

SPECIAL COMMITTEE ON AIDS

A. 3940 (Gottfried) / S.2082 (Duane)

THE BILL IS APPROVED

The Special Committee on AIDS of the Association of the Bar of the City of New York submits this memorandum in support of A. 3940 (Gottfried) / S.2082 (Duane). This legislation would mandate that the Department of Correctional Services develop and implement programs to prevent the transmission of sexually transmitted diseases (“STDs”) and the human immunodeficiency virus (“HIV”) in state correctional institutions. Specifically, the legislation would require that the Department implement programs to provide education, outreach, testing and prophylactics to inmates at every correctional facility in the state. The mandate would apply only to facilities operated by the state Department of Correctional Services.

This bill represents a vital contribution to the fight against the HIV epidemic in New York State. Access to education, harm reduction and latex barriers is a cost-effective way to save lives both inside and outside of prisons. Without adequate education and access to latex barriers, incarcerated individuals face a particularly high risk of HIV infection. About eight percent of New York’s state prison inmates are infected with HIV and as many as 15 percent are infected with hepatitis C. Approximately 29,000 inmates return to the community each year, many without either the knowledge or the means to prevent the spread of these potentially fatal viruses.

For years, significant numbers of respected public health experts have recommended that prisons provide HIV prevention education and distribute latex barriers to inmates. The nation’s premier government health organization, the federal Centers for Disease Control and Prevention (“CDC”), has recommended that “practical risk-reduction techniques (e.g., safer sex and safer

drug injection) should be implemented for adult inmates in prisons and jails and for juveniles in confinement facilities.”¹

Failing to educate inmates about STD and HIV prevention during incarceration represents a squandered opportunity to benefit the health of inmates themselves and the families and communities to which most will one day return. Several studies have found that HIV transmission occurs at a troubling rate in prisons and jails. Moreover, in 1999, a Latino Commission on AIDS survey of former New York State prisoners found that 63% of respondents had observed prisoners having sex during their incarceration. One-third of those individuals had witnessed sex between prisoners sixteen or more times.

Whether or not a given individual engages in high-risk activities while in prison, he or she will certainly benefit from comprehensive education about HIV and STDs. The Institutes of Medicine have noted that “even if inmates are not engaging in risk behaviors while incarcerated, instruction in safer sexual and drug use behavior would be beneficial for when they are released into their communities.”² Considering that many inmates will return to disadvantaged communities that desperately need HIV prevention efforts, comprehensive education programs during incarceration represent an invaluable opportunity to disseminate information and prevent the spread of infectious diseases in entire communities.

Moreover, while this legislation will predictably and significantly improve public health statewide, it would not burden the state correctional system. Those correctional systems which

¹ CDC, HIV/AIDS Education and Prevention Programs for Adults in Prisons and Jails and Juveniles in Confinement Facilities, 45 MORBIDITY AND MORTALITY WEEKLY REPORT 13 (April 5, 1996).

²IOM, No Time to Lose: Getting More from HIV Prevention (September 27, 2000) at 123.

have adopted condom access programs have found that such programs do not significantly impair the functioning of their facilities. Indeed, prison officials in systems which distribute latex barriers consistently dispute the notion that such programs cause an increase in sexual or undesirable activity. In short, teaching preventive behaviors does not promote or condone illegal practices; it saves lives.

Additionally, the minor financial costs of the program are more than outweighed by the significant savings to the state of decreasing the incidence of HIV and other STDs. The average cost of caring for a person with early HIV disease is approximately \$14,000 a year, and the cost of caring for a person with advanced HIV disease is approximately \$34,000 per year. Considering the significant costs of treating HIV-positive prisoners, this legislation not only will save lives, but will also save money for the taxpayers of the state.

In sum, this legislation represents an opportunity to effectively prevent the transmission of HIV, hepatitis, and other STDs in a high-risk population. Without significantly burdening the correctional system, the legislation will have a dramatic effect on public health throughout the state. Providing inmates with education services and effective prevention tools will decrease the incidence of HIV and STDs not only in inmates, but also in their spouses, their sexual partners, their children, and their communities.