

SENATE BILL NO. 456

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Rehabilitation and Social Services

on January 19, 2024)

(Patron Prior to Substitute--Senator Marsden)

A BILL to amend the Code of Virginia by adding in Chapter 1 of Title 53.1 an article numbered 4, consisting of sections numbered 53.1-17.2 through 53.1-17.10, relating to Office of the Department of Corrections Ombudsman; created.

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Chapter 1 of Title 53.1 an article numbered 4, consisting of sections numbered 53.1-17.2 through 53.1-17.10, as follows:

Article 4.

Office of the Department of Corrections Ombudsman.

§ 53.1-17.2. Office of the Department of Corrections Ombudsman; powers and duties.

A. There is created within the Office of the State Inspector General, an Office of the Department of Corrections Ombudsman (the Office). The Office shall have the following duties and powers:

1. To provide information, as appropriate, to inmates, family members, representatives of inmates, Department employees and contractors, and others regarding the rights of inmates;

2. To monitor conditions of confinement and assess compliance with applicable federal, state, and local rules, regulations, policies, and best practices as related to the health, safety, welfare, and rehabilitation of inmates;

3. To provide technical assistance to support inmate participation in self-advocacy;

4. To provide technical assistance to local governments in the creation of correctional facility oversight bodies, as requested;

5. To establish policies for a statewide uniform reporting system to collect and analyze data related to complaints received by the Department and data related to (i) deaths, suicides, and suicide attempts in

27 custody; (ii) physical and sexual assaults in custody; (iii) the number of inmates placed in restorative
28 housing; (iv) the number of facility lockdowns lasting longer than 24 hours; (v) the number of staff
29 vacancies at each facility; (vi) the inmate-to-staff ratios at each facility; (vii) staff tenure, turnover, and
30 compensation; (viii) numbers of in-person visits to inmates that were made and denied at each facility;
31 (ix) the number of inmate complaints or grievances submitted to the Department, the resolution of such
32 complaints or grievances, and how long it took to resolve each complaint or grievance; and (x) any covered
33 issue as defined in § 53.1-17.9.

34 6. To establish procedures to gather stakeholder input into the Office's activities and priorities,
35 which shall include, at a minimum, an annual 30-day period for receipt of and Office response to public
36 comment;

37 7. To inspect each state correctional facility at least once every three years and at least once every
38 year for any maximum security facility and any facility where the Office has found cause for more frequent
39 inspection or monitoring. All visitors must comply with Department security policies and procedures;

40 8. To issue publicly periodic facility inspection reports and an annual report with recommendations
41 on the state correctional facilities and a summary of data and recommendations arising from any
42 complaints investigated and resolved pursuant to this article, and any other thematic reports covering any
43 topic the Office finds relevant to maintaining a safe, secure, and humane Department;

44 9. To monitor, document, review, and report any capital improvements needed for Department
45 facilities; and

46 10. To review, monitor, and report on the administrative remedy process of the Department,
47 including the availability of any complaint and grievance forms at Department facilities, the accessibility
48 of the remedy process to inmates and their representatives at each facility, and the timely, unbiased
49 resolution of complaints or grievances by the Department.

50 B. The Office shall be directed by a Department of Corrections Ombudsman (the Ombudsman)
51 who shall be selected by the Corrections Oversight Committee (the Committee), established pursuant to
52 § 53.1-17.3. The Committee shall select an Ombudsman who has training or experience in criminal law,
53 including any experience with local or state correctional law, and shall consider his history of judgment,

