

**AMENDMENT IN THE NATURE OF A SUBSTITUTE  
TO H.R. 3019  
OFFERED BY MR. COMER OF KENTUCKY**

Strike all after the enacting clause and insert the following:

1 **SECTION 1. SHORT TITLE.**

2       This Act may be cited as the “Federal Prison Over-  
3 sight Act”.

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

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

9       “(e) INSPECTIONS REGIME.—

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

11               “(A) APPROPRIATE CONGRESSIONAL COM-  
12 MITTEES.—The term ‘appropriate congressional  
13 committees’ means—

14                   “(i) the Committee on the Judiciary  
15                   and the Committee on Homeland Security  
16                   and Governmental Affairs of the Senate;  
17                   and

1           “(ii) the Committee on the Judiciary  
2           and the Committee on Oversight and Ac-  
3           countability of the House of Representa-  
4           tives.

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

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

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

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

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

15          “(i) a grandparent, parent, sibling,  
16          spouse or domestic partner, child, aunt,  
17          uncle, cousin, niece, nephew, grandchild, or  
18          any other person related to an individual  
19          by blood, adoption, marriage, civil union, a  
20          romantic or fostering relationship; or

21          “(ii) a friend of—

22                  “(I) the incarcerated person; or

23                  “(II) the family of the incarcer-  
24          ated person.

1           “(E) INSPECTOR GENERAL.—The term  
2           ‘Inspector General’ means the Inspector Gen-  
3           eral of the Department of Justice.

4           “(F) OMBUDSMAN.—The term ‘Ombuds-  
5           man’ means the Ombudsman established under  
6           paragraph (3)(A).

7           “(G) REPRESENTATIVE OF AN INCARCER-  
8           ATED PERSON.—The term ‘representative of an  
9           incarcerated person’ includes paid or unpaid  
10          legal counsel or any other person or entity cho-  
11          sen by an incarcerated person to represent the  
12          interests of the incarcerated person.

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

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

19          “(2) INSPECTIONS OF COVERED FACILITIES BY  
20          THE INSPECTOR GENERAL.—

21                 “(A) ESTABLISHMENT OF INSPECTIONS  
22                 REGIME.—

23                         “(i) IN GENERAL.—The Inspector  
24                         General shall conduct periodic inspections

1 of covered facilities pursuant to the re-  
2 quirements of this subsection.

3 “(ii) ACCESS TO COVERED FACILI-  
4 TIES.—The Attorney General shall ensure  
5 that the Inspector General has access to—

6 “(I) any covered facility (includ-  
7 ing the incarcerated people, detainees,  
8 staff, bargaining unit representative  
9 organization) in accordance with para-  
10 graph (4); and

11 “(II) any other information that  
12 the Inspector General determines is  
13 necessary to carry out the provisions  
14 of this subsection.

15 “(iii) NOTICE OF INSPECTIONS.—An  
16 inspection of a covered facility under this  
17 subsection may be announced or unan-  
18 nounced.

19 “(iv) COMMUNITY INPUT.—In devel-  
20 oping the inspections regime under this  
21 subsection, the Inspector General is en-  
22 couraged to consult formerly incarcerated  
23 people, family or representatives of incar-  
24 cerated people, and community advocates.

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

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

6                   “(ii) The conditions of confinement.

7                   “(iii) Working conditions for staff.

8                   “(iv) The availability of evidence-  
9                   based recidivism reduction programs and  
10                  productive activities, as such terms are de-  
11                  fined in section 3635 of title 18, and the  
12                  application of earned time credits pursuant  
13                  to section 3632 of title 18.

14                  “(v) The policies and procedures re-  
15                  lating to visitation.

16                  “(vi) The policies and practices relat-  
17                  ing to classification and housing.

18                  “(vii) The policies and practices relat-  
19                  ing to the use of single-cell confinement,  
20                  administrative segregation, and other  
21                  forms of restrictive housing.

22                  “(viii) The medical facilities and med-  
23                  ical and mental health care, programs, pro-  
24                  cedures, and policies, including the number  
25                  and qualifications of medical and mental

1 health staff and the availability of gender-  
2 appropriate and trauma-responsive care for  
3 incarcerated people.

4 “(ix) Medical services and mental  
5 health resources for staff.

6 “(x) Lockdowns at the facility.

7 “(xi) Credible allegations of incidents  
8 involving excessive use of force, completed,  
9 attempted, or threatened violence, includ-  
10 ing sexual abuse, or misconduct committed  
11 against incarcerated people.

