

Lead Sponsor: Senator Jamie Eldridge

**Summary:** This bill creates an option for law enforcement and court personnel to refer certain criminal cases to a community restorative justice program in lieu of or alongside other responses. Referral may be made at pre-complaint, arrest, pre-arraignment, sentencing or post-sentencing.

### What is “restorative justice”?

*It is an approach to crime that asks not just what law was broken but who was affected, how, what do they want/need, and who’s obliged to meet those needs.* Practices may include voluntary meetings among victim, offender, supporters, community members, and criminal justice personnel where relevant. The aim is to meet victim needs, hold an offender accountable, explore the impact of the crime upon community, and agree upon a constructive, consensus plan of repair to the extent possible.

### Why restorative justice matters:

- **Higher satisfaction rates for victims** vs. to those proceeding through traditional court (89% vs. 57%)
- **Reduced recidivism** for offenders (16% vs. 39%)
- **Cost savings** (a University of Massachusetts study in 2012 demonstrated that restorative justice is nearly six times more cost-effective than traditional justice methods).
- **More options** for police/court personnel when responding to crime (a greater breadth of victim services)
- More **meaningful role for affected community members** in addressing crime/harm in their neighborhoods

### Common Misconceptions/Myths: restorative justice is *not*

- Forgiveness (While some victims choose to forgive, it’s not an expectation or goal.)
- “Soft on crime”/easy on offenders (Most offenders struggle to face those who have suffered harm.)
- Only for youth, first-time, nonviolent offenses (It can be very effective with adults, violent crime.)
- Diversion (The primary goal of diversion is to keep first-time, youthful, nonviolent offenders out of the criminal justice system; restorative justice places primacy on victim wishes. Still, diversion and restorative justice can work in tandem.)
- New (There are more than 300 programs in the U.S. and it is prevalent in the UK, New Zealand.)
- Appropriate for every crime (SB 2078 exclusions include cases of domestic violence and sexual violence.)

### Examples of use in cases:

1) Someone arrested for **spray-painting graffiti** may agree to meet with, learn from, and apologize to the victim property owner in person, and then use his or her own resources to paint over the graffiti. When the offender completes these requirements, the police and victim may drop the charges, keeping the offender out of court but still holding him accountable for his actions.

2) A **breaking-and-entering** victim may want restorative justice in conjunction with court to meet with the offender, ask questions about whether the home was targeted or chosen at random, and to find out what happened to stolen items; the process may offer the victim understanding, answers, and less fear of being targeted in the future. The case could be referred by a DA who may dismiss charges after obligations are met.

3) A **motor-vehicle homicide** victim’s family may ask a victim advocate for a restorative justice conversation with the person who is serving time for the crime. The victim’s family may learn important information about decisions that led to the loved one’s death, will have a chance to share the loss, and may ask what the offender would do differently. The outcome of the case may have no bearing on sentence/parole but could provide an occasion for learning, accountability, and even apology.

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The individuals and agencies listed below support the passage of SB 2078.

**Law Enforcement Community**

**Acton** MA Police Chief Francis J. Widmayer III  
**Arlington** MA Police Chief Frederick Ryan  
**Ayer** MA Police Chief William A. Murray  
**Bedford** MA Police Chief Robert Bongiorno  
**Boxborough** MA Police Chief Warren B. Ryder  
**Cambridge** MA Police Commissioner Robert C. Haas  
**Carlisle** MA Police Chief John C. Fisher  
**Concord** MA Police Chief Marry R. Neal  
**Groton** MA Police Chief Donald Palma, Jr.  
**Littleton** MA Police Chief John M. Kelly  
**Moltonborough** NH Police Chief Lenonard J. Wetherbee, Jr. (Concord MA Police Chief, ret.)  
**Stow** MA Police Chief William Bosworth  
**Wellesley** MA Police Chief Terrence M. Cunningham

**Massachusetts Major City Chiefs Association**

Arlington	Mass. Bay
Barnstable	Mass. State Police
Beverly	Medford
Boston	Methuen
Brockton	New Bedford
Brookline	Peabody
Cambridge	Pittsfield
Chelsea	Quincy
Everett	Revere
Fitchburg	Salem
Framingham	Somerville
Haverhill	Springfield
Holyoke	Taunton
Lawrence	Transit Authority
Lowell	Waltham
Lynn	Woburn
Malden	Worcester

**Other Criminal Justice Agencies/Individuals**

Middlesex County District Attorney Marian T. Ryan  
 First Justice Bettina Borders (Bristol County)  
 Hon. Jay D. Blitzman (First Justice Lowell Juv. Court)  
 Hon. John Cratsley (ret. Superior Court and Dist. Court)  
 Juvenile Court Restorative Justice Diversion, Inc.

