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BILL ANALYSIS

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Senate Bill 156 (as introduced 3-13-25)
Sponsor: Senator Sylvia Santana
Committee: Oversight

Date Completed: 5-13-25

CONTENT

The bill would amend Public Act 46 of 1975, which established the Office of the Legislative Corrections Ombudsman (LCO), to do the following:

- **Expand the list of individuals allowed to make a complaint to the LCO to include a family member or prisoner advocate and afford these individuals certain protections afforded to current complainants under the Act.**
- **Require the LCO to create a standardized complaint form and make that form available.**
- **Allow the LCO to consult or contract with qualified experts for assistance with the work of the Office of the LCO.**
- **Require the LCO to provide a correctional facility with a 72-hour notice prior to taking an expert into a facility and to provide the facility with specific information about the expert.**
- **Prescribe specific timelines regarding the release of a recommendation by the LCO that criticized a person or the Michigan Department of Corrections (MDOC) and the notification by the MDOC of any action taken on those recommendations.**
- **Require the annual report on the conduct of the LCO to be made available on the Office of the LCO's website.**
- **Require the annual report to contain certain information regarding complaints and investigations of those complaints, among other things.**
- **Require the LCO to make monthly reports concerning complaint information available on the LCO's website.**

Investigation by LCO

Generally, the Act requires the LCO to investigate complaints concerning the State's prison system. The Act specifies that the LCO may begin an investigation upon the following: 1) receipt of a complaint from a prisoner or legislator or on the LCO's own initiative concerning an administrative act that is alleged to be contrary to law or contrary to departmental policy; and 2) the LCO's own initiative for significant prisoner health and safety issues, correctional facility security, and public safety or other issues for which there is no effective administrative remedy.

The bill would allow a complaint to be made by a complainant. Currently, "complainant" means a prisoner or legislator who files a complaint. Under the bill, the term also would include a family member or prisoner advocate who filed a complaint.

Within 120 days after the bill's effective date, the LCO would have to create a standardized complaint form that a complainant could use and make the form available electronically on the LCO's website and as a hard copy in all correctional facility law libraries and other locations in correctional facilities as requested by the LCO.

The LCO would have to notify a complainant that the complaint was received.

Under the bill, the LCO could consult or contract with qualified experts for assistance with investigations, inspections, hearings, or other work of the LCO. The qualified expert would have to be permitted to enter correctional facilities with the LCO and bring necessary equipment into the facilities. The LCO or qualified expert could bring photographic equipment into correctional facilities to take pictures, if necessary, as long as the taking of the pictures did not compromise correctional facility security. "Qualified expert" would mean a professional with substantial experience in a field, including environmental, medical, or mental health professionals.

The bill would require the LCO to give the MDOC 72-hour advance notice when the LCO determined it necessary to take an expert into a correctional facility. The LCO would have to provide the MDOC with the following:

-- The name of the expert.
-- A completed law enforcement information network form concerning that expert to allow the MDOC to conduct a background check.
-- The expert's credentials.
-- Any licensing information in the expert's area of expertise, if applicable.
-- A description of any testing equipment the expert could need.

The bill would allow the MDOC to search any testing equipment for contraband that was brought into a correctional facility by an expert or the LCO. An expert would have to adhere to State or national standards developed for the expert's area of expertise. Additionally, the MDOC could ask the LCO to reconsider taking testing equipment into a correctional facility if the MDOC determined that the equipment could interfere with the facility's operations. The MDOC would have to provide the LCO with a written statement explaining the specific impact testing equipment would have on the operations of the correctional facility for the LCO to consider. Additionally, the MDOC would have to notify the LCO if a requested testing procedure were under litigation and the LCO would have to delay that testing until the litigation were complete.

Recommendation by the LCO

Before announcing a conclusion or recommendation that criticizes a person or the MDOC, the LCO must consult with that person or the MDOC.

When publishing an opinion adverse to the MDOC or any person, the LCO must include a statement made to the LCO by the MDOC or person in defense or mitigation of the action if that statement is provided within a reasonable time as determined by the Legislative Council (Council). The LCO may request to be notified by the MDOC within a specified time of any action taken on any recommendation presented. The LCO must notify the complainant of the actions taken by the Office of the LCO and the MDOC.

Instead, under the bill, when publishing an opinion adverse to the MDOC or any person, the LCO would have to include a statement made to the LCO by the MDOC or person in defense or mitigation of the action if that statement were provided within 30 business days after the consultation with the MDOC or the person. The bill would allow the MDOC to request one extension of 14 business days to provide the statement. The LCO would have to report a failure to provide a response within the time limit to the Council.

The MDOC would have to notify the LCO within 30 business days after any action was taken on any recommendation presented. The LCO would have to notify the complainant of the actions taken by the Office and the MDOC within 45 business days after the action was taken.

Report

Currently, the LCO must submit an annual report on the conduct of the Office to the Legislature. The bill would require the LCO to make the report available on the LCO's website.

The report would have to include all the following information for complaints:

-- The total number of complaints that were received, investigated, denied, resolved, unsubstantiated, or undecided.
-- The number of complaints received concerning each correctional facility.
-- The number or complaints filed, broken down by subject matter, including racial discrimination and medical treatment issues.

Additionally, the report would have to include the following:

-- Significant issues that were investigated.
-- Each recommendation made to the MDOC.
-- The MDOC's responses to each recommendation.

The LCO would have to make monthly reports available on the LCO's website that included for each month the information required in the annual report for complaints.

MCL 4.351 et al.

PREVIOUS LEGISLATION

(This section does not provide a comprehensive account of previous legislative efforts on this subject matter.)

The bill is a reintroduction of Senate Bill 493 of the 2023-2024 Legislative Session. Senate Bill 493 passed the Senate and was referred to the House Committee on Government Operations but received no further action.

Legislative Analyst: Eleni Lionas

FISCAL IMPACT

The bill would have no fiscal impact on the State or local governments. Any costs associated with consulting or contracting with qualified experts for assistance with investigations, inspections, hearings, or other work of the LCO should be absorbable within the Office's annual appropriations.

Fiscal Analyst: Joe Carrasco, Jr.

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