

CfJJ and MACOPGV Joint Legislative Agenda



AN ACT TO PROMOTE PUBLIC SAFETY AND BETTER OUTCOMES FOR YOUNG ADULTS (REPS. O'DAY & KHAN HD.1432 / SEN. BONCORE SD.697)

In 2013, Massachusetts raised the age of juvenile jurisdiction to include 17-year-olds and has since seen a 51% reduction in juvenile crime – outperforming national reductions in both property and violent crime. This bill would end the automatic prosecution of 18- to 20-year-olds as adults to prevent deeper legal system involvement by ensuring they are held accountable and engaged in treatment, education, and vocational training that are more effective for older adolescents. The juvenile system is well-suited to, and currently does, process young people accused of, and adjudicated for, violent crimes, with half the recidivism rate of similarly aged young people incarcerated in the adult system.

AN ACT RELATIVE TO JUDICIAL SUPERVISION TO PROMOTE CHILD WELL-BEING (REP. FLUKER OAKLEY HD. 3768/ SEN. CREEM SD.1878)

Judicial pre-arraignment diversion, passed in 2018, allows judges to divert young people prior to arraignment at which time a juvenile record is created. Judicial diversion allows for a neutral party to decide if a youth and public safety are better served through alternatives to the JJ system (earlier points of diversion are by police and prosecutors). The 2018 statute excluded several offenses, including low-level conduct as ineligible for diversion. According to a Harvard Law study of racial disparities in Massachusetts' courts, "one factor—racial and ethnic differences in the type and severity of initial charge—accounts for over 70 percent of the disparities in sentence length." These charging disparities also impact Black and Latinx youth disparate access to judicial diversion. Expanding list of offenses that are eligible for judicial consideration allows an individualized hearing, while maintaining the discretion of a judge to allow or reject diversion for a youth.

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AN ACT RELATIVE TO EXPUNGEMENT (REPS. DECKER & KHAN HD.2315 / SEN. CREEM SD.1355)

In 2018, Massachusetts passed legislation that created an opportunity to expunge juvenile and adult criminal records for individuals whose offense was charged prior to their 21st birthday, and it was expanded in the 2020 policing bill to increase the number of offenses eligible for expungement. While these are tremendous steps forward, the law maintained significant limitations by setting limits on number of charges, including cases ending with non-convictions and non-adjudication and keeping a life-time ban on expungement for records containing any of over 150 offenses. Very few individuals who this law intended to help access education, employment and housing are actually eligible based on these criteria. This bill will the remaining gaps in the new law by:

1. Removes the case limit for cases that ended in a non-conviction or non-adjudication and for juvenile cases that ended with an adjudication; the House bill also removes the case limit for offenses leading to a conviction;
2. reducing the offenses categorically ineligible for expungement to offenses resulting in serious bodily injury or death and sex-based offenses currently ineligible for sealing;
3. defines the “best interest of justice” that the law sets for judges to decide on expungement petitions
4. allowing the transmission of juvenile records to the FBI only after an adjudication;

Fact sheets for these bills can be found at cfjj.org/advocacy

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AN ACT TO PREVENT THE IMPOSITION OF MANDATORY MINIMUM SENTENCES BASED ON JUVENILE ADJUDICATIONS (REP. MIRANDA HD.1956 / SEN. ELDRIDGE SD.138)

Juvenile adjudications (though legally not convictions) count towards mandatory minimum sentences in adult cases, and particularly young people in the adult system. This bill excludes juvenile cases as predicate offenses that trigger mandatory minimum sentences in a future case as an adult. Youth of color, including many LGBT youth, are disparately involved in the juvenile justice system. Black and Latinx youth are more likely than white youth to be advanced through the juvenile justice system – rather than being diverted at most decision points through formal or informal resolutions of their cases. Black and Latinx youth are 1.5 and 2.5 times, respectively, more likely than white youth to have a delinquency petition. Then, those juvenile adjudications follow them into adulthood, leading to more severe punishment for Black and Latinx adults. In 2018, the SJC affirmed that interpretation of the law but suggested the Legislature review the wisdom of allowing juvenile cases trigger mandatory minimum sentences. The late Chief Justice Gants, in a concurring opinion joined by current Chief Justice Budd, urged “the Legislature to consider the wisdom and fairness of the mandatory-minimum aspect of those enhanced sentences, especially where the predicate offenses were committed when the defendant was a juvenile.”

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