

Chapter 836

(Senate Bill 134)

AN ACT concerning

Office of the ~~Attorney General~~ – Correctional Ombudsman Unit – Establishment and Funding

FOR the purpose of establishing the Office of the Correctional Ombudsman Unit in the Office of the Attorney General; authorizing the Justice Reinvestment Oversight Board to make a recommendation for the distribution of money from the Performance Incentive Grant Fund to the Office for a certain fiscal year; requiring the Unit Office to conduct investigations, reviews, and assessments of administrative acts taken by the Department of Public Safety and Correctional Services, the Department of Juvenile Services, or in relation to individuals confined by ~~the Department~~ either department; requiring the Unit Office to refer certain matters for criminal charges or disciplinary proceedings; providing for the confidentiality of certain communications with the Ombudsman; establishing the Correctional Ombudsman Advisory Board; transferring the Juvenile Justice Monitoring Unit of the Office of the Attorney General into the Office of the Correctional Ombudsman; authorizing the Unit to subpoena an individual to give sworn testimony or produce documentary evidence; prohibiting certain reprisals against employees of the Department of Public Safety and Correctional Services or the Department of Juvenile Services who provide certain information to the Unit Office; requiring the Unit Office to conduct certain activities; and generally relating to the Office of the Correctional Ombudsman Unit.

BY renumberingArticle – State GovernmentSection 6–401 through 6–406 and the subtitle “Subtitle 4. Juvenile Justice Monitoring Unit”to be Section 9–3811 through 9–3816, respectively, and the part “Part II. Juvenile Justice Monitoring Unit”Annotated Code of Maryland(2021 Replacement Volume and 2023 Supplement)BY repealing and reenacting, without amendments,Article – State GovernmentSection 9–3201Annotated Code of Maryland(2021 Replacement Volume and 2023 Supplement)BY repealing and reenacting, with amendments,Article – State GovernmentSection 9–3207(b)Annotated Code of Maryland

(2021 Replacement Volume and 2023 Supplement)

BY adding to

Article – State Government

Section ~~6–901 through 6–907~~ 9–3801 through 9–3808 to be under the new subtitle
 “Subtitle 9–38. Office of the Correctional Ombudsman Unit” and the part “Part
 I. Established”

Annotated Code of Maryland

(2021 Replacement Volume and 2023 Supplement)

BY repealing and reenacting, with amendments,

Article – State Government

Section 9–3811 through 9–3813 and 9–3815

Annotated Code of Maryland

(2021 Replacement Volume and 2023 Supplement)

(As enacted by Section 1 of this Act)

BY repealing and reenacting, without amendments,

Article – State Government

Section 9–3814 and 9–3816(a)

Annotated Code of Maryland

(2021 Replacement Volume and 2023 Supplement)

(As enacted by Section 1 of this Act)

BY repealing and reenacting, with amendments,

Article – State Personnel and Pensions

Section 5–305

Annotated Code of Maryland

(2015 Replacement Volume and 2023 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
 That Section(s) 6–401 through 6–406 and the subtitle “Subtitle 4. Juvenile Justice
 Monitoring Unit” of Article – State Government of the Annotated Code of Maryland be
 renumbered to be Section(s) 9–3811 through 9–3816, respectively, and the part “Part II.
 Juvenile Justice Monitoring Unit”.

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read
 as follows:

Article – State Government

9–3201.

(a) In this subtitle the following words have the meanings indicated.

(b) “Board” means the Justice Reinvestment Oversight Board.

(c) “Executive Director” means the Executive Director of the Governor’s Office of Crime Prevention, Youth, and Victim Services.

(d) “Fund” means the Performance Incentive Grant Fund established in § 9–3209 of this subtitle.

9–3207.

(b) (1) In collaboration with the Department of Public Safety and Correctional Services, the Board shall determine the annual savings from the implementation of the recommendations of the Justice Reinvestment Coordinating Council based on the difference between the prison population as measured on October 1, 2017, the baseline day, and the prison population as measured on October 1, 2018, the comparison day, and the variable cost of incarceration.

(2) If the prison population on the comparison day is less than the prison population on the baseline day, the Board shall determine a savings based on the difference in the prison population multiplied by the variable cost.

