

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  
ADDING SECTION 41-3031.01; APPROPRIATING MONIES; RELATING TO PRISONERS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Title 41, Arizona Revised Statutes, is amended by adding  
3 chapter 16, to read:

4 CHAPTER 16

5 OFFICE OF THE INDEPENDENT CORRECTIONS OMBUDSMAN

6 ARTICLE 1. GENERAL PROVISIONS

7 41-2101. Definitions

8 IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

9 1. "COVERED ISSUES" INCLUDES:

- 10 (a) SANITATION IN PRISON FACILITIES.
- 11 (b) ACCESS TO PROPER NUTRITION AND A CLEAN AND ADEQUATE WATER  
12 SUPPLY.
- 13 (c) LIVABLE TEMPERATURES IN PRISON FACILITIES.
- 14 (d) PHYSICAL OR SEXUAL ABUSE FROM FELLOW INMATES.
- 15 (e) PHYSICAL OR SEXUAL ABUSE FROM DEPARTMENT STAFF OR CONTRACTORS.
- 16 (f) CREDIBLE THREATS AGAINST AN INMATE FROM OTHER INMATES, PRISON  
17 STAFF OR CONTRACTORS.
- 18 (g) NEGLECT OF PRISON STAFF OR CONTRACTORS THAT RESULTS IN PHYSICAL  
19 OR SEXUAL TRAUMA.
- 20 (h) DENIAL OF RIGHTS AFFORDED TO INMATES UNDER FEDERAL OR STATE  
21 LAW.
- 22 (i) ACCESS TO VISITATION AND COMMUNICATION WITH FAMILY AND LEGAL  
23 REPRESENTATION.
- 24 (j) ANY INSTANCE IN WHICH THE OFFICE DETERMINES AN ACTION OR  
25 BEHAVIOR TO BE SUCH THAT IT CONSTITUTES ABUSE OR NEGLECT AGAINST AN  
26 INMATE.
- 27 (k) ACCESS TO MEDICAL OR MENTAL HEALTH CARE OR SUBSTANCE ABUSE  
28 TREATMENT.
- 29 (l) ACCESS TO EDUCATIONAL AND REHABILITATIVE PROGRAMMING, DRUG AND  
30 MENTAL HEALTH TREATMENT AND INMATE JOBS AND VOCATIONAL TRAINING.
- 31 (m) ACCESS TO THE DEPARTMENT'S ADMINISTRATIVE REMEDIES PROCESS FOR  
32 INMATES AND INMATE REPRESENTATIVES, INCLUDING THE AVAILABILITY OF  
33 COMPLAINT AND GRIEVANCE FORMS AND THE TIMELY AND UNBIASED RESOLUTION OF  
34 GRIEVANCES.
- 35 (n) ADEQUATE AND QUALIFIED STAFF IN EACH FACILITY.
- 36 (o) CAPITAL IMPROVEMENTS OR REPAIRS THAT MAY BE NEEDED FOR  
37 FACILITIES.
- 38 2. "DEPARTMENT" MEANS THE STATE DEPARTMENT OF CORRECTIONS.
- 39 3. "FAMILY MEMBER" INCLUDES AN INMATE'S GRANDPARENT, PARENT,  
40 SIBLING, SPOUSE, DOMESTIC PARTNER, CHILD, GRANDCHILD, AUNT, UNCLE, COUSIN,  
41 NIECE OR NEPHEW OR ANY OTHER PERSON WHO IS RELATED TO THE INMATE BY BLOOD,  
42 ADOPTION, MARRIAGE OR A FOSTERING RELATIONSHIP.
- 43 4. "GOOD CAUSE" MEANS A VIOLATION OF A FEDERAL OR STATE LAW, PUBLIC  
44 CORRUPTION, FRAUD, DERELICTION OF DUTY OR ABUSE OF OFFICE.

1           5. "OFFICE" MEANS THE OFFICE OF THE INDEPENDENT CORRECTIONS  
2 OMBUDSMAN.

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

8           41-2102. Office of the independent corrections ombudsman;  
9                                   powers and duties

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

13          B. THE OFFICE SHALL:

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

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

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

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

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

28           (a) DEATHS, SUICIDES AND SUICIDE ATTEMPTS IN CUSTODY.

29           (b) PHYSICAL AND SEXUAL ASSAULTS IN CUSTODY.

30           (c) THE NUMBER OF INMATES WHO ARE PLACED IN ADMINISTRATIVE  
31 SEGREGATION OR SOLITARY CONFINEMENT AND THE DURATION OF STAY IN THAT  
32 CONFINEMENT.

33           (d) THE NUMBER OF FACILITY LOCKDOWNS THAT LAST LONGER THAN  
34 TWENTY-FOUR HOURS.

35           (e) THE NUMBER OF STAFF, STAFF VACANCIES AND INMATES AT EACH  
36 FACILITY.

37           (f) INMATE TO STAFF RATIOS AT EACH FACILITY.

38           (g) STAFF TENURE, TURNOVER AND COMPENSATION.

39           (h) THE NUMBER OF IN-PERSON VISITS TO INMATES THAT WERE MADE AND  
40 DENIED AT EACH FACILITY.

41           (i) THE NUMBER OF INMATE COMPLAINTS OR GRIEVANCES THAT WERE  
42 SUBMITTED TO THE DEPARTMENT, THE DEPARTMENT'S RESOLUTION OF THE COMPLAINT  
43 OR GRIEVANCE PURSUANT TO THE ADMINISTRATIVE REMEDIES PROCESS AND THE  
44 AMOUNT OF TIME THAT IT TOOK THE DEPARTMENT TO RESOLVE EACH COMPLAINT OR  
45 GRIEVANCE.

