

HOUSE No. 5076

House bill No. 5046, as amended and passed to be engrossed by the House. July 21, 2022.

The Commonwealth of Massachusetts

—————
In the One Hundred and Ninety-Second General Court
(2021-2022)
—————

An Act to improve and modernize the information technology systems and capacities of the judiciary.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to improve and modernize the information technology systems and capacities of the judiciary, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

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. To provide for a program to improve and modernize the information
2 technology infrastructure of the supreme judicial court, appeals court, trial court and departments
3 of the trial court of the commonwealth, the sums set forth in this act, for the several purposes and
4 subject to the conditions specified in this act, are hereby made available, subject to the laws
5 regulating the disbursement of public funds; provided, however, that the amounts specified in an
6 item or for a particular project may be adjusted in order to facilitate projects authorized in this
7 act. The sums made available in this act shall be in addition to any amounts previously made
8 available for these purposes.

9 SECTION 2.

10 JUDICIARY

11 0330-6000 For costs associated with establishing digital courthouses and courtrooms;
12 provided, that projects funded in this item shall include an access to justice portal to enable
13 electronic file storage and electronic access to case information by court users; provided further,
14 that projects funded in this item shall include a remote video interpreting system; provided
15 further, that projects funded in this item shall include a content management system to manage
16 electronically filed documents, forms and evidence with a workflow engine to manage court
17 operations and enable system wide real-time docketing and data access; provided further, that
18 projects funded in this item shall include wireless internet access in courthouses for court staff
19 and court users; provided further, that projects funded in this item shall include digital signage in
20 all courthouses; provided further, that projects funded in this item shall include the costs
21 associated with planning for the replacement of a case management system for the trial court;
22 provided further, that projects funded in this item shall include replacement of the appellate court
23 case management system; provided further, that projects funded in this item shall include a
24 supreme judicial court digital reporting system that permits self-publishing for the supreme
25 judicial court and appeals court; provided further, that not less than \$1,000,000 shall be
26 expended for the parole board of the department of correction to record and securely store audio
27 recordings of parole board hearings; provided further, that not less than \$500,000 shall be
28 expended for New England Partners in Faith and Omnipoint Technology to provide affordable
29 and free internet service to the lowest income residents, with limited internet access, impacted by
30 the Judicial system, to promote equitable access to virtual filing and appearance services of the
31 court, court services, and public safety services in Liberty Heights, Memorial Square, South End,
32 Old Hill, Upper Hill, Six Corners, Bay, Pine Point, McKnight neighborhoods and any other low-
33 income neighborhood of Springfield; provided further, that projects funded in this item shall

34 include technology for direct electronic video conferencing with registrars’ and magistrates’
35 offices of the trial court during hours of operation for attorneys and members of the public and
36 provided further, that projects funded in this item shall be funded in consultation, as applicable,
37 with the secretary of technology services and
38 security.....\$95,000,000

39 SECTION 2A.

40 JUDICIARY

41 0330-6001 For costs associated with establishing a modern and secure judiciary;
42 provided, that projects funded in this item shall include costs associated with establishing a
43 digital security system to protect court systems, networks and data; provided further, that
44 projects funded in this item shall include court system-wide replacement of physical security
45 hardware which shall include, but not be limited to, video surveillance systems, duress systems,
46 security scanning systems and inter-personnel communications equipment; provided further, that
47 projects funded in this item shall include centralized law enforcement communication systems;
48 and provided further, that projects funded in this item shall be funded in consultation, as
49 applicable, with the secretary of technology services and security.....\$35,000,000

50 SECTION 2B.

51 JUDICIARY

52 0330-6002 For costs associated with the technological modernization of court
53 administrative operations; provided, that projects funded in this item shall include court system-
54 wide voice over internet protocol phone systems; provided further, that projects funded in this

55 item shall include an energy management system; provided further, that projects funded in this
56 item shall include a data storage system of sufficient capacity to meet the needs of the court
57 system; provided further, that projects funded in this item shall include costs associated with
58 enterprise resource planning; provided further, that projects funded in this item shall include
59 costs associated with establishing a virtual private network to enable court employee remote
60 access to court systems and data; provided further, that projects funded in this item shall include
61 costs associated with increased bandwidth capacity in all court locations to accommodate a
62 digital court system provided further, that projects funded from this item include costs associated
63 with equipping the land court, the secretary of state and the registries of deeds with the
64 technology required to process real property conveyance documents executed through remote
65 online notarization; provided further, that not less than \$500,000 shall be expended for the
66 improvement and modernization of the information technology systems at the Framingham and
67 Natick District Court; and provided further, that projects funded in this item shall be funded in
68 consultation, as applicable, with the secretary of technology services and security....\$35,500,000

69 SECTION 3. Section 9B of chapter 4 of the General Laws, as appearing in the 2020
70 Official Edition, is hereby amended by adding the following sentence:- Electronically imprinting
71 the established seal of a court in a form authorized by the supreme judicial court, appeals court,
72 the trial court or any department of the trial court, shall be taken and held to be the seal of such
73 court.

74 SECTION 3A. Chapter 127 of the General Laws is hereby amended by adding the
75 following section:-

76 Section 170. The parole board shall record and securely store all audio for all parole
77 board hearings. Audio from each parolee's hearing(s) shall be securely stored and may only be
78 deleted when that individual is no longer on parole or is deceased.

79 SECTION 4. Section 7 of chapter 185 of the General Laws, as so appearing, is hereby
80 amended by inserting after the word "court", in line 7, the following words:- , or may be
81 electronically maintained by the recorder's office.

82 SECTION 5. Said chapter 185, as so appearing, is hereby further amended by striking out
83 section 9 and inserting in place thereof the following section:-

84 Section 9. An authorized facsimile or electronic rendering of the recorder's signature on
85 any court records, orders, decisions, documents or legal papers, or copies thereof, or upon any
86 writ, summons, order of notice, order of attachment or execution shall have the same validity as
87 a written signature of the recorder.

88 SECTION 6. Section 6 of chapter 185C of the General Laws, as so appearing, is hereby
89 amended by inserting after the word "affixed", in lines 2 and 3, the following words:- or
90 electronically imprinted.

91 SECTION 7. Section 14 of said chapter 185C, as so appearing, is hereby amended by
92 inserting after the word "papers", in line 5, the following words:- , whether in physical or
93 electronic form,.

94 SECTION 8. Said section 14 of said chapter 185C, as so appearing, is hereby further
95 amended by inserting after the word "thereof", in line 17, the following words:- , whether in
96 physical or electronic form,.

97 SECTION 9. Said section 14 of said chapter 185C, as so appearing, is hereby further
98 amended by inserting after the word “facsimile”, in line 20, the following words:- or electronic
99 rendering.

100 SECTION 10. Said section 14 of said chapter 185C, as so appearing, is hereby further
101 amended by striking out, in line 21, the word “facsimile”.

102 SECTION 11. Section 22 of said chapter 185C, as so appearing, is hereby amended by
103 inserting after the word “docket”, in line 4, the following words:- , including the electronic
104 docket.

105 SECTION 12. Section 3A of chapter 212 of the General Laws, as so appearing, is hereby
106 amended by inserting after the word “signed”, in line 4, the following words:- , by hand or by
107 electronic means,.

108 SECTION 13. Section 26 of said chapter 212, as so appearing, is hereby amended by
109 striking out the first sentence and inserting in place thereof the following words:- The records of
110 courts, including electronic records, which are transferred to the superior court shall remain in
111 custody of the clerks, whether in physical or electronic form.

112 SECTION 14. Said section 26 of said chapter 212, as so appearing, is hereby further
113 amended by inserting after the word “seal”, in line 8, the following words:- , which may be
114 electronically imprinted,.

115 SECTION 15. Section 36 of chapter 215 of the General Laws, as so appearing, is hereby
116 amended by striking out the words “books kept therefor”, in line 6, and inserting in place thereof
117 the following words:- books or electronically.

118 SECTION 16. Said section 36 of said chapter 215, as so appearing, is hereby further
119 amended by inserting after the word “process”, in line 16, the following words:- or
120 electronically.

