

Senate No. 7

Message from His Excellency the Governor recommending legislation relative to transferring county sheriffs to the Commonwealth.

The Commonwealth of Massachusetts



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To the Honorable Senate and House of Representatives:

I am filing for your consideration a bill entitled "An Act Transferring County Sheriffs to the Commonwealth".

This legislation will promote more efficient government by transferring to the Commonwealth the seven sheriffs who are still county officers. The other seven sheriffs' offices already became state agencies when the Legislature abolished their county governments. This bill will not abolish the remaining seven county governments.

This bill will provide more stable and predictable budgeting for the transferred sheriffs' offices. It will enable bringing them onto the state payroll and accounting systems. It will allow the state Group Insurance Commission to provide their employees' health care, at considerable savings.

This legislation results from extensive discussion with the seven county sheriffs and others, following similar legislation that I filed last year.

To allow these important efficiencies and savings to begin promptly on July 1 for the new fiscal year, I urge your prompt action to enact this bill.

Respectfully submitted,
DEVAL L. PATRICK,
Governor.

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT TRANSFERRING COUNTY SHERIFFS TO THE COMMONWEALTH.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. The offices of the Barnstable, Bristol, Dukes, Nantucket, Norfolk,
2 Plymouth, and Suffolk county sheriffs, in this act referred to as "offices of transferred sheriffs" or
3 “transferred sheriffs,” are hereby transferred to the commonwealth as provided in this act on its
4 effective date, also called the transfer date.

5 SECTION 2. Section 17 of chapter 37 of the General Laws is hereby amended by
6 striking out the second and third paragraphs and inserting in place thereof the following
7 paragraph:-

8 The salaries of the sheriffs shall be a sum equivalent to 95 per cent of the salary of an
9 associate justice of the superior court.

10 SECTION 3. Chapter 64D of the General Laws is hereby amended by striking out
11 sections 11, 12 and 13 and inserting in place thereof the following 2 sections:-

12 Section 11. Except for Barnstable and Suffolk counties, there shall be established upon
13 the books of each county of a transferred sheriff, the government of which county has not been
14 abolished by chapter 34B or other law, a separate fund, maintained separate and apart from all
15 other funds and accounts of each county, to be known as the Deeds Excise Fund.

16 Notwithstanding any general or special law to the contrary, except for Barnstable and Suffolk
17 counties, on the first day of each month, 10.625 per cent of the taxes collected in the counties of
18 transferred sheriffs under this chapter shall be transmitted to the Deeds Excise Fund for each
19 county. The remaining percentage of taxes collected under this chapter, including all taxes
20 collected under this chapter in Barnstable and Suffolk counties, and all counties the government
21 of which has been abolished by chapter 34B or other law, but not including the additional excise
22 authorized by section 2 of chapter 163 of the acts of 1988, shall be transmitted to and retained by
23 the General Fund of the commonwealth in accordance with section 10.

24 Section 12. (a) There shall be within the executive office for administration and finance a
25 county government finance review board, in this section called the board, consisting of the
26 secretary of administration and finance or her designee, the commissioner of revenue or her
27 designee, and the state auditor or his designee. The secretary of administration and finance or her
28 designee shall serve as chairperson of the board.

29 (b) Notwithstanding any general or special law or county charter to the contrary, no
30 annual or supplementary budget of any county shall take effect until reviewed and approved by
31 the board. Except for Barnstable and Suffolk counties, the board shall not approve any budget of
32 any county unless it is satisfied:

33 (1) that the estimates of revenue are reasonable and that adequate funding has been
34 provided for all necessary county expenditures;

35 (2) that of the amounts deposited in the Deeds Excise Fund for each county from
36 revenues derived under this chapter, (a) not more than 60 per cent of the deposits shall be
37 disbursed and expended for meeting the costs of the operation and maintenance of the county;

38 and (b) not less than 40 per cent shall be disbursed and expended for the automation,
39 modernization and operation of the registries of deeds; and

40 (3) that with respect to funds appropriated for the purpose designated in subclause (b) of
41 clause (2) and which are not dedicated to the Deeds Excise Fund in each county under section
42 11, the submitted proposed budget shall provide a continuing amount of expenditure of not less
43 than 102.5 per cent of the amount expended for that purpose in the preceding fiscal year.

44 In the case of Barnstable county, the board shall not approve any budget unless it is
45 satisfied that the estimates of revenue are reasonable and that adequate funding has been
46 provided for all necessary county expenditures.