- 1 (j) ANY OTHER COVERED ISSUE.
- 2 6. ESTABLISH PROCEDURES TO GATHER STAKEHOLDER INPUT INTO THE
- 3 OFFICE'S ACTIVITIES AND PRIORITIES, INCLUDING, AT A MINIMUM, AN ANNUAL
- 4 THIRTY-DAY PERIOD FOR RECEIPT OF AND OFFICE RESPONSE TO PUBLIC COMMENT.
- 5 7. INSPECT EACH FACILITY AT LEAST ONCE EVERY TWO YEARS AND AT LEAST
- 6 ONCE EACH YEAR FOR EACH MAXIMUM SECURITY FACILITY AND EACH FACILITY WHERE
- 7 THE OFFICE HAS FOUND CAUSE FOR MORE FREQUENT INSPECTION OR MONITORING.
- 8 8. PUBLICLY ISSUE PERIODIC FACILITY INSPECTION REPORTS, AN ANNUAL
- 9 REPORT WITH RECOMMENDATIONS ON FACILITIES AND A SUMMARY OF DATA AND
- 10 RECOMMENDATIONS ARISING FROM ANY COMPLAINTS INVESTIGATED AND RESOLVED AND
- 11 ANY OTHER THEMATIC REPORTS COVERING ANY TOPIC THE OFFICE FINDS RELEVANT TO
- 12 RUNNING A SAFE, SECURE AND HUMANE CORRECTIONS DEPARTMENT.
- 13 9. MONITOR AND DOCUMENT CAPITAL IMPROVEMENTS THAT ARE NEEDED TO
- 14 FACILITIES AND REVIEW AND REPORT ON THE DEPARTMENT'S IMPLEMENTATION OF THE
- 15 NEEDED IMPROVEMENTS, INCLUDING THE AMOUNT OF MONIES NEEDED AND
- 16 EXPENDITURES MADE FOR THE IMPROVEMENTS.
- 17 10. REVIEW, MONITOR AND REPORT ON THE DEPARTMENT'S ADMINISTRATIVE
- 18 REMEDIES PROCESS, INCLUDING THE AVAILABILITY OF COMPLAINT AND GRIEVANCE
- 19 FORMS AT FACILITIES, THE ACCESSIBILITY OF THE PROCESS TO INMATES AND
- 20 INMATE REPRESENTATIVES AT EACH FACILITY AND THE TIMELY AND UNBIASED
- 21 RESOLUTION OF COMPLAINTS OR GRIEVANCES BY THE DEPARTMENT.
- 22 C. THE OMBUDSMAN WHO IS SELECTED PURSUANT TO SECTION 41-2103 SHALL
- 23 DIRECT THE OFFICE. THE OMBUDSMAN SERVES A TERM OF SIX YEARS, DURING WHICH
- 24 TERM THE OMBUDSMAN MAY BE REMOVED EITHER BY THE GOVERNOR OR BY A MAJORITY
- 25 VOTE OF THE CORRECTIONAL OVERSIGHT COMMITTEE MEMBERS. THE OMBUDSMAN MAY BE
- 26 REMOVED ONLY FOR GOOD CAUSE. THE OMBUDSMAN MAY NOT SERVE MORE THAN TWO
- 27 CONSECUTIVE TERMS. A PARTIAL TERM IS CONSIDERED A FULL TERM WHEN COUNTING
- 28 THE NUMBER OF CONSECUTIVE TERMS THAT THE OMBUDSMAN MAY SERVE. THE
- 29 OMBUDSMAN MAY NOT BE A CURRENT OR FORMER DEPARTMENT EMPLOYEE OR
- 30 CONTRACTOR, AND THE OMBUDSMAN'S SPOUSE OR DOMESTIC PARTNER, PARENTS,
- 31 GRANDPARENTS, CHILDREN OR SIBLINGS MAY NOT BE CURRENT DEPARTMENT EMPLOYEES
- 32 OR CONTRACTORS.
- 33 D. THE OMBUDSMAN MAY:
- 34 1. HIRE STAFF, CONTRACTORS AND UNPAID VOLUNTEERS AND SECURE OFFICE
- 35 SPACE, EQUIPMENT AND OTHER SERVICES NECESSARY TO CARRY OUT THE DUTIES OF
- 36 THE OFFICE. ANY EMPLOYEE, CONTRACTOR OR UNPAID VOLUNTEER WHO IS HIRED OR
- 37 RETAINED BY THE OFFICE HAS THE SAME AUTHORITY AND DUTIES OF THE OFFICE
- 38 DESCRIBED IN THIS ARTICLE.
- 39 2. CONTRACT WITH EXPERTS AS NEEDED TO ASSIST IN MONITORING AND
- 40 INSPECTING FACILITIES, ASSESSING DATA AND REVIEWING, INVESTIGATING OR
- 41 RESOLVING COMPLAINTS.
- 42 E. SUBJECT TO THE CONFIDENTIALITY REQUIREMENTS PRESCRIBED IN
- 43 SECTION 41-2103, SUBSECTION L AND SECTION 41-2104, SUBSECTION B, THE
- 44 OMBUDSMAN SHALL:
- 45 1. ATTEND EACH HEARING CONDUCTED BY THE CORRECTIONAL OVERSIGHT

1 COMMITTEE AND PROVIDE ANY TESTIMONY, DOCUMENTS, DATA OR INFORMATION  
2 REQUESTED BY COMMITTEE MEMBERS.

3 2. AT LEAST ONCE EACH QUARTER, MEET WITH EACH OF THE FOLLOWING TO  
4 REPORT ON THE WORK AND FINDINGS OF THE OMBUDSMAN'S OFFICE:

5 (a) THE MEMBERS OF THE CORRECTIONAL OVERSIGHT COMMITTEE.

