

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 3979

STATE OF NEW JERSEY
218th LEGISLATURE

ADOPTED MARCH 18, 2019

Sponsored by:

Assemblywoman YVONNE LOPEZ

District 19 (Middlesex)

Assemblywoman VALERIE VAINIERI HUTTLE

District 37 (Bergen)

Assemblywoman VERLINA REYNOLDS-JACKSON

District 15 (Hunterdon and Mercer)

Co-Sponsored by:

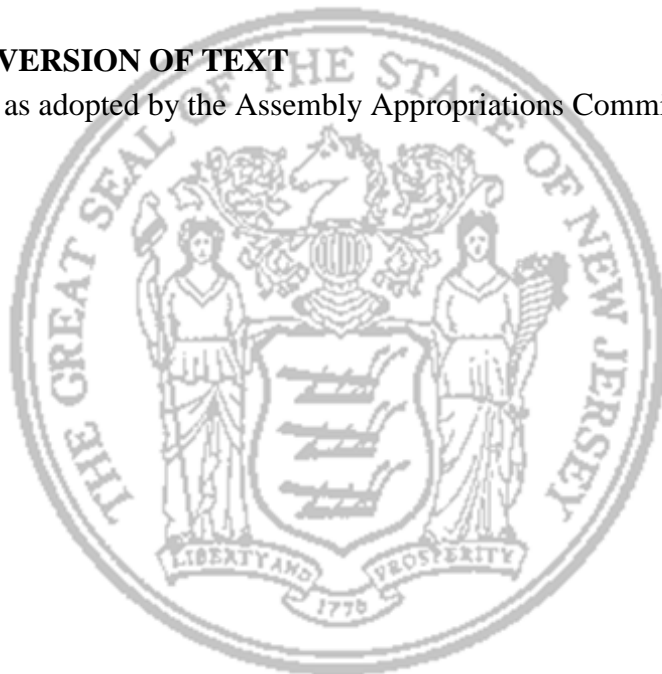
**Assemblymen Giblin, Holley, Caputo, Assemblywomen Pintor Marin,
Timberlake, Tucker, Speight, McKnight, Jasey and Mosquera**

SYNOPSIS

“Dignity for Incarcerated Primary Caretaker Parents Act.”

CURRENT VERSION OF TEXT

Substitute as adopted by the Assembly Appropriations Committee.



(Sponsorship Updated As Of: 5/24/2019)

1 AN ACT concerning incarcerated primary caretaker parents,
2 amending P.L.2005, c.155, and supplementing Title 30 and Title
3 52 of the Revised Statutes.

4

5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7

8 1. (New section) This act shall be known and may be cited as
9 the “Dignity for Incarcerated Primary Caretaker Parents Act.”

10

11 2. (New section) The Legislature finds and declares:

12 a. A growing segment of the prison population typically is
13 excluded from the criminal justice reform conversation and does not
14 get the attention it deserves: primary caretaker parents behind bars.
15 According to the Sentencing Project, in 2004, 52 percent of inmates
16 in state prisons and 63 percent in federal prisons were parents of
17 minor children. Most parents in prison are fathers, but the rate of
18 female incarceration in America is growing at an alarming
19 rate. While the number of fathers in prison increased 76 percent
20 between 1991 and 2007, the number of mothers in prison increased
21 by 122 percent during that period.

22 b. Presumably, the considerable growth in incarcerated parents
23 represents a considerable growth in incarcerated primary caretaker
24 parents. This is significant because these parents face unique
25 challenges. Their incarceration is not their burden to alone share; it
26 also greatly impacts their family. Many incarcerated primary
27 caretaker parents also are faced with difficult and competing
28 choices, like whether to use their limited funds to communicate
29 with their children or in the case of female inmates, to purchase
30 hygiene products in the commissary.

31 c. Therefore, it is necessary to create a strengthened
32 Corrections Ombudsperson in the Office of the Corrections
33 Ombudsperson to enforce the rights of inmates, provide access to
34 the benefits to which they are entitled, and ensure accountability,
35 transparency, monitoring, and continued improvements within all
36 correctional facilities.

37 d. It is time for this State to focus on its incarcerated primary
38 caretaker parents and provide them with the protections they
39 deserve.

40

41 3. (New section) As used in this act:

42 “Department” means the Department of Corrections.

