

Massachusetts Gov. Baker's administration files legislation to protect survivors from dangerous individuals, distribution of explicit images

Legislative Package Includes Proposals to Update Dangerousness Procedures, Modernize Laws Governing Explicit Images.

The Baker-Polito Administration today filed legislation to create comprehensive new protections for survivors of domestic violence, sexual assault, assault and battery, the harmful distribution of explicit images, and other crimes. The package of legislative proposals being refiled by the Administration today includes An Act to Protect Victims of Crimes and the Public and An Act Relative to the Harmful Distribution of Sexually Explicit Visual Materials. Together, the proposals will strengthen public safety tools and statutes designed to keep survivors and communities safe.

Governor Charlie Baker and Lt. Governor Karyn Polito announced the legislation at a roundtable event where they heard from survivors whose stories speak to the importance of these critical public safety reforms. The roundtable was held at Plymouth Public Library and was moderated by Sandra Blatchford, the Executive Director of the South Shore Resource and Advocacy Center, which works with several of the survivors present today. Other advocates and survivor resource organizations were also present to speak in support of the legislative package. Several survivors who spoke in support of the Administration's dangerousness legislation shared their

experiences with domestic violence and noted that the legislation would provide stronger protections for people who encounter similar experiences in the future. Other survivors told stories that highlighted the importance of strengthening and modernizing laws that hold people accountable for the distribution of sexually explicit visual materials.

“Today’s proposals would provide stronger protections for survivors and we are grateful for our partnership with providers and advocacy organizations who support survivors for sharing their stories in support of this legislation,” said Governor Charlie Baker. “Our dangerousness proposal would update the current system of pretrial detention, which exposes victims and survivors to potential harm. Making these and other commonsense changes will strengthen the ability of prosecutors and the courts to hold dangerous individuals and protect survivors and our communities.”

“Hearing survivors’ stories underscores the importance of acting soon to make these reforms that will make our families and communities safer,” said Lt. Governor Karyn Polito, Chair of the Governor’s Council to Address Sexual Assault and Domestic Violence. “By modernizing the laws governing the harmful distribution of sexually visual materials, we can combat cyber-bullying through prevention education, empower prosecutors to appropriately handle cases involving minors and explicit images and help state law keep up with what technology is now.”

“We cannot overstate the courage of victims and survivors who have chosen to share their experiences and support these bills,” said Public Safety and Security Secretary Terrence Reidy. “As a former prosecutor now charged with leading the state’s public safety apparatus, I know these laws will equip criminal justice and law enforcement professionals to mitigate the threat of dangerous individuals and non-consensual sharing of explicit content, especially among our young people. The measures in these bills demonstrate the Administration’s

responsiveness to challenges facing today's society."

"SSRAC fully supports both legislative filings to address dangerousness and SEVM. Holding offenders on dangerousness enables survivors to focus on their safety," said Sandra Blatchford, executive director of the South Shore Resource and Advocacy Center. "Protection against the pervasive threat of a dangerous offender often means a victim may have to leave employment, uproot children, and move away from support systems. The provisions of the dangerousness legislation will enable survivors to evaluate options, work with advocates, and move towards healing and safety."

"We have worked with too many victims brutally assaulted at the hands of a predator with a long and violent criminal history. While pending trial, these offenders often violate stay-away orders, with little consequence," said Julie Kehoe, chief executive officer of Health Imperative. "This dangerousness legislation will provide law enforcement and criminal justice professionals with long-overdue tools to save lives and reduce incidents of domestic and sexual violence."

An Act to Protect Victims of Crimes and the Public: First filed in 2018, the Administration's proposal would expand the list of offenses that can provide grounds for a dangerousness hearing and close certain loopholes at the start and end of the criminal process that currently limit or prevent effective action to address legitimate safety concerns. It would strengthen the ability of judges to enforce the conditions of pre-trial release by empowering police to detain people who they observe violating court-ordered release conditions; current law does not allow this, and instead requires a court to first issue a warrant. Under this proposal, judges will be empowered to revoke a person's release when the offender has violated a court-ordered condition, such as an order to stay away from a victim, or from a public playground. Current law requires an additional finding of dangerousness before release may be revoked.

The legislation also expands the list of offenses which can provide grounds for a dangerousness hearing including crimes of sexual abuse and crimes of threatened or potential violence. It also follows the long-standing federal model in including a defendant's history of serious criminal convictions as grounds that may warrant a dangerousness hearing. Current law requires courts to focus only on the crime charged and ignore a defendant's criminal history when determining whether the defendant may be the subject of this sort of hearing.

Additional elements of this proposal would:

- Extend the requirement that police take the fingerprints of people arrested for felonies to all people arrested, regardless of the charge, and allows a court to order fingerprinting of any person arraigned on any criminal charge, to ensure that decisions about release can be made with knowledge of a person's true identity and full criminal history.
- Enhance the collection and value of data for the cross-tracking system required by G.L. c. 6A, § 18 $\frac{3}{4}$, by ensuring that information about an individual who is arrested or arraigned can be linked to a unique fingerprint identifier.
- Require that the probation department, bail commissioners and bail magistrates notify authorities who can take remedial action when a person who is on pre-trial release commits a new offense anywhere in the Commonwealth or elsewhere.
- Allow bail commissioners and bail magistrates to consider dangerousness in deciding whether to release an arrestee from a police station when court is out of session.
- Create a new felony offense for cutting off a court-ordered GPS device.

An Act Relative to the Harmful Distribution of Sexually

Explicit Visual Materials: First filed in 2017, the proposal modernizes the laws governing the distribution of sexually explicit images and empowers District Attorneys with additional tools to protect children. Under this proposal, the first step in an explicit images case involving minors will be to enroll in an educational diversion program rather than go through the juvenile justice process and potentially be committed to the Department of Youth Services. While District Attorneys and the Attorney General will still have the right to bypass educational diversion programs in certain instances, the focus will now be on educational diversion rather than legal punishment.

Massachusetts law as currently written, calls for minors who engage in peer to peer distribution of sexually explicit visual material to be subject to prosecution for the distribution or possession of child pornography. This legislation seeks to update the law consistent with our lives and 21st Century technology. Should a case proceed to the juvenile justice system, this bill affords District Attorneys the discretion to decide whether a minor should be charged with a misdemeanor rather than a felony. The flexibility provided under this law will help ensure minors that do not belong in the juvenile justice system do not wind up there.

This legislation also seeks to close a loophole under current law by creating penalties for adults who distribute a sexually explicit image for purposes of revenge or embarrassment. While current law addresses non-consensual recording of an unsuspecting person, it does not address instances where someone distributes an image without consent regardless of whether the initial image may have been taken with consent. This legislation closes the gap in state law by creating a new felony offense and empowering judges in criminal proceedings to ensure an explicit image in question is permanently destroyed.

To read the Governor's filing letter, [click here](#).