

REFERENCE TITLE: independent corrections oversight committee

State of Arizona
House of Representatives
Fifty-sixth Legislature
First Regular Session
2023

HB 2409

Introduced by
Representative Ortiz

AN ACT

AMENDING TITLE 41, ARIZONA REVISED STATUTES, BY ADDING CHAPTER 20;
AMENDING TITLE 41, CHAPTER 27, ARTICLE 2, ARIZONA REVISED STATUTES, BY
ADDING SECTION 41-3033.01; APPROPRIATING MONIES; RELATING TO PRISONERS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 41, Arizona Revised Statutes, is amended by adding
3 chapter 20, to read:

4 CHAPTER 20

5 OFFICE OF THE INDEPENDENT CORRECTIONS OVERSIGHT COMMITTEE

6 ARTICLE 1. GENERAL PROVISIONS

7 41-2351. Definitions

8 IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

9 1. "CORRECTIONS OVERSIGHT ADVISOR" OR "ADVISOR" MEANS THE
10 CORRECTIONS OVERSIGHT ADVISOR WHO IS SELECTED PURSUANT TO SECTION 41-2353.

11 2. "COVERED ISSUES" INCLUDES:

12 (a) SANITATION IN PRISON FACILITIES.

13 (b) ACCESS TO PROPER NUTRITION AND A CLEAN AND ADEQUATE WATER
14 SUPPLY.

15 (c) LIVABLE TEMPERATURES IN PRISON FACILITIES.

16 (d) PHYSICAL OR SEXUAL ABUSE FROM FELLOW INMATES.

17 (e) PHYSICAL OR SEXUAL ABUSE FROM DEPARTMENT STAFF OR CONTRACTORS.

18 (f) CREDIBLE THREATS AGAINST AN INMATE FROM OTHER INMATES, PRISON
19 STAFF OR CONTRACTORS.

20 (g) NEGLECT OF PRISON STAFF OR CONTRACTORS THAT RESULTS IN PHYSICAL
21 OR SEXUAL TRAUMA.

22 (h) DENIAL OF RIGHTS AFFORDED TO INMATES UNDER FEDERAL OR STATE
23 LAW.

24 (i) ACCESS TO VISITATION AND COMMUNICATION WITH FAMILY AND LEGAL
25 REPRESENTATION.

26 (j) ANY INSTANCE IN WHICH THE OFFICE DETERMINES AN ACTION OR
27 BEHAVIOR TO BE SUCH THAT IT CONSTITUTES ABUSE OR NEGLECT AGAINST AN
28 INMATE.

29 (k) ACCESS TO MEDICAL OR MENTAL HEALTH CARE OR SUBSTANCE ABUSE
30 TREATMENT.

31 (l) ACCESS TO EDUCATIONAL AND REHABILITATIVE PROGRAMMING, DRUG AND
32 MENTAL HEALTH TREATMENT AND INMATE JOBS AND VOCATIONAL TRAINING.

33 (m) ACCESS TO THE DEPARTMENT'S ADMINISTRATIVE REMEDIES PROCESS FOR
34 INMATES AND INMATE REPRESENTATIVES, INCLUDING THE AVAILABILITY OF
35 COMPLAINT AND GRIEVANCE FORMS AND THE TIMELY AND UNBIASED RESOLUTION OF
36 GRIEVANCES.

37 (n) ADEQUATE AND QUALIFIED STAFF IN EACH FACILITY.

38 (o) CAPITAL IMPROVEMENTS OR REPAIRS THAT MAY BE NEEDED FOR
39 FACILITIES.

40 3. "DEPARTMENT" MEANS THE STATE DEPARTMENT OF CORRECTIONS.

41 4. "FAMILY MEMBER" INCLUDES AN INMATE'S GRANDPARENT, PARENT,
42 SIBLING, SPOUSE, DOMESTIC PARTNER, CHILD, GRANDCHILD, AUNT, UNCLE, COUSIN,
43 NIECE OR NEPHEW OR ANY OTHER PERSON WHO IS RELATED TO THE INMATE BY BLOOD,
44 ADOPTION, MARRIAGE OR A FOSTERING RELATIONSHIP.

1 5. "GOOD CAUSE" MEANS A VIOLATION OF A FEDERAL OR STATE LAW, PUBLIC
2 CORRUPTION, FRAUD, DERELICTION OF DUTY OR ABUSE OF OFFICE.

3 6. "OFFICE" MEANS THE OFFICE OF THE INDEPENDENT CORRECTIONS
4 OVERSIGHT COMMITTEE.

5 7. "PRISON" OR "FACILITY" INCLUDES ANY PLACE OF CONFINEMENT, NOT
6 INCLUDING COUNTY JAILS, THAT IS OPERATED BY THE DEPARTMENT OR ANY
7 NONPROFIT, FOR-PROFIT, NONGOVERNMENTAL OR PRIVATE ENTITY THAT ENTERS INTO
8 A CONTRACTUAL ARRANGEMENT WITH THIS STATE OR THE DEPARTMENT TO OPERATE OR
9 MAINTAIN A PLACE OF CONFINEMENT.

10 41-2352. Office of the independent corrections oversight
11 committee; powers and duties

12 A. THE OFFICE OF THE INDEPENDENT CORRECTIONS OVERSIGHT COMMITTEE IS
13 ESTABLISHED AND CONSISTS OF THE INSPECTIONS SECTION AND THE COMPLAINTS
14 INVESTIGATION SECTION.

15 B. THE OFFICE SHALL:

16 1. PROVIDE INFORMATION, AS APPROPRIATE, TO INMATES, FAMILY MEMBERS,
17 INMATE REPRESENTATIVES, DEPARTMENT EMPLOYEES AND CONTRACTORS AND OTHER
18 PERSONS REGARDING THE RIGHTS OF INMATES.

19 2. MONITOR THE CONDITIONS OF CONFINEMENT AND ASSESS THE
20 DEPARTMENT'S COMPLIANCE WITH APPLICABLE FEDERAL AND STATE RULES, POLICIES
21 AND BEST PRACTICES THAT RELATE TO INMATE HEALTH, SAFETY, WELFARE AND
22 REHABILITATION.

23 3. PROVIDE TECHNICAL ASSISTANCE TO SUPPORT INMATE PARTICIPATION IN
24 SELF-ADVOCACY. TECHNICAL ASSISTANCE DOES NOT INCLUDE LEGAL
25 REPRESENTATION, INITIATING A LEGAL ACTION OR FILING A DEPARTMENT COMPLAINT
26 AND GRIEVANCE FORMS ON BEHALF OF AN INMATE OR A FAMILY MEMBER. TECHNICAL
27 ASSISTANCE MAY INCLUDE PROVIDING AN INMATE OR A FAMILY MEMBER WITH ANY OF
28 THE FOLLOWING:

29 (a) DEPARTMENT COMPLAINT AND GRIEVANCE FORMS.

30 (b) A COPY OF DEPARTMENT RULES AND POLICIES.

31 (c) A REFERRAL TO ANOTHER STATE AGENCY OR A TRIBAL OR FEDERAL
32 AGENCY OR THE STATE BAR OF ARIZONA.

33 4. PROVIDE TECHNICAL ASSISTANCE TO LOCAL GOVERNMENTS IN
34 ESTABLISHING JAIL OVERSIGHT BODIES, ON REQUEST. TECHNICAL ASSISTANCE MAY
35 INCLUDE EITHER OF THE FOLLOWING:

36 (a) SHARING REPORTS, POLICIES, DATA, RESEARCH OR OTHER EXPERTISE
37 THAT IS RELATED TO THE OFFICE'S OPERATION AND BUDGET.

38 (b) TESTIFYING BEFORE OR ANSWERING AN INQUIRY FROM A GOVERNMENT
39 REPRESENTATIVE THAT IS CONSIDERING ESTABLISHING AN OVERSIGHT BODY IN THAT
40 GOVERNMENT'S JURISDICTION.

41 5. ESTABLISH A STATEWIDE UNIFORM REPORTING SYSTEM TO COLLECT AND
42 ANALYZE DATA RELATED TO COMPLAINTS RECEIVED BY THE DEPARTMENT AND DATA
43 RELATED TO THE FOLLOWING:

44 (a) DEATHS, SUICIDES AND SUICIDE ATTEMPTS IN CUSTODY.

45 (b) PHYSICAL AND SEXUAL ASSAULTS IN CUSTODY.

1 (c) THE NUMBER OF INMATES WHO ARE PLACED IN ADMINISTRATIVE
2 SEGREGATION OR SOLITARY CONFINEMENT AND THE DURATION OF STAY IN THAT
3 CONFINEMENT.

4 (d) THE NUMBER OF FACILITY LOCKDOWNS THAT LAST LONGER THAN
5 TWENTY-FOUR HOURS.

6 (e) THE NUMBER OF STAFF, STAFF VACANCIES AND INMATES AT EACH
7 FACILITY.

