

Department of Correction

Testimony of Brian K. Murphy, Acting Commissioner

Judiciary Committee

Raised Bill No. 457, *An Act Concerning the Department of Correction*

March 17, 2010

Good morning, Senator McDonald, Representative Lawlor and members of the Judiciary Committee. I am Brian K. Murphy, Acting Commissioner of the Department of Correction. I am here this morning to speak in strong favor of Raised Bill No. 457, *An Act Concerning the Department of Correction*.

Section one of the bill would increase the penalty for assaulting an employee of the DOC with bodily fluids. Fluid throws are of increasing concern for the Department of Correction. Not only is it one of the most degrading experiences to have bodily fluids hurled at a correctional employee while performing his or her professional duties, it is also potentially life threatening. The potential for the transmission of disease by the assault of bodily fluids is very high in the correctional system. The diseases that may result from a fluid throw include the HIV virus, hepatitis B and other blood borne pathogens.

If a correctional employee has a significant exposure, immediate action is taken and the post-exposure protocol that follows is extreme. The prophylactic treatment that follows a significant exposure has some serious side effects that can last for more than a month and include flu like symptoms such as nausea, diarrhea and headache. The employee also has the burden of having to be tested every six months and the very real concern of not knowing whether or not the disease has been transmitted. This affects not only the employee but the employee's family as well.

As a 29-year correctional professional, I can tell you that inmates understand about getting more time. This provision would provide a disincentive for inmates to assault a correctional employee and will be an additional tool that can provide a safer more secure environment for staff members.

Section 2 of the bill represents compromise language reached with the Freedom of Information Commission last year and supports the safety and security of facility operations by exempting disclosure under the Freedom of Information Act any records that present a risk. It specifies that the records include drawings, specification, plans and aerial depictions that are related to the physical plant, infrastructure, or site conditions of the institutions or facilities.

Section 3 of the bill prohibits inmate possession of a wireless communication device and establishes possession as a class D felony. The current statute that prohibits the conveyance of devices, such as a cell phone or a camera phone into a correctional facility, is silent on the possession of such by an inmate. As devices and cell phones become smaller, they tend to be more easily conveyed and concealed in a correctional institution. Correctional systems across the country are being challenged with controlling these types of contraband. While many inmates are intent on serving their sentence, following the rules and obeying security regulations, there are those inmates that pose real security threats and continue to engage in criminal activity. Possessing an electronic communication device such as a cell phone gives inmates access to a private line of communication from which they can harass, threaten and intimidate their victims, engage in unlawful activities and even continue criminal enterprises. An inmate with a cell phone is a serious threat to public and institutional safety. The penalty of a felony conviction serves as an additional judicial sanction to deter such behavior.

Sections 4 through 8 of the bill make changes that are needed to effectively implement the inmate discharge savings legislation passed in 2007. I want to thank you again for passing the legislation that allows the DOC to set aside up to 10 percent of all money credited to an inmate's account to establish a savings fund that would be available to the inmate upon release to aid in reentry to the community. Once the legislation passed and we began to work towards implementing its provisions, we recognized the need for some technical revisions and clarification. Our proposed changes generally keep the implementation of Discharge Savings consistent with the Cost of Incarceration provisions.

Section 9 of the bill would allow a student who committed an expellable offense and has been in the custody of the DOC as a result of that offense to reenroll in school upon discharge or release and not be expelled for that offense. Children sometimes as young as the age of 14 are committed to the custody of the DOC and will need to be readmitted into their local school when they return to the community. Any student should have the opportunity to return to their community to complete their education.

Section 10 would allow the DOC to disclose to the parent or legal guardian of a youthful offender that fact that the youth offender is in the custody of the DOC. Currently law prohibits the DOOC from disclosing information about the status of a youth offender. Parents and guardians often call the DOC to ask if their youth is in the custody of the DOC only to have the agency put in a position of not being able to confirm or deny the information. A parent or legal guardian should have the right to know if their child is in the custody of the DOC to facilitate the bond process and/or arrange for legal representation.

Section 11 of the bill allows an inmate, at his or her request, to stay at a correctional facility beyond the inmate's end of sentence discharge date if a

treatment program or healthcare institution to which the inmate is scheduled to be released to is not able to accept the inmate on the inmate's discharge date. I do not anticipate that this provision would be used frequently but it would be beneficial to have the statutory authority should there be a need. As you know, I must discharge an inmate by the effective maximum term date of sentence, regardless of the inmate needs. There is current statutory language that allows the inmate to request to remain confined for up to 90 days beyond this end of sentence date for continued participation in a department program for drug dependency, in a work or education release program or in a program operated by a state agency other than the DOC. I would like to expand this authority to allow an inmate to request to remain in a correctional facility while awaiting entry into a treatment program, healthcare institution or for a compelling reason related to rehabilitation or treatment.

I thank you for your consideration of Raised Bill No. 457. My staff and I are would be happy to respond to any questions that you may have.

