

A BILL to amend and reenact § 53.1-17.7 and § 53.1-17.8 of the Code of Virginia, relating to the authority of the Corrections Ombudsman to investigate complaints.

Be it enacted by the General Assembly of Virginia:

1. That § 53.1-17.7 of the Code of Virginia is amended and reenacted as follows:

§ 53.1-17.7. Authority to investigate complaints.

A. *(No change.)*

B. The Office shall decline to investigate a complaint if the inmate has failed to first use the Department's policies regarding resolution of inmate grievances, unless the inmate provides evidence that the complaint is legitimate and the inmate made a good faith attempt to exhaust the administrative remedy process and was impeded or procedurally defaulted by no fault of his own.

The Office may decline to investigate a complaint if the inmate has failed to first use the Department's policies regarding resolution of inmate grievances. Failure to exhaust the administrative remedy process shall not be a prerequisite to an investigation under this section.

In making a determination whether to investigate, the Office shall not decline a complaint on the basis of grievance non-exhaustion when the complaint includes credible allegations or a reasonable basis to believe that it involves:

- 1. Serious bodily injury or death;**
- 2. Sexual abuse, sexual assault, or sexual harassment;**
- 3. Medical neglect or denial of necessary medical or mental health care;**
- 4. Retaliation or intimidation for reporting, grieving, or communicating with oversight;**
- 5. Racial discrimination; or**
- 6. Conditions posing a substantial risk of serious physical or psychological harm.**

For purposes of this subsection, credible information may include submissions from incarcerated persons, family members or representatives, attorneys, advocates, staff, or other third parties, whether or not a grievance was completed.

For purposes of this subsection, an inmate shall be deemed impeded in accessing the administrative remedy process when circumstances indicate that use of the process was unsafe, unavailable, futile, or reasonably likely to result in retaliation or loss of access to basic rights or communication, including but not limited to lockdowns; restrictive housing or segregation constraints; denial or unavailability of forms; interference with mail or communications; intimidation; fear of retaliation; disability or language barriers; or other conduct or conditions that reasonably deter or prevent use of the grievance process.

Nothing in this subsection shall be construed to require investigation of every complaint. The Office retains discretion to prioritize, defer, or decline complaints consistent with capacity, risk, and statutory authority.

Nothing in this section shall be construed to eliminate, replace, or invalidate the Department's administrative grievance process.

Upon determining investigation eligibility under this section, the Office may request preservation of relevant records, video footage, communications, or other evidence.

2. That § 53.1-17.8 of the Code of Virginia is amended and reenacted as follows:

§ 53.1-17.8. Annual report of the Corrections Ombudsman.

(Existing subsections unchanged.)

The Office shall maintain standardized reason codes for declinations and shall report annually, in aggregate form, the number of complaints declined by reason code and by facility.

3. That this act shall become effective July 1, 2026.