

ESTABLISHMENT OF OMBUDSMAN PROGRAM FOR CONSUMERS OF CHILD AND FAMILY SERVICES - BACKGROUND MEMORANDUM

Section 2 of 2009 Senate Bill No. 2420 (attached as an [appendix](#)) directs the Legislative Management to study the establishment of an ombudsman program for consumers of child and family services. As introduced, Senate Bill No. 2420 would have authorized the Department of Human Services to provide education and other services for families with minor children in which the parents do not reside in the same household for the purpose of assisting the families in amicably resolving issues pertaining to the parenting of children in a way that promotes a healthy relationship between the children and each parent. The bill provided that the assistance could include pilot programs involving institutions of higher education, improved access to customer service, parenting information, and legal resources for parents. The bill included a \$150,000 appropriation to the Department of Human Services. The bill also included an expiration date of July 31, 2011. The bill was amended in the Senate to provide for this study.

NORTH DAKOTA CHILDREN AND FAMILY SERVICES

The public child welfare system in North Dakota is county-administered and state-supervised. The Department of Human Services' Children and Family Services Division is responsible for many programs and services and sets policies and procedures for public child welfare services. The Children and Family Services Division administers the following programs: adoption, early childhood services, the child protection program, children's mental health services, family preservation services, foster care services, the Head Start State Collaboration Project, and refugee services.

Testimony regarding Senate Bill No. 2420 indicated that the Children and Family Services Division has a formalized process for hearing and investigating complaints. According to the testimony, the division, in cooperation with the Governor's office, receives calls, complaints, and requests from parents and other individuals. It was noted that the response to the calls varies depending on the nature or complexity of the problem. The division has a process in place for recording the reports and requests.

2009 LEGISLATION RELATED TO CHILDREN AND FAMILY SERVICES

The 2009 legislation related to children and family services may be classified in these subject areas: child abuse and neglect, foster care, and child care facilities.

Child Abuse and Neglect

Senate Bill No. 2097 amended provisions relating to the confidentiality of child abuse and neglect reports.

Foster Care

House Bill No. 1015 increased from \$75 to \$85 the amount a basic care or adult family foster care facility may charge in addition to the rate charged for services at that facility.

House Bill No. 1094 related to the placement of siblings in foster care. For purposes of North Dakota Century Code Title 50, the bill amended the definition of family foster home for children to allow the Department of Human Services to make exceptions with respect to the placement of siblings in foster care homes.

House Bill No. 1095 authorized the Department of Human Services to adopt rules regarding the denial or revocation of a foster care facility license if that facility houses or employs an individual who has a criminal record. The bill also authorizes the department to adopt rules to determine whether an individual or an individual's home is suitable for the adoption of any child through a child-placing agency.

Child Care Facilities

House Bill No. 1090 codified the requirements of the child care assistance program. The bill also provided that the Department of Human Services is required to pay child care costs required as a result of participation in allowable activities by the eligible caretaker in a temporary assistance for needy families household.

House Bill No. 1418 required the Department of Human Services to provide voluntary, progressive training opportunities leading to credentials and supports for the early childhood care and education workforce. The bill also required the department to implement a voluntary quality improvement process for licensed early childhood facilities.

House Bill No. 1472 provided for the creation of an early childhood services advisory board. The bill provided that the duties of the board include advising the department as the department conducts a review of all early childhood services rules and, on an ongoing basis, make recommendations to the department regarding changes and revisions to the early childhood services rules.

Senate Bill No. 2162 made various changes to the statutory provisions regarding early childhood services and the procedures for early childhood services licensure. The bill authorized the Department of Human Services to require criminal history record checks, as the department determines appropriate, for

applicants for early childhood services licensure, nonlicensed holders of a self-declaration, in-home providers, new staff members of those applicants, providers of an applicant, and a provider if the provider is providing early childhood services within the provider's home.

