**5876-S AMH APP H2849.1 - NOT FOR FLOOR USE**

**SSB 5876** - H COMM AMD

By Committee on Appropriations

**NOT CONSIDERED 12/23/2019**

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec.**  The legislature intends to assist the department of corrections in ensuring that gender-responsive and trauma-informed practices are integrated into classification, programming, and interactions with persons experiencing incarceration. In furtherance of this goal, it is the intent of the legislature to establish a gender-responsive and trauma-informed work group within the department of corrections to study and make recommendations for effective implementation of gender-specific programs, classification systems, and organizational structures within the department including, but not limited to, the creation of a women's division and other items identified in section 2(2) of this act.

NEW SECTION. **Sec.**  (1) Subject to the availability of amounts appropriated for this specific purpose, the gender-responsive and trauma-informed work group is established within the department of corrections. The work group membership may consist of, but is not limited to, the following:

(a) Representatives who specialize in the medical and psychological treatment of women;

(b) Representatives from the financial, faith-based, educational, arts, and cultural communities;

(c) Representatives from the department of corrections reentry division, prison division, community corrections division, correctional industries, and human resources;

(d) A family member of a person experiencing incarceration;

(e) Individuals with training and experience in developmental psychology, parenting, trauma-informed practices, and adverse childhood experiences;

(f) A representative from an organization supporting crime victims, and interested and willing victims of crimes;

(g) A representative from the office of the corrections ombuds;

(h) Any interested members of the legislature;

(i) At least two individuals who have experienced incarceration and successfully reentered; and

(j) A representative familiar with aging and disability services.

(2) The work group must develop suggestions and recommendations specific to:

(a) Evidence-based, gender-responsive, and trauma-informed practices that govern operations and programs for women experiencing incarceration;

(b) Appropriate ongoing training, orientation, and curriculum about gender-responsive and trauma-informed practices and a plan for how the training shall incorporate emerging best practices, and be delivered to department of corrections staff;

(c) How best to implement validated gender-responsive classification and placement instruments;

(d) How best to implement a validated gender-responsive assessment tool and case management system that is based on the risk-needs-responsivity model;

(e) How best to implement policies, practices, and programs to address differences in physical conditions of incarceration and physical health needs for men and women;

(f) How to create and implement a women's division within the department of corrections; and

(g) How to ensure staff responsible for supervision of females under mandatory supervised release are appropriately trained in evidence-based practices in community supervision, gender-responsive practices, and trauma-informed practices.

(3) Staff support for the work group must be provided by the department of corrections.

(4) The work group must submit a report to the governor and the legislature with its recommendations, and to the extent possible an estimation of the costs associated with implementing the recommendations, by December 1, 2020.

(5) This section expires June 30, 2021.

**Sec.**  RCW 43.06C.040 and 2018 c 270 s 5 are each amended to read as follows:

(1) The ombuds shall:

(a) Establish priorities for use of the limited resources available to the ombuds;

(b) Maintain a statewide toll-free telephone number, a collect telephone number, a web site, and a mailing address for the receipt of complaints and inquiries;

(c) Provide information, as appropriate, to inmates, family members, representatives of inmates, department employees, and others regarding the rights of inmates;

(d) Provide technical assistance to support inmate participation in self-advocacy;

(e) Monitor department compliance with applicable federal, state, and local laws, rules, regulations, and policies as related to the health, safety, welfare, and rehabilitation of inmates;

(f) Monitor and participate in legislative and policy developments affecting correctional facilities;

(g) Establish a statewide uniform reporting system to collect and analyze data related to complaints received by the ombuds regarding the department;

(h) Establish procedures to receive, investigate, and resolve complaints;

(i) Establish procedures to gather stakeholder input into the ombuds' activities and priorities, which must include at a minimum quarterly public meetings;

(j) Submit annually to the governor's office, the legislature, and the statewide family council, by November 1st of each year, a report that includes, at a minimum, the following information:

(i) The budget and expenditures of the ombuds;

(ii) The number of complaints received and resolved by the ombuds, including information specific to the number and a description of gender-based complaints;

(iii) A description of significant systemic or individual investigations or outcomes achieved by the ombuds during the prior year;

(iv) Any outstanding or unresolved concerns or recommendations of the ombuds; and

(v) Input and comments from stakeholders, including the statewide family council, regarding the ombuds' activities during the prior year; and

(k) Adopt and comply with rules, policies, and procedures necessary to implement this chapter.

