Research has shown that in Massachusetts schools, students may be arrested for nonviolent misconduct such as “Disturbing the Peace” or “Disrupting a Lawful Assembly.” Further, it has been shown that in Massachusetts students with behavioral and learning disabilities are disproportionately arrested for nonviolent student misconduct. Arresting students for nonviolent misconduct results in A) children dropping out from school, which leads them to have less productive futures (and oftentimes leads them to become lifelong prisoners), B) diminishes the quality of the educational experience for all children, and C) misdiagnosis of mental disease as delinquent behavior and thus inadequate treatment. Therefore, it is essential that Massachusetts ensure that no more students are arrested for nonviolent misconduct.

The Bill

S.876/H.328: An Act to decriminalize non-violent and verbal student misconduct

Elevator Speech

My name is Jeongmi Seo/Blake Linzer. Justice requires fair punishment, especially for vulnerable children. Vulnerable children’s chances at a productive and happy future are taken away by unjust involvement with law enforcement.

Studies show that in Massachusetts in 2013-2014 there were about 1,000 school arrests, and that African American and Hispanic students and students with behavioral and learning disabilities are disproportionately arrested. Currently, school-based law enforcement officers can arrest students on ambiguous nonviolent charges such as disturbing the peace. These officials are not required to be trained in child and adolescent behavior or implicit bias. S 876/H328: “An Act to decriminalize non-violent and verbal student misconduct” will set specific standards to hire school-based law enforcement, or school resource officers, who are trained in behavioral disability and implicit bias. Furthermore, it will prevent school-based law enforcement from arresting students under ambiguous offenses such as ‘disturbing the peace.’ Would you speak personally with Senator Brownsberger/Representative Peisch to request an immediate hearing on this essential bill?
Excerpt from the Storybook

Jeongmi witnessed an arrest of a boy of about 12 years of age while she interned in Herberg Middle School in Pittsfield, MA. Although the student was talking back to the teacher, he showed no violent behavior. Still, the student was arrested regardless of the degree of disruption. While she worked with “troublesome” students, she learned that they just needed extra care and attention to fit into class.

“Kids [are] always going to test boundaries, [thus the punishment] must be incredibly consistent,” said Professor Teresa Mitchell of the Brandeis University Department of Psychology. When asked about impact of arrests on students who are not arrested, Professor Mitchell replied “... if there are these unpredictable arrests and escalations, that’s going to disrupt your kid’s learning.”

Op-Ed

Jeongmi

Just two days after the turn of new year, the internet went viral with a video of a 12-year-old black girl being extremely roughly treated by a police officer at school. The video was taken by a fellow student showing how the girl was violently thrown to the floor – you wouldn’t even throw your backpack on the floor the same way. A small child without any weapon could not have been such a harm to an adult male, who is trained to work against violence.

Maybe she caused a serious problem. Maybe she deserved it. One may argue so. Probably the police officer himself, or even the teacher may say so. The teachers know their students the best in schools, but it is very easy for them to get trapped in their first impression. Once labeled a problematic student, forever a troublemaker. That label soon blinds not only the teachers, but also society.

If you think that this cannot be happening in Massachusetts of all states, you are mistaken. In fact, just about half a year ago, seven officers were sued for consistent overuse of force on civilians. Judge Katherine A. Robertson wrote in the ruling that there is “a consistent pattern of rejecting civilian complaints against police officers.” Judge Robertson also noted that there are systematic problems where the officers receive inappropriate suspension and discipline.

Now, would you believe me if I told you that there is no training for the school resource officers to work at schools? Thus, they treat the children in schools just like they would treat criminals with serious charges. This so-called “zero-tolerance” policy places inappropriate charges and unnecessary arrests on students who need the most help. It is no surprise that the students who suffer the most are, as you have expected, black and Hispanic students and those of lower socioeconomic background. Often students with learning disabilities are wrongfully convicted due to their symptoms. Once the children enter the jail, their chance to drop out will triple and their chance to re-enter the jail as an adult multiplies significantly. The school-to-prison pipeline becomes a never-ending cycle leaving numerous victims behind.

Professionals say that a good discipline requires consistency. We also know that a good punishment does not involve violence. To prevent and improve the current system, a change needs to be implemented. What can we do to help? It’s as easy as calling your representative to support the bill H.328: “An Act decriminalizing non-violent and verbal student misconduct.” The bill will not only allow students to stay in school without being arrested for petty charges, but also allow psychological professionals to intervene when necessary. It also will train the officers on how to work with youth. They will be trained to work against unconscious racial bias and understand the difficulties of children with behavioral disabilities. Call now. Let the students stay in school. Let them learn from their mistakes and grow to become better people.