43 “Isolated confinement” means the confinement of an inmate in a
44 correctional facility, pursuant to disciplinary, administrative,
45 protective, investigative, medical, or other classification, in a cell or
46 similarly confined holding or living space, alone or with other

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 inmates, for approximately 23 hours or more per day, with severely
2 restricted activity, movement, and social interaction, and shall
3 include, but not be limited to, administrative segregation,
4 disciplinary segregation, solitary confinement, and protective
5 segregation.

6 “Office” means the Office of the Corrections Ombudsman.

7 “Primary caretaker parent” means any inmate who has a child
8 under the age of 18, who prior to the inmate’s incarceration, spent
9 the majority of days in the care of the inmate parent, and whose
10 access to that child has not been terminated by court order, the
11 inmate’s own request, or other circumstance.

12 “Restraint” mean any physical restraint or mechanical device
13 used to control the movement of a inmate’s or detainee’s body and
14 limbs, including, but not limited to, shackles, flex cuffs, soft
15 restraints, hard metal handcuffs, a black box, Chubb cuffs, leg
16 irons, belly chains, a security or tether chain, or a convex shield.

17

18 4. (New section) The Commissioner of Corrections shall:

19 a. place an inmate who has a minor child in a State correctional
20 facility as close as possible to that child’s place of residence at the
21 request of the inmate and prior to sentencing;

22 b. establish policies that encourage and promote visitation,
23 particularly for inmates who are primary caretaker parents,
24 including, but not limited to:

25 (1) requiring the visitation program be in operation at least six
26 days per week, including Saturday and Sunday, for at least four
27 hours per visit;

28 (2) prohibiting restrictions on the number of minor children
29 allowed to visit an inmate;

30 (3) authorizing up to three adult visitors; and

31 (4) authorizing contact visits;

32 c. prohibit the isolated confinement of a pregnant woman;

33 d. prohibit a staff member of, or medical service provider for, a
34 correctional facility from restraining a woman known to be
35 pregnant or applying restraints during any stage of labor, any
36 pregnancy related medical distress, delivery, or postpartum;

37 e. provide parenting classes to primary caretaker parents;

38 f. provide appropriate trauma informed care to inmates who
39 are primary caretaker parents and train correctional police officers
40 on how to interact with inmates who are victims of trauma;

41 g. allow former inmates who have returned to society, after
42 appropriate internal clearance, to mentor current inmates who are
43 incarcerated primary caretaker parents and assist these inmates with
44 reentry efforts;

45 h. require standard feminine hygiene products, including but
46 not limited to, tampons and sanitary pads, be provided at the request
47 of and free of charge to female inmates, and petroleum jelly,
48 aspirin, ibuprofen, and any other item deemed appropriate by the

- 1 commissioner, to be made available to inmates from the
2 commissary or medical department;
- 3 i. restrict correctional police officers and other department
4 employees from entering the restrooms and shower facilities of
5 inmates of the opposite sex when occupied except when deemed
6 necessary by the commissioner; and
- 7 j. allow all pregnant women and inmates who are primary
8 caretaker parents to enroll in residential drug abuse and mental
9 health programs provided they meet the requirements of those
10 programs.
- 11
- 12 5. (New section) The chief executive officer or warden of each
13 county correctional facility shall:
- 14 a. establish policies that encourage and promote visitation,
15 particularly for inmates who are primary caretaker parents,
16 including, but not limited to:
- 17 (1) requiring in-person visitation three days per week, including
18 Saturday and Sunday, for at least 30 minutes per visit;
- 19 (2) prohibiting restrictions on the number of children allowed to
20 visit an inmate consistent with current regulations;
- 21 (3) authorizing up to two adult visitors; and
- 22 (4) providing consistent access to contact visits;
- 23 (5) authorizing contact visits with children;
- 24 b. prohibit the isolated confinement of a pregnant woman;
- 25 c. prohibit a staff member of, or medical service provider for, a
26 county correctional facility from restraining a woman known to be
27 pregnant or applying restraints during any stage of labor, any
28 pregnancy related medical distress, delivery, or postpartum;
- 29 d. provide parenting classes to inmates who are primary
30 caretaker parents;
- 31 e. provide trauma informed care to inmates who are primary
32 caretaker parents and train correctional police officers on how to
33 interact with inmates who are victims of trauma;
- 34 f. allow former inmates who are participating members of a non-
35 profit or reentry organization mentorship or visitation program
36 approved by the chief executive officer or warden to mentor current
37 inmates who are incarcerated primary caretaker parents and assist
38 these inmates with reentry efforts;
- 39 g. require standard feminine hygiene products, including but
40 not limited to tampons and sanitary pads, be provided at the request
41 of and free of charge to female inmates, and petroleum jelly,
42 aspirin, ibuprofen, and any other item deemed appropriate by the
43 chief executive officer or warden, to be provided at the request of
44 and free of charge to inmates;
- 45 h. restrict correctional police officers and other department
46 employees from entering the restrooms and shower facilities of
47 inmates of the opposite sex when occupied except when deemed
48 necessary by the chief executive officer or warden; and