54 independence, objectivity, and integrity. The Ombudsman shall serve a term of six years and during such
55 term the Ombudsman shall be removed only by the Governor or by a majority vote of all voting members
56 of the Committee for good cause. Such Ombudsman shall not serve more than two consecutive terms.
57 Any partial term of fewer than six years shall be considered a full term. Neither the Ombudsman nor the
58 Ombudsman's spouse or domestic partner, parents, grandparents, children, or siblings shall be a current
59 or former employee or contractor of the Department. The Ombudsman shall have the authority to (i) hire
60 staff, contractors, and unpaid volunteers; (ii) secure office space, equipment, and other services necessary
61 to carry out the duties of the Office pursuant to this article; and (iii) contract with experts as necessary to
62 assist in the monitoring and inspection of facilities, the assessment of data, and the review, investigation,
63 or resolution of complaints. A staff member or volunteer hired by the Ombudsman shall have the same
64 authority and duties of the Office as described in this article. A staff member or volunteer hired by the
65 Ombudsman shall not be (a) a person with a family member who is a current inmate of the Department,
66 (b) a person with a family member who is a current employee or contractor of the Department, (c) a current
67 employee or contractor of the Department, or (d) a victim or a family member of a victim of a crime
68 committed by an inmate currently in the custody of the Department.

69 C. The Office shall be allotted the following support staff: up to 11 total assistant ombudsmen to
70 assist with grievances, investigations, communications, inspections, and reports; two technical support
71 staff members; and three staff members within the Department of Corrections to assist with matters related
72 to human resources and data collection.

73 D. The Ombudsman shall, subject to the provisions of § 53.1-17.5, (i) attend each hearing
74 conducted by the Committee and provide any testimony, documents, data, or information requested by
75 Committee members; (ii) meet once each quarter with the members of the Committee, the Governor, and
76 the Director to report on the work and findings of the Office; and (iii) provide testimony before the relevant
77 committees of the General Assembly upon request from any committee chairman or vice-chairman.

78 E. For the purposes of this section, "good cause" means the violation of a state or federal law,
79 public corruption, fraud, dereliction of duty, or abuse of office.

80 **§ 53.1-17.3. Corrections Oversight Committee; membership; authority.**

81 A. There is created a Corrections Oversight Committee (the Committee) that shall consist of 19
82 voting members and two nonvoting members. Such voting members shall be appointed as follows: (i) four
83 members of the Senate who are not members of the same political party, two of whom shall be appointed
84 by the President of the Senate and two of whom shall be appointed by the Senate Minority Leader; (ii)
85 four members of the House of Delegates who are not members of the same political party, two of whom
86 shall be appointed by the Speaker of the House of Delegates and two of whom shall be appointed by the
87 House Minority Leader; and (iii) the following nonlegislative citizen members to be appointed by the
88 Governor: (a) one representative of a nonprofit prisoner advocacy group, (b) one representative of a
89 nonprofit organization that provides training or rehabilitation programs for incarcerated inmates, (c) one
90 male citizen and one female citizen who were formerly incarcerated within the Commonwealth for a term
91 of imprisonment of three years or more within the 10 years immediately preceding his appointment,
92 provided that such citizens have had their civil rights restored by the Governor, (d) one licensed physician,
93 (e) one licensed mental health or behavioral health professional with experience providing mental health
94 or counseling services to adults, (f) one person who is a grandparent, parent, child, sibling, or spouse or
95 domestic partner of a person currently incarcerated within the Commonwealth and who is serving a term
96 of incarceration of three years or more, (g) one current or former Department correctional officer in a
97 supervisory role selected from an association of correctional officers and employees or a nonprofit
98 organization in which he is a member, (h) one current or former Department line correctional officer
99 selected from an association of correctional officers and employees or a nonprofit organization in which
100 he is a member, and (i) two persons, recommended by the Director, that served as correctional employees
101 at the Department within 10 years of appointment. The two nonvoting members shall serve in an advisory
102 role and shall consist of two current or former employees of the Department, a state correctional facility
103 outside of the Commonwealth, or a federal correctional facility who served in such role within the 10
104 years immediately prior to appointment. Upon the request of an inmate, an inmate's family member or
105 representative, or a Department staff member, employee, or contractor who believes he may be the subject
106 of retaliation for providing testimony or other information to the Office or the Committee, such nonvoting

107 members shall be excluded from any investigations, inspections, interviews, receipt of testimony, or
108 review of documents by the Office or the Committee with regard to the requester.

