

Senate Engrossed

~~technical correction; state facilities~~
(now: ombudsman; corrections; reporting requirements)

State of Arizona
Senate
Fifty-sixth Legislature
Second Regular Session
2024

SENATE BILL 1629

AN ACT

AMENDING SECTIONS 41-1376 AND 41-1604, ARIZONA REVISED STATUTES; RELATING
TO THE OFFICE OF OMBUDSMAN-CITIZENS AIDE.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 41-1376, Arizona Revised Statutes, is amended to
3 read:

4 41-1376. Powers and duties

5 A. The ombudsman-citizens aide shall:

6 1. Investigate the administrative acts of agencies pursuant to
7 section 41-1377, subsections A and B except as provided in section
8 41-1377, subsections C, D and E. The ombudsman-citizens aide shall
9 investigate the administrative acts of an agency without regard to the
10 finality of the administrative act.

11 2. Annually before January 1 prepare a written report to the
12 governor, the legislature and the public that contains a summary of the
13 ombudsman-citizens aide's activities during the previous fiscal year. The
14 ombudsman-citizens aide shall present this report annually before the
15 legislative council and distribute copies of the report to the director of
16 the governor's office of strategic planning and budgeting, the chairperson
17 of the joint legislative budget committee and the cochairpersons of the
18 administrative rules oversight committee. This report shall include:

19 (a) The ombudsman-citizens aide's mission statement.

20 (b) The number of matters that were within each of the categories
21 specified in section 41-1379, subsection B.

22 (c) Legislative issues affecting the ombudsman-citizens aide.

23 (d) Selected case studies that illustrate the ombudsman-citizens
24 aide's work and reasons for complaints.

25 (e) Ombudsman-citizens aide's contact statistics.

26 (f) A description of the public awareness and outreach activities
27 conducted by the ombudsman-citizens aide.

28 (g) Ombudsman-citizens aide's staff.

29 3. Before conducting the first investigation, adopt rules that
30 ensure that confidential information that is gathered will not be
31 disclosed.

32 4. Appoint a deputy ombudsman and prescribe the duties of employees
33 or, subject to appropriation, contract for the services of independent
34 contractors necessary to administer the duties of the office of
35 ombudsman-citizens aide. All staff serves at the pleasure of the
36 ombudsman-citizens aide, and they are exempt from chapter 4, articles 5
37 and 6 of this title. All staff are subject to the conflict of interest
38 provisions of title 38, chapter 3, article 8.

39 5. Before conducting the first investigation, adopt rules that
40 establish procedures for receiving and processing complaints, including
41 guidelines to ensure each complainant has exhausted all reasonable
42 alternatives within the agency, conducting investigations, incorporating
43 agency responses into recommendations and reporting findings.

44 6. Notify the chief executive or administrative officer of the
45 agency in writing of the intention to investigate unless notification

1 would unduly hinder the investigation or make the investigation
2 ineffectual.

3 7. Appoint an assistant to help the ombudsman-citizens aide
4 investigate complaints relating to the department of child safety. The
5 assistant shall have expertise in the department of child safety
6 procedures and laws. Notwithstanding any law to the contrary, the
7 ombudsman-citizens aide and the assistant have access to the department of
8 child safety records and direct remote access to any automated case
9 management system used by the department of child safety.

10 8. ON OR BEFORE DECEMBER 31 OF EACH YEAR, SUBMIT A REPORT TO THE
11 PRESIDENT OF THE SENATE, THE SPEAKER OF THE HOUSE OF REPRESENTATIVES, THE
12 MINORITY LEADER OF THE SENATE, THE MINORITY LEADER OF THE HOUSE OF
13 REPRESENTATIVES, THE CHAIRPERSON OF THE SENATE JUDICIARY COMMITTEE, OR ITS
14 SUCCESSOR COMMITTEE, AND THE CHAIRPERSON OF THE HOUSE OF REPRESENTATIVES
15 JUDICIARY COMMITTEE, OR ITS SUCCESSOR COMMITTEE, THAT INCLUDES THE NUMBER
16 OF COMPLAINTS MADE REGARDING THE STATE DEPARTMENT OF CORRECTIONS, THE
17 TOPIC OF EACH COMPLAINT AND HOW EACH COMPLAINT WAS RESOLVED.

