

SENATE No. 1558

The Commonwealth of Massachusetts

PRESENTED BY:

Cynthia Stone Creem

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

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

An Act improving juvenile justice data collection.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Cynthia Stone Creem</i>	<i>First Middlesex and Norfolk</i>	
<i>Joanne M. Comerford</i>	<i>Hampshire, Franklin and Worcester</i>	<i>2/24/2021</i>
<i>Jack Patrick Lewis</i>	<i>7th Middlesex</i>	<i>2/24/2021</i>
<i>Mary S. Keefe</i>	<i>15th Worcester</i>	<i>3/4/2021</i>
<i>Michael O. Moore</i>	<i>Second Worcester</i>	<i>3/10/2021</i>
<i>Erika Uyterhoeven</i>	<i>27th Middlesex</i>	<i>3/15/2021</i>

SENATE No. 1558

By Ms. Creem, a petition (accompanied by bill, Senate, No. 1558) of Cynthia Stone Creem, Joanne M. Comerford, Jack Patrick Lewis, Mary S. Keefe and other members of the General Court for legislation to improve data collection in the juvenile justice system. Public Safety and Homeland Security.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. 1386 OF 2019-2020.]

The Commonwealth of Massachusetts

—————
**In the One Hundred and Ninety-Second General Court
(2021-2022)**
—————

An Act improving juvenile justice data collection.

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

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

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

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

9 Section 15. Collection and Reporting of Juvenile Justice Data

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

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

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

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

33 (d) The guidance or regulations required by subsection (c) shall, at minimum, require
34 data be provided in such a way as to allow analysis by demographic subgroups including, at a
35 minimum, age at the time of offense, sex/gender, gender identity and expression, racial or
36 ethnicity category, sexual orientation, charge type and level, geographic location such as county
37 or court location, and any combination thereof. The Child Advocate shall provide guidance about
38 the manner in which demographic data is designated and collected, with consideration of the
39 juveniles' self-reporting of such categories.

40 SECTION 4. Section 89 of chapter 119 of the General Laws, as appearing in section 80
41 of chapter 69 of the acts of 2018, is hereby amended by inserting after the definition of “criminal
42 justice agency” the following paragraph:-

43 “Gender identity” shall be defined pursuant to clause 59 of section 7 of chapter 4 of the
44 General Laws

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

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

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

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

54 Section 90. Collection and Reporting of Juvenile Justice Data

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

57 (1) “Justice system decision point” shall refer to set points in the justice process
58 where a criminal justice agency makes a decision which results in a change in a juvenile’s status,
59 including, but not limited to: decisions to refer a juvenile to a diversion program; to arrest a
60 juvenile or issue a court summons; to hold a juvenile in custody prior to arraignment; to file a
61 delinquency or criminal complaint; to advance a delinquency or criminal complaint; to proceed
62 with a prosecution; to make a finding as to legal competency; to issue an indictment; to arraign a
63 juvenile; to dismiss a case; to hold a hearing regarding dangerousness; to detain a juvenile
64 without bail; to transfer a case to district or superior Court; to impose bail; to impose pretrial
65 release conditions; to revoke bail; to admit a juvenile to detention; to continue a case without a
66 finding; to adjudicate a juvenile; to issue a disposition; to place a juvenile on probation; to issue
67 probation conditions; to commit a juvenile to the Department of Youth Services; to sentence a
68 juvenile to serve time in an adult custodial facility; to refer a juvenile to a court for a probation
69 violation; to revoke a juvenile’s probation; to confine a juvenile; to change a juvenile’s
70 placement type in a custodial facility; to issue a grant of conditional liberty; to revoke a grant of
71 conditional liberty; to grant parole after an initial parole hearing; to grant parole after a
72 subsequent review hearing; to revoke parole; to certify or deny sealing or expungement petition,
73 pursuant to sections 100B, 100F and 100G of Chapter 276 of the General Laws.

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

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

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

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

89 (2) custodial arrests and issuance of court summons

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

94 (1) application for complaint filed;

95 (2) finding of probable cause;

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

98 (4) complaint issued;

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

100 (6) complaint issued after appeal.

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

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

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

109 (3) decision to proceed with dangerousness hearing pursuant to section 58A of
110 chapter 276

111 (4) indictment as a youthful offender;

112 (5) dismissal of indictment/dismissal of indictment in exchange for other action; and

113 (6) prosecution in criminal court under section 74 of chapter 119 of the General
114 Laws.