CHILDREN'S SERVICES OMBUDSMAN OFFICES

Ombudsman offices have been established in a variety of state, municipal, county, local, federal, and academic organizations and businesses. As an independent, impartial, and confidential complaint handler, an ombudsman serves as an alternative means of dispute resolution. The United States Ombudsman Association describes an ombudsman as "a public official appointed by the legislature to receive and investigate citizen complaints against administrative acts of government."

In recent years, some states have chosen to create ombudsman offices or offices of the child advocate to assist in providing oversight of children's services. The purpose of these offices is to:

- Handle and investigate complaints from citizens and families related to government services for children and families. This may include child protective services, foster care, adoption, and juvenile justice services;
- Provide a system accountability mechanism by recommending systemwide improvements to benefit children and families which may be in the form of annual reports to the legislature, Governor, and the public. For example, Delaware's Office of the Child Advocate examines policies and procedures; evaluates the effectiveness of the child protection system, specifically the respective roles of the division, the Attorney General's office, the courts, the medical community, and law enforcement agencies; and reviews and makes recommendations concerning investigative procedures and emergency responses;
- Protect the interests and rights of children and families both individually and systemwide; and
- Monitor programs, placements, and departments responsible for providing children's services, which may include inspecting state facilities and institutions.

Approximately 29 states currently have either ombudsman offices or offices of the child advocate with duties and purposes related to the welfare of children. This number is not exhaustive; there are a number of states in the process of creating ombudsman offices. Jurisdiction, size, and operation of the offices vary.

Children's Ombudsman Programs of Other States

This section summarizes the children's ombudsman programs of other states, including the

method for establishment, the jurisdiction of the various programs, the programs' funding, and outcomes. The information contained in this section was obtained from the National Conference of State Legislatures.

Establishment

The following 19 states have established children's ombudsman programs by means of legislative enactments: Alaska, Arizona, California, Connecticut, Delaware, Florida, Georgia, Illinois, Maine, Michigan, New Hampshire, New Jersey, Oklahoma, Oregon, Rhode Island, Tennessee, Texas, and Washington. Kentucky and New Mexico have established children's ombudsman programs by executive or administrative order.

Jurisdiction

Ombudsman offices in Alaska, Arizona, Colorado, Florida, and Nebraska generally function to assist the public with questions and complaints about state agencies. Most of the offices receive complaints regarding children and family services.

California, Illinois, Kentucky, Massachusetts, Missouri, New Hampshire, New Mexico, Oklahoma, Oregon, South Carolina, Texas, Utah, and Wyoming all provide ombudsman services through the states' divisions of child and family services. Connecticut, Delaware, Georgia, Michigan, Missouri, New Jersey, Rhode Island, Tennessee, and Washington operate independent and autonomous ombudsman offices specifically handling issues related to children. These offices are not part of the states' divisions of child and family services.

Laws in Connecticut, Delaware, Georgia, Michigan, New Jersey, and Rhode Island provide for comprehensive services as well as the authority to investigate complaints and make recommendations for systems change. Rhode Island is cited as a model for children's ombudsman offices by the American Bar Association. The following are some of the elements addressed in these laws:

- The Rhode Island ombudsman office is authorized to convene a formal investigative commission and issue a public report;
- Ombudsman offices are given access to all records and files;
- Georgia, Rhode Island, and New Jersey offices are authorized to issue subpoenas to acquire records and information as necessary and to compel attendance and testimony of witnesses;
- Michigan, New Jersey, and Rhode Island offices are authorized to initiate litigation against a state agency on behalf of children. In Georgia, the office can apply to the Governor to bring legal action via a writ of mandamus or application for an injunction;
- The ombudsman offices in several states are given the authority to inspect, monitor, and review foster homes, group homes, juvenile detention centers, residential treatment centers,

and other state facilities. The Rhode Island office monitors public and private residential placement facilities and shelters. During an onsite visit, the Rhode Island office checks that the facility is in compliance with health, safety, and fire codes; assesses the quality of the program; interviews children; and verifies any reports of institutional abuse;