121 SECTION 17. Section 53 of said chapter 215, as so appearing, is hereby amended by
122 inserting after the word “documents”, in line 4, the following words:- , whether in physical or
123 electronic form,.

124 SECTION 18. Section 15 of chapter 217 of the General Laws, as so appearing, is hereby
125 amended by inserting after the word “papers”, in line 2, the following words:- , whether in
126 physical or electronic form,.

127 SECTION 19. Section 26 of said chapter 217, as so appearing, is hereby amended by
128 inserting after the word “signing”, in line 1, the following words:- or electronic rendering.

129 SECTION 20. Section 2A of chapter 218 of the General Laws, as so appearing, is hereby
130 amended by inserting after the word “papers”, in line 6, the following words:- , whether in
131 physical or electronic form,.

132 SECTION 21. Section 12 of said chapter 218, as so appearing, is hereby amended by
133 inserting after the word “papers”, in line 10, the following words:- , whether in physical or
134 electronic form,.

135 SECTION 22. Section 13 of said chapter 218, as so appearing, is hereby amended by
136 inserting after the word “kept”, in line 3, the following words:- in the trial court electronic
137 document management system or.

138 SECTION 23. Section 14 of said chapter 218, as so appearing, is hereby amended by
139 inserting after the word “facsimile”, in lines 7 and 12, in each instance, the following words:- or
140 electronic rendering.

141 SECTION 24. Said section 14 of said chapter 218, as so appearing, is hereby further
142 amended by striking out, in line 8, the word “facsimile”.

143 SECTION 25. Said section 14 of said chapter 218, as so appearing, is hereby further
144 amended by striking out the words “Said facsimile”, in line 13, and inserting in place thereof the
145 following word:- Such.

146 SECTION 26. Section 44 of said chapter 218, as so appearing, is hereby amended by
147 inserting after the word “signed”, in line 2, the following words:- by hand or electronically.

148 SECTION 27. Section 14 of chapter 221 of the General Laws, as so appearing, is hereby
149 amended by inserting after the word “papers”, in line 4, the following words:- , whether in
150 physical or electronic form,.

151 SECTION 28. Section 17 of said chapter 221, as so appearing, is hereby amended by
152 striking out the word “A”, in line 1, and inserting in place thereof the following words:- An
153 authorized electronic rendering or a.

154 SECTION 28A. Chapter 221 of the General Laws is hereby amended by inserting after
155 section 46D the following section:-

156 Section 46E. (a) With respect to real estate closings involving the use of communication
157 technology, as defined in chapter 222, the following words, as used in this section, shall, unless
158 the context clearly requires otherwise, have the following meanings:

159 “Closing,” the consummation of a transaction between parties for the purpose of granting
160 a mortgage or otherwise transferring title to real property, including the execution of documents
161 necessary to accomplish the valid and proper transfer of title and the transfer of the consideration
162 for the conveyance, whether done simultaneously with or subsequent to the execution of
163 documents for the transfer of title; provided, however, that a closing shall not include any
164 transaction in which the consideration for the transfer of title is evidenced solely by a home
165 equity loan or line of credit that is secured by a mortgage on a residential dwelling with 4 or
166 fewer separate households, does not involve the issuance of a lender’s or mortgagee’s policy of
167 title insurance in connection with such transaction, and is to be retained by the lender and not
168 sold on the secondary mortgage market.

169 “Creditor”, a person or entity that holds or controls, partially, wholly, indirectly, directly
170 or in a nominee capacity, a mortgage loan securing real property, including, but not limited to, an
171 originator, holder, investor, assignee, successor, trust, trustee, nominee holder, Mortgage
172 Electronic Registration System or mortgage servicer, including the Federal National Mortgage
173 Association or the Federal Home Loan Mortgage Corporation; provided, that “creditor” shall
174 also include any servant, employee, representative or agent of a creditor.

175 (b) Notwithstanding any general or special law to the contrary, no person, unless that
176 person has been admitted as an attorney in the commonwealth and has not been disqualified from
177 the practice of law due to resignation, disbarment or suspension or placed on inactive status,
178 shall (i) direct or manage a closing; or (ii) take the following actions in preparation for, or in
179 furtherance of, a closing:

180 (1) giving or furnishing legal advice as to the legal status of title;

181 (2) ensuring that the seller, or the borrower-mortgagor in a mortgage refinancing
182 transaction, is in a position to convey marketable title to the residential property at issue;

183 (3) issuing a certification of title pursuant to section 70 of chapter 93;

184 (4) drafting a deed to real property on behalf of another;

185 (5) ensuring that the documents necessary for the transfer of title are executed and
186 acknowledged in accordance with the laws of the commonwealth; or

187 (6) disbursing, or managing the disbursement, of consideration for the conveyance.

188 (c) The attorney general may initiate an action, including a petition for injunctive relief,
189 against any person or creditor whose violation of this section is part of a pattern, or consistent
190 with a practice, of noncompliance. The supreme judicial court and the superior court shall have
191 concurrent jurisdiction in equity. A person having an interest or right that is or may be adversely
192 affected by a violation of this section may initiate an action against the person or creditor for
193 private monetary remedies.

194 SECTION 28B. Chapter 222 of the General Laws is hereby amended by striking out
195 section 1, as appearing in the 2020 Official Edition, and inserting in place thereof the following
196 section:-

197 Section 1. For the purposes of this chapter, the following words shall, unless the context
198 clearly requires otherwise, have the following meanings:

199 “Acknowledgment”, a notarial act in which an individual, at a single time appears in
200 person before a notary public, is identified by the notary public through satisfactory evidence of
201 identity and presents a document or electronic record to the notary public and indicates to the

202 notary public that the signature on the document or record before the notary was voluntarily
203 affixed by the individual for the purposes stated within the document or electronic record or that
204 the signature on the document or electronic record was the individual’s free act and deed and, if
205 applicable, that the individual was authorized to sign in a particular representative capacity.

206 “Affirmation”, a notarial act, or part thereof, that is legally equivalent to an oath and in
207 which an individual, at a single time appears in person before a notary public, is identified by the
208 notary public through satisfactory evidence of identity and makes a vow of truthfulness or
209 fidelity while appearing before the notary public under the penalties of perjury without invoking
210 a deity.

211 “Appears in person”, “appears personally”, or “personally appears”, (i) being in the same
212 physical location as another individual and close enough to see, hear, communicate with and
213 exchange tangible identification credentials with that individual; or (ii) interacting with a
214 remotely-located individual by means of communication technology in compliance with section
215 28.

216 “Communication technology”, an electronic device or process that allows a notary public
217 and a remotely-located individual to communicate with each other simultaneously by sight and
218 sound, and when necessary and consistent with other applicable laws, facilitates communication
219 with a remotely-located individual with a vision, hearing or speech impairment.

220 “Copy certification”, a notarial act in which a notary public is presented with a document
221 that the notary public copies, or supervises the copying thereof, by a photographic or electronic
222 copying process, compares the original document to the copy and determines that the copy is
223 accurate and complete.

224 “Credential analysis”, a process or service that meets guidelines established by the
225 secretary, through which a third person affirms the validity of a current government-issued
226 identification credential by review of public and proprietary data sources.

227 “Credible witness”, an honest, reliable and impartial person who personally knows an
228 individual appearing before a notary and who takes an oath or affirmation before the notary to
229 vouch for that individual’s identity.

230 “Dynamic knowledge-based authentication”, a form of identity proofing based on a set of
231 questions that pertain to an individual and are formulated from public or proprietary data
232 sources.

233 “Electronic”, relating to technology having electrical, digital, magnetic, wireless, optical,
234 electromagnetic or similar capabilities.

235 “Electronic record”, information that is created, generated, sent, communicated, received
236 or stored by electronic means.

237 “Electronic signature”, an electronic sound, symbol or process, attached to or logically
238 associated with a contract or other record and executed or adopted by a person with the intent to
239 sign the record.

240 “Foreign state”, a jurisdiction other than the United States, a state or a federally
241 recognized Indian tribe.

