

SENATE COMMITTEE SUBSTITUTE FOR  
**SENATE, No. 2540**

**STATE OF NEW JERSEY**  
**218th LEGISLATURE**

ADOPTED JUNE 6, 2019

**Sponsored by:**

**Senator LINDA R. GREENSTEIN**

**District 14 (Mercer and Middlesex)**

**Senator NILSA CRUZ-PEREZ**

**District 5 (Camden and Gloucester)**

**Senator M. TERESA RUIZ**

**District 29 (Essex)**

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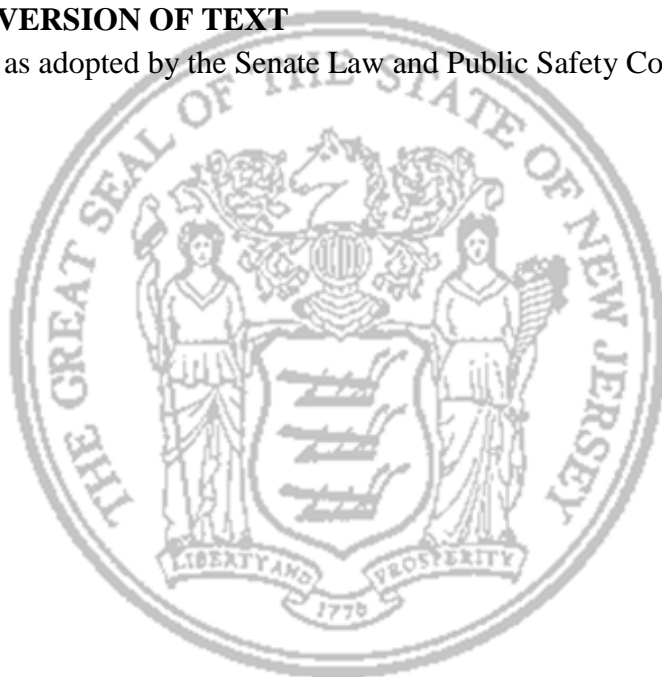
**Senator Stack**

**SYNOPSIS**

“Dignity for Incarcerated Primary Caretaker Parents Act.”

**CURRENT VERSION OF TEXT**

Substitute as adopted by the Senate Law and Public Safety Committee.



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,

**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 protective, investigative, medical, or other classification, in a cell or  
2 similarly confined holding or living space, alone or with other  
3 inmates, for approximately 23 hours or more per day, with severely  
4 restricted activity, movement, and social interaction, and shall  
5 include, but not be limited to, administrative segregation,  
6 disciplinary segregation, solitary confinement, and protective  
7 segregation.

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

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

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

19

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

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

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

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

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

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

33 (4) authorizing contact visits;

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

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

39 e. provide parenting classes to primary caretaker parents;

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

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

47 h. require standard feminine hygiene products, including but  
48 not limited to, tampons and sanitary pads, be provided at the request

1 of and free of charge to female inmates, and petroleum jelly,  
2 aspirin, ibuprofen, and any other item deemed appropriate by the  
3 commissioner, to be made available to inmates from the  
4 commissary or medical department;

5 i. restrict correctional police officers and other department  
6 employees from entering the restrooms and shower facilities of  
7 inmates of the opposite sex when occupied except when deemed  
8 necessary by the commissioner; and

9 j. allow all pregnant women and inmates who are primary  
10 caretaker parents to enroll in residential drug abuse and mental  
11 health programs provided they meet the requirements of those  
12 programs.

13

14 5. (New section) The chief executive officer or warden of each  
15 county correctional facility shall:

16 a. establish policies that encourage and promote visitation,  
17 particularly for inmates who are primary caretaker parents,  
18 including, but not limited to:

19 (1) requiring in-person visitation three days per week, including  
20 Saturday and Sunday, for at least 30 minutes per visit;

21 (2) prohibiting restrictions on the number of children allowed to  
22 visit an inmate consistent with current regulations;

23 (3) authorizing up to two adult visitors; and

24 (4) providing consistent access to contact visits;

25 (5) authorizing contact visits with children;

26 b. prohibit the isolated confinement of a pregnant woman;

27 c. prohibit a staff member of, or medical service provider for, a  
28 county correctional facility from restraining a woman known to be  
29 pregnant or applying restraints during any stage of labor, any  
30 pregnancy related medical distress, delivery, or postpartum;

