

Chapter

T H E C O M M O N W E A L T H O F M A S S A C H U S E T T S

*In the Year Two Thousand and Ten*

AN ACT RELATIVE TO ASSAULT AND BATTERY BY MEANS OF A BODILY SUBSTANCE UPON CORRECTIONAL FACILITY EMPLOYEES AND EXPANDING THE PROHIBITION ON THE DISSEMINATION OF OBSCENITY.

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

SECTION 1. Chapter 127 of the General Laws is hereby amended by striking out section 38B, as appearing in the 2008 Official Edition, and inserting in place thereof the following section:-

Section 38B. (a) For the purposes of this section, "bodily substance" shall mean any human secretion, discharge or emission including, but not limited to, blood, saliva, mucous, semen, urine or feces.

(b) Any person in the custody of a correctional facility, including any jail, house of correction or state prison, who commits an assault or an assault and battery upon an officer or other employee, any volunteer or employee of a contractor in any such facility or any duly authorized officer or other employee of any such facility engaged in the transportation of a prisoner for any lawful purpose shall be punished by imprisonment for not more than 2 and one-half years in a jail or house of correction or for not more than 10 years in a state prison. Such sentence shall begin from and after all sentences currently outstanding and unserved at the time of said assault or assault and battery.

(c) Any person in the custody of a correctional facility, including any jail, house of correction or state prison, who commits an assault or an assault and battery by means of a bodily substance upon an officer or other employee, any volunteer or employee of a contractor in any such facility or any duly authorized officer or other employee of any such facility engaged in the transportation of a prisoner for any lawful purpose shall be punished by imprisonment for not more than 2 and one-half years in a jail or house of correction or for not more than 10 years in a state prison. Such sentence shall begin from and after all sentences currently outstanding and unserved at the time of said assault or assault and battery.

(d) Any person with an open mental health case charged under this section shall be evaluated under the provisions set forth in section 15 of chapter 123.

SECTION 1A. Section 26 of chapter 218 of the General Laws, as so appearing, is hereby amended by inserting after the word "ninety-four C", in line 16, the following words:- , section 38B of chapter 127.

SECTION 2. Section 31 of chapter 272 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by striking out, in lines 40 to 43, inclusive, the definition of "Matter" and inserting in place thereof the following definition:-

"Matter", any handwritten or printed material, visual representation, live performance or sound recording including, but not limited to, books, magazines, motion picture films, pamphlets, phonographic records, pictures, photographs, figures, statues, plays, dances, or any electronic communication including, but not limited to, electronic mail, instant messages, text messages, and any other communication created by means of use of the Internet or wireless network, whether by computer, telephone, or any other device or by any transfer of signs, signals, writing, images, sounds, data, or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photo-electronic or photo-optical system.

SECTION 3. The definition of "visual material" in said section 31 of said chapter 272, as so appearing, is hereby amended, by inserting after the word "computer", the following words:- , telephone or any other device capable of electronic data storage or transmission.

House of Representatives, March , 2010.

Passed to be enacted,



, Speaker.

In Senate, March , 2010.

Passed to be enacted,



, President.

, 2010.

Approved,



Governor.