242 “Identity proofing”, a process or service that meets the guidelines established by the
243 secretary, by which a third person provides a notary public with a means to verify the identity of
244 a remotely located individual by a review of personal information from public or private data

245 sources, which may include credential analysis, dynamic knowledge-based authentication,
246 analysis of biometric data including, but not limited to, facial recognition, voiceprint analysis or
247 fingerprint analysis or other means permitted by the secretary.

248 “Journal”, a chronological record of notarial acts performed by a notary public.

249 “Jurat”, a notarial act in which an individual, at a single time appears in person before a
250 notary public, is identified by the notary public through satisfactory evidence of identity and: (i)
251 presents a document or electronic record; (ii) signs the document or electronic record in the
252 presence of the notary public; and (iii) takes an oath or affirmation before the notary public
253 vouching for the truthfulness or accuracy of the contents of the signed document or electronic
254 record.

255 “Notarial act” or “notarization”, an act that a notary public is empowered to perform,
256 including acts performed electronically in accordance with this chapter.

257 “Notarial certificate”, the part of or attachment to a notarized document or electronic
258 record for completion by the notary public that bears the notary public’s signature and seal and
259 states the venue, date and facts that are attested by the notary public in a particular notarial act or
260 notarization.

261 “Notary public” or “notary”, a person commissioned to perform official acts pursuant to
262 Article IV of the Amendments of the Constitution.

263 “Notarial seal,” (i) a physical image or impression affixed, stamped or embossed on a
264 tangible record; or (ii) an electronic image attached to, or logically associated with, an electronic
265 record.

266 “Oath”, a notarial act, or part thereof, that is legally equivalent to an affirmation and in
267 which an individual, at a single time, appears in person before a notary public, is identified by
268 the notary public through satisfactory evidence of identity and takes a vow of truthfulness or
269 fidelity under the penalties of perjury by invoking a deity.

270 “Official misconduct”, a violation of sections 13 to 24, inclusive, or any other general or
271 special law in connection with a notarial act or a notary public’s performance of an official act in
272 a manner found to be grossly negligent or against the public interest.

273 “Personal knowledge of identity”, familiarity with an individual resulting from
274 interactions with that individual over a period of time sufficient to ensure beyond doubt that the
275 individual is the person whose identity is claimed.

276 “Principal”, a person whose signature is notarized or a person taking an oath or
277 affirmation before a notary public.

278 “Record”, information that is inscribed on a tangible medium or that is stored in an
279 electronic or other medium and is retrievable in perceivable form.

280 “Regular place of work or business”, a place where an individual spends a substantial
281 portion of their working or business hours.

282 “Remotely-located individual”, an individual who is not in the physical presence of the
283 notary public who performs a notarial act pursuant to section 28 of this chapter.

284 “Satisfactory evidence of identity”, identification of an individual based on: (i) at least 1
285 current document issued by a United States or state government agency bearing the photographic
286 image of the individual’s face and signature; (ii) the oath or affirmation of a credible witness

287 unaffected by the document or transaction who is personally known to the notary public and who
288 personally knows the individual; or (iii) identification of an individual based on the notary
289 public’s personal knowledge of the identity of the principal; provided, however, that for a person
290 who is not a United States citizen, “satisfactory evidence of identity” shall mean identification of
291 an individual based on a valid passport or other government-issued document evidencing the
292 individual’s nationality or residence and which bears a photographic image of the individual’s
293 face and signature. For purposes of a notarial act performed using communication technology for
294 a remotely-located individual, “satisfactory evidence of identity” shall be determined pursuant to
295 section 28.

296 “Secretary”, the secretary of the commonwealth.

297 “Signature witnessing”, a notarial act in which an individual, at a single time, appears in
298 person before a notary public, is identified by the notary public through satisfactory evidence of
299 identity and presents a document or electronic record and signs the document or electronic record
300 in the presence of the notary public.

301 “Tamper evident”, the use of a set of applications, programs, hardware, software or other
302 technologies that will display evidence of any changes to an electronic record.

303 “Tangible journal”, a journal created on a fixed tangible medium in a permanent bound
304 register with numbered pages.

305 “United States”, a location within the geographic boundaries of the United States, Puerto
306 Rico, the United States Virgin Islands and any territory, insular possession or other location
307 subject to the jurisdiction of the United States.

308 SECTION 28C. Section 1A of said chapter 222, as so appearing, is hereby amended by
309 striking out the figure “26”, in line 6, and inserting in place thereof the following figure:- 29.

310 SECTION 28D. Section 8 of said chapter 222, as so appearing, is hereby amended by
311 striking out subsection (b) and inserting in place thereof the following subsection:-

312 (b)(1) A notary public shall keep an official notarial seal that shall be the exclusive
313 property of the notary public. A notary public shall not permit another to use such notarial seal.
314 A notary public shall obtain a new seal upon renewal of the commission, upon receipt of a new
315 commission or if the name of the notary public has changed. The notarial seal shall include: (i)
316 the notary public’s name exactly as indicated on the commission; (ii) the words “notary public”
317 and “Commonwealth of Massachusetts” or “Massachusetts”; (iii) the expiration date of the
318 commission in the following words: “My commission expires ___”; and (iv) a facsimile of the
319 seal of the commonwealth.

320 (2) If a notarial seal that requires ink is employed, black ink shall be used. The seal of a
321 notary public may be a digital image that appears in the likeness or representation of a traditional
322 physical notary public seal. Only the notary public whose name and registration number appear
323 on an electronic seal shall affix that seal. If the seal is electronically generated, it shall include
324 the words “Electronically affixed”. The requirements of this subsection shall be satisfied by
325 using a seal that includes all of the information required by this section. Failure to comply with
326 this section shall not affect the validity of any instrument or the record thereof.

327 SECTION 28E. Section 16 of said chapter 222, as so appearing, is hereby amended by
328 inserting after the word “notarization”, in line 3, the following words:- , except as specifically
329 provided in this chapter.

330 SECTION 28F. Said section 16 of said chapter 222, as so appearing, is hereby further
331 amended by inserting after the word “services” , in line 27, the following words:- ; provided
332 further, that a notary public shall not be precluded from receiving an additional technology
333 services fee that has been clearly disclosed in advance to the person requesting the service and
334 that technology services fee reflects the actual reasonable cost to the notary public of utilizing a
335 third-party technology service provider.

336 SECTION 28G. Section 18 of said chapter 222, as so appearing, is hereby amended by
337 adding the following subsection:-

338 (e)(1) Whenever the secretary has cause to believe that a notary public registered
339 pursuant to section 28 has engaged in a pattern of conduct, or a standard, practice or procedure
340 that the secretary determines is contrary to section 46E of chapter 221, the secretary may order
341 the notary public to comply with the law. The secretary may adopt regulations governing
342 administrative proceedings under this section.

343 (2) The attorney general may enforce the order by civil action as provided in said section
344 46E.

345 (3) The remedies provided by this section shall not limit the availability of judicial
346 remedies to any person or official.

347 SECTION 28H. Subsection (a) of section 22 of said chapter 222, as so appearing, is
348 hereby amended by striking out the second sentence and inserting in place thereof the following
349 3 sentences:- A journal may be created on a fixed tangible medium or in an electronic format. If
350 the journal is maintained on a tangible medium, it shall be a permanent, bound register with

351 numbered pages. If the journal is maintained in an electronic format, it shall be in a permanent,
352 tamper-evident electronic format complying with the rules of the secretary.

353 SECTION 28I Said section 22 of said chapter 222, as so appearing, is hereby further
354 amended by striking out, in lines 6 and 7, the words “active journal at the same time” and
355 inserting in place thereof the following words:- tangible journal at any time. A notary may keep
356 more than 1 electronic journal provided that each electronic journal conforms to the requirements
357 of subsection (a).

358 SECTION 28J. Said section 22 of said chapter 222, as so appearing, is hereby further
359 amended by striking out, in lines 33 and 34, the words “(3) the fee, if any, charged for the
360 notarial act; and (4) the address where the notarization was performed” and inserting in place
361 thereof the following words:- (3) a notation indicating whether the notarial act was conducted in
362 person or remotely; (4) the fee, if any, charged for the notarial act; and (5) the address where the
363 notarization was performed; provided, that if the notarial act was performed remotely, the notary
364 shall include the address of the notary and each principal and witness.

