

Summaries of Sections of proposed bill – Public Safety Act of 2006

- SECTION 1 Drawn from both Balser (H. 697) and Rushing (H.973) sealing bills, sets forth Findings and Declarations of the General Court – to give some unifying rationale to the whole Public Safety Act and specifically to help the sealing provisions survive a First Amendment challenge in federal court.
- SECTION 2 Relates to proposed Certification of Commitment to Rehabilitation (CCR), amending a section of the CORI law about what kind of data agencies should send the Criminal History Systems Board and stating that such Certifications should be part of that data.
- SECTION 3 Also as to CCR , inserts a new section 168D in the CORI law, explaining how the CCR is to work.
- SECTION 4 Substance of the Balser bill (H. 696) to require that non-criminal justice entities which are given access to CORI are to get only conviction and pending cases (except where a special statute otherwise provides) and mandates gatekeeper due process (which, happily, CHSB regs now mandate).
- SECTION 5 Drawn from St. Fleur bill (H.2874), inserts a new mandate in the CORI law that gatekeepers have to be trained and pass an examination in reading and understanding a CORI report. Requires Bd to adopt regs so that system is implemented by the end of a 2-year cycle.
- SECTION 6 Drawn from the Creem bill (S. 929) to allow minimum mandatorily sentenced drug offenders to seek parole after serving 2/3 of their maximum sentences if such are less than their minimum sentences.
- SECTION 7 Drawn from Wilkerson (S. 1135) and Fox (H. 664) bills and a Wisconsin statute, amends 1st para of *Sec 4*, subdiv 9 of MCAD/Anti-Discrimination law by extending coverage beyond employers to employment agencies, job training providers and licensing agencies; forbids asking applicant or employee about criminal history and directs that he or she get such info from CHSB; and makes it a discriminatory act to take adverse action against an applicant or employee, etc., for having certain minor criminal records (overruling the *Bynes* decision) or for “merely having a criminal record”; but allows adverse action based on one or more convictions which “substantially relate to the circumstances of a particular employment or job training position or licensed activity.”
- SECTION 8 Drawn from the Rushing (H. 973), St. Fleur (H. 2874) and Marzilli (H. 830) bills on sealing conviction CORI, would leave as operative the current law (*Sec. 100A*) for sealing conviction CORI, but this “outside SECTION” sets up a transitional system for automatically sealing old conviction CORI, starting with cases with final dispositions in January, 1970. Reduces the felony waiting period from 15 to 7 years; reduces the misdemeanor waiting period from 10 to 3 years; and inserts a

“blocking CORI” provision, requiring that, in the 3-year period before a record is sealed the person may not have been convicted of a crime for which he or she was sentenced to three months or more of incarceration . Contains phased deadlines to make the system do-able.

SECTIONS 9 & 10

Drawn from Balser bill (H. 697), leave in place current *Section 100C* for sealing non-conviction CORI but direct transitional system for quasi-automatic sealing of batches of non-conviction cases, giving objectors a chance to be heard but drawing heavily on the Findings and Declaration in SECTION 1, that there is a compelling state interest to seal “stale or otherwise misleading or unpredictable criminal records” which overcomes the 1st Amendment interest in having the records remain unsealed.

SECTION 11 Inserts a new *Section 100D* in Chapter 276, putting the quasi-automatic process (set out in SECTIONS 9 and 10, summarized above) permanently into place into the General Laws.

SECTION 12 Drawn from the Wilkerson bill (S. 1076), leaves in place the Juvenile Sealing statute (*Sec. 100B*), but inserts a new *Section 100E* to provide for the purging of juvenile records upon petition to the Juvenile Court, where the deciding judge must take into account a number of factors before making a decision.

SECTION 13 Drawn from both the Juvenile purging SECTION, above, and the O’Flaherty bill (H. 727) for expunging records where the defendant was erroneously charged, inserts new *Sec. 100F* into Chapter 276, providing for purging adult records, where the judge, based on mis-identity and/or other factors, decides whether or not to order purging.