

SECOND REGULAR SESSION

HOUSE BILL NO. 1305

91ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE TROUPE.

Pre-filed December 19, 2001, and 1000 copies ordered printed.

TED WEDEL, Chief Clerk

3441L.01I

AN ACT

To amend chapter 26, RSMo, by adding thereto eight new sections relating to a board of corrections ombudsman and an office of corrections ombudsman, with penalty provisions.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Chapter 26, RSMo, is amended by adding thereto eight new sections, to be known as sections 26.700, 26.703, 26.706, 26.709, 26.712, 26.715, 26.718, and 26.721 to read as follows:

26.700. As used in sections 26.700 to 26.718, the following terms mean:

(1) "Client", an individual who requests, or on whose behalf a request is made for, ombudsman services and is:

(a) An offender housed by the department of corrections, or by any entity housing offenders under contract with the department;

(b) A volunteer in correction, friend or relative of an offender consigned to the department of corrections;

(c) An employee of the department of corrections;

(d) An elected government official; or

(e) A nongovernmental organization whose goals include prison and criminal justice matters;

(2) "Department", the department of corrections;

(3) "Director", the director of the department of corrections;

(4) "Egregious complaint", a complaint that, should it prove to be accurate, constitutes a serious violation of state or federal law or constitutional guarantees;

(5) "Ombudsman", the person employed by the board of corrections ombudsman

17 to serve as corrections ombudsman.

26.703. There is hereby established in the office of the lieutenant governor, the
2 office of corrections ombudsman. The office of corrections ombudsman shall be overseen
3 and directed by the board of corrections ombudsman. The board shall consist of thirteen
4 members. The speaker of the house of representatives shall appoint four members. The
5 governor shall appoint four members. The president of the senate shall appoint four
6 members. These twelve members will elect a president who will break tie votes. The
7 members shall reflect the racial, gender, and age composition of the state and shall include
8 family members of inmates and representatives of nongovernmental organizations whose
9 goals include prison and criminal justice matters. One board member must have a medical
10 background and a background in mental health issues. The board shall appoint an
11 ombudsman. The ombudsman may employ such staff as may be necessary to carry out the
12 duties of the office subject to available appropriations. The staff shall include professional
13 investigators with experience in criminal or civil investigations, a neutral fact finding
14 approach and no conflict of interest with either the department or inmates. The
15 ombudsman shall receive a salary for his or her services, and the compensation paid to the
16 ombudsman and staff shall be fixed by the board pursuant to appropriations. The
17 lieutenant governor's office shall provide the ombudsman with office space and
18 administrative support.

26.706. The ombudsman may investigate egregious complaints that may include
2 medical neglect, physical and sexual abuse, torture, deprivation of basic needs, or other
3 issues deemed serious by the ombudsman. The ombudsman may refer cases to state or
4 federal prosecutors when a clear violation of state or federal law has occurred or when a
5 seeming violation requiring expert judgment by a prosecutor is needed and where a
6 mediated settlement is not possible.

26.709. The ombudsman shall investigate and attempt to resolve complaints from
2 clients and shall:

- 3 (1) Gather information and evaluate any act, practice, policy, procedure, or
4 administrative action in any facility housing clients under control of or having a contract
5 with the department;
- 6 (2) Mediate and resolve egregious complaints on behalf of clients if the complaints
7 are determined to be justified based on the facts of the complaint;
- 8 (3) Monitor the development and implementation of federal, state and local laws,
9 rules, regulations, policies and practices affecting the rights and well-being of offenders;
- 10 (4) Recommend to the general assembly, the governor, the department and other
11 public and private agencies changes in laws, rules, regulations, policies and practices to

12 reduce egregious complaints of clients;

13 (5) Inform public agencies with responsibilities for particular problems, such as
14 mental illness or other disabilities, about the problems of clients;

15 (6) Conduct or participate in public forums to obtain information about and inform
16 the public about issues affecting clients;

17 (7) Collect and analyze data relating to complaints, conditions and services under
18 his or her scope of responsibility; and

19 (8) Issue an annual report containing the number and nature of complaints, the
20 way that they were resolved, and unresolved or unresolvable issues remaining.

26.712. 1. The director shall provide the ombudsman and his or her staff with
2 access to records, any correctional facilities and any clients, employees, or prisoners
3 without advance notice to facilities or the department to interview clients, employees and
4 offenders and to observe services, conditions and treatment being provided offenders as
5 part of an investigation of a matter that is within the scope of the ombudsman's authority
6 and to interview persons under the jurisdiction of the director or under contract with the
7 department to house offenders. The ombudsman may delegate such authority to any of his
8 or her employees. The director shall provide full cooperation to the ombudsman in
9 conducting his or her investigation.

10 2. The ombudsman shall not be denied access to records, premises of facilities or
11 any section of a facility, staff, or prisoners.

12 3. Failure to comply with any provision of this section is a class D felony.

26.715. The ombudsman and his or her staff are immune from civil liability that
2 otherwise might result from actions or omissions which are in good faith, are within the
3 scope of the person's responsibility as an ombudsman and do not constitute willful or
4 reckless misconduct.

26.718. No entity or person shall take discriminatory, disciplinary or retaliatory
2 action against an employee, volunteer, offender, family member, or client for filing in good
3 faith a complaint with or providing information to the ombudsman or his or her designee.
4 Violation of this section by any person or aiding, abetting, inviting, compelling or coercing
5 another to do so is a class D felony.

26.721. Notwithstanding any other provision of the law to the contrary, records of
2 the office of corrections ombudsman which relate to the identity of clients, offenders or
3 employees of the department shall be public except as authorized by the ombudsman or
4 by a majority vote of the board, but no client shall be identified without his or her written
5 permission. Data maintained by the ombudsman that does not relate to the identity of a
6 client, offender, or employee of the department may be released at the discretion of the

7 **ombudsman. Data relating to the identity of a client may be released only with the written**
8 **consent of the client or by court order.**