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Anti-corruption bill drops mandatory jail terms

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A bill that would have required jail time for all public officials convicted of corruption was softened yesterday to meet objections by Attorney General Zulima Farber, who said she is against "mandatory sentencing" but not "harsh punishment."

"I oppose mandatory sentencing for philosophical reasons," Farber told the Senate Judiciary Committee. "That discretion is better placed on judges."

"I'm not talking about reducing penalties, going softer on public corruption," added Farber, who said her office is more than tripling the number of lawyers who prosecute corruption -- from six to 20 -- and has instructed them to not "downgrade" charges.

"We're going to ask for very harsh penalties, especially in cases of public corruption," Farber said.

The bill originally would have mandated prison and automatic loss of pension for every official convicted of corruption. Following Farber's testimony, the committee agreed to drop the mandatory prison terms, but not the automatic pension forfeiture. Farber opposed that as well, calling it "the equivalent of a mandatory sentence."

"She's entitled to her opinion, but we are the Legislature," said Sen. John Adler (D-Camden), the committee chairman. He said his aim was to "deter and punish" public corruption.

The revised bill would provide a "presumption" of imprisonment for officials convicted of less serious forms of corruption, such as accepting a bribe of less than \$200. Current law presumes they will get probation.

The change would mean public officials convicted of any crime of corruption would routinely face imprisonment but judges would still have the discretion to impose a fine and probation instead.

"Even minor corruption, we think, should result in imprisonment," Adler said. "If they (public officials) break the law, they should be punished. It should be jail and forfeiture of their pension."

Farber said whether a corrupt public official loses his entire pension -- or only part of it -- should be determined by judges, case by case. She offered the example of a public official who gives 30 years of faithful service and then, in his 31st year, takes a bribe.

"I see a distinction between that person and someone who for 30 years was committing crimes against the state," Farber said. She added there may be constitutional problems with automatically taking someone's pension rights.

The committee held the bill for further consideration after some senators questioned whether it sweeps too broadly. It mandates complete loss of pension for any official convicted of a crime that "touches such office."

Sen. Robert Smith (D-Middlesex), explaining he was concerned about "unintended consequences," asked whether the bill would apply to a lawmaker with a drug addiction who uses cocaine in his office. Adler said that was not his intent.

"It's taking a bribe. It's taking money out of the municipal till," Adler said. "It's scamming public funds."

Sen. Nicholas Scutari (D-Union) replied: "Anything you do in the office is touching upon the office. You wouldn't have that office if you weren't elected in the first place."

Adler agreed to hold the bill, saying he was "enormously frustrated" it has yet to be moved out of committee.

"We're going to keep bringing it up until we get it right," Adler said.

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