
SENATE BILL NO. 201—SENATORS PARKS, LESLIE; BREEDEN,
COPENING, DENIS, HORSFORD, KIHUEN AND MANENDO

FEBRUARY 28, 2011

JOINT SPONSORS: ASSEMBLYMEN MUNFORD, ANDERSON;
ATKINSON, BOBZIEN, CARLTON, CARRILLO AND HOGAN

Referred to Committee on Judiciary

SUMMARY—Revises provisions relating to correctional institutions. (BDR 16-827)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets [omitted material] is material to be omitted.

AN ACT relating to correctional institutions; establishing an Ombudsman for Offenders to receive and process complaints by offenders and certain other persons; establishing the powers and duties of the Ombudsman; requiring the Ombudsman to adopt regulations relating to the processing of such complaints; requiring the Ombudsman to make certain reports to the Department of Corrections, the Legislature and the Advisory Commission on the Administration of Justice; requiring the Director of the Department to adopt regulations which comply with certain standards; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

- 1 **Section 7** of this bill creates the Office of the Ombudsman for Offenders within
- 2 the Office of the Attorney General.
- 3 **Section 8** of this bill grants the Attorney General the power to appoint and
- 4 remove the Ombudsman for Offenders.
- 5 **Section 9** of this bill sets forth the powers of the Ombudsman.
- 6 **Sections 10 and 11** of this bill specify the accounting and use of money
- 7 collected by the Ombudsman.



8 **Section 12** of this bill directs the Ombudsman to establish regulations
9 governing the receipt, processing and reporting of complaints from Legislators,
10 offenders and family members of offenders and from the Ombudsman.

11 **Sections 13 and 17** of this bill specify the responsibilities of the Ombudsman
12 concerning the processing and reporting of complaints and actions taken in
13 response to the complaints.

14 **Section 14** of this bill requires the Ombudsman to notify certain persons of the
15 Ombudsman's decision regarding the processing of a complaint.

16 **Section 15** of this bill makes confidential certain information relating to
17 complaints, reports and recommendations.

18 **Section 16** of this bill requires the Ombudsman to prepare and submit a
19 biennial report for the Department of Corrections, the Legislature and the Advisory
20 Commission on the Administration of Justice.

21 **Section 18** of this bill prohibits the penalizing of an offender for certain acts
22 relating to complaints and prohibits the hindrance of the Ombudsman in performing
23 the duties of office.

24 **Section 19** of this bill provides that the authority of the Ombudsman is not
25 exclusive of other available remedies.

26 Existing law requires the Director of the Department to protect the health and
27 safety of the staff and offenders in the institutions and facilities of the Department.
28 (NRS 209.131) **Section 20** of this bill requires the Director to establish regulations
29 which comply with the standards set by the National Commission on Correctional
30 Health Care to govern staff training in medical emergency response and reporting.

31 Existing law also requires the Director to establish standards for the personal
32 hygiene of offenders and for the medical and dental services at correctional
33 institutions and facilities. (NRS 209.381) **Section 21** of this bill requires those
34 standards to comply with standards set by the National Commission on
35 Correctional Health Care.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** Chapter 209 of NRS is hereby amended by adding
2 thereto the provisions set forth as sections 2 to 19, inclusive, of this
3 act.

4 **Sec. 2.** *As used in sections 2 to 19, inclusive, of this act,*
5 *unless the context otherwise requires, the words and terms defined*
6 *in sections 3 to 6, inclusive, of this act have the meanings ascribed*
7 *to them in those sections.*

8 **Sec. 3.** *“Administrative act” includes an action, omission,*
9 *decision, recommendation, practice or other procedure of the*
10 *Department.*

11 **Sec. 4.** *“Complainant” means a Legislator, an offender or a*
12 *family member of an offender who files a complaint as described*
13 *in section 12 of this act.*

14 **Sec. 5.** *“Official” means the Director, a deputy director,*
15 *manager, warden or employee of the Department.*

16 **Sec. 6.** *“Ombudsman” means the Ombudsman for*
17 *Offenders.*



1 **Sec. 7.** *The Office of the Ombudsman for Offenders is*
2 *hereby created within the Office of the Attorney General.*

3 **Sec. 8.** *1. The Attorney General shall appoint the*
4 *Ombudsman. The Ombudsman is in the unclassified service of the*
5 *State. The person appointed:*