(3) The Board annually shall determine the difference between the prison population on October 1, 2017, and the prison population on October 1 of the current year and calculate any savings in accordance with paragraph (2) of this subsection.

(4) If a prison population decline causes a correctional unit, wing, or facility to close, the Board shall conduct an assessment to determine the savings from the closure and distribute the savings, realized annually, according to the schedule in paragraph (5) of this subsection.

(5) The Board annually shall recommend that the savings identified in paragraphs (2) through (4) of this subsection be distributed as follows:

(i) up to 50% of the savings shall be placed in the Performance Incentive Grant Fund for purposes established under § 9–3209(b)(1) of this subtitle; and

(ii) subject to paragraph (6) of this subsection, the remaining savings shall be used for additional services identified as reinvestment priorities in the Justice Reinvestment Coordinating Council’s Final Report.

(6) The Board may recommend that a portion of the remaining savings identified under paragraph (5)(ii) of this subsection be:

(I) used for the development and implementation of a post-secondary education and workforce training program for each correctional institution in the Division of Correction that provides inmates with the requisite training, certifications, and experience to obtain careers in in-demand job sectors; OR

(II) FOR FISCAL YEAR 2025 ONLY, DISTRIBUTED TO THE OFFICE OF THE CORRECTIONAL OMBUDSMAN.

SUBTITLE ~~9~~ 38. OFFICE OF THE CORRECTIONAL OMBUDSMAN ~~UNIT~~.

PART I. ESTABLISHED.

~~6-901~~ 9-3801.

(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) “ADMINISTRATIVE ACT” MEANS ANY ACTION, DECISION, ADJUDICATION, FAILURE TO ACT, OMISSION, RULE OR REGULATION, INTERPRETATION, RECOMMENDATION, POLICY, PRACTICE, OR PROCEDURE OF AN AGENCY.

(C) (1) “AGENCY” MEANS:

(I) THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES ~~OR THE DEPARTMENT OF JUVENILE SERVICES;~~

(II) ANY OFFICER OR EMPLOYEE OF THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES ~~OR THE DEPARTMENT OF JUVENILE SERVICES;~~

(III) ANY PERSON PROVIDING SERVICES UNDER A CONTRACT WITH THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES ~~OR THE DEPARTMENT OF JUVENILE SERVICES~~ TO INDIVIDUALS WHO ARE CONFINED BY OR UNDER THE SUPERVISION OF ~~THE DEPARTMENT EITHER DEPARTMENT~~ THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES; OR

(IV) ANY OFFICER, EMPLOYEE, OR ADMINISTRATIVE HEARING EXAMINER OF THE STATE OR A UNIT OF LOCAL GOVERNMENT WHO IS ACTING OR PURPORTING TO ACT IN RELATION TO INDIVIDUALS CONFINED BY OR UNDER THE SUPERVISION OF THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES ~~OR THE DEPARTMENT OF JUVENILE SERVICES.~~

(2) “AGENCY” DOES NOT INCLUDE:

(I) A JUDGE, AS DEFINED IN § 1-101 OF THE COURTS ARTICLE, OR ANY OTHER EMPLOYEE OF THE JUDICIARY;

(II) THE GENERAL ASSEMBLY OR ANY MEMBER, EMPLOYEE, OR COMMITTEE OF THE GENERAL ASSEMBLY; OR

(III) THE GOVERNOR OR THE GOVERNOR’S PERSONAL STAFF.

(D) (1) “COMPLAINT” MEANS ANY COMMUNICATION:

(I) FROM OR ON BEHALF OF AN INDIVIDUAL CONFINED BY OR UNDER THE SUPERVISION OF AN AGENCY; AND

(II) ALLEGING A VIOLATION OF THE INDIVIDUAL’S RIGHTS OR ANY APPLICABLE LAW, REGULATION, OR STANDARD:

1. BY THE AGENCY; AND

2. THAT IMPACTED THE INDIVIDUAL.

(2) “COMPLAINT” DOES NOT INCLUDE A DISCIPLINARY PROCEEDING OF AN INCARCERATED INDIVIDUAL.

(E) “OFFICE” MEANS THE OFFICE OF THE CORRECTIONAL OMBUDSMAN.