1 i. allow all pregnant women and inmates who are primary
2 caretaker parents to enroll in residential drug abuse and mental
3 health programs provided they meet the requirements of those
4 programs.

5
6 6. Section 26 of P.L.2005 (C.52:27EE-26) is amended to read
7 as follows:

8 26. Office of Corrections Ombudsperson; transfer of functions.

9 a. All functions, powers, and duties now vested in the
10 Corrections Ombudsperson in the Department of the Public
11 Advocate are hereby transferred to and assumed by the Office of the
12 Corrections Ombudsperson in, but not of, the Department of the
13 Treasury. **【**The Corrections Ombudsperson shall be appointed by
14 the Governor.**】** For the purposes of complying with the provisions
15 of Article V, Section IV, paragraph 1 of the New Jersey
16 Constitution, the Office of the Corrections Ombudsperson is hereby
17 allocated to the Department of the Treasury, but, notwithstanding
18 this allocation, the **【**ombudsperson**】** Office of the Ombudsperson
19 shall be independent of any supervision or control by the
20 **【**department**】** Department of Treasury or by any board or officer
21 thereof.

22 b. Whenever, in any law, rule, regulation, order, reorganization
23 plan, contract, document, judicial, or administrative proceeding, or
24 otherwise, reference is made to the Corrections Ombudsperson in
25 the Department of the Public Advocate the same shall mean and
26 refer to the Office of the Corrections Ombudsperson in, but not of,
27 the Department of the Treasury.

28 c. The office shall be responsible for:

29 (1) providing information to inmates and their families;

30 (2) promoting public awareness and understanding of the rights
31 of inmates;

32 (3) identifying systemic issues and responses upon which the
33 Governor and Legislature may act; and

34 (4) ensuring compliance with relevant statutes, rules,
35 regulations, and policies concerning corrections facilities, services,
36 and treatment of inmates under the jurisdiction of the department.

37 d. The Corrections Ombudsperson shall serve as the head of
38 the Office of the Corrections Ombudsperson.

39 (1) The corrections ombudsperson shall be appointed by the
40 Governor from qualified persons of recognized judgment,
41 independence, objectivity, and integrity, who are qualified by
42 training or experience in corrections law and policy.

43 (2) A person shall be disqualified from being appointed as
44 ombudsperson if the person or the person's spouse:

45 (a) is or has been employed by or participates in the
46 management of a business entity or other organization receiving
47 funds from the department within the last five years;

1 (b) owns or controls, directly or indirectly, any interest in a
2 business entity or other organization receiving funds from the
3 department within the last five years;

4 (c) uses or receives any amount of tangible goods, services, or
5 funds from the department; or

6 (d) is required to register as a lobbyist because of the person's
7 activities for compensation on behalf of a profession related to the
8 operation of the department or the office.

9 e. The corrections ombudsperson shall hold the office for a
10 term of five years and continue to hold the office until reappointed
11 or the appointment of a successor. The Governor may remove the
12 ombudsperson only for neglect of duty, misconduct, or the inability
13 to perform duties. Any vacancy shall be filled by similar
14 appointment for the remainder of the unexpired term.

15 f. The corrections ombudsperson shall report directly to the
16 Governor.

17 g. The office shall be adequately funded and staffed with the
18 requisite number of employees with expertise and training
19 necessary to carry out the duties of the office.

20 h. The corrections ombudsperson may employ assistants to
21 perform duties and exercise the same powers as the ombudsperson.

22 i. A person may not serve as an assistant corrections
23 ombudsperson or employee of the office if the person or the
24 person's spouse:

25 (a) is or has been employed by or participates in the
26 management of a business entity or other organization receiving
27 funds from the Department within the last five years;

28 (b) owns or controls, directly or indirectly, any interest in a
29 business entity or other organization receiving funds from the
30 department within the last five years;

31 (c) uses or receives any amount of tangible goods, services, or
32 funds from the department; or

33 (d) is required to register as a lobbyist because of the person's
34 activities for compensation on behalf of a profession related to the
35 operation of the department or the office.

