

House _____ Amendment NO. _____

Offered By _____

1 AMEND House Committee Substitute for Senate Bill No. 189, Page 37, Section 217.721, Line 3, by
2 inserting after said section and line the following:

3
4 "217.950. As used in sections 217.955 to 217.970, the following terms mean:

5 (1) "Department", the department of corrections;

6 (2) "Family member", includes a grandparent, parent, sibling, spouse or domestic partner,
7 child, aunt, uncle, cousin, niece, nephew, grandchild, or any other person related to an individual by
8 blood, adoption, marriage, or a fostering relationship;

9 (3) "Office", the office of the state ombudsman for inmates in the custody of the department
10 of corrections;

11 (4) "Ombudsman", the state ombudsman for inmates in the custody of the department of
12 corrections.

13 217.955. 1. There is hereby established within the department of corrections the "Office of
14 State Ombudsman for Inmates in the Custody of the Department of Corrections", for the purpose of
15 helping to assure the adequacy of care received by inmates and to improve the quality of life
16 experienced by them.

17 2. The office shall be administered by the state ombudsman, who shall devote his or her
18 entire time to the duties of his or her position.

19 3. The office shall establish and implement procedures for receiving, processing, responding
20 to, and resolving complaints made by or on behalf of inmates in the custody of the department of
21 corrections relating to action, inaction, or decisions of department staff or contractors which may
22 adversely affect the health, safety, welfare, or rights of such inmates.

23 4. The office shall establish and implement procedures for the resolution of complaints. The
24 ombudsman or representatives of the office shall have the authority to:

25 (1) Provide information, as appropriate, to inmates, family members of inmates,
26 representatives of inmates, department of corrections employees and contractors, and others
27 regarding the rights of inmates;

28 (2) Monitor conditions of confinement and assess department of corrections compliance
29 with applicable federal, state, and department rules and regulations as related to the health, safety,
30 welfare, and rehabilitation of inmates;

Action Taken _____ Date _____

- 1 (3) Provide technical assistance to support inmate participation in self-advocacy;
- 2 (4) Establish a statewide uniform reporting system to collect and analyze data related to
- 3 complaints received by the department, and data related to the following:
- 4 (a) Deaths, suicides, and suicide attempts in custody;
- 5 (b) Physical and sexual assaults in custody;
- 6 (c) Number of people placed in administrative segregation or solitary confinement, and
- 7 duration of stay in such confinement;
- 8 (d) Number of facility lockdowns lasting longer than twenty-four hours;
- 9 (e) Number of staff vacancies at each facility;
- 10 (f) Inmate to staff ratios at each facility;
- 11 (g) Staff tenure and turnover; and
- 12 (h) Numbers of in-person visits to inmates that were made and denied at each facility;
- 13 (5) Inspect each department facility at least once each year and at least two times each year
- 14 for each maximum security facility and each facility where the office has found cause for more
- 15 frequent inspection or monitoring;
- 16 (6) Publicly issue annual facility inspection reports and an annual report with
- 17 recommendations on the department facilities and a summary of data and recommendations arising
- 18 from any complaints investigated and resolved pursuant to section 217.965;
- 19 (7) Monitor all decisions of the parole board.
- 20 5. The office shall be directed by an ombudsman, who shall be appointed by the governor,
- 21 and shall serve a term of six years. The ombudsman shall not be a current or former employee or
- 22 contractor of the department, and the ombudsman's spouse or domestic partner, parents,
- 23 grandparents, children, or siblings shall not be a current employee or contractor of the department.
- 24 6. The ombudsman shall have the authority to hire staff, contractors, and unpaid volunteers.
- 25 7. (1) The office shall have reasonable access, upon demand in-person or in-writing and
- 26 with or without prior notice, to all department facilities, including all areas which are used by
- 27 inmates, all areas which are accessible to inmates, and to programs for inmates at reasonable times,
- 28 which at a minimum shall include normal working hours and visiting hours. This authority includes
- 29 the opportunity to conduct an interview with any inmate, department employee or contractor, or
- 30 other person.
- 31 (2) The office shall have the authority to meet and communicate privately and confidentially
- 32 with individuals regularly, both formally and informally, by telephone, mail, electronic
- 33 communication, and in-person.
- 34 (3) The office shall have the authority to access, inspect, and copy all relevant information,
- 35 records, or documents in the possession or control of the department that the office considers
- 36 necessary in an investigation of a complaint filed pursuant to section 217.970, and the department
- 37 shall assist the office in obtaining the necessary releases for those documents which are specifically
- 38 restricted or privileged for use by the office no later than thirty days after the office's written request
- 39 for such records. If the records requested by the office pertain to an inmate death, threat of death or