6 (b) THE GOVERNOR.

7 (c) THE DIRECTOR OF THE DEPARTMENT.

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

11 41-2103. Correctional oversight committee; members; ombudsman  
12 appointment; public hearings; voting requirements;  
13 quorum; subpoena enforcement

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

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

19 2. TWO MEMBERS OF THE HOUSE OF REPRESENTATIVES WHO ARE NOT MEMBERS  
20 OF THE SAME POLITICAL PARTY. THE SPEAKER OF THE HOUSE OF REPRESENTATIVES  
21 SHALL SELECT ONE MEMBER AND THE HOUSE OF REPRESENTATIVES MINORITY LEADER  
22 SHALL SELECT ONE MEMBER.

23 3. THE FOLLOWING MEMBERS WHO ARE APPOINTED BY THE GOVERNOR:

24 (a) ONE MEMBER WHO REPRESENTS AN INMATE ADVOCACY ORGANIZATION.

25 (b) ONE MEMBER WHO REPRESENTS AN ORGANIZATION THAT PROVIDES INMATE  
26 TRAINING OR REHABILITATION PROGRAMS.

27 (c) ONE MALE MEMBER OF THE GENERAL PUBLIC WHO WAS PREVIOUSLY  
28 INCARCERATED IN THE DEPARTMENT.

29 (d) ONE FEMALE MEMBER OF THE GENERAL PUBLIC WHO WAS PREVIOUSLY  
30 INCARCERATED IN THE DEPARTMENT.

31 (e) ONE MEMBER WHO IS A PHYSICIAN LICENSED PURSUANT TO TITLE 32,  
32 CHAPTER 13 OR 17 AND WHO SPECIALIZES IN FAMILY MEDICINE OR INTERNAL  
33 MEDICINE.

34 (f) ONE MEMBER WHO IS A MENTAL OR BEHAVIORAL HEALTH PROFESSIONAL,  
35 WHO IS LICENSED PURSUANT TO TITLE 32, CHAPTER 19.1 OR 33 AND WHO HAS A  
36 HISTORY OF PROVIDING MENTAL HEALTH SERVICES OR COUNSELING TO ADULTS.

37 (g) ONE MEMBER WHO IS A GRANDPARENT, PARENT, CHILD, SIBLING, SPOUSE  
38 OR DOMESTIC PARTNER OF A CURRENT INMATE IN A FACILITY.

39 (h) ONE MEMBER WHO IS RECOMMENDED BY THE ARIZONA CORRECTIONAL PEACE  
40 OFFICERS ASSOCIATION. THIS MEMBER IS A NONVOTING MEMBER.

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

43 1. SERVE THREE-YEAR TERMS AND MAY NOT SERVE MORE THAN TWO  
44 CONSECUTIVE TERMS.

1           2. MAY NOT BE CURRENT DEPARTMENT EMPLOYEES OR CONTRACTORS OR HAVE  
2 BEEN EMPLOYED BY OR CONTRACTED WITH THE DEPARTMENT FOR AT LEAST TEN YEARS  
3 BEFORE APPOINTMENT.

4           3. MAY NOT HAVE PARENTS, CHILDREN, SPOUSES OR DOMESTIC PARTNERS WHO  
5 ARE CURRENT DEPARTMENT EMPLOYEES OR CONTRACTORS UNLESS SPECIFICALLY  
6 ALLOWED BY LAW.

7           C. MEMBERS WHO ARE APPOINTED PURSUANT TO SUBSECTION A, PARAGRAPH 3,  
8 SUBDIVISIONS (a) AND (b) OF THIS SECTION MAY NOT BE EMPLOYED BY OR  
9 REPRESENT AN ORGANIZATION WITH AN ACTIVE SERVICE AGREEMENT WITH OR  
10 FINANCIAL INTEREST IN THE DEPARTMENT OR OTHERWISE PROVIDE FOR-PROFIT  
11 SERVICES TO INMATES OR FAMILY MEMBERS.

12           D. ONE MEMBER WHO IS APPOINTED PURSUANT TO SUBSECTION A, PARAGRAPH  
13 1 OF THIS SECTION AND ONE MEMBER WHO IS APPOINTED PURSUANT TO SUBSECTION  
14 A, PARAGRAPH 2 OF THIS SECTION SHALL SERVE AS COCHAIRPERSONS. THE  
15 COCHAIRPERSONS MAY NOT BE FROM THE SAME POLITICAL PARTY.

16           E. THE COMMITTEE SHALL MEET QUARTERLY, WHEN THE OMBUDSMAN POSITION  
17 IS VACANT, AS THE COCHAIRPERSONS DEEM NECESSARY, ON THE REQUEST OF THE  
18 OMBUDSMAN TO FULFILL THE REQUIREMENTS OF SECTION 41-2102, SUBSECTION E AND  
19 ON THE CALL OF THE MAJORITY OF THE MEMBERS.

20           F. EXCEPT WHEN VOTING TO APPOINT THE OMBUDSMAN PURSUANT TO  
21 SUBSECTION H OF THIS SECTION, THE PRESENCE OF NINE MEMBERS OF THE  
22 COMMITTEE CONSTITUTES A QUORUM AND A MAJORITY VOTE OF THE MEMBERS PRESENT  
23 IS NECESSARY FOR THE COMMITTEE TO TAKE ACTION ON A MATTER.

24           G. COMMITTEE MEMBERS ARE NOT ELIGIBLE TO RECEIVE COMPENSATION BUT  
25 ARE ELIGIBLE FOR REIMBURSEMENT OF EXPENSES PURSUANT TO TITLE 38, CHAPTER  
26 4, ARTICLE 2.

