
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 165

Session of
1981

INTRODUCED BY MILLER AND OLIVER, JANUARY 26, 1981

REFERRED TO COMMITTEE ON JUDICIARY, JANUARY 26, 1981

AN ACT

1 Establishing an Office of Ombudsman for Corrections and the
2 Corrections Ombudsman Committee.

3 The General Assembly of the Commonwealth of Pennsylvania
4 hereby enacts as follows:

5 Section 1. Definitions.

6 The following words and phrases when used in this act shall
7 have, unless the context clearly indicates otherwise, the
8 meanings given to them in this section:

9 "Administrative agency" or "agency" means any division,
10 official, or employee of the Bureau of Correction, Department of
11 Justice, the Pennsylvania Board of Probation and Parole and the
12 Board of Pardons, but does not include:

13 (1) Any court or judge.

14 (2) Any member of the Senate or House of Representatives
15 of the Commonwealth.

16 (3) The Governor or his personal staff.

17 (4) Any instrumentality of the Federal Government of the

1 United States.

2 (5) Any agency of or political subdivision of the
3 Commonwealth.

4 (6) Any official or agency established under an
5 interstate compact.

6 Section 2. Office of Ombudsman.

7 (a) Establishment.--The Office of the Ombudsman for
8 Corrections is hereby established. The office shall have as its
9 chief administrative officer the ombudsman who shall either
10 personally, by deputy or duly authorized agent or employee of
11 the office, and subject at all times to the provision of this
12 act and the act of April 9, 1929 (P.L.177, No.175), known as
13 "The Administrative Code of 1929." Exercise the powers and
14 perform the duties by law vested in and imposed on the office.

15 (b) Appointment and authority.--The ombudsman shall be
16 appointed by, shall serve at the pleasure of, and shall be
17 subject to the Corrections Ombudsman Committee. The ombudsman
18 shall have the authority to investigate decisions, acts and
19 other matters of an agency so as to promote the highest
20 attainable standards of competence, efficiency and justice in
21 the administration of corrections.

22 (c) Correction Ombudsman Committee.--The Corrections
23 Ombudsman Committee shall be composed of eight members, four of
24 whom shall be members of the House of Representatives and shall
25 be appointed by the Speaker, and four of whom shall be members
26 of the Senate, who shall be appointed by the President pro
27 tempore. No more than half the members appointed from each House
28 of the General Assembly shall be from the same political party.

29 (d) Deputy and other assistants.--The ombudsman shall
30 appoint such personnel as are required to administer the

1 provisions of this act, and shall designate one of his
2 assistants to be the deputy ombudsman. The ombudsman may
3 delegate to members of his staff any of his authority or duties
4 except the duty of formally making recommendations to an
5 administrative agency, or reports to the Office of the Governor,
6 or to the Legislature.

7 Section 3. Powers and duties; procedure.

8 (a) Powers enumerated.--The ombudsman shall have the
9 following powers:

10 (1) He may prescribe the methods by which complaints are
11 to be made, reviewed and acted upon. He shall not levy or
12 collect a complaint fee.

13 (2) He may determine the scope and manner of
14 investigations to be made.

15 (3) Except as otherwise provided, he may determine the
16 form, frequency and distribution of his conclusions,
17 recommendations and proposals. However, the Governor or his
18 representative may, at any time the Governor deems it
19 necessary, request and receive information from the
20 ombudsman.

21 (4) He may investigate, upon a complaint in writing or
22 upon his own initiative, any action of an administrative
23 agency.

24 (5) He may request and shall be given access to
25 information in the possession of an administrative agency
26 which he deems necessary for the discharge of his
27 responsibilities.

28 (6) He may examine the records and documents of an
29 administrative agency.

30 (7) He may enter and inspect, at any time, premises

1 within the control of an administrative agency.