47 (c) If a proposed budget is disapproved by the board, the county commissioners or any
48 successor body shall, with the approval of the county advisory board, if applicable, and within 30
49 days of notification of disapproval of the proposed budget, resubmit a revised proposed budget to
50 the board, which addresses the board's concerns.

51 (d) The board shall develop guidelines for implementing this section.

52 SECTION 4. Notwithstanding any general or special law to the contrary, all functions,
53 duties and responsibilities of the office of a transferred sheriff pursuant to this act including, but
54 not limited to, the operation and management of the county jail and house of correction, and any
55 other statutorily authorized functions of those offices, are hereby transferred from the county to
56 the commonwealth on the effective date of this act, subject to its provisions.

57 SECTION 5. Notwithstanding any general or special law to the contrary, the government
58 of Barnstable, Bristol, Dukes, Nantucket, Norfolk, Plymouth and Suffolk counties, except the
59 office of county sheriff, shall retain all existing authority, functions and activities as of the
60 transfer date for all purposes, including, but not limited to, the purposes established pursuant to

61 chapters 34, 34A, 35 and 36 of the General Laws or as otherwise authorized by this act. Nothing
62 in this act shall affect the existing county boundaries.

63 SECTION 6. All valid liabilities and debts of the office of a transferred sheriff which are
64 in force immediately before the transfer date shall be obligations of the commonwealth as of the
65 transfer date, except as may be otherwise provided in this act. All assets of the offices of
66 transferred sheriffs as of immediately before the transfer date shall become assets of the
67 commonwealth, except as may be otherwise provided in this act.

68 SECTION 7. (a) Notwithstanding any general or special law to the contrary, all rights,
69 title and interest in real and personal property, including those real properties improved upon
70 through construction overseen by the Division of Capital Asset Management and paid through
71 commonwealth funds, which are controlled by the office of a transferred sheriff immediately
72 before the transfer date, including without limitation, all correctional facilities and other
73 buildings and improvements, the land on which they are situated, and any fixtures, wind turbines,
74 antennas, communication towers and associated structures and other communication devices
75 located thereon or appurtenant thereto, shall be transferred to the commonwealth, except as
76 otherwise provided in this act. This transfer of all buildings, lands, facilities, fixtures and
77 improvements shall be subject to chapter 7 of the General Laws and the jurisdiction of the
78 commissioner of capital asset management as provided therein, except as otherwise provided in
79 this act.

80 (b) If such a sheriff occupies part of a building or structure owned by a county, the county
81 shall lease that part of the building or structure to the commonwealth under reasonable terms
82 determined by the commissioner of the capital asset management.

83 (c) The transfer under this section shall be effective and shall bind all persons, with or
84 without notice, without any further action or documentation. Without derogating from the
85 foregoing, the commissioner of capital asset management may, from time to time, execute and
86 record and file for registration with any registry of deeds or the land court, a certificate
87 confirming the commonwealth's ownership of any interest in real property formerly controlled
88 by the office of a transferred sheriff pursuant to this section.

89 SECTION 8. This section shall apply only after the commonwealth has refinanced any
90 outstanding bonds of the Plymouth County Correctional Facility Corporation established by
91 chapter 425 of the acts of 1991. That Corporation shall be dissolved and its assets transferred to
92 the commonwealth. The criminal detention facility constructed under said chapter 425 shall be
93 transferred to the commonwealth. The revenue held by the Corporation in the Repair and
94 Replacement and Capital Improvement Accounts shall be transferred to the Plymouth sheriff's
95 Facility Maintenance Trust Account. The Plymouth sheriff shall make expenditures from this
96 account only for the maintenance, repair and replacement of the sheriff's facilities.

97 SECTION 9. All valid leases and contracts of the office of a transferred sheriff which are
98 in force immediately before the transfer date shall be obligations of the commonwealth, and the
99 commonwealth shall have authority to exercise all rights and enjoy all interests conferred upon
100 the county by those leases and contracts except as may be otherwise provided in this act.

