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Criminal justice reform likely in Mass., but how far will it go?



State Senator William N. Brownsberger (right) is Senate chairman of the Joint Committee on the Judiciary, which is hearing arguments about criminal justice reforms.

BY [MICHAEL LEVENSON](#) GLOBE STAFF JUNE 06, 2017

Most everyone agrees that this is the year to overhaul the state's criminal justice system. But sharp divisions remain over how far the changes should go.

Governor Charlie Baker and top lawmakers have said they want to give prisoners more opportunities to earn early release by participating in and completing rehabilitative programs.

But activists argue that proposal fails to address many of the deeper problems in a criminal justice system that incarcerates a disproportionate number of people of color and drug offenders.

At a packed State House hearing on Monday, scores of activists urged lawmakers to repeal mandatory minimum sentences for drug offenses, expunge the records of youthful offenders, and raise the age at which offenders could be tried as juveniles to 21.

Although Massachusetts has the second-lowest incarceration rate in the nation, the activists pointed out that two-thirds of inmates leaving houses of correction and half of those leaving state prisons in 2011 reoffended within three years, according to the Council of State Governments.

“We have a really broken system that’s causing huge harm to families and huge harm to communities,” said Lew Finfer, a spokesman for Jobs Not Jails, a coalition of labor, community, and religious groups that is pushing for a major overhaul of criminal laws. “This is the time to take substantial steps to change the picture.”

But some of the bolder ideas face substantial opposition.

Three district attorneys, from Plymouth, Worcester, and Norfolk counties, testified on Monday that mandatory minimum drug sentences are used to target hard-core drug dealers who are fueling the state’s deadly opioid addiction crisis.

“These aren’t the users; these aren’t the people who need treatment,” Worcester District Attorney Joseph D. Early Jr. told the members of the Joint Committee on the Judiciary. “These are the people bringing poison into the street. These are the people who we need to stop.”

The district attorneys urged the committee not to repeal mandatory minimums.

“When you talk about truth in sentencing, what’s more truthful than a mandatory minimum,” said Norfolk District Attorney Michael Morrissey. “It’s good for the victim.”

But there are divisions on that issue, even among prosecutors.

Middlesex District Attorney Marian T. Ryan, who did not join her three fellow district attorneys during their testimony, said she believes mandatory minimums deserve closer study.

“I don’t think it’s a one-sentence issue,” she said outside the hearing room. “I think it’s a more complicated and nuanced issue than that.”

Several lawmakers said they want to give judges greater leeway to weigh cases on an individual basis.

“DAs are supposed to have discretion to charge and, to me, the court system — judges — are the ones who are supposed to have discretion in sentencing,” Representative Michael Day, a Stoneham Democrat, told the district attorneys, sparking loud applause from the activists in the room.

A survey last month by MassINC, a nonpartisan think tank, found that voters largely support the repeal of mandatory minimum sentences and favor education and rehabilitation programs over incarceration.

The poll found just 8 percent of voters believe judges should be required to sentence offenders to some prison time, 41 percent said judges should decide punishment on a case-by-case basis, and 46 percent said judges should use guidelines while still having some discretion.

At the hearing, teen activists called on lawmakers to allow young people to expunge their juvenile records. Even when the details of an arrest are sealed from public view, the record of the arrest remains accessible, making it difficult for some to find jobs and housing.

“Young people need to understand that, although they’re going to make mistakes and they’re going to be punished for it, they need to be forgiven for it,” said Idris Abdullah, a University of Massachusetts Boston student and member of Teens Leading The Way, an advocacy group backing the bill.

When Senator William N. Brownsberger, the Senate chairman of the committee, asked how many in the room support the bill, nearly every hand went up.

Separately, Ryan also asked the legislative committee to endorse legislation that would end the practice of dismissing the conviction of a defendant who dies before all appeals are exhausted. The most recent example of such a case is the death of former Patriots player Aaron Hernandez, who was convicted of the 2013 murder of Odin Lloyd, but had his conviction overturned after he killed himself in his prison cell in April.

“It really protects all of us,” Ryan said of the bill, which would keep those convictions intact but allow lawyers or family members of the defendant to continue the appeals process.

“We get a full review of the case. If the conviction is upheld, that is useful to the victims and their families,” she said. “If it’s overturned, that’s the same it would have been anyway.”

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