

STATE OF NEW YORK

1707

2025-2026 Regular Sessions

IN SENATE

January 13, 2025

Introduced by Sens. SALAZAR, FERNANDEZ, GONZALEZ, MYRIE, RAMOS, SEPULVEDA -- read twice and ordered printed, and when printed to be committed to the Committee on Crime Victims, Crime and Correction

AN ACT to amend the correction law, in relation to creating the office of the correctional ombudsperson; to amend the county law, in relation to reports by coroners; to amend the criminal procedure law, in relation to designating investigators of the office of the correctional ombudsperson as peace officers; to amend the education law, in relation to the certification of incarcerated individual populations; to amend the executive law, in relation to authorizing the attorney general to investigate the alleged commission of any criminal offense committed by an employee of the department of corrections and community supervision in connection with their official duties; to amend the executive law, in relation to the division of criminal justice services; to amend the mental hygiene law, in relation to clinical records; to amend the public health law, in relation to the confidentiality of certain records; to amend the public officers law, in relation to including the office of the correctional ombudsperson records within the definition of public safety agency records; and to amend the social services law, in relation to inspection and supervision

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

1 Section 1. The correction law is amended by adding a new article 3-A
2 to read as follows:

3 ARTICLE 3-A

4 OFFICE OF THE CORRECTIONAL OMBUDSPERSON

5 Section 50. Definitions.

6 51. Office of the correctional ombudsperson; organization.

7 52. Correctional oversight board.

8 53. Powers of the ombudsperson.

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

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1 54. Additional functions, powers and duties of the office of the
2 ombudsperson.

3 55. Additional duties of the department and local correctional
4 facilities.

5 56. Obstructing an investigation by the correctional ombudsperson.

7 § 50. Definitions. For the purposes of this article, the following
8 terms shall have the following meanings:

9 1. "Office" refers to the office of the correctional ombudsperson.

10 2. "Ombudsperson" refers to the commissioner of the office of the
11 correctional ombudsperson.

12 § 51. Office of the correctional ombudsperson; organization. In order
13 to achieve transparency, fairness, impartiality and accountability in
14 our state and local correctional facilities, there shall be an independ-
15 ent office of the correctional ombudsperson within the executive depart-
16 ment. The ombudsperson shall report to the correctional oversight board
17 established pursuant to section fifty-two of this article, provided,
18 however, that administrative matters of general application within the
19 executive department shall be also applicable to the office.

20 1. Following the initial appointment of the members of the correction-
21 al oversight board established pursuant to section fifty-two of this
22 article, such board shall promptly nominate a full-time ombudsperson and
23 notify the governor of such nomination. Nothing in this subdivision
24 shall prohibit the board from appointing an interim ombudsperson if
25 there is a vacancy.

26 2. The governor, within thirty days after receiving written notice of
27 any nomination of an ombudsperson made pursuant to subdivision one of
28 this section, may approve or disapprove such nomination. If the governor
29 approves such nomination, or fails to act on such nomination within such
30 thirty day period, the nominee shall thereupon commence their term as
31 ombudsperson. If, within such thirty day period, the governor serves
32 upon the chair of such board a written notice disapproving such nomi-
33 nation, the nominee shall not be authorized to serve as ombudsperson
34 provided, however, that such board may authorize an interim ombudsperson
35 appointed pursuant to subdivision one of this section to serve or
36 continue to serve as interim ombudsperson until such time as an ombud-
37 sperson is approved, or not timely disapproved, by the governor.
38 Following any disapproval, the board shall have sixty days to submit
39 another nominee, although such period may be extended, upon request of
40 the board, by the governor. A person appointed as interim ombudsperson
41 may exercise all of the powers available to the ombudsperson.

42 3. The ombudsperson may not have worked for the department or for any
43 local correctional facility within the last ten years and may not hold
44 any public office or other employment. The ombudsperson shall serve a
45 six-year term and may only be removed for good cause shown, after notice
46 and an opportunity to be heard, by a vote of two-thirds or more of the
47 twelve members of the board.

48 § 52. Correctional oversight board. 1. There is hereby created the
49 correctional oversight board hereinafter referred to in this section as
50 the "board". The purpose of such board shall be to monitor, study and
51 make efforts to improve the transparency, fairness, impartiality and
52 accountability in state and local correctional facilities and to appoint
53 the ombudsperson. No current employee of the department or an employee
54 of any local correctional facility shall be appointed to or serve on
55 such board. The board shall consist of twelve members who shall be
56 appointed as follows:

1 (a) one shall be the state inspector general;
2 (b) two shall be appointed by the governor on the recommendation of
3 the senate;
4 (c) two shall be appointed by the governor on the recommendation of
5 the assembly;
6 (d) two shall be appointed by the governor from a list of at least six
7 nominees submitted by non-profit agencies working in the fields of
8 re-entry or prisoner advocacy;
9 (e) one shall be appointed by the governor and shall be a former state
10 incarcerated individual;
11 (f) one shall be appointed by the governor and shall be a former
12 employee of the department who is no longer in state service;
13 (g) one shall be an attorney appointed by the governor from a list of
14 at least four nominees submitted by the state bar association;
15 (h) one shall be a medical professional appointed by the governor; and
16 (i) one shall be a mental health professional who works with the
17 justice center for the protection of people with special needs appointed
18 by the governor.

19 2. All members of the board shall be appointed for terms of three
20 years with such terms to commence on August first, and expire July thir-
21 ty-first, provided, however, that the inspector general shall serve ex
22 officio. Initial appointments must be made within sixty days of the
23 effective date of this subdivision. Any member chosen to fill a vacancy
24 created otherwise than by expiration of term shall be appointed for the
25 unexpired term of the member whom such member is to succeed. Vacancies
26 caused by expiration of a term or otherwise shall be filled promptly and
27 in the same manner as original appointments. Any member may be reap-
28 pointed for additional terms. A member of the board shall continue in
29 such position upon the expiration of such member's term until such time
30 as they are reappointed or their successor is appointed, as the case may
31 be.

