

**Suspend the Rules and Pass the Bill, H.R. 3019, With an Amendment**

**(The amendment strikes all after the enacting clause and inserts a new text)**

118<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 3019

To establish an inspections regime for the Bureau of Prisons, and for other purposes.

---

IN THE HOUSE OF REPRESENTATIVES

APRIL 28, 2023

Mrs. MCBATH (for herself and Mr. ARMSTRONG) introduced the following bill; which was referred to the Committee on Oversight and Accountability

---

## A BILL

To establish an inspections regime for the Bureau of Prisons, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Federal Prison Over-  
5 sight Act”.

1 **SEC. 2. CREATION OF AN INSPECTIONS REGIME FOR THE**  
2 **BUREAU OF PRISONS.**

3 (a) IN GENERAL.—Section 413 of title 5, United  
4 States Code, is amended by adding at the end the fol-  
5 lowing:

6 “(e) INSPECTIONS REGIME.—

7 “(1) DEFINITIONS.—In this subsection:

8 “(A) APPROPRIATE CONGRESSIONAL COM-  
9 MITTEES.—The term ‘appropriate congressional  
10 committees’ means—

11 “(i) the Committee on the Judiciary  
12 and the Committee on Homeland Security  
13 and Governmental Affairs of the Senate;  
14 and

15 “(ii) the Committee on the Judiciary  
16 and the Committee on Oversight and Ac-  
17 countability of the House of Representa-  
18 tives.

19 “(B) BUREAU.—The term ‘Bureau’ means  
20 the Bureau of Prisons.

21 “(C) COVERED FACILITY.—The term ‘cov-  
22 ered facility’—

23 “(i) means a correctional facility oper-  
24 ated by the Bureau; and

25 “(ii) does not include a post-incarcer-  
26 ation residential re-entry center.

1           “(D) FAMILY ADVOCATE.—The term ‘fam-  
2           ily advocate’ includes—

3                   “(i) a grandparent, parent, sibling,  
4                   spouse or domestic partner, child, aunt,  
5                   uncle, cousin, niece, nephew, grandchild, or  
6                   any other person related to an individual  
7                   by blood, adoption, marriage, civil union, a  
8                   romantic or fostering relationship; or

9                   “(ii) a friend of—

10                           “(I) the incarcerated person; or

11                           “(II) the family of the incarcer-  
12                           ated person.

13           “(E) INSPECTOR GENERAL.—The term  
14           ‘Inspector General’ means the Inspector Gen-  
15           eral of the Department of Justice.

16           “(F) OMBUDSMAN.—The term ‘Ombuds-  
17           man’ means the Ombudsman established under  
18           paragraph (3)(A).

19           “(G) REPRESENTATIVE OF AN INCARCER-  
20           ATED PERSON.—The term ‘representative of an  
21           incarcerated person’ includes paid or unpaid  
22           legal counsel or any other person or entity cho-  
23           sen by an incarcerated person to represent the  
24           interests of the incarcerated person.

1           “(H) SEXUAL ABUSE.—The term ‘sexual  
2           abuse’ has the meaning given that term in sec-  
3           tion 115.6 of title 28, Code of Federal Regula-  
4           tions (or any successor thereto).

5           “(I) STAFF.—The term ‘staff’ means em-  
6           ployees and contractors of the Bureau.

7           “(2) INSPECTIONS OF COVERED FACILITIES BY  
8           THE INSPECTOR GENERAL.—

9           “(A) ESTABLISHMENT OF INSPECTIONS  
10          REGIME.—

11          “(i) IN GENERAL.—The Inspector  
12          General shall conduct periodic inspections  
13          of covered facilities pursuant to the re-  
14          quirements of this subsection.

15          “(ii) ACCESS TO COVERED FACILI-  
16          TIES.—The Attorney General shall ensure  
17          that the Inspector General has access to—

18                  “(I) any covered facility (includ-  
19                  ing the incarcerated people, detainees,  
20                  staff, bargaining unit representative  
21                  organization) in accordance with para-  
22                  graph (4); and

23                  “(II) any other information that  
24                  the Inspector General determines is

1                   necessary to carry out the provisions  
2                   of this subsection.

3                   “(iii) NOTICE OF INSPECTIONS.—An  
4                   inspection of a covered facility under this  
5                   subsection may be announced or unan-  
6                   nounced.