2 (8) He may order any person to appear, give testimony,
3 or produce documentary or other evidence which the ombudsman
4 deems relevant to a matter under his inquiry, but any witness
5 at a hearing on or before an investigation as herein
6 provided, shall possess the same privileges reserved to such
7 a witness in the courts or under the laws of this
8 Commonwealth.

9 (9) The ombudsman may, where he deems necessary, refer
10 and offer assistance to the appropriate legal agency such as
11 for example but not limited to the Attorney General or a
12 public defender for appropriate action in a State court.

13 (b) Areas of concern.--

14 (1) In selecting matters for his attention, the
15 ombudsman should address himself particularly to actions of
16 an administrative agency which might be:

17 (i) contrary to law or regulation;

18 (ii) unreasonable, unfair, oppressive or
19 inconsistent with any policy or judgment of an
20 administrative agency;

21 (iii) mistaken in law or arbitrary on the
22 ascertainment of facts;

23 (iv) unclear or inadequately explained when reasons
24 should have been revealed; or

25 (v) inefficiently performed.

26 (2) The ombudsman may also concern himself with
27 strengthening procedures and practices which lessen the risk
28 that objectionable actions of the administrative agency will
29 occur.

30 (c) Complaints.--

1 (1) The ombudsman may receive a complaint from any
2 source concerning an action of an administrative agency. He
3 may, on his own motion or at the request of another,
4 investigate any action of an administrative agency.

5 (2) The ombudsman may exercise his powers without regard
6 to the finality of any action of an administrative agency,
7 however, he may require a complainant to pursue other
8 remedies or channels of complaint open to the complainant
9 before accepting or investigating the complaint.

10 (3) After completing his investigation of a complaint,
11 the ombudsman shall inform the complainant, the
12 administrative agency, and the official or employee, of the
13 action taken.

14 (4) A letter to the ombudsman from a person in an
15 institution under the control of an administrative agency
16 shall be forwarded immediately and unopened to the
17 ombudsman's office.

18 (d) Recommendations.--

19 (1) If, after duly considering a complaint and whatever
20 material he deems pertinent, the ombudsman is of the opinion
21 that the complaint is valid, he may recommend that an
22 administrative agency should:

23 (i) consider the matter further;

24 (ii) modify or cancel its actions;

25 (iii) alter a regulation or ruling;

26 (iv) explain more fully the action in question; or

27 (v) take any other step which the ombudsman states

28 as his recommendation to the administrative agency

29 involved.

30 If the ombudsman so requests, the agency shall within the time

1 he specifies, inform the ombudsman about the action taken on his
2 recommendation or the reasons for not complying with it.

3 (2) If the ombudsman has reason to believe that any
4 public official or employee has acted in a manner warranting
5 criminal or disciplinary proceedings, he may refer the matter
6 to the appropriate authorities.

7 (3) If the ombudsman believes that an action upon which
8 a valid complaint is founded has been dictated by a statute,
9 and that the statute produces results or effects which are
10 unfair or otherwise objectionable, the ombudsman shall bring
11 to the attention of the Governor and the Legislature his view
12 concerning desirable statutory changes.

13 Section 4. Publication of recommendations and reports.

14 (a) Required procedure.--The ombudsman may publish his
15 conclusions and suggestions by transmitting them to the
16 Correction Ombudsman Committee before announcing a conclusion or
17 recommendation that expressly or impliedly criticizes an
18 administrative agency, or any person, the ombudsman shall
19 consult with that agency or person. When publishing an opinion
20 adverse to an administrative agency, or any person, the
21 ombudsman shall include in such publication any statement of
22 reasonable length made to him by that agency or person in
23 defense or mitigation of the action.

24 (b) Yearly reports of activities.--In addition to whatever
25 reports the ombudsman may make on an ad hoc basis, the ombudsman
26 shall at the end of each year report to the committee concerning
27 the exercise of his functions during the preceding year.

28 Section 5. Effective date.

29 This act shall take effect in 60 days.