

HOUSE No. 125

The Commonwealth of Massachusetts

COMMISSIONER OF PROBATION

206 NEW COURT HOUSE, BOSTON 02108, OCTOBER, 1977.

The Honorable Paul H. Guzzi, *Secretary of the Commonwealth*
State House, Room 178, Boston, Massachusetts 02133.

Dear Mr. Secretary:

In accordance with the provisions of sections 33 and 33A of Chapter 30 of the General Laws, as amended, recommendations for legislation are submitted, accompanied by drafts of bills embodying the legislation recommended for consideration of the General Court.

Sincerely,

C. ELIOT SANDS
Commissioner of Probation

*LEGISLATIVE RECOMMENDATIONS OF THE
COMMISSIONER OF PROBATION*

- H-108 PROVIDING FOR STANDARDS FOR PROMOTION OF PROBATION OFFICERS AS CHIEF PROBATION OFFICERS, FIRST ASSISTANT CHIEF PROBATION OFFICERS OR ASSISTANT CHIEF PROBATION OFFICERS.
- H-109 TO ALLOW FOR THE APPOINTMENT OF DEPUTY PROBATION OFFICERS.
- H-111 REQUIRING THE CLERK OF COURT TO NOTIFY THE COMMISSIONER OF PROBATION OF THE DEATH OF, OR GRANT OF LEAVE OF ABSENCE TO A PROBATION OFFICER.
- H-112 TO INCREASE THE TRAVELING EXPENSE ALLOWANCE OF PROBATION OFFICERS.
- H-113 WHEREBY NO PROBATION OFFICER SHALL SUFFER LOSS IN SALARY WHEN THERE IS A REORGANIZATION OF PROBATION DISTRICT.
- H-114 TO ALLOW FOR SALARY AT THE MAXIMUM STEP SCHEDULE FOR THE POSITION WHEN A PROBATION OFFICER IS PROMOTED AFTER 20 YEARS OF SERVICE AS PROBATION OFFICER.
- H-115 FOR THE APPOINTMENT OF PROBATION OFFICERS FOR BARNSTABLE AND HAMPSHIRE PROBATE COURTS.
- H-116 RESTRICTING CERTAIN RECORD INFORMATION FURNISHED BY PROBATION OFFICERS.
- H-117 RELATIVE TO THE SEALING OF CRIMINAL RECORDS.
- H-118 REMOVING THE NAME OF THE COMMITTEE ON PROBATION AS ESTABLISHING SALARY SCHEDULE FOR PROBATION OFFICERS.
- H-119 CORRECTING THE DUTIES OF THE COMMITTEE ON PROBATION AND THE ADMINISTRATIVE COMMITTEE OF THE DISTRICT COURTS.
- H-120 TO INCREASE MANAGEMENT CAPACITY OF THE OFFICE OF THE COMMISSIONER OF PROBATION.
- H-121 TO PROVIDE FOR SUSPENDED SENTENCES WITHOUT PROBATION.
- H-122 TO PROVIDE FOR AN ASSISTANT TO THE COMMISSIONER OF PROBATION.
- H-123 TO PROVIDE A CONFIDENTIAL SECRETARY FOR THE COMMISSIONER OF PROBATION.
- H-124 RELATIVE TO THE APPOINTMENT OF TEMPORARY PROBATION OFFICERS.

1977 H-108 1.

This bill would place responsibility for setting qualifications for Assistant Chief Probation Officer and Chief Probation Officer in the top policy board for the probation service within the Judicial Branch of government, the Committee on Probation, as is presently the case as to qualifications for appointment as probation officer.

No candidate for designation as Assistant Chief or Chief Probation Officer will be held ineligible solely for lack of a Master's or other academic degree.

1977 H-109 2.

Volunteer activity in the social welfare field has existed for many years and when properly supervised, has been successful.

Based on experience and knowledge to date, it is fitting to expand Section 89A at this time to authorize the courts (including the probate courts) to appoint deputy probation officers as volunteers to work with adults as well as juveniles who appear before the courts.

1977 H-111 3.

Presently the clerks of court are required to notify the Commissioner of Probation of the removal, retirement or resignation of a probation officer. This bill would require that notice be given also of death and grant of leave of absence.

1977 H-112 4.

For several years this office has been seeking a change in the law governing the amount of money which may be reimbursed a probation officer for his traveling expenses. The \$400.00 per annum presently allowed, unchanged for over twenty years, is inadequate.

1977 H-113 5.

There currently exists six juvenile probation districts. Recently, two districts were abolished and probation officers of these districts were transferred to other court probation offices. The Superior Court probation districts have been recently regrouped from eight districts to ten. Although there was no reduction in status or salary of probation officers affected by these changes, future reorganizations may not afford the protection of previously established ratings for probation officers. This bill is important to reassure those probation officers who may feel that their district is next in line for reorganization.

This bill has no cost issue.

1977 H-114 6.

This would allow the Committee on Probation to establish the salary of a probation officer with twenty or more years probation service, on promotion to a higher grade within the service, at the maximum step in the salary schedule for the new position. When, in past years, the probation officer salary schedule was set by the Committee on Probation, the Committee on a number of occasions, exercised this type of discretion as to salary of a promoted probation officer with over twenty years service.

1977 H-115 7.

The present law allows for the appointment of a single probation officer to the Barnstable and Hampshire Probate Courts, respectively. This bill would remove that restriction and would permit appointment of more than one probation officer by the courts specified.

