

HOUSE BILL No. 4650

April 30, 2013, Introduced by Rep. Glardon and referred to the Committee on Families, Children, and Seniors.

A bill to amend 1994 PA 204, entitled
"The children's ombudsman act,"
by amending sections 2, 5a, and 6 (MCL 722.922, 722.925a, and
722.926), sections 2 and 6 as amended and section 5a as added by
2004 PA 560.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2. As used in this act:

2 (a) "Administrative act" includes an action, omission,
3 decision, recommendation, practice, or other procedure of the
4 department, an adoption attorney, or a child placing agency with
5 respect to a particular child related to adoption, foster care, or
6 protective services.

7 (b) "Adoption attorney" means that term as defined in section

22 of the adoption code, MCL 710.22.

(c) "Adoption code" means **THE MICHIGAN ADOPTION CODE**, chapter X of the probate code of 1939, 1939 PA 288, MCL 710.21 to 710.70.

(d) "Central registry" means that term as defined in section 2 of the child protection law, MCL 722.622.

(e) "Child" means an individual under the age of 18.

(f) "Child abuse" and "child neglect" mean those terms as defined in section 2 of the child protection law, MCL 722.622.

(g) "Child caring institution" means that term as defined in section 1 of 1973 PA 116, MCL 722.111.

(h) "Child placing agency" means an organization licensed or approved by the department to receive children for placement in private family homes for foster care or adoption and to provide services related to adoption.

(i) "Complainant" means an individual who makes a complaint as provided in section 5.

(j) "Child protection law" means the child protection law, 1975 PA 238, MCL 722.621 to 722.638.

(k) "Children's ombudsman" or "ombudsman" means the individual appointed to the office of children's ombudsman under section 3.

(l) "Closed session" means that term as defined in **SECTION 2 OF** the open meetings act, 1976 PA 267, ~~MCL 15.261 to 15.275~~. **MCL 15.262.**

(m) "Department" means the ~~family independence agency~~ **DEPARTMENT OF HUMAN SERVICES.**

(n) "Foster care" means care provided to a child in a foster family home, foster family group home, or child caring institution

1 licensed or approved by the department under 1973 PA 116, MCL
2 722.111 to 722.128, or care provided to a child in a relative's
3 home under a court order.

4 (o) "Office" means the children's ombudsman office established
5 under section 3.

6 (P) "RESOURCE FAMILIES BILL OF RIGHTS LAW" MEANS THE RESOURCE
7 FAMILIES BILL OF RIGHTS LAW CREATED IN SECTION 8A OF THE FOSTER
8 CARE AND ADOPTION SERVICES ACT, 1994 PA 203, MCL 722.958A.

9 Sec. 5a. The children's ombudsman has the authority to do all
10 of the following:

11 (a) Pursue all necessary action, including, but not limited
12 to, legal action, to protect the rights and welfare of a child
13 under the jurisdiction, control, or supervision of the department,
14 the Michigan children's institute, the family division of circuit
15 court under section 2(a)(1) of chapter XIIIA of the probate code of
16 1939, 1939 PA 288, MCL 712A.2, a child caring institution, or a
17 child placing agency.

18 (b) Pursue legislative advocacy in the best interests of
19 children.

20 (c) Review policies and procedures relating to the
21 department's involvement with children and make recommendations for
22 improvement.

23 (d) Review each departmental death review team study in which
24 the child's death may have resulted from child abuse or child
25 neglect. As a result of the reviews, the ombudsman may recommend
26 policies, measures, or procedures to prevent future similar
27 occurrences.

1 **(E) COMMENCE AND CONDUCT INVESTIGATIONS INTO ALLEGED**
2 **VIOLATIONS OF THE RESOURCE FAMILIES BILL OF RIGHTS LAW.**

3 Sec. 6. The ombudsman may do all of the following in relation
4 to a child who may be a victim of child abuse or child neglect:

5 (a) Upon his or her own initiative or upon receipt of a
6 complaint, investigate an administrative act that is alleged to be
7 contrary to law or rule, contrary to policy of the department or a
8 child placing agency, imposed without an adequate statement of
9 reason, or based on irrelevant, immaterial, or erroneous grounds.

10 The ombudsman has sole discretion to determine if a complaint
11 involves an administrative act.

12 (b) Decide, in his or her discretion, whether to investigate
13 an administrative act.

14 (c) Upon its own initiative or upon receipt of a complaint
15 from a complainant, conduct a preliminary investigation to
16 determine whether an adoption attorney may have committed an
17 administrative act that is alleged to be contrary to law, rule, or
18 the Michigan rules of professional conduct adopted by the Michigan
19 supreme court.

20 **(D) UPON HIS OR HER OWN INITIATIVE OR UPON RECEIPT OF A**
21 **COMPLAINT, INVESTIGATE AN ALLEGED VIOLATION OF THE RESOURCE**
22 **FAMILIES BILL OF RIGHTS LAW.**

23 **(E) ~~(d)~~**—Except as otherwise provided in this subdivision,
24 access records and reports necessary to carry out the ombudsman's
25 powers and duties under this act to the same extent and in the same
26 manner as provided to the department under the provisions of the
27 child protection law. The ombudsman shall be provided access to

1 medical records in the same manner as access is provided to the
2 department under section 16281 of the public health code, 1978 PA
3 368, MCL 333.16281. The ombudsman shall be provided access to
4 mental health records in the same manner as access is provided to
5 the department in section 748a of the mental health code, 1978 PA
6 258, MCL 330.1748a, subject to section 9. The ombudsman is subject
7 to the same standards for safeguarding the confidentiality of
8 information under this section and the same sanctions for
9 unauthorized release of information as the department.

10 ~~—— (e) Request a subpoena from a court requiring the production~~
11 ~~of a record or report necessary to carry out the ombudsman's duties~~
12 ~~and powers. If the person to whom a subpoena is issued fails or~~
13 ~~refuses to produce the record or report, the ombudsman may petition~~
14 ~~the court for enforcement of the subpoena.~~

15 (f) Hold informal hearings and request that individuals appear
16 before the ombudsman and give testimony or produce documentary or
17 other evidence that the ombudsman considers relevant to a matter
18 under investigation.

19 (g) Make recommendations to the governor and the legislature
20 concerning the need for children's protective services, adoption,
21 or foster care legislation, policy, or practice without prior
22 review by other offices, departments, or agencies in the executive
23 branch in order to facilitate rapid implementation of
24 recommendations or for suggested improvements to the
25 recommendations. ~~However, no~~ **NO** other office, department, or agency
26 shall prohibit the release of an ombudsman's recommendation to the
27 governor or the legislature.

1 Enacting section 1. This amendatory act does not take effect
2 unless Senate Bill No. ____ or House Bill No. 4649(request no.
3 00065'13) of the 97th Legislature is enacted into law.