

The Just Criminal Justice Group, LLC



Michael A. DiLauro, Esq.
Owner/Manager
March 12, 2024

Senator Dawn Euer
Chairperson, Senate Judiciary Committee
The Statehouse
Providence, RI 02903

RE:
Opposition to 2024—S 2676 specifically the language that inhibits the court’s ability to impose a sentence containing probation and opportunities for parole and that creates mandatory minimum sentences.

Opposition to 2024—S 2733 specifically the language at p. 2, lines 16-20. ¹

Representative Robert E. Craven, Sr.
Chairperson, House Judiciary Committee
The Statehouse
Providence, RI 02903

RE:
Opposition to 2024—H 7752 specifically the language at p. 6, lines 26-29 ²

Opposition to 2024—H 7827 specifically the language at p. 2, lines 16-20 ³

Dear Chairperson Euer, Chairperson Craven, and Members of the Senate & House Judiciary Committees:

On Tuesday, March 12, 2024, and Wednesday, March 13, 2024, the Senate and House Judiciary Committees, resp., will hear numerous bills pertaining to firearms. I write in opposition to those portions of the two (2) bills referenced here that create additional criminal sanctions for the possession and use of firearms. I have identified the specific problematic language of both bills. While taking “no position” on the bulk of this legislation, I wish to express my opposition to those portions of both bills identified here that create mandatory minimum

¹ This language provides that “Every person violating the provisions of this section, with the exception of subsection (a)(2) of this section, shall, upon conviction, be punished by imprisonment for not less than two (2) nor, but not more than ten (10) years; and for penalties provided in this section he or she shall not be afforded the benefit of suspension or deferment of sentence nor of probation, of which the court may not suspend the first two (2) years of the sentence.” (Emphasis added)

² This language provides that “No person shall use or attempt to use a stun gun on a police officer who is engaged in the performance of his or her duty. Any person convicted of violating the provisions of this subsection shall be guilty of a felony and may be punished by a fine of up to ten thousand dollars (\$10,000), or by imprisonment for not more than ten (10) years, or both. Any sentence imposed upon a person pursuant to this subsection shall be imposed consecutively to and not concurrently with any sentence imposed for the underlying crime or attempted crime, and the person shall not be afforded the benefits of suspension or deferment of sentence. (Emphasis added)

³ See footnote ‘1’, supra.

sentences or otherwise inhibit the exercise of judicial discretion. If enacted into law they would interfere with the court's ability to fashion fair and appropriate sentences in criminal cases.

Inhibiting the exercise of judicial discretion as both of these bills do can result in absurd and unfair results. Rather than arriving at a sentence that is informed by the facts and circumstances of the case and background of the defendant, both of which are unique in every case, the sentence is mandated and dictated by the state's charging decision.

Arguments against mandatory minimum sentences or otherwise interfering with the exercise of judicial discretion as these bills do would interfere and, in some cases, eliminate entirely the court's ability to fashion an appropriate sentence in a criminal case, can be summarized as follows:

- Restricting a judges' ability to consider the specific circumstances of a case and the individual involved can lead to unjust outcomes, as judges cannot tailor sentences to fit the unique factors of each case.
- Disproportionately harsh sentences can result, especially for non-violent offenses or first-time offenders. This undermines the principles of fairness and proportionality in the criminal justice system.
- Tying a judge's hands can result in a sentence that emphasizes punishment and incarceration over rehabilitation without addressing underlying issues such as addiction or mental health issues. As a result, the root causes of criminal behavior are left unaddressed and can perpetuate cycles of crime and incarceration.
- Sentencing schemes like those created here have been criticized for contributing to racial disparities in the criminal justice system that disproportionately affect minority communities, leading to higher rates of incarceration among people of color.
- Such sentencing schemes contribute to overcrowding in prisons and increased costs for taxpayers resulting in an inefficient use of resources. In contrast the availability of alternative sentencing approaches, such as diversion programs or probation, when available via the exercise of judicial discretion, may be more effective and cost-efficient.
- Judges are legal experts who are trained to weigh evidence, consider legal principles, and make informed decisions. Limiting their discretion in sentencing undermines their expertise and may result in less effective and fair outcomes.
- Judicial discretion allows judges to impose sentences that prioritize rehabilitation and reintegration into society, rather than simply focusing on punishment. This approach can

help offenders address underlying issues such as addiction or mental health problems and reduce the likelihood of reoffending.

- Judicial discretion also serves as a check on potential injustices that may arise from rigid sentencing laws or mandatory minimums. Allowing judges to exercise discretion ensures that the criminal justice system remains flexible and responsive to evolving societal norms and values.

Thank you for the opportunity to express myself on the important issues presented by this legislation. Please feel free to contact me at anytime with any questions or concerns you may have.

Respectfully,

A handwritten signature in blue ink, appearing to read "Michael A. DiLauro". The signature is fluid and cursive, with a long horizontal flourish extending to the right.

Michael A. DiLauro, Esq.

CC: Members of the Senate & House Judiciary Committees