

ASSEMBLY, No. 4353

STATE OF NEW JERSEY 220th LEGISLATURE

INTRODUCED JUNE 20, 2022

Sponsored by:

Assemblywoman AURA K. DUNN

District 25 (Morris and Somerset)

Assemblyman RALPH R. CAPUTO

District 28 (Essex)

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Co-Sponsored by:

**Assemblymen McKeon, Bergen, Catalano, Wirths, Scharfenberger,
Assemblywoman Flynn and Assemblyman Space**

SYNOPSIS

Establishes Office of Ombudsman for Children.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 1/26/2023)

1 AN ACT establishing the Office of the Ombudsman for Children and
2 supplementing Title 52 of the Revised Statutes.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. a. There is established, in but not of the Office of the
8 Attorney General in the Department of Law and Public Safety, the
9 Office of the Ombudsman for Children. For the purpose of
10 complying with the provisions of Article V, Section IV, paragraph 1
11 of the New Jersey Constitution, the Office of the Ombudsman for
12 Children is hereby allocated within the Office of the Attorney
13 General, but notwithstanding this allocation, the office shall be
14 independent of any supervision or control by the department or any
15 board or officer thereof, or any other cabinet-level department,
16 board, or officer thereof.

17 The purpose of the office shall be to ensure the provision of
18 effective, appropriate, and timely services for children at risk of
19 abuse and neglect in the State, respond to the concerns and
20 addressing the needs of children in the resource family care, and
21 that children under State supervision due to child abuse or neglect
22 are served adequately and appropriately by the State.

23 b. The Governor shall appoint an Ombudsman for Children who
24 shall be qualified by training and experience to perform the duties
25 of the office. The ombudsman shall be a person of recognized
26 judgment, integrity, and objectivity, and shall be skilled in
27 communication, conflict resolution, and professionalism. The
28 ombudsman shall serve for a term of four years and until the
29 appointment and qualification of his successor. A vacancy
30 occurring in the position of the ombudsman shall be filled in the
31 same manner as the original appointment, except that if the
32 ombudsman dies, resigns, becomes ineligible to serve for any
33 reason, or is removed from office, the Governor shall appoint an
34 acting ombudsman who shall serve until the appointment and
35 qualification of the ombudsman's successor.

36 c. The ombudsman shall organize and direct the work of the
37 office, including the work of professional and clerical staff, as may
38 be necessary to carry out the ombudsman's duties.

39 d. The Office of the Ombudsman for Children shall be deemed a
40 child protective agency for the purposes of section 1 of P.L.1977,
41 c.102 (C.9:6-8.10a).

42

43 2. a. Consistent with the provisions of federal and State law the
44 Ombudsman for Children shall:

45 (1) have access to, and the right to inspect and copy, any
46 records, relating to the care, custody, or education of a child,
47 necessary to carry out the responsibilities of the ombudsman under
48 this act; and

1 (2) have reasonable access to, and the right to copy any records
2 from the Department of Children and Families' Statewide
3 Automated Child Welfare Information System, or its successor,
4 necessary to carry out its responsibilities under this act; except that,
5 access provided to the Statewide Automated Child Welfare
6 Information System, or its successor, shall be limited to information
7 available through the system.

8 b. The ombudsman may issue subpoenas to compel the
9 attendance and testimony of witnesses or the production of books,
10 papers, and other documents, and administer oaths to witnesses in
11 any matter under the investigation of the ombudsman. If any person
12 to whom such subpoena is issued fails to appear or, having
13 appeared, refuses to give testimony, or fails to produce the books,
14 papers, or other documents required, the ombudsman may apply to
15 the Superior Court, which may order the person to appear and give
16 testimony or produce the books, papers, or other documents, as
17 applicable.

