avoid prosecution or fraudulent use of an alias or false identification, any failure to appear at any court proceeding to answer to an offense, whether the person is on bail pending adjudication of a prior charge, whether the acts alleged involve violation of a temporary or permanent order issued under sections 18 or 34B of chapter 208, section 32 of chapter 209, sections 3, 4 or 5 of chapter 209A sections 15 or 20 of chapter 209C, sections 3,5 or 6 of chapter 258E or abuse as defined in section 1 of chapter 209A, whether the person has any history of orders issued against him under the aforesaid sections, whether he is on probation, parole, community supervision, or other release pending completion of sentence for any conviction, and whether he is on release pending sentence or appeal for any conviction.

The person authorized to admit the person to bail shall provide as an explicit condition of release for any person admitted to bail under this section or section 57 of this chapter that, should the person be charged with a crime during the period of his release, his bail may be revoked in accordance with the third paragraph of this section. If the justice or clerk or assistant clerk of the district court, the bail commissioner or master in chancery determines that a cash bail is required, the person shall be allowed to provide an equivalent amount in a surety company bond. If the justice or clerk or assistant clerk of the district court, the bail commissioner or master in chancery determines it to be necessary, the defendant may be ordered to abide by specified restrictions on personal associations or conduct including, but not limited to, avoiding all contact with an alleged victim of the crime and any potential witness or witnesses who may testify concerning the offense, as a condition of release.

A person, before being released on personal recognizance without surety, shall be informed by the person authorized to admit such person to bail of the penalties provided by section 82A of this chapter if he fails without sufficient excuse to appear at the specified time and place in accordance with the terms of his recognizance. A person authorized to take bail may charge the fees authorized by section 24 of chapter 262, if he goes to the place of detention of the person to make a determination provided for in this section although the person is released on his personal recognizance without surety. The

fees shall not be charged by any clerk or assistant clerk of a district court during regular working hours.

A person aforesaid charged with an offense and not released on his personal recognizance without surety by a clerk or assistant clerk of the district court, a bail commissioner or master in chancery shall forthwith be brought before the next session of the district court for a review of the order to recognize in accordance with the standards set forth in the first paragraph of this section. The court shall provide as an explicit condition of release for any person admitted to bail under this section or section 57 that should the person be charged with a crime during the period of his release, his bail may be revoked in accordance with this paragraph and the court shall enter in writing on the court docket that the person was so informed and the docket shall constitute prima facie evidence that the person was so informed. If a person is on release pending the adjudication of a prior charge, and the court before which the person is charged with committing a subsequent offense after a hearing at which the person shall have the right to be represented by counsel, finds probable cause to believe that the person has committed a crime during the period of release, the court shall then determine, in the exercise of its discretion, whether the release of the person will seriously endanger any person or the community. In making the determination, the court shall consider the gravity, nature and circumstances of the offenses charged, the person's record of convictions, if any, and whether the charges or convictions are for offenses involving the use or threat of physical force or violence against any person, whether the person is on probation, parole, community supervision, or other release pending completion of sentence for any conviction, whether he is on release pending sentence or appeal for any conviction, the person's mental condition, and any illegal drug distribution or present drug dependency. If the court determines that the release of the person will seriously endanger any person or the community and that the detention of the person is necessary to reasonably assure the safety of any person or the community, the court may revoke bail on the prior charge and may order the person held without bail pending the adjudication of the prior charge, for a period not to exceed 60 days. The hearing shall be held upon the person's first appearance before the court before which the person is charged with committing an offense while on release pending adjudication of a prior charge, unless that person, or the attorney for the commonwealth, seeks and the court allows, a continuance because a witness or document is not immediately available. Except for good cause, a continuance on motion of the person shall not exceed 7 days and on motion of the attorney for the commonwealth may not exceed 3 business days. During the continuance, the person may be detained consistent with the provisions of this section. The order shall state in writing the reasons therefore and shall be reviewed by the court upon the acquittal of the person, or the dismissal of, any of the cases involved. A person so held shall be brought to trial as soon as reasonably possible. A person aggrieved by the denial of a district court justice to admit him to bail on his personal recognizance without

surety may petition the superior court for a review of the order of the recognizance and the justice of the district court shall thereupon immediately notify the person of his right to file a petition for review in the superior court. When a petition for review is filed in the district court or with the detaining authority subsequent to petitioner's district court appearance, the clerk of the district court or the detaining authority, as the case may be, shall immediately notify by telephone, the clerk, the juvenile probation officer or community supervision or community correction officer, whichever is applicable, the district attorney for the district in which the district court is located, the prosecuting officer, the petitioner's counsel, if any, and the clerk of courts of the county to which the petition is to be transmitted. The clerk of the district court, upon the filing of a petition for review, either in the district court or with the detaining authority, shall forthwith transmit the petition for review, a copy of the complaint and of the record of the court, including the appearance of the attorney, if any is entered, and a summary of the court's reasons for denying the release of the defendant on his personal recognizance without surety to the superior court for the county in which the district court is located, if a justice thereof is then sitting, or to the superior court of the nearest county in which a justice is then sitting; the clerk of the district court shall transmit forthwith to the clerk of the superior court, copies of all relevant records of the district court pertaining to the petitioner, including the petitioner's record of prior convictions, if any, as currently verified by inquiry of the designated court staff. The district court or the detaining authority, as the case may be, shall cause any petitioner in its custody to be brought before the superior court on the same day the petition shall have been filed, unless the district court or the detaining authority shall determine that such appearance and hearing on the petition cannot practically take place before the adjournment of the sitting of the superior court for that day and in which event, the petitioner shall be caused to be brought before the court for the hearing during the morning of the next business day of the sitting of the superior court. The district court is authorized to order any officer authorized to execute criminal process to transfer the petitioner and any papers herein above described from the district court or the detaining authority to the superior court, and to coordinate the transfer of the petitioner and the papers by such officer. The petition for review shall constitute authority in the person or officer having custody of the petitioner to transport the petitioner to the superior court without the issuance of any writ or other legal process, provided, however, that any district or superior court is authorized to issue a writ of habeas corpus for the appearance forthwith of the petitioner before the superior court.

The superior court shall in accordance with the standards set forth in the first paragraph of this section, hear the petition for review as speedily as practicable and except for unusual circumstances, on the same day the petition is filed; provided, however, that the court may continue the hearing to the next business day if the required records and other necessary information are not available. The justice of the superior court may, after a hearing on the petition for review, order that the petitioner be released on bail on his

personal recognizance without surety, or, in his discretion, to reasonably assure the effective administration of justice, make any other order of bail or recognizance or remand the petitioner in accordance with the terms of the process by which he was ordered committed by the district court.

If a defendant has posted bail in the district court and has subsequently been arraigned in the superior court for the same offense, the superior court clerk shall notify the district court clerk holding the defendant's bail of such arraignment. Upon such notification, the amount of any bail bond posted by a defendant in the district court shall be carried over to a bail bond required by the superior court. The superior court justices' discretion in setting the amount of bail shall not be affected by the provisions of this paragraph.

