REFERENCE TITLE: independent corrections ombudsman; oversight committee

State of Arizona
House of Representatives
Fifty-fifth Legislature
First Regular Session
2021

HB 2167
Introduced by
Representative Blackman

AN ACT

AMENDING TITLE 41, ARIZONA REVISED STATUTES, BY ADDING CHAPTER 16;
AMENDING TITLE 41, CHAPTER 27, ARTICLE 2, ARIZONA REVISED STATUTES, BY
ADDITION SECTION 41-3031.01; APPROPRIATING MONIES; RELATING TO PRISONERS.

(TEXT OF BILL BEGINS ON NEXT PAGE)
Be it enacted by the Legislature of the State of Arizona:
Section 1. Title 41, Arizona Revised Statutes, is amended by adding chapter 16, to read:

CHAPTER 16
OFFICE OF THE INDEPENDENT CORRECTIONS OMBUDSMAN

ARTICLE 1. GENERAL PROVISIONS

41-2101. Definitions
IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:
1. "COVERED ISSUES" INCLUDES:
   (a) SANITATION IN PRISON FACILITIES.
   (b) ACCESS TO PROPER NUTRITION AND A CLEAN AND ADEQUATE WATER SUPPLY.
   (c) LIVABLE TEMPERATURES IN PRISON FACILITIES.
   (d) PHYSICAL OR SEXUAL ABUSE FROM FELLOW INMATES.
   (e) PHYSICAL OR SEXUAL ABUSE FROM DEPARTMENT STAFF OR CONTRACTORS.
   (f) CREDIBLE THREATS AGAINST AN INMATE FROM OTHER INMATES, PRISON STAFF OR CONTRACTORS.
   (g) NEGLECT OF PRISON STAFF OR CONTRACTORS THAT RESULTS IN PHYSICAL OR SEXUAL TRAUMA.
   (h) DENIAL OF RIGHTS AFFORDED TO INMATES UNDER FEDERAL OR STATE LAW.
   (i) ACCESS TO VISITATION AND COMMUNICATION WITH FAMILY AND LEGAL REPRESENTATION.
   (j) ANY INSTANCE IN WHICH THE OFFICE DETERMINES AN ACTION OR BEHAVIOR TO BE SUCH THAT IT CONSTITUTES ABUSE OR NEGLECT AGAINST AN INMATE.
   (k) ACCESS TO MEDICAL OR MENTAL HEALTH CARE OR SUBSTANCE ABUSE TREATMENT.
   (l) ACCESS TO EDUCATIONAL AND REHABILITATIVE PROGRAMMING, DRUG AND MENTAL HEALTH TREATMENT AND INMATE JOBS AND VOCATIONAL TRAINING.
   (m) ACCESS TO THE DEPARTMENT'S ADMINISTRATIVE REMEDIES PROCESS FOR INMATES AND INMATE REPRESENTATIVES, INCLUDING THE AVAILABILITY OF COMPLAINT AND GRIEVANCE FORMS AND THE TIMELY AND UNBIASED RESOLUTION OF GRIEVANCES.
   (n) ADEQUATE AND QUALIFIED STAFF IN EACH FACILITY.
   (o) CAPITAL IMPROVEMENTS OR REPAIRS THAT MAY BE NEEDED FOR FACILITIES.
2. "DEPARTMENT" MEANS THE STATE DEPARTMENT OF CORRECTIONS.
3. "FAMILY MEMBER" INCLUDES AN INMATE'S GRANDPARENT, PARENT, SIBLING, SPOUSE, DOMESTIC PARTNER, CHILD, GRANDCHILD, AUNT, UNCLE, COUSIN, NIECE OR NEPHEW OR ANY OTHER PERSON WHO IS RELATED TO THE INMATE BY BLOOD, ADOPTION, MARRIAGE OR A FOSTERING RELATIONSHIP.
4. "GOOD CAUSE" MEANS A VIOLATION OF A FEDERAL OR STATE LAW, PUBLIC CORRUPTION, FRAUD, DERELICTION OF DUTY OR ABUSE OF OFFICE.
5. "OFFICE" MEANS THE OFFICE OF THE INDEPENDENT CORRECTIONS OMBUDSMAN.

6. "PRISON" OR "FACILITY" INCLUDES ANY PLACE OF CONFINEMENT, NOT INCLUDING COUNTY JAILS, THAT IS OPERATED BY THE DEPARTMENT OR ANY NONPROFIT, FOR-PROFIT, NONGOVERNMENTAL OR PRIVATE ENTITY THAT ENTERS INTO A CONTRACTUAL ARRANGEMENT WITH THIS STATE OR THE DEPARTMENT TO OPERATE OR MAINTAIN A PLACE OF CONFINEMENT.

41-2102. Office of the independent corrections ombudsman;
powers and duties

A. THE OFFICE OF THE INDEPENDENT CORRECTIONS OMBUDSMAN IS ESTABLISHED AND CONSISTS OF THE INSPECTIONS SECTION AND THE COMPLAINTS INVESTIGATION SECTION.

B. THE OFFICE SHALL:

1. PROVIDE INFORMATION, AS APPROPRIATE, TO INMATES, FAMILY MEMBERS, INMATE REPRESENTATIVES, DEPARTMENT EMPLOYEES AND CONTRACTORS AND OTHER PERSONS REGARDING THE RIGHTS OF INMATES.

2. MONITOR THE CONDITIONS OF CONFINEMENT AND ASSESS THE DEPARTMENT'S COMPLIANCE WITH APPLICABLE FEDERAL AND STATE RULES, POLICIES AND BEST PRACTICES THAT RELATE TO INMATE HEALTH, SAFETY, WELFARE AND REHABILITATION.