365 SECTION 28K. Said section 22 of said chapter 222, as so appearing, is hereby further
366 amended by striking out, in lines 51 and 57, in each instance, the word “state”.

367 SECTION 28L. Said section 22 of said chapter 222, as so appearing, is hereby further
368 amended by striking out subsection (i) and inserting in place thereof the following subsection:-

369 (i) If not in use, a journal shall be kept under the exclusive control of the notary public or
370 a third-party technology service provider designated by the notary public, provided there is a
371 mutual agreement by both the notary public and the third-party service provider, and shall not be
372 used by any other notary public or surrendered to an employer upon termination of employment.

373 SECTION 28M. Said chapter 222 is hereby further amended by adding the following 3
374 sections:-

375 Section 27. (a) A notary public may select 1 or more tamper-evident technologies to
376 perform notarial acts with respect to electronic records. A person may not require a notary public
377 to perform a notarial act with respect to an electronic record with a technology that the notary
378 public has not selected.

379 (b) The secretary shall establish standards for approval of technologies for use by notaries
380 public commissioned by the commonwealth.

381 (c) A tangible copy of an electronic record shall be accepted as the equivalent of an
382 original document for purposes of recording said copy; provided, that: (i) the copy contains a
383 notarial certificate that satisfies all requirements for an original document to be accepted for
384 recording; (ii) the copy satisfies all requirements for recording an original document set forth in
385 chapter 183 and chapter 185, as applicable; and (ii) the notarial officer executing the notarial
386 certificate certifies that the tangible copy is an accurate copy of the electronic record.

387 Section 28. (a) A notary public physically located in the commonwealth may perform a
388 notarial act using communication technology for a remotely-located individual who is the
389 principal in a notarial act if the notary public:

390 (i)(A) has personal knowledge of the identity of the remotely-located individual; (B) has
391 identified the remotely-located individual by means of an oath or affirmation of a credible
392 witness unaffected by the document or transaction who is personally known to the notary public
393 and who personally knows the remotely-located individual; or (C) reasonably can identify the

394 remotely-located individual by at least 2 different types of identity proofing processes or
395 services;

396 (ii) is able to execute the notarial act in a single, real-time session;

397 (iii) is reasonably able to confirm that a record before the notary public is the same record
398 in which the remotely-located individual made a statement or on which the remotely-located
399 individual executed a signature; and

400 (iv) the notary public, or a person acting on behalf of the notary public, creates an audio-
401 visual recording of the performance of the notarial act.

402 (b) A notary public physically located in the commonwealth may perform a notarial act
403 using communication technology for a remotely-located individual who is the principal in a
404 notarial act and is located outside the United States if: (i) the record is to be filed with or relates
405 to a matter before a public official or court, governmental entity or other entity subject to the
406 jurisdiction of the United States, or involves property located in the territorial jurisdiction of the
407 United States or a transaction substantially connected with the United States; and (ii) the act of
408 making the statement or signing the record is not prohibited by the foreign state in which the
409 remotely-located individual is located.

410 (c) A notary public shall not use communication technology to notarize a record related
411 to the electoral process, or a will, codicil or document purporting to be a will or codicil.

412 (d) Before a notary public performs the notary public's initial notarization using
413 communication technology, the notary public shall: (i) register as a remote notary with the
414 secretary; (ii) inform the secretary that the notary public will perform remote notarizations; and

415 (iii) identify the communication technology that the notary public intends to use. The remote
416 notarization system must conform to the requirements of this chapter and any rules adopted by
417 the secretary. The notice shall be submitted in the form required by the secretary and shall: (A)
418 include an affirmation that the notary public has read and will comply with this section and all
419 rules adopted by the secretary; (B) be accompanied by proof that the notary public has
420 successfully completed any training and examination required by this section or that may be
421 required by the secretary; and (C) identify a usual place of business in this state or, if a foreign
422 entity, identify a registered agent, and in either case identify an address for service of process in
423 connection with a civil action or other proceeding.

424 (e) If a notarial act is performed pursuant to this section, the certificate of notarial act
425 required by section 15 shall indicate that the notarial act was performed remotely using
426 communication technology and identify the venue for the notarial act as the county within the
427 commonwealth where the notary public was physically located while performing the notarial act.

428 (f) A notary public, a guardian, conservator or agent of a notary public or a personal
429 representative of a deceased notary public shall retain the audio-visual recording created under
430 clause (iv) of subsection (a) or cause the recording to be retained by a repository designated by
431 or on behalf of the person required to retain the recording. The recording shall be retained for 10
432 years after the recording is made.

433 (g) Upon request, the notary public shall make available electronic copies of the pertinent
434 entries in the electronic journal and provide access to any related audio-video communication
435 recording to the following persons: (i) the parties to an electronic record notarized by the notary
436 public; (ii) the title insurer reviewing an insured transaction in the context of an audit of its agent,

437 if the agent conducted the electronic notarial act as an element of the insured transaction; and
438 (iii) any other persons pursuant to a subpoena, court order, law enforcement investigation or
439 other lawful inspection demand.

440 (h) The secretary shall establish standards for the use of communication technology and
441 identity proofing. A notary public who uses communication technology shall conform to those
442 standards.

443 (i) In addition to the authority set forth in subsection (h), the secretary may adopt rules
444 under this section regarding performance of the notarial act. The rules may: (i) prescribe the
445 means of performing a notarial act involving a remotely located individual using communication
446 technology; (ii) establish requirements or procedures to approve providers of communication
447 technology and the process of identity proofing; and (iii) establish standards for the retention of
448 an audio-visual recording created under clause (iv) of subsection (a).

449 (j) By allowing its communication technology or identity proofing to facilitate a notarial
450 act for a remotely-located individual or by providing storage of the audio-visual recording
451 created under clause (iv) of subsection (a), the provider of the communication technology,
452 identity proofing or storage shall appoint the secretary as the provider's agent for service of
453 process in any civil action in the commonwealth related to the notarial act.

454 (k) The following minimum standards shall apply to notarizations utilizing
455 communication technology performed by a notary public in the commonwealth; provided, that
456 the secretary may adopt rules setting standards that are equally or more protective:

457 (i) Identity proofing by means of dynamic knowledge-based authentication that shall
458 have, at a minimum, the following security characteristics:

459 (A) the remotely located individual shall be presented with 5 or more questions with a
460 minimum of 5 possible answer choices per question;

461 (B) each question shall be drawn from a third-party provider of public and proprietary
462 data sources and shall be identifiable to the social security number or other identification
463 information of the remotely located individual, or such individual's identity and historical events
464 records;

465 (C) responses to all questions shall be made within a 2-minute time constraint;

466 (D) the remotely-located individual must answer a minimum of 80 per cent of the
467 questions correctly;

468 (E) if the remotely-located individual fails the first attempt, the individual may be offered
469 1 additional attempt within 24 hours of the initial failed attempt; and

470 (F) during the second attempt, the remotely located individual may not be presented with
471 more than 3 questions from the prior attempt.

472 (ii) Identity proofing by means of credential analysis using 1 or more commercially
473 available automated software or hardware processes that, consistent with sound commercial
474 practices, (A) aid the notary public in verifying the authenticity of the credential by analyzing the
475 integrity of visual, physical or cryptographic security features to indicate that the credential is not
476 fraudulent or inappropriately modified; and (B) use information held or published by the issuing
477 source or authoritative source to confirm the validity of credential details. The results of the
478 credential analysis process shall be provided to the notary public performing the notarial act.

479 (iii) Use of audio-video communication technology in completing notarizations that shall
480 meet the following requirements: (A) the signal transmission shall be reasonably secure from
481 interception, access or viewing by anyone other than the participants communicating; and (B) the
482 technology shall provide sufficient audio clarity and video resolution to enable the notary to
483 communicate with the remotely-located individual and any witness, and to confirm the identity
484 of the remotely-located individual and any witness, as required, using identity proofing.