Except where the defendant has defaulted on his recognizance or has been surrendered by a probation officer, community supervision or community correction officer or designated court staff an order of bail or recognizance shall not be revoked, revised or amended by the district court, because the defendant has been bound over to the superior court; provided, however, that if any court, in its discretion, finds that changed circumstances or other factors not previously known or considered, make the order of bail or recognizance ineffective to reasonably assure the appearance of the defendant before the court, the court may make a further order of bail, either by increasing the amount of the recognizance or requiring sufficient surety or both, which order will not revoke the order of bail or recognizance previously in force and effect. The court may also review such changed circumstances or other factors not previously known or considered in accordance with the third paragraph of this section.

The chief justice of the district court department and the chief justice of the Boston municipal court department shall prescribe forms for use in their respective courts, for the purpose of notifying a defendant of his right to file a petition for review in the superior court, forms for a petition for review and forms for the implementation of any other procedural requirements. The clerk of courts shall forthwith notify the district court of all orders or judgments of the superior court on petitions for review. Costs or expenses of services and transportation under this section shall be ordered paid in the amount determined by the superior court out of the state treasury.

For an offense enumerated in section 58A, and upon the motion of an attorney for the commonwealth for an order of pretrial detention or imposition of conditions of release based on dangerousness, a justice of the district or superior court shall hold a hearing under the provisions of subsection (4) of section 58A and shall admit the person to bail on his personal recognizance without surety or subject to conditions of release unless the justice, determines, in the exercise of his discretion, that this release will endanger the safety of any other person or the community.

SECTION 75. Section 58A of chapter 276 of the General Laws, as so appearing, is hereby amended by striking out subsection (1) and inserting in place thereof the following subsection:- (1) The commonwealth may move, based on dangerousness, for an order of pretrial detention or release on conditions for a felony offense that has as an element of the offense the use, attempted use or threatened use of physical force against the person of another or any other felony that, by its nature, involves a substantial risk that physical force against the person of another may result, including the crimes of burglary and arson whether or not a person has been placed at risk thereof, or a violation of an order under section 18, 34B or 34C of chapter 208, section 32 of chapter 209, section 3, 4 or 5 of chapter 209 A or section 15 or 20 of chapter 209C, sections 3,5 or 6 of chapter 258E or arrested and charged with a misdemeanor or felony involving abuse as defined in section 1 of chapter 209A or while an order of protection issued under chapter 209A was in effect against such person, an offense for which a mandatory minimum term of 3 years or more is prescribed in chapter 94C, arrested and charged with a violation of section 13B of chapter 268 or a third or subsequent conviction for a violation of section 24 of chapter 90, or arrested and charged with a violation of paragraph (a), (c) or (m) of section 10 of chapter 269; provided, however, that the commonwealth may not move for an order of detention under this section based on possession of a large capacity feeding device without simultaneous possession of a large capacity weapon; or arrested and charged with a violation of section 10G of chapter 269.

SECTION 76. Section 58A of chapter 276 of the General Laws, as so appearing, is hereby amended by striking out the first paragraph of subsection (7) and inserting in place thereof the following paragraph:- (7) A person aggrieved by the denial of a district court justice to admit him to bail on his personal recognizance with or without surety may petition the superior court for a review of the order of the recognizance and the justice of the district court shall thereupon immediately notify such person of his right to file a petition for review in the superior court. When a petition for review is filed in the district court or with the detaining authority subsequent to the petitioner's district court appearance, the clerk of the district court or the detaining authority, as the case may be, shall immediately notify by telephone, the clerk of the district court, the district attorney for the district in which the district court is located, the prosecuting officer, the petitioner's counsel, if any, and the clerk of courts of the county to which the petition is to be transmitted. The clerk of the district court, upon the filing of a petition for review, either in the district court or with the detaining authority, shall forthwith transmit the petition for review, a copy of the complaint and the record of the court, including the appearance of the attorney, if any is entered, and a summary of the court's reasons for denying the release of the defendant on his personal recognizance with or without surety to the superior court for the county in which the district court is located, if a justice thereof is then sitting, or to the superior court of the nearest county in which a justice is then sitting. The clerk of the district court shall transmit forthwith to the clerk of the

superior court, copies of all relevant records of the district court pertaining to the petitioner, including the petitioner's record of prior convictions, if any, as currently verified by inquiry of the district court. The district court or the detaining authority, as the case may be, shall cause any petitioner in its custody to be brought before the superior court within 2 business days of the petition having been filed. The district court is authorized to order any officer authorized to execute criminal process to transfer the petitioner and any papers described above from the district court or the detaining authority to the superior court, and to coordinate the transfer of the petitioner and the papers by such officer. The petition for review shall constitute authority in the person or officer having custody of the petitioner to transport the petitioner to the superior court without the issuance of any writ or other legal process; provided, however, that any district or superior court is authorized to issue a writ of habeas corpus for the appearance forthwith of the petitioner before the superior court.

SECTION 77. Section 58B of chapter 276 of the General Laws, as so appearing, is hereby amended by striking out, in line 33, the words "or probation" and inserting in place thereof the following words:- , the probation department in the juvenile or probate court or the department of re-entry and community supervision.

SECTION 78. Sections 83, 96 and 102 of chapter 276 are hereby repealed.

SECTION 79. Chapter 276 of the General Laws, as so appearing, is hereby amended by striking out section 85 and inserting in place thereof the following section:-

Section 85. Each person who receives an appointment as a probation officer shall, within 6 months of the date of his appointment, attend a basic orientation training course conducted by the commissioner of probation under section 99. All probation officers shall attend at least every 3 years an in-service training course under this section. In addition to the other duties imposed upon them, probation officers shall, as the court may direct, inquire into the nature of every juvenile case brought before the court under the appointment of which they act, and inform the court, so far as is possible, of prior delinquency or youthful offender involving the juvenile before the court. Such record of the probation officer shall also be made available to the juvenile and the juvenile's counsel for inspection. The probation officer may recommend that any juvenile found delinquent be placed on probation. Probation officers shall perform such other duties as the court requires. They shall keep full records of all cases investigated by them or placed in their care by the court, and of all duties they perform. Every person released upon probation shall be given by the probation officer a written statement of the terms and conditions of the release.

SECTION 80. Chapter 276 of the General Laws, as so appearing, is hereby amended by striking out section 87 and inserting in place thereof the following section:-

Section 87. The superior, municipal or district court may place on community supervision in the care of the department of re-entry and community supervision any person before it charged with an offense or a crime for such time and upon such conditions as it deems proper, with the defendant's consent, before trial and before a plea of guilty, or in any case after a finding or verdict of guilty; provided, that, in the case of any child under the age of 17 placed upon community supervision by the superior court, the child may be placed in the care of a probation officer of any juvenile court or any juvenile session of the district court, within the judicial district of which the child resides; and provided further, that no person convicted under section 22A or 24B of chapter 265 or section 35A of chapter 272 shall, if it appears that the person has previously been convicted under those sections and was 18 years of age or older at the time of committing the offense for which the person was so convicted, be released on community supervision prior to the completion of 5 years of his sentence. Any juvenile court and any juvenile session of the district or municipal court may place on probation in the care of its probation officer any juvenile before it charged with an offense or a crime for such time and upon such conditions as it deems proper, with the juvenile's consent, before trial and before a plea of guilty, or in any case after a finding or verdict of guilty.