18

19 3. a. The duties of the Ombudsman for Children shall include,
20 but shall not be limited to:

21 (1) identifying and reporting on systemic issues and responses
22 relating to the child welfare system, including the State's foster care
23 system, upon which the Governor and Legislature may act;

24 (2) ensuring compliance with relevant statutes, rules, regulations,
25 policies, and contracts concerning facilities, services, and treatment
26 of children under the jurisdiction of any State agency or department
27 providing services to children who are at risk of abuse or neglect,
28 children in State or institutional custody, children in out-of-home
29 placement, and children who receive child protective or
30 permanency services;

31 (3) promoting public awareness of the rights of, and providing
32 information and outreach to, children in the care and custody of the
33 State's child welfare and foster care system and their families;

34 (4) disseminating information to the public on the duties of the
35 office, services the ombudsman provides, and the methods by which
36 the ombudsman may be contacted; and

37 (5) aiding the Governor and the Legislature in proposing
38 methods of achieving increased coordination and collaboration
39 among State departments and agencies to ensure maximum
40 effectiveness and efficiency in the provision of services to children.

41 b. The ombudsman shall:

42 (1) investigate, review, monitor, or evaluate any State agency
43 response to, or disposition of, an allegation of child abuse or neglect
44 in this State, or the out-of-placement of children under the care,
45 custody, and supervision of the State;

46 (2) inspect and review the operations, policies, procedures, and
47 contracts of all juvenile detention centers or facilities, resource
48 family homes, group homes, residential treatment facilities, shelters

1 for care of abused or neglected children, homeless youth, or
2 juveniles considered as juvenile-family crisis centers, or
3 independent living arrangements operated, licensed, or approved for
4 payment, by the Departments of Children and Families, Community
5 Affairs, or Health, or any other public or private setting in which a
6 child has been placed by a State or county agency or department;

7 (3) review, evaluate, report on, and make recommendations
8 concerning the procedures established by any State agency
9 providing services to children who are at risk of abuse or neglect,
10 children in State or institutional custody, children in out-of-home
11 placement, and children who receive child protective or
12 permanency services;

13 (4) review, monitor, and report on the performance of State-
14 funded private entities charged with the care and supervision of
15 children due to abuse or neglect or children , as deemed necessary
16 by the ombudsman to assess the performance of the entities;

17 (5) intervene in or institute administrative proceedings before
18 any department, commission, agency, or State board, to assert the
19 broad public interest of the State in the welfare of children and to
20 protect and promote the rights of children. In taking such actions,
21 the ombudsman shall consider whether a child or family may be in
22 need of assistance from the ombudsman or whether there is a
23 systemic issue in the State's provision of services to children that
24 should be addressed. The ombudsman shall make a good faith
25 effort to resolve issues or problems, and shall have the authority to
26 commence negotiations, mediation, or alternative dispute resolution
27 in its advocacy efforts prior to, or in lieu of, the initiation of any
28 action brought pursuant to this section;

29 (6) hold a public hearing on the subject of an investigation or
30 study underway by the ombudsman, and receive testimony from
31 agency and program representatives, the public, and other interested
32 parties, as the ombudsman deems appropriate; and

33 (7) establish and maintain a 24-hour toll-free telephone hotline to
34 receive and respond to calls from members of the public referring
35 problems to the ombudsman, both individual and systemic, in how
36 the State, through its agencies or contract services, protects
37 children.

38 c. In exercising the authority provided in subsection b. of this
39 section, the ombudsman shall:

40 (1) conduct unannounced site visits to any institution or facility
41 to which children are committed or placed if the ombudsman, prior
42 to conducting an unannounced site visit, has initiated a project or
43 investigation into the response or disposition of an allegation of
44 abuse or neglect and there is a reasonable basis to believe that an
45 unannounced site visit is necessary to carry out the ombudsman's
46 responsibilities under this act, provided, however, that any
47 unannounced site visit shall be conducted at a reasonable time and
48 in a reasonable manner; and

1 (2) consult with any appropriate State, county or municipal
2 agency, or a State-funded private entity providing services to
3 children, and may request from any such entity, and the entity is
4 hereby authorized and directed to provide, cooperation and
5 assistance as will enable the ombudsman to properly perform the
6 responsibilities of office under this act.

7 d. In exercising the authority provided in subsection b. of this
8 section, the ombudsman shall have discretion to decide whether to
9 intervene in any particular matter or to represent or refrain from
10 representing the public interest in a proceeding. In exercising the
11 ombudsman's discretion, the ombudsman shall consider the
12 resources available, the importance and extent of the public interest
13 involved, and whether that interest would be adequately represented
14 without the action of the ombudsman.

