



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB3887

Introduced 2/22/2021, by Rep. Rita Mayfield

SYNOPSIS AS INTRODUCED:

See Index

Amends the Unified Code of Corrections. Provides that the Department of Corrections Ombudsman Bureau is established as a separate bureau within the Department of Corrections. Provides that the Governor shall appoint a Director of the Bureau within 30 days of the effective date of the amendatory Act. Provides that the Ombudsman may receive, investigate, and attempt to resolve complaints that the Department: (1) violated a specific law, rule, or Department written policy; or (2) endangered the health or safety or any person. Provides that if the Ombudsman discovers evidence that the Ombudsman reasonably believes constitutes the commission of a crime, the Ombudsman immediately shall, if the Ombudsman considers it appropriate, inform the Director of the Department, who shall conduct an investigation. Provides that an Ombudsman shall be given: (1) appropriate access to the records of an offender who files a complaint; and immediate access to any correctional facility administered or supervised by the Department. Amends the Criminal Code of 2012. Creates the offense of obstruction of the Ombudsman. This offense is a Class A misdemeanor. Makes other changes.

LRB102 15993 KMF 21364 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

FISCAL NOTE ACT
MAY APPLY

1 AN ACT concerning criminal law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Criminal Code of 2012 is amended by adding
5 Section 31-10 as follows:

6 (720 ILCS 5/31-10 new)

7 Sec. 31-10. Obstruction of the Ombudsman.

8 (a) A person commits obstruction of the Ombudsman when he
9 or she:

10 (1) intentionally interferes with or prevents the
11 completion of the work of the Department of Corrections
12 Independent Ombudsman described in Article Ch. III Art.
13 2.1 of the Unified Code of Corrections;

14 (2) knowingly offers compensation to the Department of
15 Corrections Independent Ombudsman in an effort to affect
16 the outcome of an investigation or a potential
17 investigation;

18 (3) knowingly or intentionally retaliates against an
19 offender or another person who provides information to the
20 Department of Corrections Independent Ombudsman; or

21 (4) makes threats because of an investigation or
22 potential investigation against:

23 (A) the Department of Corrections Independent

1 Ombudsman;
2 (B) a person who has filed a complaint; or
3 (C) a person who provides information to the
4 Department of Corrections Independent Ombudsman.
5 (b) Sentence. Obstruction of the Ombudsman is a Class A
6 misdemeanor.

7 Section 10. The Unified Code of Corrections is amended by
8 adding Article 2.1 to Chapter III as follows:

9 (730 ILCS 5/Art. Ch. III Art. 2.1 heading new)

10 ARTICLE 2.1. DEPARTMENT OF CORRECTIONS INDEPENDENT OMBUDSMAN

11 (730 ILCS 5/3-2.1-1 new)

12 Sec. 3-2.1-1. Short title. This Article may be cited as
13 the Department of Corrections Independent Ombudsman Law.

14 (730 ILCS 5/3-2.1-5 new)

15 Sec. 3-2.1-5. Definitions.

16 In this Article:

17 "Bureau" means the Department of Corrections Ombudsman
18 Bureau established in this Article including persons
19 approved to act in the capacity of Ombudsman by the
20 Bureau.

21 "Department" means the Department of Corrections.

22 "Ombudsman" means an employee of the Bureau who

1 investigates and resolves complaints that the Department
2 endangered the health and safety of any person or that the
3 Department violated specific laws, rules, or written
4 policies.

5 (730 ILCS 5/3-2.1-10 new)

6 Sec. 3-2.1-10. Department of Corrections Ombudsman Bureau.
7 The Department of Corrections Ombudsman Bureau is established
8 as a separate bureau within the Department.

9 (730 ILCS 5/3-2.1-15 new)

10 Sec. 3-2.1-15. Director of the Bureau; employees.

11 (a) The Governor shall appoint a Director of the Bureau
12 within 30 days of the effective date of this amendatory Act of
13 the 102nd General Assembly. The Governor shall appoint a
14 successor Director within 30 days after a vacancy occurs in
15 the position of the director. The Director shall serve at the
16 pleasure of the Governor.

17 (b) The Director may employ technical experts and other
18 employees to carry out the purposes of this Article. The
19 Director may not hire a person to serve as an Ombudsman who has
20 been employed by the Department during the proceeding year.

21 (c) The Department shall provide and maintain office space
22 for the Bureau.