12 “(xii) Credible allegations of incidents  
13 involving completed, attempted, or threat-  
14 ened violence, including sexual violence or  
15 sexual abuse, committed against staff.

16 “(xiii) Adequacy of staffing at the  
17 covered facility, including the number and  
18 job assignments of staff, the ratio of staff  
19 to inmates at the facility, the staff position  
20 vacancy rate at the facility, and the use of  
21 overtime, mandatory overtime, and aug-  
22 mentation.

23 “(xiv) Deaths or serious injuries of in-  
24 carcerated people or staff that occurred at  
25 the facility.

1           “(xv) The existence of contraband  
2           that jeopardizes the health or safety of in-  
3           carcerated people or staff, including inci-  
4           dent reports, referrals for criminal pros-  
5           ecution, and confirmed prosecutions.

6           “(xvi) Access of incarcerated people  
7           to—

8                   “(I) legal counsel, including con-  
9                   fidential meetings and communica-  
10                  tions;

11                   “(II) discovery and other case-re-  
12                  lated legal materials; and

13                   “(III) the law library at the cov-  
14                  ered facility.

15           “(xvii) Any aspect of the operation of  
16           the covered facility that the Inspector Gen-  
17           eral determines to be necessary over the  
18           course of an inspection.

19           “(C) INSPECTION SCHEDULE.—An inspec-  
20           tion of a covered facility under this subsection  
21           shall be conducted on a schedule based on the  
22           combined risk score of the covered facility as  
23           described in subparagraph (E) and the fol-  
24           lowing considerations:

1           “(i) Higher risk facilities shall receive  
2 more frequent inspections.

3           “(ii) The Inspector General shall re-  
4 evaluate the combined risk score method-  
5 ology and inspection schedule periodically  
6 and may alter 1 or both to ensure that  
7 higher risk facilities are identified and re-  
8 ceiving the appropriate frequency of in-  
9 spection.

10           “(iii) A determination by the Inspec-  
11 tor General that 1 or more of the criteria  
12 listed in subparagraph (B) should be in-  
13 spected, with regard to a covered facility or  
14 group of covered facilities.

15           “(D) REPORT.—

16           “(i) IN GENERAL.—Not later than 6  
17 months after the completion of an inspec-  
18 tion of a covered facility under this sub-  
19 section, or a group of inspections that as-  
20 sess the same or similar issues at more  
21 than 1 facility, the Inspector General shall  
22 submit a final copy of the report to the At-  
23 torney General, the appropriate congress-  
24 sional committees, employee representative



1 organizations, and the public, that address-  
2 es 1 or more of the following topics:

3 “(I) A characterization of the  
4 conditions of confinement and work-  
5 ing conditions, including a summary  
6 of the inspection criteria reviewed  
7 under clauses (ii) and (iii) of subpara-  
8 graph (B).

9 “(II) Recommendations made to  
10 the covered facility to improve safety  
11 and conditions within the facility, in-  
12 cluding recommendations regarding  
13 staffing.

14 “(III) A recommended timeline  
15 for the next inspection and assess-  
16 ment, which shall not limit the au-  
17 thority of the Inspector General to  
18 perform additional inspections and as-  
19 sements, announced or unan-  
20 nounced.

21 “(IV) Any other issues or mat-  
22 ters identified during the inspection of  
23 the facility or facilities.

24 “(ii) CONSULTATION WITH STAKE-  
25 HOLDERS.—In developing the rec-

1           ommendations described in clause (i), the  
2           Inspector General may consult with stake-  
3           holders, including employee representative  
4           organizations.

5           “(E) RISK SCORE.—Not later than 18  
6           months after the date of enactment of the Fed-  
7           eral Prison Oversight Act, the Inspector Gen-  
8           eral shall establish methodology and protocols  
9           for determining the combined risk score of a  
10          covered facility, which—

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

13                   “(ii) may be based on—

14                           “(I) frequency and duration of  
15                           lockdowns;

16                           “(II) availability of program-  
17                           ming;

18                           “(III) staffing levels;

19                           “(IV) access to adequate physical  
20                           and mental health resources;

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

23                           “(VI) opportunity to maintain  
24                           family ties through phone calls, video  
25                           calls, mail, email, and visitation;

1 “(VII) adequacy of the nutrition  
2 provided;

3 “(VIII) amount or frequency of  
4 staff discipline cases;

5 “(IX) amount or frequency of  
6 misconduct by people incarcerated at  
7 the covered facility;

8 “(X) access of incarcerated peo-  
9 ple to—

10 “(aa) legal counsel, includ-  
11 ing confidential meetings and  
12 communications;

13 “(bb) discovery and other  
14 case-related legal materials; and

15 “(cc) the law library at the  
16 covered facility; and

17 “(XI) other factors as deter-  
18 mined by the Inspector General.

