

REFERENCE TITLE: **corrections oversight committee; corrections ombuds; duties**

State of Arizona
House of Representatives
State of Arizona
Senate
Legislature
Regular Session
20##

HB #####
SB #####

Introduced by
Representative #####
Introduced by
Senator #####

AN ACT

**AMENDING TITLE 41, CHAPTER 11, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-1610.02;
RELATING TO THE STATE DEPARTMENT OF CORRECTIONS.**

(TEXT OF BILL BEGINS ON NEXT PAGE)

HB ####

SB ####

Be it enacted by the Legislature of the State of Arizona:

Section 1. Title 41, chapter 11, article 1, Arizona Revised Statutes, is amended by adding section 41-1610.02, to read:

41-1610.02. Corrections oversight committee; corrections ombuds; violation; classification

A. THE CORRECTIONS OVERSIGHT COMMITTEE IS ESTABLISHED CONSISTING OF THE FOLLOWING MEMBERS:

1. TWO MEMBERS OF THE SENATE NOT OF THE SAME POLITICAL PARTY. THE PRESIDENT OF THE SENATE SHALL APPOINT ONE MEMBER. THE SENATE MINORITY LEADER SHALL APPOINT THE SECOND MEMBER.
2. TWO MEMBERS OF THE HOUSE OF REPRESENTATIVES NOT OF THE SAME POLITICAL PARTY. THE SPEAKER OF THE HOUSE SHALL APPOINT ONE MEMBER. THE MINORITY LEADER OF THE HOUSE OF REPRESENTATIVES SHALL APPOINT THE SECOND MEMBER.
3. TWO MEMBERS OF THE GENERAL PUBLIC.
4. ONE MALE MEMBER OF THE GENERAL PUBLIC WHO WAS INCARCERATED IN THE ARIZONA DEPARTMENT OF CORRECTIONS FOR A PERIOD EQUAL TO OR GREATER THAN THREE CONSECUTIVE YEARS.
5. ONE FEMALE MEMBER OF THE GENERAL PUBLIC WHO WAS INCARCERATED IN THE ARIZONA DEPARTMENT OF CORRECTIONS FOR A PERIOD EQUAL TO OR GREATER THAN THREE CONSECUTIVE YEARS.
6. ONE REPRESENTATIVE OF A NATIONAL CRIMINAL JUSTICE REFORM OR PRISONER ADVOCACY ORGANIZATION.
7. ONE PROFESSOR OF CRIMINAL JUSTICE OR LAW FROM ONE OF THE STATE UNIVERSITIES.
8. ONE MEMBER FROM THE ARIZONA CORRECTIONAL PEACE OFFICERS ASSOCIATION.
9. A RETIRED CORRECTIONS OFFICIAL FROM ANY STATE WITH AT LEAST 10 CONSECUTIVE YEARS OF CORRECTIONS WORK EXPERIENCE.

B. MEMBERS SERVING PURSUANT TO SUBSECTION A, PARAGRAPHS 7 AND 8 OF THIS SECTION ARE NONVOTING MEMBERS AND ARE NOT MEMBERS FOR PURPOSES OF DETERMINING A QUORUM. A QUORUM CONSISTS OF FIVE VOTING MEMBERS.

C. MEMBERS WHO ARE SELECTED PURSUANT TO SUBSECTION A, PARAGRAPHS 3, MAY NOT BELONG TO A CRIMINAL JUSTICE REFORM OR PRISONER RIGHTS ORGANIZATION OR MEMBERS OF ANY LAW ENFORCEMENT ORGANIZATION.

D. MEMBERS WHO ARE SELECTED PURSUANT TO SUBSECTION A, PARAGRAPHS 3, 5, 6, 7, AND 8 SERVE THREE YEAR TERMS AND MAY NOT BE CURRENT EMPLOYEES, CONTRACTORS, OR VOLUNTEERS OF THE DEPARTMENT.

E. MEMBERS WHO ARE SELECTED PURSUANT TO SUBSECTION A, PARAGRAPH 4 AND 5 SERVE THREE YEAR TERMS AND MUST HAVE SUCCESSFULLY RECEIVED RESTORATION OF RIGHTS PURSUANT TO TITLE 13, CHAPTER 9, §13-906 or §13-907.