SECTION 81. Chapter 276 of the General Laws, as so appearing, is hereby amended by striking out section 87A and inserting in place thereof the following section:-

Section 87A. The conditions of probation imposed by a court upon a juvenile under section 87 of this chapter, section 58 of chapter 119 or section 1 or 1A of chapter 279, may include, but shall not be limited to, participation by the person in specified rehabilitative programs or performance by the juvenile of specified community service work for a stated period of time.

SECTION 82. Chapter 276 of the General Laws, as so appearing, is hereby amended by striking out section 88 and inserting in place thereof the following section:-

Section 88. Every juvenile court and juvenile session of the district court appointing probation officers may employ the clerical assistance it deems necessary to keep, index and consolidate the records required to be kept by probation officers and for such other work in connection with its probation service as the court may determine. The compensation for this service, together with such other necessary expenses as the court shall incur in connection with such work, shall be paid by the commonwealth upon vouchers approved by the court.

The administrative justices for the district court and juvenile court departments, in consultation with the commissioner of probation, may designate and redesignate such juvenile divisions thereof, including in such term the Boston juvenile court, the Worcester juvenile court, the Bristol county juvenile court and the Springfield juvenile

court, within each of the counties of the commonwealth as in the opinion of the administrative justices should join in the establishment of a probation district office for the clerical service of the probation officers of the divisions thereof so designated or redesignated and the divisions so designated or redesignated shall thereupon consult with the chief administrative justice of the trial court and the commissioner of probation as to the establishment of such a probation district office, and shall join in the employment of the clerical assistance that is necessary to keep, index and consolidate the records in the form that may be required by the commissioner of probation in connection with the probation service of the courts. The compensation for this service, together with other necessary expenses that the courts shall incur in connection with this work, shall be paid by the commonwealth upon vouchers approved by 1 of the justices of the courts, designated by the administrative justices.

SECTION 83. Section 89 of chapter 276 of the General Laws, as so appearing, is hereby amended by striking out, in line 1, the words “The superior court or the justice of a district court”, and inserting in place thereof the following words:- The juvenile court and the justice of a juvenile session of the district court.

SECTION 84. Section 89 of chapter 276 is hereby further amended by striking out, in line 31, the words “The justice of a district court”, and inserting in place thereof the following words:- The justice of a juvenile court and the justice of a juvenile session of the district court.

SECTION 85. Section 90 of chapter 276 of the General Laws, as so appearing, is hereby amended by striking out, in lines 4-5, the words “, and if appointed by the superior court may, by its direction, act in any part of the commonwealth”.

SECTION 86. Section 92 of chapter 276 of the General Laws, as so appearing, is hereby amended by striking out, in line 1, the word “person”, and inserting in place thereof the following word:- juvenile.

SECTION 87. Section 93 of chapter 276 of the General Laws, as so appearing, is hereby amended by striking out, in lines 2-3, the words “probation officer under order of the court by which he is appointed”, and inserting in place thereof the following words:- probation officer under order of the juvenile or probate court by which the officer is appointed, or community supervision or community correction officer.

SECTION 88. Chapter 276 is hereby amended by striking out section 94 and inserting in place thereof the following section:-

Section 94. The reasonable expenses, including supplies and equipment, incurred by probation officers of the probate court in the performance of their duties shall be approved and apportioned by the court, and paid by the commonwealth. Reasonable

expenses shall include the traveling expenses necessarily incurred by a probation officer in connection with attendance at sessions of the court outside of the town in which the principal office of the probation officer is maintained, these expenses to be computed from and to the town. Money to be used for the necessary expenses to be incurred by a probation officer in going outside the commonwealth for the purpose of bringing back for surrender to the court a person who is on probation shall be advanced by the treasurer of the commonwealth, upon presentation of a certificate signed by the probation officer and approved by the court. After his return the probation officer shall account for this money by filing with the state treasurer itemized vouchers, duly sworn to, approved by the court, setting forth the necessary expenses so incurred and any unexpended balance of this money shall be paid to the state treasurer. Subject to section 81 of chapter 218, probation officers of juvenile courts or the juvenile sessions of the district courts shall be reimbursed by the commonwealth for their actual disbursements for necessary expenses incurred while in the performance of their duties, including their reasonable traveling expenses in attending conferences authorized by section 99 of this chapter, not exceeding \$400 to each in any 1 year, upon vouchers approved by the court by which they are appointed.

SECTION 89. Chapter 276 is hereby amended by striking out section 95 and inserting in place thereof the following section:-

Section 95. The superior courts or the Boston, Springfield, Bristol county and Worcester juvenile courts or a district court may authorize a community supervision, community correction or probation officer to expend such amount as the court considers expedient for the temporary support or transportation, or both, of a person placed on community supervision or probation. A record of any amount so authorized shall be entered on the clerk's docket of the case.

SECTION 90. Section 97 of chapter 276 of the General Laws, as so appearing, is hereby amended by inserting after the words "a probation officer", in line 2, the following words:- of the juvenile or probate court or a community supervision or community correction officer.

SECTION 91. Section 99 of chapter 276 of the General Laws, as so appearing, is hereby amended by striking out, in line 2, the words "in all of the courts", and inserting in place thereof the following words:- in all of the probate courts, juvenile courts and juvenile sessions of the district courts.

SECTION 92. Section 99B of chapter 276 of the General Laws, as so appearing, is hereby amended by striking out, in line 1, the words "in those courts or regions", and inserting in place thereof the following words:- in those probate courts, juvenile courts or juvenile sessions of the district courts.

SECTION 93. Section 99E of chapter 276, of the General Laws, as so appearing, is hereby amended by striking out, in lines 5, 9 and 10, the words, “The commissioner of probation”, and inserting in place thereof the following words:- The administrative office of the trial court.

SECTION 94. Chapter 276 is hereby amended by striking out section 100 and inserting in place thereof the following section:-

Section 100. Every probation officer, or the chief or senior probation officer of a court having more than 1 probation officer, shall transmit to the commissioner of probation, in such form and at such times as he shall require, detailed reports regarding the work of probation in the probate court, juvenile courts, and juvenile sessions of the district court; and under the direction of the commissioner a record shall be kept of all such cases as the commissioner may require for the information of the justices and probation officers. Police officials shall co-operate with the commissioner and the probation officers in obtaining and reporting information concerning persons supervised by the office of the commissioner of probation. The information so obtained and recorded shall not be regarded as a public record and shall not be open for public inspection but shall be accessible to the justices and probation officers of the courts, to the police commissioner for the city of Boston, to all chiefs of police and city marshals, and to such departments of the state and local governments as the commissioner may determine appropriate. Upon payment of a fee of \$3.00 for each search, such records shall be accessible to such departments of the federal government and to such educational and charitable corporations and institutions as the commissioner may determine appropriate. The department of youth services shall at all times give to the commissioner and the probation officers such information as may be obtained from the records concerning persons committed to the department of youth services or who have been released. The commissioner may use systems operated by the department of criminal justice information services under sections 167 to 178, inclusive, of chapter 6, for any record-keeping lawfully required by him provided that such records remain subject to the regulations of the board.