19 “(F) BUREAU RESPONSE TO REPORT.—

20 “(i) IN GENERAL.—Not later than 60  
21 days after the date on which the Inspector  
22 General issues a report under subpara-  
23 graph (D), the Bureau shall respond in  
24 writing to the inspection report, which  
25 shall include a corrective action plan.

1           “(ii) PUBLIC AVAILABILITY.—Each  
2 response and action plan described in  
3 clause (i) shall be made available to the  
4 public on the website of the Inspector Gen-  
5 eral.

6           “(iii) COMPLIANCE WITH CORRECTIVE  
7 ACTION PLAN.—The Inspector General  
8 may conduct additional inspections or in-  
9 vestigations, announced or unannounced,  
10 to monitor the compliance of the Bureau  
11 with a corrective action plan described in  
12 clause (i).

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

18           “(3) OMBUDSMAN.—

19           “(A) IN GENERAL.—Not later than 1 year  
20 after the date of enactment of the Federal Pris-  
21 on Oversight Act, the Attorney General shall es-  
22 tablish in the Department of Justice an Om-  
23 budsman who may—

24           “(i) receive a complaint from an in-  
25 carcerated person, a family advocate, a

1 representative of an incarcerated person,  
2 staff, a representative of staff, a Member  
3 of Congress, or a member of the judicial  
4 branch of the Federal Government regard-  
5 ing issues that may adversely affect the  
6 health, safety, welfare, or rights of incar-  
7 cerated people or staff, including—

8 “(I) abuse or neglect;

9 “(II) the conditions of confine-  
10 ment, including the availability of  
11 health care;

12 “(III) working conditions of  
13 staff;

14 “(IV) decisions, administrative  
15 actions, or guidance of the Bureau,  
16 including those relating to prison  
17 staffing;

18 “(V) inaction or omissions by the  
19 Bureau, including failure to consider  
20 or respond to complaints or grievances  
21 by incarcerated people or staff  
22 promptly or appropriately;

23 “(VI) policies, rules, or proce-  
24 dures of the Bureau, including gross  
25 mismanagement; and

1                   “(VII) alleged violations of non-  
2                   criminal law by staff or incarcerated  
3                   people that may adversely affect the  
4                   health, safety, welfare, or rights of  
5                   any person;

6                   “(ii) refer a complainant and others  
7                   to appropriate resources or Federal agen-  
8                   cies;

9                   “(iii) make inquiries and recommend  
10                  actions to appropriate entities on behalf of  
11                  a complainant, the Ombudsman, or others;  
12                  and

13                  “(iv) decline to investigate or take any  
14                  action with respect to any complaint and,  
15                  in any case in which the Ombudsman de-  
16                  clines to investigate or take any action,  
17                  shall notify the complainant in writing of  
18                  the decision not to investigate or take any  
19                  action and the reasons for the decision.

20                  “(B) LIMITATIONS ON AUTHORITY.—The  
21                  Ombudsman—

22                         “(i) may not investigate—

23                                 “(I) any complaints relating to  
24                                 the underlying criminal conviction of  
25                                 an incarcerated person;

1                   “(II) a complaint from staff that  
2                   relates to the employment or contrac-  
3                   tual relationship of the staff member  
4                   with the Bureau, unless the complaint  
5                   is related to the health, safety, wel-  
6                   fare, working conditions, gross mis-  
7                   management of a covered facility, or  
8                   rehabilitation of incarcerated people;  
9                   or

10                   “(III) any allegation of criminal  
11                   or administrative misconduct, as de-  
12                   scribed in subsection (b)(2), and shall  
13                   refer any matter covered by sub-  
14                   section (b)(2) to the Inspector Gen-  
15                   eral, who may, at the discretion of In-  
16                   spector General, refer such allegations  
17                   back to the Ombudsman or the inter-  
18                   nal affairs office of the appropriate  
19                   component of the Department of Jus-  
20                   tice; and

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

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

1 “(i) render a decision on the merits of  
2 each complaint;

3 “(ii) communicate the decision to the  
4 complainant, if any, and to the Bureau;  
5 and

6 “(iii) state the recommendations and  
7 reasoning of the Ombudsman if, in the  
8 opinion of the Ombudsman, the Bureau or  
9 any employee thereof should—

10 “(I) consider the matter further;

11 “(II) modify or cancel any action;

12 “(III) alter a rule, practice, or  
13 ruling;

14 “(IV) explain in detail the ad-  
15 ministrative action in question; or

16 “(V) rectify an omission.