109 B. Members appointed pursuant to this section shall serve a term of three years. Except as provided
110 in subsection A, neither a member nor a member's spouse or domestic partner, parents, grandparents,
111 children, or siblings shall be (i) a current or former employee or contractor of the Department at any time
112 during the 10 years prior to his appointment to the Committee or (ii) involved in active litigation against
113 the Department. Members of the Committee shall not serve more than three consecutive terms. The
114 Committee shall be co-chaired by two legislative members appointed pursuant to subsection A who are
115 not members of the same chamber of the legislature or of the same political party. A co-chairman shall
116 serve a term of three years and shall not serve more than two consecutive terms. The Committee co-
117 chairmen shall be selected by the leaders of their respective political parties in the House of Delegates and
118 the Senate. Except as provided in subsection A, all members of the Committee shall have the power to
119 vote on matters and actions before the Committee. Matters and actions of the Committee shall be decided
120 pursuant to a majority vote of the voting members present. To vote on actions or matters before the
121 Committee, a quorum must exist, which shall include the Committee co-chairmen and 10 of the other
122 voting members.

123 C. The Committee shall meet whenever there is a vacancy in the ombudsman position, or as the
124 co-chairmen deem necessary, or on the call of a majority of the members.

125 D. Pursuant to §§ 2.2-2813 and 2.2-2825, Committee members are not eligible to receive
126 compensation but are eligible for reimbursement of expenses.

127 E. The Committee shall announce the Ombudsman nominee publicly and shall vote to appoint the
128 nominee after holding a public hearing, during which the Committee shall hear and consider oral or written
129 testimony from the Ombudsman nominee, any witnesses the Ombudsman nominee presents on his behalf,
130 and any members of the public. The Ombudsman shall take office upon a majority vote of the Committee
131 in his favor. To vote on the appointment of the Ombudsman, a quorum must exist. For the purposes of
132 this vote, a quorum shall include all legislative members and at least five of the Committee's nonlegislative
133 members.

134 F. The Committee shall hold at least one public hearing each year to present, review, and discuss
135 the Office's inspections, findings, reports, and recommendations set forth in the Office's annual report and
136 shall hold quarterly public hearings to present, review, and discuss any other data, reports, or findings of
137 the Office that the Committee determines are relevant.

138 G. The Committee co-chairmen shall meet at least twice each year with the Governor and the
139 Director to report on the work and findings of the Committee and shall provide testimony before the
140 relevant committees of the House of Delegates and Senate upon request from the committee chairman or
141 vice-chairman or ranking member.

142 H. Upon a majority vote of its voting members, the Committee may make an ex parte application
143 to the circuit court for the county or city wherein evidence sought is kept for the issuance of a subpoena
144 duces tecum in furtherance of an investigation or to request production by the Department of any relevant
145 records, documents, or other evidence, with the exception of confidential employee files and active
146 internal affairs investigations. The court may issue and compel compliance with such a subpoena upon a
147 showing of reasonable cause. Upon determining that reasonable cause exists to believe that evidence may
148 be destroyed or altered, the court may issue a subpoena for the appearance of an individual before any
149 hearing conducted by the Committee. The subpoena shall be served by the Office and enforced by the
150 circuit court. Department employees may have counsel present during testimony. Subpoenas so issued
151 shall be served and, upon application to the court by the Committee, enforced in the manner provided by
152 law for the service and enforcement of subpoenas in a civil action.

153 I. The Committee shall conduct, at a minimum, two random inspections of a facility each year and
154 shall visit a different facility upon each inspection. All members of the Committee may be present during
155 each inspection and shall not announce an inspection to any individual or entity outside of the Committee
156 before such inspection occurs. During the course of an inspection, members of the Committee shall have
157 the same access to the facility, inmates, staff, documents, and records in accordance with § 53.1-17.4 and
158 shall have the same powers as granted to the Office for an inspection pursuant to § 53.1-17.6.