15

16 4. a. If the Ombudsman for Children identifies a systemic
17 problem in how the State, through its agencies or contract services,
18 protects children, the ombudsman shall meet with the State agency
19 or agencies with jurisdiction to provide a reasonable opportunity to
20 discuss the problem and identify possible responses the agency may
21 consider. Taking into account any information provided during the
22 meeting and discussion, the ombudsman shall provide its findings
23 and recommendations to the agency affected by the findings and
24 recommendations, and, except as provided in subsections b. and c.
25 of section 7 of this act, make those findings and recommendations
26 available to the public.

27 b. Within 45 days from the receipt of the ombudsman's findings
28 and recommendations, the agency shall develop a corrective action
29 plan that addresses the findings and recommendations of the
30 ombudsman and specifies what actions, if any, the agency will take
31 in response to the systemic problem identified by the ombudsman,
32 which response may be developed in conjunction with the
33 ombudsman.

34 c. The agency shall submit its corrective action plan to the head
35 of the relevant department or departments with jurisdiction over the
36 agency and simultaneously provide a copy to the ombudsman.

37 d. The ombudsman shall monitor an agency's implementation of
38 its corrective action plan, and shall require that the agency provide
39 the ombudsman with periodic reports on the status of the actions
40 taken by the agency pursuant to its corrective action plan. The
41 ombudsman shall monitor the agency's implementation of its
42 corrective action response for a period of one year, during which
43 time the agency shall provide the ombudsman with quarterly
44 reports. The agency's obligation to provide quarterly reports on the
45 implementation of its corrective action plan may exceed a period of
46 one year if the ombudsman and the agency jointly agree that an
47 extended reporting period is appropriate.

1 e. If an agency fails to promptly and adequately implement a
2 corrective action plan, the ombudsman shall take such action as the
3 ombudsman deems necessary.

4 f. An agency shall make public the corrective action plan and
5 the quarterly status reports required by this subsection d. of this
6 section, except that the agency may provide to the ombudsman an
7 additional response or report containing confidential information.

8
9 5. a. The Ombudsman for Children shall seek the approval of a
10 parent, guardian, or law guardian, as applicable, or obtain the
11 approval of a court of competent jurisdiction so as to communicate
12 directly with a child who is the subject of a complaint or allegation
13 of child abuse or neglect, if necessary to conduct an investigation
14 authorized under the provisions of this act. The communications
15 with the child shall be conducted under terms and conditions that
16 protect the best interests of the child.

17 b. If court approval is sought, the court, in reviewing an
18 application for approval, shall consider:

19 (1) the best interests of the child, so as to minimize any
20 detrimental effects on the child that may occur as a result of the
21 communication; and

22 (2) the investigative needs of the ombudsman and law
23 enforcement authorities, when applicable. Upon consideration of
24 the factors in this subsection, the court may order any alternative
25 methods for obtaining the required information.

26
27 6. a. The Ombudsman for Children shall report annually to the
28 Governor, the Commissioner of Children and Families, and the
29 Legislature, pursuant to section 2 of P.L.1991, c.164 (C.52:14-
30 19.1), on:

31 (1) the activities of the office;

32 (2) priorities for children's services that have been identified by
33 the ombudsman; and

34 (3) recommendations for improvement or needed changes
35 concerning the provision of services to children who are at risk of
36 abuse or neglect, children in State or institutional custody, children
37 in out-of-home placement, and children who receive child
38 protective or permanency services by State agencies and State-
39 funded private entities.

40 b. The annual report shall be made available to the public and
41 posted on the Office of the Attorney General's and the Department
42 of Children and Families' internet websites.