7                   “(iv) COMMUNITY INPUT.—In devel-  
8                   oping the inspections regime under this  
9                   subsection, the Inspector General is en-  
10                  couraged to consult formerly incarcerated  
11                  people, family or representatives of incar-  
12                  cerated people, and community advocates.

13                  “(B) INSPECTION CRITERIA.—An inspec-  
14                  tion of a covered facility under this subsection  
15                  may include an assessment of the following:

16                         “(i) The policies, procedures, and ad-  
17                         ministrative guidance of the facility.

18                         “(ii) The conditions of confinement.

19                         “(iii) Working conditions for staff.

20                         “(iv) The availability of evidence-  
21                         based recidivism reduction programs and  
22                         productive activities, as such terms are de-  
23                         fined in section 3635 of title 18, and the  
24                         application of earned time credits pursuant  
25                         to section 3632 of title 18.

1                   “(v) The policies and procedures re-  
2 relating to visitation.

3                   “(vi) The policies and practices relat-  
4 ing to classification and housing.

5                   “(vii) The policies and practices relat-  
6 ing to the use of single-cell confinement,  
7 administrative segregation, and other  
8 forms of restrictive housing.

9                   “(viii) The medical facilities and med-  
10 ical and mental health care, programs, pro-  
11 cedures, and policies, including the number  
12 and qualifications of medical and mental  
13 health staff and the availability of sex-spe-  
14 cific and trauma-responsive care for incar-  
15 cerated people.

16                   “(ix) Medical services and mental  
17 health resources for staff.

18                   “(x) Lockdowns at the facility.

19                   “(xi) Credible allegations of incidents  
20 involving excessive use of force, completed,  
21 attempted, or threatened violence, includ-  
22 ing sexual abuse, or misconduct committed  
23 against incarcerated people.

24                   “(xii) Credible allegations of incidents  
25 involving completed, attempted, or threat-

1 ened violence, including sexual violence or  
2 sexual abuse, committed against staff.

3 “(xiii) Adequacy of staffing at the  
4 covered facility, including the number and  
5 job assignments of staff, the ratio of staff  
6 to inmates at the facility, the staff position  
7 vacancy rate at the facility, and the use of  
8 overtime, mandatory overtime, and aug-  
9 mentation.

10 “(xiv) Deaths or serious injuries of in-  
11 carcerated people or staff that occurred at  
12 the facility.

13 “(xv) The existence of contraband  
14 that jeopardizes the health or safety of in-  
15 carcerated people or staff, including inci-  
16 dent reports, referrals for criminal pros-  
17 ecution, and confirmed prosecutions.

18 “(xvi) Access of incarcerated people  
19 to—

20 “(I) legal counsel, including con-  
21 fidential meetings and communica-  
22 tions;

23 “(II) discovery and other case-re-  
24 lated legal materials; and

1                   “(III) the law library at the cov-  
2                   ered facility.

3                   “(xvii) Any aspect of the operation of  
4                   the covered facility that the Inspector Gen-  
5                   eral determines to be necessary over the  
6                   course of an inspection.

7                   “(C) INSPECTION SCHEDULE.—An inspec-  
8                   tion of a covered facility under this subsection  
9                   shall be conducted on a schedule based on the  
10                  combined risk score of the covered facility as  
11                  described in subparagraph (E) and the fol-  
12                  lowing considerations:

13                  “(i) Higher risk facilities shall receive  
14                  more frequent inspections.

15                  “(ii) The Inspector General shall re-  
16                  evaluate the combined risk score method-  
17                  ology and inspection schedule periodically  
18                  and may alter 1 or both to ensure that  
19                  higher risk facilities are identified and re-  
20                  ceiving the appropriate frequency of in-  
21                  spection.

22                  “(iii) A determination by the Inspec-  
23                  tor General that 1 or more of the criteria  
24                  listed in subparagraph (B) should be in-



1                   spected, with regard to a covered facility or  
2                   group of covered facilities.

