



The Commonwealth of Massachusetts
MASSACHUSETTS SENATE

SENATOR WALTER F. TIMILTY
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EXPENDITURES AND STATE ASSETS

July 17, 2020

The Honorable Aaron Michelwitz
Chair, House Committee on Ways and Means
State House, Room 243
Boston, MA 02133

The Honorable Claire Cronin
House Chair, Joint Committee on the Judiciary
State House, Room 136
Boston, MA 02133

Dear Chair Michelwitz and Chair Cronin,

I am writing today to express my concerns with S2820, ***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.*** Specifically, I believe the changes to qualified immunity were rushed, not properly vetted and ultimately are detrimental to law enforcement. I am also concerned that these changes may have unintended consequences on our public workforce.

I believe the nationwide discussions surrounding police, race, and community relations offers a unique opportunity for lawmakers to focus on improving police training and standards. I believe that the portions of S2820 that focus on standardized procedures and protocols, the promotion of diversity, and independent certification are well intentioned and will be a benefit to our communities.

However, the changes made to qualified immunity in S2820 would drastically lower the standards under which a civil action could be brought against a public official. Unchanged, qualified immunity is not absolute immunity from a civil lawsuit. Current law allows for civil actions against public officials who use force, intimidation, or coercion to interfere with Constitutional or statutory rights.

Whether they are intentional or not, the consequences of S2820 are far reaching across Massachusetts, for all public employees. By removing qualified immunity, the Senate has created an inherent conflict for all those that serve in the public sector. For example, a nurse performing CPR on a frail patient, must now balance their professional responsibilities of saving that patient's life with the threat that in doing so, they may break some of the patient's ribs and therefore possibly be sued for their life-saving actions.

Across the Commonwealth, our dedicated law enforcement officers, firefighters and all our public servants are now faced with the impossible burden that in carrying out their professional responsibilities, they are leaving themselves open to lawsuits that could derail their careers and endanger their families. As legislators, our professional responsibility is to enact laws that protect everyone in the Commonwealth. During debate on the Senate floor, I supported amendments that were designed to address these issues with qualified immunity. Unfortunately, these amendments were not adopted. Therefore, it is my strong belief that the elimination of qualified immunity as contained in S2820 is flawed and does not protect all of the Commonwealth's citizens.

I respectfully request that as you develop the House of Representative's version of this legislation, you consider language that would create a commission of experts to study qualified immunity and make an informed and educated recommendation on how it is best used to ensure due process for everyone in Massachusetts.

Thank you for your time and please, do not hesitate to contact me with any questions or concerns that you may have.

Sincerely,

A handwritten signature in blue ink that reads "Walter F. Timilty". The signature is written in a cursive style with a large initial "W".

Senator Walter F. Timilty
Norfolk, Bristol and Plymouth