SENATE DOCKET, NO. 640 FILED ON: 1/14/2025

SENATE . . . . . No. 1643

The Commonwealth of Massachusetts

PRESENTED BY:

William N. Brownsberger

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 relative to access to community corrections.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
William N. Brownsberger	*Suffolk and Middlesex*

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SENATE . . . . . No. 1643

By Mr. Brownsberger, a petition (accompanied by bill, Senate, No. 1643) of William N. Brownsberger for legislation relative to access to community corrections. Public Safety and Homeland Security.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. *1481* OF 2023-2024.]

The Commonwealth of Massachusetts

In the One Hundred and Ninety-Fourth General Court
(2025-2026)

An Act relative to access to community corrections.

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

SECTION 1. Chapter 211F of the General Laws, as appearing in the 2022 Official Edition, is hereby stricken and inserting in place thereof the following:-

§ 1. Definitions

The following terms as used in this chapter shall have the following meanings:

"Commissioner", the commissioner of probation.

"Community justice program", any program or service that is operated by a state, local or private service agency, that has been deemed an appropriate provider of services by the office of community justice programs including, but not limited to, intensive supervision with treatment, community service, pretrial services programs, reentry services programs, programs designed as

an alternative to jail or prison, and any other program or service as the commissioner may so direct; provided, however, that pretrial and reentry services programs shall each be a separate track of programming from intensive supervision with treatment as defined herein.

"Community justice plan", a written proposal submitted to the executive director of the office of community justice programs for approval and funding as a community justice program.

"Executive director", the executive director of the office of community justice programs.

"Intensive supervision with treatment", as determined by the office of community justice programs, a community justice program that provides a combination of interventions, including treatment, services and accountability measures for persons assessed to be at moderate or higher risk for recidivism.

§ 2. Office of community justice programs; executive director

(a) There is hereby established subject to appropriation within the office of the commissioner of probation an office of community justice programs, which shall be used for any criminal justice purpose as determined by the commissioner, and shall establish a continuum of community justice programs statewide.

(b) The executive director of the office of community justice programs shall be appointed by the commissioner to establish, oversee and operate a statewide continuum of community justice programs.

(c) The executive director shall operate subject to the direction and approval of the commissioner. The office shall, to the extent practicable, utilize existing resources of the office of court management for the purpose of avoiding unnecessary duplication.

§ 3. Sentence to intensive supervision with treatment; conditions; eligibility

(a) Any court exercising jurisdiction is authorized to sentence any eligible person to intensive supervision with treatment.

(b) A sentence to intensive supervision with treatment shall be imposed as a condition of probation consistent with chapters 276 and 276A. The court may modify the sentence of a person subject to intensive supervision with treatment in the same manner as if the person had been placed on probation.

(c) The commissioner shall develop guidelines for the eligibility of persons for intensive supervision with treatment.

(d) No person shall be sentenced to intensive supervision with treatment in lieu of a mandatory minimum term of incarceration set by statute.

§ 3A. Participation in a pretrial services program in lieu of bail or as condition of release

(a) Participation in a pretrial services program may be ordered by the court, in lieu of bail or as a condition of release consistent with sections 57, 58 and 58A of chapter 276. The court may dictate the duration and conditions of the pretrial services program. Any conditions should be imposed to ensure return of the defendant to court or, where permitted by law, to assure the safety of any person or the community.

(b) The Massachusetts probation service may utilize pretrial services programs for pretrial supervision consistent with sections 87 and 87A of chapter 276, upon agreement by the person before the court who is charged with an offense or crime.

(c) If the sheriff who has custody of a person held on bail under section 57 or 58 of chapter 276 determines that the person would benefit from entering a pretrial services program, the sheriff shall provide a written recommendation of such determination to the court, the commissioner, the prosecuting office and the person or the person's attorney, where applicable. The prosecuting office may notify any victim of the sheriff's recommendation upon receipt of such recommendation. If the commissioner or the prosecuting office objects to such recommendation, the commissioner or prosecuting office shall file written objection with the court within 14 days of receipt of such notice. Upon receipt of such objection, the court may set the matter for hearing. After expiration of the time for filing objections and after hearing, if applicable, the court shall either decline to modify its earlier bail order or make an order under subsection (a) of this section authorizing the person's participation in a pretrial services program. In no event shall the person held on bail be ordered under this paragraph to enter a pretrial services program without that person's consent.

(d) Placement of a person in a pretrial services program shall require victim notification as required under subsection (t) of section 3 of chapter 258B.

§ 3B. Utilization of programs developed by the office of community justice programs for persons not sentenced to intensive supervision with treatment under Sec. 3

(a) For any person sentenced to probation supervision who has not been sentenced to intensive supervision with treatment under section 3, the probation department may utilize programs and services offered by the office of community justice programs: (i) for participation in court-ordered programming where such programming is available through the office of community justice programs; or (ii) upon agreement by the person so sentenced.

(b) The use of programs and services under subsection (a) of section 3B of this chapter shall not operate as intensive supervision with treatment as defined in section 1.

