

Criminal Justice Reform At Risk Of 'Analysis Paralysis,' Sen. Chang-Diaz Warns

June 05, 2017 / By Katie Lannan, State House News Service

For months, criminal justice advocates have said this legislative session is the time for Beacon Hill to tackle sweeping reforms aimed at reducing recidivism and incarceration rates, and Monday afternoon gave them the opportunity to make their case straight to lawmakers.

The Judiciary Committee packed 96 bills dealing with criminal procedure onto a hearing agenda, and committee co-chair Sen. Will Brownsberger said most of the testimony dealt with what he deemed the "collateral consequences" of justice system involvement, like changes to the bail system and criminal records.

Among the "collateral consequences" bills that drew supporters to the State House was an omnibus criminal justice reform package filed by Sen. Sonia Chang-Diaz of Jamaica Plain and Rep. Mary Keefe of Worcester.

According to the Jobs Not Jails coalition, Chang-Diaz and Keefe's bill, dubbed the Justice Reinvestment Act, contains several measures that are also addressed in standalone bills: repealing mandatory minimum sentences for drug offenses; raising the upper limit of juvenile court jurisdiction from 18 years old to 21; ending probation and parole fees; reducing the length of time before a criminal record can be sealed; creating a medical parole program, and raising the threshold at which larceny becomes a felony instead of a misdemeanor.

The bill calls for savings generated from such reforms to fund programs including job training, dropout prevention and substance use recovery, Keefe said.

Chang-Diaz said "analysis paralysis" has stalled efforts at criminal justice reform in the state for several years.

"There is no silver bullet at our disposal, no one policy change alone that would right the wrongs that have been done to our residents, to our high-crime neighborhoods, to our taxpayers, by a failing system, but we can't let the enormity of this problem paralyze us, not with so much at stake and so many lives in the balance," she said. "Sentencing reform is a good place to start. It defines the system, who's going in for how long and at what cost."

Chang-Diaz cited what she described as a "clear bias" in existing sentencing practices, telling the committee that while black and Latino residents make up less than one-fifth of the state's population, they account for more than half of the population in Department of Correction custody. Black and Latino people make up a little more than half of those sentenced for drug crimes but three-quarters of those sentenced to mandatory minimums, Chang-Diaz said.

A panel of three district attorneys pushed back against the idea of eliminating mandatory minimums for drug cases, arguing that the sentences target traffickers and consequently are an important tool in fighting the opioid epidemic.

"These aren't the users. These aren't the people who need treatment," said Worcester District Attorney Joseph Early, who testified alongside district attorneys Timothy Cruz of Plymouth County and Michael Morrissey of Norfolk County. "These are the people who bring the poison into the neighborhood and are profiting off of that. Those are the people we're trying to stop."

The state's total incarcerated population dropped 12 percent from 2006 to 2015, falling to 20,325 from 23,200, according to the Council on State Governments. Recidivism rates hovered at around 40 percent during that same time period, and lowering the number of people who re-offend has emerged as a target among policymakers.

Advocates and progressive lawmakers have been urging a wide-ranging approach that includes programming during incarceration, additional services upon release and efforts to prevent people from entering the criminal justice system for the first time.

Rep. Christine Barber of Somerville said the limitations imposed by a criminal record create a significant barrier to reentry, making it difficult for someone released from incarceration to get a job, get into college, or receive financial aid to pay for higher education.

Criminal records in Massachusetts can be sealed after 10 years for a felony and five years for a misdemeanor, according to Greater Boston Legal Services. A Rep. Liz Malia bill would reduce the wait periods to seven years and three years, respectively.

Bills filed by Sen. Karen Spilka and Rep. Kay Khan would create a mechanism through which juveniles could expunge, or completely erase, their misdemeanor records.

Jefferson Alvarez, a 21-year-old from Lawrence, said he supports expungement because he does not want his juvenile record to hold him back. Alvarez said police were called on him "before a punch was thrown" when he was about to get in a fight with another student as a high school freshman and he was then put in an alternative school where he "kept getting into fights" and was repeatedly arrested.

Alvarez, now a member of the Teens Leading the Way coalition, said he was charged with assault and battery with a dangerous weapon for kicking someone during a fight and was committed to Department of Youth Services custody, where he said he learned how to respect others and earn their respect. He is now working toward his GED and employed as a lifeguard.

"I really want to work with kids," Alvarez said. "But what if I want to be a foster parent, or what if I wanted to open a day care? Sealing a record is helpful but it isn't enough."