32 3. Membership on the board shall not constitute the holding of an
33 office, and members of the board shall not be required to take and file
34 oaths of office before serving on the board. The board shall not have
35 the right to exercise any portion of the sovereign power of the state.

36 4. The board shall meet at least two times in each year. The first
37 meeting of the board shall be held within thirty days of the appointment
38 of the full board or within sixty days after the effective date of this
39 subdivision, whichever occurs earlier. Special meetings may be called by
40 the chair and shall be called by the chair upon the request of at least
41 five members of the board. The board may establish its own procedures
42 with respect to the conduct of its meetings and other affairs; provided,
43 however, that the quorum and majority provisions of section forty-one of
44 the general construction law shall govern all actions taken by the
45 board.

46 5. The members of the board shall receive no compensation for their
47 services but shall be allowed their actual and necessary expenses
48 incurred in the performance of their functions hereunder.

49 6. No member of the board shall be disqualified from holding any
50 public office or employment outside of the department, nor shall such
51 member forfeit any such office or employment, by reason of such member's
52 appointment pursuant to this section, notwithstanding the provisions of
53 any other general, special or local law, ordinance or city charter.

54 7. The board shall make recommendations to the ombudsperson for the
55 improvement of the department's policies and consult with and advise the
56 office of the correctional ombudsperson in carrying out the duties and

1 responsibilities of such office. The ombudsperson shall report to the
2 board fully on the activities of the office and shall seek board
3 approval on all major decisions or policy changes, including any stand-
4 ards or protocols adopted by the ombudsperson for the inspection and
5 monitoring of correctional facilities or the resolution of complaints
6 received by the office.

7 8. Each member of the board shall tour a state correctional facility
8 with the ombudsperson at least annually.

9 § 53. Powers of the ombudsperson. 1. The ombudsperson shall have the
10 authority to hire and retain counsel to provide confidential advice or
11 to represent the ombudsperson if the attorney general has a conflict in
12 representing the ombudsperson in any litigation.

13 2. The office of the ombudsperson shall not be located in the same
14 building or buildings as the department but shall be wholly independent
15 of the department except that the department shall provide it with
16 office space, equipment and furnishings within any department facility
17 as needed to carry out its functions and duties.

18 3. The ombudsperson may appoint such assistants, officers, investi-
19 gators, monitors, employees and consultants as they shall determine
20 necessary, prescribe their duties and powers, provide them with appro-
21 priate training, fix their compensation and provide for reimbursement of
22 their expenses within the amounts appropriated therefor except that the
23 ombudsperson shall not hire any person known to be directly or indirect-
24 ly involved in an open internal affairs investigation conducted by any
25 federal, state or local agency or who is a named defendant in a pending
26 federal or state lawsuit or criminal proceeding relating to such
27 person's prior work for a state, local or federal correctional or law
28 enforcement agency. The ombudsperson may appoint a representative to
29 carry out any of their duties under this article except that the ombud-
30 sperson must attend meetings with the correctional oversight board.

31 4. The ombudsperson may create, abolish, transfer and consolidate
32 bureaus and other units within the office as the ombudsperson may deter-
33 mine necessary for the efficient operation of the office, subject to the
34 approval of the director of the budget.

35 5. The ombudsperson may request and shall receive from any department,
36 division, bureau, commission or any other agency of the state or any
37 municipality or political subdivision thereof or any public authority
38 such assistance, information and data as will enable the office to carry
39 out its functions, powers and duties.

40 6. The ombudsperson shall be responsible for the contemporaneous
41 public oversight of internal affairs and the disciplinary process of the
42 department of corrections and community supervision. The ombudsperson
43 shall have discretion to provide oversight of any department investi-
44 gation relating to the well-being, treatment, discipline, safety or any
45 other matter concerning incarcerated individuals or persons under commu-
46 nity supervision as needed, including personnel investigations.

47 7. The ombudsperson may review specific policies, practices, programs
48 and procedures of the department and of all local correctional facili-
49 ties that raise a significant correctional issue relevant to the well-
50 being, treatment, discipline, safety, rehabilitation or any other matter
51 concerning incarcerated individuals or persons under community super-
52 vision. The ombudsperson is authorized to inspect, investigate or exam-
53 ine all aspects of the department's operations and conditions, and of
54 such operations and conditions of any local correctional facility,
55 including, but not limited to, staff recruitment, training, supervision,
56 discipline, incarcerated individuals deaths, medical and mental health

1 care, use of force, incarcerated individual violence, conditions of
2 confinement, incarcerated individuals disciplinary process, incarcerated
3 individuals grievance process, substance-abuse treatment, educational,
4 vocational and other programming and re-entry planning. During the
5 course of a review the ombudsperson shall identify areas of full and
6 partial compliance or noncompliance with departmental or local correc-
7 tional facility policies and procedures, specify deficiencies in the
8 completion and documentation of processes and recommend corrective
9 actions, including, but not limited to, additional training, additional
10 policies or changes in policies, as well as any other findings or recom-
11 mendations the ombudsperson deems appropriate.

12 8. The ombudsperson may place such members of their staff as the
13 ombudsperson deems appropriate as monitors in any correctional facility
14 which, in the judgment of the ombudsperson, presents an imminent danger
15 to the health, safety or security of incarcerated individuals or employ-
16 ees of such correctional facility or the public.

17 9. The ombudsperson shall accept, with the approval of the governor,
18 as agent of the state any grant, including federal grants, or any gift
19 for any of the purposes of this article. Any moneys so received may be
20 expended by the ombudsperson to effectuate any purpose of this article,
21 subject to the same limitations as to approval of expenditures and audit
22 as are prescribed for state moneys appropriated for the purposes of this
23 article.

24 10. The ombudsperson may enter into contracts with any person, firm,
25 corporation, municipality, or governmental agency.

26 11. The ombudsperson shall adopt, amend or rescind such rules and
27 regulations, in accordance with applicable state law, as may be neces-
28 sary or convenient to the performance of the functions, powers and
29 duties of the office.

