

## **MA State Office of Restorative Justice Enabling Statute<sup>i</sup>**

**DRAFT** confirmed at Restorative Justice Advisory Committee Meeting on 8/8/23.

### **PART I. ADMINISTRATION OF THE GOVERNMENT.**

#### **TITLE II. EXECUTIVE AND ADMINISTRATIVE OFFICERS OF THE COMMONWEALTH.**

##### **CHAPTER 51. EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE<sup>ii</sup>**

##### **SECTION 63. Office of restorative justice; director; advisory committee; powers and duties.**

There shall be an office of restorative justice<sup>iii</sup> funded by the commonwealth under the supervision and control of a director who shall be appointed by the secretary for administration and finance. The director shall be a person with substantial training and professional experience in restorative justice, who shall maintain complete impartiality with respect to the matters coming before the office of restorative justice and who shall devote full time to the duties of the office.

The office of restorative justice<sup>iv</sup> shall build restorative justice capacity across multiple disciplines and jurisdictions and serve as the primary administrative and funding vehicle for publicly sponsored restorative justice initiatives in the commonwealth. The office shall be available to assist legislative, judicial, and executive agencies of the commonwealth, counties, cities, towns, community organizations and members of the public with developing and expanding restorative justice initiatives. The office may: (a) design, develop, operate or fund restorative justice programs in collaboration with communities and government agencies; (b) establish standards/guidelines for best practices for administration, training and facilitators of restorative justice programs operated or funded by the office; (c) conduct restorative justice educational programs and provide other technical assistance; (d) serve as a centralized repository for restorative justice resources; (e) establish policies and procedures to effectuate the purposes of this section, including provisions for grant making, data collection, and evaluation of restorative justice programs operated or funded by the office; and (f) take other action to promote restorative justice within local communities and public entities of the commonwealth.

There shall be a statewide advisory committee<sup>v</sup> for the office of restorative justice convened by the director consisting of 25 members who shall serve without compensation except for reimbursement of expenses related to serving on the committee. The advisory committee shall consist of representatives of the governor, the attorney general, the chief justice of the supreme judicial court, the chief justice of the trial court, the secretary of public safety and security, the secretary of health and human services, the secretary of education, the president of the district attorneys association, the chief counsel of the committee for public counsel services, the commissioner of probation, the president of the school superintendents association, the president of the chiefs of police association, the executive director of the office for victim assistance, the president of the sheriffs association, a member of the house of representatives appointed by the speaker, a member of the senate appointed by the senate president, and nine governor-appointed representatives of community-based restorative justice programs, at least four of whom shall be survivors and incarcerated/formerly incarcerated individuals. The chair shall be periodically appointed by the Governor.<sup>vi vii</sup>

The director of the office of restorative justice may establish reasonable fees to be charged to members of the public and public agencies for the provision of the restorative justice education, consultation, or other services authorized herein, and may apply for and accept on behalf of the commonwealth any federal, local, or private grants, bequests, gifts, or contributions to aid in the financing of any of the programs or activities of the office. Fees, grants, bequests, gifts, or contributions shall be expended, without further appropriation, at the direction of the director, for the cost of operation of the office, including personnel and for programs funded by the office. The office may make agreements with public agencies and officers and may contract with other persons, including private agencies, corporations, or associations, to carry out any of the functions and purposes of this section.

The office shall annually prepare a report on its activities, including all income and expenditures, and file the report with the governor, the secretaries for administration and finance, public safety and security, health and human services and education, the chief justices of the supreme judicial court and the trial court, and the chairs of the house and senate committees on ways and means, public safety, human services, and education, on or before December 31.

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## Endnotes

<sup>i</sup> This draft enabling statute is based primarily on MOPC's enabling statute because of the two MA models, that the MOPC one focused on creating a public office whereas the MOVA statute focused on creating a governing board with an executive director. MOPC statute seemed more on point to what the RJAC is intending to create. Some of the other state systems created councils and not offices as well.

<sup>ii</sup> This draft enabling statute proposes ANF as a starting place because MOPC was initially established under ANF as a neutral place within state government to carry out its statewide mission. This may be easier to obtain than creating the state RJ office as an independent state agency like MOVA. Because of the broad mission of this office, ANF may be a better placement than EOPSS (public safety), EOHHS (health/human services) or EOE (education) as all those areas will need to be served.

<sup>iii</sup> This draft enabling statute does not define restorative justice. The following restorative justice definition in M.G.L. Ch. 276B, Section 1 could be inserted or referred to in this statute: "'Restorative justice', a voluntary process whereby offenders, victims and members of the community collectively identify and address harms, needs and obligations resulting from an offense, in order to understand the impact of that offense; provided, however, that an offender shall accept responsibility for their actions and the process shall support the offender as the offender makes reparation to the victim or to the community in which the harm occurred."

<sup>iv</sup> This draft enabling statute refers to the new MA state office as the "office of restorative justice". An alternative name could be the "office of restorative practices" modeled on the new state office that Minnesota just created. That statute (SF 2909) describes restorative practices as follows: "As used in this section, "restorative practices" means a practice within a program or policy that incorporates core restorative principles, including but not limited to voluntariness, prioritization of agreement by the people closest to the harm on what is needed to repair the harm, reintegration into the community, honesty, and respect. Restorative practices include but are not limited to victim-offender conferences, family group conferences, circles, community conferences, and other similar victim-centered practices. Restorative practices funded under this statute may be used at any point including before court involvement, after court involvement, to prevent court involvement, or in conjunction with court involvement. Restorative practices are rooted in community values and create meaningful outcomes."

<sup>v</sup> This draft enabling statute proposes an "advisory" committee as opposed to a governing council. An advisory committee would give stakeholders a voice for providing input, feedback, advice, and guidance without giving the committee governing authority or responsibilities. The committee would serve as a sounding board for the state RJ office director and staff and a place for accountability, transparency, and collaboration with stakeholders. This is also to distinguish the MA state RJ office from the Colorado model which houses authority in a statewide council.

<sup>vi</sup> The advisory committee would be convened by the state office director in consultation with the Governor's office and the various designated public leaders to ensure representation. The director can work with the committee to establish the committee's policies, procedures, and criteria. For example, these could provide that members of the advisory committee shall be selected from diverse ethnicities, races, religions, ages, sexual orientations, gender identities, socio-economic status, and geographical backgrounds from throughout the commonwealth; that advisory committee members shall serve for terms of 3 years and until their successor is duly appointed; and that members shall be eligible for reappointment.

<sup>vii</sup> This draft enabling statute proposes a statewide advisory committee. As an alternative or supplement to the statewide committee, the office could help coordinate and establish regional or local restorative justice advisory committees.