

## Amendment No. 232

Senate Amendment to Senate Bill No. 201

(BDR 16-827)

**Proposed by:** Senate Committee on Judiciary**Amends:** Summary: Yes Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

| ASSEMBLY ACTION |                          |      |                          | Initial and Date | SENATE ACTION |              |                          |      | Initial and Date         |       |
|-----------------|--------------------------|------|--------------------------|------------------|---------------|--------------|--------------------------|------|--------------------------|-------|
| Adopted         | <input type="checkbox"/> | Lost | <input type="checkbox"/> | _____            |               | Adopted      | <input type="checkbox"/> | Lost | <input type="checkbox"/> | _____ |
| Concurred In    | <input type="checkbox"/> | Not  | <input type="checkbox"/> | _____            |               | Concurred In | <input type="checkbox"/> | Not  | <input type="checkbox"/> | _____ |
| Receded         | <input type="checkbox"/> | Not  | <input type="checkbox"/> | _____            |               | Receded      | <input type="checkbox"/> | Not  | <input type="checkbox"/> | _____ |

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) *green bold italic underlining* is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill that is proposed to be retained in this amendment; and (6) *green bold underlining* is newly added transitory language.

DP/KEL



Date: 4/17/2011

S.B. No. 201—Revises provisions relating to correctional institutions.  
(BDR 16-827)



SENATE BILL NO. 201—SENATORS PARKS, LESLIE; BREEDEN,  
COPENING, DENIS, HORSFORD, KIHUEN AND MANENDO

FEBRUARY 28, 2011

JOINT SPONSORS: ASSEMBLYMEN MUNFORD, ANDERSON;  
ATKINSON, BOBZIEN, CARLTON, CARRILLO AND HOGAN

Referred to Committee on Judiciary

SUMMARY—~~[Revises provisions relating to correctional institutions.]~~ Authorizes the Attorney General to establish a program to mediate complaints by offenders. (BDR 16-827)

FISCAL NOTE: Effect on Local Government: No.  
Effect on the State: Yes.

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EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets ~~[omitted material]~~ is material to be omitted.

AN ACT relating to correctional institutions; ~~[establishing an Ombudsman for Offenders to receive and process]~~ authorizing the Attorney General to establish a program to mediate complaints by offenders ; ~~and certain other persons; establishing the powers and duties of the Ombudsman; requiring the Ombudsman to adopt regulations relating to the processing of such complaints; requiring the Ombudsman to make certain reports to the Department of Corrections, the Legislature and the Advisory Commission on the Administration of Justice; requiring the Director of the Department to adopt regulations which comply with certain standards;~~ and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

~~[Section 7 of this bill creates the Office of the Ombudsman for Offenders within the Office of the Attorney General.]~~

~~Section 8 of this bill grants the Attorney General the power to appoint and remove the Ombudsman for Offenders.~~

~~Section 9 of this bill sets forth the powers of the Ombudsman.~~

~~Sections 10 and 11 of this bill specify the accounting and use of money collected by the Ombudsman.~~

~~Section 12 of this bill directs the Ombudsman.~~ This bill authorizes the Attorney General to establish [regulations governing the receipt, processing and reporting of] a program to mediate complaints from ~~[Legislators,]~~ offenders, ~~[and family members of offenders and from the Ombudsman.]~~

~~Sections 13 and 17 of this bill specify the responsibilities of the Ombudsman concerning the processing and reporting of complaints and actions taken in response to the complaints.~~

~~Section 14 of this bill requires the Ombudsman to notify certain persons of the Ombudsman's decision regarding the processing of a complaint.~~

~~Section 15 of this bill makes confidential certain information relating to complaints, reports and recommendations.~~

~~Section 16 of this bill requires the Ombudsman to prepare and submit a biennial report for the Department of Corrections, the Legislature and the Advisory Commission on the Administration of Justice.~~

~~Section 18 of this bill prohibits the penalizing of an offender for certain acts relating to complaints and prohibits the hindrance of the Ombudsman in performing the duties of office.~~