30 12. The ombudsperson shall do all other things necessary or convenient
31 to carry out its functions, powers and duties expressly set forth in
32 this article.

33 13. When exigent circumstances of unsafe or life threatening situ-
34 ations arise involving incarcerated individuals, staff, people on commu-
35 nity supervision or other individuals, the ombudsperson shall notify the
36 governor, the temporary president of the senate and the speaker of the
37 assembly and commence an immediate review of such circumstances. Upon
38 completion of a review, the ombudsperson shall prepare a complete writ-
39 ten report which shall be disclosed with the underlying materials that
40 the ombudsperson deems appropriate to the commissioner, the requesting
41 entity and any appropriate law enforcement agency.

42 14. (a) The ombudsperson shall interview and review all candidates for
43 appointment to serve as the superintendent of any state correctional
44 facility. The commissioner shall submit the names of such candidates to
45 the ombudsperson who shall review such candidates' qualifications and
46 employ confidential procedures to evaluate the qualifications of each
47 candidate with regard to their ability to discharge the duties of the
48 office to which they are being appointed. Within ninety days of the
49 submission of a candidate's name, the ombudsperson shall confidentially
50 advise the commissioner as to whether such candidate is well-qualified,
51 qualified or not qualified and the reasons therefor and may report, in
52 confidence, any other information that the ombudsperson deems pertinent
53 to the qualification of the candidate. The ombudsperson shall establish
54 and adopt rules and procedures regarding the review of candidates for
55 the position of superintendent and for maintaining the confidentiality
56 of any interviews, documents or other information relied upon in the

1 ombudsperson's review. All such information shall be privileged and not
2 subject to disclosure.

3 (b) If the commissioner appoints a superintendent who the ombudsperson
4 found was not qualified, the ombudsperson shall make public that finding
5 after due notice to the appointee. Any candidate found to be not quali-
6 fied by the ombudsperson shall have the right to withdraw from consider-
7 ation before the ombudsperson makes such public finding and in that case
8 the finding shall not be published. Such notice and public finding
9 shall not constitute a waiver of privilege or breach of confidentiality
10 concerning the ombudsperson's review of the appointee's qualifications
11 pursuant to this section.

12 15. Notwithstanding any law to the contrary, the ombudsperson shall
13 periodically, but not less than every three years, conduct inspections
14 of each state and local correctional facility and shall periodically
15 review delivery of medical and mental health care at each correctional
16 facility. The ombudsperson shall issue a public report on each correc-
17 tional facility at least every three years. The ombudsperson need not
18 notify the department or any local correctional facility before commenc-
19 ing such inspection or review.

20 16. All records, correspondence, videotapes, audiotapes, photographs,
21 notes, electronic communications, books, memoranda, papers or other
22 documents or objects used as evidence to support a completed review or
23 investigation must be retained for three years after a report is issued
24 unless handed over to a law enforcement agency for criminal investi-
25 gation. No such documents or evidence shall be destroyed pending the
26 completion of an investigation or review. Such documents or evidence
27 shall be publicly available unless confidential and not subject to
28 disclosure under the freedom of information law or by court order.

29 17. Notwithstanding any other provision of the law the ombudsperson
30 shall have complete access and authority to examine and reproduce any
31 and all past and current books, accounts, reports, medical and mental
32 health records, vouchers, correspondence files, computer files, computer
33 data bases, documents, video and audio tape recordings, statistics and
34 performance based outcome measures and any and all other past and
35 current records and to examine the bank accounts, money or property of
36 the department and of any local correctional facility. Any state office
37 or agency of a political subdivision of the state or other public entity
38 or employee or officer thereof possessing such records or property shall
39 permit access to, and examination and reproduction thereof, consistent
40 with the provisions of this article, upon the request of the ombudsperson
41 or the ombudsperson's designee. Access, examination and reproduction
42 consistent with the provision of this section shall not result in the
43 waiver of any confidentiality or privilege regarding any records or
44 property.

45 18. The ombudsperson may require any state, county or municipal
46 employee to be interviewed on a confidential basis. Such employee must
47 comply with the request to be interviewed and must be given time off
48 from their employment for the purposes of attending such an interview
49 and may be accompanied by counsel acting on such employee's behalf. The
50 ombudsperson may also conduct a confidential interview of any incarcer-
51 ated individual or other person upon consent.

52 19. The ombudsperson may enter anywhere on the grounds of any depart-
53 ment facility or office or local correctional facility for the purposes
54 of observation, inspection and investigation and shall have unfettered
55 access to all areas of the department and any facility at any time.

1 20. The ombudsperson may cause the body of a deceased incarcerated
2 individual to undergo such examinations, including an autopsy, as such
3 ombudsperson deems necessary to determine the cause of death, irrespec-
4 tive of whether any such examination or autopsy shall have been previ-
5 ously performed.

6 21. (a) In the exercise of its functions, powers and duties, the
7 ombudsperson and any attorney employed by the office is authorized to
8 issue and enforce a subpoena and a subpoena duces tecum, administer
9 oaths and examine persons under oath, in accordance with and pursuant to
10 the civil practice law and rules. A person examined under oath pursuant
11 to this subdivision shall have the right to be accompanied by counsel
12 who shall advise the person of their rights subject to reasonable limi-
13 tations to prevent obstruction of, or interference with, the orderly
14 conduct of the examination. Notwithstanding any other provision of law,
15 a subpoena may be issued and enforced pursuant to this subdivision for
16 the medical records of an incarcerated individual of a correctional
17 facility, regardless of whether such medical records were made during
18 the course of the incarcerated individual's incarceration.