SECTION 95. All criminal or juvenile delinquency records maintained by the office of the commissioner of probation as of the effective date of this section, including the statewide domestic violence record keeping system established in section 7 of chapter 188 of the acts of 1992, are hereby transferred to the administrative office of the trial court to own, administer, operate and control.

SECTION 96. Section 101A of chapter 276 of the General Laws, as so appearing, is hereby amended by striking, in lines 2-3, the words, “district courts”, and inserting in place thereof the following words:- probate courts, juvenile courts and juvenile sessions of the district court.

SECTION 97. Section 101A of chapter 276 of the General Laws, as so appearing, is hereby further amended by striking out in line 7, the words “district and”, and inserting in place thereof the following words:- probate or.

SECTION 98. Chapter 276A of the General Laws, as so appearing, is hereby amended by striking out section 1 and inserting in place thereof the following section:-

Section 1. The following words, as used in this chapter, unless the context otherwise requires, shall have the following meanings:

“Assessment”, a thorough and complete measurement of the needs of an individual in, but not limited to, the following areas: education, vocational training, job placement, mental and physical health, family and social services, and an analysis of a defendant’s commitment to participate in a program of community supervision and services.

“Commissioner”, the commissioner of re-entry and community supervision.

“Director”, the person in charge of the operation of a program of community supervision and services.

“Pretrial diversion designee”, a community supervision officer of the department of re-entry and community supervision designated by the commissioner of the community supervision to assist the superior, municipal, or district court to screen defendants who may be eligible for diversion.

“Plan of service”, a comprehensive and cohesive set of recommended programs and specific services to meet the needs of individuals as determined through assessment.

“Program”, any program of community supervision and services certified or approved by the commissioner under the provisions of section 8, including, but not limited to, medical, educational, vocational, social and psychological services, corrective and preventive guidance, training, performance of community service work, counseling, provision for residence in a halfway house or other suitable place, and other rehabilitative services designed to protect the public and benefit the individual.

SECTION 99. Section 3 of chapter 276A of the General Laws, as so appearing, is hereby amended by striking out, in lines 1-2, the words “probation officers of a district or municipal court, or their official designee”, and inserting in place thereof the following words:- pretrial diversion designee.

SECTION 100. Section 3 of chapter 276A is hereby further amended by striking out, in lines 14-15, the words “probation office or its official designee”, and inserting in place thereof the following words:- pretrial diversion designee.

SECTION 101. Section 9 of chapter 276A of the General Laws, as so appearing, is hereby amended by inserting after the word “be”, in line 3, the following words:- the secretary of public safety and security, .

SECTION 102. Chapter 279 of the General Laws, as so appearing, is hereby amended by striking out section 1 and inserting in place thereof the following section:-

Section 1. When a person convicted before a court is sentenced to imprisonment, the court may direct that the execution of the sentence, or any part thereof, be suspended and that the person be placed on community supervision for such time and on such terms and conditions as it shall fix. When a person so convicted is sentenced to pay a fine and to stand committed until it is paid, the court may direct that the execution of the sentence, or any part thereof, be suspended for such time as it shall fix and in its discretion that the person be placed on community supervision on condition that the person pay the fine within such time. If the fine does not exceed \$200 and the court finds that the defendant is unable to pay it when imposed, the execution of the sentence shall be suspended and the defendant may, in the court’s discretion be placed on community supervision, unless the court shall find that he will probably default, or that such suspension will be detrimental to the interests of the public. If the defendant is committed for nonpayment of a fine, the order of commitment shall contain a recital of the findings of the court on which suspension is refused. The fine shall be paid in 1 payment, or in part payments, to the clerk’s office, and when fully paid the order of commitment shall be void. The clerk of the court shall give a receipt for every payment so made, shall keep a record of the same, shall pay the fine, or all sums received in part payment thereof, to the sheriff if such fine is imposed in the superior court, or remain with the clerk of the court if such fine is imposed in the district court, at the end of the period of community supervision or any extension thereof, and shall keep on file the sheriff’s or clerk’s receipt therefor. If during or at the end of the period the clerk of the court shall report that the fine is in whole or in part unpaid, and in his opinion the person is unwilling or unable to pay it, the court may either extend the period, place the case on file or revoke the suspension of the execution of the sentence. When such suspension is revoked, in a case where the fine has been paid in part, the defendant may be committed for default in payment of the balance.

The provisions of this section shall not permit the suspension of the execution of the sentence of a person convicted of a crime punishable by death or imprisonment for life. In granting community supervision under this section, the court shall include in its terms and conditions of community supervision that the person convicted shall pay any child support due under a support order, as defined in section 1A of chapter 119A, including payment toward any arrearage of support that accrues or has accrued or compliance with any payment plan between the person convicted and the IV-D agency as set forth in chapter 119A.

When a person is sentenced by a court upon conviction of any crime, the person shall be informed by the clerk of the court on a form provided by the department of criminal justice information services that the person will have a criminal record that may be accessible to the public under certain conditions, and of his rights pertaining thereto, as provided in sections 167 through 178 of chapter 6.

SECTION 103. Chapter 279 of the General Laws, as so appearing, is hereby amended by striking out section 1A and inserting in place thereof the following section:-

Section 1A. When a person convicted before a court is sentenced to fine and imprisonment, the court may direct that the execution of the sentence, or any part thereof, be suspended, and that he be placed on community supervision for such time and on such terms and conditions as it shall fix. The court may direct, as 1 of such terms and conditions, that payment of the fine shall be made to the clerk of the court in 1 payment, or in part payments, during the period of community supervision or any extension thereof, and when such fine shall have been fully paid the order of commitment as to the fine shall be void, but the order of commitment as to imprisonment shall not be affected by such payment. The clerk of the court shall record a receipt for every payment so made, shall keep a record of the same, shall pay the fine, or all sums received in part payment thereof, to the clerk of the court at the end of the period of community supervision or any extension thereof, and shall keep on file the clerk's receipt therefor. If during or at the end of the period the clerk of the court shall report that the fine is in whole or in part unpaid, and in the clerk's opinion the person is unwilling or unable to pay it, the court may either extend the period, place the case on file or revoke the suspension of the execution of the sentence. When such suspension is revoked, in a case where the fine has been paid in part, the defendant may be committed for default in payment of the balance, and may also be committed for the term of imprisonment fixed in the original sentence. This section shall not permit the suspension of the execution of the sentence of any person convicted of a crime punishable by imprisonment for life or of a crime an element of which is being armed with a dangerous weapon, or of any person convicted of any other felony if it shall appear that the person has been previously convicted of any felony. In granting community supervision under this section, the court shall include in its terms and conditions of community supervision that the person convicted shall pay any child support due under a support order, as defined in section 1A of chapter 119A, including payment toward any arrearage of support that accrues or has accrued or compliance with any payment plan between the person convicted and the IV-D agency as set forth in chapter 119A.