3                   “(D) REPORT.—

4                   “ (i) IN GENERAL.—Not later than 6  
5                   months after the completion of an inspec-  
6                   tion of a covered facility under this sub-  
7                   section, or a group of inspections that as-  
8                   sess the same or similar issues at more  
9                   than 1 facility, the Inspector General shall  
10                  submit a final copy of the report to the At-  
11                  torney General, the appropriate congres-  
12                  sional committees, employee representative  
13                  organizations, and the public, that address-  
14                  es 1 or more of the following topics:

15                  “(I) A characterization of the  
16                  conditions of confinement and work-  
17                  ing conditions, including a summary  
18                  of the inspection criteria reviewed  
19                  under clauses (ii) and (iii) of subpara-  
20                  graph (B).

21                  “(II) Recommendations made to  
22                  the covered facility to improve safety  
23                  and conditions within the facility, in-  
24                  cluding recommendations regarding  
25                  staffing.

1                   “(III) A recommended timeline  
2                   for the next inspection and assess-  
3                   ment, which shall not limit the au-  
4                   thority of the Inspector General to  
5                   perform additional inspections and as-  
6                   sessments, announced or unan-  
7                   nounced.

8                   “(IV) Any other issues or mat-  
9                   ters identified during the inspection of  
10                  the facility or facilities.

11                  “(ii) CONSULTATION WITH STAKE-  
12                  HOLDERS.—In developing the rec-  
13                  ommendations described in clause (i), the  
14                  Inspector General may consult with stake-  
15                  holders, including employee representative  
16                  organizations.

17                  “(E) RISK SCORE.—Not later than 18  
18                  months after the date of enactment of the Fed-  
19                  eral Prison Oversight Act, the Inspector Gen-  
20                  eral shall establish methodology and protocols  
21                  for determining the combined risk score of a  
22                  covered facility, which—

23                         “(i) shall be delivered to the appro-  
24                         priate congressional committees; and

25                         “(ii) may be based on—

1 “(I) frequency and duration of  
2 lockdowns;

3 “(II) availability of program-  
4 ming;

5 “(III) staffing levels;

6 “(IV) access to adequate physical  
7 and mental health resources;

8 “(V) incidences of physical as-  
9 sault, neglect, or sexual abuse;

10 “(VI) opportunity to maintain  
11 family ties through phone calls, video  
12 calls, mail, email, and visitation;

13 “(VII) adequacy of the nutrition  
14 provided;

15 “(VIII) amount or frequency of  
16 staff discipline cases;

17 “(IX) amount or frequency of  
18 misconduct by people incarcerated at  
19 the covered facility;

20 “(X) access of incarcerated peo-  
21 ple to—

22 “(aa) legal counsel, includ-  
23 ing confidential meetings and  
24 communications;

1                   “(bb) discovery and other  
2                   case-related legal materials; and

3                   “(cc) the law library at the  
4                   covered facility; and

5                   “(XI) other factors as deter-  
6                   mined by the Inspector General.

7                   “(F) BUREAU RESPONSE TO REPORT.—

8                   “(i) IN GENERAL.—Not later than 60  
9                   days after the date on which the Inspector  
10                  General issues a report under subpara-  
11                  graph (D), the Bureau shall respond in  
12                  writing to the inspection report, which  
13                  shall include a corrective action plan.

14                  “(ii) PUBLIC AVAILABILITY.—Each  
15                  response and action plan described in  
16                  clause (i) shall be made available to the  
17                  public on the website of the Inspector Gen-  
18                  eral.

19                  “(iii) COMPLIANCE WITH CORRECTIVE  
20                  ACTION PLAN.—The Inspector General  
21                  may conduct additional inspections or in-  
22                  vestigations, announced or unannounced,  
23                  to monitor the compliance of the Bureau  
24                  with a corrective action plan described in  
25                  clause (i).

1           “(G) RULE OF CONSTRUCTION.—The au-  
2           thority in this paragraph is consistent with and  
3           does not supersede, conflict with, or otherwise  
4           alter the authority provided to the Inspector  
5           General under section 406.