House Ways and Means Script

Good afternoon, Representative and Chairman Dempsey and thank you for having us today. As you are currently raising three children in the Commonwealth, we trust today’s discussion may be of particular interest to you.

My name is Jeongmi Seo and this is my partner Blake Linzer. Justice requires fair punishment, especially for vulnerable youth. In our community, children’s opportunities to create productive futures are robbed by unjust involvement with law enforcement. We are concerned that students are arrested for nonviolent misconduct. By preventing unjust and unnecessary arrests, House Bill 328: “An Act decriminalizing non-violent and verbal student misconduct” allows students to stay in class, providing more opportunities and better futures for children of the Commonwealth.

The Massachusetts American Civil Liberties Union has noted that students who are arrested at school are three times more likely to drop out than those who are not, and that students who drop out are eight times more likely to end up in the criminal justice system in the future than those who remain in school and graduate. Studies have shown that MA saw 1,000 school arrests in 2013-2014. These students are entering the “school-to-prison pipeline.” This bill will address the school-to-prison-pipeline by, among other things, requiring school law enforcement officers, or school resource officers, to use regular police practices only if there are serious physical threats by restricting students from being arrested on school grounds for ambiguous charges such as “disturbing a lawful assembly.”
Also, with rising concerns over racial discrimination and police brutality, it is important to examine which students are most affected by nonviolent school arrests. The MA ACLU found youth of color to be disproportionately affected by the policing practices in the Boston and Springfield school districts. Such implicit bias, can affect officer decisions leading to disproportionate arrests of minority students. "An Act to decriminalize non-violent and verbal student misconduct," House Bill 328 requires School Resource Officers to be trained on implicit bias. Also, the Massachusetts ACLU found that in the Boston and Springfield school districts, students with behavioral and learning disabilities were disproportionately represented in these arrests.

"An Act to decriminalize non-violent and verbal student misconduct" provides for the use of mental health professionals in schools, so that children with behavioral and learning disabilities get the help they need as opposed to getting handled as criminals. Also, the bill requires new school resource officers to obtain specialized training in child development and to be trained in the specific challenges their students face, thereby ensuring that officers understand the mental health issues that students have and can more adequately determine which students need help.

Some may argue that the bill will inhibit officers from arresting students who pose serious threats. However, the bill places student safety first by stating that SROs will not be inhibited from using regular police methods when weapons are present or physical attacks occur. This should also prevent the phenomena of “higher charged” arrests such as assault, by prohibiting arrests for “disturbing the peace.” Finally, administrators may say this bill imposes an undue restriction on all schools whereas this issue only effects some schools. However, since the ACLU has found the problem to exist Massachusetts, and because it is unlikely many less affluent schools will prioritize solving the existing problem without state action, these minimal regulations on better off schools are the least we can do to protect our children and a small sacrifice school administration can make.

This bill mandates that “protocols [are set forth] for utilizing the expertise of mental health professionals.” As a result, schools that have to hire mental health professionals will have an increased cost and may as a result need more funding from the state. On the other hand, perhaps this part of the bill can be funded through already existing line items, for example, the safe and supportive schools line item. The requirement that school resource officers receive more training may pose an added cost on police departments, so we may need to consider studying exactly what the increased cost will be and start thinking about how we can allocate funds accordingly. Any potential increase in spending that this bill will cause, however, is money well spent, because it is being contributed to ensuring that all of our children have the best educational experience and the best futures they can. And, since H.328 is financially beneficial, we ask you to support this bill.

Incarcerating youth can cost communities $240 dollars per day per youth. By decreasing the number of youth in the criminal justice system this cost of incarceration will be eliminated, and can be used to defray increased costs of new training methods for SROs and new hires of mental health professionals in schools. Further, the school-to-prison-pipeline statistically causes more youths to develop into repeat offenders as opposed to taxing residents. For long-term economic health, then, stopping the school-to-prison pipeline will create more productive taxpaying citizens contributing to the local economy as opposed to living off tax money in prison. Additionally, since school reputation is important to attracting newcomers to communities, ensuring schools have reputations for best handling student misconduct may boost real estate and increase tax bases.

This will increase the futures of students, particularly our most vulnerable students. It will result in students with mental health and behavioral health needs having increased access to the care they need. It will require our police who work with students to have the specified and essential training they need in order to foster a positive school environment. It will prevent all students from being arrested in school for ambiguous nonviolent offenses such disturbing the peace. And, because this bill is overall economically beneficial for the state, we ask that you report it favorably out of this committee.