8 (f) INMATE TO STAFF RATIOS AT EACH FACILITY.

9 (g) STAFF TENURE, TURNOVER AND COMPENSATION.

10 (h) THE NUMBER OF IN-PERSON VISITS TO INMATES THAT WERE MADE AND
11 DENIED AT EACH FACILITY.

12 (i) THE NUMBER OF INMATE COMPLAINTS OR GRIEVANCES THAT WERE
13 SUBMITTED TO THE DEPARTMENT, THE DEPARTMENT'S RESOLUTION OF THE COMPLAINT
14 OR GRIEVANCE PURSUANT TO THE ADMINISTRATIVE REMEDIES PROCESS AND THE
15 AMOUNT OF TIME THAT IT TOOK THE DEPARTMENT TO RESOLVE EACH COMPLAINT OR
16 GRIEVANCE.

17 (j) ANY OTHER COVERED ISSUE.

18 6. RECEIVE PUBLIC AND STAKEHOLDER INPUT AT ANY TIME AND ESTABLISH,
19 AT A MINIMUM, AN ANNUAL THIRTY-DAY COMMENT PERIOD TO RECEIVE AND RESPOND
20 TO PUBLIC AND STAKEHOLDER COMMENTS ON THE OFFICE'S ACTIVITIES AND
21 PRIORITIES. THE DATES OF THE ANNUAL THIRTY-DAY COMMENT PERIOD AND ANY
22 OTHER COMMENT PERIOD THAT IS ESTABLISHED BY THE OFFICE MUST BE MADE PUBLIC
23 ON THE OFFICE'S WEBSITE AT LEAST THREE MONTHS BEFORE THE BEGINNING DATE OF
24 THE COMMENT PERIOD.

25 7. INSPECT EACH FACILITY AT LEAST ONCE EVERY TWO YEARS AND AT LEAST
26 ONCE EACH YEAR FOR EACH MAXIMUM SECURITY FACILITY AND EACH FACILITY WHERE
27 THE OFFICE HAS FOUND CAUSE FOR MORE FREQUENT INSPECTION OR MONITORING.

28 8. PUBLICLY ISSUE PERIODIC FACILITY INSPECTION REPORTS, AN ANNUAL
29 REPORT WITH RECOMMENDATIONS ON FACILITIES AND A SUMMARY OF DATA AND
30 RECOMMENDATIONS ARISING FROM ANY COMPLAINTS INVESTIGATED AND RESOLVED AND
31 ANY OTHER THEMATIC REPORTS COVERING ANY TOPIC THE OFFICE FINDS RELEVANT TO
32 RUNNING A SAFE, SECURE AND HUMANE CORRECTIONS DEPARTMENT.

33 9. REVIEW, MONITOR AND REPORT ON THE DEPARTMENT'S ADMINISTRATIVE
34 REMEDIES PROCESS, INCLUDING THE AVAILABILITY OF COMPLAINT AND GRIEVANCE
35 FORMS AT FACILITIES, THE ACCESSIBILITY OF THE PROCESS TO INMATES AND
36 INMATE REPRESENTATIVES AT EACH FACILITY AND THE TIMELY AND UNBIASED
37 RESOLUTION OF COMPLAINTS OR GRIEVANCES BY THE DEPARTMENT.

38 C. THE CORRECTIONS OVERSIGHT ADVISOR SHALL DIRECT THE OFFICE. THE
39 ADVISOR SERVES A TERM OF SIX YEARS, DURING WHICH TERM THE ADVISOR MAY BE
40 REMOVED EITHER BY THE GOVERNOR OR BY A MAJORITY VOTE OF THE CORRECTIONAL
41 OVERSIGHT COMMITTEE MEMBERS. THE ADVISOR MAY BE REMOVED ONLY FOR GOOD
42 CAUSE. THE ADVISOR MAY NOT SERVE MORE THAN TWO CONSECUTIVE TERMS. A
43 PARTIAL TERM IS CONSIDERED A FULL TERM WHEN COUNTING THE NUMBER OF
44 CONSECUTIVE TERMS THAT THE ADVISOR MAY SERVE. THE ADVISOR MAY NOT BE A
45 CURRENT OR FORMER DEPARTMENT EMPLOYEE OR CONTRACTOR, AND THE ADVISOR'S

1 SPOUSE OR DOMESTIC PARTNER, PARENTS, GRANDPARENTS, CHILDREN OR SIBLINGS
2 MAY NOT BE CURRENT DEPARTMENT EMPLOYEES OR CONTRACTORS. THE ADVISOR WHO
3 IS SELECTED MUST BE A PERSON OF RECOGNIZED JUDGMENT, INDEPENDENCE,
4 OBJECTIVITY AND INTEGRITY AND BE QUALIFIED BY TRAINING OR EXPERIENCE IN
5 CORRECTIONS LAW AND POLICY.

6 D. THE CORRECTIONS OVERSIGHT ADVISOR MAY:

7 1. HIRE STAFF, CONTRACTORS AND UNPAID VOLUNTEERS AND SECURE OFFICE
8 SPACE, EQUIPMENT AND OTHER SERVICES NECESSARY TO CARRY OUT THE DUTIES OF
9 THE OFFICE. ANY EMPLOYEE, CONTRACTOR OR UNPAID VOLUNTEER WHO IS HIRED OR
10 RETAINED BY THE OFFICE HAS THE SAME AUTHORITY AND DUTIES OF THE OFFICE
11 DESCRIBED IN THIS ARTICLE. A STAFF MEMBER OR VOLUNTEER MAY NOT:

12 (a) HAVE A FAMILY MEMBER WHO IS AN INMATE.

13 (b) HAVE A FAMILY MEMBER WHO IS A CURRENT EMPLOYEE OR CONTRACTOR OF
14 THE DEPARTMENT.

15 (c) BE A CURRENT EMPLOYEE OR CONTRACTOR OF THE DEPARTMENT.

16 (d) BE A VICTIM OR HAVE A FAMILY MEMBER WHO IS A VICTIM OF A CRIME
17 COMMITTED BY A CURRENT INMATE IN A FACILITY.

18 2. CONTRACT WITH EXPERTS AS NEEDED TO ASSIST IN MONITORING AND
19 INSPECTING FACILITIES, ASSESSING DATA AND REVIEWING, INVESTIGATING OR
20 RESOLVING COMPLAINTS.

21 E. SUBJECT TO THE CONFIDENTIALITY REQUIREMENTS PRESCRIBED IN
22 SECTION 41-2353, SUBSECTION N AND SECTION 41-2354, SUBSECTION B, THE
23 CORRECTIONS OVERSIGHT ADVISOR SHALL:

24 1. ATTEND EACH HEARING CONDUCTED BY THE CORRECTIONAL OVERSIGHT
25 COMMITTEE AND PROVIDE ANY TESTIMONY, DOCUMENTS, DATA OR INFORMATION
26 REQUESTED BY COMMITTEE MEMBERS.

27 2. AT LEAST ONCE EACH QUARTER, MEET WITH EACH OF THE FOLLOWING TO
28 REPORT ON THE WORK AND FINDINGS OF THE ADVISOR'S OFFICE:

29 (a) THE MEMBERS OF THE CORRECTIONAL OVERSIGHT COMMITTEE.

30 (b) THE GOVERNOR.

31 (c) THE DIRECTOR OF THE DEPARTMENT.

32 3. ON REQUEST FROM THE COMMITTEE CHAIRPERSON, THE VICE CHAIRPERSON
33 OR THE RANKING MEMBER, PROVIDE TESTIMONY BEFORE THE RELEVANT COMMITTEES OF
34 THE HOUSE OF REPRESENTATIVES AND THE SENATE.

35 41-2353. Correctional oversight committee; members;
36 appointment of corrections oversight advisor;
37 public hearings; voting requirements; quorum;
38 subpoena enforcement

39 A. THE CORRECTIONAL OVERSIGHT COMMITTEE IS ESTABLISHED CONSISTING
40 OF THE FOLLOWING MEMBERS:

41 1. TWO MEMBERS OF THE SENATE WHO ARE NOT MEMBERS OF THE SAME
42 POLITICAL PARTY. THE PRESIDENT OF THE SENATE SHALL SELECT ONE MEMBER AND
43 THE SENATE MINORITY LEADER SHALL SELECT ONE MEMBER.

1 2. TWO MEMBERS OF THE HOUSE OF REPRESENTATIVES WHO ARE NOT MEMBERS
2 OF THE SAME POLITICAL PARTY. THE SPEAKER OF THE HOUSE OF REPRESENTATIVES
3 SHALL SELECT ONE MEMBER AND THE HOUSE OF REPRESENTATIVES MINORITY LEADER
4 SHALL SELECT ONE MEMBER.

5 3. THE FOLLOWING MEMBERS WHO ARE APPOINTED BY THE GOVERNOR:

6 (a) ONE MEMBER WHO REPRESENTS AN INMATE ADVOCACY ORGANIZATION.