1 bodily harm, sexual assault, or the denial of necessary medical treatment, the records shall be
2 provided by the department within five days unless the office consents to an extension of time no
3 longer than thirty days.

4 8. The office shall establish confidentiality rules and procedures for all information
5 maintained by the office to ensure that the identity of a complainant is not known to department
6 employees or contractors or other inmates. The office may disclose identifying information for the
7 sole purpose of carrying out an investigation.

8 217.960. 1. As used in this section, "covered issues" shall mean:

- 9 (1) Sanitation in prison facilities;
10 (2) Access to proper nutrition and a clean and adequate water supply;
11 (3) Livable temperatures in prison facilities;
12 (4) Physical or sexual abuse from fellow inmates;
13 (5) Physical or sexual abuse from department of corrections staff or contractors;
14 (6) Credible threats against an inmate from other inmates, prison staff, or contractors;
15 (7) Neglect of prison staff or contractors that results in physical or sexual trauma;
16 (8) Denial of rights afforded to inmates under federal or state law;
17 (9) Access to visitation and communication with family and legal representation;
18 (10) Any instance in which the office determines an action or behavior to be such that it
19 constitutes abuse or neglect against an inmate.

20 2. The office shall conduct at least one inspection each year of each department of
21 corrections facility and at least two times each year for each maximum security facility to monitor
22 the status of all covered issues pursuant to this section. The office shall conduct an inspection of
23 each department facility and release a public report pursuant to section 217.965.

- 24 3. An inspection of a department facility shall include an assessment of all of the following:
25 (1) All policies and procedures in place by the facility related to the care of inmates;
26 (2) Conditions of confinement;
27 (3) Availability of educational and rehabilitative programming, drug and mental health
28 treatment, and inmate jobs and vocational training;
29 (4) Review of hourly wages of inmates;
30 (5) All policies and procedures related to visitation;
31 (6) All medical facilities and medical procedures and policies;
32 (7) Review of lockdowns at the facility in the time since the last inspection;
33 (8) Review of staffing at the facility, including the number and job assignments of
34 correctional staff, the ratio of staff to inmates at the facility, and the staff position vacancy rate at the
35 facility;
36 (9) Review of physical and sexual assaults at the facility in the time since the last
37 inspection;
38 (10) Review of any inmate or staff deaths that occurred at the facility in the time since the
39 last inspection;

1 (11) Review of the department staff recruitment, training, supervision, and discipline; and

2 (12) Any other aspect of the operation of the facility that the office deems necessary over
 3 the course of an inspection.

4 217.965. 1. Upon completion of an inspection, the office shall produce a report to be made
 5 available to the public on the office's website, and to be delivered to the governor, the attorney
 6 general, the president pro tempore of the senate, the speaker of the house of representatives, and the
 7 director of the department. The report shall include:

8 (1) A summary of the facility's policies and procedures related to care of the inmates;

9 (2) A characterization of the conditions of confinement;

10 (3) A catalogue of available educational and rehabilitative programming, drug and mental
 11 health treatment, and inmate jobs and vocational training;

12 (4) A summary of visitation policies and procedures;

13 (5) A summary of medical facilities and medical procedures and policies;

14 (6) A summary of the lockdowns review by the office;

15 (7) A summary of the staffing at the facility, including policies relating to staff recruitment,
 16 training, supervision, and discipline;

17 (8) A summary of physical and sexual assaults reviewed by the office;

18 (9) A summary of any inmate or staff deaths that occurred at the facility; and

19 (10) Recommendations made to the facility to improve safety and conditions within the
 20 facility.