(F) “RECORDS” MEANS ALL MATERIALS, REGARDLESS OF PHYSICAL FORM OR CHARACTERISTICS, CREATED, GENERATED, RECORDED, RECEIVED, POSSESSED, OR CONTROLLED BY OR ON BEHALF OF ANY AGENCY.

~~(F) “UNIT” MEANS THE CORRECTIONAL OMBUDSMAN UNIT IN THE OFFICE OF THE ATTORNEY GENERAL.~~

~~6-902. 9-3802.~~

THERE IS A AN OFFICE OF THE CORRECTIONAL OMBUDSMAN UNIT IN THE OFFICE OF THE ATTORNEY GENERAL ESTABLISHED AS AN INDEPENDENT UNIT OF STATE GOVERNMENT.

~~6-903. 9-3803.~~

(A) THE UNIT OFFICE SHALL INCLUDE:

(1) A FULL-TIME CORRECTIONAL OMBUDSMAN; ~~AND~~

(2) STAFF AS PROVIDED IN THE STATE BUDGET; AND

(3) THE JUVENILE JUSTICE MONITORING UNIT ESTABLISHED IN § 9-3812 OF THIS SUBTITLE.

(B) (1) THE ~~ATTORNEY GENERAL~~ GOVERNOR SHALL APPOINT THE CORRECTIONAL OMBUDSMAN WITH THE ADVICE AND CONSENT OF THE SENATE.

(2) THE CORRECTIONAL OMBUDSMAN SHALL SERVE FOR A TERM OF 5 YEARS.

(3) AT THE END OF A TERM, THE CORRECTIONAL OMBUDSMAN CONTINUES TO SERVE UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

(C) SALARIES OF THE OMBUDSMAN AND STAFF AND EXPENSES FOR RENT, EQUIPMENT, SUPPLIES, AND GENERAL OPERATING EXPENSES NECESSARY FOR THE WORK OF THE ~~UNIT~~ OFFICE SHALL BE AS PROVIDED IN THE STATE BUDGET.

~~(D) IN COOPERATION WITH THE SECRETARY OF BUDGET AND MANAGEMENT, THE ATTORNEY GENERAL SHALL SET MINIMUM SALARIES, QUALIFICATIONS, AND STANDARDS OF TRAINING AND EXPERIENCE FOR POSITIONS WITH THE UNIT.~~

~~6-904. 9-3804.~~

(A) THE ~~UNIT~~ OFFICE, IN RESPONSE TO A COMPLAINT OR ON THE OMBUDSMAN'S INITIATIVE, SHALL:

(1) INVESTIGATE ANY ADMINISTRATIVE ACT THAT THE OMBUDSMAN DETERMINES MAY BE:

(I) CONTRARY TO LAW OR REGULATION;

(II) BASED ON A MISTAKE OF FACT;

(III) UNSUPPORTED BY SUFFICIENT EVIDENCE;

(IV) PERFORMED IN AN INEFFICIENT MANNER;

(V) UNREASONABLE UNDER THE TOTALITY OF THE CIRCUMSTANCES; OR

(VI) OTHERWISE ERRONEOUS;

(2) CONDUCT INDEPENDENT REVIEWS AND ASSESSMENTS OF:

(I) HEALTH SERVICES, INCLUDING SUBSTANCE ~~ABUSE~~ USE DISORDER ASSESSMENTS AND TREATMENT, PROVIDED TO INDIVIDUALS CONFINED BY ANY AGENCY;

(II) MENTAL HEALTH SERVICES PROVIDED TO INDIVIDUALS CONFINED BY ANY AGENCY;

(III) PLANS BY AGENCIES TO EXPAND, RENOVATE, OR CLOSE FACILITIES;

(IV) EDUCATIONAL AND VOCATIONAL PROGRAMS FOR INDIVIDUALS CONFINED BY ANY AGENCY; AND

(V) AGENCY POLICIES ON RESTRICTIVE OR PROTECTIVE HOUSING;

(3) COOPERATE WITH ANY AGENCY IN EFFORTS TO IMPROVE THE FUNCTIONING OF ANY AGENCY OR PREVENT ABUSES BY AGENCIES;

(4) INSPECT ANY FACILITIES OWNED OR CONTROLLED BY ANY AGENCY TO MONITOR CONDITIONS IN THE FACILITIES;

