



## **Bill Summary: Independent Prison Oversight for Virginia Department of Corrections HB 655, Del. Hope**

**Bill purpose:** If passed, HB 655 would establish an ombudsman’s office with the power to inspect prisons, recommend and monitor improvements to prison conditions and facilities, and help resolve prisoner, staff, and family concerns. This bill would increase accountability and transparency at the Virginia Department of Corrections (DOC). **FAMM supports this bill.**

**Bill status:** *This bill is not a law yet.* To become law, this bill must go through the committee process, pass through both the Senate and House, and be signed by the governor.

**How Oversight is Structured:** The bill establishes two bodies that would help lawmakers, the governor, and the public understand the problems and needed solutions at the DOC:

- **The Correctional Oversight Committee** – This body selects the Ombudsman, holds public meetings, receives reports and recommendations from the Ombudsman, and has the power to testify to legislative committees and subpoena documents, data, and witnesses from the DOC.
  - o The Committee acts as a liaison, bringing the Ombudsman’s work and recommendations to the public, legislature, and governor. It also ensures that a fully independent Ombudsman is selected and able to operate independently.
  - o The Committee is composed of 13 individuals: two members of the Senate (one from each party), two members of the House (one from each party), and the following individuals who are appointed by the governor:
    - One representative from a prisoner advocacy group
    - One representative of an organization that provides training or rehabilitation programs for prisoners
    - Two formerly incarcerated people
    - Two current or former correctional staff members, who do not vote on any of the Committee’s actions
    - A licensed doctor
    - A licensed mental health professional
    - A family member of an incarcerated person.
  
- **Office of the Corrections Ombudsman** – The Ombudsman is appointed by the Committee and can be removed by the Committee or the governor only for good cause.
  - o The Ombudsman is the workhorse, doing the daily work of the office and reporting on its work regularly to the public, the governor, and the Committee.
  - o The Ombudsman has power to
    - Inspect all parts of prison facilities without prior notice, at any time
    - Communicate confidentially with incarcerated people and staff
    - Assign each facility a ranking based on its conditions and problems
    - Recommend and monitor improvements to conditions and facilities
    - Subpoena documents, witnesses, and data from the DOC

- Write and publish reports, and attend hearings conducted by the Committee
- Receive and investigate complaints from incarcerated people, family members, and staff
- Hire staff, experts, and volunteers to help perform its work
- Testify before legislative committees, when asked.

**The Ombudsman Provides Oversight, Not Enforcement:** The Ombudsman provides recommendations for improvements at the DOC. The DOC is required to respond with a corrective action plan, and the Ombudsman can monitor and report on that plan's implementation. But the Ombudsman does NOT have power to

- Force the DOC to make certain policy reforms or changes
- Enact rules, policy changes, or legislation
- Hire or fire DOC staff or change their wages or benefits
- Close prison facilities or change the DOC's budget
- Intervene in DOC employment disputes with staff
- Change the DOC's administrative remedies process.

**HB 655 Protects People in Prisons:** The bill has numerous protections for incarcerated people and staff, to encourage them to report problems and seek the Ombudsman's help. The bill

- Creates a confidential hotline and electronic complaint form that allows incarcerated people, families, and staff to submit complaints directly to the Ombudsman
- Bans retaliation by DOC officials against people who report complaints
- Sets reasonable and prompt timelines for the Ombudsman to respond to complaints
- Allows the Ombudsman to work with DOC officials to resolve complaints.

**Benefits of the Ombudsman and Oversight:**

- Prevents costly future problems and lawsuits
- Provides greater transparency and accountability to taxpayers
- Helps lawmakers get information they need to pass informed budgets and legislation
- Encourages good behavior and improved performance at the DOC
- Improves prison conditions and facilities for both staff and incarcerated people
- Improves the DOC's relationships with incarcerated people and their families by creating more help for receiving and resolving complaints.

**Funding the Ombudsman's Office:** It is essential that the Ombudsman Office receive funding. Creating an Ombudsman without funding ensures that no oversight will actually be done. In 2021, a study determined that a fully independent Ombudsman Office similar to those operating in other states could be established for \$3.4 million in the first year, with an operating budget of about \$1.6 million per year after that.<sup>1</sup>

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<sup>1</sup> Study available at <https://famm.org/wp-content/uploads/2021-12.01-Ombuds-Final-Report.pdf>. See page 45, Option 2.