



## Bill Summary: Independent Prison Oversight for Virginia Department of Corrections SB 994, Sens. Marsden and Boysko

**Bill purpose:** If passed, SB 994 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 (VADOC). **FAMM supports this bill.**

### Why Oversight is Needed:

- **Public safety:** Prison safety is public safety. Oversight is not about blaming or shaming; it is about making prisons safer for everyone – the community, staff, and incarcerated people.
- **VADOC’s huge budget and staff:** VADOC has a \$1.4 billion annual budget, 23,000 incarcerated people in its care, and more than 11,000 state employees on its payroll. Such a huge allocation of state resources and responsibility demands greater transparency and accountability than currently exists.
- **The public supports oversight: In a recent national poll, 82 percent of Americans agreed that every prison system should have independent oversight.**<sup>1</sup> Support was strong across party lines. Americans intuitively understand that prisons lack transparency and accountability.
- **Existing oversight isn’t enough:** Audits, accreditation reviews, or Prison Rape Elimination Act inspections are sporadic, often announced in advance (giving officials time to hide or fix problems beforehand), and limited in scope. Internal oversight at VADOC is by definition not objective. Prisons operate 24 hours a day, 365 days a year, and the problems that arise can be life-threatening. Lawmakers need steady, consistent oversight to identify and fix problems.

**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 15 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

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<sup>1</sup> Public Opinion Strategies, National Survey on Prison Oversight conducted for FAMM July 29-Aug. 3, 2022, <https://fammm.org/wp-content/uploads/FAMM-National-Survey-Key-Findings.pdf>.

- Two current or former correctional staff, who do not vote
  - 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.
    - 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.
    - 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 VADOC. The VADOC 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 VADOC to make certain policy reforms or changes
- Enact rules, policy changes, or legislation
- Hire or fire VADOC staff or change their wages or benefits
- Close prison facilities or change VADOC’s budget
- Intervene in VADOC employment disputes with staff
- Change VADOC’s administrative remedies process.

**SB 994 Protects Staff and Incarcerated People:** 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 VADOC officials against people who report complaints
- Sets reasonable and prompt timelines for the Ombudsman to respond to complaints
- Allows the Ombudsman to work with VADOC officials to resolve complaints.

**Funding the Ombudsman’s Office:** Oversight costs less than one percent of VADOC’s annual budget. 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>2</sup>

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