

Massachusetts Criminal Justice Reform: Key Police Impact (except juvenile issues)  
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**Drugs**

**Fentanyl and Carfentanil added to Class A** under 94C, § 31. Also, any synthetic opioid defined in Schedule I and II by federal law.

**No mandatory minimum for manufacture, distribution or possession with intent Class A**, 94C, §32, **Class B**, § 32A, **Class C**, § 32B, or **Class D**, § 32C. The only remaining mandatory is for a subsequent offense involving Class A. Even subsequent offenses in B, C and D result in no mandatory.

**Trafficking fentanyl & carfentanil.** Fentanyl – *10 grams or more* – mandatory 3½ years. 94C, § 32E(c½). Carfentanil – *in any amount* – mandatory 3½ years. However, if it is a mixture, must prove offender knew it contained carfentanil. 94C, § 32E(c¾).

**School and park zone change.** 94C, § 32J. Violation must occur within 100’ of a public park or playground, or within 300’ of a public or private accredited pre-school, Headstart, elementary, secondary or vocational school, between 5:00 a.m. and midnight, & only if offender: (1) used violence or threat, or possessed a firearm, rifle, shotgun, machine gun or dangerous weapon [defined by 269, § 10(b)], or induced another participant to do so; or (2) directed another person who committed any 94C felony; or (3) committed or attempted 94C, § 32F (distribution to minor of Class A, B or C) or § 32K (inducing a minor to help distribute or carry cash).

**Crime of “being present with heroin” repealed.** 94C, § 35.

**No probation violation for possessing or using a *lawfully* prescribed drug or medical marijuana.** 276, § 87A.

**MV**

**OUI by inhalants.** OUI now covers being under the influence of “the fumes of *any* substance . . . releasing toxic vapors as defined in 270, § 18.”

**MV homicide by reckless operation is now 5 year felony.** 90, § 24G(c). License revoked 10 yrs.

**Police Protection**

**New crime: A&B on Police Officer Causing Serious Bodily Injury (SBI).** 265, § 13D. Mandatory minimum 1 year. SBI = permanent disfigurement, protracted loss or impairment of a bodily function, limb or organ or substantial risk of death [same as felony under 265, § 13A]. Only Superior Court has jurisdiction to sentence for this offense.

**Justice System Integrity**

**Witness intimidation.** 268, § 13B now protects victim witness advocates, correction officers, court reporters, and family members of all potential victims. Harassment can be directed at a group. Crime also covers *retaliation* for participation in a past investigation or other proceeding. All 13B offenses may be charged in district court or superior court (218, § 76).

**Furnishing false name/social security number post-arrest.** 268, § 34A now covers false date of birth, home or mailing address, phone number, or other information requested to establish person’s identity.

**DNA.** Convicted felons must submit DNA sample on probation or within 10 days of incarceration. 22E, § 3. Probation officers now collect DNA. Offender who willfully fails to provide DNA: HC NMT 6 months and/or Fine \$2,000. 22E, § 11 (full implementation by 4/13/19).

**Seal/expunge records.** Sealed record no longer used to screen an applicant for employment, housing or professional license. May seal misdemeanor NLT 3 yrs after conviction; felony NLT 7 yrs. Separate process to expunge (i.e., permanently erase) record. 276, §§ 100A-100U.

**No bail bonds.** No person or organization may be compensated for acting as a surety for someone on bail. 276, § 61B.

## Theft & Economic Crime

**Larceny & Receiving Stolen Property over \$1,200 felony.** 266, §§ 30, 60. Warrantless arrest still on PC if value of property stolen over \$250.

**Jailable misdemeanor shoplifting must be \$250 or over.** 266, § 30A. Warrantless arrest still on PC for shoplifting of any retail value.

**Credit card crimes** apply to debit cards or using the applicable code number. 266, § 37A. Felony credit card misuse must be over \$1,200.

**Identity fraud's new violation.** 266, § 37E(c½): (1) possess a tool or instrument; (2) designed or used for accessing a person's number or code for financial services, savings, checking, brokerage, credit or debit card, ATM, computer password, electronic signature, or biometric data (e.g., fingerprint, voice, retinal image); (3) with intent to commit larceny. Penalty: HC NMT 2½ years and/or Fine NMT \$5,000. Arrest on PC always.

## Sexual Assault Kits

**Sexual Assault Evidence Kits.** EOPSS will establish a statewide evidence tracking system.

- *Hospitals* must notify local police within *24 hours* of processing a kit. 41, § 97B½.
- *Police* must take possession of kit within *3 business days* of notification and submit kit to crime lab within *7 business days*.  
[Note: Non-investigatory kits associated with victims who have not yet filed a report with police not subject to 7 day requirement, but the kits must be preserved by police for entire statute of limitations period for applicable charges.]
- *Crime lab* must test kit within *30 days* of receipt.

## Other Laws

**Solicitation of crime.** No longer a common law offense. 274, § 8 punishes offender who solicits, counsels, or advises another to commit a felony.

[Note: If intended crime punishable by Life imprisonment: SP NMT 20 yrs or HC NMT 2½ yrs; +/- Fine NMT \$10,000; if SP 10 yrs or more: SP NMT 10 yrs or HC NMT 2½ yrs; +/- Fine NMT \$10,000; if SP 5 yrs or more: HC NMT 2½ yrs; +/- Fine NMT \$5,000; or if SP for less than 5 yrs: HC NMT 2½ yrs; +/- Fine NMT \$2,000.]

**"Good Samaritan" alcohol incapacitation.** 138, § 34E. Person under 21 who, in good faith, seeks medical assistance for someone experiencing alcohol incapacitation, or seeks help for himself, or is the subject of a request for help, shall not be charged under §§ 34 (furnishing, "social host"), 34A (procurement) or 34C (minor in possession).

[Note: Does not protect adult hosts or participants.]

**Parent/child privilege.** 233, § 20. Parent cannot testify against minor child, or minor against parent, in any criminal proceeding in which victim not a family member *and* not reside in household. Parent = biological or adoptive, stepparent, legal guardian or person in loco parentis.