159 **§ 53.1-17.4. Access to facilities and records.**

160 A. The Office shall have reasonable access, upon request in person or in writing and with or
161 without prior notice, to all Department facilities, including all areas that are used by inmates, all areas that
162 are accessible to inmates, and to programs for inmates, at reasonable times, which at a minimum shall
163 include normal working and visiting hours. This authority includes the opportunity to conduct an interview
164 with any inmate, Department employee or contractor, or other person. This access is to (i) provide
165 information about individual rights and the services available from the Office, including the name,
166 address, and telephone number of the Office facilities or staff; (ii) conduct official inspections as defined
167 in § 53.1-17.6; (iii) conduct an official investigation as provided in § 53.1-17.7; and (iv) inspect, view,
168 photograph, and record by video all areas of the facility that are used by inmates or are accessible to
169 inmates. However, such access is subject to the Department's security policies and procedures and
170 Committee members may not visit incarcerated family members outside of Department visitation policies
171 and procedures. The Office shall preserve the confidentiality of any information obtained from the
172 Department in accordance with applicable state and federal laws.

173 B. Access to inmates includes the opportunity to meet and communicate privately and
174 confidentially with individuals regularly, with or without prior notice, both formally and informally, by
175 telephone, mail, and electronic communication and in person. In the case of communications with inmates,
176 these communications shall not be monitored by, recorded, or conducted in the presence of employees or
177 contractors of the Department. Meetings with inmates may be recorded by members of the Office at their
178 discretion and with the inmate's consent. Any such recordings are subject to the provisions of § 53.1-17.5.

179 C. The Office shall provide a statewide toll-free telephone number, website, and mailing address
180 for the receipt of complaints and inquiries. All incoming and outgoing inmate mail is subject to the
181 Department's security screening processes and procedures.

182 D. The Office shall have the right to access, inspect, and copy all relevant information, records, or
183 documents in the possession or control of the Department, with the exception of confidential employee
184 files and active internal affairs investigations, that the Office considers necessary in an investigation of a
185 complaint filed under this article, and the Department shall assist the Office in obtaining the necessary
186 releases for those documents that are specifically restricted or privileged for use by the Office. The Office

187 shall preserve the confidentiality of any information obtained from the Department in accordance with
188 applicable state and federal laws.

189 E. Access to Department employees or contractors includes the opportunity to meet and
190 communicate privately and confidentially with individuals during inspections or normal working hours,
191 with or without prior notice, both formally and informally, by telephone, mail, and electronic
192 communication and in person. Meetings with Department employees or contractors may be recorded by
193 members of the Office at their discretion and with the individual's consent.

194 F. The Office shall have the power to issue a subpoena to the Department for records, documents,
195 or data in the Department's possession, and for Department staff, contractors, or representatives to appear
196 and provide information to the Office. Subpoenas so issued shall be served and, upon application to the
197 court by the Office, enforced in the manner provided by law for the service and enforcement of subpoenas
198 in a civil action. Department employees may have counsel or a representative from their employee
199 organization present during testimony.

200 G. Following notification from the Office of a written request for access to Department records,
201 the designated Department staff shall provide the Office with access to the requested documentation not
202 later than 20 working days after receipt of the written request. If the records requested pertain to (i) an
203 inmate death; (ii) threats of bodily harm, including sexual or physical assaults; or (iii) the denial of
204 necessary medical treatment, the records shall be provided within five working days unless the Office
205 consents to an extension.

206 H. The Office shall work with the Department to minimize disruption to operations of the
207 Department due to an investigation by the Office. The Office shall comply with the Department security
208 processes, provided these processes do not impede the investigation or resulting activities of the Office.

209 **§ 53.1-17.5. Communications; confidentiality.**

210 A. Any correspondence or communication with the Office as provided by this article shall be
211 confidential and privileged.

