

SENATE, No. 595

STATE OF NEW JERSEY

INTRODUCED JANUARY 29, 1996

By Senator McGREEVEY

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

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

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8 1. This act shall be known and may be cited as the "Ombudsman
9 for Abused and Neglected Children Act."

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11 2. The Legislature finds and declares that there is a vital public
12 need to establish as an agency of the State government the Office of
13 the Ombudsman for Abused and Neglected Children to represent the
14 interests of abused and neglected children and to serve as an
15 independent entity within the child protective services system of this
16 State.

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18 3. There is established the Office of the Ombudsman for Abused
19 and Neglected Children in the Executive Branch of the State
20 Government. For purposes of complying with Article V, Section IV,
21 paragraph 1 of the New Jersey Constitution, the office is allocated
22 within the Department of Human Services, but notwithstanding the
23 allocation, the office shall be independent of any supervision or control
24 by the department or any board or officer thereof.

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26 4. The administrator and chief executive officer of the office shall
27 be the ombudsman, who shall be a person qualified by training and
28 experience to perform the duties of the office. The ombudsman shall
29 be appointed by the Governor, with the advice and consent of the
30 Senate, and shall serve for a term of five years and until the
31 appointment and qualification of the ombudsman's successor. The
32 ombudsman shall devote his entire time to the duties of this position
33 and shall receive such salary as shall be provided by law. A vacancy
34 occurring in the position of ombudsman shall be filled in the same
35 manner as the original appointment, except that if the ombudsman
36 dies, resigns, becomes ineligible to serve for any reason, or is removed
37 from office, the Governor shall appoint an acting ombudsman who

1 shall serve until the appointment and qualification of the ombudsman's
2 successor, but in no event longer than six months from the occurrence
3 of the vacancy, and who shall exercise during this period all the
4 powers and duties of the ombudsman pursuant to this act.

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6 5. The office shall:

7 a. Serve as an advocate for abused and neglected children in this
8 State which is independent of the Division of Youth and Family
9 Services of the Department of Human Services;

10 b. Assist the Governor and the Commissioner of Human Services
11 in identifying abused and neglected child prevention and assistance
12 priorities for development and funding;

13 c. Aid the Governor and the Commissioner of Human Services in
14 proposing methods of achieving increased coordination and
15 collaboration among State and local agencies to ensure maximum
16 effectiveness and efficiency in the provision of child abuse and neglect
17 prevention and assistance services;

18 d. Assist in any investigation relating to the death of a child under
19 the supervision of the Division of Youth and Family Services and make
20 information obtained by the office from such an investigation available
21 to the Attorney General, the Superintendent of State Police and the
22 Commissioner of Human Services;

23 e. Receive and investigate complaints about the Division of Youth
24 and Family Services, in accordance with the provisions of section 6 of
25 this act;

26 f. Disseminate information to the public about the causes and
27 means of prevention of child abuse and neglect and sources of
28 assistance for children and parents, and such related information as the
29 office deems necessary to effectuate the purposes of this act;

30 g. Examine records of child abuse and neglect reports and all
31 information obtained by the Division of Youth and Family Services
32 during a child abuse or neglect investigation, pursuant to section 1 of
33 P.L.1977, c.102 (C.9:6-8.10a), for the purpose of reviewing the
34 division's ability to protect the children under its care. The office may
35 request that the State Auditor, pursuant to R.S.52:24-1 et seq.,
36 conduct a fiscal audit and programmatic analysis of the operational
37 management of the division, as it may require; and

38 h. Report to the Governor and the Legislature at least every six
39 months on the activities of the office and present such
40 recommendations as the ombudsman deems appropriate and necessary
41 to further the State's ability to protect and promote the interests of
42 abused and neglected children.

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44 6. a. The office shall establish and implement procedures for
45 eliciting, receiving, processing, responding to, conducting and
46 resolving complaints against the Division of Youth and Family

- 1 Services from children, parents, guardians, relatives or interested
2 citizens, public officials, or government agencies.
- 3 b. Upon receiving a complaint, the ombudsman shall conduct a
4 prompt and thorough investigation. Within 24 hours of receipt of the
5 report, the ombudsman shall notify the Commissioner of Human
6 Services that the report has been received.
- 7 c. When the investigation is completed, findings and recommended
8 action shall be prepared in a written report and submitted to the
9 Commissioner of Human Services.
- 10 d. The person who filed the complaint shall be promptly notified
11 that action is being taken.
- 12 e. Acting on complaint or on its own initiative, the office may
13 investigate any act, practice, policy or procedure of the Division of
14 Youth and Family Services.
- 15 f. The office may compel at a specific time and place, by subpoena,
16 the appearance and sworn testimony of any person whom the office
17 reasonably believes may be able to give information relating to a
18 matter under investigation; or compel any person to produce at a
19 specific time and place, by subpoena any documents, books, records,
20 papers, objects, or other evidence which the office reasonably believes
21 may relate to a matter under investigation.
- 22 g. The office need not investigate a complaint when it determines
23 that:
- 24 (1) The complaint is trivial, frivolous, vexatious or not made in
25 good faith;
- 26 (2) The complaint has been too long delayed to justify present
27 investigation;
- 28 (3) The resources available, considering the established priorities,
29 are insufficient for an adequate investigation; or
- 30 (4) The matter complained of is not within the investigatory
31 authority of the office.
- 32 h. The office shall maintain a central registry of all complaints and
33 all investigations, findings and recommended action. No information
34 received and compiled in this registry shall be construed as a public
35 record.
- 36 i. The office shall maintain a toll-free telephone, at least during
37 regular working hours of the office, for the filing of complaints.
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- 39 7. a. Subject to the provisions of subsections d. and g. of section
40 5 of this act, the office shall maintain confidentiality with respect to all
41 matters in relation to any complaint, review or investigation together
42 with identities of the complainants, witnesses or other persons
43 involved, unless these persons authorize, in writing, the release of this
44 information, except for such disclosures as may be necessary to enable
45 the office to perform its duties and to support any opinions or
46 recommendations that may result from a complaint or investigation.

