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:

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

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

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

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

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

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

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

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

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3. Meet at least once per calendar month at a time and place designated by the [~~chairman~~] chair of the council[~~.~~];

4. Request that the ombudsperson make inquiries and/or conduct investigations into complaints and grievances about any local correctional facility.

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

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

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

(a) Coordinate meetings and activities with the council;

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

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

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

(e) Serve as a resource for individuals incarcerated in local correctional facilities and advise them of pertinent laws, regulations and policies, and their rights thereunder;

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

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

(h) Not release any identifying information, personal papers or correspondence with any person who has requested assistance from the ombudsperson unless that person consents in writing to the release of such information, papers or correspondence;

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

(j) Have the discretion to conduct inspections of any local correctional facility, including the delivery of medical and mental health care at such facility;

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

ties, the number and types of complaints and issues from each correctional facility, the number of facilities visited, the number of investigations conducted, and such other information as the chair of the commission or the chair of the council shall require. When the ombudsperson has concluded an investigation, the final written report of the investigation and any response of the sheriff shall be included in such report;

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

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

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

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

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

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

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

4. (a) The ombudsperson may investigate complaints and grievances from any source pertaining to individuals currently or formerly incarcerated in local correctional facilities and may in pursuing such investigation visit any local correctional facility without prior notice. At the ombudsperson's request, the local correctional facility shall inform individuals incarcerated at the facility of the ombudsperson's availability on site. The ombudsperson shall have access to any incarcerated individual upon request and the facility shall provide a suitable room, if so requested, for a confidential meeting with any incarcerated individual upon such individual's consent. The ombudsperson shall have the right to inspect the facility, visit all areas and observe all parts and

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

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

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

(d) At the conclusion of an investigation of a complaint or grievance, the ombudsperson shall report the findings and recommendations of the investigation to the complainant and any other person designated by the complainant to receive such report. If the ombudsperson does not investigate a complaint or grievance, they shall notify the complainant and such other person of the decision not to investigate and the reason for the decision. If the complainant is deceased at the time of the completion of an investigation, the ombudsperson shall report their findings and recommendations to the complainant's next of kin or other representative when such person is known to the ombudsperson or to the local correctional facility.

(e) When a complaint or grievance is investigated, the ombudsperson shall issue a final written report with findings of the investigation to the chair of the commission, the chair of the council, the complainant and the sheriff of the local correctional facility about which the complaint or grievance was made. Such report shall include any recommendations for resolving the complaint or grievance. The final report and the sheriff's reply shall be posted together on a public website maintained by the commission. All identifying information relating to the complainant or any individual currently or formerly incarcerated in a local correctional facility and any records or correspondence from any person who initiated the review of such complaint or grievance shall be redacted from the public record. Information which would reveal confidential material that may not be released pursuant to federal or state law will be redacted by the ombudsperson from any such report prior to publication.

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

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

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

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

(c) The sheriff shall respond in writing to any recommendations made by the ombudsperson within forty-five days of the receipt of the final report of any investigation by such office and shall state with specificity any reasons for failing to act on any such recommendation. Failure to respond shall be deemed as agreement with the recommendations.

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

1. The following persons shall be authorized to visit at pleasure all correctional facilities: The governor and lieutenant-governor, commissioner of general services, secretary of state, comptroller and attorney-general, members of the commission of correction, the commission of correction's ombudsperson and staff, members of the commission's citizen's policy and complaint review council, members of the legislature and their accompanying staff and any employee of the department as requested by the member of the legislature if the member requests to be so accompanied, provided that such request does not impact upon the department's ability to supervise, manage and control its facilities as determined by the commissioner, judges of the court of appeals, supreme court and county judges, district attorneys and every [~~clergyman~~] clergy member or minister, as such terms are defined in section two of the religious corporations law, having charge of a congregation in the county wherein any such facility is situated. No other person not otherwise authorized by law shall be permitted to enter a correctional facility except by authority of the commissioner of correction under such regulations as the commissioner shall prescribe.

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