**Human Service, Restorative Justice, Faith Groups**

Citizens' Housing and Planning Association, **Boston**  
 Communities for Restorative Justice, **Concord**  
 Dismas House of Massachusetts, Inc., **Worcester**  
 Just Circles, **Dorchester**  
 Massachusetts Catholic Conference  
 Massachusetts Conference of the United Church of Christ  
 Massachusetts Housing and Shelter Alliance, **Boston**  
 Massachusetts Restorative Justice Collaborative  
 Mediation & Training Collaborative, a program of  
 Community Action of the **Franklin, Hampshire, and North Quabbin** Regions  
 Quabbin Mediation, **Orange**  
 RECONNECT/Berkshire Community Action, **Pittsfield**  
 Reinventing Justice, **Greenfield**  
 Restorative Justice and Practices of **New Bedford**  
 ROCA Inc., **Chelsea** and **Springfield**  
 School Mediation Associates, **Watertown**  
 Unitarian Universalist Urban Ministry, **Roxbury**  
 United Teen Equality Center, **Lowell**  
 Worcester Homeless Action Committee, **Worcester**

**Universities/Academics**

Religion and Conflict Transformation Program,  
**School of Theology, Boston University**  
 Legal Skills in Social Context Social Justice Program,  
**Northeastern University School of Law**  
 Center for Restorative Justice, **Suffolk University**  
 Center for Peace, Democracy, and Development  
 Department of Conflict Resolution,  
 Human Security, and Global Governance  
 McCormack Graduate School of Policy and Global  
 Studies, **University of Massachusetts, Boston**

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**Purpose**

To improve public safety by expanding and monitoring the use of restorative justice techniques as a complement to the justice system, across the Commonwealth. Restorative justice has been effective in reducing repeat offenses, improving victim and community satisfaction, and reducing the cost of individuals entering and remaining in the judicial and prison systems.

**Definitions**

The bill offers definitions of *Restorative Justice*, *Restorative Justice Meeting*, *Plan of Repair*, *Referring Body*, *Community-based Restorative Justice program*, *Impacted Party*, and *Responsible Party*.

**Amendments to the Juvenile Code**

This bill amends chapter 119, Protection and Care of Children, and Proceedings Against Them, to:

- allow law enforcement officers to refer a child taken into custodial protection to a community-based restorative justice program (MGL 119 §39H);
- include referral to an established community-based restorative justice program as an option in cases that are continued without a finding (MGL 119 §55B).

**Amendments to the Adult Code**

Chapter 276A, District Court Pretrial Diversion of Selected Offenders, shall be amended to include an established community based restorative justice program as an option when probation officers screen defendants for diversion at arraignment (MGL 276A §3).

Chapter 276 of the Massachusetts General Laws, Proceedings in Criminal Cases, is amended to include established community-based restorative justice programs as a type of specified rehabilitative program that can be considered as a condition of probation (MGL 276 §87A).

**Advisory Committee**

This bill establishes an advisory committee to study and track the use of and referral to community-based restorative justice programs. The committee will consist of 16 members and chaired by the Secretary of Public Safety and Security or a designee.

**Legislative, Policy and Regulatory Recommendations**

The Advisory Committee established in this bill will track the use of restorative justice and shall make legislative and regulatory recommendations.

**Reporting**

The advisory committee will file a report of its findings and recommendations with the Governor and Clerks of the Senate and House of Representatives by December 31, 2016.

**Certain Crimes are Excluded**

This bill excludes participation in a community-based restorative justice program for juvenile or adult crimes in which the underlying factual basis involves domestic or family violence, or sexual abuse.

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This bill is supported by the **Restorative Justice Coalition of Massachusetts**, a state-wide coalition of concerned citizens who practice or support restorative justice in various capacities throughout the Commonwealth. A list of supporters is available.