

REFERENCE TITLE: corrections oversight committee; duties; ombudsman

State of Arizona
House of Representatives
Fifty-fourth Legislature
Second Regular Session
2020

HB 2754

Introduced by
Representatives Rodriguez: Andrade, Blanc, Bolding, Butler, Cano, Chávez,
DeGrazia, Engel, Fernandez, Friese, Gabaldón, Jermaine, Meza, Pawlik,
Peten, Salman, Sierra, Teller, Tsosie

AN ACT

**AMENDING TITLE 41, CHAPTER 11, ARTICLE 1, ARIZONA REVISED STATUTES, BY
ADDING SECTION 41-1610.02; APPROPRIATING MONIES; RELATING TO THE STATE
DEPARTMENT OF CORRECTIONS.**

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 41, chapter 11, article 1, Arizona Revised
3 Statutes, is amended by adding section 41-1610.02, to read:

4 41-1610.02. Correctional oversight committee; members;
5 duties; ombudsman appointment; committee
6 termination; report; violation; classification

7 A. THE CORRECTIONAL OVERSIGHT COMMITTEE IS ESTABLISHED CONSISTING
8 OF THE FOLLOWING MEMBERS:

9 1. TWO MEMBERS OF THE SENATE. THE PRESIDENT OF THE SENATE SHALL
10 APPOINT ONE MEMBER AND THE MINORITY LEADER OF THE SENATE SHALL APPOINT THE
11 SECOND MEMBER.

12 2. TWO MEMBERS OF THE HOUSE OF REPRESENTATIVES. THE SPEAKER OF THE
13 HOUSE OF REPRESENTATIVES SHALL APPOINT ONE MEMBER AND THE MINORITY LEADER
14 OF THE HOUSE OF REPRESENTATIVES SHALL APPOINT THE SECOND MEMBER.

15 3. THE FOLLOWING MEMBERS WHO ARE APPOINTED BY THE CHIEF JUSTICE OF
16 THE SUPREME COURT:

17 (a) THREE MEMBERS OF THE GENERAL PUBLIC.

18 (b) ONE MALE MEMBER OF THE GENERAL PUBLIC WHO WAS INCARCERATED IN
19 THE DEPARTMENT FOR MORE THAN THREE CONSECUTIVE YEARS.

20 (c) ONE FEMALE MEMBER OF THE GENERAL PUBLIC WHO WAS INCARCERATED IN
21 THE DEPARTMENT FOR MORE THAN THREE CONSECUTIVE YEARS.

22 (d) ONE MEMBER WHO REPRESENTS A NATIONAL PRISONER ADVOCACY
23 ORGANIZATION.

24 (e) ONE MEMBER WHO IS A PROFESSOR OF CRIMINAL JUSTICE OR LAW FROM
25 ONE OF THE STATE UNIVERSITIES.

26 (f) ONE MEMBER WHO IS RECOMMENDED BY THE ARIZONA CORRECTIONAL PEACE
27 OFFICERS ASSOCIATION.

28 (g) ONE MEMBER WHO IS A RETIRED CORRECTIONS OFFICIAL FROM ANY STATE
29 AND WHO HAS AT LEAST TEN CONSECUTIVE YEARS OF CORRECTIONS WORK EXPERIENCE.

30 B. MEMBERS SERVING PURSUANT TO SUBSECTION A, PARAGRAPH 3,
31 SUBDIVISIONS (e) AND (f) OF THIS SECTION ARE NONVOTING MEMBERS AND ARE NOT
32 MEMBERS FOR PURPOSES OF DETERMINING A QUORUM. A QUORUM CONSISTS OF A
33 MAJORITY OF THE VOTING MEMBERS.

34 C. MEMBERS WHO ARE APPOINTED PURSUANT TO SUBSECTION A, PARAGRAPH 3,
35 SUBDIVISIONS (a), (c), (d), (e) AND (f) OF THIS SECTION SERVE THREE YEAR
36 TERMS AND MAY NOT BE CURRENT EMPLOYEES, CONTRACTORS OR VOLUNTEERS OF THE
37 DEPARTMENT. THE MEMBER WHO IS APPOINTED PURSUANT TO SUBSECTION A,
38 PARAGRAPH 3, SUBDIVISION (b) OF THIS SECTION SERVES A THREE YEAR TERM AND
39 MUST HAVE HAD THE MEMBER'S CIVIL RIGHTS RESTORED PURSUANT TO SECTION
40 13-906 OR 13-907.

41 D. THE CHIEF JUSTICE OF THE SUPREME COURT SHALL SELECT THE
42 CHAIRPERSON AND VICE CHAIRPERSON FROM THE GROUP OF MEMBERS WHO ARE
43 APPOINTED PURSUANT TO SUBSECTION A, PARAGRAPH 3, SUBDIVISIONS (a) AND (b)
44 OF THIS SECTION.

