

FINAL BILL REPORT

E2SHB 1889

C 270 L 18
Synopsis as Enacted

Brief Description: Creating an office of the corrections ombuds.

Sponsors: House Committee on Public Safety (originally sponsored by Representatives Pettigrew, Appleton, Peterson, Stanford and Pollet).

House Committee on Public Safety
House Committee on Appropriations
Senate Committee on Human Services & Corrections
Senate Committee on Ways & Means

Background:

Ombuds Programs.

An ombuds is an appointed person or office charged with representing the interests of the public or a particular group by providing information and receiving, investigating, and addressing complaints regarding a system or agency. Washington has several ombuds offices, including the Family and Children's Ombuds, the Education Ombuds, the Health Care Authority Ombuds, the Ombuds for Self-Insured Workers, the Long-Term Care Ombuds, and the Developmental Disabilities Ombuds.

Department of Corrections Internal Ombuds.

In 2016 the Department of Corrections (DOC) created an Ombuds position within the DOC's Executive Policy Office. The Ombuds is intended to act as a resource for families and inmates by providing impartial assistance and investigating and attempting to resolve allegations of noncompliance with DOC policies and state law. In addition, the DOC Ombuds may recommend changes in DOC policies, procedures, and statutes if systemic problems are identified.

The Department of Corrections Offender Grievance Program.

The DOC has a formal grievance process overseen at the facility level by grievance coordinators. Only incidents, policies, or practices within DOC jurisdiction that affect an offender personally and that do not have an established appeals process are grievable. Examples of grievance topics include: conduct of employees or other offenders, health services, policies, prison operations, and food services. The grievance program contains an

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

appeals system that allows an offender to request a review at a higher level if he or she is not satisfied with a response.

The Department of Corrections Family Councils.

The DOC facilitates local and statewide family councils that are charged with enhancing communication with the DOC, assisting in developing policies, procedures, and programs that support family reunification, and working with the DOC to improve offender quality of life and successful reentry. Local family councils are established at every prison to address facility-specific issues. One family member from each local family council must be selected to serve as a representative on the Statewide Family Council, which focuses on issues and concerns that impact a broad range of offenders and their families.

Summary:

Office of the Corrections Ombuds.

An Office of the Corrections Ombuds (Ombuds) is created within the Office of the Governor for the purpose of providing information to inmates and their families; promoting public awareness and understanding of the rights and responsibilities of inmates; identifying system issues and responses for the Governor and the Legislature to act upon; and ensuring compliance with relevant statutes, rules, and policies pertaining to corrections facilities, services, and treatment of inmates under the jurisdiction of the DOC.

The Governor must appoint an Ombuds who is a person of recognized judgment, independence, objectivity, and integrity. The appointed Ombuds must be qualified by training or experience in corrections law and policy. Prior to making the appointment, the Governor must consult with, and may receive recommendations from, the Legislature, delegates of the Statewide Family Council, and other relevant stakeholders regarding selection of the Ombuds.

The appointed Ombuds holds office for a term of three years, and may be reappointed. The Governor may remove the Ombuds only for neglect of duty, misconduct, or the inability to perform duties. The Ombuds may employ technical experts and other employees.

Responsibilities of the Ombuds.

The Ombuds is responsible for:

- establishing priorities for the use of limited resources;
- maintaining a statewide toll-free telephone number, a collect telephone number, a website, and a mailing address for the receipt of complaints and inquiries;
- providing information to inmates, inmates' families, employees, and others regarding the rights of inmates;
- providing technical assistance to support inmate participation in self-advocacy;
- monitoring the DOC's compliance with applicable federal, state, and local laws, rules, regulations, and policies as related to the health, safety, welfare, and rehabilitation of inmates;
- monitoring and participating in legislative and policy developments affecting correctional facilities;

- establishing a statewide uniform reporting system to collect and analyze complaints received by the Ombuds relating to the DOC, and establishing procedures for investigating and resolving those complaints;
- establishing procedures to gather stakeholder input into the Ombuds' activities and priorities;
- submitting an annual report to the Office of the Governor and the Legislature, analyzing the work of the Ombuds; and
- adopting and complying with rules, policies, and procedures necessary to implement the responsibilities of the Ombuds.

Ombuds Investigations.

The Ombuds may initiate and attempt to resolve an investigation upon its own initiative, or upon receiving a complaint from an inmate, family member or other representative of an inmate, an employee, or others, regarding: abuse or neglect; DOC decisions, administrative actions, inactions, or omissions; policies, procedures, and rules; or alleged violations of the law. Except in cases involving a complaint related to threats of bodily harm, prior to filing a complaint with the Ombuds, a person must reasonably pursue resolution of the complaint through the internal DOC grievance process and other internal procedures. The Ombuds may decline to investigate any complaint.

At the conclusion of an investigation of a complaint, the Ombuds must render a public decision on the merits of the complaint, including any recommendations regarding further action, and communicate the decision to the inmate, if any, and to the DOC. If the Ombuds believes that there has been or continues to be a significant inmate health, safety, welfare, or rehabilitation issue, the Ombuds must report to the Governor and the Legislature.

Access to Correctional Facilities and Records.

The DOC must permit the Ombuds to enter and inspect the DOC facilities at any reasonable time, and to have reasonable access to inmates. The Ombuds may inspect, view, photograph, and video record all areas of the facilities that are accessible to inmates.

Upon request, the DOC must grant the Ombuds access to all relevant information, records, or documents in the DOC's control that the Ombuds considers necessary in an investigation of a complaint. The DOC must respond to written demands for agency records from the Ombuds by providing access within 20 business days of the request. When the requested records pertain to an inmate death or threats of bodily harm, records must be provided within five days, unless the Ombuds agrees to an extension. Other governmental entities that have relevant records must also provide those records to the Ombuds. The Ombuds must work with the DOC to minimize disruption, and comply with security clearance processes when possible.

Confidentiality.

Correspondence with the Ombuds is confidential, and the Ombuds must treat matters under investigation as confidential except as far as disclosures are necessary for the Ombuds to perform its duties. The Ombuds must maintain the confidentiality of privileged information, and communications and records exchanged between the DOC and the Ombuds, including investigative records, are exempt from public disclosure. However, to the extent the Ombuds reasonably believes necessary, it must reveal information to prevent reasonably certain death

or substantial bodily harm and may reveal information to prevent the commission of a crime. Prior to revealing any record, the Ombuds must provide the record to the DOC for purposes of review and application of any legal exemptions.

Protection Against Retaliation.

No civil action may be brought against any Ombuds employee for good faith performance of his or her responsibilities. No discriminatory, disciplinary, or retaliatory action may be taken against a DOC employee, an inmate, a family member, or other person for any communication or information exchanged to aid the Ombuds in carrying out its responsibilities, unless the communication or information is made, given, or disclosed maliciously or without good faith.

Sunset.

The Office of the Corrections Ombuds terminates July 1, 2028, and is subject to a sunset review.

Votes on Final Passage:

House	76	21	
Senate	48	0	(Senate amended)
House	79	19	(House concurred)

Effective: June 7, 2018