21 2. The department shall submit a report to the office within thirty days of the office's
 22 inspection report which shall include a corrective action plan for each recommendation of the office.

23 217.970. 1. The office may initiate and attempt to resolve an investigation upon its own
 24 initiative, or upon receipt of a complaint from an inmate, family member, representative of an
 25 inmate, a department employee or contractor, or others, regarding any of the following that may
 26 adversely affect the health, safety, welfare, and rights of inmates:

27 (1) Abuse or neglect;

28 (2) Conditions of confinement;

29 (3) Department decisions or administrative actions;

30 (4) Department inactions or omissions;

31 (5) Department policies, rules, or procedures;

32 (6) Alleged violations of law by department employees or contractors that may adversely
 33 affect the health, safety, welfare, and rights of inmates; or

34 (7) Decisions of the parole board.

35 2. The office shall decline to investigate a complaint if the inmate has failed to first utilize
 36 the department policies and procedures regarding resolution of inmate grievances. If the office does
 37 not investigate a complaint, the office shall notify the complainant in writing of the decision not to
 38 investigate and the reasons for the decision.

1 3. Any action or lack of action on a complaint by the office shall not be deemed an
2 administrative procedure required for exhaustion of remedies prior to bringing an action pursuant to
3 the Prison Litigation Reform Act, 42 U.S.C. Section 1997e, et seq.

4 4. The office may not investigate any complaints relating to an inmate's underlying criminal
5 conviction.

6 5. The office may not investigate a complaint from a department employee or contractor that
7 relates to the employee or contractor's employment relationship with the department unless the
8 complaint is related to the health, safety, welfare, and rehabilitation of inmates.

9 6. The office may refer the complainant and others to appropriate resources or state, tribal,
10 or federal agencies.

11 7. The office may not levy any fees for the submission or investigation of complaints.

12 8. The office may investigate any complaint regarding a parole decision.

13 9. At the conclusion of an investigation of a complaint, the office shall render a public
14 decision on the merits of each complaint within ninety days of the filing of the complaint, except
15 that the documents supporting the decision are subject to the confidentiality provision of section
16 217.955. The office shall give a decision in writing to the inmate, if any, and to the department.
17 The office shall state its recommendations and reasoning if, in the office's opinion, the department
18 or any employee or contractor thereof should:

19 (1) Consider the matter further;

20 (2) Modify or cancel any action;

21 (3) Alter a rule, practice, or ruling;

22 (4) Explain in detail the administrative action in question; or

23 (5) Rectify an omission.

24 10. If the office so requests, the department shall, within thirty days, inform the office in
25 writing about any action taken on the recommendations or the reasons for not complying with the
26 recommendations.

27 11. If the office finds, based on the investigation, that there has been or continues to be a
28 significant inmate health, safety, welfare, or rehabilitation issue, the office shall report such finding
29 to the governor, the attorney general, the president pro tempore of the senate, speaker of the house
30 of representatives, and the director of the department of corrections.

31 12. In the event that the department conducts an internal disciplinary investigation and
32 review of one or more of its staff members as a result of an office investigation, the department's
33 disciplinary review may be subject to additional review and investigation by the office to ensure a
34 fair and objective process.

35 13. The department and its employees and contractors shall not discharge, retaliate against,
36 or in any manner discriminate against any person because such person has filed any complaint or
37 instituted or caused to be instituted any investigation under section 217.970.

38 (1) Any alleged discharge of, retaliation against, or discrimination against a complainant
39 may be considered by the office as an appropriate subject of an investigation.

1 (2) Any department employee or contractor who believes that he or she has been discharged
2 or otherwise retaliated against by any person in violation of this chapter may, within thirty days after
3 such violation occurs, file a complaint with the attorney general.

4 (3) If the complainant has suffered abuse or any other violation of this chapter after he or
5 she filed a complaint, there shall be a rebuttable presumption of retaliation."; and

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7 Further amend said bill by amending the title, enacting clause, and intersectional references
8 accordingly.