~~Section 19 of this bill provides that the authority of the Ombudsman is not exclusive of other available remedies.~~

~~Existing law requires the Director of the Department to protect the health and safety of the staff and offenders in the institutions and facilities of the Department. (NRS 200.124) Section 20 of this bill requires the Director to establish regulations which comply with the standards set by the National Commission on Correctional Health Care to govern staff training in medical emergency response and reporting.~~

~~Existing law also requires the Director to establish standards for the personal hygiene of offenders and for the medical and dental services at correctional institutions and facilities. (NRS 200.281) Section 21 of this bill requires those standards to comply with standards set by the National Commission on Correctional Health Care.~~

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THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN  
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

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**Section 1.** ~~[Chapter 209 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 19, inclusive, of this act.]~~ **(Deleted by amendment.)**

**Sec. 2.** ~~[As used in sections 2 to 19, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3 to 6, inclusive, of this act have the meanings ascribed to them in those sections.]~~ **(Deleted by amendment.)**

**Sec. 3.** ~~["Administrative act" includes an action, omission, decision, recommendation, practice or other procedure of the Department.]~~ **(Deleted by amendment.)**

**Sec. 4.** ~~["Complainant" means a Legislator, an offender or a family member of an offender who files a complaint as described in section 12 of this act.]~~ **(Deleted by amendment.)**

**Sec. 5.** ~~["Official" means the Director, a deputy director, manager, warden or employee of the Department.]~~ **(Deleted by amendment.)**

**Sec. 6.** ~~["Ombudsman" means the Ombudsman for Offenders.]~~ **(Deleted by amendment.)**

**Sec. 7.** ~~[The Office of the Ombudsman for Offenders is hereby created within the Office of the Attorney General.]~~ **(Deleted by amendment.)**

**Sec. 8.** ~~[1. The Attorney General shall appoint the Ombudsman. The Ombudsman is in the unclassified service of the State. The person appointed:~~

~~(a) Must be knowledgeable in the field of corrections; and~~

~~(b) Must be independent of the Department.~~

~~2. The Attorney General may remove the Ombudsman from office for inefficiency, neglect of duty or malfeasance in office.]~~ **(Deleted by amendment.)**

**Sec. 9.** ~~[The Ombudsman may:~~

~~1. Employ such staff as is necessary to carry out the duties and functions of his or her office, in accordance with the personnel practices and procedures~~

~~established within the Attorney General's Office. The Ombudsman has sole discretion to employ and remove any member of his or her staff.~~

~~2. Purchase necessary equipment.~~

~~3. Lease or make other suitable arrangements for office space, but any lease which extends beyond the term of 1 year must be reviewed and approved by a majority of the members of the State Board of Examiners.~~

~~4. Perform such other functions and make such other arrangements as may be necessary to carry out the duties and functions of his or her office.~~ (Deleted by amendment.)

~~Sec. 10. 1. All money collected by the Ombudsman must be deposited with the State Treasurer for credit to the Account for the Ombudsman for Offenders, which is hereby created.~~

~~2. Money in the Account may be used:~~

~~(a) To defray the costs of maintaining the Office of the Ombudsman; or~~

~~(b) For any other purpose authorized by the Legislature.~~

~~3. All claims against the Account must be paid as other claims against the State are paid.~~ (Deleted by amendment.)

~~Sec. 11. All gifts and grants of money which the Ombudsman is authorized to accept must be deposited with the State Treasurer for credit to the Account for the Ombudsman for Offenders.~~ (Deleted by amendment.)

Sec. 12. Chapter 209 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The [Ombudsman shall, by regulation.] Attorney General may establish [procedures] a program for [receiving, processing and reporting] mediating complaints from [a Legislator,] an offender [or a family member of an offender and for processing and reporting allegations personally known to the Ombudsman] concerning:

~~1-A~~ (a) An administrative act which is alleged to be contrary to law or a policy of the Department; or

~~2-A~~ (b) Significant issues relating to the health or safety of offenders and other matters for which there is no effective administrative remedy.

