



**Written Statement of Molly Gill  
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HB 655 (Office of the Department of Corrections Ombudsman)  
Virginia House of Delegates  
Virtual Hearing of the House Public Safety Committee, Subcommittee 2  
February 3, 2022**

I thank Chair Batten and the members of the subcommittee for considering this written statement regarding HB 655, which would establish independent prison oversight for the Virginia Department of Corrections (DOC).

FAMM is a nonpartisan, nonprofit organization that advocates sentencing and prison policies that are individualized and fair, protect public safety, and preserve families. Among the policies we advocate is the establishment of independent prison oversight bodies in each state. Most of the Virginians who support FAMM have loved ones incarcerated in a state prison, and their top concern is that loved one's safety, health, and rehabilitation. Yet we consistently hear from our members that state prison facilities are unsafe, unsanitary, and lack sufficient medical and mental health care, staff, and rehabilitative programming. Virginia families almost uniformly report to us difficulties in getting information about and help for their incarcerated loved ones from the staff and administration at the DOC. The independent prison oversight envisioned in HB 655 will provide the transparency and accountability these families and taxpayers need and deserve.

HB 655 would, if passed, establish an independent ombudsman's office with the power to inspect prisons, recommend and monitor improvements to prison conditions and facilities, and help resolve prisoner, staff, and family complaints. The ombudsman envisioned in this legislation is similar to other fully independent prison oversight bodies in Washington State, Ohio, Pennsylvania, and New York.

But an independent prison oversight agency requires staffing and funding to execute its duties well. Oversight is not free – it will require annual and ongoing appropriations in the state's budget.

In the 2021 session, the legislature first considered this proposal. The legislature ordered the Department of Public Safety to complete a study of the potential cost of establishing and operating an independent prison ombudsman's office in Virginia. The study concluded that **for an initial appropriation of about \$3.4 million and a subsequent annual appropriation of about \$1.6 million, Virginia could have an independent prison ombudsman's office similar to those operating in other states.**<sup>1</sup> This cost estimate included sufficient ombudsman staff to perform both prison inspections and complaint investigations, along with an IT budget and

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<sup>1</sup> Study available at <https://famm.org/wp-content/uploads/2021-12.01-Ombuds-Final-Report.pdf> (see Option 2, page 45).



funding for several DOC staff positions to provide the necessary security and other assistance to the ombudsman office.

**Independent prison oversight is not free, but the cost of doing nothing is much higher.** The value of fully-funded, effective independent oversight is difficult to measure but undeniable – a classic example of “an ounce of prevention is worth a pound of cure.” Every complaint resolved by an independent ombudsman is a lawsuit the state does not need to pay for. Prison inspections can stop small problems from turning into costly crises and literally save lives.

Virginia cannot afford *not* to have independent prison oversight. Already, the DOC is embroiled in expensive, years-long litigation over the use of solitary confinement in prison facilities. In the last three years alone, the DOC has cost taxpayers dearly for mistakes and shortcomings that adequate oversight might have prevented or ameliorated, for example:

- In 2019, after four inmates died at Fluvanna Correctional Center for Women, a federal judge ruled that the state prison in central Virginia [failed to provide adequate medical care](#) and had to make immediate changes to end what amounted to cruel and unusual punishment.
- In 2020, after weeks of intense negotiations with the Office of the Attorney General, the ACLU of Virginia and Charlottesville attorney Elliott Harding [reached a settlement agreement](#). The lawsuit alleged that Virginia violated the U.S. Constitution by failing to release medically vulnerable residents of state prisons from overcrowded facilities during the COVID-19 pandemic.
- In January 2021, the state paid \$150,000 to settle a lawsuit against the VADOC. [“The case involved a mentally ill inmate allegedly held in solitary confinement for 600 days leading to his mental and physical collapse.”](#) Earlier that month, there was a \$115,000 settlement in a suit filed by [Nicolas Reyes](#), 55, allegedly held in solitary confinement for 13 years.
- In February 2021, a [civil rights suit was filed against VADOC](#) over allegations that dogs had mauled incarcerated people in 2018.
- In April 2021, DOC faced a new [lawsuit alleging mistreatment of Muslims at Virginia prisons](#).
- In recent weeks, video footage and information from a former DOC staff member revealed that the [DOC may have covered up](#) a 2018 incident in which a staff member allegedly choked an incarcerated person while the person was restrained.

In addition to preventing expensive lawsuits and settlements paid for by taxpayers, independent prison oversight would also help these committees assess DOC’s budget and other needs more accurately. An independent prison ombudsman could provide reconnaissance for the legislature, presenting unbiased, reliable, and up-to-the-minute reports on the state of facilities and repairs, staffing needs, programming and food shortages, security risks, and dangerous conditions for staff and incarcerated people alike. This information could inform and guide lawmaker choices about how to improve the DOC and ensure that it operates on a sound and sensible budget.