6 *(a) Must be knowledgeable in the field of corrections; and*

7 *(b) Must be independent of the Department.*

8 *2. The Attorney General may remove the Ombudsman from*
9 *office for inefficiency, neglect of duty or malfeasance in office.*

10 **Sec. 9.** *The Ombudsman may:*

11 *1. Employ such staff as is necessary to carry out the duties*
12 *and functions of his or her office, in accordance with the*
13 *personnel practices and procedures established within the*
14 *Attorney General's Office. The Ombudsman has sole discretion to*
15 *employ and remove any member of his or her staff.*

16 *2. Purchase necessary equipment.*

17 *3. Lease or make other suitable arrangements for office*
18 *space, but any lease which extends beyond the term of 1 year must*
19 *be reviewed and approved by a majority of the members of the*
20 *State Board of Examiners.*

21 *4. Perform such other functions and make such other*
22 *arrangements as may be necessary to carry out the duties and*
23 *functions of his or her office.*

24 **Sec. 10.** *1. All money collected by the Ombudsman must be*
25 *deposited with the State Treasurer for credit to the Account for the*
26 *Ombudsman for Offenders, which is hereby created.*

27 *2. Money in the Account may be used:*

28 *(a) To defray the costs of maintaining the Office of the*
29 *Ombudsman; or*

30 *(b) For any other purpose authorized by the Legislature.*

31 *3. All claims against the Account must be paid as other*
32 *claims against the State are paid.*

33 **Sec. 11.** *All gifts and grants of money which the*
34 *Ombudsman is authorized to accept must be deposited with the*
35 *State Treasurer for credit to the Account for the Ombudsman for*
36 *Offenders.*

37 **Sec. 12.** *The Ombudsman shall, by regulation, establish*
38 *procedures for receiving, processing and reporting complaints*
39 *from a Legislator, an offender or a family member of an offender*
40 *and for processing and reporting allegations personally known to*
41 *the Ombudsman concerning:*

42 *1. An administrative act which is alleged to be contrary to law*
43 *or a policy of the Department; or*



1 2. Significant issues relating to the health or safety of
2 offenders and other matters for which there is no effective
3 administrative remedy.

4 **Sec. 13.** 1. The Ombudsman shall advise a complainant to
5 pursue all administrative remedies that are available to the
6 complainant. The Ombudsman may request and shall receive from
7 the Department a progress report concerning the administrative
8 processing of a complaint. After the Department has taken
9 administrative action on a complaint, the Ombudsman may
10 process and report a complaint on the request of a complainant or
11 on his or her own initiative.

12 2. The Ombudsman is not required to process or report a
13 complaint brought before the Ombudsman. A person is not
14 entitled as a right to have his or her complaint processed or
15 reported by the Ombudsman.

16 **Sec. 14.** After the Ombudsman receives a complaint from a
17 Legislator, an offender or a family member of an offender as
18 described in section 12 of this act and decides to process
19 the complaint, the Ombudsman shall notify the complainant, the
20 offender or offenders affected and the Department. If the
21 Ombudsman declines to process the complaint, the Ombudsman
22 shall notify the complainant in writing and inform the offender or
23 offenders affected of the reasons for the Ombudsman's decision.

24 **Sec. 15.** 1. Correspondence between the Ombudsman and
25 an offender is confidential and must be processed as privileged
26 correspondence in the same manner as letters between offenders
27 and courts, attorneys or public officials.

28 2. The Ombudsman shall keep confidential all matters
29 relating to a complaint and the identities of the complainants or
30 persons from whom information is acquired, except so far as
31 disclosures may be necessary to enable the Ombudsman to
32 perform the duties of the office and to support any
33 recommendations resulting from the processing of a complaint.

34 3. A report prepared and recommendations made by the
35 Ombudsman and submitted pursuant to section 16 of this act are
36 exempt from disclosure under chapter 239 of NRS.

37 **Sec. 16.** 1. For each regular session of the Legislature, the
38 Ombudsman shall prepare a report on:

39 (a) The conduct of the Office of the Ombudsman for
40 Offenders;

41 (b) Complaints processed by the Ombudsman; and

42 (c) Findings resulting from those complaints if the
43 Ombudsman finds:

44 (1) A matter that should be considered by the Department;



1 (2) *An administrative act that should be modified or*
2 *cancelled;*

3 (3) *A statute or regulation that should be altered;*

4 (4) *An administrative act for which justification is*
5 *necessary;*

6 (5) *Significant issues relating to the health or safety of*
7 *offenders; or*

8 (6) *Any other significant concerns as set forth by*
9 *regulation.*

10 2. *The report must be submitted not later than September 1 of*
11 *each even-numbered year to the Department and the Director of*
12 *the Legislative Counsel Bureau for distribution to the Legislature*
13 *and the Advisory Commission on the Administration of Justice.*

