

Governor Deval L. Patrick
Testimony on behalf of “An Act to Reduce Recidivism by
Increasing Employment Opportunities”
March 18, 2008
(as prepared for delivery)

Good Afternoon, Chairman Creedon, Chairman O’Flaherty and members of the Joint Committee of the Judiciary. Thank you for this opportunity to offer testimony on behalf House Bill 4476, An Act to Reduce Recidivism by Increasing Employment Opportunities.

I also want to thank the chairs of the Public Safety, Labor and Workforce Development, and Judiciary Committees, as well as the members of the Massachusetts District Attorneys Association, the Black legislative caucus, and the many others whose input was instructive in helping us craft this important piece of legislation.

The CORI Reform legislation before you today is a part of a whole. I ask you to view it as linked to the Executive Order we issued in January, “Regarding the Use and Dissemination of Criminal Offender Record Information by the Executive Department,” and the Mandatory Post Release Supervision legislation already heard by this committee. As you will hear in greater detail from Public Safety

Secretary Burke and Labor Secretary Bump, all are parts of our administration's public safety agenda.

I believe public safety must be about both law enforcement and crime prevention. We should be firm, swift and certain in enforcing our criminal laws, and I support any efforts to assure that local police have the resources they need to do their job. But we must also be mindful that nationally, almost 95 percent of all inmates re-enter society after serving their time¹. In Massachusetts that means some 20,000 individuals every year. Successful crime fighting also means reducing the risk that former inmates will return to crime by helping them rebuild their lives and rejoin productive society. We owe that not just to the former inmate, but to the rest of society.

There is a compelling need for the Commonwealth to closely monitor the re-entry of the formerly incarcerated into our communities. Without adequate post-release supervision, and the proper guidance and support – including access to employment and housing opportunities – former prisoners are often ill-prepared to

¹ “At least 95% of all State prisoners will be released from prison at some point; nearly 80% will be released to parole supervision.” SOURCE: US DOJ, Bureau of Labor Statistics
<http://www.ojp.usdoj.gov/bjs/reentry/reentry.htm>

overcome barriers to successful re-entry. Under existing conditions, almost half of all offenders will recidivate after one year. Some are just bad actors. But many turn to crime because they do not develop life skills and cannot get work for which they are prepared. This reality makes it imperative that we remove unnecessary barriers to employment for rehabilitated individuals who have criminal records. In this context, good re-entry is good public safety. Without reform, the existing system undermines public safety in this Commonwealth.

And this is not just a question of safety. Incarcerating an offender costs us approximately \$43,000 per year. Estimates based on effective re-entry programs, like the Massachusetts Parole Board's Transitional Housing Program, suggest that the cost for the last year of incarceration and the first year of release can be cut by 50% with better program services that result in a significant reduction of recidivism. To spend money on rehabilitation efforts and neglect to provide the necessary post-release support is bad fiscal policy.

The combined goals of the legislative proposals before you are to enhance public safety and create economic opportunity. By

enhancing access to relevant records for law enforcement and criminal justice agencies and removing unnecessary barriers to employment for rehabilitated individuals with criminal records, we can achieve these goals.

ENHANCING PUBLIC SAFETY

There is no question that criminal background checks serve necessary and vital public safety and law enforcement purposes. Information should be available and easily accessible in any and every case where there is a reasonable concern about safety and security for our communities. The concerns we have addressed in the legislation before you and the Executive Order are that the use of CORI, as it currently stands, is making it harder for some individuals to access the opportunities they need to move beyond a life of crime. The potential for recidivism fostered by current CORI reporting policy actually puts communities in greater jeopardy, contradicting the spirit of the law.

Let me be clear. Nothing in this legislation interferes with law enforcement's unfettered access to criminal background information. In fact, this bill strengthens law enforcement access by granting broad access to CORI for criminal justice agencies. Under existing law, once a criminal record is sealed, law enforcement agencies are routinely denied access to those records by the courts. Under the legislation before you today, law enforcement entities would be given full and unrestricted access to these records.