485 (iv) The communication technology shall have satisfied tamper-evident technology
486 requirements by use of technology that renders any subsequent change or modification to the
487 electronic record evident.

488 (v) With respect to notarial acts conducted during a closing, as defined in section 46E of
489 chapter 221, the communication technology shall be engaged by the closing attorney with the
490 approval of the lender. Upon successful verification of the identity of the remotely-located
491 individual by the notary as required by paragraph (i) of subsection (a), such attorney shall enter
492 and affirm the attorney's board of bar overseers registration number prior to the conduct of the
493 first notarial act. The communication technology shall be responsible for recording such
494 information in a manner that is logically associated with the transaction and shall retain such
495 information for the same length of time and in the same manner as it retains all other information
496 regarding the notarial act.

497 (vi) In addition to any coverage it elects to provide for individual notaries public,
498 maintenance of errors and omissions insurance coverage by a communication technology service
499 provider shall be provided in a total amount of at least \$250,000 in the annual aggregate with
500 respect to potential errors or omissions in or relating to the technology or processes provided by

501 the communication technology service provider. A notary public shall not be responsible for the
502 security of the systems used by the remotely-located individual or others to access the
503 notarization session.

504 (vii) Prior to a notary public's initial notarization using communication technology, the
505 notary public shall complete a 2-hour in-person or online course addressing the duties,
506 obligations and technology requirements for conducting remote notarizations offered by the
507 secretary or a vendor approved by the secretary. Each such provider of communication
508 technology shall make the in-person or online course generally available to all applicants.
509 Regardless of membership in the provider's organization, the provider shall charge each attendee
510 the same cost for the course unless the course is provided in conjunction with a regularly
511 scheduled meeting of the provider's membership.

512 (l) Notwithstanding any general or special law to the contrary, with respect to any
513 document executed in the course of a closing, as defined in section 46E of chapter 221, involving
514 a mortgage or other conveyance of title to residential real property, only a notary public
515 appointed pursuant to this chapter who is an attorney licensed to practice law in the
516 commonwealth, or a non-attorney who is under the direct supervision of or acting pursuant to a
517 direct request by the attorney directing or managing the closing, shall perform an
518 acknowledgment, affirmation or other notarial act utilizing communication technology. The
519 notarial certificate affixed to any such document shall recite the board of bar overseers
520 registration number of the attorney notary, or of the supervising attorney for a document
521 notarized by a non-attorney. Failure to comply with this section shall not affect the validity of the
522 document or the recording thereof.

523 (m) The chief justice of the land court may promulgate rules, orders, guidelines, and
524 directives concerning sections 27 and 28 of this chapter as they pertain to the execution,
525 acknowledgment, and registration of documents affecting title to land whose title has been
526 registered and confirmed by the land court pursuant to chapter 185.

527 Section 29. A notary public shall not use, sell, or offer to sell to another person, or
528 transfer to another person for use or sale, any personal information obtained under section 28 that
529 identifies a remotely-located individual, a witness to a remote notarization or a person named in
530 a record presented for remote notarization, except: (i) as necessary to facilitate performance of a
531 notarial act; (ii) to effect, administer, enforce, service or process a record provided by or on
532 behalf of the individual or the transaction of which the record is a part; or (iii) in accordance with
533 this section, including the rules adopted pursuant thereto, or other applicable federal or state law,
534 or to comply with a lawful subpoena or court order.

535 SECTION 29. Section 20 of chapter 223 of the General Laws, as so appearing, is hereby
536 amended by inserting after the word “signed”, in line 2, the following words:- , by hand or by
537 electronic means,.

538 SECTION 30. Section 6 of chapter 248 of the General Laws, as so appearing, is hereby
539 amended by inserting after the word “signed”, in line 2, the following words:- , by hand or
540 electronically,.

541 SECTION 31. Notwithstanding any general or special law to the contrary, for cases that
542 are electronically filed in any state court in the commonwealth, any statutory requirement of a
543 written signature on a document to be filed, or any statutory requirement of a written signature in
544 communications between the court and a party, shall be satisfied if the document includes a

545 signature in a form authorized by the supreme judicial court, the appeals court, the trial court or
546 any department of the trial court.

547 SECTION 32. To meet the expenditures necessary in carrying out section 2, the state
548 treasurer shall, upon request of the governor, issue and sell bonds of the commonwealth in an
549 amount to be specified by the governor, but not exceeding in the aggregate \$94,000,000. All
550 such bonds issued by the commonwealth, shall be designated on their face, Judiciary Information
551 Technology and Innovation Act of 2022, and shall be issued for a maximum term of years, not
552 exceeding 5 years, as the governor may recommend to the general court pursuant to section 3 of
553 Article LXII of the Amendments to the Constitution. The bonds shall be payable not later than
554 June 30, 2032. All interest and payments on account of principal on these obligations shall be
555 payable from the General Fund. Bonds and interest thereon issued pursuant to this section shall,
556 notwithstanding any general or special law to the contrary, be general obligations of the
557 commonwealth.

558 SECTION 33. To meet the expenditures necessary in carrying out section 2A, the state
559 treasurer shall, upon request of the governor, issue and sell bonds of the commonwealth in an
560 amount to be specified by the governor, but not exceeding in the aggregate \$35,000,000. All
561 such bonds issued by the commonwealth shall be designated on their face, Judiciary Information
562 Technology and Innovation Act of 2022, and shall be issued for a maximum term of years, not
563 exceeding 5 years, as the governor may recommend to the general court pursuant to section 3 of
564 Article LXII of the Amendments to the Constitution. The bonds shall be payable not later than
565 June 30, 2032. All interest and payments on account of principal on these obligations shall be
566 payable from the General Fund. Bonds and interest thereon issued pursuant to this section shall,

567 notwithstanding any general or special law to the contrary, be general obligations of the
568 commonwealth.

569 SECTION 34. To meet the expenditures necessary in carrying out section 2B, the state
570 treasurer shall, upon request of the governor, issue and sell bonds of the commonwealth, in an
571 amount to be specified by the governor, but not exceeding in the aggregate \$35,000,000. All
572 such bonds issued by the commonwealth shall be designated on their face, Judiciary Information
573 Technology and Innovation Act of 2022, and shall be issued for a maximum term of years, not
574 exceeding 5 years, as the governor may recommend to the general court pursuant to section 3 of
575 Article LXII of the Amendments to the Constitution. The bonds shall be payable not later than
576 June 30, 2032. All interest and payments on account of principal on these obligations shall be
577 payable from the General Fund. Bonds and interest thereon issued pursuant to this section shall,
578 notwithstanding any general or special law to the contrary, be general obligations of the
579 commonwealth.

580 SECTION 35. Sections 3 to 31, inclusive, shall take effect 90 days after the effective date
581 of this act.

582 SECTION 35A. Sections 27, 28 and 29 of chapter 222 of the General Laws, as inserted
583 by section 28M of this act, shall take effect on March 31, 2023.

584 SECTION 36. Section 131 of chapter 140 of the General Laws, as appearing in the 2020
585 Official Edition, is hereby amended by striking out, in lines 6 to 8, inclusive, the words “, subject
586 to such restrictions relative to the possession, use or carrying of firearms as the licensing
587 authority considers proper”.

588 SECTION 37. Said section 131 of said chapter 140, as so appearing, is hereby further
589 amended by striking out, in lines 10 to 17, inclusive, the words “; provided, however, that the
590 licensing authority may impose such restrictions relative to the possession, use or carrying of
591 large capacity rifles and shotguns as it considers proper. A violation of a restriction imposed by
592 the licensing authority under this paragraph shall be cause for suspension or revocation and shall,
593 unless otherwise provided, be punished by a fine of not less than \$1,000 nor more than \$10,000;
594 provided, however, that section 10 of chapter 269 shall not apply to a violation of this
595 paragraph.”

596 SECTION 38. Said section 131 of said chapter 140, as so appearing, is hereby further
597 amended by inserting after the word “of”, in lines 55, 256 and 364, in each instance, the
598 following words: - the department of.

599 SECTION 39. Said section 131 of said chapter 140, as so appearing, is hereby further
600 amended by striking out, in line 73, the word “may” and inserting in place thereof the following
601 words: - shall, following a personal interview,.