36 j. The corrections ombudsperson may employ technical experts
37 and other employees or consultants necessary to perform the duties
38 of the office.

39 (cf: P.L.2010, c.34, s.24)

40
41 7. Section 28 of P.L.2005 (C.52:27EE-28) is amended to read
42 as follows:

43 28. Corrections Ombudsperson; duties.

44 a. The Corrections Ombudsperson shall establish and
45 implement procedures for eliciting, receiving, processing,
46 responding, and resolving complaints from inmates, their families,
47 other interested citizens, public officials, and government agencies

- 1 concerning conditions in the correctional facilities noted in section
2 27 of **[this act]** of P.L.2005 (C. 52:27EE-27).
- 3 b. To implement the provisions of P.L. c. (pending before
4 the Legislature as this bill), the ombudsperson shall:
- 5 (1) establish priorities for use of the resources available to the
6 ombudsperson;
- 7 (2) maintain a Statewide toll-free telephone number, a collect
8 telephone number, a website, and a mailing address for the receipt
9 of complaints and inquiries;
- 10 (3) provide information, as appropriate, to inmates, family
11 members and representatives of inmates, department employees,
12 and others regarding the rights of inmates;
- 13 (4) provide technical assistance to support inmate participation
14 in self-advocacy;
- 15 (5) monitor compliance with applicable federal, State, county,
16 and municipal laws, rules, regulations, and policies related to the
17 health, safety, welfare, and rehabilitation of inmates;
- 18 (6) monitor and participate in legislative and policy
19 developments affecting correctional facilities;
- 20 (7) establish a Statewide uniform reporting system to collect and
21 analyze data related to complaints received by the ombudsperson
22 regarding the department;
- 23 (8) establish procedures to receive, investigate, and resolve
24 complaints;
- 25 (9) establish procedures to gather stakeholder input into the
26 ombudsperson's activities and priorities, which shall include
27 holding public meetings at least quarterly;
- 28 (10) by November 1st of each year, annually submit to the
29 Governor's office and the Legislature, and make publicly available,
30 a report that is both aggregated and disaggregated by each facility
31 and includes, at a minimum, the following information:
- 32 (a) the budget and expenditures of the ombudsperson;
- 33 (b) the number of complaints received and resolved by the
34 ombudsperson;
- 35 (c) a description of significant systemic or individual
36 investigations or outcomes achieved by the ombudsperson in the
37 preceding year;
- 38 (d) any outstanding or unresolved concerns or recommendations
39 of the ombudsperson; and
- 40 (e) input and comments from stakeholders regarding the
41 ombudsperson's activities during the preceding year.
- 42 (11) promote awareness among department employees, inmates,
43 and family members and other members of the public regarding:
- 44 (a) how the Office of Corrections Ombudsperson may be
45 contacted;
- 46 (b) the purpose of the office; and
- 47 (c) the services provided by the office.

1 (12) provide assistance to an inmate or family member whom
2 the ombudsperson determines is in need of assistance, including
3 advocating with an agency, provider, or other person in the best
4 interests of the inmate;

5 (13) make appropriate referrals under any of the powers and
6 duties of the office, including to appropriate law enforcement
7 authorities when criminal complaints by inmates are received by the
8 office;

9 (14) attend any relevant training provided to correctional
10 officers and participate in other appropriate professional training;

11 (15) notwithstanding any other provision of law to the contrary,
12 review criminal investigations to ensure the investigations were
13 accurate, unbiased, and thorough without investigating alleged
14 criminal behavior; and

15 (16) adopt and comply with rules, policies, and procedures
16 necessary to implement the provisions of P.L. c. (pending
17 before the Legislature as this bill).

18 (cf: P.L.2005, c.155, s.28)

19
20 8. (New section) The corrections ombudsperson shall conduct
21 investigations of inmate complaints in accordance with the
22 provisions of this section.

23 a. The ombudsperson may initiate and attempt to resolve an
24 investigation upon the ombudsperson's own initiative, or upon
25 receipt of a complaint from an inmate, a family member, a
26 representative of an inmate, a department employee, or any other
27 person, including but not limited to any of the following that may
28 adversely affect the health, safety, welfare, or rights of inmates:

29 (1) abuse or neglect;

30 (2) department decisions or administrative actions;

31 (3) inactions or omissions;

32 (4) policies, rules, or procedures; or

33 (5) alleged violations of law by the department that may
34 adversely affect the health, safety, welfare, or rights of inmates.