17 “(D) ACTIONS FOLLOWING A DECISION BY  
18 THE OMBUDSMAN.—

19 “(i) REQUEST FOR INFORMATION  
20 ABOUT ACTIONS TAKEN.—If the Ombuds-  
21 man so requests, the Bureau shall, within  
22 the time specified, respond to any inquiry  
23 or request for information from the Om-  
24 budsman and inform the Ombudsman  
25 about any action taken on the rec-



1           ommendations provided by the Ombuds-  
2           man or the reasons for not complying with  
3           any request for information or rec-  
4           ommendations.

5           “(ii) REPORTING OF CONTINUING  
6           ISSUES.—If the Ombudsman believes,  
7           based on an investigation conducted by the  
8           Ombudsman, that there has been or con-  
9           tinues to be a significant health, safety,  
10          welfare, working conditions, or rehabilita-  
11          tion issue, the Ombudsman shall report the  
12          finding to the Attorney General and the  
13          appropriate congressional committees.

14          “(iii) MONITORING OF INTERNAL DIS-  
15          CIPLINARY ACTIONS OF THE BUREAU.—In  
16          the event that the Bureau conducts an in-  
17          ternal disciplinary investigation or review  
18          of 1 or more staff members of the Bureau  
19          as a result of an investigation by the Om-  
20          budsman, the Ombudsman may monitor  
21          the internal disciplinary action to ensure a  
22          fair and objective process.

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

25          “(A) IN GENERAL.—

1           “(i) ACCESS TO BUREAU FACILI-  
2 TIES.—Except as provided in clause (ii),  
3 upon demand, in person or in writing and  
4 with or without prior notice, the Inspector  
5 General and the Ombudsman shall be  
6 granted access to all Bureau facilities,  
7 which shall include—

8           “(I) all areas that are used by in-  
9 carcerated people, all areas that are  
10 accessible to incarcerated people, and  
11 access to programs for incarcerated  
12 people at any time of day; and

13           “(II) the opportunity to—

14           “(aa) conduct private and  
15 confidential interviews with any  
16 incarcerated person, staff, em-  
17 ployee representative organiza-  
18 tion, or other person; and

19           “(bb) communicate privately  
20 and confidentially, both formally  
21 and informally, with incarcerated  
22 people or staff by telephone,  
23 mail, electronic communication,  
24 and in person, which shall not be

1 monitored or recorded by or con-  
2 ducted in the presence of staff.

3 “(ii) EXCEPTION.—Clause (i) shall  
4 not apply in situations where the head of  
5 the covered facility provides evidence to the  
6 Inspector General or the Ombudsman that  
7 there is risk of serious and immediate  
8 physical harm to visitors due to an ongoing  
9 event that requires restricting access to the  
10 facility.

11 “(B) PURPOSE OF VISITS.—Access to Bu-  
12 reau facilities under subparagraph (A) is for  
13 the purposes of—

14 “(i) conducting announced or unan-  
15 nounced inspections by the Inspector Gen-  
16 eral as described in paragraph (2), includ-  
17 ing inspections to monitor the compliance  
18 of the Bureau with a corrective action plan  
19 described in paragraph (2)(F)(i);

20 “(ii) conducting an investigation or  
21 other activity by the Ombudsman as de-  
22 scribed in paragraph (3); and

23 “(iii) inspecting, viewing,  
24 photographing, and video recording all  
25 areas of the facility that are used by incar-

1 cerated people or are accessible to incarcerated  
2 ated people.

3 “(C) ACCESS TO DOCUMENTS.—

4 “(i) IN GENERAL.—The Inspector  
5 General and the Ombudsman have the  
6 right to access, inspect, and copy all rel-  
7 evant information, records, or documents  
8 in the possession or control of the Bureau  
9 that either the Inspector General or the  
10 Ombudsman considers necessary in an in-  
11 spection, investigation, or other activity,  
12 and the Bureau shall assist the Inspector  
13 General and the Ombudsman in obtaining  
14 the necessary releases for those documents  
15 that are specifically restricted or privileged  
16 for use by the Bureau.