27           H. THE COMMITTEE SHALL ANNOUNCE THE OMBUDSMAN NOMINEE PUBLICLY AND  
28 SHALL VOTE TO APPOINT THE NOMINEE AFTER HOLDING A PUBLIC HEARING, DURING  
29 WHICH THE COMMITTEE SHALL HEAR AND CONSIDER ORAL OR WRITTEN TESTIMONY FROM  
30 THE OMBUDSMAN NOMINEE, ANY WITNESSES THE OMBUDSMAN NOMINEE PRESENTS ON THE  
31 NOMINEE'S BEHALF AND ANY MEMBERS OF THE PUBLIC. THE OMBUDSMAN SHALL TAKE  
32 OFFICE ON A MAJORITY VOTE OF THE COMMITTEE MEMBER'S VOTING IN THE  
33 OMBUDSMAN'S FAVOR. TO VOTE FOR THE OMBUDSMAN, A QUORUM MUST BE PRESENT AND  
34 CONSIST OF AT LEAST ALL THE MEMBERS WHO ARE SELECTED PURSUANT TO  
35 SUBSECTION A, PARAGRAPHS 1 AND 2 OF THIS SECTION AND FIVE OF THE MEMBERS  
36 WHO ARE APPOINTED PURSUANT TO SUBSECTION A, PARAGRAPH 3 OF THIS SECTION.

37           I. THE COMMITTEE SHALL HOLD AT LEAST ONE PUBLIC HEARING EACH YEAR  
38 TO PRESENT, REVIEW AND DISCUSS THE OFFICE'S INSPECTIONS, FINDINGS, REPORTS  
39 AND RECOMMENDATIONS SET FORTH IN THE OFFICE'S ANNUAL REPORT PRESCRIBED IN  
40 SECTION 41-2108 AND SHALL HOLD QUARTERLY PUBLIC HEARINGS TO PRESENT,  
41 REVIEW AND DISCUSS ANY OTHER DATA, REPORTS OR FINDINGS OF THE OFFICE THAT  
42 THE COMMITTEE DEEMS RELEVANT.

43           J. THE COMMITTEE SHALL CONDUCT RANDOM BIENNIAL INSPECTIONS OF A  
44 FACILITY AND SHALL VISIT DIFFERENT FACILITIES ON EACH INSPECTION. THE  
45 COMMITTEE MAY NOT ANNOUNCE AN INSPECTION TO ANY INDIVIDUAL OR ENTITY

1 OUTSIDE OF THE COMMITTEE BEFORE THE INSPECTION OCCURS. THE DEPARTMENT  
2 SHALL ENSURE FULL ACCESS TO THE FACILITY, INMATES AND STAFF CONSISTENT  
3 WITH SECTION 41-2104 SUBSECTION A.

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

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

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

15 N. THE COMMITTEE MAY ISSUE SUBPOENAS TO THE DEPARTMENT FOR RECORDS,  
16 DOCUMENTS OR DATA IN THE DEPARTMENT'S POSSESSION AND FOR DEPARTMENT STAFF,  
17 CONTRACTORS OR REPRESENTATIVES TO APPEAR AND TESTIFY BEFORE THE COMMITTEE.  
18 AFTER A SUBPOENA IS SERVED AND, ON APPLICATION TO THE COURT, THE COMMITTEE  
19 MAY ENFORCE A SUBPOENA IN THE SAME MANNER PROVIDED BY LAW FOR THE SERVICE  
20 AND ENFORCEMENT OF A SUBPOENA IN A CIVIL ACTION. IF AN ENTITY FAILS TO  
21 COMPLY WITH A SUBPOENA, THE COMMITTEE MAY PURSUE ENFORCEMENT OF THE  
22 SUBPOENA IN A COURT OR REFER THE SUBPOENA TO THE SPEAKER OF THE HOUSE OF  
23 REPRESENTATIVES, THE PRESIDENT OF SENATE OR THE CHAIRMAN OF ANY COMMITTEE  
24 OF THE LEGISLATURE FOR ENFORCEMENT IN THE SAME MANNER AND SUBJECT TO THE  
25 SAME PENALTIES PRESCRIBED IN CHAPTER 7, ARTICLE 4 OF THIS TITLE.

26 41-2104. Office authority; access to department records and  
27 facilities; subpoena

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

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

39 2. CONDUCTING OFFICIAL INSPECTIONS AS PRESCRIBED IN SECTIONS  
40 41-2102 AND 41-2106.

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

43 B. WHEN ACCESSING INMATES, THE DEPARTMENT MUST GIVE THE OFFICE THE  
44 OPPORTUNITY TO MEET AND COMMUNICATE PRIVATELY AND CONFIDENTIALLY WITH  
45 INMATES REGULARLY, WITH OR WITHOUT PRIOR NOTICE, BOTH FORMALLY AND

1 INFORMALLY, BY TELEPHONE, MAIL AND ELECTRONIC COMMUNICATION AND IN PERSON.  
2 DEPARTMENT EMPLOYEES OR CONTRACTORS MAY NOT MONITOR, RECORD OR BE PRESENT  
3 WHEN THE OFFICE COMMUNICATES WITH INMATES. WITH CONSENT OF THE INMATE,  
4 MEMBERS OF THE OFFICE MAY RECORD MEETINGS WITH INMATES. AN OFFICE  
5 RECORDING OF AN INMATE IS CONFIDENTIAL AND IS NOT ACCESSIBLE TO A  
6 DEPARTMENT EMPLOYEE OR CONTRACTOR.