212 B. The Office shall establish rules and procedures to guarantee the confidentiality of such
213 information gathered and maintained by the Office. The Office shall not reveal to (i) Department

214 employees or contractors or (ii) other inmates the identity of a complainant before, during, or after an
215 investigation to the greatest extent practicable, except as is necessary to effectively carry out an
216 investigation.

217 C. The Office shall reveal information if necessary to prevent reasonably certain death or
218 substantial bodily harm or the commission of a crime.

219 D. The Office shall make available to the Department any information necessary to further a
220 criminal investigation pursuant to subdivision 11 of § 53.1-10.

221 E. The Office shall keep confidential all matters under investigation, including the identities of
222 recipients of Ombudsman services, complainants, and individuals from whom information is acquired,
223 unless disclosure is necessary for the performance of its duties. If the Office believes it is necessary to
224 reveal investigative records for any reason, it shall provide a copy of the information to be disclosed to
225 the Department for review and application of legal exemptions prior to disclosure. If the Office receives
226 personal identifying information about corrections staff during the course of an investigation that is
227 unnecessary or unrelated to the subject of the investigation or related recommendation, the Office shall
228 not further disclose such information. Prior to the disclosure of any such information, the Office shall
229 provide notice to the applicable staff person and the Director.

230 F. Upon receipt of information that is confidential or privileged, the Office shall maintain the
231 confidentiality of such information and shall not further disclose or disseminate the information except as
232 provided by applicable state or federal law or as authorized by this section. All communications and
233 records exchanged between the Office and the Department, including investigation records, are
234 confidential and exempt from all public disclosure requirements.

235 **§ 53.1-17.6. Inspection authority; inspection and assessment; report; safety and compliance**
236 **classification.**

237 A. The Office shall conduct periodic inspections of each facility maintained by the Department.
238 The initial inspection of each individual facility shall be conducted by July 1, 2025, and a public report
239 detailing the Office's findings shall be released. Subsequent inspections of each facility shall be conducted
240 on a staggered schedule depending upon the safety and compliance classification of the facility.

- 241 B. An inspection of any facility shall include an assessment of the following:
- 242 1. Any policies and procedures related to the care of inmates;
- 243 2. Conditions of confinement;
- 244 3. Availability of educational and rehabilitative programming, drug and mental health treatment,
- 245 and inmate jobs and vocational training;
- 246 4. Any policies and procedures related to visitation;
- 247 5. Any medical facilities and medical policies and procedures;
- 248 6. Any lockdowns at the facility in the time since the last inspection or, in the instance of the initial
- 249 inspection, any lockdowns at the facility within the previous three years;
- 250 7. Staffing at the facility, including the number of staff, job assignments, the ratio of staff to
- 251 inmates, and the number of staff vacancies;
- 252 8. Physical or sexual assaults at the facility in the time since the last inspection or, in the instance
- 253 of the initial inspection, any physical or sexual assaults within the previous three years;
- 254 9. Inmate or staff deaths at the facility in the time since the last inspection or, in the instance of the
- 255 initial inspection, any inmate or staff deaths within the previous three years;
- 256 10. Any policies and procedures related to Department staff recruitment, training, supervision, and
- 257 discipline;
- 258 11. Availability of complaint and grievance forms at the facility and the accessibility of the
- 259 administrative remedies process to inmates and their representatives; and
- 260 12. Any other aspect of the operation of the facility that the Office determines is necessary to assess
- 261 or that relates to covered issues.
- 262 C. Upon completion of an inspection, the Office shall produce a report to be made available to the
- 263 public online and to be delivered to the Governor, the Attorney General, the Senate Committee for Courts
- 264 of Justice, the House Committee on Public Safety, and the Director. The report shall include a summary
- 265 of all the factors listed in subsection B, any recommendations and a safety and compliance classification
- 266 with a recommended timeline for the next inspection, and the Director's response to the inspection.
- 267 D. The levels of classification shall be as follows:

268 1. A Tier I classification means that the facility has clear violations of rights, risks to the safety of
269 inmates, or a severe lack of quality programming necessary for the successful rehabilitation of individuals.
270 Such classification shall require a subsequent inspection within 12 months.

