

VETO MESSAGE - No. 25

TO THE ASSEMBLY:

I am returning herewith, without my approval, the following bill:

Assembly Bill Number 6190-E, entitled: 

"AN ACT to amend the correction law, in relation to custody and supervision of persons in correctional facilities"

NOT APPROVED

The bill would require, subject to certain specified exceptions, that the duty of maintaining the custody and supervision of persons detained in state or local correctional facilities be performed solely by police or peace officers in the competitive class of the civil service of the state of New York. The bill would also prohibit the private ownership or operation of state and local correctional facilities and the private ownership or operation of a facility in which inmates from other states are incarcerated. The bill would take effect on the ninetieth day after becoming law.

I strongly support the goals of the bill and was pleased to approve a similar bill earlier this year, A. 6038 of 2002, requiring that the duty of maintaining the custody and supervision of persons detained or confined by the Department of Correction of the City of New York be performed solely by members of the uniformed force of the City Department of Correction.

I approved that bill, however, only after obtaining commitments from the Assembly and the Senate to enact a chapter amendment resolving two substantial concerns. First, that the bill not limit the ability of the City Department of Correction from employing or contracting with persons whose primary duties and responsibilities, despite incidental supervision and custody of inmates, consist of administering or providing programs and services to inmates. Second, that the bill not limit the existing authority of the mayor and

commissioner to appoint to position of authority persons whose duties and responsibilities include the overall security of the City Department of Correction.

Although this bill improves upon a similar bill I disapproved in 2000 (See Veto Message No. 88 of 2000), it does not address all the concerns I voiced in my veto message and would undermine the chapter amendment agreement that I recently obtained from the Legislature with respect to A. 6038 of 2002.

First, as I made clear in 2000, many of our local sheriffs have part-time employees who are peace officers but do not fall within the competitive class of the civil service. These sheriffs rely heavily on part-time personnel to staff their jails. While there is language in the bill that arguably protects the ability of our local sheriffs to continue to hire part-time peace officers, the bill is nonetheless ambiguous. Second, state and local correctional facilities employ or contract with persons -- such as teachers and drug counselors -- who perform vitally important functions that entail some incidental custody and supervision of inmates. Although the bill would preserve the ability of state and local correctional facilities to hire such employees, it does not similarly protect the ability of local correctional facilities to contract with others for the provision of such important programs and services. Moreover, the recently-obtained chapter amendment agreement to A. 6038 carefully protects the ability of the New York City Department of Correction to enter into such contractual arrangements. Thus, approval of the bill would undermine an essential element of that agreement.

Accordingly, my staff sought agreement from all affected parties on a chapter amendment to the bill that would resolve these concerns. Although an agreement was reached with the New York State Correction Officer's and Police Benevolent Association, the New York City Correction Officers' Benevolent Association, the New York State Deputies Association and the New York State Sheriffs' Association, unfortunately the Civil Service Employees' Association would not agree to the proposed chapter amendment.

I remain supportive of the goals of the bill, remain opposed to privatizing the ownership or operation of state and local correctional facilities and remain willing to work with all affected parties in crafting a bill that will not jeopardize the important concerns identified above.

The bill is disapproved.

(signed) GEORGE E. PATAKI

NYSCOPBA LEGISLATIVE
DEPARTMENT