

Memorandum

Iowa Dept. of Corrections Legislative Proposal

Subject: A bill for an act relating to the special investigations of facilities operated by the Department of Corrections by the Labor Commissioner or the Commissioner's representative.

Every correctional facility in the country faces an ever-present threat of violence from those incarcerated towards the staff that manage these facilities. While the Department keeps the safety of staff and inmates as its first priority, there is no amount of planning, training or resources that can guarantee an inmate will not make the decision to use violence against the employees that work for the agency. Recently, when acts of violence have occurred by inmates against staff, there have been complaints to Iowa OSHA that have then triggered special inspections by I-OSHA investigators.

Every employee of the department understands the risks associated with their job. The department requires all employees to complete yearly in-person personal defensive training as well as situational awareness training in an attempt to stay prepared for the eventuality that an inmate will use violence against staff. Security staff are required to carry OC spray as a tool to respond to certain emergencies. In prisons, it's not a matter of *if* an inmate will attack a staff member, but *when*.

For example, in February 2020, I-OSHA opened three separate investigations in a two-week timeframe among three prisons following a complaint by outside employee representatives. Each complaint was initiated after a staff assault. One of the complaints stated, "Employees are exposed to workplace violence. An assault took place on 2/11/2020 in which an officer was struck by an offender 15-17 times before help could intervene. The instances of assaults have increased due to low staffing numbers leaving employees without proper backup in the event of an emergency." In all of the incidents that resulted in an investigation, multiple staff responded within seconds and there were no issues with any of the emergency equipment used to communicate. However, I-OSHA proposed a penalty of \$9,472.00 for each incident and listed it under the "General Duty Clause" that states, "The employer did not furnish employment and a place of employment which was free from recognized hazards." The General Duty Clause is used when there is no specific standard for OSHA to reference as a violation. The unpredictable behavior of inmates simply cannot be identified as a recognized hazard.

One State entity using situations that are virtually impossible to prevent in order to fine another agency is a poor use of the taxpayers' resources. Ironically, the fines that are imposed as a result of these attacks on departmental staff only make it more difficult to adequately staff our facilities due to diminished resources. While researching how other agencies are impacted with similar events, such as law enforcement and county jails, it does not appear that they are impacted by such

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penalties. There are some agencies that deal with unpredictable, defiant, and violent individuals. Iowa Corrections prepares staff within the department and provides them with tools to assist in gaining compliance, but unfortunately that is not always enough.

Using the I-OSHA investigators as a means to penalize the department for situations that are often impossible to prevent is not an advantageous policy for the taxpayers of Iowa. The time and resources that the department puts into responding to these investigations diminishes the effectiveness of overall safety cultures. The financial burden impacts staff resources and overall safety of the staff and incarcerated individuals. The department is committed to providing the safest environment possible, and will always do its best to comply with legitimate I-OSHA standards and inspections. This bill will help prevent unfair treatment of the department and its employees.

Respectfully Submitted,

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