6           “(3) OMBUDSMAN.—

7           “(A) IN GENERAL.—Not later than 1 year  
8           after the date of enactment of the Federal Pris-  
9           on Oversight Act, the Attorney General shall es-  
10          tablish in the Department of Justice an Om-  
11          budsman who may—

12                   “(i) receive a complaint from an in-  
13                   carcerated person, a family advocate, a  
14                   representative of an incarcerated person,  
15                   staff, a representative of staff, a Member  
16                   of Congress, or a member of the judicial  
17                   branch of the Federal Government regard-  
18                   ing issues that may adversely affect the  
19                   health, safety, welfare, or rights of incar-  
20                   cerated people or staff, including—

21                           “(I) abuse or neglect;

22                           “(II) the conditions of confine-  
23                           ment, including the availability of  
24                           health care;

1                   “(III) working conditions of  
2 staff;

3                   “(IV) decisions, administrative  
4 actions, or guidance of the Bureau,  
5 including those relating to prison  
6 staffing;

7                   “(V) inaction or omissions by the  
8 Bureau, including failure to consider  
9 or respond to complaints or grievances  
10 by incarcerated people or staff  
11 promptly or appropriately;

12                   “(VI) policies, rules, or proce-  
13 dures of the Bureau, including gross  
14 mismanagement; and

15                   “(VII) alleged violations of non-  
16 criminal law by staff or incarcerated  
17 people that may adversely affect the  
18 health, safety, welfare, or rights of  
19 any person;

20                   “(ii) refer a complainant and others  
21 to appropriate resources or Federal agen-  
22 cies;

23                   “(iii) make inquiries and recommend  
24 actions to appropriate entities on behalf of

1 a complainant, the Ombudsman, or others;  
2 and

3 “(iv) decline to investigate or take any  
4 action with respect to any complaint and,  
5 in any case in which the Ombudsman de-  
6 clines to investigate or take any action,  
7 shall notify the complainant in writing of  
8 the decision not to investigate or take any  
9 action and the reasons for the decision.

10 “(B) LIMITATIONS ON AUTHORITY.—The  
11 Ombudsman—

12 “(i) may not investigate—

13 “(I) any complaints relating to  
14 the underlying criminal conviction of  
15 an incarcerated person;

16 “(II) a complaint from staff that  
17 relates to the employment or contrac-  
18 tual relationship of the staff member  
19 with the Bureau, unless the complaint  
20 is related to the health, safety, wel-  
21 fare, working conditions, gross mis-  
22 management of a covered facility, or  
23 rehabilitation of incarcerated people;  
24 or

1                   “(III) any allegation of criminal  
2                   or administrative misconduct, as de-  
3                   scribed in subsection (b)(2), and shall  
4                   refer any matter covered by sub-  
5                   section (b)(2) to the Inspector Gen-  
6                   eral, who may, at the discretion of In-  
7                   spector General, refer such allegations  
8                   back to the Ombudsman or the inter-  
9                   nal affairs office of the appropriate  
10                  component of the Department of Jus-  
11                  tice; and

12                  “(ii) may not levy any fees for the  
13                  submission or investigation of complaints.

14                  “(C) DECISION ON THE MERITS OF A COM-  
15                  PLAINT.—At the conclusion of an investigation  
16                  of a complaint, the Ombudsman shall—

17                  “(i) render a decision on the merits of  
18                  each complaint;

19                  “(ii) communicate the decision to the  
20                  complainant, if any, and to the Bureau;  
21                  and

22                  “(iii) state the recommendations and  
23                  reasoning of the Ombudsman if, in the  
24                  opinion of the Ombudsman, the Bureau or  
25                  any employee thereof should—



1 “(I) consider the matter further;

2 “(II) modify or cancel any action;

3 “(III) alter a rule, practice, or  
4 ruling;

5 “(IV) explain in detail the ad-  
6 ministrative action in question; or

7 “(V) rectify an omission.

8 “(D) ACTIONS FOLLOWING A DECISION BY  
9 THE OMBUDSMAN.—

10 “(i) REQUEST FOR INFORMATION  
11 ABOUT ACTIONS TAKEN.—If the Ombuds-  
12 man so requests, the Bureau shall, within  
13 the time specified, respond to any inquiry  
14 or request for information from the Om-  
15 budsman and inform the Ombudsman  
16 about any action taken on the rec-  
17 ommendations provided by the Ombuds-  
18 man or the reasons for not complying with  
19 any request for information or rec-  
20 ommendations.

21 “(ii) REPORTING OF CONTINUING  
22 ISSUES.—If the Ombudsman believes,  
23 based on an investigation conducted by the  
24 Ombudsman, that there has been or con-  
25 tinues to be a significant health, safety,

1 welfare, working conditions, or rehabilita-  
2 tion issue, the Ombudsman shall report the  
3 finding to the Attorney General and the  
4 appropriate congressional committees.