1 E. THE COMMITTEE SHALL MEET NOT LESS THAN ONCE EVERY THREE MONTHS
2 OR MORE FREQUENTLY AS THE CHAIRPERSON DEEMS NECESSARY OR ON THE CALL OF
3 THE GOVERNOR OR A MAJORITY OF THE MEMBERS.

4 F. COMMITTEE MEMBERS ARE NOT ELIGIBLE TO RECEIVE COMPENSATION BUT
5 ARE ELIGIBLE FOR REIMBURSEMENT OF EXPENSES PURSUANT TO TITLE 38, CHAPTER
6 4, ARTICLE 2.

7 G. THE LEGISLATURE SHALL PROVIDE FACILITIES, STAFF AND CLERICAL
8 SUPPORT TO THE COMMITTEE AND SHALL ADVISE AND ASSIST THE COMMITTEE IN
9 PERFORMING ITS RESPONSIBILITIES. PERSONS REPRESENTING THE STATE
10 DEPARTMENT OF CORRECTIONS AND THE DEPARTMENT OF ADMINISTRATION SHALL
11 PROVIDE INFORMATION AND TECHNICAL ASSISTANCE TO THE COMMITTEE AS NEEDED.

12 H. THE COMMITTEE SHALL INVESTIGATE AND RECEIVE PUBLIC TESTIMONY,
13 DEPARTMENT STAFF AND EMPLOYEE TESTIMONY AND INMATE TESTIMONY, VISIT
14 DEPARTMENT FACILITIES, REVIEW DEPARTMENT RECORDS AND DOCUMENTS AND
15 MONITOR, STUDY AND MAKE EFFORTS TO IMPROVE TRANSPARENCY, FAIRNESS,
16 IMPARTIALITY AND ACCOUNTABILITY IN CORRECTIONAL INSTITUTIONS AND
17 FACILITIES IN THIS STATE.

18 I. NONVOTING MEMBERS MUST BE EXCLUDED FROM INVESTIGATIONS,
19 INTERVIEWS, TESTIMONY AND DOCUMENTS ON THE REQUEST OF AN INMATE, AN
20 INMATE'S FAMILY MEMBER OR FRIEND OR A DEPARTMENT STAFF MEMBER OR EMPLOYEE
21 WHEN THAT PERSON BELIEVES THE PERSON MAY BE SUBJECT TO REPRISAL OR
22 RETALIATION FOR PROVIDING TESTIMONY. THE CHAIRPERSON SHALL ENSURE THAT
23 ANY PERSON WHO TESTIFIES IN ANY CAPACITY BEFORE THE COMMITTEE WILL BE
24 PROTECTED FROM REPRISAL OR RETALIATION.

25 J. THE CHAIRPERSON SHALL FORM SUBCOMMITTEES OF NOT LESS THAN THREE
26 VOTING MEMBERS WHO WILL BE DESIGNATED TO VISIT AND INSPECT DEPARTMENT
27 FACILITIES, PRISONS, COMMUNITY SUPERVISION OFFICES OR OTHER DESIGNATED
28 DEPARTMENT PROPERTIES OR FACILITIES.

29 K. THE CHAIRPERSON SHALL ENSURE THAT A SUBCOMMITTEE VISITS AND
30 INSPECTS ALL PRISON COMPLEXES AND UNITS AT LEAST ONCE PER YEAR OR MORE
31 FREQUENTLY AS DESIGNATED BY THE PERSON OR ON REQUEST OF THE GOVERNOR OR A
32 MAJORITY OF THE VOTING MEMBERS OF THE COMMITTEE. MEMBERS, AT ANY TIME,
33 MAY REQUEST TO VISIT OR INSPECT ANY DEPARTMENT FACILITY IF NOTICE IS
34 PROVIDED TWENTY-FOUR HOURS IN ADVANCE. DURING ANY VISIT, COMMITTEE
35 MEMBERS:

36 1. MUST BE GRANTED ACCESS TO FACILITIES CONSISTENT WITH THE
37 PURPOSES DESCRIBED IN SECTION 41-1609.02, SUBSECTION B.

38 2. MAY INTERVIEW INMATES.

39 3. MAY REQUEST INCIDENT REPORTS FROM ANY DEPARTMENT FACILITY.

40 L. THE COMMITTEE SHALL RECEIVE TESTIMONY FROM THE DEPARTMENT
41 INCLUDING INFORMATION AND DATA ON:

42 1. GRIEVANCES FILED BY INMATES AND THE DEPARTMENT'S RESPONSES TO
43 THOSE GRIEVANCES.

44 2. INMATE MEDICAL CARE.

45 3. USE OF SOLITARY CONFINEMENT.

