

**Promoting Transparency, Best Practices, Better Outcomes for Children and Communities**  
**Lead Sponsors: Senator Karen Spilka and Representative Kay Khan - (S.947/H.3079)**

**Massachusetts can have *LESS CRIME, FOR LESS MONEY*, by reducing the overuse of unnecessary and harmful court processing and confinement**

*Most of youth arrested and arraigned will never be found delinquent, and only 7% of youth arraigned in court are ever committed to DYS. Unnecessary prosecution and incarceration harms young people, undermines public safety, costs Massachusetts tens of millions of dollars annually, and increases the risk of additional delinquency when compared to diversion from formal processing.*

- Raises the lower age of juvenile jurisdiction to exclude children under age 12 (from age 7): In 2014, 327 children age 12 and under were arrested for low level offenses. Community-based, non-juvenile justice interventions are far more effective and timely in holding a young child accountable for their actions. Trying young children is also constitutionally problematic, as they are very unlikely to be competent to stand trial.
- Creates a “civil infractions” category of offenses for juveniles: This bill decriminalizes offenses for young people that are civil infractions for adults - violations of city ordinances and town by-laws as well as certain low level offenses for which adults can only be fined.
- Decriminalizes student non-violent and verbal misbehavior in schools: Too many Massachusetts students are arrested and sent to court for minor misbehavior once handled by schools and parents. Students of color and those with disabilities are disproportionately arrested in school and charged with public order offenses. This bill would exclude students from arrest for public order offenses. *(Senate bill only)*
- Sets requirements on Memoranda of Understanding (MOU) between school districts and police departments: This bill would provide guidance on MOUs between school districts and local police departments when assigning school resource officers, spelling out that the responsibility for school discipline lies with the school administration, and ensuring that school resource officers receive the training they need to work with children and adolescents. *(Senate bill only)*
- Decriminalizes consensual sexual activity between adolescents who are close in age: Massachusetts is one of only three states that criminalizes consensual sexual activity between two adolescents, and does not have a peer exception in the statutory rape law to protect teens from criminal prosecution for consensual sexual activity with peers. *(Senate bill only)*

**Massachusetts does not use Data and Research in a structured and comprehensive fashion**

*Massachusetts 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 in improving public safety or getting youth back on the right track.*

- [Creates a justice policy and data task force to evaluate and inform juvenile justice policies](#) to make recommendations on coordinating and modernizing the juvenile justice data systems and reports developed by state agencies and the courts.
- [Requires juvenile justice agencies to collect and report data on youth who enter the juvenile justice system and to document what happens to them after they enter it](#): The goal of the bill is to make our communities safer by using data to assess the impact and effectiveness of policies in improving life outcomes of young people. By failing to collect this data, Massachusetts also risks losing federal grants that fund prevention and intervention programs. *(House bill only)*

## Developmentally appropriate interventions are most effective in reducing crime and improving outcomes for youth

*Youth are uniquely capable of rehabilitation and change because their brains are still developing and changing, a capacity that both the U.S. Supreme Court and the Massachusetts Supreme Judicial Court have recognized. Policies and practices that are developmentally appropriate are the most likely to be effective.*

- [Creates a parent-child testimonial privilege](#): Parents in Massachusetts can be legally compelled to testify against their children in court, despite the critical role parents play in the juvenile justice system. A parent-child privilege would allow parents to give their children the guidance and support they need without fear that it will be used against them.
- [Codifies juvenile court policy banning indiscriminate shackling and the Department of Youth Services' model policy on involuntary room confinement](#): This bill codifies existing Juvenile Court practice to ensure that children are not indiscriminately shackled during court proceedings, unless there is a specific safety or flight risk concern. It also codifies DYS' model policy prohibiting the use of involuntary room confinement as punishment or retaliation.
- [Raises the upper age of juvenile jurisdiction to under age 21](#): Raises the upper age of juvenile delinquency and youthful offender cases to 21 to ensure that there is an adequate opportunity to rehabilitate older youth entering the system, including extended commitment with DYS in youthful offender cases to age 23. Young adults with serious offenses would still be eligible for adult sentencing in murder and youthful offender cases as is currently the law. *(Senate bill only)*
- [Allows courts to consider age as a mitigating factor in cases involving young adults](#): A person's status as a youth shall be a distinct rebuttable mitigating factor in his or her case and can be considered in sentencing. DOC and HOC would be directed to offer age-appropriate programming for young people under the age of 26.

## Ensuring youth exiting the system are set up to succeed

- [Improves sealing of juvenile records and allow for expungement of certain court records](#): In Massachusetts, less than 24% of young people who were arrested were eventually placed on Probation or committed to DYS, yet their juvenile record will persist as a barrier for many years. This bill would: (1) reduce the period of sealing of juvenile records; and (2) Juvenile records sealed for at least three years would be eligible for expungement (automatic for misdemeanors and by petition to the court for felonies).
- [Codifies SJC case law requiring the right to counsel at parole hearings for individuals convicted of murder prior to age 18 and serving life sentences](#): This bill provides legislative authority for assignment of counsel as required by the SJC ruling. *(Senate bill only)*



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