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

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

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

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

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

42 41-2105. Confidential communications

43 A. ALL CORRESPONDENCE AND COMMUNICATION WITH THE OFFICE OR  
44 COMMITTEE ARE CONFIDENTIAL AND PRIVILEGED.



1 B. THE OFFICE SHALL ESTABLISH CONFIDENTIALITY RULES AND PROCEDURES  
2 FOR ALL INFORMATION MAINTAINED BY THE OFFICE TO ENSURE THAT THE IDENTITY  
3 OF A COMPLAINANT REMAINS CONFIDENTIAL BEFORE, DURING AND AFTER AN  
4 INVESTIGATION TO THE GREATEST EXTENT PRACTICABLE. THE OFFICE MAY DISCLOSE  
5 A COMPLAINANT'S IDENTIFYING INFORMATION FOR THE SOLE PURPOSE OF CARRYING  
6 OUT AN INVESTIGATION.

7 41-2106. Inspection authority; report

8 A. THE OFFICE SHALL INSPECT EACH FACILITY AND RELEASE A PUBLIC  
9 REPORT WITHIN TWO YEARS AFTER THE EFFECTIVE DATE OF THIS SECTION. THE  
10 OFFICE SHALL CONDUCT SUBSEQUENT INSPECTIONS ON A STAGGERED SCHEDULE  
11 DEPENDING ON THE FACILITY'S SAFETY AND COMPLIANCE CLASSIFICATION.

12 B. DURING AN INSPECTION, THE OFFICE SHALL ASSESS OR REVIEW ALL OF  
13 THE FOLLOWING:

14 1. THE FACILITY'S POLICIES AND PROCEDURES THAT RELATE TO THE CARE  
15 OF INMATES.

16 2. THE CONDITIONS OF CONFINEMENT.

17 3. THE AVAILABILITY OF EDUCATIONAL AND REHABILITATIVE PROGRAMMING,  
18 DRUG AND MENTAL HEALTH TREATMENT AND INMATE JOBS AND VOCATIONAL TRAINING.

19 4. POLICIES AND PROCEDURES RELATING TO VISITATION.

20 5. MEDICAL FACILITIES AND MEDICAL PROCEDURES AND POLICIES.

21 6. LOCKDOWNS AT THE FACILITY THAT OCCURRED SINCE THE LAST  
22 INSPECTION. FOR THE INITIAL ASSESSMENT, THE OFFICE SHALL REVIEW LOCKDOWNS  
23 THAT OCCURRED DURING THE PREVIOUS THREE YEARS.

24 7. FACILITY STAFFING, INCLUDING THE NUMBER AND JOB ASSIGNMENTS OF  
25 CORRECTIONAL STAFF, THE RATIO OF STAFF TO INMATES AT THE FACILITY AND THE  
26 STAFF POSITION VACANCY RATE AT THE FACILITY.

27 8. PHYSICAL AND SEXUAL ASSAULTS AT THE FACILITY THAT OCCURRED SINCE  
28 THE LAST INSPECTION. FOR THE INITIAL ASSESSMENT, THE OFFICE SHALL REVIEW  
29 ASSAULTS THAT OCCURRED DURING THE PREVIOUS THREE YEARS.

30 9. INMATE OR STAFF DEATHS THAT OCCURRED AT THE FACILITY SINCE THE  
31 LAST INSPECTION. FOR THE INITIAL ASSESSMENT, THE OFFICE SHALL REVIEW  
32 INMATE AND STAFF DEATHS THAT OCCURRED DURING THE PREVIOUS THREE YEARS.

33 10. DEPARTMENT STAFF RECRUITMENT, TRAINING, SUPERVISION AND  
34 DISCIPLINE.

35 11. THE AVAILABILITY OF COMPLAINT AND GRIEVANCE FORMS AT A FACILITY  
36 AND THE ACCESSIBILITY OF THE ADMINISTRATIVE REMEDIES PROCESS TO INMATES  
37 AND INMATE REPRESENTATIVES.

38 12. ANY OTHER ASPECT OF FACILITY OPERATIONS THAT THE OFFICE DEEMS  
39 NECESSARY OVER THE COURSE OF AN INSPECTION OR THAT RELATES TO A COVERED  
40 ISSUE.

41 C. AFTER COMPLETING AN INSPECTION, THE OFFICE SHALL PREPARE AND  
42 PUBLISH A REPORT, MAKE THE REPORT AVAILABLE TO THE PUBLIC ON THE INTERNET  
43 AND SUBMIT THE REPORT TO THE GOVERNOR, THE ATTORNEY GENERAL, THE PRESIDENT  
44 OF THE SENATE, THE SPEAKER OF THE HOUSE OF REPRESENTATIVES, THE  
45 CORRECTIONAL OVERSIGHT COMMITTEE AND THE DIRECTOR OF THE STATE DEPARTMENT

1 OF CORRECTIONS AND PROVIDE A COPY OF THIS REPORT TO THE SECRETARY OF  
2 STATE. THE REPORT MUST INCLUDE:

3 1. A SUMMARY OF THE FACILITY'S POLICIES AND PROCEDURES RELATING TO  
4 INMATE CARE.

5 2. A DESCRIPTION OF THE CONDITIONS OF CONFINEMENT.

6 3. A CATALOGUE OF AVAILABLE EDUCATIONAL AND REHABILITATIVE  
7 PROGRAMMING, DRUG AND MENTAL HEALTH TREATMENT AND INMATE JOBS AND  
8 VOCATIONAL TRAINING.

9 4. A SUMMARY OF VISITATION POLICIES AND PROCEDURES.

10 5. A SUMMARY OF MEDICAL FACILITIES AND MEDICAL PROCEDURES AND  
11 POLICIES.

12 6. A SUMMARY OF THE LOCKDOWNS REVIEWED BY THE OFFICE.

