

STATE OF NEW YORK

5428

2025-2026 Regular Sessions

IN ASSEMBLY

February 14, 2025

Introduced by M. of A. WOERNER -- read once and referred to the Committee on Correction

AN ACT to amend the correction law, in relation to establishing an ombudsperson for local correctional facilities

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Paragraphs 1 and 5 of subdivision (b) of section 42 of the
2 correction law, as added by chapter 865 of the laws of 1975, are amended
3 to read as follows:

4 1. To investigate, review or take such other action as shall be deemed
5 necessary or proper in consultation with the ombudsperson with respect
6 to complaints or grievances regarding any local correctional facility or
7 part thereof as shall be called to its attention in writing.

8 5. To report periodically to the commission and the ombudsperson and,
9 where appropriate, to make such recommendations as are necessary to
10 fulfill the purposes of this article to the commission, the ombudsperson
11 and to the administrator of any local correctional facility.

12 § 2. Subdivision (c) of section 42 of the correction law, as added by
13 chapter 865 of the laws of 1975, is amended to read as follows:

14 (c) In addition to the functions, powers and duties prescribed by
15 subdivision (b) of this section, the council shall:

16 1. Advise and assist the commission and the ombudsperson in developing
17 policies, plans and programs for improving the commission's performance
18 of its duties and for coordinating the efforts of the commission and of
19 correctional officials to improve conditions of care, treatment, safety,
20 supervision, rehabilitation, recreation, training and education in
21 correctional facilities;

22 2. Foster and promote research and study in areas of correctional
23 policy and program development deemed necessary or desirable by the
24 commission, the ombudsperson or the council;

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

LBD09191-01-5

1 3. Meet at least once per calendar month at a time and place desig-
2 nated by the [~~chairman~~] chair of the council[-];

3 4. Request that the ombudsperson make inquiries and/or conduct inves-
4 tigations into complaints and grievances about any local correctional
5 facility.

6 § 3. The correction law is amended by adding a new section 49-a to
7 read as follows:

8 § 49-a. Ombudsperson for local correctional facilities. 1. There is
9 hereby established the position of ombudsperson for local correctional
10 facilities within the commission. The chair of the commission shall
11 appoint the ombudsperson. The ombudsperson shall be an attorney licensed
12 to practice law in the state of New York and shall be removable for
13 cause by the governor. The ombudsperson shall have the authority to
14 receive, investigate and propose resolutions for complaints and griev-
15 ances concerning the conditions of confinement for individuals currently
16 or formerly incarcerated in local correctional facilities located
17 outside of a city with a population of one million or more.

18 2. The ombudsperson shall have the following powers and duties:

19 (a) Coordinate meetings and activities with the council;

20 (b) Fully participate in the development of the policies, plans and
21 programs of the commission, periodically review procedures established
22 by the commission to carry out the provisions of this section, and
23 recommend policies, regulations and legislation designed to promote the
24 well-being of individuals residing in local correctional facilities to
25 the chair of the commission;

26 (c) Receive and review complaints and grievances from any source,
27 including but not limited to the council, about conditions in local
28 correctional facilities. The ombudsperson shall respond to each such
29 complaint or grievance and may investigate further or provide other
30 information or service;

31 (d) Visit local correctional facilities at any time to hear complaints
32 and grievances of incarcerated individuals, investigate alleged
33 violations of legal or human rights of individuals currently or formerly
34 incarcerated in such facilities, and monitor grievance procedures
35 concerning the individuals incarcerated in such facilities;

36 (e) Serve as a resource for individuals incarcerated in local correc-
37 tional facilities and advise them of pertinent laws, regulations and
38 policies, and their rights thereunder;

39 (f) Enter anywhere on the grounds of any local correctional facility
40 at any time;

41 (g) Not be compelled to testify or release records without a court
42 order, including records from any investigation that has not been
43 completed;

44 (h) Not release any identifying information, personal papers or corre-
45 spondence with any person who has requested assistance from the ombud-
46 sperson unless that person consents in writing to the release of such
47 information, papers or correspondence;

48 (i) Recommend policy changes to the sheriff of a local correctional
49 facility;