3. PROVIDE TECHNICAL ASSISTANCE TO SUPPORT INMATE PARTICIPATION IN SELF-ADVOCACY.

4. PROVIDE TECHNICAL ASSISTANCE TO LOCAL GOVERNMENTS IN ESTABLISHING JAIL OVERSIGHT BODIES, ON REQUEST.

5. ESTABLISH A STATEWIDE UNIFORM REPORTING SYSTEM TO COLLECT AND ANALYZE DATA RELATED TO COMPLAINTS RECEIVED BY THE DEPARTMENT AND DATA RELATED TO THE FOLLOWING:

   (a) DEATHS, SUICIDES AND SUICIDE ATTEMPTS IN CUSTODY.
   (b) PHYSICAL AND SEXUAL ASSAULTS IN CUSTODY.
   (c) THE NUMBER OF INMATES WHO ARE PLACED IN ADMINISTRATIVE SEGREGATION OR SOLITARY CONFINEMENT AND THE DURATION OF STAY IN THAT CONFINEMENT.
   (d) THE NUMBER OF FACILITY LOCKDOWNS THAT LAST LONGER THAN TWENTY-FOUR HOURS.
   (e) THE NUMBER OF STAFF, STAFF VACANCIES AND INMATES AT EACH FACILITY.
   (f) INMATE TO STAFF RATIOS AT EACH FACILITY.
   (g) STAFF TENURE, TURNOVER AND COMPENSATION.
   (h) THE NUMBER OF IN-PERSON VISITS TO INMATES THAT WERE MADE AND DENIED AT EACH FACILITY.
   (i) THE NUMBER OF INMATE COMPLAINTS OR GRIEVANCES THAT WERE SUBMITTED TO THE DEPARTMENT, THE DEPARTMENT'S RESOLUTION OF THE COMPLAINT OR GRIEVANCE PURSUANT TO THE ADMINISTRATIVE REMEDIES PROCESS AND THE AMOUNT OF TIME THAT IT TOOK THE DEPARTMENT TO RESOLVE EACH COMPLAINT OR GRIEVANCE.
(j) ANY OTHER COVERED ISSUE.

6. ESTABLISH PROCEDURES TO GATHER STAKEHOLDER INPUT INTO THE OFFICE’S ACTIVITIES AND PRIORITIES, INCLUDING, AT A MINIMUM, AN ANNUAL THIRTY-DAY PERIOD FOR RECEIPT OF AND OFFICE RESPONSE TO PUBLIC COMMENT.

7. INSPECT EACH FACILITY AT LEAST ONCE EVERY TWO YEARS AND AT LEAST ONCE EACH YEAR FOR EACH MAXIMUM SECURITY FACILITY AND EACH FACILITY WHERE THE OFFICE HAS FOUND CAUSE FOR MORE FREQUENT INSPECTION OR MONITORING.

8. PUBLICLY ISSUE PERIODIC FACILITY INSPECTION REPORTS, AN ANNUAL REPORT WITH RECOMMENDATIONS ON FACILITIES AND A SUMMARY OF DATA AND RECOMMENDATIONS ARISING FROM ANY COMPLAINTS INVESTIGATED AND RESOLVED AND ANY OTHER THEMATIC REPORTS COVERING ANY TOPIC THE OFFICE FINDS RELEVANT TO RUNNING A SAFE, SECURE AND HUMANE CORRECTIONS DEPARTMENT.

9. MONITOR AND DOCUMENT CAPITAL IMPROVEMENTS THAT ARE NEEDED TO FACILITIES AND REVIEW AND REPORT ON THE DEPARTMENT’S IMPLEMENTATION OF THE NEEDED IMPROVEMENTS, INCLUDING THE AMOUNT OF MONIES NEEDED AND EXPENDITURES MADE FOR THE IMPROVEMENTS.


C. THE OMBUDSMAN WHO IS SELECTED PURSUANT TO SECTION 41-2103 SHALL DIRECT THE OFFICE. THE OMBUDSMAN SERVES A TERM OF SIX YEARS, DURING WHICH TERM THE OMBUDSMAN MAY BE REMOVED EITHER BY THE GOVERNOR OR BY A MAJORITY VOTE OF THE CORRECTIONAL OVERSIGHT COMMITTEE MEMBERS. THE OMBUDSMAN MAY BE REMOVED ONLY FOR GOOD CAUSE. THE OMBUDSMAN MAY NOT SERVE MORE THAN TWO CONSECUTIVE TERMS. A PARTIAL TERM IS CONSIDERED A FULL TERM WHEN COUNTING THE NUMBER OF CONSECUTIVE TERMS THAT THE OMBUDSMAN MAY SERVE. THE OMBUDSMAN MAY NOT BE A CURRENT OR FORMER DEPARTMENT EMPLOYEE OR CONTRACTOR, AND THE OMBUDSMAN’S SPOUSE OR DOMESTIC PARTNER, PARENTS, GRANDPARENTS, CHILDREN OR SIBLINGS MAY NOT BE CURRENT DEPARTMENT EMPLOYEES OR CONTRACTORS.

D. THE OMBUDSMAN MAY:

1. HIRE STAFF, CONTRACTORS AND UNPAID VOLUNTEERS AND SECURE OFFICE SPACE, EQUIPMENT AND OTHER SERVICES NECESSARY TO CARRY OUT THE DUTIES OF THE OFFICE. ANY EMPLOYEE, CONTRACTOR OR UNPAID VOLUNTEER WHO IS HIRED OR RETAINED BY THE OFFICE HAS THE SAME AUTHORITY AND DUTIES OF THE OFFICE DESCRIBED IN THIS ARTICLE.

2. CONTRACT WITH EXPERTS AS NEEDED TO ASSIST IN MONITORING AND INSPECTING FACILITIES, ASSESSING DATA AND REVIEWING, INVESTIGATING OR RESOLVING COMPLAINTS.

E. SUBJECT TO THE CONFIDENTIALITY REQUIREMENTS PRESCRIBED IN SECTION 41-2103, SUBSECTION L AND SECTION 41-2104, SUBSECTION B, THE OMBUDSMAN SHALL:

1. ATTEND EACH HEARING CONDUCTED BY THE CORRECTIONAL OVERSIGHT
COMMITTEE AND PROVIDE ANY TESTIMONY, DOCUMENTS, DATA OR INFORMATION REQUESTED BY COMMITTEE MEMBERS.