5 “(iii) MONITORING OF INTERNAL DIS-  
6 CIPLINARY ACTIONS OF THE BUREAU.—In  
7 the event that the Bureau conducts an in-  
8 ternal disciplinary investigation or review  
9 of 1 or more staff members of the Bureau  
10 as a result of an investigation by the Om-  
11 budsman, the Ombudsman may monitor  
12 the internal disciplinary action to ensure a  
13 fair and objective process.

14 “(4) INSPECTOR GENERAL AND OMBUDSMAN  
15 ACCESS TO BUREAU OF PRISONS FACILITIES.—

16 “(A) IN GENERAL.—

17 “(i) ACCESS TO BUREAU FACILI-  
18 TIES.—Except as provided in clause (ii),  
19 upon demand, in person or in writing and  
20 with or without prior notice, the Inspector  
21 General and the Ombudsman shall be  
22 granted access to all Bureau facilities,  
23 which shall include—

24 “(I) all areas that are used by in-  
25 carcerated people, all areas that are

1 accessible to incarcerated people, and  
2 access to programs for incarcerated  
3 people at any time of day; and

4 “(II) the opportunity to—

5 “(aa) conduct private and  
6 confidential interviews with any  
7 incarcerated person, staff, em-  
8 ployee representative organiza-  
9 tion, or other person; and

10 “(bb) communicate privately  
11 and confidentially, both formally  
12 and informally, with incarcerated  
13 people or staff by telephone,  
14 mail, electronic communication,  
15 and in person, which shall not be  
16 monitored or recorded by or con-  
17 ducted in the presence of staff.

18 “(ii) EXCEPTION.—Clause (i) shall  
19 not apply in situations where the head of  
20 the covered facility provides evidence to the  
21 Inspector General or the Ombudsman that  
22 there is risk of serious and immediate  
23 physical harm to visitors due to an ongoing  
24 event that requires restricting access to the  
25 facility.

1           “(B) PURPOSE OF VISITS.—Access to Bu-  
2           reau facilities under subparagraph (A) is for  
3           the purposes of—

4                   “(i) conducting announced or unan-  
5                   nounced inspections by the Inspector Gen-  
6                   eral as described in paragraph (2), includ-  
7                   ing inspections to monitor the compliance  
8                   of the Bureau with a corrective action plan  
9                   described in paragraph (2)(F)(i);

10                   “(ii) conducting an investigation or  
11                   other activity by the Ombudsman as de-  
12                   scribed in paragraph (3); and

13                   “(iii)           inspecting,           viewing,  
14                   photographing, and video recording all  
15                   areas of the facility that are used by incar-  
16                   cerated people or are accessible to incarcer-  
17                   ated people.

18           “(C) ACCESS TO DOCUMENTS.—

19                   “(i) IN GENERAL.—The Inspector  
20                   General and the Ombudsman have the  
21                   right to access, inspect, and copy all rel-  
22                   evant information, records, or documents  
23                   in the possession or control of the Bureau  
24                   that either the Inspector General or the  
25                   Ombudsman considers necessary in an in-

1                   specification, investigation, or other activity,  
2                   and the Bureau shall assist the Inspector  
3                   General and the Ombudsman in obtaining  
4                   the necessary releases for those documents  
5                   that are specifically restricted or privileged  
6                   for use by the Bureau.

7                   “(ii) PRODUCTION OF RECORDS.—  
8                   Following notification from the Inspector  
9                   General or the Ombudsman with a written  
10                  demand for access to Bureau records, the  
11                  Bureau shall provide access to the re-  
12                  quested documentation in a manner con-  
13                  sistent with section 552a (commonly  
14                  known as the ‘Privacy Act of 1974’)—

15                  “(I) not later than 30 business  
16                  days after receipt of the written re-  
17                  quest; or

18                  “(II) in the case of records per-  
19                  taining to the death of an incarcer-  
20                  ated person or staff, threats of bodily  
21                  harm including sexual or physical as-  
22                  saults, or the denial or delay of nec-  
23                  essary medical treatment, not later  
24                  than 10 business days after receipt of  
25                  the written request, unless the Inspec-

1                   tor General or the Ombudsman con-  
2                   sents to an extension of that time  
3                   frame.

