

# MASSACHUSETTS JUVENILE JUSTICE REFORM COALITION

The [Massachusetts Juvenile Justice Reform Coalition](#) is comprised of almost 60 organizations from across the Commonwealth. The Coalition seeks to improve public safety, advance justice and ensure that young people in Massachusetts are on the right path to a healthy adulthood. **Please join us by co-sponsoring the following legal system reform bills that advance:**

## Transparency, Equity, and Accountability

- An Act Improving Juvenile Justice Data Collection (Rep. Vargas [HD.1707](#)/Sen. Creem [SD.815](#)) – [FACT SHEET](#)

## Preventing Entry into the Legal System

- An Act promoting diversion of juveniles to community supervision and services (Rep. Fluker Oakley [HD.3409](#)/ Sen. Creem [SD.1907](#)) – [FACT SHEET](#)
- An Act Relative to Safer Schools (Rep. Khan [HD.2273](#)/ Sen. Robyn Kennedy [SD.2056](#)) – [FACT SHEET](#)
- An Act Supporting Consenting Young Adults (Rep. Lewis [HD.2266](#)/Sen. Rausch [SD.1017](#)) – [FACT SHEET](#)

## Reducing Harms of Legal System Involvement

- An Act to Promote Public Safety and Better Outcomes for Young Adults (Reps. O'Day & Cruz [HD.3510](#)/Sen. Crighton [SD.428](#)) – [FACT SHEET](#)
- An Act to Ensure Educational Rights are Upheld for Incarcerated Youth (Rep. Keefe [HD.2781](#)/Sen. Miranda [SD.1041](#)) – [FACT SHEET](#)
- An Act to Remedy Disparities in Students' Educational Achievement (Reps. Ultrino & Meschino [HD. 3558](#)/Sen. Jehlen [SD.1203](#)) – [FACT SHEET](#)
- An Act to Prevent the Imposition of Mandatory Minimum Sentences Based on Juvenile Adjudications (Rep. Frank Moran [HD.2444](#)/ Sen. Eldridge [SD.137](#)) – [FACT SHEET](#)
- An Act Protecting Youth During Custodial Interrogations (Rep. Livingstone [HD.2643](#)/Sen. Creem [SD.277](#)) – [FACT SHEET](#)
- An Act Ensuring Integrity in Juvenile Interrogations (Rep. Sabadosa [HD.2820](#)/Sen. DiDomenico [SD.1644](#)) – [FACT SHEET](#)
- An Act Relative to Expungement of Juvenile and Young Adult Records (Rep. Decker & Khan [HD.2746](#)/ Sen. Creem [SD.1231](#)) – [FACT SHEET](#)
- An Act providing easier and greater access to record sealing (Rep. Keefe [HD.2693](#)/Sen. Friedman [SD.1168](#)) – [FACT SHEET](#)
- An Act Relative to Juvenile Fees, Fines, and Restitution (Rep. Decker [HD. 3926](#)/ Sen. Gomez [SD.2123](#)) – [FACT SHEET](#)
- An Act Updating Bail Procedures for Justice-Involved Youth (Rep. Fluker Oakley [HD.2969](#)/ Sen. Gomez [SD.186](#)) – [FACT SHEET](#)



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## 2023-2024 Legislative Session Bill Summaries



### **An Act Improving Juvenile Justice Data Collection (Rep. Vargas [HD.1707](#)/ Sen. Creem [SD.815](#)) – [FACT SHEET](#)**

The Massachusetts juvenile justice system fails to collect or share many of the basic statistical data needed to understand how the system is operating. As a result, taxpayers are blindly funding a system without adequate metrics to assess its fairness or effectiveness and policymakers are limited in assessing whether what we are doing improves public safety and the outcomes of youth to get them on the right track. Massachusetts also has one of the worst racial disparities in the country – having the 4th worst racial inequity in juvenile incarceration. Disparities not only cause the worst burdens of the juvenile justice system to fall disproportionately on children of color, they can actually increase recidivism on their own. This legislation would authorize the Office of the Child Advocate – on behalf of the [Juvenile Justice Policy and Data Board](#) – to gather and report key demographic data at major decision points to better identify and evaluate policies or practices of the juvenile justice system.



### **An Act to Promote Public Safety and Better Outcomes for Young Adults (Reps. O’Day & Cruz [HD.3510](#)/Sen. Crighton [SD.428](#)) – [FACT SHEET](#)**

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. The CDC also found that older adolescents processed in juvenile system had a 34% lower recidivism rate than those in the adult system. In 2018, Vermont passed legislation to bring 18- and 19-year-olds in their juvenile system. Juvenile court caseloads plummeting since the 2013 law (61% reduction in delinquency cases and 39% reduction in all juvenile court cases), the time is now to bring older teens. This bill would restructure the juvenile justice system to include 18 to 20-year-olds to prevent long-term criminal justice system involvement by ensuring they are held accountable and engaged in treatment, education, and vocational training that are more effective for this age group. The juvenile system is well-suited to, and currently does, process young people accused of, and adjudicated for, violent crimes, including imposing adult sentences. DYS has been working with 18-20 year-olds since the 1990's.



