

Department of Planning and Budget

2024 Session Fiscal Impact Statement

1. Bill Number: SB456-H2

House of Origin ☐ Introduced ☐ Substitute ☐ Engrossed
Second House ☐ In Committee ☒ Substitute ☐ Enrolled

2. Patron: Marsden

3. Committee: Appropriations

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

5. Summary: Creates, within the Office of the State Inspector General, the Office of the Department of Corrections Ombudsman (the Office) headed by an Ombudsman who is selected by the State Inspector General. A Corrections Oversight Committee (the Committee) is also created by the bill and is made up of four members of the General Assembly and 11 nonlegislative citizen members who monitor the activities of the Ombudsman and the Department of Corrections (the Department). The bill provides the Office's authority to conduct inspections of correctional facilities at least once every year for maximum security facilities and every three years for other facilities, with more frequent inspection required of facilities where the Office has found cause. The Office shall establish a statewide toll-free telephone number, mailing address, and electronic forms for complaints and inquiries of inmates, their family members, friends, and advocates. The Office shall submit an annual report to the Governor, the Attorney General, the Senate Committee on Rehabilitation and Social Services, the House Committee on Public Safety, the Committee, and the Director of the Department. In addition, the bill requires the Committee to conduct at least two public hearings each year regarding the Office's inspections, findings, reports, and recommendations, at least one random inspection of a facility, and for the co-chairmen of the Committee to meet at least twice per year with the Governor and Director to report on the Committee's work and findings.

6. Budget Amendment Necessary: Yes, Items 49 and 56 of HB/SB 30. Also see Item 8 below.

7. Fiscal Impact Estimates: Preliminary; also see Item 8.

7a. Expenditure Impact: Office of the State Inspector General, Item 56

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Positions</i>	<i>Fund</i>
2024	-	-	
2025	\$2,102,859	12	General
2026	\$2,037,579	12	General
2027	\$2,037,579	12	General
2028	\$2,037,579	12	General
2029	\$2,037,579	12	General
2030	\$2,037,579	12	General

7b. Expenditure Impact: Department of Corrections, Item 390

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Positions</i>	<i>Fund</i>
2024	-	-	
2025	\$14,352	-	General
2026	\$14,352	-	General
2027	\$14,352	-	General
2028	\$14,352	-	General
2029	\$14,352	-	General
2030	\$14,352	-	General

7c. Expenditure Impact: Office of the Attorney General and Department of Law, Item 49

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Positions</i>	<i>Fund</i>
2024	-	-	
2025	\$1,191,146	9	General
2026	\$1,191,146	9	General
2027	\$1,191,146	9	General
2028	\$1,191,146	9	General
2029	\$1,191,146	9	General
2030	\$1,191,146	9	General

- 8. Fiscal Implications:** This bill creates within the Office of the State Inspector General (OSIG), an Office of the Department of Corrections Ombudsman (the Office), and a Corrections Oversight Committee.

An Office of the Department of Corrections Ombudsman was created within the Office of the State Inspector General in Chapter 1, 2023 Acts of Assembly, Special Session I. This bill would expand upon the requirements and authority of this office. OSIG received \$250,000 general fund and two positions to establish the office that remain in the agency's budget in HB/SB 30 as introduced and can be used to meet a portion of the requirements of the bill. A Corrections Oversight Committee was also established in Chapter 1 and its authority and composition is modified by this bill.

Office of the State Inspector General Impact:

Staff and associated costs in excess of the \$250,000 and two positions in OSIG's budget in HB/SB 30 would have to be funded. According to OSIG, initial staffing of 14 positions is expected to be needed to fulfil the Ombudsman Office responsibilities assuming facility inspections will include assessments of all aspects listed in paragraph B. of § 53.1-17.6. of the bill. Some of the elements in paragraph B. of § 53.1-17.6 would be required to be assessed in some manner based on the requirements for the annual report pursuant to § 53.1-17.8 and others would not be mandatory to be reviewed. Staffing of up to 14 positions would include the Ombudsman; 11 investigator and inspector positions to review and investigate complaints and conduct facility inspections; and two technical support staff to include one data analyst position and one business coordinator. Preliminary estimates for staffing the

Office are \$1,837,550 per year, which includes the Ombudsman, at a cost of \$164,450, 11 investigator and inspector positions, at a cost of \$128,700 each, and two technical support staff members, at a cost of \$128,700 each. In addition, OSIG estimates funding for leasing office space, purchasing office equipment, IT costs, staff travel costs, and contracting for other services including subject matter experts at a cost of \$421,705 annually in addition to \$20,280 for initial one-time costs.