§ 3C. Utilization of programs developed by the office of community justice programs for reentry and other criminal justice involved persons

(a) The office of community justice programs may provide reentry services programs, which shall not operate as intensive supervision with treatment as defined in section 1 of this chapter, to any person released from incarceration including, but not limited to, any probationer or parolee.

(b) Any person who has previously been sentenced to probation supervision, even if that person is no longer being supervised by the Massachusetts probation service, may utilize programs and services offered by the office of community justice programs. The use of programs and services under this section shall not operate as intensive supervision with treatment as defined in section 1.

§ 4. Community justice plans

(a) The executive director is hereby authorized and directed to develop and implement standards for a contracting process for community justice plans, as follows:

(1) A community justice plan shall include:

(A) the type of programs and services offered such as, intensive supervision with treatment, pretrial services or reentry services and the interventions to be made therein, such as cognitive behavioral therapy, employment counseling, educational support, etc.

(B) a description of the administrative, capital and operating costs of the programs;

(C) a description of methods by which the state, local or private service agency shall implement the community justice program with fidelity to evidence-based practices;

(D) a description of the knowledge, skill and experience of the state, local or private service agency in the fields of criminal justice, human services and social sciences.

(2) Subject to appropriation, the executive director shall select plans for funding. All contracts shall provide that the executive director may suspend funding or may assume administrative responsibility for any community justice programs not in compliance with standards, or if the public safety is threatened.

(3) The executive director shall monitor programs for compliance with the goals of this chapter, and shall provide technical assistance, training and education to providers in developing and operating community justice programs.

(b) Subject to an agreement between the commissioner and the secretary of public safety and subject to appropriation, the resources of community justice programs shall be utilized by the parole board for the purpose of parole supervision and the department of correction for the purpose of reentry.

§ 5. Annual report

The commissioner shall submit an annual report no later than January 15 of each year, commencing January 15, 2021, to the governor, the joint committees on the judiciary, mental health, substance use and recovery, public health and public safety and homeland security and the clerks of the house of representatives and the senate. The report shall include but shall not be limited to the following information:

(1) a statistical report of the utilization of community justice programs, including a list of all community justice programs operated under the office of community justice programs;

(2) the effectiveness of the office of community justice programs in reducing prison commitments, reducing pretrial detention and increasing the court appearance rate and the metrics used to evaluate said effectiveness;

(3) fiscal audits on the expenditure of state funds;

(4) the results of any investigations into community justice program noncompliance with community justice plans;

(4) any other relevant information or recommendations provided by the commissioner.

SECTION 2. Section 57 of chapter 276 of the General Laws, as amended by chapter 69 of the Acts of 2018, is hereby amended by striking out the last paragraph and inserting in place thereof the following paragraph:- Participation in intensive supervision with treatment pursuant to chapter 211F as pretrial treatment may be ordered by the court, in lieu of bail, or as a condition of release; provided, however, that the defendant shall consent to such participation. The following shall not be admissible against the person in any proceedings: (i) a request to engage in a pretrial treatment program; (ii) a decision not to enter a pretrial treatment program; (iii) any statement made by the person during the course of a pretrial treatment program assessment. A statement or other disclosure or a record thereof made by a person during the course of a pretrial treatment program assessment shall not be disclosed at any time to the commonwealth or other law enforcement officer in connection with the investigation or prosecution of any charges against the person or a codefendant.

SECTION 3. Section 58 of chapter 276 of the General Laws, as amended by chapter 69 of the Acts of 2018, is hereby amended by striking out the last paragraph and inserting in place thereof the following paragraph:- Participation in intensive supervision with treatment pursuant to chapter 211F as pretrial treatment may be ordered by the court, in lieu of bail, or as a condition of release; provided, however, that the defendant shall consent to such participation. The following shall not be admissible against the person in any proceedings: (i) a request to engage in a pretrial treatment program; (ii) a decision not to enter a pretrial treatment program; (iii) any statement made by the person during the course of a pretrial treatment program assessment. A statement or other disclosure or a record thereof made by a person during the course of a pretrial treatment program assessment shall not be disclosed at any time to the commonwealth or other law enforcement officer in connection with the investigation or prosecution of any charges against the person or a codefendant.

SECTION 4. Section 58A of chapter 276 of the General Laws, as amended by chapter 69 of the Acts of 2018, is hereby amended by striking out, in lines 94-97 the following words "Participation in a community corrections program pursuant to chapter 211F may be ordered by the court or as a condition of release; provided, however, that the defendant shall consent to such participation" and by inserting in place thereof:- Participation in intensive supervision with treatment pursuant to chapter 211F as pretrial treatment may be ordered by the court, in lieu of bail, or as a condition of release; provided, however, that the defendant shall consent to such participation. The following shall not be admissible against the person in any proceedings: (i) a request to engage in a pretrial treatment program; (ii) a decision not to enter a pretrial treatment program; (iii) any statement made by the person during the course of a pretrial treatment program assessment. A statement or other disclosure or a record thereof made by a person during

the course of a pretrial treatment program assessment shall not be disclosed at any time to the commonwealth or other law enforcement officer in connection with the investigation or prosecution of any charges against the person or a codefendant.