31 d. provide parenting classes to inmates who are primary  
32 caretaker parents;

33 e. provide trauma informed care to inmates who are primary  
34 caretaker parents and train correctional police officers on how to  
35 interact with inmates who are victims of trauma;

36 f. allow former inmates who are participating members of a non-  
37 profit or reentry organization mentorship or visitation program  
38 approved by the chief executive officer or warden to mentor current  
39 inmates who are incarcerated primary caretaker parents and assist  
40 these inmates with reentry efforts;

41 g. require standard feminine hygiene products, including but  
42 not limited to tampons and sanitary pads, be provided at the request  
43 of and free of charge to female inmates, and petroleum jelly,  
44 aspirin, ibuprofen, and any other item deemed appropriate by the  
45 chief executive officer or warden, to be provided at the request of  
46 and free of charge to inmates;

47 h. restrict correctional police officers and other department  
48 employees from entering the restrooms and shower facilities of

1 inmates of the opposite sex when occupied except when deemed  
2 necessary by the chief executive officer or warden; and

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

7

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

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

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

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

30 c. The office shall be responsible for:

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

32 (2) promoting public awareness and understanding of the rights  
33 of inmates;

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

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

39 d. The Corrections Ombudsperson shall serve as the head of  
40 the Office of the Corrections Ombudsperson.

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

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

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

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

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

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

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

18 f. The corrections ombudsperson shall report directly to the  
19 Governor.

20 g. The office shall be adequately funded and staffed with the  
21 requisite number of employees with expertise and training  
22 necessary to carry out the duties of the office.

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

25 i. A person may not serve as an assistant corrections  
26 ombudsperson or employee of the office if the person or the  
27 person's spouse:

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

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

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

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

39 j. The corrections ombudsperson may employ technical experts  
40 and other employees or consultants necessary to perform the duties  
41 of the office.

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

43  
44 7. Section 28 of P.L.2005 (C.52:27EE-28) is amended to read  
45 as follows:

46 28. Corrections Ombudsperson; duties.

47 a. The Corrections Ombudsperson shall establish and  
48 implement procedures for eliciting, receiving, processing,

1 responding, and resolving complaints from inmates, their families,  
2 other interested citizens, public officials, and government agencies  
3 concerning conditions in the correctional facilities noted in section  
4 27 of 【this act】 of P.L.2005 (C. 52:27EE-27).

5 b. To implement the provisions of P.L. c. (pending before  
6 the Legislature as this bill), the ombudsperson shall:

7 (1) establish priorities for use of the resources available to the  
8 ombudsperson;

9 (2) maintain a Statewide toll-free telephone number, a collect  
10 telephone number, a website, and a mailing address for the receipt  
11 of complaints and inquiries;

12 (3) provide information, as appropriate, to inmates, family  
13 members and representatives of inmates, department employees,  
14 and others regarding the rights of inmates;

15 (4) provide technical assistance to support inmate participation  
16 in self-advocacy;

17 (5) monitor compliance with applicable federal, State, county,  
18 and municipal laws, rules, regulations, and policies related to the  
19 health, safety, welfare, and rehabilitation of inmates;

20 (6) monitor and participate in legislative and policy  
21 developments affecting correctional facilities;

22 (7) establish a Statewide uniform reporting system to collect and  
23 analyze data related to complaints received by the ombudsperson  
24 regarding the department;

25 (8) establish procedures to receive, investigate, and resolve  
26 complaints;

27 (9) establish procedures to gather stakeholder input into the  
28 ombudsperson's activities and priorities, which shall include  
29 holding public meetings at least quarterly;

30 (10) by November 1st of each year, annually submit to the  
31 Governor's office and the Legislature, and make publicly available,  
32 a report that is both aggregated and disaggregated by each facility  
33 and includes, at a minimum, the following information:

34 (a) the budget and expenditures of the ombudsperson;

35 (b) the number of complaints received and resolved by the  
36 ombudsperson;

37 (c) a description of significant systemic or individual  
38 investigations or outcomes achieved by the ombudsperson in the  
39 preceding year;

40 (d) any outstanding or unresolved concerns or recommendations  
41 of the ombudsperson; and

42 (e) input and comments from stakeholders regarding the  
43 ombudsperson's activities during the preceding year.

