

Department of Planning and Budget

2023 Fiscal Impact Statement

1. Bill Number: SB994 E

House of Origin ☐ Introduced ☐ Substitute ☒ Engrossed

Second House ☐ In Committee ☐ Substitute ☐ Enrolled

2. Patron: Marsden

3. Committee: Rehabilitation and Social Services

4. Title: Office of the Department of Corrections Ombudsman; created.

5. Summary: This bill creates the Office of the Department of Corrections Ombudsman (the Office) and a Corrections Oversight Committee (the Committee). The bill enumerates the duties and powers of the Office, which include monitoring and inspection of state correctional facilities, certain reporting and documentation requirements, and providing technical assistance to certain entities. The bill outlines the requirements for the Ombudsman, who will direct the Office, and provides authority for the Ombudsman to staff and secure office space for the Office and to contract with experts as necessary to fulfill its duties. The bill specifies the membership and reporting requirements of the Committee, which is tasked with monitoring the activities of the Ombudsman and the Department of Corrections.

The bill enumerates support services that are required to be offered to inmates and their families including secure online complaint forms and telephone hotlines.

6. Budget Amendment Necessary: Yes, Item 404.

7. Fiscal Impact Estimates: Preliminary. See Item 8 below.

8. Fiscal Implications: This bill creates an Ombudsman Office and a Committee with expanded oversight over various activities at DOC. It is not clear if the Office and the Committee as established by the bill, will be a unit within the DOC and report to the Director the agency. Currently, DOC has an Ombudsman Services Unit that coordinates and monitors offender grievance procedures. This oversight is facilitated by the Ombudsman Services Manager who reports to the DOC Legal Compliance Manager. The unit also includes ten Regional Ombudsman positions that are responsible for monitoring the grievance procedure at the institutional and regional levels and preparing grievance appeals for review by the Regional Administrator. There are 27 Inmate Grievance Coordinator positions that investigate and address formal grievances filed by offenders. These positions also log all informal complaints, which are intended to resolve complaints informally by institutional staff before they escalate to a formal grievance. These positions are located at major facilities, with one assigned per facility with the exception of Greenville, Fluvanna, State Farm and Sussex, which have multiple positions.

If the bill intends for the Office to assume the duties performed by DOC, it is assumed that at least a portion of the current Ombudsman Services Unit positions could be reorganized to meet the requirements of this bill, which allows the new Office to be staffed with an Ombudsman director and up to 11 assistant ombudsman positions who are to assist with grievances, investigations, communications, inspections, and reports. It is also assumed that the two technical support staff members and three DOC staff members who are to assist with matters related to human resources and data collection, as allowed by the bill, may also be reorganized within DOC. However, the redress of informal complaints is not currently handled by the 27 Inmate Grievance Coordinator positions. Rather, informal complaints are investigated and addressed by institutional staff. Under the provisions of the bill, it is not clear if those responsibilities (review and response to informal complaints) would be subsumed by the Office or would remain within the current structure of the DOC. Costs associated with leasing separate office space, purchasing office equipment, supplies and contracting for other services, as the bill allows, may also be covered within DOC's existing budget depending on the extent to which these resources are duplicated within the Ombudsman Services Unit.

If the bill's intent is to establish the Office as an entity separate from DOC, with duties in addition to those that DOC is already performing, the staff and associated costs allowed by the bill would have to be funded. Estimates for staffing the new Office as outlined in the bill with an Ombudsman director, at a cost of \$206,788, up to 11 assistant ombudsman positions, at a cost of \$117,388 each, and two technical support staff members, at a cost of \$76,437 each, would cost approximately \$1.7 million general fund annually. DOC estimates that the three DOC staff members dedicated to assisting with human resources and data collection as provided in the bill, would cost approximately \$262,000 general fund annually. The total estimated cost for all staff positions is \$1.9 million general fund annually, which includes salary and benefits. In addition, funding for leasing separate office space, purchasing office equipment, supplies, and contracting for other services, as allowed by the bill, may also be required. Estimates for such costs are not available at this time.

Many of the data reporting, staffing level assessments, and capital improvement needs monitoring required by the bill are already conducted by existing DOC divisions including the agency's Research Unit, Special Investigations Unit, and Infrastructure and Environmental Management Unit. DOC reports that periodic inspections of facilities are conducted by entities including the American Correctional Association and the U.S. Department of Justice.

The bill requires that inmates have access to an online form to transmit complaints to the Office. The electronic form must be available to inmates during certain hours of the day on at least 10 computers in each DOC facility and on any electronic tablets or other electronic computing devices that inmates are permitted to possess, use, or access. DOC estimates the cost to purchase and install the required 10 computers in all 46 DOC facilities (460 computers total) at \$2.9 million general fund, \$1.9 million general fund of which would be initial one-time costs and estimates ongoing support and maintenance costs at \$967,000 general fund annually.

The bill requires reasonable access, in person or in writing, and with or without prior notice, to all Department facilities, including all areas that are used by inmates, all areas that are accessible to inmates, and to programs for inmates, at reasonable times, which at a minimum shall include normal working and visiting hours. The bill allows for confidential interviews with inmates, DOC employees, contractors, etc. The bill also sets requirements for periodic inspections of correctional facilities. According to DOC, Correctional Officers would escort staff of the Office and Oversight Committee during the visits, interviews, and inspections required by the bill. It is not clear at this time if these visits, inspections, and interviews would require staff to work overtime if those on shifts are unable to be assigned for these specific tasks.

The engrossed bill contains an enactment clause that states that the provisions of this act shall not become effective unless an appropriation effectuating the purposes of this act is included in a general appropriation act passed in 2023 by the General Assembly that becomes law.

9. Specific Agency or Political Subdivisions Affected: Department of Corrections

10. Technical Amendment Necessary: No

11. Other Comments: None