



## **Bill Summary: New Mexico Prison Oversight HB 297 (Rep. Cadena)**

**What the Bill Does:** HB 279, the Corrections Advisory Board Act, establishes a Corrections Advisory Board to hire and supervise a corrections ombudsperson and provide oversight of the New Mexico Corrections Division (NMCD). The ombudsperson has the power to investigate complaints from incarcerated people and corrections staff; interview people and access NMCD facilities, documents, and video footage to conduct those investigations; issue an annual report; and recommend changes and improvements to the NMCD. Notably, the bill allows incarcerated people to file complaints with the ombudsperson even if they have not exhausted NMCD's grievance process first. The bill also bans retaliation against those who file complaints or assist the ombudsperson with an investigation.

**FAMM's Position:** FAMM supports HB 279.

### **What the Bill Does:**

**First**, the bill establishes a Corrections Advisory Board that has 11 members who serve four-year terms. The 11 members are

- Four members chosen by the New Mexico legislative council – two must be formerly incarcerated people who are no longer under supervision; one must be a medical professional who has served in a correctional setting; and one must be a behavioral health specialist who has served in a correctional setting. Two of these four members are chosen by the majority party, and two are chosen by the minority party on the legislative council.
- One member who is a staff member of or member of the New Mexico Sentencing Commission focused on prison research and policy.
- Two members chosen by the governor – one must be a formerly incarcerated person no longer under supervision, and one must be a former corrections administrator at least two years removed from the corrections field.
- One member chosen by the administrative office of the courts who is a crime victim.
- One member chosen by the public defender department who is a public defender.
- Two members chosen by the correctional labor union that represents the largest number of corrections staff – at least one of whom has correctional security experience and is at least two years removed from the position.

Board members may serve no more than two terms and can only be removed by a majority vote of the board for incompetence, neglect of duty, or malfeasance. The board must meet monthly and publish an annual report by November 15 of each year. The report must describe the board's work, the number and type of complaints received, and the board's recommendations for administrative and statutory changes. Board members receive a per diem but no other compensation.



**Second**, through a competitive hiring process, the board hires a corrections ombudsperson, who serves a term of six years. The ombudsperson can hire staff and consultants to conduct oversight. The staff and ombudsperson cannot be a person with a currently incarcerated loved one, a current employee or contractor of the NMCD, a person with a family member who is a current employee or contractor of the NMCD, or a victim or family member of a victim of a crime committed by someone currently in prison.

The corrections ombudsperson must

- Maintain a public website
- Be given full access to NMCD facilities, documents, and security camera footage to conduct investigations of complaints, including the ability to interview incarcerated people and staff
- Set up a system for receiving and investigating confidential complaints from incarcerated people, people on probation or parole, or employees of the prison system
- Report to law enforcement any activities that might be criminal in nature
- Notify people if the ombudsperson declines to investigate a complaint, and explain the reasons for the refusal
- Document the findings of each investigation of a complaint and share them with the complainant and, with their consent, share them with the NMCD. When the ombudsperson shares the findings and recommendations from the investigation with the NMCD, all identifying information of the complainant is removed, to maintain the complainant's anonymity.

Incarcerated people do NOT have to exhaust the prison system's administrative or grievance remedy process before filing a complaint with the corrections ombudsperson.

**Third**, the bill requires NMCD to establish free and confidential phone and mail communications between incarcerated people and the ombudsperson. The NMCD must also post and make available notices describing how people can contact the NMCD, in prison facilities and in staff and prisoner handbooks. The bill bans retaliation against people who make complaints to the ombudsperson or assist the ombudsperson with an investigation.

**Fourth**, the bill requires NMCD to allow a 45-day period of public comment on all proposed changes to NMCD rules and policies, and notify incarcerated people of the proposed changes and how they can submit comments. Public comments received must be published on NMCD's website.

**The bill goes into effect July 1, 2023.**