

HOUSE BILL REPORT

HB 1396

As Reported by House Committee On:
Community Safety

Title: An act relating to increasing transparency and accountability of the office of corrections ombuds through increased involvement of those with lived experience including by establishing an advisory council.

Brief Description: Increasing transparency and accountability of the office of corrections ombuds.

Sponsors: Representatives Farivar, Peterson, Davis, Parshley, Reed, Doglio, Pollet, Ormsby and Hill.

Brief History:

Committee Activity:

Community Safety: 2/4/25, 2/13/25 [DPS].

Brief Summary of Substitute Bill

- Creates an Advisory Council to the Office of the Corrections Ombuds (OCO).
- Amends duties of the OCO.

HOUSE COMMITTEE ON COMMUNITY SAFETY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 5 members: Representatives Goodman, Chair; Davis, Farivar, Fosse and Obras.

Minority Report: Do not pass. Signed by 1 member: Representative Graham, Ranking Minority Member.

Minority Report: Without recommendation. Signed by 2 members: Representatives Griffey, Assistant Ranking Minority Member; Burnett.

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

Staff: Lena Langer (786-7192).

Background:

The Office of the Corrections Ombuds.

The Office of the Corrections Ombuds (OCO) was created in 2018 as an independent and impartial office. Its purpose is to provide information to incarcerated individuals and their families; promote public awareness and understanding of the rights and responsibilities of incarcerated individuals; identify system issues and responses for the Governor and the Legislature to act upon; and ensure compliance with relevant statutes, rules, and policies pertaining to corrections facilities, services, and treatment of incarcerated individuals under the jurisdiction of the Department of Corrections (DOC).

The OCO may initiate and attempt to resolve an investigation upon its own initiative, or upon receiving a complaint from an incarcerated individual, family member, or other representative of an incarcerated individual, 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. Correspondence and communication with the OCO is confidential and must be protected as privileged correspondence in the same manner as legal correspondence or communication.

Duties.

The duties of the OCO include:

- 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 incarcerated individuals, incarcerated individuals' families, DOC employees, and others regarding the rights of incarcerated individuals;
- providing technical assistance to support incarcerated individuals' 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 incarcerated individuals;
- 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 OCO relating to the DOC, and establishing procedures for investigating and resolving those complaints;
- establishing procedures to gather stakeholder input into the OCO's activities and priorities, including, at a minimum, quarterly public meetings;
- submitting an annual report to the Governor, the Legislature, and the DOC Statewide Family Council analyzing the work of the OCO; and
- adopting and complying with rules, policies, and procedures necessary to implement the responsibilities of the Ombuds.

Summary of Substitute Bill:

Advisory Council.

By December 1, 2025, subject to appropriations, the Governor must convene an Advisory Council (Council) to the OCO. The Council must help the OCO establish its priorities and provide input on its priorities annually. The OCO must provide the Council with briefings or reports relating to deidentified data, trends, and other relevant issues. The Council does not participate in any OCO investigations and is not authorized to receive confidential records. The Council may solicit feedback directly from incarcerated individuals about the OCO. The Council may communicate with the OCO, the Governor's Office, and members of the Legislature regarding any concerns it has relating to the OCO's advocacy on behalf of the incarcerated population, as well as its priorities for larger investigations and reports.

The Governor must appoint the members of the Council. The OCO and the Washington State Office of Equity may provide the Governor with recommendations for appointments to the Council, which the Governor may consider when making appointments.

The Council consists of the following 11 members:

- one person currently incarcerated in medium or close custody at the DOC men's division;
- one person currently incarcerated in medium or close custody at the DOC women's division;
- one person currently incarcerated at the DOC who was sentenced to life imprisonment;
- two persons who were formerly incarcerated in medium or close custody at the DOC;
- two family members of persons who are currently or were formerly incarcerated at the DOC;
- a community member with knowledge and experience in issues related to racial, ethnic, or religious diversity within the DOC correctional system;
- a community member with knowledge and experience in the accommodation needs of individuals with disabilities;
- a community member with a gender responsive background; and
- a licensed health care provider, who preferably has knowledge and experience in behavioral health care.