2. AT LEAST ONCE EACH QUARTER, MEET WITH EACH OF THE FOLLOWING TO REPORT ON THE WORK AND FINDINGS OF THE OMBUDSMAN’S OFFICE:
   (a) THE MEMBERS OF THE CORRECTIONAL OVERSIGHT COMMITTEE.
   (b) THE GOVERNOR.
   (c) THE DIRECTOR OF THE DEPARTMENT.

3. ON REQUEST FROM THE COMMITTEE CHAIRPERSON, VICE CHAIRPERSON OR THE RANKING MEMBER, PROVIDE TESTIMONY BEFORE THE RELEVANT COMMITTEES OF THE HOUSE OF REPRESENTATIVES AND THE SENATE.

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

1. TWO MEMBERS OF THE SENATE WHO ARE NOT MEMBERS OF THE SAME POLITICAL PARTY. THE PRESIDENT OF THE SENATE SHALL SELECT ONE MEMBER AND THE SENATE MINORITY LEADER SHALL SELECT ONE MEMBER.


3. THE FOLLOWING MEMBERS WHO ARE APPOINTED BY THE GOVERNOR:
   (a) ONE MEMBER WHO REPRESENTS AN INMATE ADVOCACY ORGANIZATION.
   (b) ONE MEMBER WHO REPRESENTS AN ORGANIZATION THAT PROVIDES INMATE TRAINING OR REHABILITATION PROGRAMS.
   (c) ONE MALE MEMBER OF THE GENERAL PUBLIC WHO WAS PREVIOUSLY INCARCERATED IN THE DEPARTMENT.
   (d) ONE FEMALE MEMBER OF THE GENERAL PUBLIC WHO WAS PREVIOUSLY INCARCERATED IN THE DEPARTMENT.
   (e) ONE MEMBER WHO IS A PHYSICIAN LICENSED PURSUANT TO TITLE 32, CHAPTER 13 OR 17 AND WHO SPECIALIZES IN FAMILY MEDICINE OR INTERNAL MEDICINE.
   (f) ONE MEMBER WHO IS A MENTAL OR BEHAVIORAL HEALTH PROFESSIONAL, WHO IS LICENSED PURSUANT TO TITLE 32, CHAPTER 19.1 OR 33 AND WHO HAS A HISTORY OF PROVIDING MENTAL HEALTH SERVICES OR COUNSELING TO ADULTS.
   (g) ONE MEMBER WHO IS A GRANDPARENT, PARENT, CHILD, SIBLING, SPOUSE OR DOMESTIC PARTNER OF A CURRENT INMATE IN A FACILITY.
   (h) ONE MEMBER WHO IS RECOMMENDED BY THE ARIZONA CORRECTIONAL PEACE OFFICERS ASSOCIATION. THIS MEMBER IS A NONVOTING MEMBER.

B. MEMBERS WHO ARE APPOINTED PURSUANT TO SUBSECTION A, PARAGRAPH 3 OF THIS SECTION:

1. SERVE THREE-YEAR TERMS AND MAY NOT SERVE MORE THAN TWO CONSECUTIVE TERMS.
2. May not be current Department employees or contractors or have been employed by or contracted with the Department for at least ten years before appointment.

3. May not have parents, children, spouses or domestic partners who are current Department employees or contractors unless specifically allowed by law.

C. Members who are appointed pursuant to subsection A, paragraph 3, subdivisions (a) and (b) of this section may not be employed by or represent an organization with an active service agreement with or financial interest in the Department or otherwise provide for-profit services to inmates or family members.

D. One member who is appointed pursuant to subsection A, paragraph 1 of this section and one member who is appointed pursuant to subsection A, paragraph 2 of this section shall serve as cochairpersons. The cochairpersons may not be from the same political party.

E. The committee shall meet quarterly, when the ombudsman position is vacant, as the cochairpersons deem necessary, on the request of the ombudsman to fulfill the requirements of section 41-2102, subsection E and on the call of the majority of the members.

F. Except when voting to appoint the ombudsman pursuant to subsection H of this section, the presence of nine members of the committee constitutes a quorum and a majority vote of the members present is necessary for the committee to take action on a matter.

G. Committee members are not eligible to receive compensation but are eligible for reimbursement of expenses pursuant to title 38, chapter 4, article 2.

H. The committee shall announce the ombudsman nominee publicly and shall vote to appoint the nominee after holding a public hearing, during which the committee shall hear and consider oral or written testimony from the ombudsman nominee, any witnesses the ombudsman nominee presents on the nominee's behalf and any members of the public. The ombudsman shall take office on a majority vote of the committee member's voting in the ombudsman's favor. To vote for the ombudsman, a quorum must be present and consist of at least all the members who are selected pursuant to subsection A, paragraphs 1 and 2 of this section and five of the members who are appointed pursuant to subsection A, paragraph 3 of this section.

I. The committee shall hold at least one public hearing each year to present, review and discuss the office's inspections, findings, reports and recommendations set forth in the office's annual report prescribed in section 41-2108 and shall hold quarterly public hearings to present, review and discuss any other data, reports or findings of the office that the committee deems relevant.

J. The committee shall conduct random biannual inspections of a facility and shall visit different facilities on each inspection. The committee may not announce an inspection to any individual or entity...
OUTSIDE OF THE COMMITTEE BEFORE THE INSPECTION OCCURS. THE DEPARTMENT SHALL ENSURE FULL ACCESS TO THE FACILITY, INMATES AND STAFF CONSISTENT WITH SECTION 41-2104 SUBSECTION A.

K. THE LEGISLATURE SHALL PROVIDE THE COMMITTEE WITH OFFICE SPACE, MEETING SPACE, SUPPLIES AND ADMINISTRATIVE PERSONNEL AS NEEDED.

L. A NONVOTING MEMBER OF THE COMMITTEE IS EXCLUDED FROM INVESTIGATIONS, INTERVIEWS, RECEIPT OF TESTIMONY AND REVIEW OF DOCUMENTS ON THE REQUEST OF AN INMATE, AN INMATE'S FAMILY MEMBER OR REPRESENTATIVE OR A DEPARTMENT STAFF MEMBER OR EMPLOYEE WHEN THAT PERSON BELIEVES THE PERSON MAY BE SUBJECT TO REPRISAL OR RETALIATION FOR PROVIDING TESTIMONY OR OTHER INFORMATION TO THE COMMITTEE.