4                   “(D) MINIMIZE DISRUPTION OF OPER-  
5                   ATIONS.—The Inspector General and the Om-  
6                   budsman shall—

7                   “(i) develop procedures—

8                   “(I) to ensure that the Inspector  
9                   General has access to, and the right  
10                  to review and investigate, any allega-  
11                  tions received by the Ombudsman to  
12                  ensure that the Inspector General  
13                  may carry out the authorities provided  
14                  to the Inspector General under this  
15                  chapter; and

16                  “(II) that may provide that the  
17                  Inspector General and the Ombuds-  
18                  man will determine certain categories  
19                  of allegations that are not necessary  
20                  for the Inspector General to review  
21                  prior to the Ombudsman proceeding;

22                  “(ii) work with the Bureau to mini-  
23                  mize disruption to the operations of the  
24                  Bureau due to inspections, investigations,  
25                  or other activity;

1                   “(iii) comply with the security clear-  
2                   ance processes of the Bureau, provided  
3                   these processes do not impede the activities  
4                   described in this subsection; and

5                   “(iv) limit the public release of any  
6                   photographs or video recordings that would  
7                   jeopardize—

8                                 “(I) the safety, security, or good  
9                                 order of a covered facility or the Bu-  
10                                reau; or

11                               “(II) public safety.

12                   “(E) RULE OF CONSTRUCTION.—The au-  
13                   thority in this paragraph is consistent with and  
14                   does not supersede, conflict with, or otherwise  
15                   alter the authority provided to the Inspector  
16                   General under section 406.

17                   “(5) CONFIDENTIALITY.—

18                               “(A) IN GENERAL.—Correspondence and  
19                               communication with the Inspector General and  
20                               the Ombudsman, including communication re-  
21                               garding an issue described in section 4051 of  
22                               title 18 is confidential and shall be protected as  
23                               privileged correspondence in the same manner  
24                               as legal correspondence or communications.

1           “(B) PROCEDURES.—Subject to subpara-  
2 graph (C), the Inspector General and the Om-  
3 budsman shall establish confidentiality proce-  
4 dures for all information maintained by the re-  
5 spective office to ensure that, to the greatest  
6 extent practicable, before, during, or after an  
7 investigation—

8                   “(i) staff are not aware of the identity  
9 of a complainant; and

10                   “(ii) other incarcerated people are not  
11 aware of the identity of a complainant.

12           “(C) EXCEPTION.—The Inspector General  
13 and the Ombudsman may disclose identifying  
14 information for the sole purpose of carrying out  
15 an investigation and as otherwise authorized  
16 under section 407(b).

17           “(6) FILING COMPLAINTS.—

18                   “(A) FILING COMPLAINTS ON BEHALF OF  
19 AN INCARCERATED INDIVIDUAL.—

20                   “(i) ONLINE FORM.—The Ombuds-  
21 man shall create a secure online form to be  
22 made available on the website of the Om-  
23 budsman where the family advocates and  
24 representatives of incarcerated people can  
25 submit complaints and inquiries on issues



1 identified in paragraph (3)(A)(i) on behalf  
2 of an individual incarcerated at a covered  
3 facility.

4 “(ii) TELEPHONE HOTLINE.—The  
5 Ombudsman shall create a telephone hot-  
6 line through which family advocates and  
7 representatives of incarcerated people can  
8 call to file complaints and inquiries on  
9 issues identified in paragraph (3)(A)(i) on  
10 behalf of an individual incarcerated at a  
11 covered facility.

12 “(B) FILING COMPLAINTS BY AN INCAR-  
13 CERATED INDIVIDUAL.—

14 “(i) INTERNAL PRIVATE SUBMIS-  
15 SION.—The Bureau shall provide multiple  
16 internal ways for incarcerated individuals  
17 in covered facilities to privately submit to  
18 the Ombudsman complaints and inquiries  
19 on issues identified in paragraph (3)(A)(i).