In appointing members of the Council, the Governor must strive to reflect the racial and ethnic makeup of persons incarcerated at the DOC. The Governor must fill vacancies on the Council in the same manner as the original appointments.

Councilmembers serve a term of two years. The Council must create and implement a system of staggered terms, and no member may serve more than two consecutive terms. The Council will designate two cochairs by vote, and one chair must be currently or formerly incarcerated. The Council must convene at least quarterly.

Eligible members of the Council, including incarcerated persons, must receive stipends. The DOC must work with the OCO to develop a process where currently incarcerated and eligible members of the Council may be paid stipends for their participation.

The Council is subject to the Open Public Meetings Act. Councilmembers must complete training to utilize an antiracist lens in their duties.

Duties of the Office of the Corrections Ombuds.

The duties of the OCO are amended in the following ways:

- The OCO must consult with the Council in establishing its priorities.
- The OCO must provide information to incarcerated individuals, in addition to their families and representatives, DOC employees, and others, regarding the rights of incarcerated individuals.
- The OCO must establish procedures to gather and meaningfully engage with stakeholder input into the OCO's activities and priorities, including, at a minimum, quarterly public meetings where members of the public may provide public comment.
- The OCO must solicit feedback directly from incarcerated individuals, their families and representatives, DOC employees, members of the Council, and others about the OCO's performance and priorities, and share aggregated feedback with the Council.

Substitute Bill Compared to Original Bill:

The substitute bill differs from the original bill by:

- providing that the Council may communicate with the OCO, the Governor's Office, and members of the Legislature regarding any concerns it has relating to the OCO's advocacy on behalf of the incarcerated population, as well as its priorities for larger investigations and reports, rather than providing that the Council may issue an annual report with recommendations for the OCO regarding its policies; and
- requiring the OCO to solicit feedback directly from incarcerated individuals, family members, representatives of incarcerated individuals, DOC employees, members of the Council, and others about the OCO's performance and priorities, and share aggregated feedback with the Council, instead of requiring the OCO to provide the same individuals with the opportunity to comment on OCO services.

Appropriation: None.

Fiscal Note: Available. New fiscal note requested on February 13, 2025.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) There is a great need for the Council and increased transparency and accountability with the OCO. The bill provides that people with lived experience and other relevant experience will be on the Council. There has been an effort with the bill to make the Council's role purely advisory. The OCO has been creating their own advisory council outside of what is in statute, and to increase transparency and accountability, the Council should be established in statute. This bill is critical to incarcerated individuals and their loved ones. Advisory councils are essential to guiding state agencies. Involving people with lived experiences on advisory councils helps ensure that agencies meet the needs of the people that they are intended to support. When it was created, the OCO breathed hope and optimism into the lives of incarcerated people. This hope is now gone. The OCO uses the statutes that were designed to protect the people for which the OCO was created to cover up its own misdeeds. Guidance for the OCO is important. Most, if not all, corrections ombuds offices in other states have advisory boards.

The Council will add credibility to an office that has become increasingly opaque. It took 10 years to enact the original bill establishing the OCO. Creating a Council to the OCO will enhance communication and help facilitate addressing identified problems. The bill seeks to address systemic issues at the OCO. The OCO has fostered a culture where dissenting voices are marginalized. The Council will be composed of individuals with lived experience, and will provide a platform for diverse voices to be heard. This bill is a critical step for the OCO to ensure its mission.

(Opposed) None.

Persons Testifying: Representative Darya Farivar, prime sponsor; Jim Chambers; Jacob Schmitt, Just Us Solutions, LLC; Laquesha Turner-Beers, Prior Employer; Paul Benz, Quaker Voice; and Melody Simle.

Persons Signed In To Testify But Not Testifying: None.