35 b. If the ombudsperson does not investigate a complaint, the
36 ombudsperson shall notify the complainant of the decision not to
37 investigate and the reasons for the decision.

38 c. The ombudsperson shall not investigate any complaints
39 relating to an inmate's underlying criminal conviction.

40 d. The ombudsperson shall not investigate a complaint from a
41 department employee that relates to the employee's employment
42 relationship with the department or the administration of the
43 department, unless the complaint is related to the health, safety,
44 welfare, and rehabilitation of inmates.

45 e. The ombudsperson shall attempt to resolve any complaint at
46 the lowest possible level.

47 f. The ombudsperson may refer complainants and others to
48 appropriate resources, agencies, or departments.

- 1 g. The ombudsperson shall not impose any fee for the
2 submission or investigation of complaints.
- 3 h. The ombudsperson shall remain neutral and impartial and
4 shall not act as an advocate for the complainant or for the
5 department.
- 6 i. At the conclusion of an investigation of a complaint, the
7 ombudsperson shall render a public decision on the merits of each
8 complaint, except that the documents supporting the decision are
9 subject to relevant confidentiality provisions. The ombudsperson
10 shall communicate the decision to the inmate, if appropriate, and to
11 the department. The ombudsperson shall state its recommendations
12 and reasoning if, in the ombudsperson's opinion, the department or
13 any employee should:
- 14 (1) further consider the matter;
 - 15 (2) modify or cancel any action;
 - 16 (3) alter a rule, practice, or ruling;
 - 17 (4) explain in detail the administrative action in question; or
 - 18 (5) rectify an omission.
- 19 j. At the ombudsperson's request, the department shall, within
20 the time specified, inform the ombudsperson about any action taken
21 on the recommendations or the reasons for not complying with the
22 recommendations.
- 23 k. If the ombudsperson concludes, based on the investigation,
24 that there has been, or continues to be, a significant issue regarding
25 an inmate's health, safety, welfare, or rehabilitation, the
26 ombudsperson shall report the finding to the Governor and the
27 Legislature.
- 28 l. Before announcing a conclusion or recommendation that
29 expressly, or by implication, criticizes a person or the department,
30 the ombudsperson shall consult with that person or the department.
31 The ombudsperson may request to be notified by the department,
32 within a specified time, of any action taken on any recommendation
33 presented. The ombudsperson shall notify the inmate, if appropriate,
34 of the actions taken by the department in response to the
35 ombudsperson's recommendations.
- 36 m. The ombudsperson shall make available to inmates
37 confidential means by which to report concerns or otherwise submit
38 complaints to the ombudsperson, which may include electronic
39 means or a locked box, accessible only by the ombudsperson and
40 the employees of the ombudsperson. All measures shall be taken to
41 ensure there is no risk or credible fear of retaliation against inmates
42 for submitting complaints to the ombudsperson.
- 43 n. Submission of complaints to the ombudsperson shall not be
44 part of the department administrative grievance or appeal process,
45 and the ombudsperson's decisions shall not constitute agency
46 action. Nothing in this section shall be deemed to constitute part of
47 the administrative exhaustion process. The ombudsperson shall not
48 require inmates to file grievances or other inquiries as part of the

