

REPRINT

SUBSTITUTE FOR

HOUSE BILL NO. 5876

(As passed the House, June 16, 1998)

A bill to amend 1975 PA 46, entitled

"An act to create the office of the legislative corrections ombudsman; to prescribe the powers and duties of the office, the ombudsman, the legislative council, and the department of corrections; and to provide remedies from administrative acts,"

by amending sections 1, 4, 6, 7, 10, and 13 (MCL 4.351, 4.354, 4.356, 4.357, 4.360, and 4.363), as amended by 1995 PA 197.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. As used in this act:

2 (a) "Administrative act" includes an action, omission, deci-
3 sion, recommendation, practice, or other procedure of the
4 department.

5 (b) "COMPLAINANT" MEANS A PRISONER OR LEGISLATOR WHO FILES A
6 COMPLAINT UNDER SECTION 4.

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1 (C) ~~(b)~~ "Council" means the legislative council
2 established under section 15 of article IV of the state
3 constitution of 1963.

4 (D) ~~(c)~~ "Department" means the department of corrections.

5 (E) ~~(d)~~ "Legislator" means a member of the ~~Senate~~ SENATE
6 or the ~~House~~ HOUSE of ~~Representatives~~ REPRESENTATIVES of this
7 state.

8 (F) ~~(e)~~ "Office" means the office of the legislative cor-
9 rections ombudsman created under this act.

10 (G) ~~(f)~~ "Ombudsman" means the office of legislative cor-
11 rections ombudsman.

12 (H) ~~(g)~~ "Prisoner" means a person committed to or under
13 the jurisdiction of the department.

14 (I) ~~(h)~~ "Official" means an official or employee of the
15 department of corrections.

16 Sec. 4. (1) The ombudsman may commence an investigation
17 upon either of the following:

18 (a) Receipt of a complaint from a PRISONER, A legislator, OR
19 ON THE OMBUDSMAN'S OWN INITIATIVE, concerning an administrative
20 act which is alleged by a prisoner to be contrary to law or con-
21 trary to departmental policy.

22 (b) The ombudsman's own initiative for significant prisoner
23 health and safety issues and other matters for which there is no
24 effective administrative remedy. ~~, all as determined by the~~
25 ~~council.~~

26 (2) Subject to approval of the council, the ombudsman shall
27 establish procedures for receiving and processing complaints,

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1 conducting investigations, holding hearings, and reporting the
2 findings resulting from the investigations.

3 Sec. 6. (1) THE OMBUDSMAN SHALL ADVISE A COMPLAINANT TO
4 PURSUE ALL ADMINISTRATIVE REMEDIES OPEN TO THE COMPLAINANT. THE
5 OMBUDSMAN MAY REQUEST AND SHALL RECEIVE FROM THE DEPARTMENT A
6 PROGRESS REPORT CONCERNING THE ADMINISTRATIVE PROCESSING OF A
7 COMPLAINT. AFTER ADMINISTRATIVE ACTION ON A COMPLAINT, THE
8 OMBUDSMAN MAY CONDUCT FURTHER INVESTIGATION ON THE REQUEST OF A
9 COMPLAINANT OR ON HIS OR HER OWN INITIATIVE.

10 (2) The ombudsman need not ~~hold~~ CONDUCT an investigation
11 on a complaint brought before the ombudsman. A person is not
12 entitled as a right to be heard by the ombudsman.

13 Sec. 7. Upon ~~the receipt of~~ RECEIVING a complaint from a
14 legislator OR A PRISONER UNDER SECTION 4 and ~~upon~~ deciding to
15 investigate ~~that~~ THE complaint, the ombudsman shall notify the
16 ~~legislator who filed the complaint~~ COMPLAINANT, the prisoner or
17 prisoners affected, and the department. If the ombudsman
18 declines to investigate, the ombudsman shall notify the
19 ~~legislator who filed the complaint~~ COMPLAINANT, in writing, and
20 inform the prisoner or prisoners affected of the reasons for the
21 ombudsman's decision.

22 Sec. 10. (1) The ombudsman shall prepare and submit a
23 report of the findings of an investigation and make recommenda-
24 tions to the council within 30 days ~~of~~ AFTER completing the
25 investigation ~~when~~ IF the ombudsman finds any of the
26 following:

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1 (a) A matter that should be considered by the department.

2 (b) An administrative act that should be modified or
3 canceled.

4 (c) A statute or rule that should be altered.

5 (d) Administrative acts for which justification is
6 necessary.

7 (e) Significant prisoner health and safety issues as deter-
8 mined by the council.

9 (f) Any other significant concerns as determined by the
10 council.

11 (2) Subject to section 11, the council may forward the
12 report prepared and submitted under this section to the depart-
13 ment, the prisoner or prisoners affected, or the ~~legislator~~
14 COMPLAINANT who requested the report.

15 Sec. 13. (1) A prisoner shall not be penalized in any way
16 by an official or the department as a result of FILING A
17 COMPLAINT, complaining to a legislator, or cooperating with the
18 ombudsman in investigating a complaint.

19 (2) A person or the department shall not hinder the lawful
20 actions of the ombudsman or employees of the office, or willfully
21 refuse to comply with lawful demands of the office.

22 Enacting section 1. This amendatory act does not take
23 effect unless all of the following bills of the 89th Legislature
24 are enacted into law:

25 (a) Senate Bill No. 826.

26 (b) House Bill No. 4065.

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- 1 (c) House Bill No. 4415.
- 2 (d) House Bill No. 4444.
- 3 (e) House Bill No. 4445.
- 4 (f) House Bill No. 4446.
- 5 (g) House Bill No. 5398.
- 6 (h) House Bill No. 5419.