115 (f) The juvenile court department shall collect and provide the necessary information
116 to comply with the data request from the child advocate pursuant to Section 15 of Chapter 18C
117 for each juvenile subjected to the following contacts for each fiscal year, provided on a quarterly
118 basis if requested by the child advocate:

119 (1) arraignment as a delinquent

120 (2) arraignment as a youthful offender;

121 (3) diversion from further court proceedings, including referral to and/or use of
122 diversion programming pursuant to section 54A of chapter 119 of the General Laws;

123 (4) court hearing on dangerousness pursuant to section 58A of chapter 276 of the
124 General Laws;

125 (5) competency hearing;

126 (6) transfer of case to adult criminal court under section 72A of chapter 119 of the
127 General Laws;

128 (7) imposition of bail or order to hold without bail;

129 (8) imposition of pretrial release conditions, including pre-trial probation pursuant to
130 section 87 of chapter 276 of the General Laws;

131 (9) bail revocation hearings;

- 132 (10) cases which are continued without a finding pursuant to section 18 of chapter 278
133 and to section 58 of chapter 119 of the General Laws;
- 134 (11) dismissal of charges;
- 135 (12) adjudication as a delinquent;
- 136 (13) adjudication as a youthful offender;
- 137 (14) imposition of an adult sentence pursuant to section 58 of chapter 119 of the
138 General Laws;
- 139 (15) disposition, including but not limited to:
- 140 i. sentence to probation;
- 141 ii. commitment to the department of youth services pursuant to section 58 of chapter
142 119 of the General Laws;
- 143 (16) commitment to the department of youth services pursuant to section 2 of chapter
144 279 of the General Laws that are suspended;
- 145 (17) juvenile brought before the court on criminal and non-criminal violations of
146 probation;
- 147 (18) commitments to department of youth services following a probation violation; and
- 148 (19) revocation of a continuation without a finding pursuant to pursuant to section 18
149 of chapter 278 and to section 58 of chapter 119 of the General Laws;

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

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

155 (2) supervision of pre-trial probation;

156 (3) supervision of continuances without a finding;

157 (4) supervision of juvenile on probation; and

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

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

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

163 (8) number of petitions and number of allowances and denials of petitions for
164 expungement, pursuant to section 100K of Chapter 276 of the General Laws.

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

167 (h) The department of youth services and any contractor, vendor or service provider
168 working with said department including alternative lock-up programs shall collect and provide
169 the necessary information to comply with the data request from the child advocate pursuant to

170 Section 15 of Chapter 18C for each juvenile subjected to the following contacts for each fiscal
171 year, provided on a quarterly basis if requested by the child advocate:

172 (1) pre-arraignment detention;

173 (2) pre-trial detention;

174 (3) commitment;

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

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

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

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

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

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

184 (1) arraignment for murder in the first degree and murder in the second degree; and

185 (2) convictions.

186 (j) The department of correction and each sheriff's department shall collect and
187 provide the necessary information to comply with the data request from the child advocate

188 pursuant to Section 15 of Chapter 18C for each juvenile subjected to the following contacts for
189 each fiscal year, provided on a quarterly basis if requested by the child advocate:

- 190 (1) pre-arraignment detention;
- 191 (2) pre-trial detention;
- 192 (3) post-disposition confinement of youthful offenders; and
- 193 (4) post-conviction confinement for murder.

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

- 198 (1) grant of parole after an initial parole hearing;
- 199 (2) grant of parole after a subsequent review hearing;
- 200 (3) supervision of parole; and
- 201 (4) revocation of parole.

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

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

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

222 (n) The Court Administrator shall be responsible for assembling data requested by the
223 child advocate pursuant to Section 15 of Chapter 18C collected by judicial officers and court
224 personnel including the Commissioner of Probation, judicial officers and court personnel, and
225 the Executive Director of Community Correction. Said data shall be provided to the Office of the

226 Child Advocate no later than 75 days after the end of the fiscal year or quarter if the child
227 advocate requests data on a quarterly basis.

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

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

241 (q) If any Offices or Departments subject to this law are unable to fulfill the data
242 request made by the child advocate, in whole or in part, they shall submit to the child advocate a
243 report detailing what data could not be provided, stating clearly the reason data could not be
244 provided, and clearly documenting the efforts the Office or Department has made and will make
245 to ensure data can be provided in the future. If the data cannot be provided due to budgetary
246 constraints, the Office or Department shall provide a budget detailing the additional funding
247 required to fulfill the data request. These reports on data availability shall be included in the

248 annual juvenile justice data report of the child advocate pursuant to Section 15 of Chapter 18C
249 and shall be a matter of public record.