

Dear Members of the House,

I'm writing to share my concerns about S.2800 which deals with shifting resources for equity. More specifically, it works to reform police standards, which I think many of us take no issue with. My following email deals with two things; 1) the aspect of ending qualified immunity for ALL PUBLIC EMPLOYEES as outlined on page 20 of the legislation S.2800. I am surprised at the broad language inserted that removed this protection for all public employees, **including teachers, paras, school cafeteria workers, etc.** 2) The blurring of lines for public safety officials.

First, in addressing the former, I want to outline what I understand qualified immunity to be for me as a teacher. Specifically, qualified immunity protects me (a government official) from lawsuits that allege that I violated a plaintiffs rights that were **not yet clearly established**. Qualified immunity does not currently prevent me from being sued, but rather ensures that courts analyze whether a law was already a law at the time of the violation, not the law in effect or made when the court considers the case. In essence, it prevents people from bringing cases against me that are not yet clearly established violations of a law, using me to create those case laws and then hold me financially responsible. In this time of remote learning, where clearly established laws surrounded FAPE have not yet been made, and regulations are constantly changing, this is especially pertinent to teachers, but in reality, it is always impactful.

While S.2800 deals primarily with police reform, page 20, clearly notes that qualified immunity will end for all public by the addition of section (b) and (c) (lines 419 to 433) to Chapter 12, Section 11 of the current Massachusetts General Laws.

I'd like to remind you that in April and early May, people gathered at 7pm on Friday evenings to clap for essential workers, including police officers and other public servants. The public's trust can change quickly. I have witnessed enough examples of accusations against my colleagues during "normal life" when we were able to be with our students face to face and I know that frivolous accusations were thrown out against teachers and paras in the best of times when we were able to be with our students face to face. *Please note that the average cost to defend oneself in these cases is \$10,000, which as you know, is approximately half of most para's take home pay.* This is an unnecessary and undue burden on all of us, but especially on those who are paid the least, and to dismiss this possible financial burden and not alert all public employees to a change in their working conditions is an egregious misstep.

While I'd like to believe that parents and guardians trust us so much that my worry is unnecessary, I would have to be far removed from teaching and specifically from the feedback districts have received for remote learning, to believe this. We are entering unprecedented times as educators, where parts of FAPE with distance learning, are **not yet clearly established** (QI, it seems, would protect us from being sued if something has not yet been clearly established). Additionally, educators will be expected to unpack the social emotional implications of the past six months when we are together with our students again in

September. It will be us having the difficult and emotional conversations with our students to help understand this intersection of a pandemic and racial justice. None of us can foresee how these conversations will go or anticipate every possible outcome. Anticipating DESE updates (especially within Special Education) and having these conversations without some semblance of protection against being sued based on our best practices on how to support our students during these unprecedented times, is unsettling. Remember, we don't actually have to do something wrong to have a suit filed against us if we lose the protection of qualified immunity. A parent or guardian can use us to create caselaw or even simply file suit to prove a point.

To my second point (the blurring of lines for public safety officials), we have witnessed the murder of George Floyd at the hands of officers of the law. There is no person in the United States who can or should defend this. All four are now criminally charged and can be civilly sued in court for breaking the law. I hope the full force of the law comes down against them for so cavalierly taking a life. I cannot deny that there are officers like this in our country and am glad to see our legislature working to prevent these people from wearing a uniform, and harming others by creating oversight committees. I am happy to see discussions around the types of things we use our officers for and community based solutions, such as using social workers and drug counselors instead, building community green spaces, and creating youth jobs **but I challenge you to define the purpose of police in our society**. Today we use them for every ill and then criticize them for their handling of the issues we could not, or would not, handle ourselves.

Some of the amendments you are proposing put our officers and the public at risk. There is no way, that as reasonable people, you cannot see that **some of these amendments put lives at risk**. For instance, bill SD.2968, line 230 and 231, would allow anyone who believes a police officer is using too much force to physically intervene against the officer. Let me remind you that this is a subjective opinion and one often impacted by extreme emotion. Before making decisions on this and all related bills, I suggest you all stop and think about those moments when we call the police. We (from grocery store workers, to educators, to legislatures, to doctors, to social workers, to librarians, to waitstaff, etc.) call them when we feel we can no longer safely handle a situation. We call them when we feel we are no longer physically safe. And we count on them to handle the situation for us, to keep us physically safe. If we allow others to jump in and attack the people that we are calling to physically protect us, then that layer of protection is reduced. We are castrating our police force because we are making legislation in moments of extreme emotion. I cannot claim to know what officers encounter each shift but it should be a requirement that each of you does a ride along with your local police force for an entire shift (the busiest shift of the week) to fully inform yourselves of the impacts of this legislation on, not only the officers, but the public. I want you to imagine what can occur when there is a 200 person party on a street, a neighbor calls the police because they think they saw a gun there, or simply because they consider it a quality of life issue, the police arrive and try to arrest someone and the rest of the crowd is given free rein to determine if the police are using too much force so that they can intervene. Physical harm, to officers and

bystanders at that moment, will be on your hands. And I hope that, if that is the case, you will waive your legislative immunity so that the families affected can hold you accountable.

In closing, we have elected you to make these decisions for us. I know you have a difficult and complex task ahead of you. I ask you to create legislation unmotivated “in substantial part by anger, malice, retaliation or any other intent unrelated to a law” as would be required by officers in SD.2968. While we are all angry at this time, and thankfully recognize the need for reform and transition of power, your role requires you to separate those feelings of anger to make logical, practical and fair decisions for all constituents. **I urge you to think through and debate all possibilities of all of the changes you are considering and to publicly give up your own legislative immunity to show you are confident that you have done so.**

Sincerely,
Jane Miller