271 2. A Tier II classification means that the facility has violations of rights, substandard conditions of
272 confinement, or substandard programming options. Such classification shall require a subsequent
273 inspection within 18 to 36 months.

274 3. A Tier III classification means that the facility has adequate conditions of confinement and
275 programming options. Such classification shall require a subsequent inspection within 36 months.

276 E. The Department shall respond in writing to each inspection report issued by the Office within
277 20 working days of the issuance of the report and in its response shall include a corrective action plan.
278 The Office shall monitor the Department's compliance with the corrective action plan and may conduct
279 further inspections or investigations as necessary to ensure such compliance.

280 F. Nothing in this section shall be construed to limit the ability of the Office or members of the
281 Committee to enter and inspect a Department facility at any time, with or without advance notice, as
282 described in §§ 53.1-17.3 and 53.1-17.4, subject to the Department's security policies and procedures.

283 **§ 53.1-17.7. Authority to investigate complaints.**

284 A. The Office may initiate and attempt to resolve an investigation upon its own initiative, or upon
285 receipt of a complaint from an inmate, a family member or representative of an inmate, a Department
286 employee or contractor, or others, regarding (i) abuse or neglect; (ii) conditions of confinement; (iii)
287 decisions or administrative actions by the Department; (iv) inactions or omissions of the Department; (v)
288 Department policies, rules, or procedures; or (vi) alleged violations of law by Department employees or
289 contractors that may adversely affect the health, safety, welfare, or rights of inmates.

290 B. The Office may decline to investigate any complaint. Upon declining to investigate a complaint,
291 the Office shall notify the complainant in writing of the decision not to investigate and shall include the
292 reasons for such decision. If the complainant is an inmate, the Office shall inform an inmate that the inmate
293 is entitled to use the Department's policies regarding resolution of inmate grievances and shall provide
294 information and a complete set of forms to the inmate to complete the resolution of inmate grievances.

295 The Office shall decline to investigate a complaint if the inmate has failed to first use the Department's
296 policies regarding resolution of inmate grievances, unless the inmate provides evidence that the complaint
297 is legitimate and the inmate made a good faith attempt to exhaust the administrative remedy process and
298 was impeded or procedurally defaulted by no fault of his own. If the Office finds that inmates repeatedly
299 assert their inability to utilize the administrative remedy process despite their good faith efforts, the Office
300 may conduct an unannounced inspection of the facility in question to determine whether the facility is
301 making the administrative process and grievance forms accessible to inmates.

302 C. The Office shall not investigate any complaints relating to an inmate's underlying criminal
303 conviction. The Office may refer the complainant and others to the appropriate resources or state or federal
304 agencies.

305 D. The Office may not levy any fees for the submission or investigation of complaints.

306 E. Notwithstanding the provisions of § 53.1-17.5, at the conclusion of an investigation, the Office
307 shall render a public decision on the merits of each complaint. The Office shall communicate the decision
308 to the complainant and to the Department. The Office shall state its recommendations and reasoning if the
309 Office determines that the Department, or any employee or contractor thereof, should (i) consider the
310 matter further; (ii) modify or cancel any action; (iii) alter a rule, practice, or ruling; (iv) explain in detail
311 the administrative action in question; or (v) rectify an omission. Upon request of the Office, the
312 Department shall inform the Office in writing about any action taken on the recommendations or the
313 reasons for not complying with such recommendations.

314 F. If the Office believes that there has been or continues to be a significant issue with inmate health,
315 safety, welfare, or rehabilitation, the Office shall report the finding to the Governor, the Attorney General,
316 the Senate Committee for Courts of Justice, the House Committee on Public Safety, the Committee, and
317 the Director.

