



JOSEPH M. GIGLIO
Assemblyman 148th District
Allegany, Cattaraugus, and
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THE ASSEMBLY
STATE OF NEW YORK
ALBANY

RANKING MINORITY MEMBER
Committee on Standing Committees
Correction Committee
Ethics and Guidance Committee

COMMITTEES
Codes
Rules

March 24, 2021

Andrew M. Cuomo, Governor
State of New York
Executive Chamber
State Capitol
Albany, NY 12224

RE: Veto Request – HALT Solitary Confinement Act (A.2277-A)

Governor Cuomo:

As members of the Assembly Committee on Correction, we strongly urge you to veto Assembly Bill A.2277-A, which would significantly restrict the use of segregated confinement in state correctional facilities, and local facilities with a capacity of over 500 inmates. We believe this bill is dangerous, unnecessary, and costly.

This legislation is dangerous. This bill will restrict and limit an important disciplinary tool to help keep correction officers, prison staff and inmates safe inside their respective facilities. This legislation will limit confinement within a Special Housing Unit (SHU) to a maximum of 15 days, or 20 total days over a 60-day period. Correctional staff uses their discretion to house dangerous, violent and disruptive inmates in SHUs to separate them from the general population in order to keep staff and other inmates safe.

Governor Cuomo, we are seeing a dangerous “powder keg” environment fester inside our state correctional facilities. Inmate-on-staff assaults are up over 38 percent over the last five years, with a five-year average of 924 assaults. The rise of inmate-on-inmate assaults is equally alarming, with the average up over 31 percent in the past six years, from 915 to 1204. More troubling is that these increases occurred alongside a 40 percent reduction in the state prison population during the same period. Allowing correctional officers and facility staff to segregate dangerous, violent and disruptive inmates helps maintain safety for both inmates and staff within the facility.

In addition, there is significant disinformation surrounding Special Housing Units (SHU), which advocates often refer to as solitary confinement. There is no such thing as “solitary confinement” within in our state’s correctional facilities, as typically understood and depicted in news and Hollywood media. Individuals in SHU receive property, services, and amenities similar to those housed in general population. They receive outdoor recreation, personal visits, unlimited legal visits, access to daily medical and emergency sick call, religious counseling services, frequent mental health assessments, daily visits from the Offender Rehabilitation Coordinator for additional counseling services, access to tablets and phone calls, and various forms of media, including literature, educational and religious materials. This is not solitary confinement or torture.

This legislation is unnecessary. Following the March 2016 settlement agreement between New York State and the NYCLU, an agreement was reached in June 2019 between your administration, Speaker Heastie and Majority Leader Stewart-Cousins to make a series of changes to the use of SHUs administratively. These regulations were adopted in December 2020 and put in place to phase down SHU time limits to 90 days by October 2022, and to 30 days by October 2023. We urge you to honor the terms of this agreement as planned with a scheduled phase down to 30 days rather than an immediate drop to just 15 days within a year of the signing of this bill. A maximum of 15 days, or 20 days within a 60-day period, will simply not be an effective deterrent for those inmates who have no interest in rehabilitation. These individuals will instead use every opportunity they have to cause harm to correction officers or other inmates.

This legislation is costly. This bill requires all state correctional facilities and local correctional facilities with a capacity of over 500 inmates to establish separate wings in which to house those inmates who would normally be housed in SHU. There is little doubt that this will cost tens of millions of dollars to implement. There is also significant anticipated expense relating to the staffing and training of these facilities, the vast majority of which will only serve to be duplicative of the resources and amenities inmates are already entitled to when housed in SHU.

The bill's Sponsor indicated during floor debate that this cost can be borne by the Department of Corrections and Community Supervision (DOCCS) without additional cost to the State. Even if this proves true, it is an extraordinary expense to force upon the Department when our facilities are already concerned about their respective budgets. Over the past few years, you and your administration have justified closing several state correctional facilities on the pretense that it will aide in the cost-effective operation of the overall correctional system. This legislation, in requiring such a significant expenditure of Department funds, directly contradicts the assertion that these facilities must be closed in the name of efficiency and cost-savings.

Governor Cuomo, Assembly Bill A.2277-A is a dangerous bill which will likely lead to more violence directed towards those inmates who are attempting to responsibly serve their time and rehabilitate, while also putting the safety and well-being of our correction officers, the brave men and women already working very dangerous jobs, at risk. Given the foregoing, we urge you to continue moving forward implementing the existing 2019 settlement agreement regarding segregated confinement and veto this unnecessary and dangerous legislation.

Sincerely,



Joseph M. Giglio, Ranking Member
Assembly Committee on Correction



Philip A. Palmesano, Assemblyman
Assembly Committee on Correction



Mark Walczyk, Assemblyman
Assembly Committee on Correction