SECTION 104. Chapter 279 of the General Laws, as so appearing, is hereby amended by striking out section 3 and inserting in place thereof the following section:-

Section 3. At any time before final disposition of the case of a person placed under probation or community supervision or in the custody or care of a probation, community supervision or community correction officer, the officer may arrest the person without a warrant and take him before the court, or the court may issue a warrant for his arrest. When taken before the court, it may, if no sentence has been ordered, sentence the person or make any other lawful disposition of the case, and if the person has been sentenced, it may continue the suspension of the sentence with or without extending the term or modifying the conditions of community supervision or it may revoke the suspension of the execution of the sentence and impose all or any portion of the sentence; provided however, that in all cases where the person subject to the surrender is served with notice of surrender and at least 1 of the underlying crimes for which he is on probation or community supervision is a felony, then the probation, community supervision or community correction officer shall provide a duplicate copy of the notice of surrender to the district attorney and any certified victim, and the court shall provide to the district attorney the opportunity to be heard and present evidence at the surrender hearing. If a warrant has been issued by the court for the arrest of such a person and the person is a prisoner in any correctional institution, jail or house of correction, the commissioner of correction, the sheriff, master or keeper of the house of correction, or in Suffolk county, the penal institutions commissioner of the city of Boston, as the case may be, having supervision or control of such prisoner, upon receiving notice of such warrant, shall notify such prisoner of the right to apply to the court for prompt disposition thereof. This application shall be in writing and given or sent by the prisoner to the commissioner of correction, or the sheriff, master, keeper, or penal institutions commissioner, who shall promptly forward it to the court from which the warrant issued, by certified mail, together with a certificate of the commissioner of correction, sheriff, master, keeper, or penal institutions commissioner, stating: (a) the term of commitment under which the prisoner is being held, (b) the amount of time served, (c) the amount of time remaining to be served, (d) the amount of good time earned, (e) the time of eligibility for release to community supervision of the prisoner, and (f) any decisions of the board of parole relating to the prisoner. The commissioner of correction, sheriff, master, keeper, or penal institutions commissioner shall notify the appropriate district attorney by certified mail of such application to the court. Any such prisoner shall, within 6 months after such application is received by the court, be brought into court for sentencing or other lawful disposition of his case as provided above.

In no case where a provision of this chapter provides for a finding, disposition or other order to be made by the court, or for a warrant to be issued, shall such be made or issued by any person other than a justice, special justice or other person exercising the powers of a magistrate.

Notwithstanding any restriction in the preceding paragraph, if a probation, community supervision or community correction officer has probable cause to believe that a person placed under probation or community supervision or in the custody or care of a probation, community supervision or community correction officer under sections 42A, 58A or 87 of chapter 276 or any other statute that allows the court to set conditions of release, has violated the conditions set by the court, the probation, community supervision or community correction officer may arrest the person or may issue a warrant for the temporary custody of the person for a period not to exceed 72 hours or until the next sitting of the court, during which period the probation, community supervision or community correction officer shall arrange for the appearance of the person before the court under the first paragraph of this section. This warrant shall constitute sufficient authority to a probation or community service officer and to the superintendent, jailer, or any other person in charge of any jail, house of correction, lockup, or place of detention to whom it is exhibited, to hold in temporary custody the person detained pursuant thereto.

SECTION 105. Notwithstanding any general or special law to the contrary, chapter 127C of the General Laws shall apply to any felony, as defined in section 1 of chapter 274, committed on or after the effective date of this section. The commissioner of the department of re-entry and community supervision shall, no later than 2 years and 3 months from the effective date of this act, report to the governor, the joint committees on criminal justice and public safety, and the clerks of the house of representatives and the senate on the cases supervised by the department under the provisions of chapter 127C during the first 2 years and shall recommend whether chapter 127C should be extended to persons sentenced to a term of imprisonment on misdemeanor charges.

SECTION 106. (a) Notwithstanding any general or special law to the contrary, this section shall facilitate the orderly transfer to the department of re-entry and community supervision established by this act of certain employees, proceedings, rules and regulations, property and legal obligations of the office of the commissioner of probation, including any department, division or unit thereof.

(b) The duties and functions of the office of the commissioner of probation that relate to the administration, evaluation, implementation and enforcement of probation supervision of all adult probationers in criminal cases, including, but not limited to, persons placed on probation by the superior, municipal or district court under section 87 of chapter 276, section 2 of chapter 276A, sections 1, 1A, 5, 8 and 8A of chapter 279, and any other court order or sentence to a term of probation, and all associated employees, proceedings, rules and regulations and property, shall be transferred to the department of re-entry and community supervision 120 days from the effective date of this act. The duties and functions of the office of the commissioner of probation that relate to juvenile and family and probate court matters, and all associated employees, proceedings, rules

and regulations and property, shall remain with the office of the commissioner of probation.

(c) The office of the commissioner of probation, the administrative office of the trial court and the executive office of public safety and security shall develop and implement a transfer plan providing for the orderly transfer and appointment to the department of re-entry and community supervision of personnel, assets, rights, powers and duties of the office of the commissioner of probation as set forth in this section and consistent with the purposes of this act.

To assist in the development of the transfer plan, the office of the commissioner of probation, in consultation with the administrative office of the trial court, shall prepare a detailed inventory and report of information to be specified by the secretary of public safety and security in writing no later than 10 days after the effective date of this act regarding the assets and factors involved in its operations including but not limited to: (i) an accounting of its budgetary, fiscal, personnel, functional and operational organization, (ii) caseloads including, but not limited to, the numbers, types, supervision levels, violations and services provided; (iii) all real property owned, leased or occupied by the office of the commissioner of probation; (iv) all information technology systems or assets owned, leased or used, including a description of each system in sufficient detail to permit the identification of redundancies among such systems; and (v) equipment and personal property used by the office of the commissioner of probation. The inventory and report shall be delivered to the secretary of public safety and security and the clerks of the house and senate no later than 40 days after the effective date of this act. The office of the commissioner of probation shall thereafter promptly provide the secretary with any other additional information that the secretary may request.

The secretary of public safety and security, in consultation with the administrative office of the trial court and the office of the commissioner of probation, shall determine the arrangements necessary to ensure the efficient transfer to, and assumption by, the department of re-entry and community supervision of the office of the commissioner of probation's functions, assets, and obligations as set forth in this section and consistent with the purposes of this act not later than 90 days after the effective date. The secretary of public safety and security, the secretary of administration and finance and the comptroller shall have the power and authority to take any actions, including, but not limited to, establishing rules, regulations and policies, to efficiently and effectively complete the transfer consistent with the purposes of this section and this act.