7 (b) ONE MEMBER WHO REPRESENTS AN ORGANIZATION THAT PROVIDES INMATE
8 TRAINING OR REHABILITATION PROGRAMS.

9 (c) ONE MALE MEMBER OF THE GENERAL PUBLIC WHO WAS PREVIOUSLY
10 INCARCERATED IN THE DEPARTMENT.

11 (d) ONE FEMALE MEMBER OF THE GENERAL PUBLIC WHO WAS PREVIOUSLY
12 INCARCERATED IN THE DEPARTMENT.

13 (e) ONE MEMBER WHO IS A PHYSICIAN LICENSED PURSUANT TO TITLE 32,
14 CHAPTER 13 OR 17 AND WHO SPECIALIZES IN FAMILY MEDICINE OR INTERNAL
15 MEDICINE.

16 (f) ONE MEMBER WHO IS A MENTAL OR BEHAVIORAL HEALTH PROFESSIONAL,
17 WHO IS LICENSED PURSUANT TO TITLE 32, CHAPTER 19.1 OR 33 AND WHO HAS A
18 HISTORY OF PROVIDING MENTAL HEALTH SERVICES OR COUNSELING TO ADULTS.

19 (g) ONE MEMBER WHO IS A GRANDPARENT, PARENT, CHILD, SIBLING, SPOUSE
20 OR DOMESTIC PARTNER OF A PERSON WHO COMPLETED A TERM OF AT LEAST THREE
21 YEARS OF INCARCERATION IN ONE OR MORE FACILITIES AND WHO RECEIVED AN
22 ABSOLUTE DISCHARGE FROM THE DEPARTMENT WITHIN THE FIVE YEARS PRECEDING THE
23 DATE OF THE MEMBER'S APPOINTMENT.

24 (h) ONE MEMBER WHO REPRESENTS AN ASSOCIATION OR ORGANIZATION THAT
25 REPRESENTS CORRECTIONAL STAFF. THIS MEMBER IS A NONVOTING MEMBER.

26 (i) TWO PUBLIC MEMBERS.

27 B. MEMBERS WHO ARE APPOINTED PURSUANT TO SUBSECTION A, PARAGRAPH 3
28 OF THIS SECTION:

29 1. SERVE THREE-YEAR TERMS AND MAY NOT SERVE MORE THAN TWO
30 CONSECUTIVE TERMS.

31 2. MAY NOT BE CURRENT DEPARTMENT EMPLOYEES OR CONTRACTORS OR HAVE
32 BEEN EMPLOYED BY OR CONTRACTED WITH THE DEPARTMENT FOR AT LEAST TEN YEARS
33 BEFORE APPOINTMENT.

34 3. MAY NOT HAVE PARENTS, CHILDREN, SPOUSES OR DOMESTIC PARTNERS WHO
35 ARE CURRENT DEPARTMENT EMPLOYEES OR CONTRACTORS UNLESS SPECIFICALLY
36 ALLOWED BY LAW.

37 C. MEMBERS WHO ARE APPOINTED PURSUANT TO SUBSECTION A, PARAGRAPH 3,
38 SUBDIVISIONS (a), (b) AND (i) OF THIS SECTION MAY NOT BE EMPLOYED BY OR
39 REPRESENT AN ORGANIZATION WITH AN ACTIVE SERVICE AGREEMENT WITH OR
40 FINANCIAL INTEREST IN THE DEPARTMENT OR OTHERWISE PROVIDE FOR-PROFIT
41 SERVICES TO INMATES OR FAMILY MEMBERS.

42 D. MEMBERS WHO ARE APPOINTED PURSUANT TO SUBSECTION A, PARAGRAPH 3,
43 SUBDIVISION (i) OF THIS SECTION MAY NOT BE EITHER OF THE FOLLOWING:

44 1. CURRENT OR FORMER EMPLOYEES OF A LAW ENFORCEMENT AGENCY, A
45 COUNTY ATTORNEY'S OFFICE OR THE UNITED STATES ATTORNEY'S OFFICE.

1 2. A VICTIM OR IN THE SAME FAMILY AS A VICTIM OF A CRIME THAT WAS
2 COMMITTED BY A CURRENT INMATE IN A FACILITY.

3 E. MEMBERS WHO ARE APPOINTED PURSUANT TO SUBSECTION A, PARAGRAPH 3,
4 SUBDIVISIONS (c) AND (d) OF THIS SECTION MUST HAVE COMPLETED A TERM OF AT
5 LEAST THREE YEARS OF INCARCERATION IN ONE OR MORE FACILITIES AND RECEIVED
6 AN ABSOLUTE DISCHARGE FROM THE DEPARTMENT WITHIN THE FIVE YEARS PRECEDING
7 THE DATE OF THE MEMBER'S APPOINTMENT.

8 F. ONE MEMBER WHO IS APPOINTED PURSUANT TO SUBSECTION A, PARAGRAPH
9 1 OF THIS SECTION AND ONE MEMBER WHO IS APPOINTED PURSUANT TO SUBSECTION
10 A, PARAGRAPH 2 OF THIS SECTION SHALL SERVE AS COCHAIRPERSONS. THE
11 COCHAIRPERSONS MAY NOT BE FROM THE SAME POLITICAL PARTY.

12 G. THE COMMITTEE SHALL MEET QUARTERLY, WHEN THE CORRECTIONS
13 OVERSIGHT ADVISOR POSITION IS VACANT, AS THE COCHAIRPERSONS DEEM
14 NECESSARY, ON THE REQUEST OF THE ADVISOR TO FULFILL THE REQUIREMENTS OF
15 SECTION 41-2352, SUBSECTION E AND ON THE CALL OF THE MAJORITY OF THE
16 MEMBERS.

17 H. EXCEPT WHEN VOTING TO APPOINT THE CORRECTIONS OVERSIGHT ADVISOR
18 PURSUANT TO SUBSECTION J OF THIS SECTION, THE PRESENCE OF NINE MEMBERS OF
19 THE COMMITTEE CONSTITUTES A QUORUM AND A MAJORITY VOTE OF THE MEMBERS
20 PRESENT IS NECESSARY FOR THE COMMITTEE TO TAKE ACTION ON A MATTER.

21 I. COMMITTEE MEMBERS ARE NOT ELIGIBLE TO RECEIVE COMPENSATION BUT
22 ARE ELIGIBLE FOR REIMBURSEMENT OF EXPENSES PURSUANT TO TITLE 38, CHAPTER
23 4, ARTICLE 2.

24 J. THE COMMITTEE SHALL ANNOUNCE THE ADVISOR NOMINEE PUBLICLY AND
25 SHALL VOTE TO APPOINT THE NOMINEE AFTER HOLDING A PUBLIC HEARING, DURING
26 WHICH THE COMMITTEE SHALL HEAR AND CONSIDER ORAL OR WRITTEN TESTIMONY FROM
27 THE ADVISOR NOMINEE, ANY WITNESSES THE ADVISOR NOMINEE PRESENTS ON THE
28 NOMINEE'S BEHALF AND ANY MEMBERS OF THE PUBLIC. TO BE APPOINTED, THE
29 ADVISOR MUST RECEIVE A MAJORITY VOTE OF THE QUORUM OF THE AUTHORIZED
30 VOTING MEMBERS WHO ARE DESCRIBED IN THIS SECTION. TO VOTE FOR THE
31 ADVISOR, A QUORUM MUST BE PRESENT AND CONSIST OF AT LEAST ALL THE MEMBERS
32 WHO ARE SELECTED PURSUANT TO SUBSECTION A, PARAGRAPHS 1 AND 2 OF THIS
33 SECTION AND FIVE OF THE MEMBERS WHO ARE APPOINTED PURSUANT TO SUBSECTION
34 A, PARAGRAPH 3 OF THIS SECTION.

35 K. THE COMMITTEE SHALL HOLD AT LEAST ONE PUBLIC HEARING EACH YEAR
36 TO PRESENT, REVIEW AND DISCUSS THE OFFICE'S INSPECTIONS, FINDINGS, REPORTS
37 AND RECOMMENDATIONS SET FORTH IN THE OFFICE'S ANNUAL REPORT PRESCRIBED IN
38 SECTION 41-2358 AND SHALL HOLD QUARTERLY PUBLIC HEARINGS TO PRESENT,
39 REVIEW AND DISCUSS ANY OTHER DATA, REPORTS OR FINDINGS OF THE OFFICE THAT
40 THE COMMITTEE DEEMS RELEVANT.