23 (730 ILCS 5/3-2.1-20 new)

1 Sec. 3-2.1-20. Powers of Ombudsman.

2 (a) The Ombudsman may receive, investigate, and attempt to
3 resolve complaints that the Department:

4 (1) violated a specific law, rule, or Department
5 written policy; or

6 (2) endangered the health or safety of any person.

7 However, the Ombudsman shall not investigate a complaint
8 from an employee of the Department that relates to the
9 employee's employment relationship with the Department. The
10 Ombudsman shall not investigate complaints alleging violations
11 of the State Officials and Employees Ethics Act. If the
12 Ombudsman determines that a possible violation of the State
13 Officials and Employees Ethics Act has occurred, he or she
14 shall immediately refer the incident to the Office of the
15 Inspector General.

16 (b) At the conclusion of an investigation of a complaint,
17 the Ombudsman shall report his or her findings to the
18 complainant.

19 (c) If the Ombudsman does not investigate a complaint, the
20 Ombudsman shall notify the complainant of the decision not to
21 investigate and the reasons for the decision.

22 (d) The Ombudsman shall create a monthly report that
23 includes a summary of the findings of all substantiated
24 complaints.

25 (e) The Ombudsman may conduct investigations of alleged
26 violations of Department policy, State or federal laws, and

1 Department rules at any Department facility.

2 (f) The Ombudsman may recommend changes to the Director of
3 the Department concerning Department policies or practices
4 based upon information learned or observations made by the
5 Ombudsman during the course of an investigation.

6 (g) If the Ombudsman discovers evidence that the Ombudsman
7 reasonably believes constitutes the commission of a crime, the
8 Ombudsman immediately shall, if the Ombudsman considers it
9 appropriate, inform the Director of the Department, who shall
10 conduct an investigation. If, after conducting the
11 investigation, the Director has reasonable suspicion to
12 believe that a crime has been committed, the Director shall:

13 (1) if the crime involves any person who is not an
14 offender, immediately report the crime to an appropriate
15 law enforcement agency; and

16 (2) if no person other than the offender is involved
17 in the crime, immediately report the crime to an
18 appropriate law enforcement agency if the Director
19 believes that the prison disciplinary process is not
20 appropriate.

21 (730 ILCS 5/3-2.1-25 new)

22 Sec. 3-2.1-25. Access to records and facilities.

23 (a) An Ombudsman shall be given:

24 (1) appropriate access to the records of an offender
25 who files a complaint under this Article; and

1 (2) immediate access to any correctional facility
2 administered or supervised by the Department.

3 (b) A State or local government agency or entity that has
4 records that are relevant to a complaint or an investigation
5 conducted by the Ombudsman shall provide the Ombudsman with
6 access to the records.

7 (c) A person is immune from:

8 (1) civil or criminal liability; and

9 (2) actions taken under a professional disciplinary
10 procedure dealing with an employee of the Department.

11 (730 ILCS 5/3-2.1-30 new)

12 Sec. 3-2.1-30. Duties of Ombudsman.

13 (a) The Ombudsman shall:

14 (1) establish procedures to receive and investigate
15 complaints;

16 (2) establish access controls for all information
17 maintained by the Bureau; and

18 (3) except as is necessary to investigate and resolve
19 a complaint, ensure that the identity of a complainant
20 will not be disclosed without:

21 (A) the complainant's written consent; or

22 (B) a court order.

23 (b) The correspondence and communication between the
24 Ombudsman and any person is a privileged communication.

1 (730 ILCS 5/3-2.1-35 new)

2 Sec. 3-2.1-35. Rulemaking, liability.

3 (a) The Bureau may adopt rules to carry out its duties
4 under this Article.

5 (b) The Ombudsman is not civilly liable for the good faith
6 performance of official duties.

7 (730 ILCS 5/3-2.1-40 new)

8 Sec. 3-2.1-40. Reporting. The Director of the Bureau shall
9 prepare a report each year on the operations of the Bureau. A
10 copy of the report shall be provided to: the Governor, the
11 General Assembly, and the Director of the Department.

1 INDEX

2 Statutes amended in order of appearance

3 720 ILCS 5/31-10 new

4 730 ILCS 5/Art. Ch. III

5 Art. 2.1 heading new

6 730 ILCS 5/3-2.1-1 new

7 730 ILCS 5/3-2.1-5 new

8 730 ILCS 5/3-2.1-10 new

9 730 ILCS 5/3-2.1-15 new

10 730 ILCS 5/3-2.1-20 new

11 730 ILCS 5/3-2.1-25 new

12 730 ILCS 5/3-2.1-30 new

13 730 ILCS 5/3-2.1-35 new

14 730 ILCS 5/3-2.1-40 new