(2)(a) The ombuds may initiate and attempt to resolve an investigation upon his or her own initiative, or upon receipt of a complaint from an inmate, a family member, a representative of an inmate, a department employee, or others, regarding any of the following that may adversely affect the health, safety, welfare, and rights of inmates:

(i) Abuse or neglect;

(ii) Department decisions or administrative actions;

(iii) Inactions or omissions;

(iv) Policies, rules, or procedures; or

(v) Alleged violations of law by the department that may adversely affect the health, safety, welfare, and rights of inmates.

(b) Prior to filing a complaint with the ombuds, a person shall have reasonably pursued resolution of the complaint through the internal grievance, administrative, or appellate procedures with the department. However, in no event may an inmate be prevented from filing a complaint more than ninety business days after filing an internal grievance, regardless of whether the department has completed the grievance process. This subsection (2)(b) does not apply to complaints related to threats of bodily harm including, but not limited to, sexual or physical assaults or the denial of necessary medical treatment.

(c) The ombuds may decline to investigate any complaint as provided by the rules adopted under this chapter.

(d) If the ombuds does not investigate a complaint, the ombuds shall notify the complainant of the decision not to investigate and the reasons for the decision.

(e) The ombuds may not investigate any complaints relating to an inmate's underlying criminal conviction.

(f) The ombuds may not investigate a complaint from a department employee that relates to the employee's employment relationship with the department or the administration of the department, unless the complaint is related to the health, safety, welfare, and rehabilitation of inmates.

(g) The ombuds must attempt to resolve any complaint at the lowest possible level.

(h) The ombuds may refer complainants and others to appropriate resources, agencies, or departments.

(i) The ombuds may not levy any fees for the submission or investigation of complaints.

(j) The ombuds must remain neutral and impartial and may not act as an advocate for the complainant or for the department.

(k) At the conclusion of an investigation of a complaint, the ombuds must render a public decision on the merits of each complaint, except that the documents supporting the decision are subject to the confidentiality provisions of RCW 43.06C.060. The ombuds must communicate the decision to the inmate, if any, and to the department. The ombuds must state its recommendations and reasoning if, in the ombuds' opinion, the department or any employee thereof should:

(i) Consider the matter further;

(ii) Modify or cancel any action;

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

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

(v) Rectify an omission.

(l) If the ombuds so requests, the department must, within the time specified, inform the ombuds about any action taken on the recommendations or the reasons for not complying with the recommendations.

(m) If the ombuds believes, based on the investigation, that there has been or continues to be a significant inmate health, safety, welfare, or rehabilitation issue, the ombuds must report the finding to the governor and the appropriate committees of the legislature.

(n) Before announcing a conclusion or recommendation that expressly, or by implication, criticizes a person or the department, the ombuds shall consult with that person or the department. The ombuds may request to be notified by the department, within a specified time, of any action taken on any recommendation presented. The ombuds must notify the inmate, if any, of the actions taken by the department in response to the ombuds' recommendations.

(3) This chapter does not require inmates to file a complaint with the ombuds in order to exhaust available administrative remedies for purposes of the prison litigation reform act of 1995, P.L. 104-134.

NEW SECTION. **Sec.**  If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2019, in the omnibus appropriations act, this act is null and void."

Correct the title.

EFFECT: Removes the section of the bill making changes to the statement of legislative intent for the Department of Corrections. Modifies the intent language pertaining to the policies in the bill and places it in a stand-alone section. Removes the definitions of "gender-responsive" and "trauma informed practices." Adds to the assignment of the Gender-Responsive and Trauma-Informed Work Group (work group) to develop recommendations for the creation and implementation of a women's division within the Department of Corrections. Requires the work group to include in its report, to the extent possible, an estimation of the costs associated with implementing its recommendations. Reinstates current law references to "inmate" (from "persons experiencing incarceration" in the underlying bill) in the remaining amendatory section outlining the duties of the Office of the Corrections Ombuds. Adds a null and void clause. The bill is null and void unless funded in the budget.