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January 7, 2026

In Opposition to:

LD 1962, An Act to Establish the Corrections Ombudsman

Senator Beebe-Center, Representative Hasenfus, and distinguished members of the Joint Standing Committee on Criminal Justice and Public Safety, I am Tony Cantillo, Deputy Commissioner of the Maine Department of Corrections (DOC) providing testimony today in opposition to LD 1962, An Act to Establish the Corrections Ombudsman.

As written, the bill would establish an Office of the Corrections Ombudsman that would oversee prison operations, but not county jails, without any justification for focusing solely on one slice of Maine's incarcerated population. There is no need for an entirely new office of state government to cover the approximately 2,060 residents in the Department's custody, when there are already many channels for our residents to pursue complaints and make requests.

These processes include the MDOC grievance procedure, available to all residents and publicly online, which was developed under the Administrative Procedures Act, meaning it was formulated with public comment and after a public hearing and cannot be changed by MDOC without going through that process again. Under the grievance procedure, a resident may challenge departmental actions that affect the resident, and those decisions may be reversed or modified and is appealable through the facility level up to the Commissioner's office. Discipline and classification decisions (such as housing placement or custody level) have their own separate processes outside of the grievance procedure. Residents may appeal disciplinary decisions up through the facility level to the Deputy Commissioner level, and residents may appeal classification decisions to the Director of Classification.

In addition to the grievance procedure and discipline and classification appeal processes, prison residents may file a complaint with the Maine Human Rights Commission, by mail or by phone. That Commission now investigates resident allegations of all types of discrimination (such as gender, race, and religion), when under prior law, the Commission could only investigate complaints of disability discrimination.

Prison residents may make a complaint against an MDOC staff member by reporting it to any other MDOC employee, who in turn must refer the matter to MDOC's Office of Professional Review, which completes a preliminary investigation of all complaints where a policy or statutory violation is alleged. If the allegation is found to be a credible violation, the investigation continues and discipline may be imposed on the employee.

Prison residents can also pursue complaints or advocate for themselves through the Resident Advisory Councils, which meet regularly with facility leadership to discuss matters affecting residents.

If a resident completes the grievance process and is still dissatisfied, the resident may also seek court intervention, in state court through civil actions or petitions under Maine Civil Procedure Rule 80C (which allows the resident to challenge any final state agency action), or through a federal lawsuit.

For complaints regarding sexual harassment or sexual assault, there are avenues for reporting under the federal Prison Rape Elimination Act (also known as “PREA”). For example, there is a Central Office confidential PREA hotline, a separate confidential PREA grievance process (again, with an appeal process), and the ability for a resident to make a complaint under PREA to any MDOC staff member, which triggers an investigation and referral to outside mental health services. MDOC is under annual reporting obligations, dictated by PREA, to ensure PREA allegations are tracked and investigated.

There is also an inter-faith Council that meets regularly to address requests raised regarding religious practices.

Anyone can submit a complaint through the public MDOC website, and we regularly respond to inquiries from legislators and members of the public.

These external and internal practices are robust and function well. A new state office to oversee the experiences of state prison residents would be unnecessary and likely costly.

Under the bill, the Ombudsman may employ as many people “as necessary,” and the Ombudsman and those employees shall be members of Maine PERS. There will be significant costs associated with establishing and staffing this office.

The bill also provides that the Ombudsman “may exercise powers without regard to the finality of any action of the department” which presumably means the Ombudsman may overrule final Department decisions. This is problematic, because many final Department decisions, such as discipline, are made subject to APA procedures that MDOC is not permitted to change without going through the APA process. Decisions such as housing location and custody level are purposefully discretionary and based on current intelligence, because MDOC is responsible for ensuring residents’ safety, and these decisions should not be subject to change by an outside Ombudsman.

Under the proposed bill, correspondence to and from the Ombudsman must be delivered “unopened,” when even legal mail from attorneys is not treated this way. Legal mail is opened in the residents’ presence, photocopied, the copy inspected by the resident to ensure it is complete, and then the original shredded, due to the potential for trafficking of dangerous substances through correspondents falsely claiming to be attorneys or the courts, which in the last year alone led to over a dozen residents requiring emergency medical treatment both at the facility and in community emergency departments. A dozen staff in the last year also required medical treatment in emergency departments for exposure to substances from mail.

This bill also dictates that after an investigation, the Ombudsman shall inform an affected employee and the complainant of the result, but this conflicts with 5 MRS § 7070, which prevents disclosure of complaints against state employees unless there is a final written disciplinary decision. Similarly, the bill states that the Ombudsman may be present at staff disciplinary hearings and may interview employees, which conflicts with rules governing state employee discipline.

The bill would give the Ombudsman subpoena power, but at the same time, no one in the Ombudsman’s office “may be compelled to testify or to produce evidence in any judicial or administrative proceeding[,]” even if the Ombudsman brings an action in state court. But if the Ombudsman brings an action in court against the State or an employee, that employee or agency should have access to the same information as the Ombudsman. The Court should also receive that information, to ensure a fair process and accurate factfinding.

For these reasons, I strongly urge this committee to vote ought not to pass on LD 1962.

This concludes my testimony.

I am happy to answer any questions.

Anthony Cantillo
Deputy Commissioner, Maine Department of Corrections