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May 30, 2012

The Hon. Lincoln Chafee
Governor
State House
Providence, RI 02903

RE: H-7112A/ S-2179A

Dear Governor Chafee:

The Rhode Island Public Defender and the Rhode Island ACLU are writing to urge you to veto H-7112A and S-2179A, the so-called “good time” bills, which will be making their way to your desk any day. While the Department of Corrections, which previously had raised numerous concerns about the original bill, now is apparently taking a neutral stand on the Sub A, we continue to believe that the revised bill’s enactment raises enormous public policy and fiscal concerns.

This legislation undermines reforms that the General Assembly made *just four years ago* in response to severe overcrowding at the ACI. That overcrowding came close to precipitating the mandatory release of some prisoners. Passage of this bill is almost certain to lead to a similar crisis at some point in the not-too-distant future. We have enclosed a few news articles that provide some background on the 2008 crisis, and that explain why the General Assembly felt compelled, with the support of then-Governor Carcieri and *every* major player in the criminal justice system, to revise the “good time” statute in a way that this bill largely undermines.

Although this will likely be one of the most expensive pieces of stand-alone legislation the General Assembly votes on this year, no fiscal analysis that we are aware of was prepared for the Sub A. Unlike the original bill, the Sub A is prospective in nature, and thus there will admittedly be no immediate financial costs to the state. We assume that is a major reason the DOC no longer voices objection to the legislation and why no fiscal note was prepared.

But once the law takes effect and is applied to more and more new prisoners, very significant costs will be incurred and will continue to escalate. When the State Budget Office prepared a fiscal note on last year’s bill, which would have applied retroactively to inmates then at the ACI, it estimated that the costs associated with the population increase caused by the legislation would exceed \$12 million in its first full year of implementation alone, and \$23 million in its second year. The prospective nature of this bill does not diminish the expected expenses; instead, it simply pushes those costs a little way into the future, leaving them to another General Assembly to pay

from another fiscal year's strapped budget. It would be unfortunate, so soon after enacting a law in 2008 to save the state money, to undo that effort and put the DOC's budget on an ever-escalating fiscal path, at the same time that legislatures across the country are doing just the opposite in order to address serious fiscal issues.

Although we understand that the DOC has called any figures about future costs "speculative," there is nothing speculative about it at all. The bill eliminates good time for certain offenders. By definition, they will therefore spend greater amounts of time – years in many instances – than they otherwise would have. That is the point of the bill. As more and more of these offenders are sentenced to the ACI and spend more and more and years completing their sentence, the costs to the state will skyrocket – just as they did before the 2008 reforms were enacted. Like pension laws and 38 Studios, enactment of this bill will place the burden on a future General Assembly and Governor to address the significant financial burdens caused by a bill whose costs are not immediate.

There are important policy reasons for rejecting this legislation as well. Since the whole point of "good time" is to focus on the offender's behavior *inside the prison*, the nature of the offense the individual committed should be irrelevant. The removal of good time also potentially creates a disincentive for exempted offenders to be of good behavior while in prison.

Although the inmates no longer eligible for good time may have an opportunity to obtain much more limited sentence reductions for their participation in certain rehabilitative programs, there is no obligation on the Department of Corrections to ensure that these programs are available to all inmates wanting to participate. Thus, for many inmates who will no longer be eligible for "good time" credits, the opportunity for rehabilitative program credits may prove illusory.

For all these reasons, we respectfully urge you to veto this legislation.

Sincerely,

Steven Brown
Executive Director
Rhode Island ACLU

Barbara Hurst
Deputy Public Defender
Rhode Island Public Defender

Enclosures

cc: George Zainyeh
Kelly Mahoney