13 7. A SUMMARY OF FACILITY STAFFING, INCLUDING POLICIES RELATING TO  
14 STAFF RECRUITMENT, TRAINING, SUPERVISION AND DISCIPLINE.

15 8. A SUMMARY OF PHYSICAL AND SEXUAL ASSAULTS THAT OCCURRED AT THE  
16 FACILITY AND THAT WERE REVIEWED BY THE OFFICE.

17 9. A SUMMARY OF INMATE OR STAFF DEATHS THAT OCCURRED AT THE  
18 FACILITY.

19 10. A SUMMARY OF THE AVAILABILITY OF COMPLAINT AND GRIEVANCE FORMS  
20 AT THE FACILITY, THE ACCESSIBILITY OF THE ADMINISTRATIVE REMEDIES PROCESS  
21 FOR INMATES AND INMATE REPRESENTATIVES AND THE FACILITY'S TIMELY AND  
22 UNBIASED RESOLUTION OF COMPLAINTS AND GRIEVANCES.

23 11. RECOMMENDATIONS FOR IMPROVING CONDITIONS AND SAFETY WITHIN THE  
24 FACILITY.

25 12. A SAFETY AND COMPLIANCE CLASSIFICATION WITH A RECOMMENDED  
26 TIMELINE FOR THE NEXT INSPECTION.

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

32 1. TIER ONE, WHICH REQUIRES SUBSEQUENT INSPECTION WITHIN TWELVE  
33 MONTHS. THE OFFICE MUST ASSIGN TIER ONE TO MAXIMUM SECURITY FACILITIES  
34 AND FACILITIES THAT PRESENT CLEAR VIOLATIONS OF RIGHTS, RISKS TO INMATE  
35 SAFETY OR SEVERE LACK OF QUALITY PROGRAMMING FOR SUCCESSFUL INMATE  
36 REHABILITATION.

37 2. TIER TWO, WHICH REQUIRES SUBSEQUENT INSPECTION BETWEEN EIGHTEEN  
38 MONTHS AND THIRTY-SIX MONTHS. THE OFFICE MUST ASSIGN TIER TWO TO  
39 FACILITIES THAT MAY HAVE VIOLATIONS OF RIGHTS, SUBSTANDARD CONDITIONS OF  
40 CONFINEMENT OR SUBSTANDARD PROGRAMMING OPTIONS.

41 3. TIER THREE, WHICH REQUIRES SUBSEQUENT INSPECTION WITHIN  
42 THIRTY-SIX MONTHS. THE OFFICE MUST ASSIGN TIER THREE TO FACILITIES THAT  
43 HAVE ADEQUATE CONDITIONS OF CONFINEMENT AND PROGRAMMING OPTIONS.

44 E. THE DEPARTMENT SHALL RESPOND IN WRITING TO EACH INSPECTION  
45 REPORT ISSUED BY THE OFFICE WITHIN TWENTY BUSINESS DAYS AFTER THE REPORT

1 IS ISSUED. THE DEPARTMENT'S RESPONSE MUST INCLUDE A CORRECTIVE ACTION  
2 PLAN. THE OFFICE SHALL MONITOR THE DEPARTMENT'S COMPLIANCE WITH THE  
3 CORRECTIVE ACTION PLAN AND MAY CONDUCT FURTHER INSPECTIONS OR  
4 INVESTIGATIONS AS NECESSARY TO MONITOR COMPLIANCE.

5 41-2107. Authority to investigate complaints; prohibited  
6 investigations

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

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

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

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

39 D. IF THE OFFICE DOES NOT INVESTIGATE A COMPLAINT, THE OFFICE SHALL  
40 NOTIFY THE COMPLAINANT IN WRITING OF THE DECISION NOT TO INVESTIGATE AND  
41 THE REASONS FOR THE DECISION.

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

1 F. THE OFFICE MAY NOT INVESTIGATE EITHER OF THE FOLLOWING  
2 COMPLAINTS:

3 1. A COMPLAINT THAT RELATES TO AN INMATE'S UNDERLYING CRIMINAL  
4 CONVICTION.

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

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

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

13 I. AFTER INVESTIGATING A COMPLAINT, THE OFFICE MUST RENDER A PUBLIC  
14 DECISION ON THE MERITS OF EACH COMPLAINT, EXCEPT THAT THE DOCUMENTS  
15 SUPPORTING THE DECISION ARE SUBJECT TO THE CONFIDENTIALITY PROVISIONS OF  
16 SECTION 41-2105. THE OFFICE MUST INFORM THE INMATE AND THE DEPARTMENT OF  
17 THE DECISION. THE OFFICE MUST STATE THE OFFICE'S RECOMMENDATIONS AND  
18 REASONING IF, IN THE OFFICE'S OPINION, THE DEPARTMENT OR ANY DEPARTMENT  
19 EMPLOYEE OR CONTRACTOR SHOULD DO ANY OF THE FOLLOWING:

20 1. CONSIDER THE MATTER FURTHER.

21 2. MODIFY OR CANCEL ANY ACTION.

22 3. ALTER A RULE, PRACTICE OR RULING.

23 4. EXPLAIN IN DETAIL THE ADMINISTRATIVE ACTION IN QUESTION.

24 5. RECTIFY AN OMISSION.

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

29 K. IF THE OFFICE BELIEVES, BASED ON THE INVESTIGATION, THAT THERE  
30 HAS BEEN OR CONTINUES TO BE A SIGNIFICANT INMATE HEALTH, SAFETY, WELFARE  
31 OR REHABILITATION ISSUE, THE OFFICE MUST REPORT THE FINDING TO THE  
32 GOVERNOR, THE ATTORNEY GENERAL, THE PRESIDENT OF THE SENATE, THE SPEAKER  
33 OF THE HOUSE OF REPRESENTATIVES AND THE DIRECTOR OF THE STATE DEPARTMENT  
34 OF CORRECTIONS AND SHALL PROVIDE A COPY OF THIS REPORT TO THE SECRETARY OF  
35 STATE.

