

SSB 5876 - H COMM AMD

By Committee on Public Safety

NOT CONSIDERED 12/23/2019

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** The legislature intends to assist the
4 department of corrections in ensuring that gender-responsive and
5 trauma-informed practices are integrated into classification,
6 programming, and interactions with persons experiencing
7 incarceration. In furtherance of this goal, it is the intent of the
8 legislature to establish a gender-responsive and trauma-informed work
9 group within the department of corrections to study and make
10 recommendations for effective implementation of gender-specific
11 programs, classification systems, and organizational structures
12 within the department including, but not limited to, the creation of
13 a women's division and other items identified in section 2(2) of this
14 act.

15 NEW SECTION. **Sec. 2.** (1) Subject to the availability of amounts
16 appropriated for this specific purpose, the gender-responsive and
17 trauma-informed work group is established within the department of
18 corrections. The work group membership may consist of, but is not
19 limited to, the following:

20 (a) Representatives who specialize in the medical and
21 psychological treatment of women;

22 (b) Representatives from the financial, faith-based, educational,
23 arts, and cultural communities;

24 (c) Representatives from the department of corrections reentry
25 division, prison division, community corrections division,
26 correctional industries, and human resources;

27 (d) A family member of a person experiencing incarceration;

28 (e) Individuals with training and experience in developmental
29 psychology, parenting, trauma-informed practices, and adverse
30 childhood experiences;

1 (f) A representative from an organization supporting crime
2 victims, and interested and willing victims of crimes;

3 (g) A representative from the office of the corrections ombuds;

4 (h) Any interested members of the legislature;

5 (i) At least two individuals who have experienced incarceration
6 and successfully reentered; and

7 (j) A representative familiar with aging and disability services.

8 (2) The work group must develop suggestions and recommendations
9 specific to:

10 (a) Evidence-based, gender-responsive, and trauma-informed
11 practices that govern operations and programs for women experiencing
12 incarceration;

13 (b) Appropriate ongoing training, orientation, and curriculum
14 about gender-responsive and trauma-informed practices and a plan for
15 how the training shall incorporate emerging best practices, and be
16 delivered to department of corrections staff;

17 (c) How best to implement validated gender-responsive
18 classification and placement instruments;

19 (d) How best to implement a validated gender-responsive
20 assessment tool and case management system that is based on the risk-
21 needs-responsivity model;

22 (e) How best to implement policies, practices, and programs to
23 address differences in physical conditions of incarceration and
24 physical health needs for men and women;

25 (f) How to create and implement a women's division within the
26 department of corrections; and

27 (g) How to ensure staff responsible for supervision of females
28 under mandatory supervised release are appropriately trained in
29 evidence-based practices in community supervision, gender-responsive
30 practices, and trauma-informed practices.

31 (3) Staff support for the work group must be provided by the
32 department of corrections.

33 (4) The work group must submit a report to the governor and the
34 legislature with its recommendations, and to the extent possible an
35 estimation of the costs associated with implementing the
36 recommendations, by December 1, 2020.

37 (5) This section expires June 30, 2021.

38 **Sec. 3.** RCW 43.06C.040 and 2018 c 270 s 5 are each amended to
39 read as follows:

- 1 (1) The ombuds shall:
- 2 (a) Establish priorities for use of the limited resources
3 available to the ombuds;
- 4 (b) Maintain a statewide toll-free telephone number, a collect
5 telephone number, a web site, and a mailing address for the receipt
6 of complaints and inquiries;
- 7 (c) Provide information, as appropriate, to inmates, family
8 members, representatives of inmates, department employees, and others
9 regarding the rights of inmates;
- 10 (d) Provide technical assistance to support inmate participation
11 in self-advocacy;
- 12 (e) Monitor department compliance with applicable federal, state,
13 and local laws, rules, regulations, and policies as related to the
14 health, safety, welfare, and rehabilitation of inmates;
- 15 (f) Monitor and participate in legislative and policy
16 developments affecting correctional facilities;
- 17 (g) Establish a statewide uniform reporting system to collect and
18 analyze data related to complaints received by the ombuds regarding
19 the department;
- 20 (h) Establish procedures to receive, investigate, and resolve
21 complaints;
- 22 (i) Establish procedures to gather stakeholder input into the
23 ombuds' activities and priorities, which must include at a minimum
24 quarterly public meetings;
- 25 (j) Submit annually to the governor's office, the legislature,
26 and the statewide family council, by November 1st of each year, a
27 report that includes, at a minimum, the following information:
- 28 (i) The budget and expenditures of the ombuds;
- 29 (ii) The number of complaints received and resolved by the
30 ombuds, including information specific to the number and a
31 description of gender-based complaints;
- 32 (iii) A description of significant systemic or individual
33 investigations or outcomes achieved by the ombuds during the prior
34 year;
- 35 (iv) Any outstanding or unresolved concerns or recommendations of
36 the ombuds; and
- 37 (v) Input and comments from stakeholders, including the statewide
38 family council, regarding the ombuds' activities during the prior
39 year; and

1 (k) Adopt and comply with rules, policies, and procedures
2 necessary to implement this chapter.

