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October 11, 2014

RE: 2015 Legislative Session—BUDGET CHALLENGES

Dear

With the 2015 Legislative session approaching, state leaders face compelling budget challenges to fund: Education, Transportation, Mental Health, State Employee Pay Raises, Medical Care, and the Prisons. This letter addresses Prisons.

In June of 2014, Bernie Warner, Secretary for Department of Corrections (“DOC”) spoke before the Appropriations Committee. Mr. Warner advised the committee that prisoners were being housed on the floor and that the prison was at 102% capacity. Without voicing a preference, Mr. Warner proposed three options to reduce present and future demands for prison bed space:

- a) Begin housing inmates out-of-state;
- b) Immediately approve building new prisons (both men and women’s); and
- c) change the sentencing law retroactively or increase early release.

The first two have serious negatives: a) housing inmates out-of-state increases the costs of prisons, sends tax revenues out of state, and is burdensome on the families of those incarcerated. b) building a new prison will not solve the current over-crowding, and it will not be ready until 2019. Funding for a new prison comes from the capital budget, with the hidden cost of interest expense not included in the prison’s operational budget. In addition, a new prison includes cost drivers inherent in running a prison that are continuous. From the facts, proposal c) is the only option that solves prison overcrowding with the additional benefit of reducing operational costs.

To accomplish the third option, this letter proposes two simple changes to the sentencing laws that will solve prison overcrowding, reduce costs, and delay building a new prison until 2021.

SOLUTION ONE:

Pass redrafted SB 5866 of 2012, amending RCW 9.94A.728. This bill was originally sponsored by Senators Hargrove and Kline. The redrafted bill proposes that elderly inmates become eligible for parole when certain criteria were met (age, length of sentence, time served). Solution One advocates for the release of elderly inmates who reach the age of 60, have served 10 years or more, and who have completed 65% of their sentence.

Selecting the elderly for parole is based on undisputed corrections science. Studies have established that elderly inmates have the lowest recidivism rate – under three percent (3%). By comparison, the recidivism for younger released prisoners is about 40%. Any discussion about change in sentencing laws must focus on recidivism. Recidivism puts a heavy burden on society that consumes money and resources including local police, jails, public defenders, courts, Appellate Courts, and the DOC; not to mention the creation of more victims. Release of elderly inmates will have virtually no negative impact on society and will have the added benefits of reducing the costs to incarcerate the elderly.

SOLUTION TWO:

Change the law – RCW 9.94A.703(2)(9) – to ensure that inmates are released on their scheduled Earned Release Date (ERD). Currently, inmates must submit an address for approval prior to their release. This has become major blockade to the timely release of men and women from prison. In practice, DOC officials apply “subjective” criteria, or no criteria at all, to deny an address. There are cases where inmates are being held more than a year beyond their ERD. A change in this law could free as many as 400 beds over the next 18 months. This law should be changed so that DOC’s only task is to validate the address and confirm that the owner/renter has agreed to accept the released inmate. The law would still grant DOC the authority to reject the address based on objective criteria that would put the inmate at risk to re-offend. Objective factors would include: proximity to victim, co-defendants, trial witnesses, no contact orders, or similar specific factors.

In closing, both solutions, in combination, will begin to immediately free up prison beds space and solve over-crowding. There are numerous research reports, noted below, to support these proposals. All informed studies conclude that the release of the elderly is the smart choice. The writer advocates that with careful consideration State Senators and Representatives will see the wisdom of both proposals.

Sincerely,

Fred Stephens

Sources: Websites, www.fastlaw.org, www.doc.wa.gov

Reports: “Managing Prison Health Care Spending,” The Pew Charitable Trusts. (Oct, 2013); “At America’s Expense: The Mass Incarceration of the Elderly,” American Civil Liberties Union, (June, 2012); “Old Behind Bars: The Aging Prison Population in the United States,” Human Rights Watch, (Jan, 2012); www.usnews.com, www.nbcnews.com, The New York Times, www.truth-out.org, <http://nationinside.org/campaign/release-of-aging-people-in-prison>.

Department of Corrections reports include : DOC’s quarterly Fact Care, Table of Offender Population by Age Groups, and Earned Prison Release fact sheet.