44 (11) promote awareness among department employees, inmates,  
45 and family members and other members of the public regarding:

46 (a) how the Office of Corrections Ombudsperson may be  
47 contacted;

48 (b) the purpose of the office; and

- 1       (c) the services provided by the office.  
2       (12) provide assistance to an inmate or family member whom  
3 the ombudsperson determines is in need of assistance, including  
4 advocating with an agency, provider, or other person in the best  
5 interests of the inmate;  
6       (13) make appropriate referrals under any of the powers and  
7 duties of the office, including to appropriate law enforcement  
8 authorities when criminal complaints by inmates are received by the  
9 office;  
10       (14) attend any relevant training provided to correctional  
11 officers and participate in other appropriate professional training;  
12       (15) notwithstanding any other provision of law to the contrary,  
13 review criminal investigations to ensure the investigations were  
14 accurate, unbiased, and thorough without investigating alleged  
15 criminal behavior; and  
16       (16) adopt and comply with rules, policies, and procedures  
17 necessary to implement the provisions of P.L. c. (pending  
18 before the Legislature as this bill).  
19 (cf: P.L.2005, c.155, s.28)

- 20  
21       8. (New section) The corrections ombudsperson shall conduct  
22 investigations of inmate complaints in accordance with the  
23 provisions of this section.  
24       a. The ombudsperson may initiate and attempt to resolve an  
25 investigation upon the ombudsperson's own initiative, or upon  
26 receipt of a complaint from an inmate, a family member, a  
27 representative of an inmate, a department employee, or any other  
28 person, including but not limited to any of the following that may  
29 adversely affect the health, safety, welfare, or rights of inmates:  
30       (1) abuse or neglect;  
31       (2) department decisions or administrative actions;  
32       (3) inactions or omissions;  
33       (4) policies, rules, or procedures; or  
34       (5) alleged violations of law by the department that may  
35 adversely affect the health, safety, welfare, or rights of inmates.  
36       b. If the ombudsperson does not investigate a complaint, the  
37 ombudsperson shall notify the complainant of the decision not to  
38 investigate and the reasons for the decision.  
39       c. The ombudsperson shall not investigate any complaints  
40 relating to an inmate's underlying criminal conviction.  
41       d. The ombudsperson shall not investigate a complaint from a  
42 department employee that relates to the employee's employment  
43 relationship with the department or the administration of the  
44 department, unless the complaint is related to the health, safety,  
45 welfare, and rehabilitation of inmates.  
46       e. The ombudsperson shall attempt to resolve any complaint at  
47 the lowest possible level.



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

1 the administrative exhaustion process. The ombudsperson shall not  
2 require inmates to file grievances or other inquiries as part of the  
3 department's system to be considered ripe for review by the  
4 ombudsperson.

5

6 9. (New section) The corrections ombudsperson shall conduct  
7 inspections of State correctional facilities in accordance with the  
8 provisions of this section.

9 a. The ombudsperson shall conduct regular inspections of all  
10 department facilities and issue public reports of all inspections.

11 b. The ombudsperson may inspect, examine, or assess all  
12 aspects of a facility's operations and conditions including, but not  
13 limited to:

14 (1) staff recruitment, training, supervision, and discipline;

15 (2) inmate deaths or serious injuries;

16 (3) incidences of physical and sexual assault;

17 (4) medical and mental-health care;

18 (5) use of force;

19 (6) inmate violence;

20 (7) conditions of confinement;

21 (8) inmate disciplinary processes;

22 (9) inmate grievance processes;

23 (10) substance-abuse treatment;

24 (11) educational, vocational, and other programming;

25 (12) family visitation and communication practices; and

26 (13) rehabilitation, reentry, and integration practices.

27 c. The ombudsperson shall utilize a range of methods to gather  
28 and substantiate facts, including observations, interviews with  
29 inmates, inmate surveys, document and record reviews, video and  
30 tape recordings, reports, statistics, and performance-based outcome  
31 measures.

32 d. Facility and other governmental officials are authorized and  
33 shall be required to cooperate fully and promptly with inspections.

34 e. The ombudsperson shall be vested with the authority to  
35 conduct both scheduled and unannounced inspections of any part or  
36 all of the facility at any time. The ombudsperson shall adopt  
37 procedures to ensure that unannounced inspections are conducted in  
38 a reasonable manner.