M. THE COMMITTEE COCHAIRPERSONS SHALL MEET WITH THE GOVERNOR AND THE DIRECTOR OF THE DEPARTMENT AT LEAST TWO TIMES EACH YEAR TO REPORT ON THE WORK AND FINDINGS OF THE COMMITTEE.


41-2104. Office authority; access to department records and facilities; subpoena

A. THE OFFICE MUST HAVE ACCESS IN THE SAME MANNER AS THE DIRECTOR, ON DEMAND, IN PERSON OR IN WRITING AND WITH OR WITHOUT PRIOR NOTICE, TO ALL FACILITIES, INCLUDING ALL AREAS THAT ARE USED BY OR ARE OTHERWISE ACCESSIBLE TO INMATES, DEPARTMENT STAFF AND CONTRACTORS, AND TO PROGRAMS FOR INMATES AT REASONABLE TIMES WHICH, AT A MINIMUM, INCLUDES ACCESS DURING NORMAL WORKING HOURS AND VISITING HOURS AND THE OPPORTUNITY TO INTERVIEW ANY INMATE, DEPARTMENT EMPLOYEE OR CONTRACTOR OR OTHER PERSON FOR THE PURPOSE OF:

1. PROVIDING INFORMATION ABOUT INDIVIDUAL RIGHTS AND THE SERVICES AVAILABLE FROM THE OFFICE, INCLUDING THE NAME, ADDRESS AND TELEPHONE NUMBER OF THE OFFICE FACILITIES OR STAFF.

2. CONDUCTING OFFICIAL INSPECTIONS AS PRESCRIBED IN SECTIONS 41-2102 AND 41-2106.

3. INSPECTING, VIEWING, PHOTOGRAPHING AND VIDEO RECORDING ALL AREAS OF THE FACILITY THAT ARE USED BY OR ARE ACCESSIBLE TO INMATES.

B. WHEN ACCESSING INMATES, THE DEPARTMENT MUST GIVE THE OFFICE THE OPPORTUNITY TO MEET AND COMMUNICATE PRIVATELY AND CONFIDENTIALLY WITH INMATES REGULARLY, WITH OR WITHOUT PRIOR NOTICE, BOTH FORMALLY AND...
INFORMALLY, BY TELEPHONE, MAIL AND ELECTRONIC COMMUNICATION AND IN PERSON. DEPARTMENT EMPLOYEES OR CONTRACTORS MAY NOT MONITOR, RECORD OR BE PRESENT WHEN THE OFFICE COMMUNICATES WITH INMATES. WITH CONSENT OF THE INMATE, MEMBERS OF THE OFFICE MAY RECORD MEETINGS WITH INMATES. AN OFFICE RECORDING OF AN INMATE IS CONFIDENTIAL AND IS NOT ACCESSIBLE TO A DEPARTMENT EMPLOYEE OR CONTRACTOR.

C. ACCESS TO DEPARTMENT EMPLOYEES OR CONTRACTORS INCLUDES THE OPPORTUNITY TO MEET AND COMMUNICATE PRIVATELY AND CONFIDENTIALLY WITH INDIVIDUALS DURING AN INSPECTION OR NORMAL WORKING HOURS, WITH OR WITHOUT PRIOR NOTICE, BOTH FORMALLY AND INFORMALLY, BY TELEPHONE, MAIL AND ELECTRONIC COMMUNICATION AND IN PERSON. WITH THE CONSENT OF THE DEPARTMENT EMPLOYEE OR CONTRACTOR, MEMBERS OF THE OFFICE MAY RECORD THE MEETING WITH THE DEPARTMENT EMPLOYEE OR CONTRACTOR.

D. THE OFFICE MAY ACCESS, INSPECT AND COPY ALL RELEVANT INFORMATION, RECORDS OR DOCUMENTS THAT ARE IN THE POSSESSION OR CONTROL OF THE DEPARTMENT AND THAT THE OFFICE CONSIDERS NECESSARY TO INVESTIGATE A COMPLAINT. THE DEPARTMENT MUST ASSIST THE OFFICE IN OBTAINING THE NECESSARY RELEASES FOR THOSE DOCUMENTS THAT ARE SPECIFICALLY RESTRICTED OR PRIVILEGED FOR USE BY THE OFFICE.

E. FOLLOWING NOTIFICATION FROM THE OFFICE WITH A WRITTEN DEMAND FOR ACCESS TO DEPARTMENT RECORDS, THE DESIGNATED DEPARTMENT STAFF MUST PROVIDE THE OFFICE WITH ACCESS TO THE REQUESTED DOCUMENTATION NOT LATER THAN TWENTY BUSINESS DAYS AFTER THE OFFICE'S WRITTEN REQUEST FOR THE RECORDS. IF THE REQUESTED RECORDS PERTAIN TO AN INMATE DEATH, THREATS OF BODILY HARM, INCLUDING SEXUAL OR PHYSICAL ASSAULTS, OR THE DENIAL OF NECESSARY MEDICAL TREATMENT, THE DEPARTMENT MUST PROVIDE THE RECORDS WITHIN FIVE DAYS, UNLESS THE OFFICE CONSENTS TO AN EXTENSION OF THAT TIME FRAME.

F. THE OFFICE MUST WORK WITH THE DEPARTMENT TO MINIMIZE DISRUPTION TO THE OPERATIONS OF THE DEPARTMENT DUE TO OFFICE ACTIVITIES AND MUST COMPLY WITH THE DEPARTMENT'S REASONABLE SECURITY CLEARANCE PROCESSES, IF THESE PROCESSES DO NOT IMPEDE THE ACTIVITIES ALLOWED BY THIS SECTION.

