

September 27, 2011

To: Members of the Joint Committee on Education

From: Hon. Jay D. Blitzman

Re: Legislative Testimony for H. 177 and H. 178

During my career as a lawyer and jurist, I have been invested in working with educators and administrators and other actors in the juvenile justice system on collaborative efforts outside the courtroom. I have attended conferences and presented at a variety of conferences and forums that address the critical issues of maintaining a safe school environment while enhancing the chances for students to succeed. Having worked with many teachers I have been sensitized to the realities they face in the classroom. At the same time, I am aware of the alarming data documenting what happens to children who don't graduate high school. The likelihood of subsequent involvement in our juvenile and criminal justice system is alarming. Addressing school exclusion, alternative education, and reentry are public safety problems that are national in scope. It is beyond my purview to address the particulars of the legislation before you, but at a minimum the issues they raise merit serious consideration. It is vital that we all appreciate the dimension of the problem. It is in this spirit that I offer my testimony.

Our schools are one of the most important systems affecting youth development and public safety. A child who is not in school is more likely to end up in the juvenile justice system. Nationally, "among white men in their early thirties (age 30-34), 13% of high school dropouts had prison records by 1999. . . . In 1999, 52% of African American male high school dropouts had prison records by their early thirties (age 30-34)."¹ In 2009, "[s]ixty-six percent of the [Massachusetts Department of Correction] population

¹ Bruce Western, Vincent Schiraldi & Jason Ziedenberg, *Education & Incarceration* 6 (Justice Policy Inst., Aug. 28, 2003).

who reported an educational level, reported completing 11th grade or less.”² “On average [nationally], each high school dropout now costs taxpayers more than \$292,000 in lower tax revenues, higher cash and in-kind transfer costs, and incarceration costs, relative to the average high school graduate.”³

Nationally, approximately 68% of state prison inmates in 1997 had not completed high school.⁴ A 2003 article relates that 75% of youths under age eighteen in adult prisons have not passed the tenth grade, an estimated 70% of the juvenile justice population suffers from learning disabilities, and 33% read below the fourth grade level.⁵ Students in high-poverty, high minority school districts are particularly vulnerable. “Not surprisingly, they experience lower rates of high school graduation, lower levels of academic achievement, and higher rates of college attrition.”⁶ The research also suggests that there is a correlation between school dropout and disproportionate minority confinement (DMC).⁷ In Massachusetts, “[a]lthough the actual number of detained and committed youth fell between 1998 and 2007, minority youth continued to account for slightly more than 20% of the . . . population ages 10 to 16 and approximately 60% of those youth detained and committed.”⁸

The scope of this public safety issue has been recognized nationally by law enforcement. In Birmingham, Alabama, for example, where students in the public school

² Mass. Dep’t of Correction, January 1, 2009 Inmate Statistics, at v (May 2009).

³ Arne Duncan, U.S. Sec’y of Education, Lawmakers Who Lead, Remarks to the National Conference of State Legislatures (Dec. 10, 2009), <http://www2.ed.gov/news/speeches/2009/12/12102009.html> (last visited May 16, 2010).

⁴ Johanna Wald & Daniel J. Losen, *Defining and Redirecting a School-to-Prison Pipeline*, in *Deconstructing the School-to-Prison Pipeline*, at 11.

⁵ *Id.*

⁶ *Id.* at 9.

⁷ Johanna Wald & Daniel J. Losen, *Defining and Redirecting a School-to-Prison Pipeline*, in *Deconstructing the School-to-Prison Pipeline*, at 11.

⁸ Robin L. Dahlberg, American Civil Liberties Union, *Locking Up Our Children: The Secure Detention of Massachusetts Youth After Arraignment & Before Adjudication 14* (May 2008) (hereinafter *Locking Up Our Children*), available at http://www.aclu.org/pdfs/racialjustice/locking_up_our_children_web_ma.pdf. In assessing 2003 detention data, this ACLU study reports that thirty-three states had a smaller percentage of their adolescent population residing in detention facilities than did Massachusetts; on the other hand only eight states had a smaller percentage of their adolescents residing in correctional facilities than did Massachusetts. The authors acknowledge that because of a lack of reliable juvenile arrest data disaggregated by race and ethnicity they decided to focus on pre-adjudication decision-making. A subsequent study will address key contacts in the process, including the schools and police.

system are predominantly African-American, local law enforcement officials have concluded that “high dropout rates are contributing to violent crimes and murders, and that educating children earlier can help reduce the crime rate.”⁹ According to Jefferson County Sheriff Mike Hale. “[i]t is a proven fact that dropout rates directly correlate with crime statistics. We have to find a way to keep our young people in school.”¹⁰

Time spent out of school can be a predictor of school drop out.¹¹ In the 2002-2003 school year, 1,949 school exclusions were reported in Massachusetts.¹² This represented a 47% increase in the number of exclusions from the 1999-2000 school year.¹³ There was also a 26% increase in the number of students who were excluded more than once during a school year between 2000 and 2002,¹⁴ and students of color represented 24% of student enrollment, but 60% of the student exclusions.¹⁵ In addition, there was “[a]n almost 88% increase from school year 2000 to 2002 in the number of school exclusions that spanned an entire academic year (180 days). The average number of days of exclusion was approximately 57 days, averaging a third of an entire school year.”¹⁶

⁹ Staci B. Brooks, *Law Enforcement Chiefs: Dropout Rates Contribute to Crime*, al.com, Aug. 20, 2008, http://blog.al.com/spotnews/2008/08/law_enforcement_chiefs_dropout.html (last visited Sept. 16, 2011).

¹⁰ Fight Crime: Invest in Kids, *Birmingham Law Enforcement: Dropout Rates Fueling Violent Crime*, Aug. 20, 2008, <http://www.fightcrime.org/state/alabama/news/> (follow hyperlink to article) (last visited Apr. 26, 2010).

¹¹ See, e.g., Colneth Smiley, Jr., *Expelled Kids Face Long Odds: Schools Give Students as Young as 13 Cold Shoulder*, Boston Herald, October 21, 2007, at 9.

¹² Massachusetts Department of Education, *Student Exclusions in Massachusetts Public Schools: 2002-2003*, at 1 (June 2004) (hereinafter *Student Exclusions*), available at <http://www.doe.mass.edu/info services/reports/exclusions/0203/full.pdf>. The 2002-2003 school year appears to be the last year for which the Massachusetts Department of Education compiled such a report. See Massachusetts Department of Education, *Student Exclusions*, <http://www.doe.mass.edu/info services/reports/exclusions> (last visited Sept. 16, 2011).

¹³ Juvenile Subcommittee Report, *supra*, § II, at 1.

¹⁴ *Student Exclusions, supra*, at 1.

¹⁵ Juvenile Subcommittee Report, *supra*, § II, at 1. As noted by the Juvenile Subcommittee. “[a]n exclusion is defined by the [Massachusetts] Department of Education as a punishment or removal from school permanently, indefinitely or for more than 10 consecutive school days.” *Id.* at 1 n.1.

¹⁶ *Id.*

As I have discussed, addressing the problems of school dropouts, exclusions are public safety imperatives. I urge that you give these bills serious consideration and to continue pursuing ways to address these vital issues.