



Charles Hamilton
**HOUSTON
INSTITUTE**
For Race & Justice
Harvard Law School

May 5, 2020

SUPPORT FOR H.4652
An Act Regarding Decarceration and COVID-19

Dear Chairwoman Cronin and Chairman Eldridge,

Exactly six weeks ago on March 24, 2020, the Committee for Public Counsel Services (CPCS), the Massachusetts Association of Criminal Defense Lawyers (MACDL), and the American Civil Liberties Union of Massachusetts (ACLUM) filed an [emergency petition](#) imploring the Massachusetts Supreme Judicial Court to take immediate action to limit the spread of COVID-19 by reducing the number of people who are incarcerated in the Commonwealth's jails, prisons, and houses of correction.

The Charles Hamilton Houston Institute for Race & Justice at Harvard Law School was honored to represent [a group of 14 leading experts](#) in public health, infectious diseases, epidemiology, and correctional healthcare as *amici curiae* in support of this petition. The [letter of amici curiae that we filed](#) explored medical and public health literature, data on the Massachusetts prison system, and official public health reports that demonstrate unequivocally that prisons and jails are particularly dangerous places for rapidly spreading infections like COVID-19.

We wrote and submitted this *amici* letter six weeks ago, but far too many people still remain incarcerated in the Commonwealth. While the litigation and courts considering emergency matters have resulted in some releases—and a decrease in arrests and putting most criminal cases on pause have also resulted in an overall decrease in incarceration in the weeks that have followed—much more must be done. We urge the unanimous passage of “An Act Regarding Decarceration and COVID19” (H.4652).

As our colleague Nancy Gertner, Lecturer at Harvard Law School and a retired federal judge, [argues so persuasively in the Boston Globe today](#), Governor Baker has abandoned his responsibility to the people in the state's custody. With [eight deaths](#) and almost [750 confirmed cases](#) of COVID-19 in the Commonwealth's prisons and jails—some of the [most significant outbreaks](#) in correctional facilities in the entire country—the need for decarceration is an urgent, clarion call for basic human rights and racial justice.

Massachusetts disproportionately incarcerates people who are particularly vulnerable to severe, even life-threatening cases of COVID-19, in large part because of structural racism and [disparate incarceration of people of color](#), inequitable access to healthcare and other social determinants of health, exposure to [air pollution](#), a history of smoking, age, and/or chronic illness.

Incarcerated people are also especially vulnerable to COVID-19 due to immutable conditions of confinement, well-documented unhygienic environments in the Commonwealth's prisons and jails, and inadequate medical care in carceral facilities. Confinement itself creates risk of rapidly spreading contagions, but [overcrowding](#) compounds those general risks. Harsh, unhygienic environments further heighten risks, and correctional facilities in Massachusetts have a long



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history of [failing to resolve environmental health violations](#) documented by state regulators. Finally, [inadequate medical care](#) in our correctional facilities threatens lives.

Uncontrolled spread in correctional settings directly imperils the lives and health of people behind bars; that alone should prompt urgent action. But such a situation could also have dire implications for the health and safety of the general public. As we have been arguing for six weeks, the safest response is to release as many people as practicable to self-isolate, especially those who are vulnerable due to health or age, and reduce the flow of new people into jails and prisons. This would protect those who are released, the general public, and those who remain incarcerated and who staff the facilities.

Public health and the safety of the public are inherently intertwined. Releasing incarcerated people and reducing the flow of new people into correctional settings would advance the fundamental goal of protecting the safety of the public: removing people from harm and saving lives. The surest way to contain the spread of an infectious disease in a jail or prison is to reduce its population.

We express our unequivocal support for this bill as a stepping stone toward the substantial decarceration that is required to curb this rapidly evolving public health crisis. We urge you to advance H.4652.

Sincerely,

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