G. THE OFFICE MAY SUBPOENA RECORDS, DOCUMENTS OR DATA THAT ARE IN THE DEPARTMENT'S POSSESSION FOR DEPARTMENT STAFF, CONTRACTORS OR REPRESENTATIVES TO APPEAR AND PROVIDE INFORMATION TO THE OFFICE. A SUBPOENA THAT IS ISSUED BY THE OFFICE MUST BE SERVED AND, ON APPLICATION TO THE COURT, MAY BE ENFORCED IN THE MANNER PROVIDED BY LAW FOR THE SERVICE AND ENFORCEMENT OF SUBPOENAS IN A CIVIL ACTION. IF AN ENTITY FAILS TO COMPLY WITH A SUBPOENA, THE OFFICE MAY PURSUE ENFORCEMENT OF THE SUBPOENA IN A COURT OR REFER THE SUBPOENA TO THE COMMITTEE FOR ENFORCEMENT IN THE SAME MANNER AND SUBJECT TO THE SAME PENALTIES AS A LEGISLATIVE SUBPOENA PURSUANT TO CHAPTER 7, ARTICLE 4 OF THIS TITLE.

41-2105. Confidential communications

A. ALL CORRESPONDENCE AND COMMUNICATION WITH THE OFFICE OR COMMITTEE ARE CONFIDENTIAL AND PRIVILEGED.
B. THE OFFICE SHALL ESTABLISH CONFIDENTIALITY RULES AND PROCEDURES FOR ALL INFORMATION MAINTAINED BY THE OFFICE TO ENSURE THAT THE IDENTITY OF A COMPLAINANT REMAINS CONFIDENTIAL BEFORE, DURING AND AFTER AN INVESTIGATION TO THE GREATEST EXTENT PRACTICABLE. THE OFFICE MAY DISCLOSE A COMPLAINANT’S IDENTIFYING INFORMATION FOR THE SOLE PURPOSE OF CARRYING OUT AN INVESTIGATION.

41-2106. Inspection authority; report
A. THE OFFICE SHALL INSPECT EACH FACILITY AND RELEASE A PUBLIC REPORT WITHIN TWO YEARS AFTER THE EFFECTIVE DATE OF THIS SECTION. THE OFFICE SHALL CONDUCT SUBSEQUENT INSPECTIONS ON A STAGGERED SCHEDULE DEPENDING ON THE FACILITY’S SAFETY AND COMPLIANCE CLASSIFICATION.
B. DURING AN INSPECTION, THE OFFICE SHALL ASSESS OR REVIEW ALL OF THE FOLLOWING:
1. THE FACILITY’S POLICIES AND PROCEDURES THAT RELATE TO THE CARE OF INMATES.
2. THE CONDITIONS OF CONFINEMENT.
3. THE AVAILABILITY OF EDUCATIONAL AND REHABILITATIVE PROGRAMMING, DRUG AND MENTAL HEALTH TREATMENT AND INMATE JOBS AND VOCATIONAL TRAINING.
4. POLICIES AND PROCEDURES RELATING TO VISITATION.
5. MEDICAL FACILITIES AND MEDICAL PROCEDURES AND POLICIES.
6. LOCKDOWNS AT THE FACILITY THAT OCCURRED SINCE THE LAST INSPECTION. FOR THE INITIAL ASSESSMENT, THE OFFICE SHALL REVIEW LOCKDOWNS THAT OCCURRED DURING THE PREVIOUS THREE YEARS.
7. FACILITY STAFFING, INCLUDING THE NUMBER AND JOB ASSIGNMENTS OF CORRECTIONAL STAFF, THE RATIO OF STAFF TO INMATES AT THE FACILITY AND THE STAFF POSITION VACANCY RATE AT THE FACILITY.
8. PHYSICAL AND SEXUAL ASSAULTS AT THE FACILITY THAT OCCURRED SINCE THE LAST INSPECTION. FOR THE INITIAL ASSESSMENT, THE OFFICE SHALL REVIEW ASSAULTS THAT OCCURRED DURING THE PREVIOUS THREE YEARS.
9. INMATE OR STAFF DEATHS THAT OCCURRED AT THE FACILITY SINCE THE LAST INSPECTION. FOR THE INITIAL ASSESSMENT, THE OFFICE SHALL REVIEW INMATE AND STAFF DEATHS THAT OCCURRED DURING THE PREVIOUS THREE YEARS.
10. DEPARTMENT STAFF RECRUITMENT, TRAINING, SUPERVISION AND DISCIPLINE.
11. THE AVAILABILITY OF COMPLAINT AND GRIEVANCE FORMS AT A FACILITY AND THE ACCESSIBILITY OF THE ADMINISTRATIVE REMEDIES PROCESS TO INMATES AND INMATE REPRESENTATIVES.
12. ANY OTHER ASPECT OF FACILITY OPERATIONS THAT THE OFFICE DEEMS NECESSARY OVER THE COURSE OF AN INSPECTION OR THAT RELATES TO A COVERED ISSUE.
OF CORRECTIONS AND PROVIDE A COPY OF THIS REPORT TO THE SECRETARY OF STATE. THE REPORT MUST INCLUDE:

1. A SUMMARY OF THE FACILITY'S POLICIES AND PROCEDURES RELATING TO INMATE CARE.
2. A DESCRIPTION OF THE CONDITIONS OF CONFINEMENT.
3. A CATALOGUE OF AVAILABLE EDUCATIONAL AND REHABILITATIVE PROGRAMMING, DRUG AND MENTAL HEALTH TREATMENT AND INMATE JOBS AND VOCATIONAL TRAINING.
4. A SUMMARY OF VISITATION POLICIES AND PROCEDURES.
5. A SUMMARY OF MEDICAL FACILITIES AND MEDICAL PROCEDURES AND POLICIES.
6. A SUMMARY OF THE LOCKDOWNS REVIEWED BY THE OFFICE.
7. A SUMMARY OF FACILITY STAFFING, INCLUDING POLICIES RELATING TO STAFF RECRUITMENT, TRAINING, SUPERVISION AND DISCIPLINE.
8. A SUMMARY OF PHYSICAL AND SEXUAL ASSAULTS THAT OCCURRED AT THE FACILITY AND THAT WERE REVIEWED BY THE OFFICE.
9. A SUMMARY OF INMATE OR STAFF DEATHS THAT OCCURRED AT THE FACILITY.
11. RECOMMENDATIONS FOR IMPROVING CONDITIONS AND SAFETY WITHIN THE FACILITY.
12. A SAFETY AND COMPLIANCE CLASSIFICATION WITH A RECOMMENDED TIMELINE FOR THE NEXT INSPECTION.