The additional authorization is necessary in order that the above probate courts may receive needed probation officer service.

The cost cannot presently be determined, though it is estimated two additional probation officer positions are needed which would cost a total of about \$26,000 per annum.

1977 H-116 8.

This would provide for the language change in Section 85 to match Section 100C (last paragraph) in Chapter 276. It will clarify for probation officers that information which they may and may not provide to a judge at time of sentencing. No substantive change is involved.

1977 H-117 9.

Legislation Relative to the Sealing of Criminal Files. The proposed bill, largely corrective, seeks also to change existing procedures used to seal criminal records under Chapter 276, Section 100A as amended by Chapter 525 of the Acts of 1974, and Section 100C.

1. It would authorize the sealing of both misdemeanor and felony records with certain exceptions after a ten year period. (The present law requires a fifteen year inferral after a felony.) It has been well established that this period of time is more than adequate to determine that an individual has modified his behavior to meet society's requirements, (Records so sealed are unsealed for courts who have found a defendant guilty on a new charge).

2. The authority of the judge to seal dismissed and/or discharge cases is extended to include juvenile court judges sitting in juvenile session.

1977 H-118 10.

Salaries of probation officers are no longer set by the Committee on Probation but are established by the legislature under Section 99B of Chapter 276.

This bill would correct the language in Section 89 of Chapter 276 presently in conflict with the above.

1977 H-119 11.

There is nothing controversial about the bill, it would simply delete two sentences in Chapter 276 which have been superseded by more recent statutes. The sentence to be deleted in Section 83 presently reads as follows: "Every such person shall be given such credit for years of similar service in allied fields as the administrative committee on the district courts may determine". The more recent statute with which this is in conflict appears in Chapter 276, Section 99B, Paragraph (3): "Upon initial appointment, a probation officer shall be compensated at the minimum of said salary schedule for his group or, if he shall have had prior service as a probation officer or shall, in the judgement of the Committee on Probation, have had years of similar service in allied fields, the step for such group to which his years of prior service entitle him."

The sentence in Section 83A of Chapter 276 proposed to be deleted reads as follows: "The compensation of probation officers appointed under this section shall be fixed according to a schedule established from time to time by the Committee on Probation, who shall direct the Commissioner of Probation to consult the administrative committee of the district courts and the county commissioners of the several counties relative thereto." This sentence is in conflict with the later statute which is found in Chapter 276, Section 99B, Paragraph (2): "All probation officers in all courts of the Commonwealth shall be compensated in accordance with the following salary schedule: — " and lists the salary schedule by eleven job groups and seven steps within each job group.

The purpose of this bill is simply to delete earlier superseded statutes which are in conflict with the more recent law.

1977 H-120 12.

This legislation would establish two new supervisors of court probation services and three new assistant supervisors of court probation services.

The two supervisors would be used to staff a regional management structure being implemented to provide more effective management and supervision on a regional basis to a state Probation Service consisting of 103 probation departments employing over 800 probation officers and 500 supporting clerical staff statewide.

The three assistant supervisors would assume essential specialty portfolios covering the areas of planning and policy development, field probation program development, specialized project monitoring with an emphasis on volunteer projects, and staff development and training. The appointment of the three assistant supervisors would release three presently employed supervisors of court probation services to be assigned to the regional management structure, fully staffing it. The cost per annum of this bill fully implemented amounts to:

	Min.	Max.
2 Sup.	\$ 46,446.00	\$ 58,583.00
3 Asst. Sup.	<u>66,854.00</u>	<u>84,863.00</u>
	<u>\$113,300.00</u>	<u>\$143,446.00</u>

1977 H-121 13.

This bill would modify Chapter 279, Section 1 by making clearly optional the imposition of probation with any disposition of suspended sentence.

The Commissioner of Probation considers that probation as a disposition requires supervision. A court may determine that a suspended sentence of fine or imprisonment is appropriate without requiring probation supervision.

No money costs are involved.

1977 H-122 14.

The law presently provides for an Assistant to the Commissioner of Probation. This bill would increase his classification from a present Job Group 21 to a Job Group 26 rating and provide that he not be subject to Civil Service regulations. The responsibility of this Assistant has increased tremendously in the past several years, and in addition to complete responsibility for office administration and the maintenance of the Prime Court Prosecution File for the Commonwealth, now involves sealing of Court Records, implementations of the Criminal History Systems Board regulations as to record dissemination to other than court agencies, and the interface of these records with the newly appointed Criminal Justice Information System. (The total additional expense to the Commonwealth in the first full year of the proposed statutes' effect would be \$959.40.)

1977 H-123 15.

This bill will provide the Commissioner of Probation with a confidential secretary. The need for this position results from the increased duties and responsibilities of the Commissioner which have generated a great deal of dictation and correspondence.

Existing legislation provides a confidential secretary for department heads and Chairmen of various boards.

The salary for said positions would be determined by Administration and Finance, within provisions of Sections thirty-five to fifty, inclusive, of Chapter 30 and would be exempt from the provisions of Chapter 31 (Civil Service).

At Job Group 14, the first full year cost to the Commonwealth occasioned by this statute would be \$11,078.

1977 H-124 16.

This bill would reduce from 90 days to 30 days the period for which a temporary probation officer may be appointed by a justice of the district courts without approval by the Commissioner of Probation.