F. MEMBERS WHO ARE SELECTED PURSUANT TO SUBSECTION A, PARAGRAPH 5, SERVE THREE YEAR TERMS AND MAY NOT BE CURRENT EMPLOYEES, CONTRACTORS, OR VOLUNTEERS OF THE DEPARTMENT.

G. MEMBERS WHO SERVE PURSUANT TO SUBSECTION A, PARAGRAPH 3, SHALL BE RANDOMLY SELECTED FROM A GROUP OF NOMINEES BY THE CHIEF JUSTICE OF THE ARIZONA SUPREME COURT.

H. MEMBERS WHO SERVE PURSUANT TO SUBSECTION A, PARAGRAPH 4, SHALL BE RANDOMLY SELECTED FROM A GROUP OF FORMERLY INCARCERATED NOMINEES BY THE CHIEF JUSTICE OF THE ARIZONA SUPREME COURT.

I. MEMBERS WHO SERVE PURSUANT TO SUBSECTION A, PARAGRAPH 7, SHALL BE AN EMPLOYEE FROM AN ORGANIZATION WITH A PHYSICAL PRESENCE IN MORE THAN ONE STATE.

J. THE MEMBERS WHO WILL SERVE IN THE ROLE OF CHAIR AND VICE CHAIR SHALL BE RANDOMLY SELECTED BY THE CHIEF JUSTICE OF THE ARIZONA SUPREME COURT FROM THE GROUP OF THE THREE MEMBERS SELECTED PURSUANT TO SUBSECTION A, PARAGRAPH 3 AND PARAGRAPH 4.

K. THE COMMITTEE SHALL MEET NO LESS THAN ONCE EVERY THREE MONTHS OR MORE FREQUENTLY AS THE CHAIRPERSON DEEMS NECESSARY OR ON THE CALL OF THE GOVERNOR OR MAJORITY OF THE MEMBERS.

L. COMMITTEE MEMBERS ARE NOT ELIGIBLE TO RECEIVE COMPENSATION BUT ARE ELIGIBLE FOR REIMBURSEMENT OF EXPENSES PURSUANT TO TITLE 38, CHAPTER 4, ARTICLE 2.

M. THE LEGISLATURE SHALL PROVIDE FACILITIES, STAFF AND CLERICAL SUPPORT TO THE COMMITTEE AND SHALL ADVISE AND ASSIST THE COMMITTEE IN PERFORMING ITS RESPONSIBILITIES. PERSONS REPRESENTING THE STATE DEPARTMENT OF CORRECTIONS AND THE DEPARTMENT OF ADMINISTRATION SHALL PROVIDE INFORMATION AND TECHNICAL ASSISTANCE TO THE COMMITTEE AS NEEDED.

N. THE COMMITTEE SHALL INVESTIGATE, RECEIVE PUBLIC TESTIMONY, DEPARTMENT OF CORRECTIONS STAFF AND EMPLOYEE TESTIMONY, INMATE TESTIMONY, VISIT DEPARTMENT FACILITIES, REVIEW DEPARTMENT RECORDS AND DOCUMENTS, MONITOR, STUDY AND MAKE EFFORTS TO IMPROVE TRANSPARENCY, FAIRNESS, IMPARTIALITY AND ACCOUNTABILITY IN CORRECTIONAL INSTITUTIONS AND FACILITIES IN THIS STATE.

O. THE COMMITTEE SHALL APPOINT A CORRECTIONS OMBUDS. THE CORRECTIONS OMBUDS IS RESPONSIBLE FOR THE CONTEMPORANEOUS PUBLIC OVERSIGHT OF THE DEPARTMENT'S INTERNAL AFFAIRS AND DISCIPLINARY PROCESSES. THE CORRECTIONS OMBUDS MAY PROVIDE OVERSIGHT OF ANY DEPARTMENT INVESTIGATION RELATING TO THE WELL-BEING, TREATMENT, DISCIPLINE, SAFETY OR OTHER MATTER THAT CONCERNS A PERSON WHO IS UNDER THE JURISDICTION OF THE DEPARTMENT, INCLUDING PERSONNEL INVESTIGATIONS.