602 SECTION 40. Subsection (d) of said section 131 of said chapter 140, as so appearing, is
603 hereby further amended by striking out the first paragraph and inserting in place thereof the
604 following paragraph: -

605 A person residing or having a place of business within the jurisdiction of the licensing
606 authority or any law enforcement officer employed by the licensing authority or any person
607 residing in an area of exclusive federal jurisdiction located within a city or town may submit to
608 the licensing authority or the colonel of state police an application for a license to carry firearms,
609 or renewal of the same, which the licensing authority or the colonel shall issue if it appears that

610 the applicant is not a prohibited person or determined to be unsuitable to be issued a license as
611 set forth in this section.

612 SECTION 41. Said subsection (d) of said section 131 of said chapter 140, as so
613 appearing, is hereby further amended by striking out clauses (vii) through (x), inclusive, and
614 inserting in place thereof the following clauses: -

615 (vii) poses a risk of danger to their self or others by having in their control, ownership or
616 possession a weapon, feeding device or ammunition;

617 (viii) is currently the subject of an outstanding arrest warrant in any state or federal
618 jurisdiction;

619 (ix) has been discharged from the armed forces of the United States under dishonorable
620 conditions;

621 (x) is a fugitive from justice; or

622 (xi) having been a citizen of the United States, has renounced that citizenship.

623 SECTION 42. Said section 131 of said chapter 140, as so appearing, is hereby further
624 amended by striking out, in line 137, the words “or (C)” and inserting in place thereof the
625 following words: - (C) a permanent or temporary harassment prevention order issued pursuant to
626 chapter 258E or a similar order issued by another jurisdiction; or (D).

627 SECTION 43. Said section 131 of said chapter 140, as so appearing, is hereby further
628 amended by striking out, in line 147, the word “may” and inserting in place thereof the following
629 word: - shall.

630 SECTION 44. Said section 131 of said chapter 140, as so appearing, is hereby further
631 amended by striking out, in lines 149 to 150, inclusive, the words “, in a reasonable exercise of
632 discretion, the licensing authority determines that”.

633 SECTION 45. Said section 131 of said chapter 140, as so appearing, is hereby further
634 amended by striking out, in lines 152 to 157, inclusive, the words “: (i) reliable and credible
635 information that the applicant or licensee has exhibited or engaged in behavior that suggests that,
636 if issued a license, the applicant or licensee may create a risk to public safety; or (ii) existing
637 factors that suggest that, if issued a license, the applicant or licensee may create a risk to public
638 safety” and inserting in place thereof the following words: - reliable, articulable and credible
639 information that the applicant or licensee has exhibited or engaged in behavior that suggests that,
640 if issued a license, the applicant or licensee may create a risk to public safety or a risk of danger
641 to self or others.

642 SECTION 46. Said section 131 of said chapter 140, as so appearing, is hereby further
643 amended by striking out, in line 225, the word “may” and inserting in place thereof the following
644 word: - shall.

645 SECTION 47. Said section 131 of said chapter 140, as so appearing, is hereby further
646 amended by striking out, in lines 239 to 240, inclusive, the words “, suspension or restriction
647 placed on a license” and inserting in place thereof the following word: - or suspension of a
648 license.

649 SECTION 48. Said section 131 of said chapter 140, as so appearing, is hereby further
650 amended by striking out, in lines 244 to 246, inclusive, the words “or, in the case of a restriction,
651 any time after a restriction is placed on the license pursuant to this section”.

652 SECTION 49. Said section 131 of said chapter 140, as so appearing, is hereby further
653 amended by striking out, in line 250, the words “, revoking or restricting” and inserting in place
654 thereof the following words: - or revoking.

655 SECTION 50. Said section 131 of said chapter 140, as so appearing, is hereby further
656 amended by striking out, in lines 253 to 254, inclusive, the words “or may order the licensing
657 authority to remove certain restrictions placed on the license”.

658 SECTION 51. Said section 131 of said chapter 140, as so appearing, is hereby further
659 amended by striking out, in lines 266 to 267, inclusive, 348, 360 to 361, inclusive, 409 to 410,
660 inclusive, and 424, each time they appear, the words “executive director of the criminal history
661 systems board” and inserting in place thereof the following words: - commissioner of the
662 department of criminal justice information services.

663 SECTION 52. Said section 131 of said chapter 140, as so appearing, is hereby further
664 amended by striking out, in lines 277 to 280, inclusive, the words “6 years from the date of issue
665 and shall expire on the anniversary of the licensee’s date of birth occurring not less than 5 years
666 nor more than 6 years from the date of issue” and inserting in place the following words: - 3
667 years from the date of issuance.

668 SECTION 53. Said section 131 of said chapter 140, as so appearing, is hereby further
669 amended by inserting after the words “revoked.”, in line 321, the following words: - For the
670 purposes of this section, a previously issued, valid license to carry or possess firearms shall
671 expire pursuant to its original term.

672 SECTION 54. Subsection (i) of said section 131 of said chapter 140, as so appearing, is
673 hereby further amended by striking out the third sentence.

674 SECTION 55. Said section 131 of said chapter 140, as so appearing, is hereby further
675 amended by striking out, in line 325, the words “Class A or Class B”.

676 SECTION 56. Section 131F of said chapter 140, as so appearing, is hereby amended by
677 inserting after the word “firearms”, in line 1, the following words: - , rifles or shotguns.

678 SECTION 57. Said section 131F of said chapter 140, as so appearing, is hereby further
679 amended by striking out, in line 2, the word “may” and inserting in place thereof the following
680 word: - shall.

681 SECTION 58. Said section 131F of said chapter 140, as so appearing, is hereby further
682 amended by striking out, in lines 6 to 8, inclusive, the words “and subject to such terms and
683 conditions as said colonel may deem proper; provided, however, that no license shall be issued to
684 a person who:” and inserting in place thereof the following words:- in accordance with the
685 provisions of section 131 if it appears that the applicant is not a prohibited person or is not
686 determined unsuitable to be issued a license as set forth in that said section 131.

687 SECTION 59. Said section 131F of said chapter 140, as so appearing, is hereby further
688 amended by striking out paragraphs (i) through (x).

689 SECTION 60. Said section 131F of said chapter 140, as so appearing, is hereby further
690 amended by striking out, in line 55, the words “, if in his discretion,” and inserting in place
691 thereof the following word: - if.

692 SECTION 61. Said section 131F of said chapter 140, as so appearing, is hereby further
693 amended by striking out, in lines 57 to 58, inclusive, the words “The colonel may issue such
694 license, subject to such terms and conditions as he deems proper,” and inserting in place thereof

695 the following words: - The colonel shall issue such license in accordance with the provisions of
696 section 131.

697 SECTION 62. Said section 131F of said chapter 140, as so appearing, is hereby further
698 amended by striking out, in line 65, the word “may” and inserting in place thereof the following
699 word: - shall.

700 SECTION 63. Chapter 6 of the General Laws, as amended by chapter 253 of the acts of
701 2020, is hereby amended by striking section 220 and inserting in place thereof the following
702 section: -

703 Section 220. (a) As used in this section, the following words shall, unless the context
704 clearly requires otherwise, have the following meanings:

705 “Biometric surveillance technology”, any computer software that performs facial
706 recognition or other remote biometric recognition.

707 “Facial recognition”, an automated or semi-automated process that assists in identifying
708 or verifying an individual or analyzing or capturing information about an individual based on the
709 physical characteristics of an individual’s face, head or body, or that uses characteristics of an
710 individual’s face, head or body to derive information about the associations, activities or location
711 of an individual; provided, however, that “facial recognition” shall not include the use of search
712 terms to sort images in a database.

713 “Facial recognition search”, the use of facial recognition to analyze an image.

714 “Law enforcement agency”, as defined in section 1 of chapter 6E.

715 “Law enforcement officer” or “officer”, as defined in section 1 of chapter 6E.