41 L. THE COMMITTEE SHALL CONDUCT RANDOM BIENNIAL INSPECTIONS OF A
42 FACILITY AND SHALL VISIT DIFFERENT FACILITIES ON EACH INSPECTION. THE
43 COMMITTEE MAY NOT ANNOUNCE AN INSPECTION TO ANY INDIVIDUAL OR ENTITY
44 OUTSIDE OF THE COMMITTEE BEFORE THE INSPECTION OCCURS. THE DEPARTMENT

1 SHALL ENSURE FULL ACCESS TO THE FACILITY, INMATES AND STAFF CONSISTENT
2 WITH SECTION 41-2354 SUBSECTION A.

3 M. THE LEGISLATURE SHALL PROVIDE THE COMMITTEE WITH OFFICE SPACE,
4 MEETING SPACE, SUPPLIES AND ADMINISTRATIVE PERSONNEL AS NEEDED.

5 N. A NONVOTING MEMBER OF THE COMMITTEE IS EXCLUDED FROM
6 INVESTIGATIONS, INTERVIEWS, RECEIPT OF TESTIMONY AND REVIEW OF DOCUMENTS
7 ON THE REQUEST OF AN INMATE, AN INMATE'S FAMILY MEMBER OR REPRESENTATIVE
8 OR A DEPARTMENT STAFF MEMBER OR EMPLOYEE WHEN THAT PERSON BELIEVES THE
9 PERSON MAY BE SUBJECT TO REPRISAL OR RETALIATION FOR PROVIDING TESTIMONY
10 OR OTHER INFORMATION TO THE COMMITTEE.

11 O. THE COMMITTEE COCHAIRPERSONS SHALL MEET WITH THE GOVERNOR AND
12 THE DIRECTOR OF THE DEPARTMENT AT LEAST TWO TIMES EACH YEAR TO REPORT ON
13 THE WORK AND FINDINGS OF THE COMMITTEE.

14 P. THE COMMITTEE MAY ISSUE SUBPOENAS TO THE DEPARTMENT FOR RECORDS,
15 DOCUMENTS OR DATA IN THE DEPARTMENT'S POSSESSION AND FOR DEPARTMENT STAFF,
16 CONTRACTORS OR REPRESENTATIVES TO APPEAR AND TESTIFY BEFORE THE COMMITTEE.
17 AFTER A SUBPOENA IS SERVED AND, ON APPLICATION TO THE COURT, THE COMMITTEE
18 MAY ENFORCE A SUBPOENA IN THE SAME MANNER PROVIDED BY LAW FOR THE SERVICE
19 AND ENFORCEMENT OF A SUBPOENA IN A CIVIL ACTION. IF AN ENTITY FAILS TO
20 COMPLY WITH A SUBPOENA, THE COMMITTEE MAY PURSUE ENFORCEMENT OF THE
21 SUBPOENA IN A COURT OR REFER THE SUBPOENA TO THE SPEAKER OF THE HOUSE OF
22 REPRESENTATIVES, THE PRESIDENT OF SENATE OR THE CHAIRMAN OF ANY COMMITTEE
23 OF THE LEGISLATURE FOR ENFORCEMENT IN THE SAME MANNER AND SUBJECT TO THE
24 SAME PENALTIES PRESCRIBED IN CHAPTER 7, ARTICLE 4 OF THIS TITLE.

25 41-2354. Office authority; access to department records and
26 facilities; subpoena

27 A. THE OFFICE MUST HAVE ACCESS IN THE SAME MANNER AS THE DIRECTOR,
28 ON DEMAND, IN PERSON OR IN WRITING AND WITH OR WITHOUT PRIOR NOTICE, TO
29 ALL FACILITIES, INCLUDING ALL AREAS THAT ARE USED BY OR ARE OTHERWISE
30 ACCESSIBLE TO INMATES, DEPARTMENT STAFF AND CONTRACTORS, AND TO PROGRAMS
31 FOR INMATES AT REASONABLE TIMES WHICH, AT A MINIMUM, INCLUDES ACCESS
32 DURING NORMAL WORKING HOURS AND VISITING HOURS AND THE OPPORTUNITY TO
33 INTERVIEW ANY INMATE, DEPARTMENT EMPLOYEE OR CONTRACTOR OR OTHER PERSON
34 FOR THE PURPOSE OF:

35 1. PROVIDING INFORMATION ABOUT INDIVIDUAL RIGHTS AND THE SERVICES
36 AVAILABLE FROM THE OFFICE, INCLUDING THE NAME, ADDRESS AND TELEPHONE
37 NUMBER OF THE OFFICE FACILITIES OR STAFF.

38 2. CONDUCTING OFFICIAL INSPECTIONS AS PRESCRIBED IN SECTIONS
39 41-2352 AND 41-2356.

40 3. INSPECTING, VIEWING, PHOTOGRAPHING AND VIDEO RECORDING ALL AREAS
41 OF THE FACILITY THAT ARE USED BY OR ARE ACCESSIBLE TO INMATES.

42 B. WHEN ACCESSING INMATES, THE DEPARTMENT MUST GIVE THE OFFICE THE
43 OPPORTUNITY TO MEET AND COMMUNICATE PRIVATELY AND CONFIDENTIALLY WITH
44 INMATES REGULARLY, WITH OR WITHOUT PRIOR NOTICE, BOTH FORMALLY AND
45 INFORMALLY, BY TELEPHONE, MAIL AND ELECTRONIC COMMUNICATION AND IN PERSON.

1 DEPARTMENT EMPLOYEES OR CONTRACTORS MAY NOT MONITOR, RECORD OR BE PRESENT
2 WHEN THE OFFICE COMMUNICATES WITH INMATES. WITH CONSENT OF THE INMATE,
3 MEMBERS OF THE OFFICE MAY RECORD MEETINGS WITH INMATES. AN OFFICE
4 RECORDING OF AN INMATE IS CONFIDENTIAL AND IS NOT ACCESSIBLE TO A
5 DEPARTMENT EMPLOYEE OR CONTRACTOR.

6 C. ACCESS TO DEPARTMENT EMPLOYEES OR CONTRACTORS INCLUDES THE
7 OPPORTUNITY TO MEET AND COMMUNICATE PRIVATELY AND CONFIDENTIALLY WITH
8 INDIVIDUALS DURING AN INSPECTION OR NORMAL WORKING HOURS, WITH OR WITHOUT
9 PRIOR NOTICE, BOTH FORMALLY AND INFORMALLY, BY TELEPHONE, MAIL AND
10 ELECTRONIC COMMUNICATION AND IN PERSON. WITH THE CONSENT OF THE
11 DEPARTMENT EMPLOYEE OR CONTRACTOR, MEMBERS OF THE OFFICE MAY RECORD THE
12 MEETING WITH THE DEPARTMENT EMPLOYEE OR CONTRACTOR.

13 D. THE OFFICE MAY ACCESS, INSPECT AND COPY ALL RELEVANT
14 INFORMATION, RECORDS OR DOCUMENTS THAT ARE IN THE POSSESSION OR CONTROL OF
15 THE DEPARTMENT AND THAT THE OFFICE CONSIDERS NECESSARY TO INVESTIGATE A
16 COMPLAINT. THE DEPARTMENT MUST ASSIST THE OFFICE IN OBTAINING THE
17 NECESSARY RELEASES FOR THOSE DOCUMENTS THAT ARE SPECIFICALLY RESTRICTED OR
18 PRIVILEGED FOR USE BY THE OFFICE.

19 E. FOLLOWING NOTIFICATION FROM THE OFFICE WITH A WRITTEN DEMAND FOR
20 ACCESS TO DEPARTMENT RECORDS, THE DESIGNATED DEPARTMENT STAFF MUST PROVIDE
21 THE OFFICE WITH ACCESS TO THE REQUESTED DOCUMENTATION NOT LATER THAN
22 TWENTY BUSINESS DAYS AFTER THE OFFICE'S WRITTEN REQUEST FOR THE RECORDS.
23 IF THE REQUESTED RECORDS PERTAIN TO AN INMATE DEATH, THREATS OF BODILY
24 HARM, INCLUDING SEXUAL OR PHYSICAL ASSAULTS, OR THE DENIAL OF NECESSARY
25 MEDICAL TREATMENT, THE DEPARTMENT MUST PROVIDE THE RECORDS WITHIN FIVE
26 DAYS, UNLESS THE OFFICE CONSENTS TO AN EXTENSION OF THAT TIME FRAME.

27 F. THE OFFICE MUST WORK WITH THE DEPARTMENT TO MINIMIZE DISRUPTION
28 TO THE OPERATIONS OF THE DEPARTMENT DUE TO OFFICE ACTIVITIES AND MUST
29 COMPLY WITH THE DEPARTMENT'S REASONABLE SECURITY CLEARANCE PROCESSES, IF
30 THESE PROCESSES DO NOT IMPEDE THE ACTIVITIES ALLOWED BY THIS SECTION.