39 f. Facility administrators shall be provided an opportunity to  
40 review reports and provide feedback about them to the  
41 ombudsperson before their dissemination to the public, but the  
42 release of the reports is not subject to approval from any entity or  
43 person outside the office.

44 g. Reports shall apply legal requirements, best correctional  
45 practices, and other criteria to objectively and accurately review and  
46 assess a facility's policies, procedures, programs, and practices;  
47 identify systemic problems and the reasons for them; and proffer  
48 possible solutions to those problems.

1 h. Subject to reasonable privacy and security requirements, the  
2 ombudsperson's reports shall be public, accessible through the  
3 Internet, and distributed to the media, Legislature, Attorney  
4 General, and Governor.

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

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

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

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

24 b. Access to investigate a complaint shall be afforded when:  
25 (1) an incident is reported or a complaint is made to the office;  
26 (2) the ombudsperson determines there is probable cause to  
27 believe that an incident has or may have occurred; or  
28 (3) the ombudsperson determines that there is or may be  
29 imminent danger of serious abuse or neglect of an inmate.

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

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

37 (2) monitoring compliance with respect to the rights and safety  
38 of inmates; and

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

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

45 e. The ombudsperson has the right to access, inspect, and copy  
46 all relevant information, records, or documents in the possession or  
47 control of the department that the ombudsperson considers  
48 necessary in an investigation of a complaint or the inspection of a

1 facility, including confidential Special Investigation Division  
2 reports and records. The department shall assist the ombudsperson  
3 in obtaining the necessary releases for those documents which are  
4 specifically restricted or privileged for use by the ombudsperson.

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

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

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

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

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

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

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

- 1 a. The ombudsperson shall establish confidentiality rules and  
2 procedures for all information maintained by the office.
- 3 b. The ombudsperson shall treat all matters under investigation,  
4 including the identities of recipients of ombudsperson services,  
5 complainants, and persons from whom information is acquired, as  
6 confidential, except as far as disclosures may be necessary to enable  
7 the ombudsperson to perform the duties of the office and to support  
8 any recommendations resulting from an investigation. Upon receipt  
9 of information that, by law, is confidential or privileged, the  
10 ombudsperson shall maintain the confidentiality of the information  
11 and shall not further disclose or disseminate the information except  
12 as provided by applicable federal or State law or as authorized by  
13 this section.
- 14 c. To the extent the ombudsperson reasonably believes  
15 necessary, the ombudsperson:
- 16 (1) shall reveal information obtained in the course of providing  
17 services to prevent reasonably certain death or substantial bodily  
18 harm; and
- 19 (2) may reveal information obtained in the course of providing  
20 ombudsperson services to prevent the commission of a crime.
- 21 d. If the ombudsperson believes it is necessary to reveal  
22 investigative records pursuant to subsection c. of this section, the  
23 ombudsperson shall provide a copy of what is intended to be  
24 disclosed to the department for review and application of legal  
25 exemptions prior to releasing the records to any other person. If the  
26 ombudsperson personally receives identifying information  
27 concerning a member of the corrections staff during the course of  
28 an investigation that the ombudsperson determines is unrelated or  
29 unnecessary to the subject of the investigation or recommendation  
30 for action, the ombudsperson shall not further disclose the  
31 information. If the ombudsperson determines that the disclosure is  
32 necessary to an investigation or recommendation, the ombudsperson  
33 shall contact the staff member, as well as the bargaining unit  
34 representative. before any disclosure.
- 35
- 36 12. (New section) A civil action shall not be brought against any  
37 employee of the Office of the Ombudsperson for the good faith  
38 performance of responsibilities under P.L. c. (pending before  
39 the Legislature as this bill).
- 40 a. A discriminatory, disciplinary, or retaliatory action shall not  
41 be taken against a department employee, subcontractor, or  
42 volunteer, an inmate, or a family member or representative of an  
43 inmate for any communication made, or information given or  
44 disclosed, to aid the office in carrying out its responsibilities, unless  
45 the communication or information is made, given, or disclosed  
46 maliciously or without good faith.

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

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

16  
17       14. This act shall take effect on the first day of the seventh  
18 month next following enactment.