Letter to the Legislator

My name is Blake Linzer, and I am a student at Brandeis University and a resident in your district. Justice requires fair punishment, especially for vulnerable children. Children's opportunities to create happy and productive futures are robbed by unjust involvement with law enforcement. I know you care about children, particularly issues of disability, as demonstrated by 1) your work on the Joint Committee on Children, Families and Persons with Disabilities; 2) the Joint Committee on Education and 3) your time on the National Education Commission on Time and Learning. I applaud you for fighting constantly and consistently for such important causes for children and education.

I am concerned about student arrests for nonviolent and verbal student misconduct, so I support S.876: “An Act decriminalizing non-violent and verbal student misconduct.” Nonviolent student arrests are an issue in Massachusetts. For example, the Massachusetts ACLU noted that in three distinct districts in Massachusetts (one as close to us as Newton), “there were numerous arrests at school during the school day based on misbehavior,” with youth of color
disproportionately arrested in all three districts and youth with behavioral and learning disabilities disproportionately arrested in two districts. They also note that students who are arrested at school are three times more likely to drop out and that students who drop out are eight times more likely to end up in the criminal justice system. S.876 will diminish the problem by 1) preventing arrests for ambiguous charges such as “disturbing the peace,” 2) requiring training tailored to specific salient issues school law enforcement officers (or school resource officers, SRO) face (such as implicit bias training), 3) facilitating intervention by mental health services for students with disabilities, and 4) limiting unnecessary discipline to minor misconducts.

Some say the state should not micromanage schools and this problem should be dealt with locally only at schools where the problem is salient. But these restrictions are the least we can do to protect our children and a small sacrifice school administration can make. SRO training and use of mental health professionals may cost a small amount of money for schools but it is worth the cost to keep students safe and in school. Moreover, incarceration costs $240 dollars per day per youth, a cost that can be redirected to hiring needed mental health services and providing better training to SROs.

Your role as an elected senator is never more important than when you are protecting the futures and well-being of those who cannot protect themselves. Please insist that your colleagues on the Senate Judiciary committee hold an immediate hearing on S.876: “An Act decriminalizing non-violent and verbal student misconduct,” to vote it out favorably, and to prioritize this important issue. Enough time has passed; you must act to show your continued support to education and our children, particularly those most affected by this problem: minorities and those with disabilities.

Excerpts from Campaign Journals

Blake

On a meeting with Rep. Peisch’s office

Nervously, I broke into our memorized elevator pitch, “Justice requires fair punishment...” in which she nodded along. We enumerated some aspects of the bill, Jeongmi contributed, and the counsel continued to listen (though I’m not sure she was writing). We confidently and knowledgeably, though nervously, presented what we knew about the bill and what we had prepared.

However, at some point, she noted to us that she already knew about the bill (as she had already researched it for the Representative) and asked if there was anything additional that we could contribute (what she thought we were there for in the first place), in which I just continued along with the elevator pitch. Here, I could have simply said no and that we were two students strongly interested in the bill and working to get it passed, instead of just continuing lecturing someone about a bill she knew a lot about, which is what I did.

Then, she proceeded to point out why Representative Peisch’s office (representing the Education Department), had misgivings about the bill: clearly, the issue did not affect all of MA schools, why need there be a statewide mandate on districts in which there was no issue? Superintendents the office had met, she told us, had opposed this.

To respond to this we did a good job to point out the data from Arrested Futures, although I got the sense this did not move her (although I believe I said I would forward her the report and never did. Broken promises (though small ones) were perhaps my biggest, and silliest, blunder in this effort). I think we let her lecture us too much about the counterargument. We were advocates, and should have pushed back.

Jeongmi

In all the visits, Blake and I could meet with quite few aides of the legislators. Still, the encounter could not be compared to the one we had with Representative Bud Williams. Not only is he from Springfield, which was one of the three cities that was studied in detail by Massachusetts ACLU’s report “Arrested Future,” but he also was a teacher for elementary students for a long time. He is one of the sponsors of a bill that covers portions of the bill that Blake and I mainly advocated for.

In that encounter, I have learned that they liked to be listened to as much as they like to hear from their constituents. The representative spent quite bit of time talking about his time as a teacher. He knew about the problem more than any one else. From this I realized that, especially when the legislators have a strong stance on the bill, it is best to listen to them more before preaching my ideas.

Update

As of October, S.876 was incorporated into a new bill draft, S.2170, “An Act relative to criminal justice reform.” S.2170 was reported favorably by the Committee on the Judiciary and referred to the Senate Committee on Ways and Means.

For more information

View the Bill:
mallegislature.gov/Bills/190/S876

Mental Health Legal Advisors Committee:
mhlac.org