17 “(ii) PRODUCTION OF RECORDS.—  
18 Following notification from the Inspector  
19 General or the Ombudsman with a written  
20 demand for access to Bureau records, the  
21 Bureau shall provide access to the re-  
22 quested documentation in a manner con-  
23 sistent with section 552a (commonly  
24 known as the ‘Privacy Act of 1974’)—

1 “(I) not later than 30 business  
2 days after receipt of the written re-  
3 quest; or

4 “(II) in the case of records per-  
5 taining to the death of an incarcer-  
6 ated person or staff, threats of bodily  
7 harm including sexual or physical as-  
8 saults, or the denial or delay of nec-  
9 essary medical treatment, not later  
10 than 10 business days after receipt of  
11 the written request, unless the Inspec-  
12 tor General or the Ombudsman con-  
13 sents to an extension of that time  
14 frame.

15 “(D) MINIMIZE DISRUPTION OF OPER-  
16 ATIONS.—The Inspector General and the Om-  
17 budsman shall—

18 “(i) develop procedures—

19 “(I) to ensure that the Inspector  
20 General has access to, and the right  
21 to review and investigate, any allega-  
22 tions received by the Ombudsman to  
23 ensure that the Inspector General  
24 may carry out the authorities provided

1 to the Inspector General under this  
2 chapter; and

3 “(II) that may provide that the  
4 Inspector General and the Ombuds-  
5 man will determine certain categories  
6 of allegations that are not necessary  
7 for the Inspector General to review  
8 prior to the Ombudsman proceeding;

9 “(ii) work with the Bureau to mini-  
10 mize disruption to the operations of the  
11 Bureau due to inspections, investigations,  
12 or other activity;

13 “(iii) comply with the security clear-  
14 ance processes of the Bureau, provided  
15 these processes do not impede the activities  
16 described in this subsection; and

17 “(iv) limit the public release of any  
18 photographs or video recordings that would  
19 jeopardize—

20 “(I) the safety, security, or good  
21 order of a covered facility or the Bu-  
22 reau; or

23 “(II) public safety.

24 “(E) RULE OF CONSTRUCTION.—The au-  
25 thority in this paragraph is consistent with and

1 does not supersede, conflict with, or otherwise  
2 alter the authority provided to the Inspector  
3 General under section 406.

4 “(5) CONFIDENTIALITY.—

5 “(A) IN GENERAL.—Correspondence and  
6 communication with the Inspector General and  
7 the Ombudsman, including communication re-  
8 garding an issue described in section 4051 of  
9 title 18 is confidential and shall be protected as  
10 privileged correspondence in the same manner  
11 as legal correspondence or communications.

12 “(B) PROCEDURES.—Subject to subpara-  
13 graph (C), the Inspector General and the Om-  
14 budsman shall establish confidentiality proce-  
15 dures for all information maintained by the re-  
16 spective office to ensure that, to the greatest  
17 extent practicable, before, during, or after an  
18 investigation—

19 “(i) staff are not aware of the identity  
20 of a complainant; and

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

23 “(C) EXCEPTION.—The Inspector General  
24 and the Ombudsman may disclose identifying  
25 information for the sole purpose of carrying out

1 an investigation and as otherwise authorized  
2 under section 407(b).

3 “(6) FILING COMPLAINTS.—

4 “(A) FILING COMPLAINTS ON BEHALF OF  
5 AN INCARCERATED INDIVIDUAL.—

6 “(i) ONLINE FORM.—The Ombuds-  
7 man shall create a secure online form to be  
8 made available on the website of the Om-  
9 budsman where the family advocates and  
10 representatives of incarcerated people can  
11 submit complaints and inquiries on issues  
12 identified in paragraph (3)(A)(i) on behalf  
13 of an individual incarcerated at a covered  
14 facility.

15 “(ii) TELEPHONE HOTLINE.—The  
16 Ombudsman shall create a telephone hot-  
17 line through which family advocates and  
18 representatives of incarcerated people can  
19 call to file complaints and inquiries on  
20 issues identified in paragraph (3)(A)(i) on  
21 behalf of an individual incarcerated at a  
22 covered facility.