318 G. Prior to announcing a conclusion or recommendation, the Office shall consult with the
319 Department or any person individually named in the conclusion or recommendation. The Office may
320 request to be notified, within a specified time, by the Department of any action taken on any
321 recommendation presented.

322 H. The Department and any employees or contractors thereof shall not discharge, retaliate against,
323 or in any manner discriminate against any person because such person has filed any complaint or instituted
324 or caused to be instituted any proceeding pursuant to this article. Any alleged discharge, retaliation against,
325 or discrimination against a complainant may be considered by the Office as an appropriate subject for
326 investigation.

327 I. Nothing in this section shall be construed to infringe on an employer's right to supervise,
328 discipline, or terminate an employee for other reasons.

329 **§ 53.1-17.8. Annual report.**

330 A. The Office shall produce an annual report to be made available to the public online and to be
331 delivered to the Governor, the Attorney General, the Senate Committee for Courts of Justice, the House
332 Committee on Public Safety, the Committee, and the Director by December 31 of each year. The report
333 shall include:

334 1. A summary of the Office's inspections and complaint investigations conducted that calendar
335 year, including the Office's findings and recommendations and the Department responses and corrective
336 actions;

337 2. A characterization of the conditions of confinement at each facility;

338 3. A summary of available educational and rehabilitative programming, drug and mental health
339 treatment, and inmate jobs and vocational training at each facility;

340 4. A summary of visitation policies and procedures at each facility;

341 5. A summary of medical facilities and medical policies and procedures at each facility;

342 6. A summary of the lockdowns reviewed by the Office;

343 7. A summary of staffing at each facility;

344 8. A summary of physical or sexual assaults reviewed by the Office;

345 9. A summary of any inmate or staff deaths that occurred at each facility;

346 10. A summary of the Office's investigations, findings, and resolutions of any complaints
347 submitted pursuant to § 53.1-17.7; and

348 11. Any recommendations to the General Assembly and the Department.

349 B. If the Office so requests, the Department shall, within the time specified, inform the Office in
350 writing about any action taken on the recommendations included in the annual report or the reasons for
351 not complying with such recommendations.

352 **§ 53.1-17.9. Inmate and family support services.**

353 A. For the purposes of this section, "family member" means a grandparent, parent, sibling, spouse
354 or domestic partner, child, parent's sibling, cousin, sibling's child, grandchild, or any other person related
355 by blood, adoption, marriage, or a fostering relationship.

356 B. For the purposes of this section, covered issues include (i) sanitation in correctional facilities;
357 (ii) access to proper nutrition and clean and adequate water supplies; (iii) habitable temperatures in
358 correctional facilities; (iv) physical or sexual abuse from fellow inmates; (v) physical or sexual abuse from
359 staff; (vi) credible threats against self from other inmates, staff, or contractors; (vii) neglect of staff or
360 contractors that results in physical or sexual trauma; (viii) denial or violation of rights; (ix) access to
361 visitation and communication with family and legal representation; (x) access to medical or mental health
362 care or substance abuse treatment; (xi) access to educational and rehabilitative programming, drug and
363 mental health treatment, and inmate jobs and vocational training; (xii) access to the Department's
364 administrative remedies process for inmates and their representatives, including the availability of
365 complaint and grievance forms and the timely, unbiased resolution of grievances; (xiii) adequate and
366 qualified staffing in each Department facility; and (xiv) capital improvements or repairs needed to
367 Department facilities.

368 C. The Office shall create a secure online Family Advocacy and Support Services Online Form
369 (the Family Form) to be made available on the Office's website wherein family members, friends, and
370 advocates can submit complaints and inquiries regarding covered issues on behalf of an inmate
371 incarcerated in a Department facility. Upon receipt of the Family Form, the Office shall (i) confirm receipt
372 of such Family Form within five business days and (ii) make a determination and notify the complainant
373 as to whether an investigation is warranted within seven business days of such confirmation of receipt. If
374 the Office determines that an investigation is unwarranted, the Office shall provide to the complainant a
375 written statement regarding its decision.