Corrections Oversight Committee members are eligible for reimbursement of expenses. Reimbursements are estimated to be \$8,324 per year if the minimum required hearings, inspection, and co-chair meetings per year are conducted, although additional meetings and inspections may occur.

Preliminary estimates for a statewide uniform reporting system required in the bill are \$65,000 the first year and \$20,000 the second year and thereafter.

Preliminarily, the known expected costs for OSIG total \$2,102,859 the first year and \$2,037,579 in annual ongoing general fund costs and 12 additional positions after accounting for the \$250,000 and two positions in the agency's budget in HB/SB 30 as introduced.

Department of Corrections (DOC) Impact:

The bill requires the Office to establish a statewide toll-free telephone number, mailing address, and electronic forms for concerns, complaints, and inquiries by inmates, their family members, friends, and advocates. Inmates do not have access to computers with the ability to submit complaints online, so they would need to utilize either the toll-free telephone number from a dedicated phone line on the inmate telephone system or to submit paper submissions. The bill requires the Office and DOC Director to guarantee that calls made by inmates, employees, and contractors to file complaints and inquiries with the Office regarding covered issues are confidential and are not monitored or recorded. DOC estimates the cost of a secure phone line on the inmate telephone system at each DOC facility with access to the statewide toll-free telephone number at \$14,352 annually in order to meet this requirement. DOC expects to make paper forms available to inmates as required by the bill within existing resources. The bill does not specify who is responsible for the cost of mailing complaint forms submitted by inmates to the Ombudsman Office. If inmates are responsible for postage, no additional resources would be needed. An estimate is not currently available for postage if DOC or OSIG are expected to cover postal costs.

The bill requires reasonable access by the Office and Oversight Committee, upon request 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 requires an inspection of each correctional facility at least once every year for maximum security facilities and once every three years for other facilities, with more frequent inspections of facilities previously found to have violations of rights or substandard conditions or programming. Per § 53.1-17.3 of the bill, Oversight Committee inspections would only be conducted in person and without notice. 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.

DOC's existing grievance procedures would remain in place and are required to be attempted to be utilized prior to the initiation of an investigation by the Office of the Department of Corrections Ombudsman. Therefore, no changes to existing DOC resources dedicated to its internal grievance process are expected.

Preliminarily, the known expected costs for DOC total \$14,352 in annual ongoing general fund costs, which can be absorbed by the agency.

Office of the Attorney General and Department of Law Impact:

The Office of the Attorney General and Department of Law (OAG) indicates this bill is likely to increase the number of annual advice requests and court cases referred to OAG correctional litigation staff. According to OAG, seven additional attorneys, one paralegal, and one legal secretary may be needed to handle additional advice requests and court cases. OAG estimates costs for one experienced attorney at \$182,297 per year, six entry level attorneys at \$136,951 per year, one paralegal at \$100,178 per year, and one legal secretary at \$86,965 per year, for a total of \$1,191,146 annually and nine positions from the general fund.

General Assembly of Virginia:

The bill provides that Corrections Oversight Committee members are not eligible to receive compensation, as does language in Item 56 of HB/SB 30. However, language in Item 1 of HB/SB 30 requires compensation of legislative members notwithstanding other provisions of law. Therefore, it is assumed that legislative members will need to be compensated at \$300 per day pursuant to the provisions of Item 1 of HB/SB 30. The four legislative members in the bill is consistent with the number of legislative members already established in Chapter 1, 2023 Acts of Assembly, Special Session I. Therefore, no additional funding is expected to be needed for this purpose.

Language in paragraph G. of Item 56 of HB/SB 30 would need to be adjusted to conform with the bill and reflect adjustments to funding for this purpose.

9. Specific Agency or Political Subdivisions Affected: Office of the State Inspector General, Department of Corrections, Office of the Attorney General, and the General Assembly

10. Technical Amendment Necessary: No

11. Other Comments: This bill is similar to House Bill 555.