

Act No. 318
Public Acts of 1998
Approved by the Governor
July 28, 1998
Filed with the Secretary of State
July 30, 1998

EFFECTIVE DATE: 91st day after final adjournment of the 1998 Regular Session

STATE OF MICHIGAN
89TH LEGISLATURE
REGULAR SESSION OF 1998

Introduced by Reps. Hanley, Wallace, Baird, Freeman, Ciaramitaro, Owen, Martinez, DeHart, Agee, Mans and Callahan

ENROLLED HOUSE BILL No. 5876

AN ACT 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:

Sec. 1. As used in this act:

- (a) "Administrative act" includes an action, omission, decision, recommendation, practice, or other procedure of the department.
- (b) "Complainant" means a prisoner or legislator who files a complaint under section 4.
- (c) "Council" means the legislative council established under section 15 of article IV of the state constitution of 1963.
- (d) "Department" means the department of corrections.
- (e) "Legislator" means a member of the senate or the house of representatives of this state.
- (f) "Office" means the office of the legislative corrections ombudsman created under this act.
- (g) "Ombudsman" means the office of legislative corrections ombudsman.
- (h) "Prisoner" means a person committed to or under the jurisdiction of the department.
- (i) "Official" means an official or employee of the department of corrections.

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

- (a) Receipt of a complaint from a prisoner, a legislator, or on the ombudsman's own initiative, concerning an administrative act which is alleged by a prisoner to be contrary to law or contrary to departmental policy.
- (b) The ombudsman's own initiative for significant prisoner health and safety issues and other matters for which there is no effective administrative remedy.

(2) Subject to approval of the council, the ombudsman shall establish procedures for receiving and processing complaints, conducting investigations, holding hearings, and reporting the findings resulting from the investigations.

Sec. 6. (1) The ombudsman shall advise a complainant to pursue all administrative remedies open to the complainant. The ombudsman may request and shall receive from the department a progress report concerning the administrative processing of a complaint. After administrative action on a complaint, the ombudsman may conduct further investigation on the request of a complainant or on his or her own initiative.

(2) The ombudsman need not conduct an investigation on a complaint brought before the ombudsman. A person is not entitled as a right to be heard by the ombudsman.

Sec. 7. Upon receiving a complaint from a legislator or a prisoner under section 4 and deciding to investigate the complaint, the ombudsman shall notify the complainant, the prisoner or prisoners affected, and the department. If the ombudsman declines to investigate, the ombudsman shall notify the complainant, in writing, and inform the prisoner or prisoners affected of the reasons for the ombudsman's decision.

Sec. 10. (1) The ombudsman shall prepare and submit a report of the findings of an investigation and make recommendations to the council within 30 days after completing the investigation if the ombudsman finds any of the following:

- (a) A matter that should be considered by the department.
- (b) An administrative act that should be modified or canceled.
- (c) A statute or rule that should be altered.
- (d) Administrative acts for which justification is necessary.
- (e) Significant prisoner health and safety issues as determined by the council.
- (f) Any other significant concerns as determined by the council.

(2) Subject to section 11, the council may forward the report prepared and submitted under this section to the department, the prisoner or prisoners affected, or the complainant who requested the report.

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

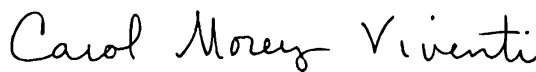
(2) A person or the department shall not hinder the lawful actions of the ombudsman or employees of the office, or willfully refuse to comply with lawful demands of the office.

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

- (a) Senate Bill No. 826.
- (b) House Bill No. 4065.
- (c) House Bill No. 4444.
- (d) House Bill No. 4445.
- (e) House Bill No. 4446.
- (f) House Bill No. 4515.
- (g) House Bill No. 5398.
- (h) House Bill No. 5419.



Clerk of the House of Representatives.



Secretary of the Senate.

Approved _____

Governor.