

SENATE BILL REPORT

SB 5505

As of February 16, 2015

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

Brief Description: Creating an office of corrections ombuds.

Sponsors: Senators McAuliffe, Darneille, Chase, Frockt, Hasegawa, Kohl-Welles, Keiser, O'Ban, Pearson and Conway.

Brief History:

Committee Activity: Law & Justice: 2/17/15.

SENATE COMMITTEE ON LAW & JUSTICE

Staff: Lindsay Erickson (786-7465)

Background: In general an ombudsman is a state official appointed to provide a check on government activity in the interests of the citizens, and oversee the investigation of complaints of improper government activity against the citizens. If the ombudsman finds a complaint to be substantiated, the problem may get rectified, or an ombudsman report is published making recommendations for change. The typical duties of an ombudsman are to investigate complaints and attempt to resolve them, usually through recommendations. Ombudsmen sometimes also aim to identify systemic issues leading to poor service or breaches of people's rights.

In Washington State, there are the following ombudsman offices: The Long Term Care Ombudsman; the Office of the Family and Children's Ombudsman; the Office of the Educational Ombudsman; the Health Care Authority Ombudsman; and a mental health ombudsman office in each regional support network.

Summary of Bill: The Office of the Corrections Ombuds is created within the Governor's Office. The purpose of the ombuds' office is to provide information to offenders and their families, promote public awareness and understanding of the rights and responsibilities of offenders, identify system issues and compliance with relevant statutes, rules, and policies pertaining to corrections facilities, services, and treatment of offenders under the jurisdiction of the Department of Corrections (DOC).

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.

The Office of Corrections Ombuds is appointed by the Governor and is subject to confirmation by the Senate. Before appointing the ombuds, the Governor must consult with, and receive recommendations by, the appropriate committees of the Legislature. The ombuds' term of office is three years and they must remain in office until reappointed or a successor is named.

The ombuds has the following duties and responsibilities:

- provide the public with appropriate information on the rights and responsibilities of offenders and their family members;
- maintain a statewide toll-free number, a collect phone number to be operated during normal business hours, a website, and a mailing list for the receipt of complaints and inquiries;
- provide information to the public about the state corrections system;
- monitor the development and implementation of statutes and rules regarding correctional facilities in the state with a view toward the appropriate health, safety, welfare, and rehabilitation of offenders;
- establish a statewide uniform reporting system to collect and analyze data relating to complaints against DOC; and
- establish procedures to receive and investigate complaints.

The ombuds does not need to investigate complaints and if they do not, they must notify the complainant of the decision not to investigate and the reasons for that decision. The ombuds cannot investigate a complaint for a DOC employee that relates to that person's employment relationship with DOC. If the ombuds does investigate a complaint, they cannot charge a fee for doing so.

A person in DOC custody who wishes to file a complaint with the ombuds must first reasonably pursue a resolution through an existing grievance, administrative, or appellate procedure before filing a complaint with the ombuds unless the complaint involves threats of bodily harm or the denial of necessary medical treatment.

At the conclusion of an investigation, the ombuds must render a decision on the merits of each complaint and communicate that decision to the complainant and DOC. If the ombuds believes any action or omission has or continues to pose significant problems to offender health, safety, welfare, and rehabilitation issues, the ombuds must report the finding to the Governor and the appropriate committees of the Legislature. Before announcing a conclusion or recommendation that expressly or by implication criticizes a person or DOC, the ombuds must consult with that person or DOC.

By November 1 each year, the ombuds must submit a report to the Governor and the appropriate committees of the Legislature analyzing the work of the office including any recommendations.

DOC must permit the ombuds or their designee to enter and inspect any correctional facility at any time. If the ombuds requests, DOC must provide the ombuds the right to access, inspect, and copy relevant information, records, or documents in DOC's possession or control that the ombuds considers necessary in the investigation of a complaint. DOC also must assist the ombuds in obtaining the necessary releases of those documents which are restricted

or privileged for use by the ombuds. If the ombuds is denied access to any DOC premises, the Secretary of DOC must provide the ombuds with the reasons for the denial in writing within 24 hours after the denial.

If a state or local government has relevant records, it must also provide the ombuds with access to those records.

DOC must ensure that correspondence between an offender and the ombuds is not reviewed or inspected, other than to ensure that it does not contain contraband.

The ombuds must establish confidentiality rules and procedures for all information maintained by the office. Investigative records of the ombuds are confidential and not subject to public disclosure. These records are not to be considered privileged or exempt from discovery in criminal proceedings or in civil litigation if the records are otherwise discoverable under the rules of civil procedure.

Employees of the ombuds' office are not liable for good faith performance of responsibilities.

Funding for the office must be provided from the proceeds of the DOC Offender Betterment Fund, after distribution is made to the crime victims' compensation program.

Appropriation: None.

Fiscal Note: Requested on February 11, 2015.

Committee/Commission/Task Force Created: No.

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