
SENATE BILL 5295

State of Washington 60th Legislature 2007 Regular Session

By Senators Kastama, Swecker, Fraser, Kohl-Welles, Marr, Regala, Rasmussen and McAuliffe

Read first time 01/16/2007. Referred to Committee on Human Services & Corrections.

1 AN ACT Relating to creating an office of corrections ombudsman; and
2 adding a new chapter to Title 43 RCW.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 NEW SECTION. **Sec. 1.** The creation of the office of corrections
5 ombudsman is intended to assist in strengthening procedures and
6 practices which lessen the possibility of actions occurring within the
7 department of corrections which may adversely impact the health,
8 safety, and welfare of offenders, and which will effectively reduce the
9 exposure of the department to litigation.

10 NEW SECTION. **Sec. 2.** There is hereby created an office of
11 corrections ombudsman within the office of the governor for the purpose
12 of providing information to offenders and their families; promoting
13 public awareness and understanding of the rights and responsibilities
14 of confined offenders; identifying system issues and responses for the
15 governor and the legislature to act upon; and ensuring compliance with
16 relevant statutes, rules, and policies pertaining to corrections
17 facilities, services, and treatment of confined offenders under the
18 jurisdiction of the Washington department of corrections.

1 The ombudsman shall report directly to the governor and shall
2 exercise his or her powers and duties independently of the secretary of
3 the department of corrections.

4 NEW SECTION. **Sec. 3.** The definitions in this section apply
5 throughout this chapter unless the context clearly requires otherwise.

6 (1) "Department" means the department of corrections.

7 (2) "Offender" means an offender as defined in RCW 9.94A.030 who is
8 sentenced to a term of total or partial confinement as defined in RCW
9 9.94A.030, and who is under the control of the department or its
10 contracted agencies, entities, or programs.

11 (3) "Secretary" means the secretary of the department of
12 corrections.

13 NEW SECTION. **Sec. 4.** (1) Subject to confirmation by the senate,
14 the governor shall appoint an ombudsman who shall be a person of
15 recognized judgment, independence, objectivity, and integrity, and
16 shall be qualified by training or experience in corrections law and
17 policy. Prior to the appointment, the governor shall consult with, and
18 may receive recommendations from, the appropriate committees of the
19 legislature regarding the selection of the ombudsman.

20 (2) The person appointed ombudsman shall hold office for a term of
21 three years and shall continue to hold office until reappointed or
22 until his or her successor is appointed. The governor may remove the
23 ombudsman only for neglect of duty, misconduct, or inability to perform
24 duties. Any vacancy shall be filled by similar appointment for the
25 remainder of the unexpired term.

26 (3) The ombudsman may employ technical experts and other employees
27 to complete the purposes of this chapter.

28 NEW SECTION. **Sec. 5.** The ombudsman shall:

29 (1) Provide to the public as appropriate information on the rights
30 and responsibilities of confined offenders and their family members;

31 (2) Maintain a statewide toll-free telephone number and web site
32 for the receipt of complaints and inquiries;

33 (3) Provide information to interested members of the public
34 regarding the state's correctional system;

1 (4) Monitor the development and implementation of federal, state,
2 and departmental laws, rules, regulations, and policies with respect to
3 corrections facilities in Washington state with a view toward the
4 appropriate health and safety of offenders;

5 (5) Establish a statewide uniform reporting system to collect and
6 analyze data relating to complaints regarding the department of
7 corrections;

8 (6) Establish procedures to receive and investigate complaints.

9 (a) The ombudsman may initiate and attempt to resolve an
10 investigation upon his or her own initiative, or upon receipt of a
11 complaint from a legislator or a confined offender under the
12 jurisdiction of the department, including offenders housed in other
13 states, regarding:

14 (i) Decisions;

15 (ii) Administrative actions;

16 (iii) Inactions or omissions;

17 (iv) Policies;

18 (v) Procedures and rules; or

19 (vi) Alleged violations of law

20 of the department which may adversely affect the health, safety,
21 welfare, and rights of confined offenders.

22 (b) A person is not entitled as a right to be heard by the
23 ombudsman. The ombudsman may decline to investigate any complaint as
24 provided by rules adopted under this chapter.

25 (c) If the ombudsman does not investigate a complaint, the
26 ombudsman shall notify the complainant of the decision not to
27 investigate and the reasons for the decision.

28 (d) The ombudsman shall not investigate a complaint from an
29 employee of the department that relates to the employee's employment
30 relationship with the department.

31 (e) The ombudsman may refer complainants and others to appropriate
32 resources, agencies, or departments.

