



SENATE BILL No. 501

May 4, 1995, Introduced by Senators STEIL, GAST, DUNASKISS, ROGERS, GOUGEON, CARL, STILLE, CISKY and NORTH and referred to the Committee on Government Operations.

A bill to amend sections 1, 4, 6, 7, 10, and 13 of Act No. 46 of the Public Acts of 1975, entitled

"An act to create the office of the legislative corrections ombudsman; to prescribe the powers and duties of the office, the ombudsman, the legislative council, and the department of corrections; and to provide remedies from administrative acts,"

being sections 4.351, 4.354, 4.356, 4.357, 4.360, and 4.363 of the Michigan Compiled Laws; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 1, 4, 6, 7, 10, and 13 of Act No. 46 of
2 the Public Acts of 1975, being sections 4.351, 4.354, 4.356,
3 4.357, 4.360, and 4.363 of the Michigan Compiled Laws, are
4 amended to read as follows:

5 Sec. 1. As used in this act:

1 (a) "Administrative act" includes an action, omission,
2 decision, recommendation, practice, or other procedure of the
3 department.

4 (b) "Council" means the legislative council established
5 under section 15 of article ~~4,~~ IV of the state constitution of
6 1963.

7 (c) "Department" means the department of corrections.

8 (D) "LEGISLATOR" MEANS A MEMBER OF THE SENATE OR THE HOUSE
9 OF REPRESENTATIVES OF THIS STATE OR A DESIGNEE OF THAT MEMBER.

10 (E) ~~(d)~~ "Office" means the office of the legislative cor-
11 rections ombudsman created under this act.

12 (F) ~~(e)~~ "Ombudsman" means the office of legislative cor-
13 rections ombudsman.

14 (G) ~~(f)~~ "Prisoner" means a person committed to or under
15 the jurisdiction of the department.

16 (H) ~~(g)~~ "Official" means an official or employee of the
17 department of corrections.

18 Sec. 4. (1) The ombudsman may investigate, upon receipt of
19 a complaint ~~or upon the ombudsman's own initiative,~~ FROM A LEG-
20 ISLATOR, AND ONLY AFTER ALL DEPARTMENT GRIEVANCE PROCEDURES AND
21 ADMINISTRATIVE REMEDIES HAVE BEEN EXHAUSTED, an administrative
22 act which is alleged BY A PRISONER to be contrary to law ~~OR~~
23 contrary to departmental policy. ~~OR unaccompanied by an adequate~~
24 ~~statement of reason, or based on irrelevant, immaterial or erro-~~
25 ~~neous grounds.~~

26 (2) Subject to approval of the council, the ombudsman shall
27 establish procedures for receiving and processing complaints,

1 conducting investigations, holding hearings, and reporting the
2 findings resulting from the investigations.

3 Sec. 6. ~~(1) The ombudsman shall advise a complainant to~~
4 ~~pursue all administrative remedies or channels of complaint open~~
5 ~~to the complainant and the ombudsman may request and shall~~
6 ~~receive progress reports concerning the administrative processing~~
7 ~~of any complaint from the department and the complainant.~~
8 ~~Subsequent to administrative action on a complaint, the ombudsman~~
9 ~~may conduct further investigations of any complaint upon request~~
10 ~~of the complainant or upon his own initiative. (2) The ombuds-~~
11 ~~man need not hold an investigation on a complaint brought before~~
12 ~~the ombudsman. A person is not entitled as a right to be heard~~
13 ~~by the ombudsman.~~

14 Sec. 7. Upon the receipt of a complaint and upon deciding
15 to investigate the complaint, the ombudsman shall notify the
16 ~~complainant of the decision to investigate and shall notify the~~
17 ~~department of the intention to investigate~~ LEGISLATOR WHO FILED
18 THE COMPLAINT, THE PRISONER OR PRISONERS AFFECTED, AND THE
19 DEPARTMENT. ~~When~~ IF the ombudsman declines to ~~entertain an~~
20 ~~investigation of a complaint or to continue an investigation~~
21 INVESTIGATE, the ombudsman shall notify the ~~complainant and the~~
22 ~~department of the decision and~~ LEGISLATOR WHO FILED THE COM-
23 PLAIN, IN WRITING, AND INFORM THE PRISONER OR PRISONERS AFFECTED
24 of the reasons for the ombudsman's ~~action~~ DECISION.

25 Sec. 10. The ombudsman shall prepare AND SUBMIT a report
26 of the findings of an investigation and make recommendations to
27 the council ~~when the ombudsman finds that.~~ WITHIN 60 DAYS OF

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3 department.

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5 under section 15 of article ~~4,~~ IV of the state constitution of
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1 RECEIVING A COMPLAINT UNDER SECTION 4. THE COUNCIL MAY FORWARD
2 THE REPORT TO THE DEPARTMENT, THE PRISONER OR PRISONERS AFFECTED,
3 OR THE LEGISLATOR WHO REQUESTED THE REPORT. A REPORT THAT
4 EXPRESSLY OR BY IMPLICATION CRITICIZES A PERSON OR THE DEPARTMENT
5 SHALL INCLUDE A STATEMENT OF REASONABLE LENGTH MADE BY THE PERSON
6 OR DEPARTMENT THAT WAS CRITICIZED, IN DEFENSE OR IN MITIGATION OF
7 ITS ACTIONS. THE COUNCIL, THROUGH THE OMBUDSMAN, MAY REQUEST TO
8 BE NOTIFIED BY THE DEPARTMENT, WITHIN A REASONABLE TIME, OF ANY
9 ACTION TAKEN ON A RECOMMENDATION OF THE OMBUDSMAN. THE RECOMMEN-
10 DATIONS MADE BY THE OMBUDSMAN SHALL BE CONFINED TO 1 OR MORE OF
11 THE FOLLOWING:

12 (a) A matter THAT should be ~~further~~ considered by the
13 department.

14 (b) An administrative act THAT should be modified or
15 canceled.

16 (c) A statute or rule ~~on which an administrative act is~~
17 ~~based~~ THAT should be altered.

18 (d) ~~Reasons should be given for an administrative act~~
19 ADMINISTRATIVE ACTS FOR WHICH JUSTIFICATION IS NECESSARY.

20 ~~(e) Other action should be taken by the department.~~

21 Sec. 13. (1) A ~~complainant~~ PRISONER shall not be pena-
22 lized in any way by an official or the department as a result of
23 ~~filing a complaint~~ COMPLAINING TO A LEGISLATOR or cooperating
24 with the ombudsman in investigating a complaint.

25 (2) A person or the department shall not hinder the lawful
26 actions of the ombudsman or employees of the office, or

1 ~~wilfully~~ WILLFULLY refuse to comply with lawful demands of the
2 office.

3 Section 2. Section 11 of Act No. 46 of the Public Acts of
4 1975, being section 4.361 of the Michigan Compiled Laws, is
5 repealed.