(5) SEEK TO RESOLVE COMPLAINTS AGAINST AN AGENCY THROUGH MEDIATION OR OTHER CONFLICT RESOLUTION METHODS;

(6) MAINTAIN A WEBSITE THAT:

(I) SUBJECT TO THE REQUIREMENTS OF SUBSECTION ~~(E)~~ (F) OF THIS SECTION, MAKES CURRENT AND PAST REPORTS AVAILABLE TO THE PUBLIC; AND

(II) PROVIDES CONTACT INFORMATION FOR THE ~~UNIT~~ OFFICE;
AND

(7) ADOPT REGULATIONS NECESSARY TO CARRY OUT THE REQUIREMENTS OF THIS SUBTITLE.

(B) (1) THE ~~UNIT~~ OFFICE SHALL INVESTIGATE EACH COMPLAINT ABOUT AN ADMINISTRATIVE ACT, UNLESS THE ~~UNIT~~ OFFICE DETERMINES THAT:

(I) THE COMPLAINT COULD BE ADDRESSED THROUGH ANOTHER PROCESS;

(II) THE COMPLAINT IS TRIVIAL, FRIVOLOUS, VEXATIOUS, OR NOT MADE IN GOOD FAITH;

(III) THE COMPLAINANT UNREASONABLY DELAYED IN BRINGING THE COMPLAINT; OR

~~(IV) THE COMPLAINANT IS NOT PERSONALLY AFFECTED BY THE ADMINISTRATIVE ACT; OR~~

~~(V) THE UNIT OFFICE LACKS SUFFICIENT RESOURCES TO INVESTIGATE THE COMPLAINT.~~

(2) THE UNIT OFFICE SHALL PROMPTLY INFORM A COMPLAINANT OF A DECISION NOT TO INVESTIGATE A COMPLAINT.

(3) ON REQUEST, THE UNIT OFFICE SHALL PROMPTLY INFORM A COMPLAINANT OF THE STATUS OF AN INVESTIGATION.

(4) ON THE COMPLETION OF AN INVESTIGATION BASED ON A COMPLAINT, THE UNIT OFFICE SHALL PROMPTLY INFORM THE COMPLAINANT OF ANY CONCLUSIONS, RECOMMENDATIONS, AND ACTIONS TAKEN IN RESPONSE TO THE COMPLAINT.

(C) ~~(1)~~ IF THE UNIT OFFICE DETERMINES THAT AN EMPLOYEE OR AGENT OF AN AGENCY ACTED IN A MANNER WARRANTING CRIMINAL CHARGES OR DISCIPLINARY PROCEEDINGS, THE UNIT OFFICE SHALL PROMPTLY REFER THE MATTER TO APPROPRIATE AUTHORITIES.

~~(2) IF THE UNIT REFERS THE MATTER TO THE OFFICE OF THE ATTORNEY GENERAL, A SPECIAL ASSISTANT SHALL BE APPOINTED TO REVIEW THE MATTER.~~

(D) THE UNIT OFFICE MAY:

(1) INTERVIEW AGENCY PERSONNEL OR ANY INDIVIDUAL CONFINED BY AN AGENCY;

(2) ACCESS ANY RECORDS MAINTAINED BY AN AGENCY;

(3) PERFORM UNANNOUNCED SITE VISITS AND ON-SITE INSPECTIONS OF FACILITIES MAINTAINED BY AN AGENCY;

(4) RECEIVE AND RESPOND TO COMPLAINTS WITHOUT INTERCEPTION, REVIEW, OR INTERFERENCE BY AN AGENCY;

~~(5) SUBPOENA ANY INDIVIDUAL TO APPEAR TO GIVE SWORN TESTIMONY OR PRODUCE DOCUMENTARY EVIDENCE THAT IS REASONABLY NECESSARY TO CARRY OUT THE UNIT'S DUTIES;~~

~~(6)~~ REVIEW ALL REPORTS OF DISCIPLINARY ACTIONS, GRIEVANCES, AND GRIEVANCE DISPOSITIONS BY THE AGENCY; AND

~~(7)~~ (6) COLLABORATE WITH ANY AGENCY OR ANY UNIT OF STATE GOVERNMENT TO INVESTIGATE COMPLAINTS OR ANY ALLEGED INJURY, NEGLECT, OR DEATH OF AN INDIVIDUAL CONFINED BY OR UNDER THE SUPERVISION OF AN AGENCY.