31 G. THE OFFICE MAY SUBPOENA RECORDS, DOCUMENTS OR DATA THAT ARE IN
32 THE DEPARTMENT'S POSSESSION OR DEPARTMENT STAFF, CONTRACTORS OR
33 REPRESENTATIVES TO APPEAR AND PROVIDE INFORMATION TO THE OFFICE. A
34 SUBPOENA THAT IS ISSUED BY THE OFFICE MUST BE SERVED AND, ON APPLICATION
35 TO THE COURT, MAY BE ENFORCED IN THE MANNER PROVIDED BY LAW FOR THE
36 SERVICE AND ENFORCEMENT OF SUBPOENAS IN A CIVIL ACTION. IF AN ENTITY
37 FAILS TO COMPLY WITH A SUBPOENA, THE OFFICE MAY PURSUE ENFORCEMENT OF THE
38 SUBPOENA IN A COURT OR REFER THE SUBPOENA TO THE COMMITTEE FOR ENFORCEMENT
39 IN THE SAME MANNER AND SUBJECT TO THE SAME PENALTIES AS A LEGISLATIVE
40 SUBPOENA PURSUANT TO CHAPTER 7, ARTICLE 4 OF THIS TITLE.

41 41-2355. Confidential communications

42 A. ALL CORRESPONDENCE AND COMMUNICATION WITH THE OFFICE OR
43 COMMITTEE ARE CONFIDENTIAL AND PRIVILEGED.

44 B. THE OFFICE SHALL ESTABLISH CONFIDENTIALITY RULES AND PROCEDURES
45 FOR ALL INFORMATION MAINTAINED BY THE OFFICE TO ENSURE THAT THE IDENTITY

1 OF A COMPLAINANT REMAINS CONFIDENTIAL BEFORE, DURING AND AFTER AN
2 INVESTIGATION TO THE GREATEST EXTENT PRACTICABLE. THE OFFICE MAY DISCLOSE
3 A COMPLAINANT'S IDENTIFYING INFORMATION FOR THE SOLE PURPOSE OF CARRYING
4 OUT AN INVESTIGATION.

5 41-2356. Inspection authority; report

6 A. THE OFFICE SHALL INSPECT EACH FACILITY AND RELEASE A PUBLIC
7 REPORT WITHIN TWO YEARS AFTER THE EFFECTIVE DATE OF THIS SECTION. THE
8 OFFICE SHALL CONDUCT SUBSEQUENT INSPECTIONS ON A STAGGERED SCHEDULE
9 DEPENDING ON THE FACILITY'S SAFETY AND COMPLIANCE CLASSIFICATION.

10 B. DURING AN INSPECTION, THE OFFICE SHALL ASSESS OR REVIEW ALL OF
11 THE FOLLOWING:

12 1. THE FACILITY'S POLICIES AND PROCEDURES THAT RELATE TO THE CARE
13 OF INMATES.

14 2. THE CONDITIONS OF CONFINEMENT.

15 3. THE AVAILABILITY OF EDUCATIONAL AND REHABILITATIVE PROGRAMMING,
16 DRUG AND MENTAL HEALTH TREATMENT AND INMATE JOBS AND VOCATIONAL TRAINING.

17 4. POLICIES AND PROCEDURES RELATING TO VISITATION.

18 5. MEDICAL FACILITIES AND MEDICAL PROCEDURES AND POLICIES.

19 6. LOCKDOWNS AT THE FACILITY THAT OCCURRED SINCE THE LAST
20 INSPECTION. FOR THE INITIAL ASSESSMENT, THE OFFICE SHALL REVIEW LOCKDOWNS
21 THAT OCCURRED DURING THE PREVIOUS THREE YEARS.

22 7. FACILITY STAFFING, INCLUDING THE NUMBER AND JOB ASSIGNMENTS OF
23 CORRECTIONAL STAFF, THE RATIO OF STAFF TO INMATES AT THE FACILITY AND THE
24 STAFF POSITION VACANCY RATE AT THE FACILITY.

25 8. PHYSICAL AND SEXUAL ASSAULTS AT THE FACILITY THAT OCCURRED SINCE
26 THE LAST INSPECTION. FOR THE INITIAL ASSESSMENT, THE OFFICE SHALL REVIEW
27 ASSAULTS THAT OCCURRED DURING THE PREVIOUS THREE YEARS.

28 9. INMATE OR STAFF DEATHS THAT OCCURRED AT THE FACILITY SINCE THE
29 LAST INSPECTION. FOR THE INITIAL ASSESSMENT, THE OFFICE SHALL REVIEW
30 INMATE AND STAFF DEATHS THAT OCCURRED DURING THE PREVIOUS THREE YEARS.

31 10. DEPARTMENT STAFF RECRUITMENT, TRAINING, SUPERVISION AND
32 DISCIPLINE.

33 11. THE AVAILABILITY OF COMPLAINT AND GRIEVANCE FORMS AT A FACILITY
34 AND THE ACCESSIBILITY OF THE ADMINISTRATIVE REMEDIES PROCESS TO INMATES
35 AND INMATE REPRESENTATIVES.

36 12. ANY OTHER ASPECT OF FACILITY OPERATIONS THAT THE OFFICE DEEMS
37 NECESSARY OVER THE COURSE OF AN INSPECTION OR THAT RELATES TO A COVERED
38 ISSUE.

39 C. AFTER COMPLETING AN INSPECTION, THE OFFICE SHALL PREPARE AND
40 PUBLISH A REPORT, MAKE THE REPORT AVAILABLE TO THE PUBLIC ON THE INTERNET
41 AND SUBMIT THE REPORT TO THE GOVERNOR, THE ATTORNEY GENERAL, THE PRESIDENT
42 OF THE SENATE, THE SPEAKER OF THE HOUSE OF REPRESENTATIVES, THE
43 CORRECTIONAL OVERSIGHT COMMITTEE AND THE DIRECTOR OF THE STATE DEPARTMENT
44 OF CORRECTIONS AND PROVIDE A COPY OF THIS REPORT TO THE SECRETARY OF
45 STATE. THE REPORT MUST INCLUDE:

- 1 1. A SUMMARY OF THE FACILITY'S POLICIES AND PROCEDURES RELATING TO
- 2 INMATE CARE.
- 3 2. A DESCRIPTION OF THE CONDITIONS OF CONFINEMENT.
- 4 3. A CATALOGUE OF AVAILABLE EDUCATIONAL AND REHABILITATIVE
- 5 PROGRAMMING, DRUG AND MENTAL HEALTH TREATMENT AND INMATE JOBS AND
- 6 VOCATIONAL TRAINING.
- 7 4. A SUMMARY OF VISITATION POLICIES AND PROCEDURES.
- 8 5. A SUMMARY OF MEDICAL FACILITIES AND MEDICAL PROCEDURES AND
- 9 POLICIES.
- 10 6. A SUMMARY OF THE LOCKDOWNS REVIEWED BY THE OFFICE.
- 11 7. A SUMMARY OF FACILITY STAFFING, INCLUDING POLICIES RELATING TO
- 12 STAFF RECRUITMENT, TRAINING, SUPERVISION AND DISCIPLINE.
- 13 8. A SUMMARY OF PHYSICAL AND SEXUAL ASSAULTS THAT OCCURRED AT THE
- 14 FACILITY AND THAT WERE REVIEWED BY THE OFFICE.
- 15 9. A SUMMARY OF INMATE OR STAFF DEATHS THAT OCCURRED AT THE
- 16 FACILITY.
- 17 10. A SUMMARY OF THE AVAILABILITY OF COMPLAINT AND GRIEVANCE FORMS
- 18 AT THE FACILITY, THE ACCESSIBILITY OF THE ADMINISTRATIVE REMEDIES PROCESS
- 19 FOR INMATES AND INMATE REPRESENTATIVES AND THE FACILITY'S TIMELY AND
- 20 UNBIASED RESOLUTION OF COMPLAINTS AND GRIEVANCES.
- 21 11. RECOMMENDATIONS FOR IMPROVING CONDITIONS AND SAFETY WITHIN THE
- 22 FACILITY.
- 23 12. A SAFETY AND COMPLIANCE CLASSIFICATION WITH A RECOMMENDED
- 24 TIMELINE FOR THE NEXT INSPECTION.
- 25 D. AFTER COMPLETING AN INSPECTION, THE OFFICE SHALL ASSIGN THE
- 26 FACILITY A SAFETY AND COMPLIANCE CLASSIFICATION. THE OFFICE SHALL
- 27 ESTABLISH A CLASSIFICATION SYSTEM THAT CONSISTS OF THE FOLLOWING THREE
- 28 TIERS AND THAT IS DETERMINED BASED ON THE FACTORS DESCRIBED IN SUBSECTION
- 29 B OF THIS SECTION:
- 30 1. TIER ONE, WHICH REQUIRES SUBSEQUENT INSPECTION WITHIN TWELVE
- 31 MONTHS. THE OFFICE MUST ASSIGN TIER ONE TO MAXIMUM SECURITY FACILITIES
- 32 AND FACILITIES THAT PRESENT CLEAR VIOLATIONS OF RIGHTS, RISKS TO INMATE
- 33 SAFETY OR SEVERE LACK OF QUALITY PROGRAMMING FOR SUCCESSFUL INMATE
- 34 REHABILITATION.
- 35 2. TIER TWO, WHICH REQUIRES SUBSEQUENT INSPECTION BETWEEN EIGHTEEN
- 36 MONTHS AND THIRTY-SIX MONTHS. THE OFFICE MUST ASSIGN TIER TWO TO
- 37 FACILITIES THAT MAY HAVE VIOLATIONS OF RIGHTS, SUBSTANDARD CONDITIONS OF
- 38 CONFINEMENT OR SUBSTANDARD PROGRAMMING OPTIONS.
- 39 3. TIER THREE, WHICH REQUIRES SUBSEQUENT INSPECTION WITHIN
- 40 THIRTY-SIX MONTHS. THE OFFICE MUST ASSIGN TIER THREE TO FACILITIES THAT
- 41 HAVE ADEQUATE CONDITIONS OF CONFINEMENT AND PROGRAMMING OPTIONS.
- 42 E. THE DEPARTMENT SHALL RESPOND IN WRITING TO EACH INSPECTION
- 43 REPORT ISSUED BY THE OFFICE WITHIN TWENTY BUSINESS DAYS AFTER THE REPORT
- 44 IS ISSUED. THE DEPARTMENT'S RESPONSE MUST INCLUDE A CORRECTIVE ACTION
- 45 PLAN. THE OFFICE SHALL MONITOR THE DEPARTMENT'S COMPLIANCE WITH THE