33 (f) The ombudsman shall not levy any fees for the submission or
34 investigation of complaints.

35 (g) Prior to any person in the custody of the department obtaining
36 ombudsman services, the person shall have reasonably pursued a
37 resolution of the complaint through any existing internal grievance,
38 administrative, or appellate procedures.

1 (h) At the conclusion of an investigation of a complaint, the
2 ombudsman shall render a decision on the merits of each complaint and
3 communicate the decision to the complainant and to the department. The
4 ombudsman shall state the recommendations and reasons if, in the
5 ombudsman's opinion, the department or any employee thereof should:

6 (i) Consider the matter further;

7 (ii) Modify or cancel any action;

8 (iii) Alter a rule, practice, or ruling;

9 (iv) Explain in detail the administrative action in question;

10 (v) Rectify an omission; or

11 (vi) Take any other action.

12 (i) If the ombudsman so requests, the department shall, within the
13 time specified, inform the ombudsman about the action taken on the
14 recommendations or the reasons for not complying with them.

15 (j) If the ombudsman believes that any action or omission has or
16 continues to pose significant prisoner health and safety issues, the
17 ombudsman shall report the finding to the governor and the appropriate
18 committees of the legislature.

19 (k) Before announcing a conclusion or recommendation that expressly
20 or by implication criticizes a person or the department, the ombudsman
21 shall consult with that person or the department. The ombudsman may
22 request to be notified by the department, within a specified time, of
23 any action taken on any recommendation presented.

24 (1) The ombudsman shall notify the complainant of the actions taken
25 by the office and by the department;

26 (7) Submit annually to the governor and the appropriate committees
27 of the legislature by November 1st of each year a report analyzing the
28 work of the office including any recommendations; and

29 (8) Adopt rules necessary to implement this chapter and act in
30 accordance with the policies and procedures established by the office.

31 NEW SECTION. **Sec. 6.** (1) The department shall permit the
32 ombudsman or the ombudsman's designee to enter and inspect at any
33 reasonable time any correctional facility for the purpose of carrying
34 out his or her duties under this chapter.

35 (2) Upon the ombudsman's request, the department shall grant the
36 ombudsman or the ombudsman's designee the right to access, inspect, and
37 copy all relevant information, records, or documents in the possession

1 or control of the department that the ombudsman considers necessary in
2 an investigation of a complaint filed under this chapter; and assist
3 the ombudsman in obtaining the necessary releases of those documents
4 which are specifically restricted or privileged for use by the
5 ombudsman.

6 (3) If the ombudsman or any employee of the office acting as an
7 ombudsman who has been delegated in writing the authority granted is
8 denied access to any premises under the control of the secretary, the
9 secretary or the secretary's designee, within twenty-four hours after
10 the denial, shall give the ombudsman a written statement of the reason
11 for the denial of access.

12 (4) A state or local government agency or entity that has records
13 that are relevant to a complaint or an investigation conducted by the
14 ombudsman shall provide the ombudsman with access to the records.

15 NEW SECTION. **Sec. 7.** (1) The office of corrections ombudsman
16 shall establish confidentiality rules and procedures for all
17 information maintained by the office.

18 (2) Investigative records of the office of corrections ombudsman
19 are confidential and are exempt from public disclosure under chapter
20 42.56 RCW.

21 (3) Whenever in the course of providing ombudsman services, the
22 ombudsman or a member of the ombudsman's staff becomes aware of a
23 criminal act or a threat to the health and safety of any individual or
24 the security of a correctional facility, the ombudsman shall notify the
25 secretary of the department and the appropriate facility administrator
26 of such act or threat and the nature and target thereof.

27 NEW SECTION. **Sec. 8.** (1) An employee of the office of corrections
28 ombudsman is not liable for good faith performance of responsibilities
29 under this chapter.

30 (2) No discriminatory, disciplinary, or retaliatory action may be
31 taken against an employee of the department, an employee of a
32 contracting agency of the department, an offender, or a member of an
33 offender's immediate family for any communication made, or information
34 given or disclosed, to aid the office of corrections ombudsman in
35 carrying out its responsibilities, unless the communication or

1 information is made, given, or disclosed maliciously or without good
2 faith.

3 (3) A person or the department shall not hinder the lawful actions
4 of the ombudsman or employees of the office, or willfully refuse to
5 comply with lawful demands of the office.

6 (4) This section is not intended to infringe on the rights of an
7 employer to supervise, discipline, or terminate an employee for other
8 reasons.

9 NEW SECTION. **Sec. 9.** Sections 1 through 8 of this act constitute
10 a new chapter in Title 43 RCW.

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