- 1 4. INMATE MENTAL HEALTH SERVICES.
- 2 5. INMATE FOOD SERVICES.
- 3 6. AIR CONDITIONING AND HEATING SYSTEMS WITHIN EACH PRISON.
- 4 7. INMATE EDUCATION.
- 5 8. INMATE THERAPEUTIC PROGRAMMING.
- 6 9. INMATE SUBSTANCE ABUSE PROGRAMMING.
- 7 10. INMATE RELEASE PROGRAMMING AND SUPPORT.
- 8 11. ACTUAL AND ANTICIPATED GROWTH OR DECLINE IN THE DEPARTMENT'S
- 9 INMATE POPULATION.
- 10 12. CONDITIONS OF CONFINEMENT OF THE INMATE POPULATION.
- 11 13. THE NUMBER OF INMATE DEATHS AND THE CAUSE OF DEATH.
- 12 M. THE COMMITTEE SHALL REVIEW AND MAKE RECOMMENDATIONS TO THE
- 13 LEGISLATURE REGARDING FUTURE PRISONS AND CAPITAL INVESTMENTS TO IMPROVE
- 14 THE CONDITIONS OF CONFINEMENT AND WORKING CONDITIONS FOR DEPARTMENT
- 15 EMPLOYEES.
- 16 N. THE COMMITTEE MAY CONSIDER OTHER MATTERS RELATING TO PRISON
- 17 FACILITIES OR PRISON OPERATIONS AND MAY MAKE RECOMMENDATIONS TO THE
- 18 LEGISLATURE.
- 19 O. THE COMMITTEE SHALL REVIEW PRIVATE PRISON FACILITY SITES
- 20 ESTABLISHED PURSUANT TO SECTION 41-1609.02.
- 21 P. THE COMMITTEE SHALL APPOINT A CORRECTIONS OMBUDSMAN. THE
- 22 CORRECTIONS OMBUDSMAN IS RESPONSIBLE FOR THE CONTEMPORANEOUS PUBLIC
- 23 OVERSIGHT OF THE DEPARTMENT'S INTERNAL AFFAIRS AND DISCIPLINARY PROCESSES.
- 24 THE CORRECTIONS OMBUDSMAN MAY PROVIDE OVERSIGHT OF ANY DEPARTMENT
- 25 INVESTIGATION RELATING TO THE WELL-BEING, TREATMENT, DISCIPLINE OR SAFETY
- 26 OF OR ANY OTHER MATTER THAT CONCERNS A PERSON WHO IS IN THE CUSTODY OF THE
- 27 DEPARTMENT OR WHO IS EMPLOYED BY THE DEPARTMENT. A PERSON WHO OBSTRUCTS
- 28 AN INVESTIGATION THAT IS BEING CONDUCTED BY THE CORRECTIONS OMBUDSMAN IS
- 29 GUILTY OF A CLASS 1 MISDEMEANOR.
- 30 Q. ON OR BEFORE OCTOBER 15, THE COMMITTEE SHALL PREPARE AND SUBMIT
- 31 AN ANNUAL REPORT ON THE STATUS OF THE DEPARTMENT AND THE RECOMMENDATIONS
- 32 OF THE COMMITTEE TO THE GOVERNOR, THE PRESIDENT OF THE SENATE AND THE
- 33 SPEAKER OF THE HOUSE OF REPRESENTATIVES AND PROVIDE A COPY OF THIS REPORT
- 34 TO THE SECRETARY OF STATE AND TO THE PUBLIC.
- 35 R. THE COMMITTEE ESTABLISHED BY THIS SECTION ENDS ON JULY 1, 2028
- 36 PURSUANT TO SECTION 41-3103.
- 37 Sec. 2. Initial terms of members of the correctional
- 38 oversight committee
- 39 A. Notwithstanding section 41-1610.02, Arizona Revised Statutes, as
- 40 added by this act, the initial terms of members who are appointed pursuant
- 41 to section 41-1610.02, subsection A, paragraph 3, subdivisions (a), (b),
- 42 (c), (d), (e), (f) and (g), Arizona Revised Statutes, as added by this
- 43 act, are:
- 44 1. Three terms ending January 1, 2022.
- 45 2. Three terms ending January 1, 2023.

1 3. Three terms ending January 1, 2024.

2 B. The chief justice of the supreme court shall make all subsequent
3 appointments as prescribed by statute.

4 Sec. 3. Appropriation; correctional oversight committee;
5 exemption

6 A. The sum of \$250,000 is appropriated from the state general fund
7 in fiscal year 2020-2021 to the state department of corrections for
8 expenses related to the correctional oversight committee established by
9 section 41-1610.02, Arizona Revised Statutes, as added by this act.

10 B. The appropriation made in subsection A of this section is exempt
11 from the provisions of section 35-190, Arizona Revised Statutes, relating
12 to lapsing of appropriations.