19 (b) In any case where a person in charge or control of a correctional
20 facility or an officer or employee thereof shall fail to comply with the
21 provisions of paragraph (a) of this subdivision, or in any case where a
22 coroner, coroner's physician or medical examiner shall fail to comply
23 with the provisions of subdivision six of section six hundred seventy-
24 seven of the county law, the ombudsperson may apply to the supreme court
25 for an order directed to such person requiring compliance therewith.
26 Upon such application the court may issue such order as may be just and
27 a failure to comply with the order of the court shall be a contempt of
28 court and punishable as such.

29 22. The ombudsperson shall not be compelled to testify or release
30 records without a court order that are otherwise exempt from public
31 disclosure, including documents pertaining to any investigation that has
32 not been completed or any identifying information, personal papers or
33 correspondence with any person who has requested assistance from the
34 office unless that person consents in writing to the release of such
35 information, papers or correspondence.

36 23. The ombudsperson may hold public hearings.

37 § 54. Additional functions, powers and duties of the office of the
38 ombudsperson. 1. The office may receive communications from any individ-
39 ual who believes they may have information that may describe improper
40 governmental activities or wrongdoing within the department or any state
41 or local correctional facility. Incarcerated individual mail to and from
42 the ombudsperson shall be treated in the same manner as legal mail and
43 may not be restricted by the department, the office of mental health or
44 any other entity.

45 (a) The ombudsperson shall establish a toll-free telephone number for
46 the purpose of identifying any alleged wrongdoing by an employee of the
47 department or of any local correctional facility. This telephone number
48 shall be posted by the department and by local correctional facilities
49 in clear view of employees, incarcerated individuals and the public, and
50 incarcerated individuals shall be permitted to call such number during
51 normal hours for telephone usage or within twenty-four hours of admis-
52 sion to a special housing unit or other unit with restricted telephone
53 access. Telephone calls made to such toll-free number from a correction-
54 al facility shall not be recorded by the department or by the local
55 correctional facility and are protected confidential communications. The
56 ombudsperson shall also maintain a website with a complaint form that

1 may be filled out online and shall also accept complaints by mail or
2 other means alleging wrongdoing by an employee of the department. When
3 requested, the ombudsperson shall initiate a review of any such alleged
4 wrongdoing which may result in an investigation of the alleged wrongdo-
5 ing at the ombudsperson's discretion.

6 (b) At the conclusion of an investigation of a complaint, the ombud-
7 sperson shall report their findings to the complainant and any person
8 designated to receive such findings by the complainant. If the ombud-
9 sperson does not investigate a complaint, the ombudsperson shall notify
10 the complainant and such other person of the decision not to investigate
11 and the reasons for the decision. If the complainant is deceased at the
12 time of the completion of an investigation, the ombudsperson shall
13 report their findings to the complainant's next of kin when such person
14 is known to the ombudsperson or to the department or local correctional
15 facility.

16 (c) The ombudsperson may act informally to resolve a complaint includ-
17 ing providing referrals or information to complainants, expediting indi-
18 vidual matters, mediating or providing other assistance.

19 (d) All identifying information and any personal records or corre-
20 spondence from any person who initiated the review of such alleged
21 wrongdoing shall be confidential unless the person consents to disclo-
22 sure in writing.

23 (e) Where the ombudsperson believes that an allegation of criminal
24 misconduct has been made by a complainant, the ombudsperson shall report
25 such allegation to the appropriate law enforcement agency.

26 2. Upon receiving a complaint of retaliation for complaining to or
27 cooperating with the ombudsperson, the ombudsperson shall commence an
28 inquiry into the complaint and conduct a formal investigation. Should
29 the ombudsperson find that a complaint of retaliation is founded as a
30 result of an investigation, the ombudsperson shall so notify the depart-
31 ment or local correctional facility and make recommendations for correc-
32 tive action to be taken by the department or local correctional facili-
33 ty. The ombudsperson shall make the results and supporting evidence of
34 its formal investigation available to the division of human rights
35 should an employee file a retaliation complaint with such agency and
36 consent to such disclosure in writing.

37 3. To facilitate oversight, the office shall be immediately notified
38 by the department or local correctional facility of all unusual and
39 significant incidences including, but not limited to, riots or fights
40 involving multiple combatants, use of force, incarcerated individuals
41 deaths, serious physical assaults on employees or incarcerated individ-
42 uals, work stoppages and escapes and shall be given monthly aggregated
43 reports of unusual incidents and incarcerated individuals grievances by
44 the department and each local correctional facility. Employees of the
45 office shall be permitted to be present in any department internal
46 investigation or inquiry in any correctional facility. The office shall
47 be responsible for reporting such unusual and significant incidents and
48 the outcome of its investigations into such incidents to the public no
49 less than quarterly.

50 4. (a) The ombudsperson shall annually prepare a public report and
51 summary of all investigations and reviews, including a list of signif-
52 icant problems discovered by the office, whether or not the recommenda-
53 tions made by the office have been implemented, and a list of the
54 office's high priorities for the following year. The ombudsperson shall
55 submit such report to the governor, the temporary president of the
56 senate, and the speaker of the assembly by December thirty-first of each

1 year. Such report shall be posted in electronic form on the office's
2 public website. The ombudsperson shall be authorized to redact portions
3 of such report in a manner consistent with article six of the public
4 officers law or where disclosure is otherwise prohibited by law.

5 (b) Upon review of the cause of death and circumstances surrounding
6 the death of any incarcerated individual in a correctional facility, the
7 ombudsperson shall submit its report thereon to the governor, the speak-
8 er of the assembly, the temporary president of the senate, the chair-
9 person of the assembly correction committee, the chairperson of the
10 senate crime and correction committee, and the commissioner, and, where
11 appropriate, make recommendations to prevent the recurrence of such
12 deaths. Such reports shall be published on the office's website and
13 shall otherwise be made available to the public.

14 (c) The ombudsperson shall make an annual report to the governor, the
15 speaker of the assembly, the temporary president of the senate, the
16 chairperson of the assembly correction committee and the chairperson of
17 the senate crime and correction committee on the condition of systems
18 for the delivery of medical care to incarcerated individuals of correc-
19 tional facilities and, where appropriate, recommend such changes as it
20 shall deem necessary and proper to improve the quality and availability
21 of such medical care. Such report shall be published on the office's
22 website and shall otherwise be made available to the public.