D. AFTER COMPLETING AN INSPECTION, THE OFFICE SHALL ASSIGN THE FACILITY A SAFETY AND COMPLIANCE CLASSIFICATION. THE OFFICE SHALL ESTABLISH A CLASSIFICATION SYSTEM THAT CONSISTS OF THE FOLLOWING THREE TIERS AND THAT IS DETERMINED BASED ON THE FACTORS DESCRIBED IN SUBSECTION B OF THIS SECTION:

1. TIER ONE, WHICH REQUIRES SUBSEQUENT INSPECTION WITHIN TWELVE MONTHS. THE OFFICE MUST ASSIGN TIER ONE TO MAXIMUM SECURITY FACILITIES AND FACILITIES THAT PRESENT CLEAR VIOLATIONS OF RIGHTS, RISKS TO INMATE SAFETY OR SEVERE LACK OF QUALITY PROGRAMMING FOR SUCCESSFUL INMATE REHABILITATION.
2. TIER TWO, WHICH REQUIRES SUBSEQUENT INSPECTION BETWEEN EIGHTEEN MONTHS AND THIRTY-SIX MONTHS. THE OFFICE MUST ASSIGN TIER TWO TO FACILITIES THAT MAY HAVE VIOLATIONS OF RIGHTS, SUBSTANDARD CONDITIONS OF CONFINEMENT OR SUBSTANDARD PROGRAMMING OPTIONS.
3. TIER THREE, WHICH REQUIRES SUBSEQUENT INSPECTION WITHIN THIRTY-SIX MONTHS. THE OFFICE MUST ASSIGN TIER THREE TO FACILITIES THAT HAVE ADEQUATE CONDITIONS OF CONFINEMENT AND PROGRAMMING OPTIONS.

E. THE DEPARTMENT SHALL RESPOND IN WRITING TO EACH INSPECTION REPORT ISSUED BY THE OFFICE WITHIN TWENTY BUSINESS DAYS AFTER THE REPORT.
IS ISSUED. THE DEPARTMENT'S RESPONSE MUST INCLUDE A CORRECTIVE ACTION PLAN. THE OFFICE SHALL MONITOR THE DEPARTMENT'S COMPLIANCE WITH THE CORRECTIVE ACTION PLAN AND MAY CONDUCT FURTHER INSPECTIONS OR INVESTIGATIONS AS NECESSARY TO MONITOR COMPLIANCE.

41-2107. Authority to investigate complaints; prohibited investigations

A. THE OFFICE MAY INITIATE AND ATTEMPT TO RESOLVE AN INVESTIGATION ON ITS OWN INITIATIVE OR AFTER RECEIVING A COMPLAINT FROM AN INMATE, FAMILY MEMBER, INMATE REPRESENTATIVE, DEPARTMENT EMPLOYEE OR CONTRACTOR OR OTHER PERSON REGARDING ANY OF THE FOLLOWING THAT MAY ADVERSELY AFFECT INMATE HEALTH, SAFETY, WELFARE AND RIGHTS:

1. ABUSE OR NEGLECT.
2. CONDITIONS OF CONFINEMENT.
3. DEPARTMENT DECISIONS OR ADMINISTRATIVE ACTIONS.
4. DEPARTMENT INACTIONS OR OMISSIONS.
5. DEPARTMENT POLICIES, RULES OR PROCEDURES.
6. ALLEGED VIOLATIONS OF LAW BY DEPARTMENT STAFF THAT MAY ADVERSELY AFFECT INMATE HEALTH, SAFETY, WELFARE AND RIGHTS.

B. THE OFFICE MAY DECLINE TO INVESTIGATE ANY COMPLAINT. THE OFFICE SHALL INFORM THE INMATE THAT THE INMATE IS ENTITLED TO USE THE DEPARTMENT'S POLICIES REGARDING RESOLUTION OF INMATE GRIEVANCES AND SHALL PROVIDE INFORMATION AND A COMPLETE SET OF FORMS TO THE INMATE TO COMPLETE THE RESOLUTION OF INMATE GRIEVANCES. THE DEPARTMENT SHALL TOLL ANY PROCEDURAL DEADLINES FOR FILING A GRIEVANCE AND THE ADMINISTRATIVE REMEDY PROCESS TIME FRAMES DO NOT BEGIN UNTIL FIVE BUSINESS DAYS AFTER THE INMATE HAS RECEIVED THE INFORMATION AND FORMS FROM THE OFFICE BY INMATE LEGAL MAIL PROCESS. THE OFFICE SHALL DECLINE TO INVESTIGATE A COMPLAINT IF THE INMATE HAS FAILED TO FIRST USE THE DEPARTMENT'S POLICIES REGARDING RESOLUTION OF INMATE GRIEVANCES UNLESS THE INMATE PROVIDES EVIDENCE THAT THE COMPLAINT IS LEGITIMATE AND THE INMATE HAS MADE A GOOD FAITH ATTEMPT TO EXHAUST THE ADMINISTRATIVE REMEDY PROCESS AND WAS IMPEDED OR PROCEDURALLY DEFAULTED BY NO FAULT OF THE INMATE.

C. IF THE OFFICE FINDS THAT INMATES REPEATEDLY ASSERT THEIR INABILITY TO USE THE ADMINISTRATIVE REMEDY PROCESS DESPITE THE INMATES' GOOD FAITH EFFORTS, THE OFFICE MAY CONDUCT AN UNANNOUNCED INSPECTION OF THE FACILITY WHERE THE ISSUES ARE OCCURRING TO DETERMINE WHETHER THE FACILITY IS MAKING THE ADMINISTRATIVE PROCESS AND GRIEVANCE FORMS ACCESSIBLE TO INMATES.