- 1 department's system to be considered ripe for review by the
2 ombudsperson.
- 3 9. (New section) The corrections ombudsperson shall conduct
4 inspections of State correctional facilities in accordance with the
5 provisions of this section.
- 6 a. The ombudsperson shall conduct regular inspections of all
7 department facilities and issue public reports of all inspections.
- 8 b. The ombudsperson may inspect, examine, or assess all
9 aspects of a facility's operations and conditions including, but not
10 limited to:
- 11 (1) staff recruitment, training, supervision, and discipline;
 - 12 (2) inmate deaths or serious injuries;
 - 13 (3) incidences of physical and sexual assault;
 - 14 (4) medical and mental-health care;
 - 15 (5) use of force;
 - 16 (6) inmate violence;
 - 17 (7) conditions of confinement;
 - 18 (8) inmate disciplinary processes;
 - 19 (9) inmate grievance processes;
 - 20 (10) substance-abuse treatment;
 - 21 (11) educational, vocational, and other programming;
 - 22 (12) family visitation and communication practices; and
 - 23 (13) rehabilitation, reentry, and integration practices.
- 24 c. The ombudsperson shall utilize a range of methods to gather
25 and substantiate facts, including observations, interviews with
26 inmates, inmate surveys, document and record reviews, video and
27 tape recordings, reports, statistics, and performance-based outcome
28 measures.
- 29 d. Facility and other governmental officials are authorized and
30 shall be required to cooperate fully and promptly with inspections.
- 31 e. The ombudsperson shall be vested with the authority to
32 conduct both scheduled and unannounced inspections of any part or
33 all of the facility at any time. The ombudsperson shall adopt
34 procedures to ensure that unannounced inspections are conducted in
35 a reasonable manner.
- 36 f. Facility administrators shall be provided an opportunity to
37 review reports and provide feedback about them to the
38 ombudsperson before their dissemination to the public, but the
39 release of the reports is not subject to approval from any entity or
40 person outside the office.
- 41 g. Reports shall apply legal requirements, best correctional
42 practices, and other criteria to objectively and accurately review and
43 assess a facility's policies, procedures, programs, and practices;
44 identify systemic problems and the reasons for them; and proffer
45 possible solutions to those problems.
- 46 h. Subject to reasonable privacy and security requirements, the
47 ombudsperson's reports shall be public, accessible through the

1 Internet, and distributed to the media, Legislature, Attorney
2 General, and Governor.

3 i. Facility administrators shall publicly respond to monitoring
4 reports; develop and implement in a timely fashion action plans to
5 rectify problems identified in those reports; and to semi-annually
6 inform the public of their progress in implementing these action
7 plans.

8 j. The ombudsperson shall continue to assess and report on
9 previously identified problems and the progress made in resolving
10 them until the problems are resolved.

11

12 10. (New section) The corrections ombudsperson shall be
13 provided access to correctional facilities and inmate records in
14 accordance with the provisions of this section.

15 a. The ombudsperson shall have reasonable access to
16 correctional facilities at all times necessary to conduct a full
17 investigation of an incident of abuse or neglect or to conduct a
18 facility inspection, including the opportunity to interview any
19 inmate, department employee, or other person, or the alleged victim
20 of abuse who is reasonably believed by the facility to have
21 knowledge relevant to an inspection or incident under investigation.

22 b. Access to investigate a complaint shall be afforded when:

23 (1) an incident is reported or a complaint is made to the office;

24 (2) the ombudsperson determines there is probable cause to
25 believe that an incident has or may have occurred; or

26 (3) the ombudsperson determines that there is or may be
27 imminent danger of serious abuse or neglect of an inmate.

28 c. The ombudsperson shall have reasonable access to all
29 department facilities, including all areas which are used by inmates,
30 all areas which are accessible inmates, and to programs for inmates
31 for the purpose of:

32 (1) providing information about person's rights and the services
33 available from the office, including the name, address, and
34 telephone number of the office;

35 (2) monitoring compliance with respect to the rights and safety
36 of inmates; and

37 (3) inspecting, viewing, photographing, and video recording all
38 areas of the facility.

39 d. The ombudsperson shall be vested with the authority to
40 regularly meet, interview, and privately and confidentially
41 communicate with any person, including staff and inmates, both
42 formally and informally, by telephone, mail, and in person.

43 e. The ombudsperson has the right to access, inspect, and copy
44 all relevant information, records, or documents in the possession or
45 control of the department that the ombudsperson considers
46 necessary in an investigation of a complaint or the inspection of a
47 facility, including confidential Special Investigation Division
48 reports and records. The department shall assist the ombudsperson

1 in obtaining the necessary releases for those documents which are
2 specifically restricted or privileged for use by the ombudsperson.

3 f. Following notification from the ombudsperson with a
4 written demand for access to agency records, the delegated
5 department staff shall provide the ombudsperson with access to the
6 requested documentation not later than 20 business days after the
7 ombudsperson's request. If the records requested by the
8 ombudsperson pertain to an inmate death, threats of bodily harm
9 including, but not limited to, sexual or physical assaults, or the
10 denial of necessary medical treatment, the records shall be provided
11 within five days unless the ombudsperson consents to an extension
12 of that timeframe.

13 g. Upon notice and request by the ombudsperson, a State,
14 county, or municipal government agency or entity that has records
15 relevant to a complaint or an investigation conducted by the
16 ombudsperson shall provide the ombudsperson with access to the
17 records.