50 (j) Have the discretion to conduct inspections of any local correc-
51 tional facility, including the delivery of medical and mental health
52 care at such facility;

53 (k) Report to the chair of the commission, the chair of the council
54 and other commission staff monthly on the number of individuals served
55 by the ombudsperson, major complaints, grievances and other issues
56 concerning the conditions of confinement in local correctional facili-

1 ties, the number and types of complaints and issues from each correc-
2 tional facility, the number of facilities visited, the number of inves-
3 tigations conducted, and such other information as the chair of the
4 commission or the chair of the council shall require. When the ombud-
5 sperson has concluded an investigation, the final written report of the
6 investigation and any response of the sheriff shall be included in such
7 report;

8 (l) Report to the governor, the legislature and the public concerning
9 the complaints and grievances of individuals currently or formerly
10 incarcerated in local correctional facilities on a periodic basis, but
11 not less than annually. The report shall indicate the nature of any
12 complaint or grievance which has been investigated and resolved and the
13 manner in which it was resolved, the number and kind of complaints and
14 grievances received from each local correctional facility, and other
15 nonconfidential information required by the chair or the legislature.
16 Such report shall be posted in electronic form on the commission's
17 website. A print copy of the report shall be provided to all libraries
18 or book lending programs within local correctional facilities. No public
19 report by the ombudsperson shall disclose information where prohibited
20 by law; and

21 (m) Perform all other actions necessary to carry out the functions,
22 powers and duties of the ombudsperson.

23 3. (a) The ombudsperson may receive communications in any form from
24 any individual who believes they have information that may describe
25 improper governmental activities, wrongdoings or failure to take appro-
26 priate action within any local correctional facility.

27 (b) Mail of incarcerated individuals to the ombudsperson shall be
28 treated in the same manner as legal mail and may not be restricted by a
29 local correctional facility or any other governmental or private entity.

30 (c) The ombudsperson shall create and disseminate materials for all
31 individuals incarcerated in local correctional facilities detailing the
32 services the ombudsperson can offer to such individuals and how they can
33 contact the ombudsperson.

34 (d) All individuals incarcerated in local correctional facilities
35 shall have access to a telephone to make a toll-free call to the ombud-
36 sperson in a manner which reasonably assures such conversations are
37 private. Such calls shall not be recorded by the local correctional
38 facility or by any telephone service provider operating under contract
39 with such facility. Any such calls placed by an individual incarcerated
40 in such correctional facility shall not count against such individual's
41 limit on phone calls pursuant to the rules of the local correctional
42 facility.

43 (e) The chair of the commission shall maintain a public website
44 containing a toll-free telephone number and a complaint form for making
45 complaints to the ombudsperson.

46 4. (a) The ombudsperson may investigate complaints and grievances from
47 any source pertaining to individuals currently or formerly incarcerated
48 in local correctional facilities and may in pursuing such investigation
49 visit any local correctional facility without prior notice. At the
50 ombudsperson's request, the local correctional facility shall inform
51 individuals incarcerated at the facility of the ombudsperson's avail-
52 ability on site. The ombudsperson shall have access to any incarcerated
53 individual upon request and the facility shall provide a suitable room,
54 if so requested, for a confidential meeting with any incarcerated indi-
55 vidual upon such individual's consent. The ombudsperson shall have the
56 right to inspect the facility, visit all areas and observe all parts and

1 aspects of facility functions and programs. The ombudsperson may inter-
2 view any state, county or municipal employee on a confidential basis.
3 Such employee must comply with the request to be interviewed, must be
4 given time off to comply with such request, and may be accompanied by
5 counsel.

6 (b) The ombudsperson shall have access to all books, records, video
7 and audio recordings, logs, reports, medical and mental health records,
8 memoranda and any and all other materials or written documents in
9 possession of any local correctional facility pertaining to such facili-
10 ty and/or to specific individuals who are incarcerated or were formerly
11 incarcerated in such facility. The ombudsperson may copy or refer to any
12 such records or documents and, unless the entirety of such record or
13 document is confidential pursuant to statute or regulation, may include
14 a copy in their public report, with any confidential information redact-
15 ed by the ombudsperson. Consistent with applicable laws and regulations,
16 the confidentiality of records and documents obtained must be maintained
17 by the ombudsperson.

