



Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536

BILL ANALYSIS



Telephone: (517) 373-5383
Fax: (517) 373-1986
TDD: (517) 373-0543

Senate Bills 1223 and 1224 (as introduced 9-14-10)
Sponsor: Senator Gretchen Whitmer
Committee: Judiciary

Date Completed: 9-14-10

CONTENT

The bills would amend separate statutes to provide for the release of prisoner health and mortality records to the Legislative Corrections Ombudsman.

The bills are tie-barred to each other.

Senate Bill 1223

Public Act 46 of 1975 provides for the Office of the Legislative Corrections Ombudsman in the Legislative Council, and authorizes the Ombudsman to conduct investigations regarding prisoners under the jurisdiction of, or committed to, the Department of Corrections (DOC).

Upon request, the Ombudsman must be given access to all information, records, and documents in the possession of the DOC that he or she considers necessary in an investigation. Under the bill, these items would include prisoner medical records, prisoner mental health records, and prisoner mortality and morbidity records.

The Act requires the DOC to assist the Ombudsman in obtaining the necessary releases of the documents that are specifically restricted or privileged for his or her use. The bill would delete this language.

Senate Bill 1224

Public Act 270 of 1967 governs the release of information for medical research and education. The Act allows a person to provide a review entity with information relating to the physical or psychological condition of a person, the necessity, appropriateness, or quality of health care rendered to an individual, or the qualifications, competence, or performance of a health care provider. A "review entity" includes, among others, a duly appointed peer review committee of the State, a professional standards review organization, and a State department or agency whose jurisdiction encompasses the information that may be provided to a review entity.

The bill would require the review entity responsible for mortality and morbidity records, reports, findings, and conclusions regarding prisoners under the jurisdiction of the DOC to release those records, reports, findings, and conclusions to the Legislative Corrections Ombudsman to the extent required under Section 5 of Public Act 46 of 1975 (the section that Senate Bill 1223 would amend).

Currently, a record of a review entity's proceedings, and its reports, findings, and conclusions, may be released or published only for specified purposes, which include advancing health care research or education, maintaining the standards of health care professions, providing evidence relating to the ethics or discipline of a health care provider, reviewing the qualifications of a health care professional, and complying with a requirement of the Public Health Code that a health facility or agency maintain a record for each patient. Under the bill, this would apply except as provided above.

MCL 4.355 (S.B. 1223)
331.532 (S.B. 1224)

Legislative Analyst: Suzanne Lowe

BACKGROUND

Public Act 46 of 1975 allows the Legislative Corrections Ombudsman to begin an investigation upon receiving a complaint from a prisoner or a legislator, or on the Ombudsman's own initiative concerning an administrative act that a prisoner alleges to be contrary to law or departmental policy. The Ombudsman also may begin an investigation on his or her own initiative for significant prisoner health and safety issues and other matters for which there is no effective administrative remedy.

The Ombudsman is required to prepare and submit a report of the findings of an investigation and make recommendations to the Legislative Council within 30 days after completing the investigation, if he or she finds any of the following:

- A matter that the Department of Corrections should consider.
- An administrative act that should be modified or canceled.
- A statute or rule that should be altered.
- Administrative acts for which justification is necessary.
- Significant prisoner health and safety issues as determined by the Council.
- Any other significant concerns as determined by the Council.

The Council may forward the report to the Department, the prisoner or prisoners affected, or the complainant who requested the report.

FISCAL IMPACT

The bills would have no fiscal impact on State or local government.

Fiscal Analyst: Joe Carrasco

S0910\1223sa

This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.