1 CORRECTIVE ACTION PLAN AND MAY CONDUCT FURTHER INSPECTIONS OR
2 INVESTIGATIONS AS NECESSARY TO MONITOR COMPLIANCE.

3 41-2357. Authority to investigate complaints; prohibited
4 investigations

5 A. THE OFFICE MAY INITIATE AND ATTEMPT TO RESOLVE AN INVESTIGATION
6 ON ITS OWN INITIATIVE OR AFTER RECEIVING A COMPLAINT FROM AN INMATE,
7 FAMILY MEMBER, INMATE REPRESENTATIVE, DEPARTMENT EMPLOYEE OR CONTRACTOR OR
8 OTHER PERSON REGARDING ANY OF THE FOLLOWING THAT MAY ADVERSELY AFFECT
9 INMATE HEALTH, SAFETY, WELFARE AND RIGHTS:

- 10 1. ABUSE OR NEGLECT.
- 11 2. CONDITIONS OF CONFINEMENT.
- 12 3. DEPARTMENT DECISIONS OR ADMINISTRATIVE ACTIONS.
- 13 4. DEPARTMENT INACTIONS OR OMISSIONS.
- 14 5. DEPARTMENT POLICIES, RULES OR PROCEDURES.
- 15 6. ALLEGED VIOLATIONS OF LAW BY DEPARTMENT STAFF THAT MAY ADVERSELY
16 AFFECT INMATE HEALTH, SAFETY, WELFARE AND RIGHTS.

17 B. THE OFFICE MAY DECLINE TO INVESTIGATE ANY COMPLAINT. THE OFFICE
18 SHALL INFORM THE INMATE THAT THE INMATE IS ENTITLED TO USE THE
19 DEPARTMENT'S POLICIES REGARDING RESOLUTION OF INMATE GRIEVANCES AND SHALL
20 PROVIDE INFORMATION AND A COMPLETE SET OF FORMS TO THE INMATE TO COMPLETE
21 THE RESOLUTION OF INMATE GRIEVANCES. THE DEPARTMENT SHALL TOLL ANY
22 PROCEDURAL DEADLINES FOR FILING A GRIEVANCE AND THE ADMINISTRATIVE REMEDY
23 PROCESS TIME FRAMES DO NOT BEGIN UNTIL FIVE BUSINESS DAYS AFTER THE INMATE
24 HAS RECEIVED THE INFORMATION AND FORMS FROM THE OFFICE BY INMATE LEGAL
25 MAIL PROCESS. THE OFFICE SHALL DECLINE TO INVESTIGATE A COMPLAINT IF THE
26 INMATE HAS FAILED TO FIRST USE THE DEPARTMENT'S POLICIES REGARDING
27 RESOLUTION OF INMATE GRIEVANCES UNLESS THE INMATE PROVIDES EVIDENCE THAT
28 THE COMPLAINT IS LEGITIMATE AND THE INMATE HAS MADE A GOOD FAITH ATTEMPT
29 TO EXHAUST THE ADMINISTRATIVE REMEDY PROCESS AND WAS IMPEDED OR
30 PROCEDURALLY DEFAULTED BY NO FAULT OF THE INMATE.

31 C. IF THE OFFICE FINDS THAT INMATES REPEATEDLY ASSERT THEIR
32 INABILITY TO USE THE ADMINISTRATIVE REMEDY PROCESS DESPITE THE INMATES'
33 GOOD FAITH EFFORTS, THE OFFICE MAY CONDUCT AN UNANNOUNCED INSPECTION OF
34 THE FACILITY WHERE THE ISSUES ARE OCCURRING TO DETERMINE WHETHER THE
35 FACILITY IS MAKING THE ADMINISTRATIVE PROCESS AND GRIEVANCE FORMS
36 ACCESSIBLE TO INMATES.

37 D. IF THE OFFICE DOES NOT INVESTIGATE A COMPLAINT, THE OFFICE SHALL
38 NOTIFY THE COMPLAINANT IN WRITING OF THE DECISION NOT TO INVESTIGATE AND
39 THE REASONS FOR THE DECISION.

40 E. THE OFFICE'S ACTION OR LACK OF ACTION ON A COMPLAINT MAY NOT BE
41 DEEMED AN ADMINISTRATIVE PROCEDURE REQUIRED FOR EXHAUSTION OF REMEDIES
42 BEFORE BRINGING AN ACTION PURSUANT TO 42 UNITED STATES CODE SECTION 1997e
43 OR FILING A NOTICE OF CLAIM THAT IS REQUIRED BY SECTION 12-821.01.

44 F. THE OFFICE MAY NOT INVESTIGATE EITHER OF THE FOLLOWING
45 COMPLAINTS:

- 1 1. A COMPLAINT THAT RELATES TO AN INMATE'S UNDERLYING CRIMINAL
2 CONVICTION.
- 3 2. A COMPLAINT FROM A DEPARTMENT EMPLOYEE OR CONTRACTOR THAT
4 RELATES TO THE EMPLOYEE'S OR CONTRACTOR'S EMPLOYMENT RELATIONSHIP WITH THE
5 DEPARTMENT UNLESS THE COMPLAINT RELATES TO INMATE HEALTH, SAFETY, WELFARE
6 OR REHABILITATION.
- 7 G. THE OFFICE MAY REFER THE COMPLAINANT AND OTHERS TO APPROPRIATE
8 RESOURCES OR STATE, TRIBAL OR FEDERAL AGENCIES.
- 9 H. THE OFFICE MAY NOT LEVY ANY FEES FOR THE SUBMISSION OR
10 INVESTIGATION OF COMPLAINTS.
- 11 I. AFTER INVESTIGATING A COMPLAINT, THE OFFICE MUST RENDER A PUBLIC
12 DECISION ON THE MERITS OF EACH COMPLAINT, EXCEPT THAT THE DOCUMENTS
13 SUPPORTING THE DECISION ARE SUBJECT TO THE CONFIDENTIALITY PROVISIONS OF
14 SECTION 41-2355. THE OFFICE MUST INFORM THE INMATE AND THE DEPARTMENT OF
15 THE DECISION. THE OFFICE MUST STATE THE OFFICE'S RECOMMENDATIONS AND
16 REASONING IF, IN THE OFFICE'S OPINION, THE DEPARTMENT OR ANY DEPARTMENT
17 EMPLOYEE OR CONTRACTOR SHOULD DO ANY OF THE FOLLOWING:
- 18 1. CONSIDER THE MATTER FURTHER.
19 2. MODIFY OR CANCEL ANY ACTION.
20 3. ALTER A RULE, PRACTICE OR RULING.
21 4. EXPLAIN IN DETAIL THE ADMINISTRATIVE ACTION IN QUESTION.
22 5. RECTIFY AN OMISSION.
- 23 J. ON THE REQUEST OF THE OFFICE, THE DEPARTMENT, WITHIN THE TIME
24 SPECIFIED, SHALL INFORM THE OFFICE IN WRITING ABOUT ANY ACTION TAKEN ON
25 THE RECOMMENDATIONS OR THE REASONS FOR NOT COMPLYING WITH THE
26 RECOMMENDATIONS.
- 27 K. IF THE OFFICE BELIEVES, BASED ON THE INVESTIGATION, THAT THERE
28 HAS BEEN OR CONTINUES TO BE A SIGNIFICANT INMATE HEALTH, SAFETY, WELFARE
29 OR REHABILITATION ISSUE, THE OFFICE MUST REPORT THE FINDING TO THE
30 GOVERNOR, THE ATTORNEY GENERAL, THE PRESIDENT OF THE SENATE, THE SPEAKER
31 OF THE HOUSE OF REPRESENTATIVES, THE CORRECTIONAL OVERSIGHT COMMITTEE
32 ESTABLISHED BY SECTION 41-2353 AND THE DIRECTOR OF THE STATE DEPARTMENT OF
33 CORRECTIONS AND SHALL PROVIDE A COPY OF THIS REPORT TO THE SECRETARY OF
34 STATE.
- 35 L. IF THE DEPARTMENT CONDUCTS AN INTERNAL DISCIPLINARY
36 INVESTIGATION AND REVIEW OF ONE OR MORE DEPARTMENT STAFF MEMBERS AS A
37 RESULT OF AN OFFICE INVESTIGATION, THE DEPARTMENT'S DISCIPLINARY REVIEW
38 MAY BE SUBJECT TO ADDITIONAL REVIEW AND INVESTIGATION BY THE OFFICE TO
39 ENSURE A FAIR AND OBJECTIVE PROCESS.
- 40 M. BEFORE ANNOUNCING A CONCLUSION OR RECOMMENDATION THAT EXPRESSLY
41 OR IMPLICITLY CRITICIZES A PERSON OR THE DEPARTMENT, THE OFFICE SHALL
42 CONSULT WITH THAT PERSON OR THE DEPARTMENT. THE OFFICE MAY REQUEST TO BE
43 NOTIFIED BY THE DEPARTMENT, WITHIN A SPECIFIED TIME, OF ANY ACTION TAKEN
44 ON ANY RECOMMENDATION PRESENTED.