716 “Other remote biometric recognition”, an automated or semi-automated process that
717 assists in identifying or verifying an individual or analyzing or capturing information about an
718 individual based on an individual’s gait, voice or other biometric characteristic or that uses such
719 characteristics to derive information about the associations, activities or location of an
720 individual; provided, however, that “other remote biometric recognition” shall not include the
721 identification or verification of an individual using deoxyribonucleic acid, fingerprints, palm
722 prints or other information derived from physical contact.

723 “Public agency”, any: (i) agency, executive office, department, board, commission,
724 bureau, division or authority of the commonwealth; (ii) political subdivision thereof; or (iii)
725 authority established by the general court to serve a public purpose.

726 “Public official”, any officer, employee, agent, contractor or subcontractor of any public
727 agency.

728 (b) Absent express authorization in a general or special law to the contrary, it shall be
729 unlawful for a law enforcement agency or officer to acquire, possess, access, use, assist with the
730 use of or provide resources for the development or use of any biometric surveillance technology,
731 or to enter into a contract with or make a request to a third party, including any federal agency,
732 for the purpose of acquiring, possessing, accessing or using information derived from a biometric
733 surveillance technology.

734 Except in a judicial proceeding alleging a violation of this section, no information
735 obtained in violation of this section shall be admissible in any criminal, civil, administrative or
736 other proceeding.

737 (c) The registrar of motor vehicles may acquire, possess, or use facial recognition
738 technology to verify an individual's identity when issuing licenses, permits or other documents
739 pursuant to chapter 90; provided, however, that the registrar shall not allow any other entity to
740 access or otherwise use its facial recognition technology except in accordance with subsection
741 (d).

742 (d) The department of state police may perform a facial recognition search, or request the
743 federal bureau of investigation to perform such a search, for the following purposes:

744 (1) to execute a warrant duly authorized by a judge based on probable cause that an
745 unidentified or unconfirmed individual in an image has committed a felony;

746 (2) upon reasonable belief that an emergency involving immediate danger of death or
747 serious physical injury to any individual or group of people requires the performance of a facial
748 recognition search without delay;

749 (3) to identify a deceased person; or

750 (4) on behalf of another law enforcement agency or a federal agency, provided that
751 such agency obtained a warrant pursuant to clause (1) or documented in writing the reason for a
752 search requested under clauses (2) or (3).

753 One facial recognition operations group within the department shall be charged with
754 receiving and evaluating law enforcement requests for facial recognition searches, performing
755 facial recognition searches, reporting results, and recording relevant data. The department shall
756 only use existing facial recognition technology used by the registrar of motor vehicles or federal
757 bureau of investigations or facial recognition technology approved by the executive office of

758 technology services and security, which may only be approved following a public hearing on the
759 proposed software.

760 Any search performed or search request made to the federal bureau of investigation under
761 this section shall be documented in writing.

762 (e) For any emergency facial recognition search performed or requested under subsection
763 (d)(2), the law enforcement agency shall immediately document the factual basis for its belief
764 that an emergency requires the performance of such a search without delay, and any emergency
765 facial recognition search shall be narrowly tailored to address the emergency. Not later than 48
766 hours after the law enforcement agency obtains access to the results of a facial recognition
767 search, the agency shall file with the superior court in the relevant jurisdiction a signed, sworn
768 statement made by a supervisory official of a rank designated by the head of the agency setting
769 forth the grounds for the emergency search.

770 (f) All individuals charged with a crime who were identified using a facial recognition
771 search under this subsection shall be provided notice that they were subject to such search,
772 pursuant to rule 14 of the rules of criminal procedure. Law enforcement agencies and district
773 attorneys must make readily available to defendants and their attorneys in criminal prosecutions
774 all records and information pertaining to any facial recognition searches performed or requested
775 during the course of the investigation of the crime or offense that is the object of the criminal
776 prosecution. This information shall include, but not be limited to, the results of the facial
777 recognition search (including other possible matches identified by the search), as well as records
778 regarding the particular program or algorithm used to conduct the facial recognition search, the
779 accuracy rate of the facial recognition system, any audit testing of the facial recognition system,

780 the identity of the individual or individuals who conducted the facial recognition search, training
781 provided to law enforcement officials involved in conducting facial recognition searches, and the
782 process by which the defendant was selected as the most likely match.

783 (g) The department shall document, as a public record, each facial recognition search
784 request and each facial recognition search performed pursuant to this section and report this
785 information quarterly to the executive office of public safety and security. Reported information
786 shall include: the date and time of the search or request; the system used for the search; the
787 specific criminal offense or offenses under investigation; the number of matched individuals
788 returned, if any; the name and position of the requesting individual and employing law
789 enforcement agency; a copy of the warrant or, if no warrant exists, a copy of the written
790 emergency request; and data detailing the individual characteristics included in the facial
791 recognition search or request, including the presumed race and gender of the person in the probe
792 image(s), as assessed by the officer conducting the search.

793 (h) Annually, not later than March 31, the executive office of public safety and security
794 shall publish on its website the following data for the previous calendar year: (i) the total number
795 of facial recognition searches performed by the department of state police, disaggregated by law
796 enforcement agency or federal agency on whose behalf the search was performed; (ii) the total
797 number of facial recognition searches performed by the federal bureau of investigation on behalf
798 of law enforcement agencies, disaggregated by law enforcement agency on whose behalf the
799 search was performed. For each category of data and each law enforcement agency, the
800 published information shall include: the number of searches performed pursuant to a warrant, by
801 alleged offense; the number of searches performed pursuant to an emergency; and the race and
802 gender of the subjects of the searches, as assessed by the officer conducting the search.

803 (i) Each non-law enforcement public agency shall document, as a public record, each
804 facial recognition search requested and each facial recognition search performed by its public
805 officials and report this information quarterly to the executive office of public safety and
806 security. Reported information shall include: the date and time of the search or request; the name
807 and position of the requesting individual; the reason for the search or request; the name, position,
808 and employer of the individual who conducted the search; the system used for the search; the
809 number of matched individuals returned, if any; and data detailing the individual characteristics
810 included in the facial recognition search or request, including the presumed race and gender of
811 the person in the probe image(s), as assessed by the individual conducting the search.

812 (j) Annually, not later than March 31, the executive office of public safety and security
813 shall publish on its website the following data for the previous calendar year: (i) the total number
814 of facial recognition searches performed by or at the request of non-law enforcement public
815 agencies, disaggregated by the public agency on whose behalf the search was performed. For
816 each public agency, the published information shall include the race and gender of the subjects of
817 the searches, as assessed by the individual conducting the search.

818 (k) Notwithstanding subsection (b), it shall be unlawful for a law enforcement agency of
819 officer to use a biometric surveillance system to infer a person's emotions or affect. It shall also
820 be unlawful for a law enforcement agency or officer to use a biometric surveillance system to
821 analyze moving images or video data, whether in real time or as applied to archived information;
822 provided, however, that facial recognition may be used on a still image taken from moving
823 images or video data if authorized pursuant to subsection (d).

824 (l) Notwithstanding subsection (b), a law enforcement agency or officer may: (i) acquire
825 and possess personal electronic devices, such as a cell phone or tablet, that utilize facial
826 recognition technology for the sole purpose of user authentication; (ii) acquire, possess and use
827 automated video or image redaction software; provided, that such software does not have the
828 capability of performing facial recognition or other remote biometric recognition; and (iii)
829 receive evidence related to the investigation of a crime derived from a biometric surveillance
830 technology; provided, that the use of a biometric surveillance technology was not knowingly
831 solicited by a law enforcement agency or officer in violation of subsection (b).

832 SECTION 64. provided further, that the unexpended balance in item 1102-5700, as
833 authorized pursuant to chapter 113 of the acts of 2018, shall be expended for the costs of the
834 reconstruction or replacement of court facilities located in the downtown area of the city of New
835 Bedford.

