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TRANSFER CHILDREN'S OMBUDSMAN

House Bill 6074

Sponsor: Rep. Edward LaForge

House Bill 6075

Sponsor: Rep. Sharon Gire

Committee: Human Services and Children

Complete to 9-18-98

A SUMMARY OF HOUSE BILLS 6074 AND 6075 AS INTRODUCED 9-16-98

Public Act 204 of 1994 established an Office of Children's Ombudsman as an autonomous entity within the Department of Management and Budget (DMB) in order to monitor relevant statutes and policies pertaining to children's protective services and placement in foster care and adoptive homes. House Bills 6074 and 6075 (MCL 722.922 et al.) would amend the act to transfer the ombudsman's office to the legislative branch in a Type 1 transfer, and to expand the office's powers and responsibilities. (A Type I transfer is defined under the Executive Organization Act of 1965 [MCL 16.103] as the "transferring intact of an existing department, board, commission, or agency to a principal department established by [the] act." The act goes on to specify that, among other provisions, any agency that is transferred to a principal department under a Type 1 transfer must be administered under the supervision of that principal department. In addition, an agency granted a Type 1 transfer must exercise its prescribed statutory powers, duties and functions of rule-making, licensing and registration including the prescription of rules, rates, regulations and standards, and adjudication independently of the head of the department.)

Powers of Children's Ombudsman. Currently, the act specifies that the ombudsman may conduct investigations about "administrative acts," which includes actions, omissions, decisions, and practices of the Family Independence Agency (FIA), an adoption attorney, or a child placing agency concerning a particular child related to adoption, foster care, or protective services. House Bill 6074 would extend the scope of the ombudsman's investigations to permit the ombudsman to investigate policies of the Departments of Community Health (DCH) and Consumer and Industry Services (DCIS). Under House Bill 6074, these policies would include infant-maternal support services, child abuse and neglect prevention services, and licensed or registered child care organizations. House Bill 6075 would expand the children's ombudsman's powers and responsibilities to include monitoring the rules and policies of child abuse and neglect prevention services and licensed or registered child care organizations.

The act also specifies, currently, that the ombudsman may hold informal hearings and request testimony and documentary evidence. House Bill 6074 would specify that, in addition, the ombudsman could compel testimony of any person the office believed could provide information relating to a matter under investigation and could require that documents be produced

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if it believed they related to a matter under investigation. Further, the office could bring suit regarding the exercise of its powers to compel testimony or production of these documents.

Complaints. Currently, the act specifies that all of the following individuals may file complaints with the ombudsman: a child (if he or she is able to articulate a complaint), and the child's biological parents, foster parent, adoptive parent or prospective adoptive parent, guardian or guardian ad litem, and close relative; a Michigan legislator; or an attorney for any of these individuals. House Bills 6074 and 6075 would extend the list of individuals to include a person who is required under the Child Protection Law (CPL) to report suspected child abuse or neglect.

Cooperation by other Entities. Currently, the act specifies that the FIA and child placing agencies must honor ombudsman requests for information connected with an investigation, assist the ombudsman in obtaining the necessary releases of restricted documents, and provide the ombudsman with requested progress reports on administrative processing of complaints. Under the bill, the agencies required to cooperate under this provision would include the DCH and the DCIS. House Bill 6074 would specify that, upon the ombudsman's request, these agencies would have to provide copies of all information, records, files, and documents in their possession. Further, if the ombudsman requested copies of records or documents, the agencies would have to provide those copies within ten days after the date of the request. House Bill 6074 would also add that, except as otherwise provided by law, a public or nonpublic school, a health care facility, a county medical examiner, child fatality review team, a law enforcement agency, or a court or court employee, including, but not limited to, the Friend of the Court, would have to provide the ombudsman, or its designee, with all information, records, and documents considered necessary in an investigation.

House Bill 6075 would add a new section to the act to specify that the ombudsman would be required to randomly select and conduct an independent review of unsubstantiated reports of suspected abuse or neglect made to the FIA under the provisions of the CPL, and report any evidence of abuse or neglect discovered during a review to the FIA; the chair of the Senate Committee on Families, Mental Health, and Human Services, or its successor committee; and the chair of the House Committee on Human Services and Children, or its successor committee.

Analyst: R. Young

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.