1 The investigatory files of the office, including all complaints and
2 responses of the office to complaints, shall be maintained as
3 confidential information. Release of pertinent records shall be at the
4 discretion of the ombudsman. Nothing herein contained shall preclude
5 the use by the office of material in its files, otherwise confidential, for
6 the preparation and disclosure of statistical, case study and other
7 pertinent data, provided that in any such use there shall be no
8 disclosure of the identity or the means for discovering the identity of
9 particular persons.

10 b. A person conducting or participating in an examination of a
11 complaint or an investigation who shall disclose to any person other
12 than the office, or those authorized by the ombudsman to receive it,
13 the name of any witness examined, or any information obtained or
14 given upon the examination or investigation is a disorderly person.

15 c. A statement or communication made by the office relevant to
16 a complaint received by, proceeding before, or investigative activity
17 of, the office, and a complaint or information made or provided in
18 good faith by any person, shall be absolutely privileged, and this
19 privilege shall be a complete defense in any action which alleges libel
20 or slander.

21 d. The office shall not be required to disclose its records to, or
22 testify in, a court with respect to matters held to be confidential in this
23 section except as the court may deem necessary for determination of
24 an issue before the court.

25 e. The office shall disclose its records to a grand jury upon the
26 latter's determination that access to those records is necessary to the
27 conduct of its official business.

28 f. The office shall disclose its records to any appropriate State
29 legislative committee acting in the course of its official functions,
30 except that no names or other identifying information shall be made
31 available to the legislative committee unless it is absolutely essential
32 to the legislative purpose.

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34 8. The office is authorized to:

35 a. Adopt rules and regulations pursuant to the "Administrative
36 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), concerning the
37 operation of the office and other matters that may be necessary to
38 effectuate the purposes of this act;

39 b. Maintain offices in such places within the State as the office may
40 designate;

41 c. Employ professional employees all of whom, except for the
42 executive director, shall be in the State unclassified service and
43 stenographic, clerical and other secretarial assistants all of whom shall
44 be in the career service pursuant to Title 11A of the New Jersey
45 Statutes;

46 d. Apply for and accept any grants of money from the federal

1 government, private foundations or other sources, which may be
2 available for programs related to child abuse and neglect; and

3 e. Enter into contracts with individuals, organizations and
4 institutions necessary for the performance of the duties of the office
5 under this act.

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7 9. The office is entitled to call to its assistance and avail itself of
8 the services of employees of any State, county or municipal
9 department, board, bureau, commission or agency as it may require
10 and as may be available to it for its purposes. All departments,
11 agencies and divisions are authorized and directed, to the extent not
12 inconsistent with law, to cooperate with the Office of the Ombudsman
13 for Abused and Neglected Children.

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15 10. This act shall take effect on the 60th day after its enactment.

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18 STATEMENT

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20 This bill establishes the Office of the Ombudsman for Abused and
21 Neglected Children in, but not of, the Department of Human Services.
22 The office would:

23 **M** Serve as an advocate for abused and neglected children
24 independent of the Division of Youth and Family Services (DYFS);

25 **M** Assist the Governor and the Commissioner of Human Services
26 in identifying abused and neglected child prevention and assistance
27 priorities for development and funding;

28 **M** Aid the Governor and the Commissioner of Human Services in
29 proposing methods of achieving increased coordination and
30 collaboration among State and local agencies to ensure maximum
31 effectiveness and efficiency in the provision of child abuse and neglect
32 prevention and assistance services;

33 **M** Assist in any investigation relating to the death of a child under
34 DYFS supervision and make information obtained by the office from
35 such an investigation available to the Attorney General, the
36 Superintendent of State Police and the Commissioner of Human
37 Services;

38 **M** Receive and investigate complaints about DYFS;

39 **M** Disseminate information to the public about the causes and
40 means of prevention of child abuse and neglect and sources of
41 assistance for children and parents, and such related information as the
42 office deems necessary to effectuate the purposes of this act;

43 **M** Examine records of child abuse and neglect reports and all
44 information obtained by DYFS during a child abuse or neglect
45 investigation, for the purpose of reviewing the division's ability to
46 protect the children under its care. The office may also request that

1 the State Auditor conduct a fiscal audit and programmatic analysis of
2 the operational management of the division; and

3 **M** Report to the Governor and the Legislature at least every six
4 months on the activities of the office and present such
5 recommendations as the ombudsman deems appropriate and necessary
6 to further the State's ability to protect and promote the interests of
7 abused and neglected children.

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12 Designated the "Ombudsman for Abused and Neglected Children Act."