(d) Notwithstanding any general or special law to the contrary, as necessary to implement this section and the transfer plan established by the secretary of public safety and security, on the effective date of the transfer: (i) ownership, possession and control of all personal property, including, but without limitation, all equipment, investigations,

books, papers, records, documents of whatever description pertaining to the use, operation and general affairs of the office of the commissioner of probation in the possession of the office of the commissioner of probation or any department, division, unit, officer or employee thereof shall pass to, and be vested in, the department of re-entry and community supervision without consideration or further evidence of transfer and shall thereafter be in the possession and control of the department; (ii) ownership, possession and control of all real property, including, without limitation, all land, facilities, or other property of whatever description owned or leased by the office of the commissioner of probation, including all such property held in trust, shall pass to and be vested in the department of re-entry and community supervision without consideration or further evidence of transfer and shall thereafter be a part of the department of re-entry and community supervision; (iii) all duly existing contracts, leases, or obligations of the office of the commissioner of probation, shall be deemed to be the obligations of the department; (iv) ownership, possession and control of all proceedings, including, without limitation all petitions, requests, investigations, matters under probation supervision and other proceedings duly begun by the office of the commissioner of probation or any department, division or unit thereof shall continue unabated and remain in force but shall be assumed and completed by the department without consideration or further evidence of transfer and shall thereafter be a part of the department; (v) all orders, rules and regulations duly promulgated, or any license, permit, certificate or approval duly granted by or on behalf of the office of the commissioner of probation that are in force immediately before the effective date of the transfer shall continue in force and shall thereafter be enforced, until superseded, revised, rescinded or canceled, in accordance with law, by the department of re-entry and community supervision; and (vi) the administration, evaluation, implementation and enforcement of probation supervision of all adult probationers in criminal cases, including, but not limited to, persons placed on probation by the superior, municipal or district court under section 87 of chapter 276, section 2 of chapter 276A, sections 1, 1A, 5, 8 and 8A of chapter 279 and any other court order or sentence to a term of probation shall continue unabated and remain in full force and be assumed and completed by the department of re-entry and community supervision. No existing right or remedy under this section shall be lost, impaired or affected by this act. The department of re-entry and community supervision shall have authority to exercise all rights and enjoy all interests conferred upon the office of the commissioner of probation by the contracts, leases or other rights the department of re-entry and community supervision assumes by operation of this act.

(e) The transfer of the assets and obligations of the office of the commissioner of probation to the department of re-entry and community supervision under this act shall bind all persons with or without notice and without any further action or documentation. Without derogating from the foregoing, the department of re-entry and community supervision may, from time to time, execute and record and file for registration with any

registry of deeds or the land court or with the secretary of the commonwealth, as appropriate, a certificate confirming its ownership of any interest in real or personal property formerly held by the office of the commissioner of probation and transferred under this act.

(f) This act shall not limit or impair the rights, remedies, or defenses of the office of the commissioner of probation or the department of re-entry and community supervision in or to any action including, without limitation, actions under chapter 258 of the General Laws. Actions and proceedings against or on behalf of the office of the commissioner of probation shall continue unabated and from and after the date of transfer and may be completed against or by the office of the commissioner of probation. The department of re-entry and community supervision shall cooperate with the office of the commissioner of probation in the prosecution or defense of any such actions or proceedings.

(g) Notwithstanding any other provision of this act or any other general or special law to the contrary, all amounts of any kind received by the office of the commissioner of probation derived from, or related to, any fees in connection with the administration and enforcement of probation supervision of adult persons placed on probation by the superior, municipal or district court shall be transferred and paid over to, the general fund when received.

(h) Notwithstanding any general or special law to the contrary, any uncommitted and unexpended funds and authorizations, which have been appropriated from time to time to the office of the commissioner of probation or any department, division or unit thereof, including but not limited to, funds, federal grants funds, trust funds, cash or other property of whatever description, including all such property held in trust, shall be transferred to the department of re-entry and community supervision for use by the department without further appropriation for the purposes of this act.

(i) Notwithstanding any general or special law to the contrary, as of the effective date of the transfer any reference in the General Laws to the office of the commission of probation, including any department, division or unit thereof in its capacity to own, administer, operate or control criminal or juvenile delinquency records, including the statewide domestic violence record keeping system established in section 7 of chapter 188 of the acts of 1992, shall be deemed to refer to the administrative office of the trial court.

SECTION 107. (a) Notwithstanding any general or special law to the contrary, this section shall facilitate the orderly transfer of the employees, proceedings, rules and regulations, property and legal obligations of office of community corrections to the department of re-entry and community supervision established by this act.

(b) Notwithstanding any general or special law to the contrary, 120 days from the effective date of this act: (i) ownership, possession and control of all personal property, including, but without limitation, all equipment, investigations, books, papers, records, documents of whatever description pertaining to the use, operation and general affairs of the office of community corrections in the possession of the office of community corrections or any division, unit, officer or employee thereof shall pass to, and be vested in, the department of re-entry and community supervision without consideration or further evidence of transfer and shall thereafter be in the possession and control of the department; (ii) ownership, possession and control of all real property, including, without limitation, all land, facilities, or other property of whatever description owned or leased by the office of community corrections, including all such property held in trust, thereof shall pass to and be vested in the department of re-entry and community supervision without consideration or further evidence of transfer and shall thereafter be a part of the department; (iii) all duly existing contracts, leases, or obligations of the office of the commissioner of correction, shall be deemed to be the obligations of the department; (iv) ownership, possession and control of all proceedings, including, without limitation all petitions, requests, investigations, and other proceedings duly begun by the office of community corrections or any division or unit thereof shall continue unabated and remain in force but shall be assumed and completed by the department without consideration or further evidence of transfer and shall thereafter be a part of the department; and (v) all orders, rules and regulations duly promulgated, or any license, permit, certificate or approval duly granted by or on behalf of the office of community corrections that are in force immediately before the effective date of the transfer shall continue in force and shall thereafter be enforced, until superseded, revised, rescinded or canceled, in accordance with law, by the department of re-entry and community supervision. No existing right or remedy under this section shall be lost, impaired or affected by this act. The department of re-entry and community supervision shall have authority to exercise all rights and enjoy all interests conferred upon the office of community corrections by the contracts, leases or other rights the department of re-entry and community supervision assumes by operation of this act.

(c) The transfer of the assets and obligations of the office of community corrections to the department of re-entry and community supervision under this act shall bind all persons with or without notice and without any further action or documentation. Without derogating from the foregoing, the department of re-entry and community supervision may, from time to time, execute and record and file for registration with any registry of deeds or the land court or with the secretary of the commonwealth, as appropriate, a certificate confirming the its ownership of any interest in real or personal property formerly held by the office of community corrections.

(d) This act shall not limit or impair the rights, remedies, or defenses of the office of the commissioner of probation or the department of re-entry and community supervision in or to any action including, without limitation, actions under chapter 258 of the General Laws. Actions and proceedings against or on behalf of the office of community corrections shall continue unabated and from and after the date of transfer and may be completed against or by the department of re-entry and community supervision.

(e) Notwithstanding any other provision of this act or any other general or special law to the contrary, all amounts of any kind received by the office of the commissioner of probation derived from, or related to, any fees in connection with the administration and enforcement of probation supervision shall be transferred and paid over to, the general fund when received.