101 SECTION 10. Notwithstanding any general or special law to the contrary, beginning in
102 fiscal year 2010 and thereafter until terminated by this section, Barnstable, Bristol, Dukes,
103 Nantucket, Norfolk, and Plymouth counties shall appropriate and pay to their respective county
104 retirement boards amounts equal to the minimum obligations to fund from their own revenues in
105 fiscal year 2009 the operations of the office of the sheriff for the purpose of covering the

106 unfunded county pension liabilities of the retired sheriff's office employees that remain in the
107 county retirement systems, as determined by the actuary of the public employee retirement
108 administration commission. The state treasurer, under section 20 of chapter 59 of the General
109 Laws, shall assess the city of Boston and remit to the State-Boston retirement system an amount
110 equal to the minimum obligation of Suffolk County to fund from its own revenues in fiscal year
111 2009 the operations of the office of the sheriff. The secretary of administration and finance shall
112 establish a plan for county governments to pay off these unfunded county pension liabilities and
113 shall establish an amortization schedule to accomplish this task. These payments shall remain in
114 effect for the duration of that amortization schedule, which shall not exceed 25 years. When
115 these liabilities are paid off, or after the term of 25 years, these counties shall continue to
116 appropriate and the state treasurer shall continue to assess the city of Boston an amount equal to
117 the minimum obligation to fund from their own revenues in fiscal year 2009 the operations of the
118 office of the sheriff, but shall pay such amounts to the state treasurer, who shall place such funds
119 in the commonwealth's General Fund.

120 SECTION 11. Notwithstanding any general or special law to the contrary, any funds,
121 including but not limited to county correctional funds and other sources of income and revenue,
122 to the credit of the offices of transferred sheriffs as of June 30, 2009, shall be paid to the state
123 treasurer, but the county treasurer may pay appropriate fiscal year 2009 sheriff's department
124 obligations after June 30, 2009. Payment of obligations to be charged to the sheriff's fiscal year
125 2009 budget as approved by the county government finance review board must be within that
126 budget or otherwise be approved by the secretary of administration and finance.

127 SECTION 12. (a) Notwithstanding any general or special law to the contrary, and except
128 for all counties the governments of which have been abolished by chapter 34B or other law,

129 revenues of the office of sheriff in Barnstable, Bristol, Dukes, Nantucket, Norfolk, Plymouth and
130 Suffolk counties for civil process, inmate telephone and commissary funds, shall remain with the
131 office of sheriff.

132 (b) In order to encourage innovation and enterprise, each sheriff's office shall annually
133 confer with the house and senate committees on ways and means regarding each sheriff's efforts
134 to maximize and maintain grants, dedicated revenue accounts, revolving accounts, fee for service
135 accounts and fees and payments from the federal, state and local governments and other such
136 accounts and regarding which revenues shall remain with the sheriff's office.

137 (c) Any sheriff who has developed a revenue source derived apart from the state treasury
138 may retain that funding to address the needs of the citizens within that county.

139 (d) Any un-encumbered carry-forward deeds excise or other funds to the credit of the
140 sheriff as of June 30, 2009 shall be paid to the state treasurer.

141 SECTION 13. For the purpose of recovering liabilities assumed by the commonwealth,
142 other than unfunded pension liabilities, on behalf of the office of a transferred sheriff, the
143 secretary of administration and finance shall establish a plan to recover those amounts from
144 county governments.

145 SECTION 14. (a) All employees of the offices of transferred sheriffs, including those
146 who immediately before the effective date of this act hold permanent appointment in positions
147 classified under chapter 31 of the General Laws or have tenure in their positions by reason of
148 section 9A of chapter 30 of the General Laws or do not hold such tenure, are hereby transferred
149 to that transferred sheriff as employees of the commonwealth, without interruption of service
150 within the meaning of said section 9A or said chapter 31, and without reduction in compensation
151 or salary grade.

152 (b) Notwithstanding any general or special law to the contrary, all such employees of the
153 offices of transferred sheriffs shall continue to retain their right to collectively bargain pursuant
154 to chapter 150E of the General Laws, and shall be considered sheriff's office employees for the
155 purposes of said chapter 150E.

156 (c) All petitions, requests, investigations and other proceedings approximately and duly
157 brought before the offices of transferred sheriffs, or duly begun by those sheriffs and pending
158 before them before the transfer date, shall continue unabated and remain in force, but shall be
159 assumed and completed by the office of transferred sheriff.

160 (d) All orders, rules and regulations duly made and all approvals duly granted by
161 transferred sheriffs which are in force immediately before the transfer date, shall continue in
162 force and the provisions thereof shall thereafter be enforced, until superseded, revised, rescinded
163 or canceled in accordance with law by that sheriff.

164 (e) All books, papers, records, documents, and equipment, which immediately before the
165 transfer date are in the custody of transferred sheriffs shall be transferred to that sheriff upon the
166 effective date of this act.