1 N. THE DEPARTMENT AND THE DEPARTMENT'S EMPLOYEES AND CONTRACTORS
2 MAY NOT DISCHARGE, RETALIATE AGAINST OR IN ANY MANNER DISCRIMINATE AGAINST
3 ANY PERSON BECAUSE THAT PERSON FILED A COMPLAINT OR INSTITUTED OR CAUSED
4 TO BE INSTITUTED A PROCEEDING UNDER OR RELATING TO THIS SECTION.

5 O. THE OFFICE MAY CONSIDER ANY ALLEGED DISCHARGE, RETALIATION
6 AGAINST OR DISCRIMINATION AGAINST A COMPLAINANT TO BE AN APPROPRIATE
7 SUBJECT OF AN INVESTIGATION.

8 P. ANY DEPARTMENT EMPLOYEE OR CONTRACTOR WHO BELIEVES THAT THE
9 EMPLOYEE OR CONTRACTOR HAS BEEN DISCHARGED OR OTHERWISE DISCRIMINATED
10 AGAINST BY ANY PERSON IN VIOLATION OF THIS SECTION, WITHIN THIRTY DAYS
11 AFTER THE VIOLATION OCCURS, MAY FILE A COMPLAINT WITH THE INDUSTRIAL
12 COMMISSION OF ARIZONA AND IS ENTITLED TO PURSUE AND RECEIVE THE REMEDIES
13 PROVIDED IN TITLE 23.

14 41-2358. Annual report

15 A. BY DECEMBER 31 OF EACH YEAR, THE OFFICE SHALL PREPARE AND
16 PUBLISH AN ANNUAL REPORT, MAKE THE REPORT AVAILABLE TO THE PUBLIC ON THE
17 INTERNET AND DELIVER THE REPORT TO THE GOVERNOR, THE ATTORNEY GENERAL, THE
18 PRESIDENT OF THE SENATE, THE SPEAKER OF THE HOUSE OF REPRESENTATIVES, THE
19 CORRECTIONAL OVERSIGHT COMMITTEE AND THE DIRECTOR OF THE STATE DEPARTMENT
20 OF CORRECTIONS AND PROVIDE A COPY OF THE REPORT TO THE SECRETARY OF STATE.
21 THE ANNUAL REPORT MUST INCLUDE:

22 1. A SUMMARY OF THE OFFICE'S INSPECTIONS AND COMPLAINT
23 INVESTIGATIONS CONDUCTED THAT CALENDAR YEAR, INCLUDING THE OFFICE'S
24 FINDINGS AND RECOMMENDATIONS AND THE DEPARTMENT'S RESPONSES AND CORRECTIVE
25 ACTIONS.

26 2. A CHARACTERIZATION OF THE CONDITIONS OF CONFINEMENT.

27 3. A SUMMARY OF AVAILABLE EDUCATIONAL AND REHABILITATIVE
28 PROGRAMMING, DRUG AND MENTAL HEALTH TREATMENT AND INMATE JOBS AND
29 VOCATIONAL TRAINING.

30 4. A SUMMARY OF VISITATION POLICIES AND PROCEDURES.

31 5. A SUMMARY OF MEDICAL FACILITIES AND MEDICAL PROCEDURES AND
32 POLICIES.

33 6. A SUMMARY OF THE LOCKDOWNS REVIEWED BY THE OFFICE.

34 7. A SUMMARY OF THE STAFFING AT EACH FACILITY AND IN THE DEPARTMENT
35 OVERALL.

36 8. A SUMMARY OF PHYSICAL AND SEXUAL ASSAULTS REVIEWED BY THE
37 OFFICE.

38 9. A SUMMARY OF INMATE OR STAFF DEATHS THAT OCCURRED AT A FACILITY.

39 10. A SUMMARY OF THE OFFICE'S INVESTIGATIONS, FINDINGS AND
40 RESOLUTIONS OF ANY COMPLAINTS.

41 11. RECOMMENDATIONS TO THE LEGISLATURE AND THE DEPARTMENT REGARDING
42 THE FOLLOWING:

43 (a) HOW THE OFFICE AND THE DEPARTMENT ARE FUNDED AND STAFFED.

44 (b) IMPROVING STAFF RETENTION, TRAINING, WORKING CONDITIONS,
45 COMPENSATION, BENEFITS, MORALE AND SAFETY.

1 (c) IMPROVING INMATE HEALTH, SAFETY, CONDITIONS OF CONFINEMENT,
2 MEDICAL CARE AND MENTAL HEALTH CARE.

3 (d) IMPROVING VISITATION AND LIMITING LOCKDOWNS AND ADMINISTRATIVE
4 SEGREGATION OR SOLITARY CONFINEMENT.

5 (e) IMPROVING COMPLAINT INVESTIGATION AND RESOLUTION AND THE
6 DEPARTMENT'S ADMINISTRATIVE REMEDIES PROCESS.

7 (f) IMPROVING ACCESS TO AND QUALITY AND AVAILABILITY OF EDUCATIONAL
8 AND REHABILITATIVE PROGRAMMING, DRUG AND MENTAL HEALTH TREATMENT AND
9 INMATE JOBS AND VOCATIONAL TRAINING.

10 (g) IMPROVING TRANSPARENCY ABOUT CONDITIONS IN THE FACILITIES AND
11 THE DEPARTMENT OVERALL.

12 (h) IMPROVING THE DISCIPLINARY PROCESS TO HOLD STAFF ACCOUNTABLE
13 FOR MISTREATMENT OF INMATES.

14 (i) PREVENTING FUTURE VIOLATIONS OF INMATE RIGHTS THAT ARE
15 PROTECTED UNDER STATE AND FEDERAL LAW.

16 (j) IMPROVING FACILITIES, INCLUDING ANY NECESSARY CAPITAL
17 IMPROVEMENTS AND REPAIRS.

18 B. ON THE REQUEST OF THE OFFICE, THE DEPARTMENT, WITHIN THE TIME
19 SPECIFIED, SHALL INFORM THE OFFICE IN WRITING ABOUT ANY ACTION TAKEN ON
20 THE RECOMMENDATIONS OR THE REASONS FOR NOT COMPLYING WITH THE
21 RECOMMENDATIONS.

22 41-2359. Inmate and family member complaint forms; hotline

23 A. THE OFFICE SHALL PROVIDE THE FOLLOWING SECURE ONLINE FORMS:

24 1. THE FAMILY FORM, WHICH IS MADE AVAILABLE ON THE OFFICE'S WEBSITE
25 AND WHICH ALLOWS FAMILY MEMBERS, FRIENDS AND ADVOCATES TO SUBMIT
26 COMPLAINTS AND MAKE INQUIRIES REGARDING COVERED ISSUES ON BEHALF OF AN
27 INMATE.

28 2. THE INMATE FORM, WHICH IS MADE AVAILABLE IN PAPER FORM AND ON
29 THE DEPARTMENT'S SECURE INTRANET NETWORK AND TO WHICH INMATES MAY SUBMIT
30 COMPLAINTS AND INQUIRIES REGARDING COVERED ISSUES ON THE INMATE'S OWN
31 BEHALF.

