

SENATE BILL REPORT

SB 5295

As Reported By Senate Committee On:
Human Services & Corrections, February 05, 2008

Title: An act relating to creating an office of corrections ombudsman.

Brief Description: Creating an office of corrections ombudsman.

Sponsors: Senators Kastama, Swecker, Fraser, Kohl-Welles, Marr, Regala, Rasmussen and McAuliffe.

Brief History:

Committee Activity: Human Services & Corrections: 2/09/07, 2/20/07 [DPS-WM]; 1/22/08, 2/5/08 [DP2S-WM, DNP].

SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

Majority Report: That Second Substitute Senate Bill No. 5295 be substituted therefor, and the second substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Hargrove, Chair; Regala, Vice Chair; Stevens, Ranking Minority Member; Carrell, Marr and McAuliffe.

Minority Report: Do not pass.

Signed by Senator Brandland.

Staff: Shani Bauer (786-7468)

Background: An ombudsman is an official who is charged with representing the interests of the public by investigating and addressing complaints reported by individual citizens. In most contexts, ombudsman refers to a state official appointed to provide a check on government activity in the interests of the citizens, and to oversee the investigation of complaints of improper government activity. If the ombudsman finds a complaint to be substantiated, he or she publishes a report to that effect. Ombudsmen do not have the power to initiate legal proceedings or prosecution on the grounds of a complaint. Ombudsmen examine complaints from outside of the state institutions that are being complained about.

In Washington State there are currently ombudsmen in five different areas. The Office of the Long Term Care Ombudsman, the Office of Children and Family Ombudsman and the Office of the Education Ombudsman are within the Governor's office. These entities are independent of the department secretaries and report directly to the Governor. Mental health ombudsmen work within the regional support networks (RSN). These individuals are independent of the RSNs and from one another. Finally the Office of Mobile Home Affairs

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provides ombudsmen services to mobile home park owners and mobile home tenants with respect to problems and disputes between park owners and park residents.

Summary of Bill (Recommended Second Substitute): The Office of Corrections Ombudsman is created within the Governor's office for the purposes of providing information to offenders and their families, promoting public awareness and understanding of the rights and responsibilities of offenders, identifying system issues and responses for the Governor and the Legislature, and ensuring compliance with the laws and policies related to corrections. Duties are specified to accomplish the purposes of the office.

The Governor will appoint the Ombudsman, subject to confirmation by the Senate. The Ombudsman will operate independently of the Secretary of the Department of Corrections and hold office for a term of three years. The Ombudsman may employ technical experts and employees as needed to accomplish the Ombudsman's purposes. The Department of Corrections (DOC) must cooperate with the DOC Ombudsman. The Ombudsman and employees of the Ombudsman are immune for good faith performance of their duties.

EFFECT OF CHANGES MADE BY HUMAN SERVICES & CORRECTIONS COMMITTEE (Recommended Second Substitute): Removes the Ombudsman's authority to utilize volunteers to investigate complaints and permission to accept donations. Removes references to "confined" offenders, clarifying the intent that the Ombudsman's office apply to all offenders under the jurisdiction of DOC. Requires the corrections ombudsman to maintain a collect phone number and a mailing address (in addition to a toll free telephone number and web site) for the receipt of complaints and inquiries. Allows an inmate to file a complaint with the ombudsman prior to exhausting his or her remedies under the grievance process if the complaint relates to threats to bodily harm. Clarifies that an offenders need not file a complaint with the ombudsman in order to exhaust available administrative remedies for purposes of the Prison Litigation Reform Act of 1995, Pub. L. No. 104-134. Exempts correspondence from inmates to the ombudsman from review or inspection, except to ensure that such correspondence does not contain contraband. Limits the confidentiality of investigative records of the corrections ombudsman to only that time period during which there is an ongoing investigation.

EFFECT OF CHANGES MADE BY HUMAN SERVICES & CORRECTIONS COMMITTEE (Recommended First Substitute): Expands the definition of offender to include individuals on supervision as well as those in custody and adds family members to the list of individuals who may file complaints with the DOC Ombudsman. Expands the mission of the Ombudsman to include the rehabilitation of offenders as well as offenders' rights, health, and welfare. Authorizes the use of neutral volunteers with appropriate professional background to investigate complaints and permits the Ombudsman to accept donations.

Appropriation: None.

Fiscal Note: Available. New fiscal note requested on January 18, 2008.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Proposed Second Substitute: PRO: The need for this office has been accentuated by the events this last year and allegations coming out of Purdy. The current system is crisis oriented and not preventative of problems that may arise. Creating the Office of Corrections Ombudsman would allow problems to be addressed before things escalate to a lawsuit. It is difficult for people to identify problems from within. An independent third party is needed to objectively evaluate issues. It may be helpful to limit the program to family and friends outside of the system and steer inmates toward the internal grievance process. The Ombudsman Office should have oversight over the Department and not just be a place for family to make complaints.

There is currently a lot of confusion and misinformation around the state. This office would help to eliminate conflict between families and DOC and would reduce litigation. It would also be nice for families to have one point of contact where they could go to address issues. It can be intimidating and overwhelming to try to get something like a medical issue resolved for an inmate.

OTHER: Last year 28 thousand complaints were filed in the DOC grievance process. Four percent of those made it to Olympia. Two percent of the time, DOC overturned its original decision. While there is always room for improvement, DOC is doing a relatively good job of addressing complaints. As written, the bill appears to allow DOC staff to utilize the Ombudsman Office. Persons who may file a complaint under the bill could be written more narrowly.

Persons Testifying: PRO: Senator Kastama, prime sponsor; Bob Kastama, Jan Adams, citizens; Carol Estes, Friends Committee on Washington Public Policy; Noreen Light, Citizens for Responsible Justice; Ari Kohn, Post Prison Education Program.

OTHER: Eldon Vail, DOC.