E. THE OFFICE'S ACTION OR LACK OF ACTION ON A COMPLAINT MAY NOT BE DEEMED AN ADMINISTRATIVE PROCEDURE REQUIRED FOR EXHAUSTION OF REMEDIES BEFORE BRINGING AN ACTION PURSUANT TO 42 UNITED STATES CODE SECTION 1997e OR FILING A NOTICE OF CLAIM THAT IS REQUIRED BY SECTION 12-821.01.
F. THE OFFICE MAY NOT INVESTIGATE EITHER OF THE FOLLOWING COMPLAINTS:

1. A COMPLAINT THAT RELATES TO AN INMATE’S UNDERLYING CRIMINAL CONVICTION.

2. A COMPLAINT FROM A DEPARTMENT EMPLOYEE OR CONTRACTOR THAT RELATES TO THE EMPLOYEE’S OR CONTRACTOR’S EMPLOYMENT RELATIONSHIP WITH THE DEPARTMENT UNLESS THE COMPLAINT RELATES TO INMATE HEALTH, SAFETY, WELFARE OR REHABILITATION.

G. THE OFFICE MAY REFER THE COMPLAINANT AND OTHERS TO APPROPRIATE RESOURCES OR STATE, TRIBAL OR FEDERAL AGENCIES.

H. THE OFFICE MAY NOT LEVY ANY FEES FOR THE SUBMISSION OR INVESTIGATION OF COMPLAINTS.


1. CONSIDER THE MATTER FURTHER.

2. MODIFY OR CANCEL ANY ACTION.

3. ALTER A RULE, PRACTICE OR RULING.

4. EXPLAIN IN DETAIL THE ADMINISTRATIVE ACTION IN QUESTION.

5. RECTIFY AN OMISSION.

J. ON THE REQUEST OF THE OFFICE, THE DEPARTMENT, WITHIN THE TIME SPECIFIED, SHALL INFORM THE OFFICE IN WRITING ABOUT ANY ACTION TAKEN ON THE RECOMMENDATIONS OR THE REASONS FOR NOT COMPLYING WITH THE RECOMMENDATIONS.


L. IF THE DEPARTMENT CONDUCTS AN INTERNAL DISCIPLINARY INVESTIGATION AND REVIEW OF ONE OR MORE DEPARTMENT STAFF MEMBERS AS A RESULT OF AN OFFICE INVESTIGATION, THE DEPARTMENT’S DISCIPLINARY REVIEW MAY BE SUBJECT TO ADDITIONAL REVIEW AND INVESTIGATION BY THE OFFICE TO ENSURE A FAIR AND OBJECTIVE PROCESS.

M. BEFORE ANNOUNCING A CONCLUSION OR RECOMMENDATION THAT EXPRESSLY OR IMPLICITLY CRITICIZES A PERSON OR THE DEPARTMENT, THE OFFICE SHALL CONSULT WITH THAT PERSON OR THE DEPARTMENT. THE OFFICE MAY REQUEST TO BE NOTIFIED BY THE DEPARTMENT, WITHIN A SPECIFIED TIME, OF ANY ACTION TAKEN ON ANY RECOMMENDATION PRESENTED.
N. The department and the department's employees and contractors may not discharge, retaliate against or in any manner discriminate against any person because that person filed a complaint or instituted or caused to be instituted a proceeding under or relating to this section.

O. The office may consider any alleged discharge, retaliation against or discrimination against a complainant to be an appropriate subject of an investigation.

P. Any department employee or contractor who believes that the employee or contractor has been discharged or otherwise discriminated against by any person in violation of this section, within thirty days after the violation occurs, may file a complaint with the industrial commission of Arizona and is entitled to pursue and receive the remedies provided in Title 23.

41-2108. Annual report

A. By December 31 of each year, the office shall prepare and publish an annual report, make the report available to the public on the internet and deliver the report to the governor, the attorney general, the president of the senate, the speaker of the house of representatives, the correctional oversight committee and the director of the state department of corrections and provide a copy of the report to the secretary of state. The annual report must include:

1. A summary of the office's inspections and complaint investigations conducted that calendar year, including the office's findings and recommendations and the department's responses and corrective actions.

2. A characterization of the conditions of confinement.

3. A summary of available educational and rehabilitative programming, drug and mental health treatment and inmate jobs and vocational training.

4. A summary of visitation policies and procedures.

5. A summary of medical facilities and medical procedures and policies.

6. A summary of the lockdowns reviewed by the office.

7. A summary of the staffing at each facility and in the department overall.

8. A summary of physical and sexual assaults reviewed by the office.

9. A summary of inmate or staff deaths that occurred at a facility.

10. A summary of the office's investigations, findings and resolutions of any complaints.

11. Recommendations to the legislature and the department regarding the following:

   (a) How the office and the department are funded and staffed.

   (b) Improving staff retention, training, working conditions, compensation, benefits, morale and safety.
(c) Improving inmate health, safety, conditions of confinement, medical care and mental health care.
(d) Improving visitation and limiting lockdowns and administrative segregation or solitary confinement.
(e) Improving complaint investigation and resolution and the department's administrative remedies process.
(f) Improving access to and quality and availability of educational and rehabilitative programming, drug and mental health treatment and inmate jobs and vocational training.
(g) Improving transparency about conditions in the facilities and the department overall.
(h) Improving the disciplinary process to hold staff accountable for mistreatment of inmates.
(i) Preventing future violations of inmate rights that are protected under state and federal law.
(ii) Improving facilities, including any necessary capital improvements and repairs.

B. On the request of the office, the department, within the time specified, shall inform the office in writing about any action taken on the recommendations or the reasons for not complying with the recommendations.

41-2109. Inmate and family member complaint forms; hotline
A. The office shall create the following secure online forms:
   1. The family form, which is made available on the office's website and which allows family members, friends and advocates to submit complaints and make inquiries regarding covered issues on behalf of an inmate.
   2. The inmate form, which is made available in paper form and on the department's secure intranet network and to which inmates may submit complaints and inquiries regarding covered issues on the inmate's own behalf.

B. The director of the state department of corrections shall ensure that the inmate form is available and operating on at least twelve computers within each facility and is accessible to all inmates from 7:00 a.m. to 7:00 p.m. each day. For inmates in administrative segregation or solitary confinement, the department shall ensure that department employees and contractors provide inmates with access to paper copies of the inmate form or the online form on a computer or computer tablet on the inmate's request. The department shall make paper copies of the inmate form available, at no cost to inmates, in each facility's library, law library and recreational and medical facilities and shall ensure that an adequate supply of forms are available.