- Rhode Island, Connecticut, and Georgia offices are authorized to privately interview children who are subjects of child abuse allegations or complaints;
- Several ombudsman programs provide training and technical assistance to state guardians ad litem and special advocate programs;
- The Delaware ombudsman program develops and provides quality training to division staff, deputy attorneys general, law enforcement officers, the medical community, family court personnel, educators, day care providers, and others on the various standards, criteria, and investigative technology;
- The ombudsman programs in Rhode Island and Connecticut are authorized to recommend legislation; and

- Ombudsman offices in some states may apply for and accept grants, gifts, and bequests of funds from other sources.

Enabling legislation from several states, including Minnesota, require the ombudsman or child advocate to be appointed by the Governor for a specified time period. Several states require the Governor to develop a nominating or selection committee composed of representatives from fields related to child welfare or juvenile justice. At least one state statute--Georgia--requires an advisory committee to advise on issues related to the work of the ombudsman on an ongoing basis.

Funding

Most of the children's ombudsman offices require yearly state appropriations to cover operating costs. Several receive funding through the various state divisions of children and family services, if the offices are located within the division. In addition, statutes allow many of the offices to accept funds through other sources such as grants, foundations, and state license plate programs. Yearly budgets depend on the size of the office and number of full-time equivalent (FTE) staff, caseload of complaints, and state availability of funds.

Office	Yearly Budget	Staffing - Complaints
Alaska Office of the Ombudsman	\$500,000	7 FTE staff (all state services)
Michigan Office of Children's Ombudsman	\$1,303,900 (fiscal year 2006)	12 FTE staff 740 complaints per year 1,300-1,400 children served per year
New Jersey Office of the Child Advocate	\$2,000,000	Not available
Oklahoma Department of Human Services Office of Client Advocacy	\$2,500,000	14 FTE staff 750 complaints
Utah Office of Child Protection Ombudsman	\$700,000	7 FTE staff
Washington Office of the Family and Children's Ombudsman	\$400,000	6 FTE staff

Results

The National Conference of State Legislatures reported that while there have been no formalized evaluations of the effectiveness of the offices, some of the outcomes include legislative enactments, child fatality reports, and systemwide recommendations for change. Some examples include:

- Rhode Island Office of the Child Advocate
 - A national criminal background check requirement for foster and adoptive parents;
 - Mandatory training for Department of Children, Youth and Families staff;
 - A multidisciplinary hospital discharge of drug-exposed babies;
 - Court-ordered case plans mandated at reviews; and
 - Mandatory minimum sentences for first degree child abuse cases.

Michigan Office of Children's Ombudsman

- Seventy percent of the 105 annual report recommendations issued by the office since 1995 have been fully implemented by the Michigan Department of Human Services.

Washington Office of the Family and Children's Ombudsman

- Promoted access to the Department of Social and Health Services' formal complaint resolution process;
- Recommended tightening school district compliance with mandatory reporting laws;
- Made three major recommendations regarding child protective services child sexual abuse investigations that were incorporated into state law by the 1999 Legislature;
- Reported on the lack of guardian ad litem representation for children prompting the Legislature to strengthen that system in the 1999 session; and
- Issued a report highlighting chronic neglect.

SUGGESTED STUDY APPROACH

The committee, in its study of the establishment of an ombudsman program for consumers of child and family services, may wish to approach this study as follows:

- Receive information from the Governor's office, the Department of Human Services, and other agencies and organizations regarding the services provided to consumers of child and family services in the state;
- Receive information and recommendations from children's services advocacy organizations, parents, and other interested persons regarding concerns with the current

process for providing information and services to consumers of children and family services in the state;

- Receive information regarding the children's services ombudsman programs in other states;
- Receive information regarding the fiscal impact of establishing a children's services ombudsman program in North Dakota; and
- Develop final recommendations and prepare legislation necessary to implement the recommendations.

ATTACH:1