(E) (1) THE OFFICE MAY SUBPOENA ANY INDIVIDUAL TO APPEAR TO GIVE SWORN TESTIMONY OR PRODUCE DOCUMENTARY EVIDENCE THAT IS REASONABLY NECESSARY TO CARRY OUT THE OFFICE'S DUTIES.

(2) IF AN INDIVIDUAL FAILS OR REFUSES TO COMPLY WITH A SUBPOENA ISSUED BY THE OFFICE, A COURT OF COMPETENT JURISDICTION, ON THE APPLICATION OF THE OFFICE, MAY ISSUE AN ATTACHMENT FOR THE INDIVIDUAL AND COMPEL THE INDIVIDUAL TO COMPLY WITH THE SUBPOENA, APPEAR BEFORE THE OFFICE, AND PRODUCE DOCUMENTARY EVIDENCE FOR EXAMINATION AND GIVE TESTIMONY.

(3) IF AN INDIVIDUAL DISOBEYS A SUBPOENA OR REFUSES TO TESTIFY, THE COURT MAY PUNISH THE INDIVIDUAL FOR CONTEMPT.

~~(E) (F)~~ IN PERFORMING THE DUTIES ASSIGNED UNDER THIS SUBTITLE, THE ~~UNIT OFFICE AND THE OFFICE OF THE ATTORNEY GENERAL~~ SHALL TREAT ALL COMPLAINTS AS CONFIDENTIAL AND MAY REVEAL THE DETAILS OF ANY COMPLAINTS ONLY IF IT IS:

(1) NECESSARY TO CARRY OUT THE ~~UNIT'S~~ OFFICE'S DUTIES; AND

(2) DONE IN ACCORDANCE WITH APPLICABLE STATE AND FEDERAL LAW.

~~6-905.~~ 9-3805.

(A) WITHIN 30 DAYS AFTER COMPLETING AN INVESTIGATION, THE ~~UNIT~~ OFFICE SHALL SUBMIT TO AN AGENCY A REPORT CONTAINING ANY CONCLUSIONS, RECOMMENDATIONS, AND REQUESTS FOR A RESPONSE FROM THE AGENCY.

(B) IF THE REPORT SUBMITTED TO AN AGENCY UNDER THIS SECTION CONTAINS A REQUEST FOR A RESPONSE FROM THE AGENCY, THE AGENCY SHALL PROVIDE A WRITTEN RESPONSE WITHIN ~~30~~ 45 DAYS AFTER RECEIPT OF THE REPORT.

(C) THE ~~UNIT~~ OFFICE MAY PROVIDE THE REPORT REQUIRED BY THIS SECTION, AS WELL AS ANY RESPONSES BY THE AGENCY, TO THE GOVERNOR OR, IN ACCORDANCE WITH § 2-1257 OF THIS ARTICLE, THE GENERAL ASSEMBLY.

~~6-906.~~ 9-3806.

(A) ON OR BEFORE DECEMBER 31 EACH YEAR, THE ~~UNIT~~ OFFICE SHALL REPORT TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2-1257 OF THIS ARTICLE, THE GENERAL ASSEMBLY ON:

- (1) INVESTIGATIONS CONDUCTED BY THE ~~UNIT~~ OFFICE;
- (2) ANY ACTIONS TAKEN BY AN AGENCY AS A RESULT OF THE CONCLUSIONS OR RECOMMENDATIONS OF THE ~~UNIT~~ OFFICE;
- (3) ANY INSTANCE WHERE AN AGENCY REJECTS A RECOMMENDATION OR CONCLUSION OF THE ~~UNIT~~ OFFICE; AND
- (4) INFORMATION ON ANY DEATH OF AN INDIVIDUAL CONFINED BY OR UNDER THE CARE OF AN AGENCY.

(B) IN ADDITION TO THE REPORT REQUIRED BY SUBSECTION (A) OF THIS SECTION, THE ~~UNIT~~ OFFICE SHALL PROVIDE TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2-1257 OF THIS ARTICLE, THE GENERAL ASSEMBLY ANY OTHER REPORTS THAT THE GOVERNOR OR THE GENERAL ASSEMBLY MAY REQUIRE.