This bill also strengthens the Criminal History Systems Board by adding an additional board member to represent the views and perspectives of victims of crime. Their voices should be at the table and under this legislation, their participation will be increased.

This bill takes strong steps in enhancing the ability of law enforcement to use CORI as a means to promote public safety. This is in keeping with the executive order I referenced earlier which addressed legitimate concerns over accuracy for the thousands of individuals who currently have a CORI record. Often, inaccurate information contained in criminal records reeks havoc in the lives of

good, well-intentioned people in their dealings with law enforcement officials, prospective employers or landlords. Not only is an inaccurate record harmful to the subject, it undermines the very usefulness of CORI to law enforcement, employers and the community-at-large. We should do everything in our power to ensure that a criminal record is accurate and easy to understand.

By ensuring broad access and better accuracy, we enhance the ability of law enforcement agencies to use CORI records as a tool to enhance the public safety of our communities.

ENHANCING ECONOMIC OPPORTUNITY:

As I mentioned earlier, another important part of this legislation is its focus on facilitating successful re-integration. Successful re-entry encourages economic opportunity while curtailing recidivism and providing a hedge against the common – and costly – post-release pitfalls like substance abuse, homelessness, mental and physical health problems. With a smart and comprehensive

approach, we expand opportunity, cut costs, and make our communities safer.

The bill accomplishes the goal of expanding economic opportunity by sharpening the focus of the Criminal History Systems Board (CHSB) with respect to the dissemination of CORI to employers, and changing the timeframes and mechanisms for the sealing and distribution of criminal records.

The legislation sharpens the focus on successful re-integration by requiring the CHSB to consider, as part of the CORI certification process, “the importance and value of successful reintegration of ex-offenders.” To further this consideration, the legislation expands the membership of the CHSB to include the Secretary of Labor and Workforce Development and two additional gubernatorial appointees with experience in workforce and economic development or ex-offender rehabilitation.

It also directs the CHSB not to provide CORI-certified employers access to records that are eligible for sealing under the

timelines that I have proposed – timelines that accurately reflect the realities of recidivism in our communities.

Sound research on criminal behavior indicates that the longer an ex-offender stays out of trouble the less likely he or she is to re-offend. A 21 year old arrestee who stays out of trouble is 86 percent less likely to be re-arrested by the age of 25 or 26. A juvenile arrestee who stays out of trouble is 96 percent less likely to be re-arrested by 25 or 26 years of age.

This means that within a rather short time period, usually 3 to 7 years, if the offender has not returned to criminal activity, there is a very small chance that he or she will ever resume criminal behavior. Thus, having a sealing period for felonies at 10 years is reasonable given that in all likelihood they have aged out of criminal behavior. The point is to keep a youthful offense from becoming a lifelong sentence.

There are many who have asked that we go further in dealing with unauthorized access to the criminal records of juveniles. Today,

Massachusetts law already limits access to juvenile records to law enforcement and a few select agencies like the Departments of Youth Services and Social Services as well as operators of youth camps. For all other entities and businesses, access is prohibited. My administration is committed to ensuring that this law is enforced so that a young person who has turned their life around has a second chance to succeed.

In keeping with this research on re-offense, the bill amends the mandatory waits for rehabilitated individuals to seal criminal records. It would change from 15 to 10 years for felonies and 10 to 5 years for misdemeanors, but only if the individual has stayed clear of criminal activity during that period. Sex offenders would never be eligible to seal records.

Reducing the sealing periods will not adversely affect public safety because the sealing periods are still well beyond the time frames for repeat offending. They will however, allow people who have become rehabilitated to become productive and engaged members of civil society and the workforce. This outcome not only

helps the Massachusetts economy, but it also enhances and strengthens public safety. The best social program is a good job – we should be doing all that we can to make sure that a prior offense does not permanently close the door of opportunity for individuals. When that door is permanently closed, we all lose.

Coupled with our proposal on mandatory post-release supervision, CORI reform can save taxpayers millions of dollars a year. We can reduce prison spending and cut the costs of criminal behavior in the Commonwealth's communities, thereby enhancing public safety.

Thank you very much, and I look forward to working with you on this and other reforms.