18 B. After the conclusion of an investigation and notice to the head
19 of the agency pursuant to section 41-1379, the ombudsman-citizens aide may
20 present the ombudsman-citizens aide's opinion and recommendations to the
21 governor, the legislature, the office of the appropriate prosecutor or the
22 public, or any combination of these persons. The ombudsman-citizens aide
23 shall include in the opinion the reply of the agency, including those
24 issues that were resolved as a result of the ombudsman-citizens aide's
25 preliminary opinion or recommendation.

26 Sec. 2. Section 41-1604, Arizona Revised Statutes, is amended to
27 read:

28 41-1604. Duties and powers of director

29 A. The director shall:

30 1. Be responsible for the overall operations and policies of the
31 department.

32 2. Maintain and administer all institutions and programs within the
33 department, including prisons, reception and diagnostic centers,
34 conservation camps, community correctional centers and such other
35 facilities and programs as may be required and established for the
36 custody, control, correction, treatment and rehabilitation of all adult
37 offenders who are committed to the department.

38 3. Be responsible for the administration and execution of all
39 community supervision services, including those for adult offenders who
40 are released in accordance with law.

41 4. Develop a program to provide uniform statewide community
42 supervision field services in this state and employ parole or community
43 supervision officers based on qualifications prescribed by the director,
44 including physical, psychological and educational qualifications and
45 practical experience.

1 5. Be responsible for the development of policies and programs that
2 shall be recommended to the governor and the legislature for the purpose
3 of improving the various adult correctional programs of this state.

4 6. Develop and establish a uniform statewide method of reporting
5 statistics as related to this chapter.

6 7. Subject to chapter 4, article 4 of this title, employ deputy
7 directors and other key personnel based on qualifications prescribed by
8 the director that require education and practical experience.

9 8. Adopt rules pursuant to chapter 6 of this title for the
10 development of incentives to encourage good behavior and the faithful
11 performance of work by prisoners.

12 9. Adopt rules pursuant to chapter 6 of this title to limit inmate
13 access to the internet through the use of a computer, computer system,
14 network, computer service provider or remote computing service.

15 10. Cooperate with the Arizona-Mexico commission in the governor's
16 office and with researchers at universities in this state to collect data
17 and conduct projects in the United States and Mexico on issues that are
18 within the scope of the department's duties and that relate to quality of
19 life, trade and economic development in this state in a manner that will
20 help the Arizona-Mexico commission to assess and enhance the economic
21 competitiveness of this state and of the Arizona-Mexico region.

22 11. ON OR BEFORE DECEMBER 31 OF EACH YEAR, SUBMIT A REPORT TO THE
23 PRESIDENT OF THE SENATE, THE SPEAKER OF THE HOUSE OF REPRESENTATIVES, THE
24 MINORITY LEADER OF THE SENATE, THE MINORITY LEADER OF THE HOUSE OF
25 REPRESENTATIVES, THE CHAIRPERSON OF THE SENATE JUDICIARY COMMITTEE, OR ITS
26 SUCCESSOR COMMITTEE, AND THE CHAIRPERSON OF THE HOUSE OF REPRESENTATIVES
27 JUDICIARY COMMITTEE, OR ITS SUCCESSOR COMMITTEE, THAT INCLUDES ALL OF THE
28 FOLLOWING:

29 (a) THE NUMBER OF INMATE DEATHS WHILE THE INMATE WAS IN CUSTODY,
30 INCLUDING SUICIDES, AND THE NUMBER OF SUICIDE ATTEMPTS WHILE THE INMATE
31 WAS IN CUSTODY.

32 (b) THE NUMBER OF PHYSICAL AND SEXUAL ASSAULTS IN CUSTODY.

33 (c) THE NUMBER OF INMATES WHO WERE PLACED IN ADMINISTRATIVE
34 SEGREGATION OR SOLITARY CONFINEMENT AND THE DURATION OF STAY IN
35 SEGREGATION OR CONFINEMENT.

36 (d) THE NUMBER OF FACILITY LOCKDOWNS THAT LASTED LONGER THAN
37 TWENTY-FOUR HOURS.

