



LEAGUE OF WOMEN VOTERS® OF MASSACHUSETTS

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Senator William Brownsberger
Senator Cynthia Creem
Senator Bruce Tarr
Representative Claire Cronin
Representative Ronald Mariano
Representative Sheila Harrington
The State House
Boston, MA 02133

January 22, 2018

Dear Members of the Criminal Justice Reform Committee of Conference:

The League of Women Voters of Massachusetts has prioritized criminal justice reform this year, and we are inspired by the great work that has been done by the legislature to bring these two strong bills, S.2200 and H.4043, into conference. We encourage you to combine the best of each bill so a comprehensive improvement in the criminal justice system of the Commonwealth will happen this year. Although Massachusetts has a low incarceration rate relative to other states, it incarcerates far too many relative to other nations and relative to the rate of incarceration a generation ago. We are also concerned by the high number of individuals under correctional control through parole and probation. And the disproportionate effect on minority communities is disconcerting.

LWVMA applauds the inclusion by both chambers of measures to decriminalize, increase possibilities for diversion, remove mandatory minimums, oversee and reduce solitary confinement, allow for medical placement, improve juvenile justice, and reduce collateral consequences. We are glad to see that video visitation is allowed and does not replace in-person visits, which may not be unreasonably limited. We are also pleased that a commission to study and improve mental health of correctional officers and suicide prevention has been proposed. It is also important to have improved data collection, reporting and use.

LWVMA encourages you to make reforms that decrease incarceration and help with rehabilitation so that individuals get a second chance without undue state control:

- Expand **Restorative Justice and Diversion** programs in which police partner with communities to resolve problems on the ground rather than through the courts. We would like to see these programs expanded to more individuals (veterans, active duty, people with substance abuse or mental health issues), both pre-and post-arraignment, and with a simplified process. We encourage keeping the provision for no age limit for first offenders to be considered for diversion as the House proposes. We also support expanding misdemeanor offenses that can be treated as civil infractions in both Senate and House provisions.
- **Reduce the Criminalization of Poverty** by eliminating or reducing fines and fees and make the procedure clear (phase out the indigent counsel fee, eliminate the indigency counsel fee for

juveniles and eliminate the parole supervision fee as in the Senate version), increasing the felony larceny threshold to at least \$1500 as proposed by the Senate (or to \$2500 as in Wisconsin and Texas), waive probation fees if that would be a substantial hardship, eliminating other collateral consequences such as suspending driver's licenses (such as for tagging/vandalism as proposed by House and Senate versions; for child support debt as in Senate provision) and making resisting arrest sealable. We do not support the House provision to keep the \$250 threshold for felony larceny involving elderly or disabled persons. We do support the House provision on anti-discrimination protection preventing employers from asking about expunged or sealed records or misdemeanors more than three years old. We support people being able to say "I have no record" after sealing when applying for housing or trade licenses. We also support vacating convictions for human trafficking victims and sealing some crimes at time of dismissal.

- Take **Primary Caretaker status** into account for the sake of the children when sentencing as proposed by the Senate.
- End **Mandatory Minimums** for low-level drug crimes. We prefer the more expansive Senate version that increases weight definitions of trafficking for some drugs. We also support repealing school zone mandatory minimums as in the Senate version, or at least reducing their size.
- Allow for **Medical Transfer** for the terminally ill or incapacitated. We prefer the Senate version which includes taking cognitive decline into account, along with physical decline and terminal cases (we prefer the Senate definition of terminality at 18 months). We also encourage the adoption of the Senate process as it appears to be more streamlined. We feel that Sheriffs should be allowed to make the decision on medical release cases in their jurisdiction rather than the Commissioner.
- Restricting the use of **Solitary Confinement** and making sure there is oversight and a way to work one's way out. Collecting data so solitary confinement use and results can be monitored is also essential. We prefer the independent review panel as proposed in the House version.
- Reducing waiting periods for **Sealing** records (seven years felony; three years misdemeanor; ability to state "no record" to get affordable housing as proposed in both House and Senate, and to state "no record" for certain occupational licenses as proposed in the Senate version is preferred; Senate language is preferred for sealing of juvenile records ending in dismissal or other non-adjudication by a judge). Allowing for **Expungement** for the falsely accused or juveniles up to age 21 as proposed in the House version is preferred (seven years felony; three years misdemeanor). Include sealing records for resisting arrest so people can get jobs and housing as proposed by Senate and House versions. We also support expungement of decriminalized offenses that are no longer a crime as proposed by the House. We strongly support allowing for clearing records in other databases but prefer House language. Plus we support the Senate provisions to exclude certain juvenile cases and other cases dismissed before arraignment from showing up on CORI records.
- We also support **juvenile justice reforms** like the Romeo and Juliet law (decriminalizing sex between teens close in age) as proposed by the Senate. We encourage expanding juvenile jurisdiction from age 12 to the 19th birthday as proposed by the Senate. We also support the Senate provisions to protect parent-child privilege, and decriminalize school-based misconduct. We also support the House provision to create a Childhood Trauma Task Force to study and recommend juvenile justice best practices. The House provision to make sure sealing rules on CORI are given to every individual at release is a good practice.
- Which **bail reform** provisions and legislation are needed is still unclear because of the Supreme Judicial Court ruling to limit cash bail by affordability. Despite the SJC ruling we have heard that

many individuals are still being assessed bail that they cannot afford and that the wording of the House provisions are likely to be most appropriate. We support the Senate provision that requires ability to pay bail at any court, and access to pre-trial services. The use of a risk-assessment tool may or may not be useful in light of the SJC ruling so it may be unwise to include this in this bill.

- **Parole Board Reform** is not included in either version of the bill so there is still a need for further reforms in the not-too-distant future.

Please support a **comprehensive** omnibus bill with the above provisions. There are good provisions in both versions and we want to see a final bill that focuses on providing support services for the mentally ill, those with substance abuse disorders, and juveniles who end up involved in the criminal justice system by supporting rehabilitation and relying on incarceration as a last resort. We also want to make sure data is collected so we have a transparent system (to observe bias or differences across facilities) and can focus on programs that work.

Thank you for your consideration and your efforts.

Sincerely,



Mary Ann Ashton
President



Colleen Kirby
Criminal Justice Reform Specialist