2. If the Attorney General establishes a program for mediating complaints pursuant to subsection 1, the Attorney General shall:

(a) By regulation, establish procedures for mediating complaints by offenders; and

(b) Prepare and submit to the Board an annual report on:

(1) The complaints mediated through the program;

(2) The total dollar amount of claims asserted in complaints mediated through the program;

(3) The number of complaints that were resolved through the program;

(4) The cost in dollars paid to offenders to resolve complaints through the program; and

(5) The savings in dollars between the dollar amount of claims asserted in complaints and the cost in dollars paid to offenders to resolve those complaints.

3. As used in this section, "administrative act" includes an action, omission, decision, recommendation, practice or other procedure of the Department.

~~Sec. 13. 1. The Ombudsman shall advise a complainant to pursue all administrative remedies that are available to the complainant. The Ombudsman may request and shall receive from the Department a progress report concerning the administrative processing of a complaint. After the Department has taken administrative action on a complaint, the Ombudsman may process and report a complaint on the request of a complainant or on his or her own initiative.~~

~~2. The Ombudsman is not required to process or report a complaint brought before the Ombudsman. A person is not entitled as a right to have his or her complaint processed or reported by the Ombudsman.~~ (Deleted by amendment.)

Sec. 14. ~~{After the Ombudsman receives a complaint from a Legislator, an offender or a family member of an offender as described in section 12 of this act and decides to process the complaint, the Ombudsman shall notify the complainant, the offender or offenders affected and the Department. If the Ombudsman declines to process the complaint, the Ombudsman shall notify the complainant in writing and inform the offender or offenders affected of the reasons for the Ombudsman's decision.}~~ (Deleted by amendment.)

Sec. 15. ~~{Correspondence between the Ombudsman and an offender is confidential and must be processed as privileged correspondence in the same manner as letters between offenders and courts, attorneys or public officials.~~

~~2. The Ombudsman shall keep confidential all matters relating to a complaint and the identities of the complainants or persons from whom information is acquired, except so far as disclosures may be necessary to enable the Ombudsman to perform the duties of the office and to support any recommendations resulting from the processing of a complaint.~~

~~3. A report prepared and recommendations made by the Ombudsman and submitted pursuant to section 16 of this act are exempt from disclosure under chapter 239 of NRS.~~ (Deleted by amendment.)

Sec. 16. ~~{For each regular session of the Legislature, the Ombudsman shall prepare a report on:~~

~~(a) The conduct of the Office of the Ombudsman for Offenders;~~

~~(b) Complaints processed by the Ombudsman; and~~

~~(c) Findings resulting from those complaints if the Ombudsman finds:~~

~~(1) A matter that should be considered by the Department;~~

~~(2) An administrative act that should be modified or cancelled;~~

~~(3) A statute or regulation that should be altered;~~

~~(4) An administrative act for which justification is necessary;~~

~~(5) Significant issues relating to the health or safety of offenders; or~~

~~(6) Any other significant concerns as set forth by regulation.~~

~~2. The report must be submitted not later than September 1 of each even-numbered year to the Department and the Director of the Legislative Counsel Bureau for distribution to the Legislature and the Advisory Commission on the Administration of Justice.~~

~~3. Subject to section 17 of this act, the Legislature may forward all or part of a report prepared and submitted pursuant to this section to the complainant or the offender or offenders affected.~~ (Deleted by amendment.)

Sec. 17. ~~{Before publishing a finding or recommendation that expressly or by implication criticizes a person or the Department, the Ombudsman must consult with that person or the Department.~~

~~2. When publishing a finding adverse to the Department or any person, the Ombudsman shall include in that publication a statement of reasonable length made to the Ombudsman by the Department or person in defense or mitigation of the action, if that statement is provided within a reasonable period of time as specified by regulation.~~

~~3. The Ombudsman may request to be notified by the Department, within a specified period of time, of any action taken on a recommendation.~~

~~4. The Ombudsman shall notify a complainant of actions relating to the complaint taken by the Office of the Ombudsman and the Department.~~ (Deleted by amendment.)

