

SENATE BILL NO. 831

March 12, 2020, Introduced by Senators GEISS, CHANG, SANTANA, IRWIN, ALEXANDER, HERTEL, BULLOCK, BAYER, WOJNO and HOLLIER and referred to the Committee on Judiciary and Public Safety.

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 and 5 (MCL 4.351 and 4.355), section 1 as amended by 1998 PA 318 and section 5 as amended by 2018 PA 571, and by adding section 4a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. As used in this act:

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

5 **(b) "Advisory committee" means the women's prison oversight
6 advisory committee created in section 4a.**

7 (c) ~~(b)~~—"Complainant" means a prisoner or legislator who files
8 a complaint under section 4.

9 (d) ~~(e)~~—"Council" means the legislative council established
10 under section 15 of article IV of the state constitution of 1963.

11 (e) ~~(d)~~—"Department" means the department of corrections.

12 (f) ~~(e)~~—"Legislator" means a member of the senate or the house
13 of representatives of this state.

14 (g) ~~(f)~~—"Office" means the office of the legislative
15 corrections ombudsman created under this act.

16 **(h) "Official" means an official or employee of the department
17 of corrections.**

18 (i) ~~(g)~~—"Ombudsman" means the office of legislative
19 corrections ombudsman.

20 (j) ~~(h)~~—"Prisoner" means a person committed to or under the
21 jurisdiction of the department.

22 ~~(i) "Official" means an official or employee of the department
23 of corrections.~~

24 **Sec. 4a. (1) The women's prison oversight advisory committee
25 is created in the office.**

26 **(2) The advisory committee consists of the following 11
27 members appointed by the ombudsman:**

28 (a) One physician who specializes in high-risk pregnancies.

29 (b) One physician who is board certified as an obstetrician-

1 gynecologist.

2 (c) One nutritionist.

3 (d) One licensed and practicing midwife.

4 (e) One practicing doula.

5 (f) One individual who was formerly incarcerated in a
6 correctional facility that houses women.

7 (g) One individual who has trauma-specific and gender-
8 responsive expertise.

9 (h) One individual who is a licensed bachelor's social worker,
10 licensed masters' social worker, or possesses a doctor of
11 philosophy degree in social work and who has expertise in reentry
12 services for prisoners.

13 (i) One individual who is a teacher or an education academic
14 or professional and who has expertise in adolescent development.

15 (j) One individual who is accredited by a national corrections
16 institute.

17 (k) One individual who has expertise in sanitation and
18 environmental services.

19 (3) The members first appointed to the advisory committee must
20 be appointed within 90 days after the effective date of the
21 amendatory act that added this section.

22 (4) Members of the advisory committee shall serve for terms of
23 4 years or until a successor is appointed, whichever is later,
24 except that of the members first appointed, 3 shall serve for 1
25 year, 4 shall serve for 2 years, and 4 shall serve for 3 years.

26 (5) The ombudsman shall do all of the following in providing
27 oversight of the advisory committee:

28 (a) Investigate the qualifications of individuals who may
29 serve as a member, including the ability of the individual to

1 maintain the confidentiality and secrecy requirements under section
2 9.

3 (b) Recruit members.

4 (c) In consultation with the council administrator, suspend a
5 member and revoke any privilege available to a member under this
6 act.

7 (d) In consultation with the advisory committee, recommend
8 policies and procedures for the advisory committee to follow.

9 (e) Approve or deny any changes requested by the advisory
10 committee to the policies and procedures recommended under
11 subdivision (d).

12 (f) Present the recommendations under subdivision (d) at the
13 first meeting of the advisory committee and every 4 years after the
14 first meeting.

15 (g) Establish procedures for a member of the advisory
16 committee to inspect a correctional facility under section 5(5).

17 (6) If a vacancy occurs on the advisory committee, the
18 ombudsman shall make an appointment for the unexpired term in the
19 same manner as the original appointment.

20 (7) If a member is suspended under subsection (5), the
21 legislative council may remove that member of the advisory
22 committee for incompetence, dereliction of duty, malfeasance,
23 misfeasance, or nonfeasance in office, or any other good cause.

24 (8) The ombudsman shall call the first meeting of the advisory
25 committee. The advisory committee shall meet not less than
26 quarterly.

27 (9) Members of the advisory committee shall serve without
28 compensation. However, members of the advisory committee may be
29 reimbursed from the budget of the office for their actual and

1 necessary expenses incurred in the performance of their official
2 duties as members of the advisory committee.

3 (10) The advisory committee shall do all of the following:

4 (a) Monitor the following areas affecting female prisoners and
5 report any issues to the ombudsman:

6 (i) Mental and physical health.

7 (ii) Nutritional needs and resources.

8 (iii) Conditions of confinement.

9 (b) Advise the ombudsman on best practices for the department
10 to implement regarding confinement conditions and issues affecting
11 female prisoners in correctional facilities, including, but not
12 limited to, issues regarding the following:

13 (i) Access to nutritious and quality food.

14 (ii) Access to sufficient toilet paper and sanitary products,
15 including products for postpartum bleeding.

16 (c) Subject to final approval from the ombudsman, adopt
17 policies and procedures for the advisory committee to follow.

18 (11) Members of the advisory committee are subject to the
19 confidentiality and secrecy requirements under section 9.

20 (12) The legislature shall appropriate to the office
21 sufficient funds necessary to implement this section.

22 Sec. 5. (1) Upon request and without the requirement of any
23 release, the ombudsman shall be given access to and physical or
24 electronic copies of all information, records, and documents in the
25 possession of the department that the ombudsman considers necessary
26 in an investigation, including, but not limited to, prisoner
27 medical health records, prisoner mental health records, and
28 prisoner mortality and morbidity records. Upon request, the
29 ombudsman may interview any of the following individuals whom the

1 ombudsman considers necessary in an investigation:

2 (a) An individual employed by or retained under contract by
3 the department.

4 (b) An individual employed by or retained under contract by a
5 private contractor that operates a facility or institution that
6 houses prisoners under the jurisdiction of the department.

7 (2) Upon request and without notice, the ombudsman must be
8 granted entrance to inspect at any time any premises under the
9 control of the department. One ombudsman staff person must also be
10 granted entry into a correctional facility or the department's
11 "think tank" or "command center" during emergency situations
12 including, but not limited to, correctional facility disturbances,
13 riots, and hostage incidents, and must be provided with updates
14 regarding the status of the emergent situation as well as the
15 department's efforts to address the situation. The ombudsman staff
16 person granted entry for an emergency situation under this
17 subsection is present for observation and to report on the
18 emergency situation.

19 (3) The ombudsman may hold informal hearings and may request
20 that any person appear before the ombudsman, or at a hearing, and
21 give testimony or produce documentary or other evidence that the
22 ombudsman considers relevant to a matter under investigation.

23 (4) The ombudsman shall arrange an interview under subsection
24 (1) in cooperation with the department at a time and location that
25 does not interfere with the operation of a correctional facility.

26 **(5) Upon request and without notice, the department shall**
27 **grant a member of the advisory committee entrance to inspect a**
28 **correctional facility that houses female prisoners.**