23 (d) All public reports by the ombudsperson shall not disclose informa-
24 tion where prohibited by law.

25 § 55. Additional duties of the department and local correctional
26 facilities. 1. State, county, or municipal employees operating within a
27 correctional facility must cooperate fully and promptly with the ombud-
28 sperson.

29 2. The department or local correctional facility shall respond in
30 writing to any recommendations made by the ombudsperson or their desig-
31 nee within forty-five days and shall state with specificity its reasons
32 for failing to act on any such recommendation. Such writings shall be
33 made public by the ombudsperson except that information which would
34 reveal confidential material that may not be released pursuant to feder-
35 al or state law shall be reacted by the ombudsperson from any such
36 report or recommendation.

37 3. The commissioner or any sheriff shall immediately report to the
38 ombudsperson the death of an incarcerated individual of any such facili-
39 ty in such manner and form as the ombudsperson shall prescribe and shall
40 provide the ombudsperson with an autopsy report when available.

41 § 56. Obstructing an investigation by the correctional ombudsperson.
42 A person is guilty of obstructing an investigation by the correctional
43 ombudsperson when, with intent to obstruct or impede an inquiry or
44 investigation by the correctional ombudsperson appointed pursuant to
45 section fifty-three or fifty-four of this article, such person knowingly
46 destroys or knowingly fails to permit access to, examination of, or
47 reproduction by the office of such correctional ombudsperson, of any
48 book, account, bank account information, report, voucher, correspondence
49 or correspondence file, computer file, computer data base, document,
50 video or audio recording, statistic or performance based outcome meas-
51 ure, money, property or any other record of the department of
52 corrections and community supervision or of any local correctional
53 facility lawfully requested by such correctional ombudsperson. Obstruct-
54 ing an investigation by the correctional ombudsperson is a class A
55 misdemeanor.

1 § 2. Section 2 of the correction law is amended by adding two new
2 subdivisions 35 and 36 to read as follows:

3 35. "Office" means the office of the correctional ombudsperson.

4 36. "Ombudsperson" means the commissioner of the office of the correc-
5 tional ombudsperson.

6 § 3. Section 47 of the correction law, as amended by chapter 322 of
7 the laws of 2021, is amended to read as follows:

8 § 47. Functions, powers and duties of the board. 1. The board shall
9 have the following functions, powers and duties:

10 (a) Investigate and review the cause and circumstances surrounding the
11 death of any incarcerated individual of a local correctional facility.

12 (b) Visit and inspect any local correctional facility wherein an
13 incarcerated individual has died.

14 (c) Cause the body of the deceased to undergo such examinations,
15 including an autopsy, as in the opinion of the board, are necessary to
16 determine the cause of death, irrespective of whether any such examina-
17 tion or autopsy shall have previously been performed.

18 (d) Upon review of the cause of death and circumstances surrounding
19 the death of any incarcerated individual in a local correction facility,
20 the board shall submit its report thereon to the commission [~~and to~~],
21 the governor, the [~~chairman~~] speaker of the assembly and the temporary
22 president of the senate, the chairperson of the assembly committee on
23 correction and the [~~chairman~~] chairperson of the senate committee on
24 crime victims, crime and correction and, where appropriate, make recom-
25 mendations to prevent the recurrence of such deaths to the commission
26 and the administrator of the appropriate correctional facility. The
27 report provided to the governor, the [~~chairman~~] speaker of the assembly
28 and the temporary president of the senate, the chairperson of the assem-
29 bly committee on correction and the [~~chairman~~] chairperson of the senate
30 committee on crime victims, crime and correction shall not be redacted
31 except as otherwise required to protect confidential medical records and
32 behavioral health records in accordance with state and federal laws,
33 rules, and regulations.

34 (e) (i) Investigate and report to the commission on the condition of
35 systems for the delivery of medical care to incarcerated individuals of
36 local correctional facilities and where appropriate recommend such
37 changes as it shall deem necessary and proper to improve the quality and
38 availability of such medical care.

39 (ii) The board shall be responsive to inquiries from the next of kin
40 and other person designated as a representative of any incarcerated
41 individual whose death takes place during custody in a state correction-
42 al facility regarding the circumstances surrounding the death of such
43 incarcerated individual. Contact information for the next of kin and
44 designated representative shall be provided by the department to the
45 board from the emergency contact information previously provided by the
46 incarcerated individual to the department.

47 2. Every administrator of a local correctional facility shall imme-
48 diately report to the board the death of an incarcerated individual of
49 any such facility in such manner and form as the board shall prescribe,
50 together with an autopsy report.

51 § 4. Section 89-a of the correction law, as amended by chapter 409 of
52 the laws of 1991, subdivision 1 as amended by chapter 322 of the laws of
53 2021, is amended to read as follows:

54 § 89-a. [~~1-~~] Management of alternate correctional facilities. 1.
55 Superintendence, management and control of alternate correctional facil-
56 ities and the eligible incarcerated individuals housed therein shall be

1 as directed by the commissioner consistent with the following: an
2 alternate correctional facility shall be operated pursuant to rules and
3 regulations promulgated for such facilities by the commissioner in
4 consultation with the [~~state commission of correction~~] office of the
5 correctional ombudsperson and the provisions of the operation agreement.
6 The commissioner shall operate such facility insofar as practicable in
7 the same manner as a general confinement facility which houses medium
8 security state incarcerated individuals. Nothing herein, however, shall
9 preclude the commissioner from enhancing staffing or programming to
10 accommodate the particular needs of eligible incarcerated individuals
11 pursuant to the operation agreement. No incarcerated individual shall be
12 housed in any alternate correctional facility until such facility has
13 been established in accordance with the provisions of section eighty-
14 nine of this article. The population in an alternate correctional facil-
15 ity shall not exceed its design capacity of approximately seven hundred
16 eligible incarcerated individuals except pursuant to variances permitted
17 by law, rule or regulation or court order.