(C) A REPORT PREPARED UNDER THIS SECTION SHALL BE PUBLISHED ON THE ~~UNIT'S~~ OFFICE'S WEBSITE.

~~6-907.~~ 9-3807.

(A) IN THIS SECTION, "BOARD" MEANS THE CORRECTIONAL OMBUDSMAN ADVISORY BOARD.

(B) THERE IS A CORRECTIONAL OMBUDSMAN ADVISORY BOARD.

(C) THE ~~PURPOSE~~ PURPOSES OF THE BOARD ~~IS~~ ARE TO:

(1) PROVIDE INFORMATION TO THE ~~UNIT~~ OFFICE; AND

(2) ASSIST THE ~~UNIT~~ OFFICE IN:

(I) IDENTIFYING APPROPRIATE MATTERS TO INVESTIGATE;

AND

(II) DEVELOPING PROCESSES BY WHICH COMPLAINTS ARE SUBMITTED, REVIEWED, INVESTIGATED, AND RESOLVED.

(D) THE BOARD SHALL CONSIST OF ~~10~~ 12 MEMBERS APPOINTED BY THE ~~ATTORNEY GENERAL~~ GOVERNOR.

(E) TO THE EXTENT PRACTICABLE, THE ~~ATTORNEY GENERAL~~ GOVERNOR SHALL ENSURE THAT THE MEMBERSHIP OF THE BOARD INCLUDES ~~REPRESENTATIVES OF:~~

(1) FAMILY MEMBERS OF CONFINED INDIVIDUALS;

(2) RETURNING CITIZENS;

(3) NONSUPERVISORY CORRECTIONAL OFFICERS;

(4) MEMBERS OF THE PUBLIC WITH A DEMONSTRATED INTEREST IN CORRECTIONS; ~~AND~~

(5) INDIVIDUALS WITH BACKGROUNDS IN HEALTH CARE AND SOCIAL WORK; ~~AND~~

(6) INDIVIDUALS WITH BACKGROUNDS IN MENTAL HEALTH CARE AND SUBSTANCE ~~ABUSE~~ USE DISORDER TREATMENT; AND

(7) AT LEAST TWO INDIVIDUALS WITH EXPERIENCE MANAGING A LARGE GOVERNMENT AGENCY.

(F) **(1)** THE BOARD MAY NOT INCLUDE MORE THAN THREE MEMBERS WHO ARE CURRENT OR FORMER EMPLOYEES OF THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES.

(2) NO MEMBER OF THE BOARD MAY BE CURRENTLY EMPLOYED BY THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES IN A SUPERVISORY CAPACITY.

~~(F)~~ (G) A MEMBER OF THE BOARD SERVES AT THE PLEASURE OF THE GOVERNOR.

~~(F)~~ ~~(G)~~ (H) THE UNIT OFFICE SHALL PROVIDE STAFF FOR THE BOARD.

9-3808.

(A) THE OFFICE SHALL REVIEW POTENTIAL FEDERAL FUNDING SOURCES, INCLUDING GRANTS OFFERED UNDER THE JUSTICE REINVESTMENT INITIATIVE AND THE SECOND CHANCE ACT.

(B) THE OFFICE MAY APPLY FOR RELEVANT FUNDING SOURCES.

9-3809. RESERVED.

9-3810. RESERVED.

Part II. Juvenile Justice Monitoring Unit.

9-3811.

(a) In this [subtitle] PART the following words have the meanings indicated.

(b) “Department” means the Department of Juvenile Services.

(c) “Disciplinary action” means any punitive action against a child that results in more security, additional obligations, or less personal freedom.

(d) “Deputy Director” means the Deputy Director of the Division of Children and Youth of the Governor’s Office of Crime Prevention, Youth, and Victim Services.

(e) “Facility” means:

(1) a residential facility operated by the Department;

(2) a residential facility owned by the Department but privately operated;

and

(3) a residential facility licensed by the Department.

(f) (1) “Grievance” means a complaint made by a child or on behalf of a child due to a circumstance or an action considered to be unjust.

(2) “Grievance” does not include an employee grievance, disciplinary appeal, or complaint.