18 h. The ombudsperson shall work with the department to
19 minimize disruption to the department's operations due to
20 ombudsperson activities and shall comply with the department's
21 security clearance processes, provided those processes do not
22 impede the ombudsperson from carrying out the responsibilities set
23 forth in this section.

24 i. The ombudsperson shall be authorized to hold public
25 hearings, to subpoena witnesses and documents, and to require that
26 witnesses testify under oath.

27 j. The ombudsperson shall enact procedures to enable facility
28 administrators, line staff, inmates, and others to transmit
29 information confidentially to the monitoring entity about the
30 facility's operations and conditions. Adequate safeguards shall be
31 established to protect persons who transmit information to the
32 monitoring entity from retaliation and threats of retaliation.

33 k. Facility and other governmental officials shall be authorized
34 and required to cooperate fully and promptly with the
35 ombudsperson. To the greatest extent possible and consistent with
36 the ombudsperson's duties and responsibilities under P.L. c.
37 (pending before the Legislature as this bill), the ombudsperson shall
38 collaboratively and constructively work with administrators,
39 legislators, and other appropriate persons to improve the facility's
40 operations and conditions.

41
42 11. (New section) Correspondence and communication with the
43 corrections ombudsperson shall be confidential and protected as
44 privileged correspondence in the same manner as legal
45 correspondence or communication.

46 a. The ombudsperson shall establish confidentiality rules and
47 procedures for all information maintained by the office.

1 b. The ombudsperson shall treat all matters under investigation,
2 including the identities of recipients of ombudsperson services,
3 complainants, and persons from whom information is acquired, as
4 confidential, except as far as disclosures may be necessary to enable
5 the ombudsperson to perform the duties of the office and to support
6 any recommendations resulting from an investigation. Upon receipt
7 of information that, by law, is confidential or privileged, the
8 ombudsperson shall maintain the confidentiality of the information
9 and shall not further disclose or disseminate the information except
10 as provided by applicable federal or State law or as authorized by
11 this section.

12 c. To the extent the ombudsperson reasonably believes
13 necessary, the ombudsperson:

14 (1) shall reveal information obtained in the course of providing
15 services to prevent reasonably certain death or substantial bodily
16 harm; and

17 (2) may reveal information obtained in the course of providing
18 ombudsperson services to prevent the commission of a crime.

19 d. If the ombudsperson believes it is necessary to reveal
20 investigative records pursuant to subsection c. of this section, the
21 ombudsperson shall provide a copy of what is intended to be
22 disclosed to the department for review and application of legal
23 exemptions prior to releasing the records to any other person. If the
24 ombudsperson personally receives identifying information
25 concerning a member of the corrections staff during the course of
26 an investigation that the ombudsperson determines is unrelated or
27 unnecessary to the subject of the investigation or recommendation
28 for action, the ombudsperson shall not further disclose the
29 information. If the ombudsperson determines that the disclosure is
30 necessary to an investigation or recommendation, the ombudsperson
31 shall contact the staff member, as well as the bargaining unit
32 representative. before any disclosure.

33

34 12. (New section) A civil action shall not be brought against any
35 employee of the Office of the Ombudsperson for the good faith
36 performance of responsibilities under P.L. c. (pending before
37 the Legislature as this bill).

38 a. A discriminatory, disciplinary, or retaliatory action shall not
39 be taken against a department employee, subcontractor, or
40 volunteer, an inmate, or a family member or representative of an
41 inmate for any communication made, or information given or
42 disclosed, to aid the office in carrying out its responsibilities, unless
43 the communication or information is made, given, or disclosed
44 maliciously or without good faith.

45 b. This section is not intended to infringe on the rights of an
46 employer to supervise, discipline, or terminate an employee for
47 other reasons.

1 13. (New section) An advisory board shall be established to
2 advise the Office of the Corrections Ombudsperson. The Governor
3 shall appoint three positions, the President of the Senate shall
4 appoint three positions, and the Speaker of the General Assembly
5 shall appoint three positions. The advisory board shall designate
6 positions for representatives of the following areas of expertise:
7 investigations, health care, sexual assault victims' advocacy, social
8 work, occupational safety and health, and research and data
9 analysis. At least one position on the advisory board shall be filled
10 by a family member of an inmate or by a formerly incarcerated
11 person.

12

13 14. This act shall take effect on the first day of the seventh
14 month next following enactment.