



THE ANTI-TORTURE BILL

Prevent Correctional Abuse by Promoting Healthcare Ethics

A.04863 Kelles/S.03228 Hoylman-Sigal

This bill prevents abuse of incarcerated persons by promoting and upholding established ethical standards for healthcare professionals. Specifically, this bill prohibits healthcare practitioners from participating in torture and improper treatment of incarcerated persons; additionally, it requires they report such abuse.

Why Bill A.00306/S.00794 is important:

Brutality and abuse of incarcerated individuals inside New York State's correctional facilities is undeniable and pervasive. The consequences of such traumatic abuse, both physical and psychological, may be severe, permanent, and potentially fatal. In addition to the toll of human suffering, such brutality may result in significant costs to the state, as a consequence of ensuing lawsuits. Furthermore, such unfettered violence has a toxic effect on staff morale and the work environment in correctional settings.

Corrections-based healthcare professionals are quiet but crucial players in addressing and ultimately preventing such abuse. Yet all too often the healthcare staff — doctors, nurses, pharmacists, social workers and psychologists — who witness this abuse, or the injuries resulting from it, feel coerced to turn a blind eye. This contradicts well-established and longstanding professional ethics rooted in human dignity. When faced with such brutality, their ethical obligation to report it should be obvious. However, their ability to respond ethically and in accord with their Codes of Ethics is often hampered by feelings of powerlessness and fears of reprisal.

Consider these examples of health professionals working with incarcerated individuals:

Mary B., LCSW, a former assistant mental health chief at Rikers Island, describes her reaction when faced with a handcuffed, bloodied incarcerated person who'd just been beaten by guards:

I charged back up the stairs to tell Charley, my supervisor, what I'd just witnessed. He shook his head somberly. "Yeah, Mary, things like this do happen in here. There's no getting around it. Unfortunately, there's not much we can do — we walk a fine line in here. You make a little too much noise and you find your tires slashed. We rely on these COs to open doors, and all of sudden the door you need to get through isn't being unlocked, or they get around to it very slowly."

Mary G., a clinical social worker, worked in a jail before resigning and leaving her profession. Her breaking point came after witnessing a 19-year-old in solitary confinement. He was denied outside recreation, was stripped naked and his mattress was taken away for weeks on end due to "disruptive behavior," such as refusing to give up his food tray or drawing on the wall with his feces. She states:

"I was not only a witness, but an accessory to human torture. I had no recourse, no one to report the abuse to, and no protection..."

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This bill would eliminate these all-too-common scenarios. Instead of helplessness in the face of brutality, this law would equip practitioners with a clear and mandated course of action, akin to the "mandated reporting" requirement that has been implemented in cases of suspected child abuse. Furthermore, it would protect against retaliation, as it would be understood that healthcare practitioners must follow the law or potentially lose their license.

Torturous practices, such as prolonged solitary confinement, can only operate with the complicity of healthcare professionals, who treat people for mental illness, assess suicide risk, and tend to the wounds resulting from the self-injurious behavior often seen in these units. This bill would end such complicity.

Consider these examples of the erosion of ethical standards in a solitary confinement unit:

Mary B., LCSW, made this observation while working in the solitary confinement unit at Rikers:

"As our team looked in on the agonized face of the person inside the cell, I had an awareness that far from the idealistic student I'd once been, I was now a monitor of human suffering."

Mariposa M., MD, is a psychiatrist who worked in two prisons with men who had been in solitary confinement units. She was so disturbed by her work in a solitary unit that she started a petition imploring the healthcare professional organizations to take a stand against solitary confinement. In her words:

"We are witnesses and participants."

Frank D. is a formerly incarcerated individual who was held in a solitary confinement cell for 22 years. He has this to say about the doctors and nurses who came to his cell door each day, with his anti-anxiety medication:

"They always looked at me like they felt so bad. Kind of doe-eyed. But they never did anything. They went right along with it, for 22 years."

Victor P. is a formerly incarcerated individual who was held in solitary confinement at New York's Attica State Prison. He has this to say about the healthcare staff:

"I never went to them for anything. They weren't to be trusted. I could hear everything they said to people in the other cells. There was no confidentiality. They weren't like doctors on the outside. They were 'one of them.'"

This bill would prohibit practitioners from participating in torture such as prolonged solitary confinement. It would provide a lawful means by which they could refuse any directives to participate in improper treatment. In addition, this bill would strengthen New York State's newly passed HALT Act, which restricts solitary confinement to 15 days.

At its core, this bill will preserve and protect the ethical standards of healthcare professionals in potentially coercive environments. In so doing, it protects the well-being and inherent dignity of society's most vulnerable citizens.

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