It is, frankly, astonishing that the DOC, with its \$1.5 billion dollar annual budget and tens of thousands of Virginians in its care, does not already have independent oversight. Independent

prison oversight pays for itself over time, and we urge the legislature to establish and fully fund this essential endeavor this year. Thank you for considering our views.

**Bill Summary: Independent Prison Oversight for Virginia Department of Corrections  
HB 655, Del. Hope**

**Bill purpose:** If passed, HB 655 would establish an independent ombudsman's office with the power to inspect prisons, recommend and monitor improvements to prison conditions and facilities, and help resolve prisoner, staff, and family concerns. This bill would increase accountability and transparency at the Virginia Department of Corrections (DOC). **FAMM supports this bill.**

**Benefits of the Ombudsman and Independent Oversight:**

- Prevents costly future problems and lawsuits
- Provides greater transparency and accountability to taxpayers
- Helps lawmakers get information they need to pass informed budgets and legislation
- Encourages good behavior and improved performance at the DOC
- Improves prison conditions and facilities for both staff and incarcerated people
- Improves the DOC's relationships with incarcerated people and their families by creating more help for receiving and resolving complaints.

**How Oversight is Structured:** The bill establishes two bodies that would help lawmakers, the governor, and the public understand the problems and needed solutions at the DOC:

- **The Correctional Oversight Committee** – This body selects the Ombudsman, holds public meetings, receives reports and recommendations from the Ombudsman, and has the power to testify to legislative committees and subpoena documents, data, and witnesses from the DOC.
  - o The Committee acts as a liaison, bringing the Ombudsman's work and recommendations to the public, legislature, and governor. It also ensures that a fully independent Ombudsman is selected and able to operate independently.
  - o The Committee is composed of 13 individuals: two members of the Senate (one from each party), two members of the House (one from each party), and the following individuals who are appointed by the governor:
    - One representative from a prisoner advocacy group
    - One representative of an organization that provides training or rehabilitation programs for prisoners
    - Two formerly incarcerated people
    - Two current or former correctional staff members, who do not vote on any of the Committee's actions
    - A licensed doctor
    - A licensed mental health professional
    - A family member of an incarcerated person.
- **Office of the Corrections Ombudsman** – The Ombudsman is appointed by the Committee and can be removed by the Committee or the governor only for good cause.

- The Ombudsman is the workhorse, doing the daily work of the office and reporting on its work regularly to the public, the governor, and the Committee.
- The Ombudsman has power to
  - Inspect all parts of prison facilities without prior notice, at any time
  - Communicate confidentially with incarcerated people and staff
  - Assign each facility a ranking based on its conditions and problems
  - Recommend and monitor improvements to conditions and facilities
  - Subpoena documents, witnesses, and data from the DOC
  - Write and publish reports, and attend hearings conducted by the Committee
  - Receive and investigate complaints from incarcerated people, family members, and staff
  - Hire staff, experts, and volunteers to help perform its work
  - Testify before legislative committees, when asked.

**The Ombudsman Provides Oversight, Not Enforcement:** The Ombudsman provides recommendations for improvements at the DOC. The DOC is required to respond with a corrective action plan, and the Ombudsman can monitor and report on that plan's implementation. But the Ombudsman does NOT have power to

- Force the DOC to make certain policy reforms or changes
- Enact rules, policy changes, or legislation
- Hire or fire DOC staff or change their wages or benefits
- Close prison facilities or change the DOC's budget
- Intervene in DOC employment disputes with staff
- Change the DOC's administrative remedies process.

**HB 655 Protects People in Prisons:** The bill has numerous protections for incarcerated people and staff, to encourage them to report problems and seek the Ombudsman's help. The bill

- Creates a confidential hotline and electronic complaint form that allows incarcerated people, families, and staff to submit complaints directly to the Ombudsman
- Bans retaliation by DOC officials against people who report complaints
- Sets reasonable and prompt timelines for the Ombudsman to respond to complaints
- Allows the Ombudsman to work with DOC officials to resolve complaints.

**Funding the Ombudsman's Office:** It is essential that the Ombudsman Office receive funding. Creating an Ombudsman without funding ensures that no oversight will actually be done. In 2021, a study determined that a fully independent Ombudsman Office similar to those operating in other states could be established for \$3.4 million in the first year, with an operating budget of about \$1.6 million per year after that.<sup>2</sup> This budget is comparable to the budgets of other independent oversight bodies in the country.

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<sup>2</sup> Study available at <https://famm.org/wp-content/uploads/2021-12.01-Ombuds-Final-Report.pdf>. See page 45, Option 2.