### **An Act promoting diversion of juveniles to community supervision and services (Rep. Fluker Oakley [HD.3409](#)/ Sen. Creem [SD.1907](#)) – [FACT SHEET](#)**

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. The victim and prosecutor can offer a rebuttal in the 14 days of the hearing prior to a judge moving forward with diversion. Additionally, the law prohibits judicial diversion for offenses, for which adults would be subject to a mandatory incarceration of five years or more. Some of these offenses have concurrent district and superior court jurisdiction, where the same offense tried in a district court would not be subject to the five year or more mandatory minimum sentence. However, in the juvenile court, if a youth is not indicted for these offenses, they would still be ineligible for diversion.



### **An Act to Ensure Educational Rights are Upheld for Incarcerated Youth (Rep. Keefe [HD.2781](#)/Sen. Miranda [SD.1041](#)) – [FACT SHEET](#)**

While Massachusetts prides itself as having one of the [highest rates](#) of educational quality and education in the nation. However, these rankings hide local and state failures at upholding the educational rights of all children and youth. Unlike teens in the juvenile system, school-aged youth incarcerated in adult correctional facilities do not receive the education that they are entitled to by law. Despite the role of education in [lowering recidivism](#) and helping young people reach their highest potential, only a small fraction of youth aged 18-21 with IEPs receive the special education services. Further, DOC's [waiting list](#) for educational programming is over 3,000 people long. This bill proposes systemic reforms, modeled after the Department of Youth Services' educational services, to ensure that youth are regularly engaged in education, including high school, special education, higher education, or vocational educational programs.



### **An Act to Prevent the Imposition of Mandatory Minimum Sentences Based on Juvenile Adjudications (Rep. Frank Moran [HD.2444](#)/ Sen. Eldridge [SD.137](#)) – [FACT SHEET](#)**

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.”



### **An Act providing easier and greater access to record sealing (Rep. Keefe [HD.2693](#)/Sen. Friedman [SD.1168](#)) – [FACT SHEET](#)**

A criminal record should not mean a lifetime of blocked opportunities. This bill requires the Commissioner of Probation to automatically seal criminal and juvenile cases after applicable waiting periods without the filing of a petition. In 2020 the legislature authorized \$2.5 million in line item 8000-2025 of the [General Government/Information Technology \(IT\) Bond Bill](#) to enable Probation to upgrade and automate its data processing systems. Many people do not know when their records are eligible for sealing, and only learn about sealing after they already lost the prospect for a job, housing or other opportunity due to their record. Studies show record sealing increases access to jobs, but gaps in knowledge about sealing hold countless eligible individuals back from sealing and getting jobs. Other states across the nation have successfully passed automated record clearing with great benefits and without harm to those with records.



### **An Act Relative to Expungement of Juvenile and Young Adult Records (Rep. Decker [HD.2746](#)/ Sen. Creem [SD.1231](#)) – [FACT SHEET](#)**

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 21<sup>st</sup> 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;
- (2) reducing the offenses categorically ineligible for expungement to offenses resulting in serious bodily injury or death, sex-based offenses subject to sex offender registration or violations of harassment or restraining orders;
- (3) protects the confidentiality of juvenile records by preventing juvenile records' dissemination to the FBI



**An Act to Remedy Disparities in Students' Educational Achievement (Reps. Ultrino & Meschino [HD. 3558](#)/Sen. Jehlen [SD.1203](#)) – [FACT SHEET](#)**

Though students facing serious allegations are afforded due process protections based on constitutional rights, and contained within case law as well as in the Department of Elementary and Secondary Education’s 1994 [Advisory on School Discipline](#), these protections are not specifically delineated in the statute. Current law allows a student charged (prior to arraignment or adjudication) with any felony to be suspended or expelled from school without the opportunity for any due process in the juvenile court. This bill would clarify that students who are facing discipline are entitled to educational protections and clarifies that students whose court cases are diverted by prosecutors and judges – most of whom are required to remain in school as a condition of their diversion – are able to remain in school unless their case moves forward and not dismissed. Requiring additional procedural protections does not prevent schools from implementing serious disciplinary consequences if the principal determines such consequences are warranted.



