Please co-sponsor these bills that would improve public safety, advance justice and ensure that young people in Massachusetts are on the right path to a healthy adulthood.

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 to gather and report key demographic data at major decision points to better identify and evaluate policies or practices of the juvenile justice system. Fact Sheet / HD1957 / SD799

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. 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. Fact Sheet / HD1432 / SD697

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.” Id. at 332. Fact Sheet / HD1956 / SD138

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. HD3090 / SD2043

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. HD3768 / SD1878

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;

Bill Summary / HD2315 / SD1355

An Act to Promote the Education Success of Court Involved Children (Rep. Meschino HD.1335 / Sen. Jehlen SD.1495)
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 (Ch. 71 §37H½) 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 under §37H and §37H½ are entitled to all of the procedural protections received by students facing discipline under §37H¾. This bill:
- delineates procedural protections for student facing exclusion under §37H and §37H½.
- preserves a child’s right to education by requiring a basic determination that the case will move forward in court and requires that the felony be a “serious violent felony” before a student is excluded under §37H½. The formal arraignment allows for a judicial determination of probable cause and is an opportunity for the youth, the youth’s attorney and the district attorney to also look at whether there may be diversion opportunities.

Requiring additional procedural protections does not prevent schools from implementing serious disciplinary consequences if the principal determines such consequences are warranted; they simply require the school to take steps to ensure that the offense occurred and was committed by the student being disciplined, and to hear the whole story including mitigating circumstances before imposing very serious and potentially life altering consequences. Fact Sheet / HD1335 / SD1495


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. Fact Sheet / HD1998 / SD1379

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