32 B. THE DIRECTOR OF THE STATE DEPARTMENT OF CORRECTIONS SHALL ENSURE
33 THAT THE INMATE FORM IS AVAILABLE AND OPERATING ON AT LEAST TWELVE
34 COMPUTERS WITHIN EACH FACILITY AND IS ACCESSIBLE TO ALL INMATES FROM
35 7:00 A.M. TO 7:00 P.M. EACH DAY. FOR INMATES IN ADMINISTRATIVE
36 SEGREGATION OR SOLITARY CONFINEMENT, THE DEPARTMENT SHALL ENSURE THAT
37 DEPARTMENT EMPLOYEES AND CONTRACTORS PROVIDE INMATES WITH ACCESS TO PAPER
38 COPIES OF THE INMATE FORM OR THE ONLINE FORM ON A COMPUTER OR COMPUTER
39 TABLET ON THE INMATE'S REQUEST. THE DEPARTMENT SHALL MAKE PAPER COPIES OF
40 THE INMATE FORM AVAILABLE, AT NO COST TO INMATES, IN EACH FACILITY'S
41 LIBRARY, LAW LIBRARY AND RECREATIONAL AND MEDICAL FACILITIES AND SHALL
42 ENSURE THAT AN ADEQUATE SUPPLY OF FORMS ARE AVAILABLE.

43 C. THE OFFICE SHALL CREATE THE INMATE FORM IN A SECURE FORMAT THAT
44 EXCLUDES ANY ELECTRONIC MONITORING OR REPRODUCTION BY THE DEPARTMENT AND
45 THE DEPARTMENT'S EMPLOYEES AND CONTRACTORS. DEPARTMENT EMPLOYEES AND

1 CONTRACTORS MUST TREAT PAPER COPIES OF THE INMATE FORM AS CONFIDENTIAL AND
2 PRIVILEGED IN THE SAME MANNER AS LEGAL CORRESPONDENCE OR COMMUNICATION.
3 THE PAPER FORM MUST HAVE A PREADDRESSED ENVELOPE FOR THE INMATE TO SEAL
4 THE CONTENTS OF THE FORM AND ONCE SEALED BY THE INMATE MAY NOT BE OPENED
5 OR OTHERWISE DAMAGED BY A DEPARTMENT EMPLOYEE OR CONTRACTOR. THE
6 DEPARTMENT MUST ACCEPT THE PAPER FORM AND ENVELOPE SEALED BY THE INMATE
7 AND MAY NOT REQUIRE INSPECTION OF THE ENVELOPE CONTENTS BEFORE FORWARDING
8 THE PAPER FORM AND ENVELOPE TO THE OFFICE.

9 D. THE OFFICE SHALL ESTABLISH A TELEPHONE HOTLINE THAT FAMILY
10 MEMBERS, FRIENDS AND ADVOCATES OF INMATES CAN CALL TO FILE COMPLAINTS AND
11 MAKE INQUIRIES REGARDING COVERED ISSUES ON BEHALF OF AN INMATE.

12 E. THE OFFICE SHALL ESTABLISH A SECURE TELEPHONE HOTLINE THAT IS
13 AVAILABLE TO ALL DEPARTMENT EMPLOYEES, CONTRACTORS AND INMATES TO FILE
14 COMPLAINTS AND MAKE INQUIRIES REGARDING COVERED ISSUES ON THEIR BEHALF.
15 THE OFFICE SHALL ENSURE THAT THE TELEPHONE HOTLINE IS WORKING AND IS
16 PROPERLY MONITORED BY PERFORMING RANDOM CALLS TO THE TELEPHONE HOTLINE
17 EACH MONTH. THE DIRECTOR OF THE STATE DEPARTMENT OF CORRECTIONS SHALL
18 ENSURE THAT THE SECURE TELEPHONE HOTLINE AND THE HOTLINE'S USE ARE MADE
19 AVAILABLE TO ALL INMATES FREE OF CHARGE. THE OFFICE AND THE DIRECTOR OF
20 THE STATE DEPARTMENT OF CORRECTIONS SHALL ENSURE THAT CALLS TO THE SECURE
21 TELEPHONE HOTLINE ARE NOT MONITORED OR RECORDED BY DEPARTMENT EMPLOYEES OR
22 CONTRACTORS.

23 F. ON RECEIVING A COMPLAINT OR INQUIRY FROM A FAMILY FORM, AN
24 INMATE FORM OR A HOTLINE, THE OFFICE SHALL DO ALL OF THE FOLLOWING:

25 1. CONFIRM RECEIPT OF THE COMPLAINT OR INQUIRY WITHIN FIVE BUSINESS
26 DAYS.

27 2. DETERMINE WHETHER AN INVESTIGATION IS WARRANTED WITHIN SEVEN
28 BUSINESS DAYS AFTER CONFIRMING RECEIPT OF THE COMPLAINT AND NOTIFY THE
29 COMPLAINANT.

30 3. IF THE OFFICE DETERMINES AN INVESTIGATION IS UNWARRANTED,
31 PROVIDE A WRITTEN STATEMENT REGARDING ITS DECISION TO THE COMPLAINANT.

32 G. THE DEPARTMENT AND THE DEPARTMENT'S EMPLOYEES AND CONTRACTORS
33 MAY NOT DISCHARGE, RETALIATE AGAINST OR IN ANY MANNER DISCRIMINATE AGAINST
34 ANY PERSON BECAUSE THAT PERSON HAS FILED A COMPLAINT OR INSTITUTED OR
35 CAUSED TO BE INSTITUTED ANY PROCEEDING UNDER OR RELATING TO THIS SECTION.

36 H. THE OFFICE MAY CONSIDER ANY ALLEGED DISCHARGE, RETALIATION
37 AGAINST OR DISCRIMINATION AGAINST A COMPLAINANT TO BE AN APPROPRIATE
38 SUBJECT OF AN INVESTIGATION.

39 I. A DEPARTMENT EMPLOYEE OR CONTRACTOR WHO BELIEVES THAT THE
40 EMPLOYEE OR CONTRACTOR HAS BEEN DISCHARGED OR OTHERWISE DISCRIMINATED
41 AGAINST BY ANY PERSON IN VIOLATION OF THIS SECTION, WITHIN THIRTY DAYS
42 AFTER THE VIOLATION OCCURS, MAY FILE A COMPLAINT WITH THE INDUSTRIAL
43 COMMISSION OF ARIZONA AND IS ENTITLED TO PURSUE AND RECEIVE THE REMEDIES
44 PROVIDED IN TITLE 23.

1 J. THE OFFICE'S ACTION OR LACK OF ACTION ON A COMPLAINT MADE
2 PURSUANT TO THIS SECTION IS NOT DEEMED AN ADMINISTRATIVE PROCEDURE
3 REQUIRED FOR EXHAUSTION OF REMEDIES BEFORE BRINGING AN ACTION PURSUANT TO
4 42 UNITED STATES CODE SECTION 1997e OR FILING A NOTICE OF CLAIM PURSUANT
5 TO SECTION 12-821.01.

6 Sec. 2. Title 41, chapter 27, article 2, Arizona Revised Statutes,
7 is amended by adding section 41-3033.01, to read:

8 41-3033.01. Office of the independent corrections oversight
9 committee; termination July 1, 2033

10 A. THE OFFICE OF THE INDEPENDENT CORRECTIONS OVERSIGHT COMMITTEE
11 TERMINATES ON JULY 1, 2033.

12 B. TITLE 41, CHAPTER 16 AND THIS SECTION ARE REPEALED ON JANUARY 1,
13 2034.

14 Sec. 3. Initial terms of the members of the correctional
15 oversight committee

16 A. Notwithstanding section 41-2353, Arizona Revised Statutes, as
17 added by this act, the initial terms of committee members who are
18 appointed pursuant to section 41-2353, subsection A, paragraph 3, Arizona
19 Revised Statutes, as added by this act, are:

- 20 1. Two terms ending January 1, 2025.
- 21 2. Two terms ending January 1, 2026.
- 22 3. Three terms ending January 1, 2027.

23 B. The governor shall make all subsequent appointments as
24 prescribed by statute.

25 Sec. 4. Purpose

26 Pursuant to section 41-2955, subsection E, Arizona Revised Statutes,
27 the legislature establishes the office of the independent corrections
28 oversight committee to conduct inspections, investigate complaints and
29 recommend improvements regarding the state department of corrections.

30 Sec. 5. Appropriations; office of the independent corrections
31 oversight committee; correctional oversight
32 committee; exemption

33 A. The sum of \$2,000,000 is appropriated from the state general
34 fund in each of fiscal years 2023-2024, 2024-2025, 2025-2026, 2026-2027,
35 2027-2028, 2028-2029, 2029-2030, 2030-2031, 2031-2032 and 2032-2033 to the
36 office of the independent corrections oversight committee for expenses
37 relating to the office and the correctional oversight committee
38 established by section 41-2353, Arizona Revised Statutes, as added by this
39 act.

40 B. The appropriations made in subsection A of this section are
41 exempt from the provisions of section 35-190, Arizona Revised Statutes,
42 relating to lapsing of appropriations.