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

41 M. BEFORE ANNOUNCING A CONCLUSION OR RECOMMENDATION THAT EXPRESSLY  
42 OR IMPLICITLY CRITICIZES A PERSON OR THE DEPARTMENT, THE OFFICE SHALL  
43 CONSULT WITH THAT PERSON OR THE DEPARTMENT. THE OFFICE MAY REQUEST TO BE  
44 NOTIFIED BY THE DEPARTMENT, WITHIN A SPECIFIED TIME, OF ANY ACTION TAKEN  
45 ON ANY RECOMMENDATION PRESENTED.

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

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

8 P. ANY DEPARTMENT EMPLOYEE OR CONTRACTOR WHO BELIEVES THAT THE  
9 EMPLOYEE OR CONTRACTOR HAS BEEN DISCHARGED OR OTHERWISE DISCRIMINATED  
10 AGAINST BY ANY PERSON IN VIOLATION OF THIS SECTION, WITHIN THIRTY DAYS  
11 AFTER THE VIOLATION OCCURS, MAY FILE A COMPLAINT WITH THE INDUSTRIAL  
12 COMMISSION OF ARIZONA AND IS ENTITLED TO PURSUE AND RECEIVE THE REMEDIES  
13 PROVIDED IN TITLE 23.

14 41-2108. Annual report

15 A. BY DECEMBER 31 OF EACH YEAR, THE OFFICE SHALL PREPARE AND  
16 PUBLISH AN ANNUAL REPORT, MAKE THE REPORT AVAILABLE TO THE PUBLIC ON THE  
17 INTERNET AND DELIVER THE REPORT TO THE GOVERNOR, THE ATTORNEY GENERAL, THE  
18 PRESIDENT OF THE SENATE, THE SPEAKER OF THE HOUSE OF REPRESENTATIVES, THE  
19 CORRECTIONAL OVERSIGHT COMMITTEE AND THE DIRECTOR OF THE STATE DEPARTMENT  
20 OF CORRECTIONS AND PROVIDE A COPY OF THE REPORT TO THE SECRETARY OF STATE.  
21 THE ANNUAL REPORT MUST INCLUDE:

22 1. A SUMMARY OF THE OFFICE'S INSPECTIONS AND COMPLAINT  
23 INVESTIGATIONS CONDUCTED THAT CALENDAR YEAR, INCLUDING THE OFFICE'S  
24 FINDINGS AND RECOMMENDATIONS AND THE DEPARTMENT'S RESPONSES AND CORRECTIVE  
25 ACTIONS.

26 2. A CHARACTERIZATION OF THE CONDITIONS OF CONFINEMENT.

27 3. A SUMMARY OF AVAILABLE EDUCATIONAL AND REHABILITATIVE  
28 PROGRAMMING, DRUG AND MENTAL HEALTH TREATMENT AND INMATE JOBS AND  
29 VOCATIONAL TRAINING.

30 4. A SUMMARY OF VISITATION POLICIES AND PROCEDURES.

31 5. A SUMMARY OF MEDICAL FACILITIES AND MEDICAL PROCEDURES AND  
32 POLICIES.

33 6. A SUMMARY OF THE LOCKDOWNS REVIEWED BY THE OFFICE.

34 7. A SUMMARY OF THE STAFFING AT EACH FACILITY AND IN THE DEPARTMENT  
35 OVERALL.

36 8. A SUMMARY OF PHYSICAL AND SEXUAL ASSAULTS REVIEWED BY THE  
37 OFFICE.

38 9. A SUMMARY OF INMATE OR STAFF DEATHS THAT OCCURRED AT A FACILITY.

39 10. A SUMMARY OF THE OFFICE'S INVESTIGATIONS, FINDINGS AND  
40 RESOLUTIONS OF ANY COMPLAINTS.

41 11. RECOMMENDATIONS TO THE LEGISLATURE AND THE DEPARTMENT REGARDING  
42 THE FOLLOWING:

43 (a) HOW THE OFFICE AND THE DEPARTMENT ARE FUNDED AND STAFFED.

44 (b) IMPROVING STAFF RETENTION, TRAINING, WORKING CONDITIONS,  
45 COMPENSATION, BENEFITS, MORALE AND SAFETY.

1 (c) IMPROVING INMATE HEALTH, SAFETY, CONDITIONS OF CONFINEMENT,  
2 MEDICAL CARE AND MENTAL HEALTH CARE.

3 (d) IMPROVING VISITATION AND LIMITING LOCKDOWNS AND ADMINISTRATIVE  
4 SEGREGATION OR SOLITARY CONFINEMENT.

5 (e) IMPROVING COMPLAINT INVESTIGATION AND RESOLUTION AND THE  
6 DEPARTMENT'S ADMINISTRATIVE REMEDIES PROCESS.

7 (f) IMPROVING ACCESS TO AND QUALITY AND AVAILABILITY OF EDUCATIONAL  
8 AND REHABILITATIVE PROGRAMMING, DRUG AND MENTAL HEALTH TREATMENT AND  
9 INMATE JOBS AND VOCATIONAL TRAINING.

10 (g) IMPROVING TRANSPARENCY ABOUT CONDITIONS IN THE FACILITIES AND  
11 THE DEPARTMENT OVERALL.

12 (h) IMPROVING THE DISCIPLINARY PROCESS TO HOLD STAFF ACCOUNTABLE FOR  
13 MISTREATMENT OF INMATES.