18 2. Notwithstanding any other provisions of law, no variance authoriz-
19 ing an alternate correctional facility to exceed its design capacity
20 shall be granted after March fifteenth, nineteen hundred ninety-two
21 unless the mayor of the city of New York submits, together with the
22 variance request, a certificate of emergency demonstrating the need for
23 such variance and that reasonable alternatives to the granting of the
24 variance do not exist, and containing a detailed summary of measures
25 that will be taken to restore compliance with such design capacity. The
26 [~~chairman of the state commission of correction~~] commissioner of the
27 office of the correctional ombudsperson shall transmit, in a timely
28 manner, notice of such request to the [~~chairmen~~] chairpersons of the
29 senate crime and correction committee and the assembly correction
30 committee.

31 § 5. Subdivision 1 of section 89-e of the correction law, as amended
32 by section 47 of part A of chapter 56 of the laws of 2010, is amended to
33 read as follows:

34 1. The alternate correctional facility review panel is hereby estab-
35 lished and shall consist of the commissioner, [~~the chairman of the state~~
36 ~~commission of correction~~] the commissioner of the office of the correc-
37 tional ombudsperson, the [~~chairman~~] chairperson of the board of parole,
38 the director of the office of probation and correctional alternatives,
39 the commissioner of correction of the city of New York, the president of
40 the New York State Sheriffs' Association Institute, Inc., and the presi-
41 dent of the Correctional Association of New York or their designees. The
42 governor shall appoint a [~~chairman~~] chairperson and [~~vice-chairman~~]
43 vice-chairperson from among the members.

44 § 6 Section 89-f of the correction law, as added by chapter 549 of the
45 laws of 1987, is amended to read as follows:

46 § 89-f. Oversight. The [~~state commission of correction~~] office of the
47 correctional ombudsperson shall exercise the same powers and duties
48 concerning each alternate correctional facility as the [~~commission~~]
49 office is required to exercise concerning a New York state correctional
50 facility. The [~~commission~~] office shall prepare an annual report on each
51 alternate correctional facility which shall evaluate and assess the
52 department's compliance with all rules and regulations applicable to
53 that facility and the operation agreement and which shall include an
54 analysis of the frequency and severity of all unusual incidents and
55 assaults occurring in that facility. The annual reports shall be filed
56 with the governor, the mayor of the city of New York, the [~~chairman~~]

1 chairperson of the senate crime and correction committee, and the
2 [~~chairman~~] chairperson of the assembly committee on correction no later
3 than the first day of June of each year.

4 § 7. Subdivision 1 of section 112 of the correction law, as amended by
5 chapter 322 of the laws of 2021, is amended to read as follows:

6 1. The commissioner of corrections and community supervision shall
7 have the superintendence, management and control of the correctional
8 facilities in the department and of the incarcerated individuals
9 confined therein, and of all matters relating to the government, disci-
10 pline, policing, contracts and fiscal concerns thereof. [~~He or she~~] The
11 commissioner shall have the power and it shall be [~~his or her~~] the
12 commissioner's duty to inquire into all matters connected with said
13 correctional facilities and to report any allegations of corruption,
14 fraud, criminal activity, conflicts of interest or abuse to the office
15 of the correctional ombudsperson for investigation, as well as report to
16 such office on other correctional issues, including, but not limited to,
17 staff recruitment, training, supervision, discipline, incarcerated indi-
18 vidual deaths, medical and mental health care, use of force, incarcerat-
19 ed individual violence, conditions of confinement, incarcerated individ-
20 ual disciplinary process, incarcerated individual grievance process,
21 substance-abuse treatment, educational, vocational and other programming
22 and re-entry planning. [~~He or she~~] The commissioner shall make such
23 rules and regulations, not in conflict with the statutes of this state,
24 for the government of the officers and other employees of the department
25 assigned to said facilities, and in regard to the duties to be performed
26 by them, and for the government and discipline of each correctional
27 facility, as [~~he or she~~] the commissioner may deem proper, and shall
28 cause such rules and regulations to be recorded by the superintendent of
29 the facility, and a copy thereof to be furnished to each employee
30 assigned to the facility. [~~He or she~~] The commissioner shall also
31 prescribe a system of accounts and records to be kept at each correc-
32 tional facility, which system shall be uniform at all of said facili-
33 ties, and [~~he or she~~] the commissioner shall also make rules and regu-
34 lations for a record of photographs and other means of identifying each
35 incarcerated individual received into said facilities. [~~He or she~~] The
36 commissioner shall appoint and remove, subject to the civil service law,
37 subordinate officers and other employees of the department who are
38 assigned to correctional facilities.

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

41 1. The following persons shall be authorized to visit at pleasure all
42 correctional facilities: The governor and lieutenant-governor, commis-
43 sioner of general services, secretary of state, comptroller and attor-
44 ney-general, members of the commission of correction, any employee of,
45 or person under contract to, the office of the correctional ombudspers-
46 on, members of the correctional oversight board, members of the legis-
47 lature and their accompanying staff and any employee of the department
48 as requested by the member of the legislature if the member requests to
49 be so accompanied, provided that such request does not impact upon the
50 department's ability to supervise, manage and control its facilities as
51 determined by the commissioner, judges of the court of appeals, supreme
52 court and county judges, district attorneys and every [~~clergyman~~] cler-
53 gymember or minister, as such terms are defined in section two of the
54 religious corporations law, having charge of a congregation in the coun-
55 ty wherein any such facility is situated. No other person not otherwise
56 authorized by law shall be permitted to enter a correctional facility

1 except by authority of the commissioner of correction under such regu-
2 lations as the commissioner shall prescribe.

3 § 9. The closing paragraph of section 853 of the correction law, as
4 added by chapter 757 of the laws of 1981, is amended to read as follows:

5 The department shall also forward to the [~~state commission of~~
6 ~~correction~~] office of the correctional ombudsperson quarterly reports
7 including, but not limited to, the information identified in subdivi-
8 sions (a), (b), (d), (e), (f) and (g) of this section and such other
9 information requested by the [~~commission~~] office or available to the
10 department with respect to such programs.

