



GREATER BOSTON
LEGAL SERVICES
...and justice for all

July 17, 2020

Representative Aaron Michlewitz, Chair
House Committee on Ways and Means
State House, Room 243
Boston, MA 02133

Representative Claire D. Cronin, Chair
Joint Committee on the Judiciary
State House, Room 136
Boston, MA 02133

Re: S.2820, An Act to reform police standards and shift resources to build a more equitable, fair and just commonwealth that values Black lives and communities of color

Dear Chair Michlewitz, Chair Cronin, and committee members:

We are writing on behalf of the Greater Boston Legal Services (GBLS) CORI and Re-Entry Project to urge your support for key provisions of S.2820, *An Act to reform police standards and shift resources to build a more equitable, fair and just commonwealth that values Black lives and communities of color*. We assist about 800 people per year from low income communities of color with criminal record sealing matters and other legal barriers to employment, occupational licensing, training, and other opportunities related to their criminal justice system involvement.

Juvenile expungement should be expanded to include more than one charge as well any charges that ended favorably in dismissals or other favorable dispositions

The current juvenile expungement law is unworkable and only permits a person with a single charge to expunge the records. Likewise, many types of felony offenses are excluded from expungement even if the case resulted in a not-guilty finding or a similar favorable disposition. We have screened clients for eligibility for juvenile expungement for almost two years since the new law took effect and not a single person has qualified for juvenile expungement. Police routinely file multiple charges against a defendant for a single incident, and many juveniles have multiple encounters with police. Law enforcement is also more likely to initiate contact with and arrest young people of color.¹ As a result, juveniles from overpoliced communities of color are more likely to have juvenile records. Charges that are ineligible for expungement, however, can permanently tarnish a young person's employment opportunities and prevent a young person pursuing careers they may be passionate about or obtaining federally funded jobs.

¹ Bureau of Justice Statistics, *Contacts Between Police and the Public, 2015*, U.S. DEPARTMENT OF JUSTICE, 9-10 <https://www.bjs.gov/content/pub/pdf/cpp15.pdf> (2018).

S.2820's juvenile expungement provisions in Section 61 would expand eligibility to encompass multiple charges for offenses that occurred before age 21 as well as charges that ended in dismissal or non-conviction dispositions. Removing these barriers to juvenile expungement would allow the law to accomplish its purpose and prevent collateral consequences related to mistakes made when people were still children or emerging adults.

The Legislature should end qualified immunity rather than merely limiting it

The doctrine of qualified immunity shields police officers who violate people's rights from any accountability. This is unacceptable and harmful in many instances. Other professions have boards and certification systems that are much stricter than those established by S.2820, and also are not given any immunity. Lawyers and people in licensed occupations, for example, have no such immunity and often deal with a high volume of clients or customers. In such professions, bad actors who disregard professional standards are held accountable, but competent professionals generally are not anxious about liability exposure.

Historically, police departments and cities have struggled to hold officers accountable when they do not meet high professional standards. Eliminating or at least limiting immunity from liability for the police would be a positive wake-up call and provide an incentive for avoidance of misconduct and unprofessionalism. Eliminating immunity will hold bad actors accountable if they disregard professional standards, but it should not make competent law enforcement officers anxious about liability exposure when they are acting professionally. The legislature should not allow law enforcement to act carelessly with impunity and should hold them accountable as they do with other professionals in positions of public trust.

Other Vital reforms in the Senate Bill should be preserved and expanded

These important proposed changes in the Senate bill should be adopted, and strengthened in some instances, to include the following:

- Creating an independent certification/decertification body, but mandate a **civilian majority** without ties to police, corrections, probation, or prosecutorial bodies, and that is representative of communities with high rates of incarceration and poverty;
- Establishing a Justice Reinvestment Fund to move money away from policing and prisons, and into job and education opportunities and community programs in locations with high incarceration and poverty;
- Banning racial profiling by law enforcement and prohibiting police and corrections officers from having sex with those in custody;
- Strengthening use of force standards, e.g., by outright banning of all chokeholds and tear gas;
- Fully prohibiting facial surveillance technology;
- Removing police from schools;
- Lifting the unnecessary cap on the Justice Reinvestment Fund;
- Demilitarize the police and require transparency on military equipment acquisitions and require civilian authorization of military equipment acquisitions; and

- Requiring racial data collection for all police stops.

The Legislature Should Extend Its Session Beyond July 31, 2020.

Finally, the legislature should extend its formal session this year beyond July. The unprecedented pandemic has made it understandably difficult for the Senate and House of Representatives to conduct regular business, but a lot of work was done before COVID-19 by legislators and countless members of the public. Justice delayed is justice denied. Starting all over again next years on bills that were carefully considered and favorably reported is very inefficient when the same meritorious bills could be simply enacted into the law. Legislators then could be proud of these accomplishments and would be freed up to work on a greater number of new bills. Extending the session would allow the legislature to avoid replicating its work and provide justice to constituents and communities.

Conclusion

We urge the House of Representatives and Senate to ultimately pass a bill that includes at a minimum the key provisions of S.2820 aimed at deterring police misconduct, restoring public trust in the law enforcement, and providing for expungement of juvenile records.

Sincerely,

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