376 D. The Office shall create a family telephone hotline through which family members, friends, and
377 advocates can call to file complaints and inquiries regarding covered issues on behalf of an inmate
378 incarcerated in a Department facility. Upon receipt of a complaint or inquiry through the family telephone
379 hotline, the Office shall (i) confirm receipt of such complaint or inquiry within five business days and (ii)
380 make a determination and notify the complainant as to whether an investigation is warranted within seven
381 business days of such confirmation of receipt. If the Office determines that an investigation is
382 unwarranted, the Office shall provide to the complainant a written statement regarding its decision.

383 E. The Office shall create and be financially responsible for a secure online Inmate Advocacy
384 Online Form (the Inmate Form) for use by inmates to report concerns or complaints to the Office. The
385 electronic Inmate Form shall be made available and accessible to inmates from 7:00 a.m. to 7:00 p.m.
386 each day on at least 10 computers in each Department facility and on any electronic tablets or other
387 electronic computing devices that inmates are permitted to possess, use, or access. The Office shall create
388 the Inmate Form in a secure format that excludes any electronic monitoring or reproduction by the
389 Department and Department employees or contractors. Paper copies of the Inmate Form shall also be
390 made available, in adequate numbers and at no cost to inmates, in every Department facility's library, law
391 library, and recreational and medical facilities. Paper copies of the Inmate Form shall be provided to
392 inmates upon request to a Department employee or contractor, including when the inmate is in
393 administrative segregation or solitary confinement. Department employees and contractors must treat
394 paper copies of the Inmate Form as confidential and privileged in the same manner as legal correspondence
395 or communication. Paper copies of the Inmate Form will have a pre-addressed envelope for the inmate to
396 seal the contents of the Inmate Form and once sealed by the inmate shall not be opened or otherwise
397 damaged by a Department employee or contractor. The Department shall accept the paper form and
398 envelope sealed by the inmate and shall not require inspection of the contents prior to forwarding the paper
399 form and envelope to the Office.

400 F. The Office shall create and be financially responsible for a secure inmate telephone hotline (the
401 inmate hotline) to be made available to all Department inmates, employees, and contractors to file
402 complaints and inquiries regarding covered issues. The Director shall ensure that the inmate hotline and

403 its use are made available to all inmates free of charge. The Office and Director shall guarantee that calls
404 to the inmate hotline are confidential and are not monitored or recorded. Upon receipt of a complaint or
405 inquiry through the inmate hotline, the Office shall (i) confirm receipt of such complaint or inquiry within
406 five business days and (ii) make a determination and notify the complainant as to whether an investigation
407 is warranted within seven business days of such confirmation of receipt. If the Office determines that an
408 investigation is unwarranted, the Office shall provide to the complainant a written statement regarding its
409 decision. The Office shall ensure that the inmate hotline is properly working and maintained by conducting
410 random monthly calls to the inmate hotline.

411 G. The provisions of subsection I of § 53.1-17.7 shall apply to complaints or inquiries made
412 pursuant to this section.

413 H. The Ombudsman shall develop a short-term and long-term strategic plan that (i) is informed by
414 visits to Department facilities, at least two public meetings, consultation with stakeholders, and review of
415 best practices in other states; (ii) includes procedures for coordination with existing employees at the
416 Office of the State Inspector General and the Department, in collaboration with those employees and with
417 the goal of complementing existing efforts; and (iii) includes potential options and recommendations for
418 legislation and budget actions that would support its short-term and long-term goals. The Office shall
419 provide a report on its initial activities and strategic plan to the Governor and the General Assembly on or
420 before November 15, 2025.

421 **§ 53.1-17.10. Exhaustion of remedies.**

422 Any action or lack of action by the Office on a complaint made pursuant to this article shall not be
423 deemed an administrative procedure required for exhaustion of remedies before bringing an action
424 pursuant to 42 U.S.C. § 1997(e).

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