C. The office shall create the inmate form in a secure format that excludes any electronic monitoring or reproduction by the department and the department's employees and contractors. Department employees and

D. THE OFFICE SHALL CREATE A TELEPHONE HOTLINE THAT FAMILY MEMBERS, FRIENDS AND ADVOCATES OF INMATES CAN CALL TO FILE COMPLAINTS AND MAKE INQUIRIES REGARDING COVERED ISSUES ON BEHALF OF AN INMATE.

E. THE OFFICE SHALL CREATE A SECURE TELEPHONE HOTLINE THAT IS AVAILABLE TO ALL DEPARTMENT EMPLOYEES, CONTRACTORS AND INMATES TO FILE COMPLAINTS AND MAKE INQUIRIES REGARDING COVERED ISSUES ON THEIR BEHALF. THE OFFICE SHALL ENSURE THAT THE TELEPHONE HOTLINE IS WORKING AND IS PROPERLY MONITORED BY PERFORMING RANDOM CALLS TO THE TELEPHONE HOTLINE EACH MONTH. THE DIRECTOR OF THE STATE DEPARTMENT OF CORRECTIONS SHALL ENSURE THAT THE SECURE TELEPHONE HOTLINE AND THE HOTLINE'S USE ARE MADE AVAILABLE TO ALL INMATES FREE OF CHARGE. THE OFFICE AND THE DIRECTOR OF THE STATE DEPARTMENT OF CORRECTIONS SHALL ENSURE THAT CALLS TO THE SECURE TELEPHONE HOTLINE ARE NOT MONITORED OR RECORDED BY DEPARTMENT EMPLOYEES OR CONTRACTORS.

F. ON RECEIVING A COMPLAINT OR INQUIRY FROM A FAMILY FORM, AN INMATE FORM OR A HOTLINE, THE OFFICE SHALL DO ALL OF THE FOLLOWING:

1. CONFIRM RECEIPT OF THE COMPLAINT OR INQUIRY WITHIN FIVE BUSINESS DAYS.

2. DETERMINE WHETHER AN INVESTIGATION IS WARRANTED WITHIN SEVEN BUSINESS DAYS AFTER CONFIRMING RECEIPT OF THE COMPLAINT AND NOTIFY THE COMPLAINANT.

3. IF THE OFFICE DETERMINES AN INVESTIGATION IS UNWARRANTED, PROVIDE A WRITTEN STATEMENT REGARDING ITS DECISION TO THE COMPLAINANT.

G. THE DEPARTMENT AND THE DEPARTMENT'S EMPLOYEES AND CONTRACTORS MAY NOT DISCHARGE, RETALIATE AGAINST OR IN ANY MANNER DISCRIMINATE AGAINST ANY PERSON BECAUSE THAT PERSON HAS FILED A COMPLAINT OR INSTITUTED OR CAUSED TO BE INSTITUTED ANY PROCEEDING UNDER OR RELATING TO THIS SECTION.

H. THE OFFICE MAY CONSIDER ANY ALLEGED DISCHARGE, RETALIATION AGAINST OR DISCRIMINATION AGAINST A COMPLAINANT TO BE AN APPROPRIATE SUBJECT OF AN INVESTIGATION.

I. A DEPARTMENT EMPLOYEE OR CONTRACTOR WHO BELIEVES THAT THE EMPLOYEE OR CONTRACTOR HAS BEEN DISCHARGED OR OTHERWISE DISCRIMINATED AGAINST BY ANY PERSON IN VIOLATION OF THIS SECTION, WITHIN THIRTY DAYS AFTER THE VIOLATION OCCURS, MAY FILE A COMPLAINT WITH THE INDUSTRIAL COMMISSION OF ARIZONA AND IS ENTITLED TO PURSUE AND RECEIVE THE REMEDIES PROVIDED IN TITLE 23.
J. THE OFFICE’S ACTION OR LACK OF ACTION ON A COMPLAINT MADE PURSUANT TO THIS SECTION IS NOT DEEMED AN ADMINISTRATIVE PROCEDURE REQUIRED FOR EXHAUSTION OF REMEDIES BEFORE BRINGING AN ACTION PURSUANT TO 42 UNITED STATES CODE SECTION 1997e OR FILING A NOTICE OF CLAIM PURSUANT TO SECTION 12-821.01.

Sec. 2. Title 41, chapter 27, article 2, Arizona Revised Statutes, is amended by adding section 41-3031.01, to read:

41-3031.01. Office of the independent corrections ombudsman; termination July 1, 2031

A. THE OFFICE OF THE INDEPENDENT CORRECTIONS OMBUDSMAN TERMINATES ON JULY 1, 2031.

B. TITLE 41, CHAPTER 16 AND THIS SECTION ARE REPEALED ON JANUARY 1, 2032.

Sec. 3. Initial terms of the members of the correctional oversight committee

A. Notwithstanding section 41-2103, Arizona Revised Statutes, as added by this act, the initial terms of committee members who are appointed pursuant to section 41-2103, subsection A, paragraph 3, Arizona Revised Statutes, as added by this act, are:

1. Two terms ending January 1, 2023.
2. Two terms ending January 1, 2024.
3. Three terms ending January 1, 2025.

B. The governor shall make all subsequent appointments as prescribed by statute.

Sec. 4. Purpose

Pursuant to section 41-2955, subsection E, Arizona Revised Statutes, the legislature establishes the office of the independent corrections ombudsman to conduct inspections, investigate complaints and recommend improvements regarding the state department of corrections.

Sec. 5. Appropriations; office of the independent corrections ombudsman; correctional oversight committee; exemption

A. The sum of $1,500,000 is appropriated from the state general fund in each of fiscal years 2021-2022, 2022-2023, 2023-2024, 2024-2025 and 2025-2026 to the office of the independent corrections ombudsman for expenses relating to the correctional oversight committee established by section 41-2103, Arizona Revised Statutes, as added by this act, and for the office of the independent corrections ombudsman.

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