(f) Notwithstanding any general or special law to the contrary, any uncommitted and unexpended funds and authorizations, which have been appropriated from time to time to the office of community corrections or any division or unit, including but not limited to, funds, federal grants funds, trust funds, cash or other property of whatever description, including all such property held in trust, shall be transferred to the department of re-entry and community supervision for use by the department or any of its divisions without further appropriation for the purposes of this act.

SECTION 108. The terms and conditions of any collective bargaining agreement that is in effect upon the transfer to the department of re-entry and community supervision of the employees, proceedings, rules and regulations, property and legal obligations of the office of the commissioner of probation as set forth in section 106 and the office of community corrections as set forth in section 107 shall continue in effect until the stated expiration date of such agreement, at which point the agreement shall expire. Notwithstanding the provisions of any general or special law to the contrary, upon the effective date of this act, the office of the commissioner of probation and the office of community corrections shall not engage in negotiations for future collective bargaining agreements with regard to the transferred employees.

The personnel administrator of the commonwealth, in consultation with the secretary of public safety and security or the secretary's designee shall complete a study of job titles in the former office of the commissioner of probation, including any department, division or unit thereof, and office of community corrections. The personnel administrator, in consultation with the secretary of public safety and security or the secretary's designee shall determine the appropriate commonwealth job titles for former employees of the office of the commissioner of probation and the office of community corrections transferred to the department of re-entry and community supervision. Employees transferred to the department of re-entry and community supervision under sections 106

and 107 of this act shall be placed in job titles as determined by the personnel administrator.

The job titles, as determined by the personnel administrator, of the employees who formerly held probation officer titles will be placed in newly formed statewide bargaining unit 5B upon transfer. All other transferred employees will be placed in the current statewide bargaining units consistent with their commonwealth job title and shall be paid wages and receive benefits consistent with the collective bargaining agreements covering such titles. All such transferred employees shall continue to retain their right to collectively bargain pursuant to chapter 150E of the General Laws and shall be considered employees for the purposes of said chapter 150E.

Employees not transferred to the department of re-entry and community supervision and not retained by the office of the commissioner of probation shall be released pursuant to the provisions of any applicable collective bargaining agreement or office of the commissioner of probation's policy in place upon the effective date of this act.

Employees holding job titles represented by bargaining unit 5B will maintain their status in Group 2 as defined by section 3 of chapter 32 of the General Laws.

SECTION 109. The appointment of employees of the department of re-entry and community supervision holding a title represented by bargaining unit 5B shall be made by a merit hiring system and such appointees shall not be subject to or afforded any benefits pursuant to chapter 31. However, the classification of such positions shall be subject to the provisions of section 45 of chapter 30.

Each appointment to the job titles represented by bargaining unit 5B shall be made from a list established as the result of a competitive examination conducted under the direction of the personnel administrator, after consultation with the commissioner of re-entry and community supervision, who shall determine their form, method and subject matter. Each such competitive examination shall fairly test the knowledge, skills, and abilities which can be fairly and reliably measured and which are actually required to perform the primary or dominant duties of the position.

The names of persons who pass such examinations for initial appointment to a job title represented by bargaining unit 5B shall be placed on an eligible list in the order of their respective scores; provided, however, that veterans shall receive 2 additional points to their score on the examination for the purpose of such eligible list. The commissioner of re-entry and community supervision shall prepare a notice for all examinations, and shall cause notice to be given to all current members of bargaining unit 5B no later than 30 days prior to the final date for filing of applications. No such examination shall be held less than 30 days after the final date for filing of applications for such examination.

Any initial appointment to a job title represented by bargaining unit 5B shall be made from the first 3 names on the eligible list that are eligible for appointment and are willing to accept such appointment.

The commissioner may assign or transfer any employee as the commissioner may deem necessary for the operation of the department.

SECTION 110. The chief justice of administration and management or the chief justice's designee and the commissioner of the department of capital asset management or the commissioner's designee, in consultation and cooperation with the secretary of public safety and security or the secretary's designee, shall develop and implement a plan to assign use, occupancy, custody and control of the office space in state-owned or leased buildings necessary to meet the programmatic needs of the department of re-entry and community supervision to participate in the court process in all relevant matters under this act. The plan shall ensure that the department of re-entry and community supervision retains use and occupancy of any office space previously used by the office of the commissioner of probation for the purpose of evaluation, administration, implementation or enforcement of probation supervision of adult persons placed on probation by the superior, municipal or district court, unless and until an equally suitable space is made available. Such plan shall be filed with the secretary of administration and finance no later than 120 days after the effective date of this act.

SECTION 111. (a) Notwithstanding any general or special law to the contrary, this section shall facilitate the orderly transfer to the department of re-entry and community supervision of certain employees, proceedings, rules and regulations, property and legal obligations of the parole board, including any division or unit thereof.

(b) The duties and functions of the parole board that relate to the administration, evaluation, implementation and enforcement of parole supervision of all prisoners released to parole permits granted by the parole board, pardoned by the governor and released to conditions of parole, or sentenced to lifetime parole, and all associated employees, proceedings, rules and regulations and property, shall be transferred to the department of re-entry and community supervision 120 days from the effective date of this act. The duties and functions of the office of the parole board that relate to granting and revoking parole permits, and all associated employees, proceedings, rules and regulations and property, shall remain with the parole board.

(c) The chair of the parole board and the executive office of public safety and security shall develop and implement a transfer plan providing for the orderly transfer and appointment to the department of personnel assets, rights, powers and duties of the office of the parole board as set forth in this section and consistent with the purposes of this act.

To assist in the development of the plan the chair of the parole board shall prepare a detailed inventory and report of information to be specified by the secretary of public safety and security in writing no later than 10 days after the effective date of this act regarding the assets and factors involved its operations including but not limited to: (i) an accounting of its budgetary, fiscal, personnel, functional and operational organization, (ii) caseloads including, but not limited to, the numbers, types, supervision levels, violations and services provided; (iii) all real property owned, leased, used or occupied by the parole board; (iv) all information technology systems or assets owned, leased or used including a description of each system in sufficient detail to permit the identification of redundancies among such systems; and (v) equipment and personal property used by the parole board. The inventory and report shall be delivered to the secretary of public safety and security and the clerks of the house and senate no later than 30 days after the effective date of this act. The chair of the parole board shall thereafter promptly provide the secretary with any other additional information that the secretary may request.

The secretary of public safety and security, in consultation with the chair of the parole board, shall determine the arrangements as may be necessary to ensure the efficient transfer to, and assumption by, the department of re-entry and community supervision of the parole board's functions, assets, and obligations as set forth in this section and consistent with the purposes of this act not later than 90 days after the effective date. The secretary of public safety and security, the secretary of administration and finance and the comptroller shall have the power and authority to take any actions, including, but not limited to, establishing rules, regulations and policies, to efficiently and effectively complete the transfer consistent with to promulgate rules and regulations as deemed necessary to effectuate the purposes of this section and this act.