20 “(ii) SUBMISSION VIA INDEPENDENT  
21 ENTITY.—The Bureau shall also provide  
22 not less than 1 process for incarcerated in-  
23 dividuals in covered facilities to submit  
24 complaints and inquiries on issues identi-  
25 fied in paragraph (3)(A)(i) to a public or

1 private entity or office that is not part of  
2 the Bureau and that is able to receive and  
3 immediately forward complaints and in-  
4 quires to the Ombudsman, allowing the in-  
5 carcerated individual to remain anonymous  
6 upon request.

7 “(C) DETERMINATION.—

8 “(i) CONFIRMATION OF RECEIPT.—  
9 Not later than 5 business days after sub-  
10 mission of a complaint or inquiry under  
11 subparagraph (A) or (B), the Ombudsman  
12 shall confirm receipt.

13 “(ii) DETERMINATION.—Not later  
14 than 15 business days after issuing the  
15 confirmation under clause (i), the Ombuds-  
16 man shall make a determination as to  
17 whether any action is warranted and notify  
18 the complainant of the determination.

19 “(iii) STATEMENT REGARDING DECI-  
20 SION.—If the Ombudsman has determined  
21 action is unwarranted under clause (ii), the  
22 Ombudsman shall provide a written state-  
23 ment explaining the decision to the com-  
24 plainant.

1           “(D) PUBLIC EDUCATION.—The Ombuds-  
2 man shall coordinate with the Bureau to edu-  
3 cate incarcerated people, representatives of in-  
4 carcerated people, and the public about the ex-  
5 istence and functions of the Ombudsman.

6           “(E) ADMINISTRATIVE EXHAUSTION.—  
7 Nothing in this paragraph shall be construed as  
8 a necessary administrative remedy required for  
9 exhaustion under section 7(a) of the Civil  
10 Rights of Institutionalized Persons Act (42  
11 U.S.C. 1997e(a)).

12           “(7) PROHIBITION ON RETALIATION.—

13           “(A) IN GENERAL.—The Bureau and staff  
14 of the Bureau shall not discharge, retaliate  
15 against, or in any manner discriminate against  
16 any complainant or any person or entity that  
17 has instituted or caused to be instituted any  
18 proceeding, investigation, or inspection under or  
19 related to this subsection.

20           “(B) INVESTIGATION.—Any alleged dis-  
21 charge of, retaliation against, or discrimination  
22 against a complainant, entity, or person be-  
23 cause of a complaint, investigation, or inspec-  
24 tion may be considered by the Ombudsman as

1 an appropriate subject of an investigation or  
2 other activity.

3 “(8) DUE PROCESS PROTECTIONS.—

4 “(A) IN GENERAL.—The Attorney General  
5 and the Inspector General shall ensure that im-  
6 plementation of this subsection is consistent  
7 with section 552a (commonly known as the  
8 ‘Privacy Act of 1974’) and all other applicable  
9 laws, and respects appropriate due process pro-  
10 tections for staff.

11 “(B) RULE OF CONSTRUCTION.—Nothing  
12 in this paragraph shall be construed to modify,  
13 supersede, or otherwise affect the authority of  
14 the Inspector General to access all records, re-  
15 ports, audits, reviews, documents, papers, rec-  
16 ommendations, or other materials, as author-  
17 ized by section 406(a).

18 “(9) PERCENTAGE OF ANNUAL APPROPRIATION  
19 FOR THE BUREAU OF PRISONS.—It is the sense of  
20 Congress that the amount allocated to the Inspector  
21 General and the Ombudsman to carry out the activi-  
22 ties described in this subsection should equal an  
23 amount between 0.2 percent and 0.5 percent of the  
24 annual appropriation for the Bureau.”

1           (b) **EFFECTIVE DATE.**—This Act, and the amend-  
2 ments made by this Act, shall take effect on the date that  
3 is 90 days after the date on which appropriations are  
4 made available to the Inspector General of the Depart-  
5 ment of Justice and the Department of Justice for the  
6 specific purpose of carrying out the provisions of this Act  
7 and the amendments made by this Act.

8           (c) **AUGMENTATION.**—On and after the effective date  
9 of this Act, the Bureau of Prisons shall implement the  
10 directive in the second sentence on the topic “Augmenta-  
11 tion” in the matter under the heading “SALARIES AND  
12 EXPENSES” under the heading “FEDERAL PRISON  
13 SYSTEM” in the joint explanatory statement accom-  
14 panying Public Law 117–328.