14 (i) PREVENTING FUTURE VIOLATIONS OF INMATE RIGHTS THAT ARE  
15 PROTECTED UNDER STATE AND FEDERAL LAW.

16 (ii) IMPROVING FACILITIES, INCLUDING ANY NECESSARY CAPITAL  
17 IMPROVEMENTS AND REPAIRS.

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

22 41-2109. Inmate and family member complaint forms; hotline

23 A. THE OFFICE SHALL CREATE THE FOLLOWING SECURE ONLINE FORMS:

24 1. THE FAMILY FORM, WHICH IS MADE AVAILABLE ON THE OFFICE'S WEBSITE  
25 AND WHICH ALLOWS FAMILY MEMBERS, FRIENDS AND ADVOCATES TO SUBMIT  
26 COMPLAINTS AND MAKE INQUIRIES REGARDING COVERED ISSUES ON BEHALF OF AN  
27 INMATE.

28 2. THE INMATE FORM, WHICH IS MADE AVAILABLE IN PAPER FORM AND ON  
29 THE DEPARTMENT'S SECURE INTRANET NETWORK AND TO WHICH INMATES MAY SUBMIT  
30 COMPLAINTS AND INQUIRIES REGARDING COVERED ISSUES ON THE INMATE'S OWN  
31 BEHALF.

32 B. THE DIRECTOR OF THE STATE DEPARTMENT OF CORRECTIONS SHALL ENSURE  
33 THAT THE INMATE FORM IS AVAILABLE AND OPERATING ON AT LEAST TWELVE  
34 COMPUTERS WITHIN EACH FACILITY AND IS ACCESSIBLE TO ALL INMATES FROM  
35 7:00 A.M. TO 7:00 P.M. EACH DAY. FOR INMATES IN ADMINISTRATIVE  
36 SEGREGATION OR SOLITARY CONFINEMENT, THE DEPARTMENT SHALL ENSURE THAT  
37 DEPARTMENT EMPLOYEES AND CONTRACTORS PROVIDE INMATES WITH ACCESS TO PAPER  
38 COPIES OF THE INMATE FORM OR THE ONLINE FORM ON A COMPUTER OR COMPUTER  
39 TABLET ON THE INMATE'S REQUEST. THE DEPARTMENT SHALL MAKE PAPER COPIES OF  
40 THE INMATE FORM AVAILABLE, AT NO COST TO INMATES, IN EACH FACILITY'S  
41 LIBRARY, LAW LIBRARY AND RECREATIONAL AND MEDICAL FACILITIES AND SHALL  
42 ENSURE THAT AN ADEQUATE SUPPLY OF FORMS ARE AVAILABLE.

43 C. THE OFFICE SHALL CREATE THE INMATE FORM IN A SECURE FORMAT THAT  
44 EXCLUDES ANY ELECTRONIC MONITORING OR REPRODUCTION BY THE DEPARTMENT AND  
45 THE DEPARTMENT'S EMPLOYEES AND CONTRACTORS. DEPARTMENT EMPLOYEES AND

1 CONTRACTORS MUST TREAT PAPER COPIES OF THE INMATE FORM AS CONFIDENTIAL AND  
2 PRIVILEGED IN THE SAME MANNER AS LEGAL CORRESPONDENCE OR COMMUNICATION.  
3 THE PAPER FORM MUST HAVE A PREADDRESSED ENVELOPE FOR THE INMATE TO SEAL  
4 THE CONTENTS OF THE FORM AND ONCE SEALED BY THE INMATE MAY NOT BE OPENED  
5 OR OTHERWISE DAMAGED BY A DEPARTMENT EMPLOYEE OR CONTRACTOR. THE  
6 DEPARTMENT MUST ACCEPT THE PAPER FORM AND ENVELOPE SEALED BY THE INMATE  
7 AND MAY NOT REQUIRE INSPECTION OF THE ENVELOPE CONTENTS BEFORE FORWARDING  
8 THE PAPER FORM AND ENVELOPE TO THE OFFICE.

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

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

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

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

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

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

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

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

39 I. A DEPARTMENT EMPLOYEE OR CONTRACTOR WHO BELIEVES THAT THE  
40 EMPLOYEE OR CONTRACTOR HAS BEEN DISCHARGED OR OTHERWISE DISCRIMINATED  
41 AGAINST BY ANY PERSON IN VIOLATION OF THIS SECTION, WITHIN THIRTY DAYS  
42 AFTER THE VIOLATION OCCURS, MAY FILE A COMPLAINT WITH THE INDUSTRIAL  
43 COMMISSION OF ARIZONA AND IS ENTITLED TO PURSUE AND RECEIVE THE REMEDIES  
44 PROVIDED IN TITLE 23.

1 J. THE OFFICE'S ACTION OR LACK OF ACTION ON A COMPLAINT MADE  
2 PURSUANT TO THIS SECTION IS NOT DEEMED AN ADMINISTRATIVE PROCEDURE  
3 REQUIRED FOR EXHAUSTION OF REMEDIES BEFORE BRINGING AN ACTION PURSUANT TO  
4 42 UNITED STATES CODE SECTION 1997e OR FILING A NOTICE OF CLAIM PURSUANT  
5 TO SECTION 12-821.01.

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

8 41-3031.01. Office of the independent corrections ombudsman;  
9 termination July 1, 2031

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

12 B. TITLE 41, CHAPTER 16 AND THIS SECTION ARE REPEALED ON JANUARY 1,  
13 2032.

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

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

- 20 1. Two terms ending January 1, 2023.
- 21 2. Two terms ending January 1, 2024.
- 22 3. Three terms ending January 1, 2025.

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

25 Sec. 4. Purpose

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

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

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

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