

MA version of Jessica's Law

By: Kevin Mitchell, Mass. Assoc. of Criminal Defense Lawyers (8/2008)

**Section One**

**265:13B: NEW VERSION** Indecent A&B Under 14 – tracks original 13B generally  
Punishment: same penalty as prior law for 1<sup>st</sup> offense, District Court Jurisdiction  
10-years – 2.5 H of C; no CWOFF or file

**265:13B1/2: NEW:** Indecent A&B under 14 AND

1. committed while defendant in possession of dangerous weapon;  
[Question: mere possession not use may qualify?]  
-or-
2. committed during commission of attempted commission of any of 11  
stated crimes;  
-or-
3. time of commission defendant a “mandated reporter”  
[Question: mere occupation vs. occupation as related to victim?]

**Punishment:** Life or Term of Years - **Minimum Mandatory 10-years (new)**

**265:13B3/4: NEW:** Indecent A&B under 14 with prior conviction or adjudication as juvenile –  
expanded list of sex offenses that qualify as priors.

**Punishment:** Life or Any Term of Years - **Minimum Mandatory 15-years (new)**

new law allows for proof of all prior conviction in Jessica's law as now allowed in  
operating under statute.



**MA version of Jessica’s Law (cont’d)**  
**Section Two**

**265:23:** **NEW VERSION** Statutory Rape – Child under 16 tracks prior sec. 23 law generally

**Punishment:** same as prior law, life or any term of years, no CWOFF or file

**265:23(A):** **NEW:** Statutory Rape – Child under 16

-AND-

A. 5-year age difference when victim under 12

-or-

B. 10-year age difference when victim between 12 and 16

-or-

C. at time of intercourse defendant in “position” as a “mandated reporter”

**Punishment:** Life or Any Term of Years, **Mandatory minimum 10-years**

**265:23(B):** **NEW:** Statutory Rape – Child under 16 who has a prior conviction or adjudication for an expanded list of priors

**Punishment:** Life or Any Term of Years, **Mandatory minimum 15-years**

**New Law – Section Three**

**271:17B:** **NEW Version:**

Amends burden of proof in prior law for administrative warrant requirement of “reasonable grounds – used for unlawful purpose” to **new** standard “**relevant and material to an on-going criminal investigation**” and expands reach of administrative subpoena for communication records.

- limits civil liability of providers
- limits type of information reachable by administrative subpoena;
- cannot be used for content or internet locations accessed.

**New Law – Section Four**

**276:1B:** **NEW:**

Adds language to **Ch. 276** search warrant law that allows for obtaining computer identification data; content data; usage data; storage data; source/destination data from foreign corporations.

Outlines procedural rules