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MEMORANDUM

TO: ACLU of PA Board of Directors
ACLU of PA Staff

FROM: Andy Hoover, Legislative Director

DATE: May 18, 2010

RE: QUARTERLY LEGISLATIVE UPDATE

The 2009-10 legislative session is quickly coming to a close. Officially, the session ends on November 30. However, with a statewide election looming, it is expected that the legislature will have very little session in the fall, maybe as little as two weeks. The Senate has already announced that it will not have a *sine die*, or lame-duck, session after the election, and it is not yet clear if the House will hold session after Election Day.

But June promises to be filled with fireworks. The deadline for passing the state budget is June 30, and the legislature currently has 14 days of session scheduled for June. Here are the bills we're working on.

BILLS WE'RE TRYING TO PASS

Reproductive Rights: Comprehensive Sex Education (HB 1163)

Also known as the Healthy Youth Act, this bill would require all public schools in Pennsylvania to teach comprehensive, medically-accurate sex education. The bill passed out of the House Education Committee in April. If we're going to get a vote in the House, it will be before the end of June.

Reproductive Rights: Shackling Pregnant Inmates in Labor (SB 1074)

Also known as the Healthy Birth for Incarcerated Women Act, this bill would ban state prisons and county jails from shackling pregnant inmates during childbirth. The bill unanimously passed the Senate in March and passed out of the House Judiciary Committee in April. We are hopeful for a vote in the House before the end of June. Then the bill will go to the governor, who is expected to sign it. The Department of Corrections, the County Commissioners Association of PA, and the county wardens do **not** oppose the bill.

Privacy and Surveillance: Search and seizure powers of the PA Game Commission (HB 181)

HB 181 passed the House last year and passed out of the Senate Game and Fisheries Committee in January. The primary sponsor, Rep. Bryan Cutler (R-Lancaster County), expects a vote in the Senate at anytime. Rep. Cutler and I met with staff from the governor's office recently but do not yet know his position on the bill.

Privacy and Surveillance: Banning the Microchipping of People (HB 1175)

Rep. Josephs, who is a member of our Greater Philadelphia chapter board, is the primary sponsor of this bill. HB 1175 bans one person from implanting an identification device into another person. The bill passed the House last year but has stumbled in the Senate Communications and Technology Committee. The committee chairman, Senator Mike Folmer (R-Lebanon, Lancaster Counties), supports the bill and hopes to pass it out of committee in June.

BILLS WE'RE TRYING TO STOP

Immigrants' Rights: E-Verify (HBs 1502 and 1503)

House Bill 1502 and 1503 require state contractors and all construction industry employers, respectively, to use the federal E-Verify program. E-Verify is an online database program that is intended to allow employers to verify the work authorization of employees. In practice, the databases are loaded with errors that keep eligible employees from working. And E-Verify often fails to catch unauthorized workers.

These bills are currently on the House calendar, meaning that they could get a vote any day that the House is in session. HB 2479, the attempt to follow Arizona's lead on immigration enforcement, has been getting all of the attention. **But HBs 1502 and 1503 are the real dangers.** HB 2479 is going nowhere. It was referred to the House State Government Committee, Rep. Josephs' committee. But HBs 1502 and 1503 are on the move.

We are cautiously optimistic that we can keep these bills from becoming law, but we'd like to avoid a vote in the House.

Juvenile Justice: Sexting (HB 2189)

This legislation would create a misdemeanor offense for students who share nude photos of themselves with others. We believe the bill is unconstitutional and is an overreaction to a problem that is better dealt with through education. The bill moved out of the House Judiciary Committee in March. Its future is unclear.

Juvenile Justice: Police in Schools (SB 56)

This bill mandates school administrators to call local police when certain offenses occur in school. SB 56 passed the Senate last year, and while there has been no

worry about the bill itself passing the House, we have increasingly heard that the primary sponsor in the Senate, who is the chairman of the Senate Education Committee, wants the language to be in the public school code bill that would channel funding to public schools as part of the budget. We are working with a coalition of groups and an ally in the House to either kill the bill or make it as benign as possible.

OTHER ISSUES WE'RE TRACKING

Criminal Justice: Expansion of Megan's Law (HB 1926)

This bill would require persons who are required to register under Megan's Law and who are homeless to check in regularly with the state police. By the time you read this, the House Judiciary Committee will have dealt with the bill, as it is on the committee's agenda for May 25.

Criminal Justice: Death Penalty Expansion (HBs 739, 907)

These bills would add new aggravating circumstances for capital cases. HB 739 creates an aggravator when the perpetrator commits a sex offense during the homicide and was required to register under Megan's Law at the time. HB 739 passed out of the House Judiciary Committee last month. HB 907 creates a new aggravating circumstance when the victim was over the age of 60 or was otherwise vulnerable due to disability, old age, or infirmity. HB 907 is also on the House Judiciary Committee agenda for May 25.

Criminal Justice: Prison Crowding (numerous Senate bills)

Senator Greenleaf has introduced numerous bills to try to address our crowded state prisons. They include:

- Diversionary programs, rather than incarceration, for persons who violate parole but do not commit a new crime (SB 1275)
- Removing the requirement of DA approval for a defendant to enter the Recidivism Risk Reduction Initiative ("earned time") program and putting the discretion solely in the hands of the judge (SB 1299)
- Allowing inmates to be released before their minimum sentence and to finish their RRRI programming while on parole (SB 1161)

The future of these bills is not clear. We're hopeful to at least get a vote in the Senate.