(g) “Juvenile justice monitor” means an individual employed by the Office of the [Attorney General] CORRECTIONAL OMBUDSMAN to determine whether the needs of children under the jurisdiction of the Department are being met in compliance with State law, that their rights are being upheld, and that they are not being abused.

(h) “Secretary” means the Secretary of Juvenile Services.

(i) “Unit” means the Juvenile Justice Monitoring Unit of the Office [of the Attorney General].

9-3812.

(a) There is a Juvenile Justice Monitoring Unit of the Office of the [Attorney General] CORRECTIONAL OMBUDSMAN.

(b) The function of the Unit is to investigate and determine whether the needs of children under the jurisdiction of the Department of Juvenile Services are being met in compliance with State law, that their rights are being upheld, and that they are not being abused.

9-3813.

(a) The Unit shall include:

(1) a full-time Director of Juvenile Justice Monitoring; and

(2) staff, including juvenile justice monitors, as provided in the State budget.

(b) Salaries of the Director and juvenile justice monitors and expenses for rent, equipment, supplies, and general operating expenses necessary for the work of the Unit shall be as provided in the State budget.

(c) In cooperation with the Secretary of Budget and Management, the [Attorney General] CORRECTIONAL OMBUDSMAN shall set minimum salaries, qualifications, and standards of training and experience for positions with the Unit.

9-3814.

The Unit shall:

(1) evaluate at each facility:

(i) the child advocacy grievance process;

- (ii) the Department's monitoring process;
- (iii) the treatment of and services to youth;
- (iv) the physical conditions of the facility; and
- (v) the adequacy of staffing;

(2) review all reports of disciplinary actions, grievances, and grievance dispositions received from each facility and alterations in the status or placement of a child that result in more security, additional obligations, or less personal freedom;

(3) receive copies of the grievances submitted to the Department;

(4) perform unannounced site visits and on-site inspections of facilities;

(5) receive and review all incident reports submitted to the Department from facilities;

(6) receive reports of the findings of child protective services investigations of allegations of abuse or neglect of a child in a facility;

(7) ensure that each facility is in compliance with the regulations applicable to residential facilities;

(8) monitor the implementation of educational programs at each residential facility;

(9) collaborate with the Department, the Department of Human Services, the Maryland Department of Health, and the Division of Children and Youth of the Governor's Office of Crime Prevention, Youth, and Victim Services in all matters related to the licensing and monitoring of children's residential facilities; and

(10) have a representative available to attend meetings of the advisory boards established under § 9-230 of the Human Services Article and meetings of the Juvenile Services Education Board established under § 9-502 of the Human Services Article.

9-3815.

(A) The Unit may:

(1) review relevant laws, policies, procedures, and juvenile justice records, including records relating to individual youth;

(2) on request, conduct interviews with staff, youth, and others;

(3) review investigative reports produced by the Department relating to youth in facilities; and

(4) participate, within the context of the local department of social services' multidisciplinary team process, in a child protective services investigation conducted under Title 5, Subtitle 7 of the Family Law Article concerning any allegation of abuse or neglect within any assigned facility.

(B) (1) THE UNIT MAY SUBPOENA ANY INDIVIDUAL TO APPEAR TO GIVE SWORN TESTIMONY OR PRODUCE DOCUMENTARY EVIDENCE THAT IS REASONABLY NECESSARY TO CARRY OUT THE UNIT'S DUTIES.

(2) IF AN INDIVIDUAL FAILS OR REFUSES TO COMPLY WITH A SUBPOENA ISSUED BY THE UNIT, A COURT OF COMPETENT JURISDICTION, ON THE APPLICATION OF THE UNIT, MAY ISSUE AN ATTACHMENT FOR THE INDIVIDUAL AND COMPEL THE INDIVIDUAL TO COMPLY WITH THE SUBPOENA, AND APPEAR BEFORE THE UNIT AND PRODUCE DOCUMENTARY EVIDENCE FOR EXAMINATION AND GIVE TESTIMONY.

(3) IF AN INDIVIDUAL DISOBEYS A SUBPOENA OR REFUSES TO TESTIFY, THE COURT MAY PUNISH THE INDIVIDUAL FOR CONTEMPT.