18 (c) The ombudsperson may decline to investigate a complaint or griev-
19 ance or may act informally to resolve a complaint or grievance without
20 an investigation, including providing referrals or information to the
21 complainants, facilitating resolutions to individual matters, mediating
22 or providing other assistance.

23 (d) At the conclusion of an investigation of a complaint or grievance,
24 the ombudsperson shall report the findings and recommendations of the
25 investigation to the complainant and any other person designated by the
26 complainant to receive such report. If the ombudsperson does not inves-
27 tigate a complaint or grievance, they shall notify the complainant and
28 such other person of the decision not to investigate and the reason for
29 the decision. If the complainant is deceased at the time of the
30 completion of an investigation, the ombudsperson shall report their
31 findings and recommendations to the complainant's next of kin or other
32 representative when such person is known to the ombudsperson or to the
33 local correctional facility.

34 (e) When a complaint or grievance is investigated, the ombudsperson
35 shall issue a final written report with findings of the investigation to
36 the chair of the commission, the chair of the council, the complainant
37 and the sheriff of the local correctional facility about which the
38 complaint or grievance was made. Such report shall include any recommen-
39 dations for resolving the complaint or grievance. The final report and
40 the sheriff's reply shall be posted together on a public website main-
41 tained by the commission. All identifying information relating to the
42 complainant or any individual currently or formerly incarcerated in a
43 local correctional facility and any records or correspondence from any
44 person who initiated the review of such complaint or grievance shall be
45 redacted from the public record. Information which would reveal confi-
46 dential material that may not be released pursuant to federal or state
47 law will be redacted by the ombudsperson from any such report prior to
48 publication.

49 (f) Where the ombudsperson believes an allegation of criminal miscon-
50 duct has been made by a complainant, they shall report such allegation
51 to the appropriate law enforcement agency.

52 5. (a) The sheriff and staff of a local correctional facility shall
53 cooperate fully with any investigation, visit or inspection by the
54 ombudsperson and shall provide the ombudsperson any and all unredacted
55 copies of unusual incident reports or other significant records, includ-
56 ing audio and video recordings, involving any individual currently or

1 formerly incarcerated in such facility as required by the ombudsperson,
2 as well as any other information the ombudsperson may request.

3 (b) The sheriff may charge the ombudsperson the cost per copy their
4 institution pays for reproduction of any written documents copied or
5 requested by the ombudsperson but may not include staff labor costs or
6 any other fees for making copies.

7 (c) The sheriff shall respond in writing to any recommendations made
8 by the ombudsperson within forty-five days of the receipt of the final
9 report of any investigation by such office and shall state with specif-
10 icity any reasons for failing to act on any such recommendation. Fail-
11 ure to respond shall be deemed as agreement with the recommendations.

12 § 4. Subdivision 1 of section 146 of the correction law, as amended by
13 chapter 274 of the laws of 2019, is amended to read as follows:

14 1. The following persons shall be authorized to visit at pleasure all
15 correctional facilities: The governor and lieutenant-governor, commis-
16 sioner of general services, secretary of state, comptroller and attor-
17 ney-general, members of the commission of correction, the commission of
18 correction's ombudsperson and staff, members of the commission's citi-
19 zen's policy and complaint review council, members of the legislature
20 and their accompanying staff and any employee of the department as
21 requested by the member of the legislature if the member requests to be
22 so accompanied, provided that such request does not impact upon the
23 department's ability to supervise, manage and control its facilities as
24 determined by the commissioner, judges of the court of appeals, supreme
25 court and county judges, district attorneys and every [~~clergyman~~] clergy
26 member or minister, as such terms are defined in section two of the
27 religious corporations law, having charge of a congregation in the coun-
28 ty wherein any such facility is situated. No other person not otherwise
29 authorized by law shall be permitted to enter a correctional facility
30 except by authority of the commissioner of correction under such regu-
31 lations as the commissioner shall prescribe.

32 § 5. This act shall take effect one year after it shall have become a
33 law.