836 SECTION 65. (a). Section 1 of chapter 188 of the General Laws is hereby amended by
837 striking the definition of “Declared homestead exemption” and inserting in place thereof the
838 following: "Declared homestead exemption", an exemption in the amount of \$500,000 created by
839 a written declaration, executed and recorded pursuant to section 5; provided, however, that: (1)
840 with respect to a home owned by joint tenants or tenants by the entirety who are benefited by an
841 estate of homestead declared pursuant to section 3, the declared homestead exemption shall
842 remain whole and unallocated, provided that the owners together shall not be entitled to a
843 declared homestead exemption in excess of \$500,000; (2) if a home is owned by tenants in
844 common or trust beneficiaries, the declared homestead exemption for each co-tenant and trust
845 beneficiary who benefits by an estate of homestead declared pursuant to said section 3 shall be
846 the product of: (i) \$500,000 divided by (ii) the number of co-tenants or trust beneficiaries who

847 reside in the home as a principal residence; (3) except as provided in clause (4), each person who
848 owns a home and who is benefited by an estate of homestead declared pursuant to section 2 shall
849 be entitled to the declared homestead exemption without reduction, proration or allocation
850 among other owners of the home; and (4) separate estates of homestead may be declared
851 pursuant to sections 2 and 3 on the same home, and in such event: (i) if the home is owned by
852 tenants in common or trust beneficiaries, the declared homestead exemption for each co-tenant
853 and trust beneficiary who benefits by an estate of homestead declared pursuant to section 3 shall
854 be calculated in the manner provided in clause (2), and the declared homestead exemption for
855 each co-tenant and trust beneficiary who benefits by an estate of homestead declared pursuant to
856 section 2 shall be calculated in the manner provided in clause (3); or (ii) if the home is owned by
857 joint tenants or tenants by the entirety, the declared homestead exemption for the owners
858 together shall be the sum of \$500,000 multiplied by the number of declarations recorded
859 pursuant to section 2, plus \$250,000; provided, however, that the homestead exemption under
860 this subclause shall remain whole and unallocated among the owners; and provided further, that
861 no owner who declares a homestead, acting individually, shall be entitled to claim an exemption
862 of more than \$500,000; and (5) the calculation of the amount of homestead exemption available
863 to an owner shall not sever a joint tenancy or tenancy by the entirety.

864 (b). Said section 1 of chapter 188 is hereby amended by striking the definition of
865 "Owner" and inserting in place thereof the following: "Owner", a natural person who is a sole
866 owner, joint tenant, tenant by the entirety, tenant in common, life estate holder, remainderman or
867 holder of a present, vested and non-contingent beneficial interest in a trust, including any of the
868 foregoing who is a lessee-shareholder of a residential cooperative housing unit.

869 (c). Subsection (b) of section 3 of said chapter 188 is hereby amended by striking clause
870 (6) and inserting in place thereof the following: (6) upon an execution issued from a court of
871 competent jurisdiction to enforce its judgment based upon fraud, duress, undue influence or lack
872 of capacity.

873 (d). Section 10 of said chapter 188 is hereby amended by striking subsections (a) and (b)
874 and inserting in place thereof the following two subsections: (a) An estate of homestead created
875 under section 3 or 4 may be terminated by any of the following methods: (1) a deed to a non-
876 family member conveying the home, signed by the owner and, if any, a non-owner spouse or
877 former spouse who resides in the home as a principal residence as of the date of the deed,
878 provided however, that a deed to a trustee of a trust for the benefit of a grantor shall not
879 terminate that grantor's existing homestead, which shall continue as to the interest of that grantor
880 as trust beneficiary; (2) a recorded release of the estate of homestead, duly signed and
881 acknowledged by the owner and, if any, a non-owner spouse or former spouse who resides in the
882 home as a principal residence as of the date of the release, which release may be executed by
883 those persons either separately or jointly; (3) the abandonment of the home as the principal
884 residence by the owner, the owner's spouse, former spouse or minor children, except that such
885 abandonment shall terminate only the rights of the persons who have abandoned the home;
886 provided, however, that no person in military service as defined in 50 U.S.C. appendix, section
887 511 shall be deemed to have abandoned the home due to such military service; (4) in the case of
888 a home the title to which is held in trust, by either: (i) the execution of a deed or a release of
889 homestead by the trustee; or (ii) action of a beneficial owner identified in the declaration, who is
890 not a minor child, taken in the same manner as provided in clauses (2) and (3); (5) the
891 subsequent recorded declaration of an estate of homestead under section 3 on other property,

892 except that such declaration shall terminate only the rights of the owner making such subsequent
893 declaration and the rights of that owner's spouse and minor children who reside or intend to
894 reside in the other property as their principal residence; (6) a deed setting forth (i) that the
895 grantor is unmarried or (ii) that the property is either not a home or not the grantor's home; (7) a
896 deed that includes a statement certified under the penalties of perjury that (i) there is no spouse
897 or former spouse entitled to an estate of homestead or (ii) the property is not the home of the
898 grantor's spouse or former spouse. (8) a recorded affidavit pursuant to section 5B of chapter 183
899 setting forth that, at the time of delivery of a deed, mortgage or other instrument of conveyance
900 to a non-family member, (i) the grantor was unmarried, or (ii) the grantor had no spouse or
901 former spouse entitled to claim the benefit of an existing estate of homestead, or (iii) the property
902 was not a home, or (iv) the property was not the home of the grantor or the grantor's spouse or
903 former spouse. The affidavit may be recorded simultaneously or subsequent to the deed,
904 mortgage or other instrument of conveyance; (9) a divorce judgment or decree of a court of
905 competent jurisdiction shall release the homestead of a spouse who (a) is required therein to
906 convey title to the home to the other spouse, or (b) was not an owner of the home and was not
907 awarded therein either title or possessory rights in the home; (b) No deed between spouses or
908 former spouses or co-owners who individually or jointly hold an estate of homestead under
909 section 3 or section 4 and no deed between a trustee and a trust beneficiary or between a life
910 tenant and a remainderman shall terminate the homestead unless each co-owner, spouse, former
911 spouse, trust beneficiary or remainderman entitled to the benefit of the homestead has executed
912 an express release thereof pursuant to clause (2) or clause (4) of subsection (a).

913 (e). Section 11 of said chapter 188 is hereby amended by striking subsection (a) and
914 inserting in place thereof the following: (a) If a home that is subject to an estate of homestead is

915 sold, whether voluntarily or involuntarily, taken or damaged by fire or other casualty, then the
916 proceeds of any such sale, taking or damage shall be entitled to the protection of this chapter
917 during the following periods: (1) in the event of a sale, whether voluntary or involuntary, or a
918 taking, for a period ending on the date on which the person benefited by the homestead either
919 acquires another home the person intends to occupy as a principal residence or 1 year after the
920 date on which the sale or taking occurred, whichever first occurs; and (2) in the event of a fire or
921 other casualty, for a period ending on: (i) the date upon which the reconstruction or repair to the
922 home is completed or the date on which the person benefited by the homestead acquires another
923 home the person intends to occupy as a principal residence; or (ii) 2 years after the date of the
924 fire or other casualty, whichever first occurs.

925 (f). Said chapter 188 is hereby amended by striking section 13 and inserting in place
926 thereof the following section: Section 13. A recorded deed, release, mortgage, affidavit or other
927 instrument of conveyance containing a statement of any facts set forth in clauses (6), (7) or (8) of
928 subsection (a) of section 10 may be relied upon by a good faith purchaser for value and shall be
929 conclusive proof of the parties, if any, then entitled to claim an estate of homestead. An affidavit
930 pursuant to clause (7) of subsection (a) of section 10 shall be accepted in the appropriate registry
931 of deeds or registration district of the land court. The subsequent residency or renewal of
932 residency in the home by a grantor or spouse of the grantor, releaser or mortgagor shall not
933 defeat the priority of a mortgage, release or conveyance accepted in reliance on such recorded
934 deed, release, mortgage, affidavit or other instrument of conveyance.

935 (g) The provisions of this Act shall apply to estates of homestead arising or created
936 before, on or after the effective date, except with respect to the subject matter of any final

937 judgment to the contrary by a court of competent jurisdiction in an action commenced prior to
938 said effective date.

939 SECTION 66. Section 20J of Chapter 233 of the General Laws, as appearing in the 2018
940 Official Edition, is hereby amended by inserting after the word “worker,” in line 10, the
941 following words:- “ licensed mental health counselor,”.