167 (f) All duly existing contracts, leases and obligations of transferred sheriffs shall continue
168 in effect. No existing right or remedy of any character shall be lost, or affected by this act.

169 SECTION 15. The rights of all employees of each office of transferred sheriffs shall
170 continue to be governed by the terms of collective bargaining agreements, as applicable. If any
171 collective bargaining agreement has expired on the transfer date, the terms and conditions of any
172 such agreement shall remain in effect until a new agreement is reached.

173 SECTION 16. Notwithstanding any general or special law to the contrary, a transferred
174 sheriff in office immediately before the transfer date shall become an employee of the

175 commonwealth with salary to be paid by the commonwealth. The sheriff shall remain an elected
176 official under the provisions of section 159 of chapter 54 of the General Laws. The sheriff shall
177 operate pursuant to chapter 37 of the General Laws. The sheriff shall retain administrative and
178 operational control over the office of the sheriff, the jail, the house of correction and any other
179 occupied buildings controlled by a transferred sheriff upon the effective date of this act. The
180 sheriff and sheriff's office shall retain and operate under all established common law power and
181 authority as well as chapters 126 and 127 and any other relevant provisions of the General Laws
182 in effect before the transfer.

183 SECTION 17. Notwithstanding any general or special law to the contrary, the transferred
184 sheriff shall be considered an "employer" as that term is defined in section 1 of chapter 150E of
185 the General Laws for the purposes of said chapter 150E. The sheriff shall also have power and
186 authority as employer in all matters, including but not limited to hiring, firing, promotion,
187 discipline, work-related injuries and internal organization of the department.

188 SECTION 18. (a) Notwithstanding any general or special law or rule or regulation to the
189 contrary, the sheriff, special sheriff, all deputies, jailers, superintendents, deputy superintendents,
190 assistant deputy superintendants, keepers, officers, assistants and other employees of the office
191 of a transferred sheriff, employed immediately before the transfer date in the discharge of their
192 responsibilities set forth in section 24 of chapter 37 and section 16 of chapter 126 of the General
193 Laws, shall be transferred to the commonwealth with no impairment of employment rights held
194 immediately before the transfer date, without interruption of service, without impairment of
195 seniority, retirement or other rights of employees, without reduction in compensation or salary
196 grade and without change in union representation. Any collective bargaining agreement in effect
197 immediately before the transfer date shall continue in effect and the terms and conditions of

198 employment therein shall continue as if the employees had not been so transferred. Nothing in
199 this section shall be construed to confer upon any employee any right not held immediately
200 before the date of said transfer, or to prohibit any reduction of salary grade, transfer,
201 reassignment, suspension, discharge layoff or abolition of position not prohibited before such
202 date. These employees shall not be considered new employees for salary, wage, tax, health
203 insurance, Medicare or any other federal or state purposes, but shall retain their existing start and
204 hiring date, seniority and any other relevant employment status through the transfer.

205 (b) All demands, notices, citations, writs, precepts and all other notices given by the
206 sheriff, special sheriff, deputies, jailers, superintendents, deputy superintendents, assistant deputy
207 superintendants, keepers, officers, assistants or other employees of the office of a transferred
208 sheriff, as the case may be, on or before the transfer date shall be valid and effective for all
209 purposes unless otherwise revoked, suspended, rescinded, canceled or terminated in accordance
210 with law.

211 (c) Any enforcement activity imposed by the sheriff, special sheriff, any deputies, jailers,
212 superintendents, deputy superintendents, assistant deputy superintendants, keepers, officers,
213 assistants or other employees of the office of a transferred sheriff, before the transfer date, shall
214 be valid, effective and continuing in force according to the terms thereof for all purpose unless
215 superseded, revised, rescinded or canceled in accordance with law.

216 (d) All petitions, hearings appeals, suits and other proceedings duly brought against, and
217 all petitions, hearings, appeals, suits, prosecutions and other legal proceedings begun by the
218 sheriff, special sheriff, deputies, jailers, superintendents, deputy superintendents, assistant deputy
219 superintendants, keepers, officers, assistants or the employees of the office of a transferred

220 sheriff, as the case may be, which are pending before the transfer date shall continue unabated
221 and remain in force notwithstanding the passage of this act.