**An Act Relative to Safer Schools (Rep. Khan [HD.2273](#)/ Sen. Kennedy [SD.2056](#)) – [FACT SHEET](#)**

Building on the reforms of the policing reform bill of 2020, this bill seeks to expand school’s options for creating safe and welcoming schools. The law governing school resource officers (SROs) states that SROs shall neither be disciplinarians nor shall they use police powers to enforce traditional school discipline misbehavior. Unfortunately, that line is unclear in practice. Results from focus groups with SROs from 16 school districts in Massachusetts show that the line between behaviors warranting school discipline and those requiring law enforcement intervention was often blurred, and that behaviors considered “criminal” in one district (or even among schools in the same district) were construed as being solely the domain of school disciplinarians in another. The bill clarifies the guiding principle to differentiate between conduct requiring disciplinary or law enforcement responses. Additionally, the bill creates a grant program, administered by DESE, to assist schools and districts to plan and implement holistic safety practices to all for their transitioning to police-free schools. Finally, the bill increases the data that’s collected on school policing and would prohibit SROs from being assigned to a district if a superintendent doesn’t publicly report that data and share it with the state.



**An Act Protecting Youth During Custodial Interrogations (Rep. Livingstone [HD.2643](#)/Sen. Creem [SD.277](#)) – [FACT SHEET](#) and An Act Ensuring Integrity in Juvenile Interrogations (Rep. Sabadosa [HD.2820](#)/Sen. DiDomenico [SD.1644](#)) – [FACT SHEET](#)**

Interrogations of adolescents by law enforcement, particularly with coercive or deceptive means, are more likely to result in false confessions and wrongful convictions, with socio-economic

status and foster care involvement driving these unjust outcomes. In exonerations of people who were wrongfully convicted as children, [34% falsely confessed](#) to a crime they did not commit, as compared to only 10% of people wrongfully convicted as adults. Youth are more likely to falsely confess to crimes because the adolescent brain is less capable of assessing risk, understanding and weighing consequences, perceiving deceit and manipulation, and resisting coercion. **An Act Protecting Youth During Custodial Interrogations** protects the constitutional rights of young people by requiring videotaping and that an attorney is present at the reading of Miranda rights and during police interrogations when a youth has a pending felony charge. **An Act Ensuring Integrity in Juvenile Interrogations** would prohibit law enforcement from using deceit, including false or misleading facts, information, or evidence, while questioning juveniles who are in police custody. This is necessary to protect minors and the justice system from false confessions, which youth are especially vulnerable to. Taking action to end false confessions will help end wrongful convictions and protect youth. Massachusetts would become the 6th state, since 2021, to pass this important legislation.



### **An Act Relative to Consensual Adolescent Sexual Activity (Rep. Lewis [HD.2266](#)/Sen. Rausch [SD.1017](#)) – [FACT SHEET](#)**

Massachusetts is one of only four states that criminalizes consensual sexual activity between two adolescents. Most states have “Romeo and Juliet” laws to ensure that these relationships are handled by parents, not judges. This bill would revise Massachusetts’ antiquated and harmful statutory rape law to protect teens from criminal prosecution for consensual sexual activity with peers. The bill would provide a sensible and very limited exception to criminal prosecution for youth who engage in consensual conduct with other youth who are similarly aged. The bill does not change the laws that criminalize non-consensual or forcible sexual assaults by youth or consensual activity with a significantly older individual. This bill is similar to a provision passed by the Senate in 2017.



### **An Act relative to juvenile fees, fines, and restitution (Rep. Decker [HD. 3926](#)/ Sen. Gomez [SD.2123](#)) – [FACT SHEET](#)**

Massachusetts General Laws Chapter 119, §53 states that children who come before the court “shall be treated, not as criminals, but as children in need of aid, encouragement and guidance.” In past sessions, the Legislature upheld this mandate, abolishing monthly probation fees and legal counsel fees for juveniles. The legislation recognized that children do not control of their own finances, are typically in school rather than working, and that harsh consequences for failure to pay unfairly penalized them for financial decisions that were beyond their control. National research supports the conclusion that fees imposed on children in the justice system lead to higher rates of recidivism, deeper justice system involvement, heightened racial disparities, family stress and tension, and economic hardship in

families already struggling to get by. Nonetheless, Massachusetts law still permits many fines and fees to be assessed upon children. This bill will ensure Debt Free Justice for children while ensuring victims are able to access victim assistance funds.



**An Act Updating Bail Procedures for Justice-Involved Youth.  
(Rep. Fluker Oakley [HD. 2969](#)/ Sen. Gomez [SD.186](#)) – [FACT SHEET](#)**

This bill requires the Bail Magistrate, rather than the Officer on Call at a police station, to make the decision about whether an arrested youth should be released or held on bail. The bill also eliminates the \$40 administrative bail fee imposed on justice-involved youth. Instead, subject to appropriation, the bail magistrate fee would be paid by the state Bail Administrators' office. These changes were both recommended in 2019 by the state [Juvenile Justice Policy and Data \(JJPAD\) Board](#).

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