14 3. *Subject to section 17 of this act, the Legislature may*
15 *forward all or part of a report prepared and submitted pursuant to*
16 *this section to the complainant or the offender or offenders*
17 *affected.*

18 **Sec. 17.** 1. *Before publishing a finding or recommendation*
19 *that expressly or by implication criticizes a person or the*
20 *Department, the Ombudsman must consult with that person or the*
21 *Department.*

22 2. *When publishing a finding adverse to the Department or*
23 *any person, the Ombudsman shall include in that publication a*
24 *statement of reasonable length made to the Ombudsman by the*
25 *Department or person in defense or mitigation of the action, if that*
26 *statement is provided within a reasonable period of time as*
27 *specified by regulation.*

28 3. *The Ombudsman may request to be notified by the*
29 *Department, within a specified period of time, of any action taken*
30 *on a recommendation.*

31 4. *The Ombudsman shall notify a complainant of actions*
32 *relating to the complaint taken by the Office of the Ombudsman*
33 *and the Department.*

34 **Sec. 18.** 1. *An offender must not be penalized in any way*
35 *by an official or the Department for filing a complaint,*
36 *complaining to a Legislator or cooperating with the Ombudsman*
37 *in researching a complaint.*

38 2. *A person or the Department shall not:*

39 (a) *Hinder the lawful actions of the Ombudsman or employees*
40 *of the Office of the Ombudsman; or*

41 (b) *Willfully refuse to comply with lawful demands of the*
42 *Office.*

43 **Sec. 19.** *The authority granted the Ombudsman pursuant to*
44 *sections 2 to 19, inclusive, of this act:*

45 1. *Is in addition to the authority granted under:*



- 1 ***(a) The provisions of any other act or rule under which the***
2 ***remedy or right of appeal or objection is provided for a person; or***
3 ***(b) Any procedure provided for the inquiry into or***
4 ***investigation of any other matter.***

5 **2. Shall not be:**

- 6 ***(a) Construed to limit or affect the remedy or right of appeal or***
7 ***objection; or***
8 ***(b) Deemed part of an exclusionary process.***

9 **Sec. 20.** NRS 209.131 is hereby amended to read as follows:
10 209.131 The Director shall:

11 1. Administer the Department under the direction of the Board.
12 2. Supervise the administration of all institutions and facilities
13 of the Department.

14 3. Receive, retain and release, in accordance with law,
15 offenders sentenced to imprisonment in the state prison.

16 4. Be responsible for the supervision, custody, treatment, care,
17 security and discipline of all offenders under his or her jurisdiction.

18 5. Ensure that any person employed by the Department whose
19 primary responsibilities are:

20 (a) The supervision, custody, security, discipline, safety and
21 transportation of an offender;

22 (b) The security and safety of the staff; and

23 (c) The security and safety of an institution or facility of the
24 Department,

25 ↳ is a correctional officer who has the powers of a peace officer
26 pursuant to subsection 1 of NRS 289.220.

27 6. Establish regulations with the approval of the Board and
28 enforce all laws governing the administration of the Department and
29 the custody, care and training of offenders.

30 7. Take proper measures to protect the health and safety of the
31 staff and offenders in the institutions and facilities of the
32 Department ***H***, ***including, without limitation, establishing***
33 ***regulations, with the approval of the Board, which comply with***
34 ***standards set by the National Commission on Correctional Health***
35 ***Care to govern staff training in medical emergency response and***
36 ***reporting.***

37 8. Cause to be placed from time to time in conspicuous places
38 about each institution and facility copies of laws and regulations
39 relating to visits and correspondence between offenders and others.

40 9. Provide for the holding of religious services in the
41 institutions and facilities and make available to the offenders copies
42 of appropriate religious materials.



1 **Sec. 21.** NRS 209.381 is hereby amended to read as follows:
2 209.381 1. Each offender in an institution or facility of the
3 Department must be provided a healthful diet and appropriate,
4 sanitary housing.
5 2. The Director with the approval of the Board shall establish
6 standards *which comply with standards set by the National*
7 *Commission on Correctional Health Care* for personal hygiene of
8 offenders and for the medical and dental services of each institution
9 or facility.

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