P. THE TERM OF THE CORRECTIONS OMBUDS SHALL BE FOR SIX (6) CONSECUTIVE YEARS.

Q. THE CORRECTIONS OMBUDS SHALL NOT BE REMOVED FROM OFFICE WITHOUT GOOD CAUSE.

R. "GOOD CAUSE" IS DEFINED AS THE VIOLATION OF A STATE OR FEDERAL LAW, PUBLIC CORRUPTION, FRAUD, OR ABUSE OF OFFICE.

S. THE CORRECTIONS OMBUDS SHALL NOT SERVE MORE THAN TWO CONSECUTIVE TERMS.

T. THE GOVERNOR SHALL PROVIDE FACILITIES, STAFF AND CLERICAL SUPPORT TO THE CORRECTIONS OMBUDS AND SHALL ADVISE AND ASSIST THE CORRECTIONS OMBUDS IN PERFORMING ITS RESPONSIBILITIES. PERSONS REPRESENTING THE STATE DEPARTMENT OF CORRECTIONS AND THE DEPARTMENT OF ADMINISTRATION SHALL PROVIDE INFORMATION AND TECHNICAL ASSISTANCE TO THE CORRECTIONS OMBUDS AS NEEDED

U. NON-VOTING MEMBERS WILL BE EXCLUDED FROM INVESTIGATIONS, INTERVIEWS, TESTIMONY, AND DOCUMENTS UPON THE REQUEST OF AN INMATE, AN INMATE'S FAMILY OR FRIEND, OR STATE DEPARTMENT OF CORRECTIONS STAFF MEMBER OR EMPLOYEE WHEN THAT PERSON BELIEVES THEY MAY BE SUBJECT TO REPRISAL OR RETALIATION FOR GIVING THEIR TESTIMONY. THE CHAIR SHALL ENSURE THAT ALL PERSONS TESTIFYING IN ANY CAPACITY TO THE COMMITTEE WILL BE PROTECTED FROM REPRISAL OR RETALIATION.

V. THE CHAIR SHALL FORM SUBCOMMITTEES OF NO LESS THAN THREE VOTING MEMBERS WHO WILL BE DESIGNATED TO VISIT AND INSPECT ARIZONA DEPARTMENT OF CORRECTIONS FACILITIES, PRISONS, COMMUNITY SUPERVISION OFFICES, CENTRAL OFFICE, OR OTHER DESIGNATED DEPARTMENT OF CORRECTIONS PROPERTIES OR FACILITIES.

W. THE CHAIR WILL ENSURE THAT ALL STATE DEPARTMENT OF CORRECTIONS PRISON COMPLEXES AND UNITS RECEIVE A SUBCOMMITTEE VISIT AND INSPECTION NO LESS THAN ONCE PER YEAR OR MORE AS DESIGNATED BY THE CHAIR, UPON REQUEST OF THE GOVERNOR, OR A MAJORITY OF THE VOTING MEMBERS OF THE COMMITTEE.

X. ALL STAFF AND EMPLOYEES EMPLOYED BY THE ARIZONA DEPARTMENT OF CORRECTIONS WILL GRANT FULL INGRESS, ACCESS, INSPECTION, AND EGRESS TO THE DESIGNATED SUBCOMMITTEES AND CORRECTIONS OMBUDS. SUCH INGRESS, ACCESS, INSPECTION, AND EGRESS WILL INCLUDE:

1. ENTRY INTO THE FACILITY CONSISTENT WITH DIRECTOR'S ACCESS.
2. UNRESTRICTED MOVEMENT WITHIN THE FACILITY CONSISTENT WITH DIRECTOR'S ACCESS.
3. ACCESS TO INMATE INTERVIEWS CONSISTENT WITH AND IN THE MANNER OF INMATE LEGAL VISITS.
4. ACCESS TO RECORDS AND DOCUMENTS CONSISTENT WITH DIRECTOR'S ACCESS.
5. SUBCOMMITTEE POSSESSION AND USE OF ELECTRONIC RECORDING ITEMS INCLUDING COMPUTERS, TABLETS, CELL PHONES, CAMERAS, AUDIO RECORDERS, OR OTHER RECORDING DEVICES.