1       Sec. 18. ~~[1. An offender must not be penalized in any way by an official~~  
2 ~~or the Department for filing a complaint, complaining to a Legislator or~~  
3 ~~cooperating with the Ombudsman in researching a complaint.~~

4       ~~2. A person or the Department shall not:~~

5       ~~(a) Hinder the lawful actions of the Ombudsman or employees of the Office~~  
6 ~~of the Ombudsman; or~~

7       ~~(b) Willfully refuse to comply with lawful demands of the Office.] (Deleted~~  
8 ~~by amendment.)~~

9       Sec. 19. ~~[The authority granted the Ombudsman pursuant to sections 2 to~~  
10 ~~19, inclusive, of this act:~~

11       ~~1. Is in addition to the authority granted under:~~

12       ~~(a) The provisions of any other act or rule under which the remedy or right~~  
13 ~~of appeal or objection is provided for a person; or~~

14       ~~(b) Any procedure provided for the inquiry into or investigation of any other~~  
15 ~~matter.~~

16       ~~2. Shall not be:~~

17       ~~(a) Construed to limit or affect the remedy or right of appeal or objection; or~~

18       ~~(b) Deemed part of an exclusionary process.] (Deleted by amendment.)~~

19       Sec. 20. [NRS 209.131 is hereby amended to read as follows:

20       ~~209.131 The Director shall:~~

21       ~~1. Administer the Department under the direction of the Board;~~

22       ~~2. Supervise the administration of all institutions and facilities of the~~  
23 ~~Department;~~

24       ~~3. Receive, retain and release, in accordance with law, offenders sentenced to~~  
25 ~~imprisonment in the state prison;~~

26       ~~4. Be responsible for the supervision, custody, treatment, care, security and~~  
27 ~~discipline of all offenders under his or her jurisdiction;~~

28       ~~5. Ensure that any person employed by the Department whose primary~~  
29 ~~responsibilities are:~~

30       ~~(a) The supervision, custody, security, discipline, safety and transportation of~~  
31 ~~an offender;~~

32       ~~(b) The security and safety of the staff; and~~

33       ~~(c) The security and safety of an institution or facility of the Department;~~

34       ~~is a correctional officer who has the powers of a peace officer pursuant to~~  
35 ~~subsection 1 of NRS 289.220.~~

36       ~~6. Establish regulations with the approval of the Board and enforce all laws~~  
37 ~~governing the administration of the Department and the custody, care and training~~  
38 ~~of offenders;~~

39       ~~7. Take proper measures to protect the health and safety of the staff and~~  
40 ~~offenders in the institutions and facilities of the Department [.] including, without~~  
41 ~~limitation, establishing regulations, with the approval of the Board, which comply~~  
42 ~~with standards set by the National Commission on Correctional Health Care to~~  
43 ~~govern staff training in medical emergency response and reporting.~~

44       ~~8. Cause to be placed from time to time in conspicuous places about each~~  
45 ~~institution and facility copies of laws and regulations relating to visits and~~  
46 ~~correspondence between offenders and others;~~

47       ~~9. Provide for the holding of religious services in the institutions and facilities~~  
48 ~~and make available to the offenders copies of appropriate religious materials.]~~  
49 ~~(Deleted by amendment.)~~

50       Sec. 21. [NRS 209.381 is hereby amended to read as follows:

51       ~~209.381 1. Each offender in an institution or facility of the Department must~~  
52 ~~be provided a healthful diet and appropriate, sanitary housing.~~

~~2. The Director with the approval of the Board shall establish standards which  
comply with standards set by the National Commission on Correctional Health  
Care for personal hygiene of offenders and for the medical and dental services of  
each institution or facility.~~ (Deleted by amendment.)