

HOUSE BILL No. 5876

May 20, 1998, Introduced by Reps. Hanley, Wallace, Baird, Freeman, Ciaramitaro, Owen, Martinez, DeHart, Agee, Mans and Callahan and referred to the Committee on Corrections.

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, 4, 6, 7, 10, and 13 (MCL 4.351, 4.354, 4.356, 4.357, 4.360, and 4.363), as amended by 1995 PA 197.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. As used in this act:

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

5 (b) "COMPLAINANT" MEANS AN INDIVIDUAL, PRISONER, PARTNER-
6 SHIP, CORPORATION, ASSOCIATION, GOVERNMENTAL ENTITY, OR OTHER
7 LEGAL ENTITY THAT FILES A COMPLAINT UNDER THIS ACT.

1 (C) ~~(b)~~ "Council" means the legislative council
2 established under section 15 of article IV of the state
3 constitution of 1963.

4 (D) ~~(c)~~ "Department" means the department of corrections.

5 ~~(d) "Legislator" means a member of the Senate or the House
6 of Representatives of this state.~~

7 (e) "Office" means the office of the legislative corrections
8 ombudsman created under this act.

9 (f) "Ombudsman" means the office of legislative corrections
10 ombudsman.

11 (g) "Prisoner" means a person committed to or under the
12 jurisdiction of the department.

13 (h) "Official" means an official or employee of the depart-
14 ment of corrections.

15 Sec. 4. (1) The ombudsman may ~~commence an investigation~~
16 ~~upon either of the following:~~ ~~(a) Receipt of~~ INVESTIGATE ON
17 RECEIVING a complaint ~~from a legislator concerning~~ OR ON THE
18 OMBUDSMAN'S OWN INITIATIVE an administrative act which is alleged
19 ~~by a prisoner~~ to be contrary to law or contrary to departmental
20 policy. ~~(b) The ombudsman's~~ OMBUDSMAN MAY ON HIS OR HER own
21 initiative ~~for~~ INVESTIGATE A significant prisoner health and
22 safety ~~issues~~ ISSUE and ANY other ~~matters~~ MATTER for which
23 there is no effective administrative remedy. ~~, all as determined~~
24 ~~by the council.~~

25 (2) Subject to approval of the council, the ombudsman shall
26 establish procedures for receiving and processing complaints,

1 conducting investigations, holding hearings, and reporting the
2 findings resulting from the investigations.

3 Sec. 6. (1) THE OMBUDSMAN SHALL ADVISE A COMPLAINANT TO
4 PURSUE ALL ADMINISTRATIVE REMEDIES OPEN TO THE COMPLAINANT. THE
5 OMBUDSMAN MAY REQUEST AND SHALL RECEIVE FROM THE DEPARTMENT A
6 PROGRESS REPORT CONCERNING THE ADMINISTRATIVE PROCESSING OF A
7 COMPLAINT. AFTER ADMINISTRATIVE ACTION ON A COMPLAINT, THE
8 OMBUDSMAN MAY CONDUCT FURTHER INVESTIGATION ON THE REQUEST OF A
9 COMPLAINANT OR ON HIS OR HER OWN INITIATIVE.

10 (2) The ombudsman need not ~~hold~~ CONDUCT an investigation
11 on a complaint brought before the ombudsman. A person is not
12 entitled as a right to be heard by the ombudsman.

13 Sec. 7. ~~Upon the receipt of~~ ON RECEIVING a complaint
14 ~~from a legislator~~ and ~~upon~~ deciding to investigate ~~that~~ THE
15 complaint, the ombudsman shall notify the ~~legislator who filed~~
16 ~~the complaint~~ COMPLAINANT, the prisoner or prisoners affected,
17 and the department. If the ombudsman declines to investigate,
18 the ombudsman shall notify the ~~legislator who filed the~~
19 ~~complaint~~ COMPLAINANT, in writing, and inform the prisoner or
20 prisoners affected of the reasons for the ombudsman's decision.

21 Sec. 10. (1) The ombudsman shall prepare and submit a
22 report of the findings of an investigation and make recommenda-
23 tions to the council within 30 days ~~of~~ AFTER completing the
24 investigation ~~when~~ IF the ombudsman finds any of the
25 following:

26 (a) A matter that should be considered by the department.

1 (b) An administrative act that should be modified or
2 canceled.

3 (c) A statute or rule that should be altered.

4 (d) Administrative acts for which justification is
5 necessary.

6 (e) Significant prisoner health and safety issues as deter-
7 mined by the council.

8 (f) Any other significant concerns as determined by the
9 council.

10 (2) Subject to section 11, the council may forward the
11 report prepared and submitted under this section to the depart-
12 ment, the prisoner or prisoners affected, or the ~~legislator~~
13 COMPLAINANT who requested the report.

14 Sec. 13. (1) A prisoner shall not be penalized in any way
15 by an official or the department as a result of ~~complaining to a~~
16 ~~legislator~~ FILING A COMPLAINT or cooperating with the ombudsman
17 in investigating a complaint.

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

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

24 (a) Senate Bill No. 826.

25 (b) House Bill No. 4065.

26 (c) House Bill No. 4415.

- 1 (d) House Bill No. 4444.
- 2 (e) House Bill No. 4445.
- 3 (f) House Bill No. 4446.
- 4 (g) House Bill No. 5398.
- 5 (h) House Bill No. 5419.