11 § 10. Section 854 of the correction law, as added by chapter 691 of
12 the laws of 1977, is amended to read as follows:

13 § 854. Evaluation and recommendation. In recognition of the need for
14 an independent evaluation of, and recommendations with respect to,
15 temporary release, the [~~commission of correction~~] office of the correc-
16 tional ombudsperson shall evaluate and assess the administration and
17 operation of all temporary release programs conducted pursuant to this
18 article and shall submit to the governor and the legislature by March
19 first, [~~nineteen hundred seventy-eight~~] two thousand twenty-eight, its
20 findings together with any recommendations with respect to the proper
21 operation or the improvement of such temporary release programs.

22 § 11. Section 857 of the correction law, as added by chapter 691 of
23 the laws of 1977, is amended to read as follows:

24 § 857. Complaint and abuse review. Any person may submit to the
25 [~~commission of correction~~] office of the correctional ombudsperson any
26 complaint [~~he or she~~] such person may have concerning programmatic
27 abuses. The [~~commission of correction~~] office shall evaluate such
28 complaints and, where indicated, conduct any needed investigation. If
29 the [~~commission~~] office concludes that a complaint is valid, the
30 [~~commission~~] ombudsperson shall make recommendations to the department
31 for corrective action. Where the [~~commission~~] office believes sufficient
32 evidence exists to support a criminal charge, the [~~commission~~] office
33 shall report such evidence to the appropriate law enforcement agencies.

34 § 12. Subdivision 6 of section 677 of the county law, as amended by
35 chapter 322 of the laws of 2021, is amended to read as follows:

36 6. Notwithstanding section six hundred seventy of this article or any
37 other provision of law, the coroner, coroner's physician or medical
38 examiner shall promptly provide the [~~chairman~~] chairperson of the
39 correction medical review board or the commissioner of the office of the
40 correctional ombudsperson and the commissioner of corrections and commu-
41 nity supervision, as appropriate, with copies of any autopsy report,
42 toxicological report or any report of any examination or inquiry
43 prepared with respect to any death occurring to an incarcerated individ-
44 ual of a correctional facility as defined by subdivision three of
45 section forty of the correction law within [~~his or her~~] their county;
46 and shall promptly provide the executive director of the justice center
47 for the protection of people with special needs with copies of any
48 autopsy report, toxicology report or any report of any examination or
49 inquiry prepared with respect to the death of any service recipient
50 occurring while [~~he or she~~] such service recipient was a resident in any
51 facility operated, licensed or certified by any agency within the
52 department of mental hygiene, the office of children and family
53 services, the department of health or the state education department. If
54 the toxicological report is prepared pursuant to any agreement or
55 contract with any person, partnership, corporation or governmental agen-
56 cy with the coroner or medical examiner, such report shall be promptly

1 provided to the [~~chairman~~ chairperson of the correction medical review
2 board, the commissioner of the office of the correctional ombudsperson,
3 the commissioner of corrections and community supervision or the execu-
4 tive director of the justice center for people with special needs, as
5 appropriate, by such person, partnership, corporation or governmental
6 agency.

7 § 13. Section 2.10 of the criminal procedure law is amended by adding
8 a new subdivision 88 to read as follows:

9 88. Investigators of the office of the correctional ombudsperson.

10 § 14. Subdivision 2 of section 285 of the education law, as amended by
11 chapter 322 of the laws of 2021, is amended to read as follows:

12 2. The commissioner is authorized to expend up to one hundred seven-
13 ty-five thousand dollars annually to provide grants to public library
14 systems operating under an approved plan of service for provision of
15 services to county jail facilities. Such formula grants shall assist the
16 library system in making available to the incarcerated individual popu-
17 lation of such facility or facilities the library resources of such
18 system. Such grants shall be available to each public library system in
19 such manner as to insure that the ratio of the amount each system is
20 eligible to receive equals the ratio of the number of incarcerated indi-
21 viduals served by the county jail facility to the total number of incar-
22 cerated individuals served by county jail facilities in the state as of
23 July first of the year preceding the calendar year in which the state
24 aid to public library systems is to be paid. Incarcerated individual
25 populations shall be certified by the [~~New York state commission of~~
26 ~~correction~~] office of the correctional ombudsperson. The commissioner
27 shall adopt any regulations necessary to carry out the purposes and
28 provisions of this subdivision.

29 § 15. Section 63 of the executive law is amended by adding a new
30 subdivision 18 to read as follows:

31 18. Investigate the alleged commission of any criminal offense or
32 offenses committed by an employee of the department of corrections and
33 community supervision or of any local correctional facility in
34 connection with the performance of their official duties, and prosecute
35 any such person or persons believed to have committed such criminal
36 offense or offenses in connection with the performance of their official
37 duties. The attorney general may only exercise the jurisdiction provided
38 by this subdivision upon a written finding that such jurisdiction is
39 necessary because: (a) of a lack of alternative prosecutorial resources
40 to adequately investigate and prosecute such criminal offense or
41 offenses, or (b) the exercise of such jurisdiction is necessary to
42 ensure the confidence of the public in the judicial system. In all such
43 proceedings, the attorney general may appear in person or by their depu-
44 ty or assistant before any court or grand jury and exercise all of the
45 powers and perform all of the duties with respect to such actions or
46 proceedings which the district attorney would otherwise be authorized or
47 required to exercise or perform.