23 “(B) FILING COMPLAINTS BY AN INCAR-  
24 CERATED INDIVIDUAL.—



1           “(i) INTERNAL PRIVATE SUBMIS-  
2           SION.—The Bureau shall provide multiple  
3           internal ways for incarcerated individuals  
4           in covered facilities to privately submit to  
5           the Ombudsman complaints and inquiries  
6           on issues identified in paragraph (3)(A)(i).

7           “(ii) SUBMISSION VIA INDEPENDENT  
8           ENTITY.—The Bureau shall also provide  
9           not less than 1 process for incarcerated in-  
10          dividuals in covered facilities to submit  
11          complaints and inquiries on issues identi-  
12          fied in paragraph (3)(A)(i) to a public or  
13          private entity or office that is not part of  
14          the Bureau and that is able to receive and  
15          immediately forward complaints and in-  
16          quiries to the Ombudsman, allowing the in-  
17          carcerated individual to remain anonymous  
18          upon request.

19          “(C) DETERMINATION.—

20          “(i) CONFIRMATION OF RECEIPT.—  
21          Not later than 5 business days after sub-  
22          mission of a complaint or inquiry under  
23          subparagraph (A) or (B), the Ombudsman  
24          shall confirm receipt.

1           “(ii) DETERMINATION.—Not later  
2 than 15 business days after issuing the  
3 confirmation under clause (i), the Ombuds-  
4 man shall make a determination as to  
5 whether any action is warranted and notify  
6 the complainant of the determination.

7           “(iii) STATEMENT REGARDING DECI-  
8 SION.—If the Ombudsman has determined  
9 action is unwarranted under clause (ii), the  
10 Ombudsman shall provide a written state-  
11 ment explaining the decision to the com-  
12 plainant.

13           “(D) PUBLIC EDUCATION.—The Ombuds-  
14 man shall coordinate with the Bureau to edu-  
15 cate incarcerated people, representatives of in-  
16 carcerated people, and the public about the ex-  
17 istence and functions of the Ombudsman.

18           “(E) ADMINISTRATIVE EXHAUSTION.—  
19 Nothing in this paragraph shall be construed as  
20 a necessary administrative remedy required for  
21 exhaustion under section 7(a) of the Civil  
22 Rights of Institutionalized Persons Act (42  
23 U.S.C. 1997e(a)).

24           “(7) PROHIBITION ON RETALIATION.—

1           “(A) IN GENERAL.—The Bureau and staff  
2 of the Bureau shall not discharge, retaliate  
3 against, or in any manner discriminate against  
4 any complainant or any person or entity that  
5 has instituted or caused to be instituted any  
6 proceeding, investigation, or inspection under or  
7 related to this subsection.

8           “(B) INVESTIGATION.—Any alleged dis-  
9 charge of, retaliation against, or discrimination  
10 against a complainant, entity, or person be-  
11 cause of a complaint, investigation, or inspec-  
12 tion may be considered by the Ombudsman as  
13 an appropriate subject of an investigation or  
14 other activity.

15           “(8) DUE PROCESS PROTECTIONS.—

16           “(A) IN GENERAL.—The Attorney General  
17 and the Inspector General shall ensure that im-  
18 plementation of this subsection is consistent  
19 with section 552a (commonly known as the  
20 ‘Privacy Act of 1974’) and all other applicable  
21 laws, and respects appropriate due process pro-  
22 tections for staff.

23           “(B) RULE OF CONSTRUCTION.—Nothing  
24 in this paragraph shall be construed to modify,  
25 supersede, or otherwise affect the authority of

1 the Inspector General to access all records, re-  
2 ports, audits, reviews, documents, papers, rec-  
3 ommendations, or other materials, as author-  
4 ized by section 406(a).

5 “(9) PERCENTAGE OF ANNUAL APPROPRIATION  
6 FOR THE BUREAU OF PRISONS.—It is the sense of  
7 Congress that the amount allocated to the Inspector  
8 General and the Ombudsman to carry out the activi-  
9 ties described in this subsection should equal an  
10 amount between 0.2 percent and 0.5 percent of the  
11 annual appropriation for the Bureau.”.

12 (b) EFFECTIVE DATE.—This Act, and the amend-  
13 ments made by this Act, shall take effect on the date that  
14 is 90 days after the date on which appropriations are  
15 made available to the Inspector General of the Depart-  
16 ment of Justice and the Department of Justice for the  
17 specific purpose of carrying out the provisions of this Act  
18 and the amendments made by this Act.