9-3816.

(a) The Unit shall report in a timely manner to the Deputy Director, the Secretary, and, in accordance with § 2-1257 of this article, the Speaker of the House of Delegates and the President of the Senate:

(1) knowledge of any problem regarding the care, supervision, and treatment of children in facilities;

(2) findings, actions, and recommendations, related to the investigations of disciplinary actions, grievances, incident reports, and alleged cases of child abuse and neglect; and

(3) all other findings and actions related to the monitoring required under this subtitle.

Article – State Personnel and Pensions

5-305.

Subject to the limitations of § 5-306 of this subtitle, a supervisor, appointing authority, or the head of a principal unit may not take or refuse to take any personnel action as a reprisal against:

(1) an employee who discloses information that the employee reasonably believes evidences:

- (i) an abuse of authority, gross mismanagement, or gross waste of money;
- (ii) a substantial and specific danger to public health or safety; or
- (iii) a violation of law;

(2) an employee of the Department of Juvenile Services who discloses information to the Director of Juvenile Justice Monitoring or staff of the **OFFICE OF THE CORRECTIONAL OMBUDSMAN, INCLUDING THE** Juvenile Justice Monitoring Unit relating to the Unit's duties under ~~§ 6-404(1)~~ **§ 9-3814** of the State Government Article; [or]

(3) AN EMPLOYEE OF THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES WHO DISCLOSES INFORMATION TO THE CORRECTIONAL OMBUDSMAN OR STAFF OF THE OFFICE OF THE CORRECTIONAL OMBUDSMAN UNIT RELATING TO THE UNIT'S OFFICE'S DUTIES UNDER ~~§ 6-904~~ § 9-3804 OF THE STATE GOVERNMENT ARTICLE; OR

~~[(3)]~~ (4) an employee who, following a disclosure under item [(1) or] **(1), (2), OR (3)** of this section, seeks a remedy provided under this subtitle or any other law or policy governing the employee's unit.

SECTION 3. AND BE IT FURTHER ENACTED, That the Governor shall transfer four positions and \$603,067 in general funds for the Juvenile Justice Monitoring Unit as of July 1, 2024, from C81C00.12 Office of the Attorney General – Juvenile Justice Monitoring Unit to the Office of the Correctional Ombudsman established under Section 2 of this Act.

~~SECTION 2.~~ 4. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly that the Governor shall include in the State budget for fiscal year 2025 and each subsequent fiscal year an appropriation in an amount sufficient to fund the provisions of this Act and to provide for at least two staff members of the Office of the Correctional Ombudsman Unit in 2025 and at least seven staff members of the Unit Office in 2026 and each subsequent fiscal year.

~~SECTION 3.~~ 5. AND BE IT FURTHER ENACTED, That on or before December 31, 2024, the Office of the Correctional Ombudsman Unit and the Commission on Correctional Standards shall submit a joint report to the Governor and, in accordance with § 2-1257 of the State Government Article, the General Assembly detailing how the Office Correctional Ombudsman Unit and the Commission will coordinate in order to avoid overlap in their duties.

SECTION ~~4~~ 6. AND BE IT FURTHER ENACTED, That on or before December 31, 2024, the Mediation and Conflict Resolution Office shall report to the Office of the Correctional Ombudsman Unit, the Governor, and, in accordance with § 2–1257 of the State Government Article, the General Assembly on best practices for mediating grievances in the corrections system.

SECTION ~~5~~ 7. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly that, in its first year of operation, the Office of the Correctional Ombudsman Unit focus its activities primarily on those State correctional facilities located in the area of Jessup, Maryland.

SECTION ~~6~~ 8. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly that, in its first year of operation, the Office of the Correctional Ombudsman Unit conduct an audit of programming and services provided by the Division of Corrections since fiscal year 2019. This audit shall include, among other things, an examination of:

- (1) rates of participation by incarcerated individuals in:
 - (i) educational and vocational training;
 - (ii) evidence–based behavioral health and substance ~~abuse~~ use *disorder* counseling; and
 - (iii) mentoring and reentry programs; and
- (2) any obstacles to participation by incarcerated individuals in programs provided by the Division.

SECTION ~~7~~ 9. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2024.

Approved by the Governor, May 16, 2024.