222 (e) All records maintained by the sheriff, special sheriff, deputies, jailers,
223 superintendents, deputy superintendents, assistant deputy superintendants, keepers, officers,
224 assistants and other employees of the office of a transferred sheriff before the transfer date shall
225 continue to enjoy the same status in any court or administrative proceeding, whether pending on
226 said transfer date or commenced thereafter, as they would have enjoyed in the absence of the
227 passage of this act.

228 SECTION 19. All officers and employees of the office of a transferred sheriff transferred
229 to the service of the commonwealth shall be transferred with no impairment of seniority,
230 retirement or other rights of employees, without reduction in compensation or salary grade and
231 without change in union representation, except as otherwise provided in this act. Any collective
232 bargaining agreement in effect for such transferred employees immediately before the transfer
233 date shall continue as if the employees had not been so transferred, until the expiration date of
234 such collective bargaining agreement. Nothing in this section shall be construed to confer upon
235 any employee any right not held immediately before the transfer date, or to prohibit any
236 reduction of salary or grade, transfer, reassignment, suspension, discharge, layoff or abolition of
237 position not prohibited before the transfer date.

238 SECTION 20. (a) Notwithstanding any general or special law to the contrary, employees
239 of the office of a transferred sheriff who become state employees under this act and who are
240 eligible for group insurance coverage as provided under chapter 32B of the General Laws or who
241 are insured under said chapter 32B, shall have that eligibility and coverage transferred to the
242 jurisdiction of the group insurance commission effective 4 months after the transfer date, and

243 those employees shall cease to be eligible or insured under said chapter 32B. These employees
244 shall not be considered to be new employees. The group insurance commission shall provide
245 uninterrupted coverage for group life and accidental death and dismemberment insurance and
246 group general or blanket insurance providing hospital, surgical, medical, dental and other health
247 insurance benefits to the extent authorized under chapter 32A of the General Laws. Employees
248 who were covered by a collective bargaining agreement on the transfer date shall continue to
249 receive the group insurance benefits required by their respective collective bargaining
250 agreements until the expiration date of those agreements.

251 (b) The human resources division of the executive office for administration and finance
252 shall assume the obligations of the office of a transferred sheriff to employees who become state
253 employees and who are covered under a health and welfare trust fund agreement established
254 under section 15 of chapter 32B of the General Laws pursuant to a collective bargaining
255 agreement until the expiration date of the collective bargaining agreement.

256 (c) Any monies in the employees' group insurance trust funds of Barnstable, Bristol,
257 Dukes, Nantucket, Norfolk, Plymouth and Suffolk counties established pursuant to section 8A of
258 said chapter 32B three months after the transfer date that would otherwise have been paid toward
259 benefits for employees of the transferred sheriffs shall be transferred to the Group Insurance
260 Commission Trust Fund established pursuant to section 9 of said chapter 32A.

261 (d) Any monies in a claims trust fund established pursuant to section 3A of said chapter
262 32B that would otherwise have been reserved for claims made by employees of a transferred
263 sheriff are hereby transferred to the group insurance commission as of the transfer date.

264 SECTION 21. Notwithstanding chapter 32 of the General Laws or any other general or
265 special laws to the contrary, the retirement system in the county of a transferred sheriff shall

266 continue pursuant to this section and shall be managed by the retirement board as provided in
267 this section beginning on the transfer date. Employees of a transferred sheriff who retired on or
268 before the transfer date shall be members of the county retirement system, which shall pay the
269 cost of benefits annually to such retired county employees and their survivors. The retirement
270 assets of the employees of transferred sheriffs who become state employees pursuant to this act
271 shall be transferred from said county retirement system to the state retirement system, which
272 shall thereafter be responsible for those employees, subject to the laws applicable to employees
273 whose transfer from one governmental unit to another results in the transfer from one retirement
274 system to another, except for paragraph (c) of subdivision (8) of section 3 of chapter 32 of the
275 General Laws. All other provisions governing the retirement systems of the counties of
276 Barnstable, Bristol, Dukes, Nantucket, Norfolk, Plymouth and Suffolk shall remain in effect.

277 SECTION 22. County commissioners, county sheriffs, county treasurers, county
278 retirement systems, the State-Boston retirement system, and all executive branch agencies and
279 officers shall cooperate with the secretary of administration and finance in effecting the orderly
280 transfer of the county sheriffs to the commonwealth. The secretary may establish working groups
281 as she considers appropriate to assist in the implementation of the transfer.

282 SECTION 23. This act shall take effect on July 1, 2009.