Y. THE COMMITTEE SHALL RECEIVE TESTIMONY FROM THE STATE DEPARTMENT OF CORRECTIONS REGARDING THE ACTUAL AND ANTICIPATED GROWTH OR DECLINE IN THE DEPARTMENT'S INMATE POPULATION AND THE CONDITIONS OF CONFINEMENT OF THE INMATE POPULATION, INCLUDING INFORMATION AND DATA ON:

1. THE NUMBER AND CAUSES OF DEATH OF INMATES.
2. GRIEVANCES FILED BY INMATES AND THE DEPARTMENT'S RESPONSES TO THOSE GRIEVANCES.
3. INMATE MEDICAL CARE
4. USE OF SOLITARY CONFINEMENT
5. INMATE MENTAL HEALTH SERVICES
6. INMATE FOOD SERVICES
7. AIR CONDITIONING AND HEATING SYSTEMS WITHIN EACH PRISON
8. INMATE EDUCATION
9. INMATE THERAPEUTIC PROGRAMMING
10. INMATE SUBSTANCE ABUSE PROGRAMMING
11. INMATE RELEASE PROGRAMMING AND SUPPORT

Z. THE COMMITTEE SHALL REVIEW AND MAKE RECOMMENDATIONS TO THE LEGISLATURE REGARDING FUTURE PRISONS AND CAPITAL INVESTMENTS TO IMPROVE THE CONDITIONS OF CONFINEMENT AND WORKING CONDITIONS FOR CORRECTIONS STAFF.

AA. THE COMMITTEE MAY CONSIDER OTHER MATTERS RELATING TO PRISON FACILITIES OR PRISON OPERATIONS AND MAY MAKE RECOMMENDATIONS TO THE LEGISLATURE.

BB. THE COMMITTEE SHALL REVIEW PRIVATE INCARCERATION FACILITIES SITES PURSUANT TO SECTION 41-1609.02.

CC. THE COMMITTEE AND OMBUDS SHALL PREPARE AND SUBMIT A JOINT ANNUAL REPORT ON THE STATUS OF THE ARIZONA DEPARTMENT OF CORRECTIONS AND THE RECOMMENDATIONS OF THE COMMITTEE AND OMBUDS TO THE GOVERNOR, THE PRESIDENT OF THE SENATE AND THE SPEAKER OF THE HOUSE OF REPRESENTATIVES ON OR BEFORE OCTOBER 15 AND PROVIDE A COPY OF THIS REPORT TO THE SECRETARY OF STATE AND TO THE PUBLIC.

DD. THE LEGISLATURE AND EXECUTIVE WILL APPORTION A TOTAL AMOUNT EQUAL TO 1% OF THE ANNUAL APPROPRIATION OF THE ARIZONA DEPARTMENT OF CORRECTIONS OR ONE MILLION DOLLARS (\$1,000,000.00) PER ANNUM, WHICHEVER IS GREATER, FROM THE GENERAL FUND FOR THE OPERATIONS OF THE CORRECTIONS OVERSIGHT COMMITTEE AND CORRECTIONS OMBUDS.

EE. THE COMMITTEE WILL BE APPROPRIATED AN AMOUNT EQUAL TO TWENTY-FIVE PERCENT (25%) OF THE ANNUAL APPROPRIATION WHICH SHALL BE NO LESS THAN \$250,000.00 PER ANNUM FROM THE GENERAL FUND TO BE USED FOR EXPENSES RELATED TO THE REQUIREMENTS SET FORTH HEREIN, INCLUDING BUT NOT

LIMITED TO PURCHASE OF ELECTRONIC RECORDING EQUIPMENT, COMPUTERS, VIDEO CAMERAS, EXPERT WITNESSES, AND OTHER COSTS.

FF. THE CORRECTIONS OMBUDS WILL BE APPROPRIATED AN AMOUNT EQUAL TO SEVENTY-FIVE PERCENT (75%) OF THE ANNUAL APPROPRIATION WHICH SHALL BE NO LESS THAN \$750,000.00 PER ANNUM FROM THE GENERAL FUND TO BE USED FOR EXPENSES RELATED TO THE REQUIREMENTS SET FORTH HEREIN, INCLUDING BUT NOT LIMITED TO THE HIRING OF STAFF, PURCHASE OF ELECTRONIC RECORDING EQUIPMENT, COMPUTERS, VIDEO CAMERAS, EXPERT WITNESSES, AND OTHER COSTS.

GG. A PERSON WHO OBSTRUCTS AN INVESTIGATION THAT IS BEING CONDUCTED BY THE COMMITTEE OR CORRECTIONS OMBUDS IS GUILTY OF A CLASS 1 MISDEMEANOR.