43
44 7. a. The Ombudsman for Children shall make public its
45 findings of investigation reports or other studies undertaken by the
46 office, including its investigatory findings to complaints received
47 pursuant to section 3 of this act, and shall forward any publicly
48 reported findings to the Governor, the Legislature, the

1 Commissioner of Children and Families, and the affected public
2 agencies.

3 b. The ombudsman shall not disclose:

4 (1) any information that would likely endanger the life, safety, or
5 physical or emotional well-being of a child, or the life or safety of a
6 person who filed a complaint or which may compromise the
7 integrity of a State or county department or agency investigation,
8 civil or criminal investigation, or judicial or administrative
9 proceeding; and

10 (2) the name of or any other information identifying the person
11 who filed a complaint with, or otherwise provided information to,
12 the office without the written consent of that person. The
13 information subject to the provisions of this subsection shall not be
14 considered a public record pursuant to the provisions of P.L.1963,
15 c.73 (C.47:1A-1 et seq.) and P.L.2001, c.404 (C.47:1A-5 et al.).

16 c. The ombudsman shall not disclose any information that may
17 be deemed confidential by federal or State law, except when
18 necessary to allow the Department of Children and Families,
19 Attorney General, Juvenile Justice Commission, and other State or
20 county department or agency to perform its duties and obligations
21 under the law.

22

23 8. Pursuant to the "Administrative Procedure Act," P.L.1968,
24 c.410 (C.52:14B-1 et seq.), the Ombudsman for Children may adopt
25 any rules and regulations necessary to effectuate the purposes of
26 this act.

27

28 9. This act shall take effect immediately.

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STATEMENT

32

33 This bill establishes the Office of the Ombudsman for Children
34 in, but not of the Office of the Attorney General in the Department
35 of Law and Public Safety. The bill provides that the office is to
36 ensure the provision of effective, appropriate, and timely services
37 for children at risk of abuse and neglect in the State, respond to the
38 concerns and addressing the needs of children in the resource
39 family care, and that children under State supervision due to child
40 abuse or neglect are served adequately and appropriately by the
41 State. The Office of the Ombudsman for Children is deemed a
42 child protective agency for the purposes of N.J.S.A.9:6-8.10a.

43 The bill requires the ombudsman to: (1) investigate, review,
44 monitor, or evaluate any State agency response to, or disposition of,
45 an allegation of child abuse or neglect in this State, or the out-of-
46 placement of children under the care, custody, and supervision of
47 the State; (2) inspect and review the operations, policies,
48 procedures, and contracts of all juvenile detention centers or

1 facilities, resource family homes, group homes, residential
2 treatment facilities, shelters for care of abused or neglected
3 children, homeless youth, or juveniles considered as juvenile-family
4 crisis centers, or independent living arrangements operated,
5 licensed, or approved for payment, by the Departments of Children
6 and Families, Community Affairs, or Health, or any other public or
7 private setting in which a child has been placed by a State or county
8 agency or department; (3) review, evaluate, report on, and make
9 recommendations concerning the procedures established by any
10 State agency providing services to children who are at risk of abuse
11 or neglect, children in State or institutional custody, children in out-
12 of-home placement, and children who receive child protective or
13 permanency services; (4) review, monitor, and report on the
14 performance of State-funded private entities charged with the care
15 and supervision of children due to abuse or neglect or children, as
16 deemed necessary by the ombudsman to assess the performance of
17 the entities; (5) intervene in or institute administrative proceedings
18 before any department, commission, agency, or State board, to
19 assert the broad public interest of the State in the welfare of
20 children and to protect and promote the rights of children; (6) hold a
21 public hearing on the subject of an investigation or study underway
22 by the ombudsman, and receive testimony from agency and
23 program representatives, the public, and other interested parties, as
24 the ombudsman deems appropriate; and (7) establish and maintain a
25 24-hour toll-free telephone hotline to receive and respond to calls
26 from members of the public referring problems to the ombudsman,
27 both individual and systemic, in how the State, through its agencies
28 or contract services, protects children.

29 The bill also provides that the ombudsman report annually to the
30 Governor, Commissioner of Children and Families, and Legislature
31 on: (1) the activities of the office; (2) priorities for children's
32 services that have been identified by the ombudsman; and (3)
33 recommendations for improvement or needed changes concerning
34 the provision of services to children who are at risk of abuse or
35 neglect, children in State or institutional custody, children in out-of-
36 home placement, and children who receive child protective or
37 permanency services by State agencies and State-funded private
38 entities. The report is to be posted on the Office of the Attorney
39 General's and the Department of Children and Families' websites.