3 (2)(a) The ombuds may initiate and attempt to resolve an
4 investigation upon his or her own initiative, or upon receipt of a
5 complaint from an inmate, a family member, a representative of an
6 inmate, a department employee, or others, regarding any of the
7 following that may adversely affect the health, safety, welfare, and
8 rights of inmates:

9 (i) Abuse or neglect;

10 (ii) Department decisions or administrative actions;

11 (iii) Inactions or omissions;

12 (iv) Policies, rules, or procedures; or

13 (v) Alleged violations of law by the department that may
14 adversely affect the health, safety, welfare, and rights of inmates.

15 (b) Prior to filing a complaint with the ombuds, a person shall
16 have reasonably pursued resolution of the complaint through the
17 internal grievance, administrative, or appellate procedures with the
18 department. However, in no event may an inmate be prevented from
19 filing a complaint more than ninety business days after filing an
20 internal grievance, regardless of whether the department has
21 completed the grievance process. This subsection (2)(b) does not
22 apply to complaints related to threats of bodily harm including, but
23 not limited to, sexual or physical assaults or the denial of
24 necessary medical treatment.

25 (c) The ombuds may decline to investigate any complaint as
26 provided by the rules adopted under this chapter.

27 (d) If the ombuds does not investigate a complaint, the ombuds
28 shall notify the complainant of the decision not to investigate and
29 the reasons for the decision.

30 (e) The ombuds may not investigate any complaints relating to an
31 inmate's underlying criminal conviction.

32 (f) The ombuds may not investigate a complaint from a department
33 employee that relates to the employee's employment relationship with
34 the department or the administration of the department, unless the
35 complaint is related to the health, safety, welfare, and
36 rehabilitation of inmates.

37 (g) The ombuds must attempt to resolve any complaint at the
38 lowest possible level.

39 (h) The ombuds may refer complainants and others to appropriate
40 resources, agencies, or departments.

1 (i) The ombuds may not levy any fees for the submission or
2 investigation of complaints.

3 (j) The ombuds must remain neutral and impartial and may not act
4 as an advocate for the complainant or for the department.

5 (k) At the conclusion of an investigation of a complaint, the
6 ombuds must render a public decision on the merits of each complaint,
7 except that the documents supporting the decision are subject to the
8 confidentiality provisions of RCW 43.06C.060. The ombuds must
9 communicate the decision to the inmate, if any, and to the
10 department. The ombuds must state its recommendations and reasoning
11 if, in the ombuds' opinion, the department or any employee thereof
12 should:

13 (i) Consider the matter further;

14 (ii) Modify or cancel any action;

15 (iii) Alter a rule, practice, or ruling;

16 (iv) Explain in detail the administrative action in question; or

17 (v) Rectify an omission.

18 (l) If the ombuds so requests, the department must, within the
19 time specified, inform the ombuds about any action taken on the
20 recommendations or the reasons for not complying with the
21 recommendations.

22 (m) If the ombuds believes, based on the investigation, that
23 there has been or continues to be a significant inmate health,
24 safety, welfare, or rehabilitation issue, the ombuds must report the
25 finding to the governor and the appropriate committees of the
26 legislature.

27 (n) Before announcing a conclusion or recommendation that
28 expressly, or by implication, criticizes a person or the department,
29 the ombuds shall consult with that person or the department. The
30 ombuds may request to be notified by the department, within a
31 specified time, of any action taken on any recommendation presented.
32 The ombuds must notify the inmate, if any, of the actions taken by
33 the department in response to the ombuds' recommendations.

34 (3) This chapter does not require inmates to file a complaint
35 with the ombuds in order to exhaust available administrative remedies
36 for purposes of the prison litigation reform act of 1995, P.L.
37 104-134."

38 Correct the title.

EFFECT: Removes the section of the bill making changes to the statement of legislative intent for the Department of Corrections. Modifies the intent language pertaining to the policies in the bill and places it in a stand-alone section. Removes the definitions of "gender-responsive" and "trauma informed practices." Adds to the assignment of the Gender-Responsive and Trauma-Informed Work Group (work group) to develop recommendations for the creation and implementation of a women's division within the Department of Corrections. Requires the work group to include in its report, to the extent possible, an estimation of the costs associated with implementing its recommendations. Reinstates current law references to "inmate" (from "persons experiencing incarceration" in the underlying bill) in the remaining amendatory section outlining the duties of the Office of the Corrections Ombuds.

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