48 § 16. Paragraph (a) of subdivision 1 of section 169 of the executive
49 law, as amended by section 9 of part A of chapter 60 of the laws of
50 2012, is amended to read as follows:

51 (a) commissioner of corrections and community supervision, commission-
52 er of the office of the correctional ombudsperson, commissioner of
53 education, commissioner of health, commissioner of mental health,
54 commissioner of developmental disabilities, commissioner of children and
55 family services, commissioner of temporary and disability assistance,
56 chancellor of the state university of New York, commissioner of trans-

1 portation, commissioner of environmental conservation, superintendent of
2 state police, commissioner of general services, commissioner of the
3 division of homeland security and emergency services and the executive
4 director of the state gaming commission;

5 § 17. Subdivision 9 of section 837-a of the executive law, as added by
6 section 4 of part Q of chapter 56 of the laws of 2009, is amended to
7 read as follows:

8 9. In consultation with the state commission of correction, the office
9 of the correctional ombudsperson and the municipal police training coun-
10 cil, establish and maintain basic and other correctional training
11 programs for such personnel employed by correctional facilities as the
12 commissioner shall deem necessary. Such basic correctional training
13 program shall be satisfactorily completed by such personnel prior to
14 their undertaking their duties or within one year following the date of
15 their appointment or at such times as the commissioner may prescribe.
16 Provided, however, the commissioner may, after consultation with the
17 state commission of correction or the office of the correctional ombud-
18 sperson, exempt from such requirement personnel employed by any correc-
19 tional facility which, in the opinion of the commissioner, maintains a
20 basic correctional training program of a standard equal to or higher
21 than that established and maintained by the division; or revoke in whole
22 or in part such exemption, if in [~~his or her~~] the commissioner's opinion
23 the standards of the basic correctional training program maintained by
24 such facility are lower than those established pursuant to this article.

25 § 18. Subdivision (c) of section 33.13 of the mental hygiene law is
26 amended by adding a new paragraph 19 to read as follows:

27 19. to the office of the correctional ombudsperson.

28 § 19. Subdivision 1 of section 2782 of the public health law is
29 amended by adding a new paragraph (t) to read as follows:

30 (t) an employee or agent of the office of the correctional ombudsperson
31 in order to carry out the office's functions, powers and duties with
32 respect to the protected individual, pursuant to article three-A of the
33 correction law.

34 § 20. Paragraph (a) of subdivision 2 of section 2786 of the public
35 health law, as amended by chapter 312 of the laws of 2020, is amended to
36 read as follows:

37 (a) Each state agency authorized pursuant to this article to obtain
38 confidential HIV related information and the board of correction of the
39 city of New York shall, in consultation with the department of health,
40 promulgate regulations: (1) to provide [~~safeguards~~] safeguards to
41 prevent discrimination, abuse or other adverse actions directed toward
42 protected individuals; (2) to prohibit the disclosure of such informa-
43 tion except in accordance with this article; (3) to seek to protect
44 individuals in contact with the protected individual when such contact
45 creates a significant risk of contracting or transmitting HIV infection
46 through the exchange of body fluids[~~7~~]; and (4) to establish criteria
47 for determining when it is reasonably necessary for a provider of a
48 health or social service or the state agency or a local government agen-
49 cy to have or to use confidential HIV related information for super-
50 vision, monitoring, investigation, or administration and for determining
51 which employees and agents may, in the ordinary course of business of
52 the agency or provider, be authorized to access confidential HIV related
53 information pursuant to the provisions of paragraphs (l) and (m) of
54 subdivision one and subdivision six of section twenty-seven hundred
55 eighty-two of this article; and provided further that such regulations
56 shall be promulgated by the chairperson of the commission of correction

1 or the office of the correctional ombudsperson where disclosure is made
2 pursuant to paragraphs (n) [~~and~~], (o), or (t) of subdivision one of
3 section twenty-seven hundred eighty-two of this article.

4 § 21. Subdivision 8 of section 92 of the public officers law, as
5 amended by section 135 of subpart B of part C of chapter 62 of the laws
6 of 2011, is amended to read as follows:

7 (8) Public safety agency record. The term "public safety agency
8 record" means a record of the state commission of correction, the office
9 of the correctional ombudsperson, the temporary state commission of
10 investigation, the department of corrections and community supervision,
11 the office of children and family services, the office of victim
12 services, the office of probation and correctional alternatives or the
13 division of state police or of any agency or component thereof whose
14 primary function is the enforcement of civil or criminal statutes if
15 such record pertains to investigation, law enforcement, confinement of
16 persons in correctional facilities or supervision of persons pursuant to
17 criminal conviction or court order, and any records maintained by the
18 division of criminal justice services pursuant to sections eight hundred
19 thirty-seven, eight hundred thirty-seven-a, eight hundred thirty-sev-
20 en-b, eight hundred thirty-seven-c, eight hundred thirty-eight, eight
21 hundred thirty-nine, and eight hundred forty-five of the executive law
22 and by the department of state pursuant to section ninety-nine of the
23 executive law.

24 § 22. Subdivision 1 of section 460-c of the social services law, as
25 amended by chapter 838 of the laws of 1987, is amended to read as
26 follows:

27 1. Excepting state institutions for the education and support of the
28 blind, the deaf and the dumb, facilities subject to the approval, visi-
29 tation and inspection of the state department of mental hygiene, the
30 office of the correctional ombudsperson or the state commission of
31 correction, facilities operated by or under the supervision of the divi-
32 sion for youth and facilities subject to the supervision of the depart-
33 ment of health pursuant to article twenty-eight of the public health
34 law, the department shall inspect and maintain supervision over all
35 public and private facilities or agencies whether state, county, municipi-
36 pal, incorporated or not incorporated which are in receipt of public
37 funds, which are of a charitable, eleemosynary, correctional or reforma-
38 tory character, including facilities or agencies exercising custody of
39 dependent, neglected, abused, maltreated, abandoned or delinquent chil-
40 dren, agencies engaged in the placing-out or boarding-out of children as
41 defined in section three hundred seventy-one of this chapter, homes or
42 shelters for unmarried mothers, residential programs for victims of
43 domestic violence as defined in subdivision [~~five~~] four of section four
44 hundred fifty-nine-a of this chapter and adult care facilities.

45 § 23. This act shall take effect one year after it shall have become a
46 law.