



## Department of Public Safety and Correctional Services

Office of the Secretary  
Office of Government and Legislative Affairs  
45 Calvert Street, Suite B7A-C, Annapolis MD 21401  
410-260-6070 • Fax: 410-974-2586 • www.dpscs.state.md.us

STATE OF MARYLAND  
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GARY McLHINNEY  
ASSISTANT SECRETARY  
CATHERINE KAHL  
ACTING DIRECTOR

**BILL: SENATE BILL 809**

**POSITION: LETTER OF CONCERN**

**EXPLANATION:** This bill establishes a Correctional Ombudsman in the Office of the Attorney General and describes the qualifications and responsibilities of the ombudsman to include receipt of specific reports and audits; as well as the ability to conduct unannounced inspections of the Department's facilities. **The Department has measures in place to conduct audits, review audit results, and respond to the duties that would be assigned to the Correctional Ombudsman. Establishing a Correctional Ombudsman in the Office of the Attorney General would result in a duplication and confliction of efforts.**

**COMMENTS:**

- The Department of Public Safety and Correctional Services' (DPSCS) primary mission is to oversee the Division of Correction (DOC), which houses inmates sentenced to terms of incarceration exceeding 18 months, the Division of Parole and Probation, and the Baltimore City Pretrial Complex.
- The safety, security, and well-being of the incarcerated population is a top priority for the Department. The Department has a multi-layered approach involving numerous offices - both internal and external - to ensure accountability in the treatment of the incarcerated population. **These mechanisms are already established in statute, regulation, policy, and stipulated in contracts as a multi-faceted approach.** SB 809 appears to be based on similar offices in other states that lack the same model and oversight already in existence.
- The Department is already subject to thorough, and routine internal and external audits conducted by the:
  - Maryland Commission on Correctional Standards (see page 2);
  - American Correctional Association (see page 2);
  - Office of Legislative Audits (see page 3); and, the
  - Office of Performance Evaluation and Government Accountability (see page 3).

- The Department has offices dedicated to investigating, responding to, and correcting areas of noncompliance or concerns involving:
  - Inmate grievances (see “Inmate Grievance Office” on page 3);
  - Criminal and administrative allegations of serious misconduct (see “Intelligence and Investigative Division” on page 3);
  - Management and accountability (see “Office of the Inspector General” on page 3)
  - Adherence to medical treatment contracts (see “Office of Health Contracts Administration and Audits” on page 3)
  
- **Robust regulations already exist that enable the incarcerated population a mechanism by which they can avail themselves of claims or concerns surrounding conditions of confinement** (see “Administrative Remedy Process” on pages 3-4). The process includes an investigatory process, timeframes for responses, and a right of appeal up to the Office of the Inspector General and onto the Circuit Court.
  
- **The incarcerated population already has access to legal representation - at no cost to them - on matters concerning conditions of confinement**, sentence calculation, constitutional rights, and claims that affect a serious health, life, or safety concern of an inmate - at no cost to the inmate (see “PRISM” on page 4)
  
- Maryland Commission on Correctional Standard - The Department is already obligated to comply with auditable standards based on best practices in corrections established by the Maryland Commission on Correctional Standards and the American Correctional Association. The Maryland Commission on Correctional Standards (MCCS) was established by the General Assembly to establish auditable standards for state and local correctional facilities. MCCS staff conduct routine audits of state and local correctional facilities to determine levels of compliance with the established standards, develop audited reports regarding compliance, and provide technical assistance to correct areas of noncompliance. MCCS meetings are held monthly and are open to the public.
  
- American Correctional Administration - In January 2020, DPSCS signed a Memorandum of Understanding (MOU) with the American Correctional Association (ACA) to accredit all of the Department’s correctional facilities. Accreditation requires adherence to the recently released performance based standards manual, *Performance-Based Standards and Expected Practices for Adult Correctional Institutions* (5<sup>th</sup> ed.).

- Office of Legislative Audits - The Office of Legislative Audits conducts fiscal and compliance audits of each unit of State government. This includes certain aspects of contract management.
- Office of Performance Evaluation and Government Accountability - The Office conducts performance evaluations of State government agencies and units. Further, the Office may investigate acts or allegations of fraud, waste, or abuse of State resources.
- As previously stated, the Department has additional units/divisions to investigate and respond to area of noncompliance including:
  - Inmate Grievance Office - The Inmate Grievance Office has jurisdiction over all inmate grievance complaints against Departmental officials and employees.
  - Intelligence and Investigative Division - The Intelligence and Investigative Division conducts criminal and administrative investigations into allegations of serious misconduct within the Department.
  - Office of the Inspector General (OIG) - The OIG is responsible for conducting a full range of independent and objective audits; inspections; management analyses; and investigations. The OIG also coordinates DPSCS' legislative audit response process, and provides technical assistance and advisory services to its audit customers. The office's efforts support the Departments' goal of achieving the highest standards of good management, accountability, and professional integrity.
  - Office of Health Contracts Administration and Audits - This office is responsible for monitoring the agency's contracts with its medical and mental health treatment providers.
- State Regulation already provides an Administrative Remedy Process for the incarcerated population. Chapter 12.02.28. of COMAR establishes a process by which an incarcerated individual may seek administrative remedy for conditions of confinement, which includes complaints or concerns regarding:
  - (1) Correctional facility policy and procedures;
  - (2) Medical and mental health services;
  - (3) Access to a court;
  - (4) Religious liberties;
  - (5) Inmate property that is:
    - (a) Lost;
    - (b) Damaged;

- (c) Stolen;
- (d) Destroyed; or
- (e) Confiscated;
- (6) Complaints against staff;
- (7) Use of force;
- (8) Sentence computation and diminution of confinement;
- (9) Correctional facility conditions affecting inmate;
  - (a) Health;
  - (b) Safety; or
  - (c) Welfare;
- (10) Retaliation for seeking to resolve a complaint through the ARP;
- (11) Management and application of the procedures under this chapter for resolving an inmate complaint;
- (12) Commissary; and
- (13) Inmate telephone system.

- PRISM - The Department has a contract with the Prisoner Rights Information Systems of Maryland (PRISM). PRISM is required to provide legal assistance to individuals incarcerated in state prisons on matters concerning conditions of confinement, sentence calculation, constitutional rights, and claims that affect a serious health, life, or safety concern of an inmate. PRISM must also conduct outreach and educate the incarcerated population of its available resources and access to the courts for these matters.
- The Department's Assistant Attorney General's (AAG) Office is not currently staffed to handle these additional inquiries, due to existing duties such as PIA requests, media requests, and inmate letters that require legal input.

**CONCLUSION:** For these reasons, the Department of Public Safety and Correctional Services respectfully requests the Committee consider these concerns when deliberating on Senate Bill 809.