



STATE OF NEW YORK

5207

2009-2010 Regular Sessions

IN SENATE

April 27, 2009

Introduced by Sen. HASSELL-THOMPSON -- read twice and ordered printed, and when printed to be committed to the Committee on Crime Victims, Crime and Correction

AN ACT to amend the correction law, in relation to the subpoena power of the commissioner of the department of correctional services

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Subdivision 2 of section 112 of the correction law, as
2 amended by chapter 476 of the laws of 1970, is amended to read as
3 follows:

4 2. The commissioner of correction may require reports from the super-
5 intendent or any other officer or employee of the department assigned to
6 any correctional facility in relation to his conduct as such officer or
7 employee, and shall have the power to inquire into any improper conduct
8 which may be alleged to have been committed by any person at any correc-
9 tional facility, and for that purpose to issue subpoenas to compel the
10 attendance of witnesses, and the production before him of books, writ-
11 ings and papers. A subpoena issued under this section shall be regulated
12 by the civil practice law and rules, provided, however, any officer or
13 employee of the department whose personal information is the subject of
14 a subpoena duces tecum shall be provided written notice of such subpoena
15 duces tecum within five business days of such commissioner issuing such
16 subpoena. The commissioner of correction is authorized and empowered to
17 lease the railroad, constructed under and by the authority of the laws
18 of eighteen hundred [~~and~~] seventy-eight, chapter one hundred [~~and~~]
19 forty-eight, for such term of years and upon such terms and conditions
20 as shall be approved of, in writing, by the governor and comptroller of
21 this state.

22 § 2. This act shall take effect immediately.

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

BILL NUMBER: S5207

SPONSOR: HASSELL-THOMPSON

TITLE OF BILL:

An act to amend the correction law, in relation to the subpoena power of the commissioner of the department of correctional services

PURPOSE:

To require that notice be provided to any officer or employee of the Department or Correctional Services whose personal information is the subject of a subpoena duces tecum.

SUMMARY OF SPECIFIC PROVISIONS:

Section 1 of the bill requires the Commissioner to provide written notice within five (5) business days of issuing a subpoena duces tecum to any employee or officer of the Department whose personal information is the subject of such subpoena. Section 2 of the bill provides an immediate effective date.

EXISTING LAW:

Such notice is not currently required under the provisions of the Correction Law or the Civil Practice Law and Rules.

JUSTIFICATION:

The Commissioner of the Department of Correctional Services is authorized to issue subpoenas compelling the production of books, writings and papers of any officer or employee of the department whose conduct is being investigated. The provisions of law governing the issuance of such subpoenas do not require that any notice be provided to the employee or officer who is the subject of such a subpoena. As such, officer and employees, for example, may have their personal telephone records subpoenaed without their personal knowledge.

This proposed legislation would not in any way limit the authority of the Commissioner in terms of his or her ability to issue subpoenas. Rather, it would simply ensure that an employee or officer whose personal information is the subject of a subpoena receives some minimal notice with respect to such subpoena.

PRIOR LEGISLATIVE HISTORY:

New bill.

FISCAL IMPLICATIONS:

None.

EFFECTIVE DATE:

Immediately.