(d) Notwithstanding any general or special law to the contrary, as necessary to implement this section and the transfer plan established by the secretary of public safety and security, as of the effective date of the transfer: (i) ownership, possession and control of all personal property, including, but without limitation, all equipment, investigations, books, papers, records, documents of whatever description pertaining to the use, operation and general affairs of the parole board in the possession of the parole board or any division, unit, officer or employee thereof shall pass to, and be vested in, the department of re-entry and community supervision without consideration or further evidence of transfer and shall thereafter be in the possession and control of the department; (ii) ownership, possession and control of all real property, including, without limitation, all land, facilities, or other property of whatever description owned or leased by the parole board, including all such property held in trust, shall pass to and be vested in the department of re-entry and community supervision without consideration or further evidence of transfer and shall thereafter be a part of the department; (iii) all duly existing contracts, leases, or obligations of the parole board, shall be deemed to be the

obligations of the department; (iv) ownership, possession and control of all proceedings, including, without limitation all petitions, requests, investigations, matters under parole supervision and other proceedings duly begun by the parole board or any division or unit thereof shall continue unabated and remain in force but shall be assumed and completed by the department without consideration or further evidence of transfer and shall thereafter be a part of the department; (v) all orders, rules and regulations duly promulgated, or any license, permit, certificate or approval duly granted by or on behalf of the parole board that are in force immediately before the effective date of the transfer shall continue in force and shall thereafter be enforced, until superseded, revised, rescinded or canceled, in accordance with law, by the department of re-entry and community supervision; and (vi) the administration, evaluation, implementation and enforcement of parole supervision of all prisoners released to parole permits granted by the parole board, pardoned by the governor and released to conditions of parole, or sentenced to lifetime parole, shall continue unabated and remain in full force and be assumed and completed by the department of re-entry and community supervision. No existing right or remedy under this section shall be lost, impaired or affected by this act. The department of re-entry and community supervision shall have authority to exercise all rights and enjoy all interests conferred upon the parole board by the contracts, leases or other rights the department of re-entry and community supervision assumes by operation of this act.

(e) The transfer of the assets and obligations of the parole board to the department of re-entry and community supervision under this act shall bind all persons with or without notice and without any further action or documentation. Without derogating from the foregoing, the department of re-entry and community supervision may, from time to time, execute and record and file for registration with any registry of deeds or the land court or with the secretary of the commonwealth, as appropriate, a certificate confirming the its ownership of any interest in real or personal property formerly held by the parole board and transferred under this act.

(f) This act shall not limit or impair the rights, remedies, or defenses of the parole board or the department of re-entry and community supervision in or to any action including, without limitation, actions under chapter 258 of the General Laws. Actions and proceedings against or on behalf of the parole board shall continue unabated and from and after the date of transfer and may be completed against or by the parole board. The department of re-entry and community supervision shall cooperate with the parole board in the prosecution or defense of any such actions or proceedings.

(g) Notwithstanding any other provision of this act or any other general or special law to the contrary, all amounts of any kind received by the parole board derived from, or related to, any fees in connection with the administration and enforcement of parole supervision of prisoners released to parole permits granted by the parole board, prisoners

pardoned by the governor and released to conditions of parole, or sentenced to lifetime parole shall be transferred and paid over to, the general fund when received.

SECTION 112. Subject to appropriation, to the extent that the employees of the parole board are transferred to the department of re-entry and community supervision established by this act, including those who immediately before the effective date of their transfer hold permanent appointment in positions classified under chapter 31 of the General Laws or have tenure in their positions as provided by section 9A of chapter 30 of the General Laws or do not hold such tenure, will be transferred, without interruption of service within the meaning of said section 9A of said chapter 31, without impairment of seniority, retirement or other rights of the employee, and without reduction in compensation or salary grade, notwithstanding any change in title or duties resulting from the creation of department of re-entry and community supervision, and without loss of accrued rights to holidays, sick leave, vacation and benefits, and without change in union representation or certified collective bargaining unit as certified by the state labor relations commission. Any collective bargaining agreement in effect immediately before the transfer date shall continue in effect and the terms and conditions of employment therein shall continue as if the employees had not been so transferred. The transfer shall not impair the civil service status of any such reassigned employee who immediately before the effective date of this act either holds a permanent appointment in a position classified under chapter 31 of the General Laws or has tenure in a position by reason of section 9A of chapter 30 of the General Laws.

Notwithstanding any general or special law to the contrary, all such employees shall continue to retain their right to collectively bargain pursuant to chapter 150E of the General Laws and shall be considered employees for the purposes of chapter 150E.

Nothing in this section shall be construed to confer upon any employee any right not held immediately before the date of said transfer, or to prohibit any reduction of salary grade, transfer, reassignment, suspension discharge layoff or abolition of position not prohibited before such date.

SECTION 113. The secretary of the executive office of labor and workforce development and director of workforce development in consultation with the secretary of public safety and security shall institute a workforce retraining initiative to mitigate potential impacts to employees displaced by the organizational efficiencies and agency restructuring directed by this act. The secretary of public safety and security and the secretary of labor and workforce development, or their designees, shall establish a committee to coordinate the workforce retraining initiative and adopt policies that identify and categorize displaced employees, while advancing workforce development opportunities for the employees whose lack of skills may prevent or limit their successful employment. The committee shall include representatives from labor unions likely to be

affected by this act, representatives from the business industry and representatives from the human resources division of the executive office for administration and finance. The procedures shall outline and recommend various retraining programs available to employees identified as being displaced by this act, establish eligibility criteria and base skills requirements for the administration of these programs, promote program accountability and job placement through the division of career services and one-stop career centers, identify available professional development and technical assistance needs and resources and encourage economic diversification and industry growth through technology-focused training.

The director of workforce development together with agencies and other entities that provide employment or training services in the commonwealth, shall utilize existing state and federal grant funding, including funding for workforce retraining programs at existing institutions, community colleges, labor organizations and administrative entities to implement the workforce retraining initiative. Where applicable, the director may utilize any funds received pursuant to the federal Workforce Investment Act of 1998, 112 Stat. 936, 29 U.S.C. § 2801, as amended, to provide additional funding for the workforce retraining initiative.

SECTION 114. The office of the state auditor shall perform a close-out audit of the functions transferred from the office of the commissioner of probation and the parole board to the department of re-entry and community supervision. The audit shall include a catalogue of any issues relating to the agency's current and future finances and operations, current and future revenues or debt structure, and internal policies and procedures, that the state auditor believes are not within financial accounting board standards of practice or may violate the General Laws.

SECTION 115. This act shall provide additional, alternative and complete methods for accomplishing the purpose of this act and shall be construed to be supplemental and additional to, and not in derogation of any powers conferred upon the department of re-entry and community supervision and others by law; provided, however, that insofar as the provisions of this act are inconsistent with any general or special law, administrative order or regulation, the provisions of this act shall be controlling.

SECTION 116. Sections 1 through 105, inclusive, shall take effect 120 days from the effective date of this act.

SECTION 117. Except as otherwise provided in this act, this act shall take effect on July 1, 2011.