

7/16/20

Public Testimony on S.2800 to the House Ways and Means and Judiciary Committees

Dear Chair Cronin, Chair Michlewitz, Vice Chair Day, and Vice Chair Garlick,

I am writing to request your consideration to expand the existing expungement law (MGL Ch 276, Section 100E) as the House takes up S.2800 to address **Racial Justice and Police Accountability**. S.2800 includes this expansion and we hope you will consider it as it directly relates to the harm done by over-policing in communities of color and the over-representation of young people of color in the criminal legal system.

Our criminal justice system is not immune to [structural racism](#) and we join you and all members in the great work needed to set things right. The unfortunate reality is that people of color are far more likely to be subjected to stop and frisk and more likely to get arrested for the same crimes committed by whites. Black youth are three times more likely to get arrested than their white peers and Black residents are six times more likely to go to jail in Massachusetts. Other systems where people of color experience racism are exacerbated, and in many ways legitimized, by the presence of a criminal record. Criminal records are meant to be a tool for public safety but they're more often used as a tool to hold communities of color back from their full economic potential. Expungement can be an important tool to rectify the documented systemic racism at every point of a young person's journey through and past our justice system.

We also know that young adults have the highest recidivism rate of any age group, but that drops as they grow older and mature. The law, however, does not allow for anyone who recidivates but eventually desists from reoffending to benefit. Young people's circumstances and cases are unique and the law aptly gives the court the discretion to approve expungement petitions on a case by case basis, yet the law also categorically disqualifies over 150 charges. We also know that anyone who is innocent of a crime should not have a record, but the current law doesn't distinguish between a dismissal and a conviction. It's for these three main reasons we write to you to champion these clarifications and now is the time to do it.

Since the overwhelming number of young people who become involved with the criminal justice system as an adolescent or young adult do so due to a variety of circumstances and since the overwhelming number of those young people grow up and move on with their lives, we are hoping to make clarifying changes to the law. We respectfully ask the law be clarified to:

- **Allow for recidivism** by removing the limit to a single charge or incident. Some young people may need multiple chances to exit the criminal justice system and the overwhelming majority do and pose no risk to public safety.
- **Distinguish between dismissals and convictions** because many young people get arrested and face charges that get dismissed. Those young people are innocent of crimes and they should not have a record to follow them forever.
- **Remove certain restrictions** from the 150+ list of charges and allow for the court to do the work the law charges them to do on a case by case basis especially if the case is dismissed or the young person is otherwise found "not guilty."

Refining the law will adequately achieve the desired outcome from 2018: to reduce recidivism, to remove barriers to employment, education, and housing; and to allow people of color who are disproportionately represented in the criminal justice system and who disproportionately experience the collateral consequences of a criminal record the opportunity to move on with their lives and contribute in powerfully positive ways to the Commonwealth and the communities they live, work and raise families in. Within a system riddled with racial disparities, the final step in the process is to allow for as many people as possible who pose no risk to public safety and who are passionate to pursue a positive future, to achieve that full potential here in Massachusetts or anywhere.

Thank you for your consideration,

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