38 (e) THE NUMBER OF STAFF, THE TENURE OF EACH STAFF MEMBER, THE STAFF
39 TURNOVER RATE, STAFF VACANCIES AND STAFF COMPENSATION AT EACH FACILITY.

40 (f) THE NUMBER OF INMATES AT EACH FACILITY.

41 (g) THE INMATE-TO-STAFF RATIO AT EACH FACILITY.

42 (h) THE NUMBER OF IN-PERSON VISITS THAT WERE MADE FOR EACH INMATE AT
43 EACH FACILITY.

44 (i) THE NUMBER OF IN-PERSON VISITS THAT WERE DENIED FOR EACH INMATE
45 AT EACH FACILITY.

1 (j) THE NUMBER OF INMATE COMPLAINTS OR GRIEVANCES THAT WERE
2 SUBMITTED TO THE DEPARTMENT, THE DEPARTMENT'S RESOLUTION OF THE COMPLAINT
3 OR GRIEVANCE PURSUANT TO THE ADMINISTRATIVE REMEDIES PROCESS AND THE
4 AMOUNT OF TIME IT TOOK THE DEPARTMENT TO RESOLVE EACH COMPLAINT OR
5 GRIEVANCE.

6 B. The director may:

7 1. Adopt rules to implement the purposes of the department and the
8 duties and powers of the director.

9 2. Take any administrative action to improve the efficiency of the
10 department, including the following:

11 (a) Create new divisions or units or consolidate divisions or
12 units.

13 (b) Subject to chapter 4, article 4 of this title, transfer
14 employees between the various divisions and units of the department.

15 (c) Shift duties between divisions or units.

16 (d) Delegate to appropriate personnel the administrative functions,
17 powers or duties that the director believes can be competently,
18 efficiently and properly performed. The director shall not delegate the
19 responsibilities in subsection A, paragraphs 1 and 5 of this section.

20 (e) Transfer adult inmates between adult institutions or adult
21 facilities.

22 (f) Authorize work crews to perform acceptable tasks in any part of
23 ~~the~~ THIS state.

24 (g) Accept unconvicted persons pursuant to a court order for THE
25 purposes of examination and treatment regarding competency to understand
26 any stage of a criminal proceeding after indictment or information or
27 their ability to assist in their own defense.

28 (h) Accept convicted yet unsentenced persons pursuant to a court
29 order for THE purposes of conducting a mental health examination or a
30 diagnostic evaluation.

31 (i) Subject to chapter 4, article 4 and, as applicable, article 5
32 of this title, appoint certain employees of the department to peace
33 officer status for THE purposes of guarding, transporting or pursuing
34 persons who are under the jurisdiction of the department and appoint
35 certain employees of the department to peace officer status for THE
36 purposes of investigating or arresting persons who commit or attempt to
37 commit offenses directly relating to the operations of the department.
38 Peace officers of the department shall not preempt the authority and
39 jurisdiction of established agencies of this state and political
40 subdivisions of this state. Such officers shall notify agencies of this
41 state and political subdivisions of this state before conducting an
42 investigation within the jurisdiction of the agency and before making an
43 arrest within the jurisdiction of the agency and shall ask, except in an
44 emergency, if the agency wishes to participate, perform the investigation
45 or arrest the person to be arrested before proceeding. Personnel who are

1 appointed as peace officers by the director shall have the minimum
2 qualifications established for peace officers pursuant to section
3 41-1822. Personnel who are appointed by the director pursuant to this
4 subdivision are not eligible to participate in the public safety personnel
5 retirement system except as otherwise provided in title 38, chapter 5,
6 article 4.

7 (j) Operate travel reduction programs that are subsidized by the
8 department for employees who commute between work and home by vanpools,
9 carpools and buses or in vehicles that are purchased or leased by the
10 department.

11 3. Establish by rule a ~~one-time~~ ONETIME fee for conducting
12 background checks on any person who enters a department facility to visit
13 a prisoner. A fee shall not be charged for a person who is under eighteen
14 years of age. The director may adopt rules that waive all or part of the
15 fee. The director shall deposit, pursuant to sections 35-146 and 35-147,
16 any monies collected pursuant to this paragraph in the department of
17 corrections building renewal fund established by section 41-797.