

2024 Regular Session

SENATE BILL NO. 145

BY SENATOR BARROW

CHILDREN. Provides relative to the state child ombudsman. (8/1/24)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17

AN ACT

To amend and reenact R.S. 24:525(C)(2), (5) through (8), and (11), R.S. 44:4(6), and Children's Code Arts. 412(N), 616.1.1(B), and the introductory paragraph of 616.1.1(C) and to enact R.S. 17:407.29(J), 3138.12(I), 3914(O), R.S. 24:525(F) and (G), R.S. 46:56(N), and Children's Code Art. 616.1.1(D), relative to the state child ombudsman; to provide for access to records and data; to provide for powers and duties of the state child ombudsman; to provide for exemptions to the Public Records Law; to provide for child abuse reporting and investigation; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 17:407.29(J), 3138.12(I), 3914(O) are hereby enacted to read as follows:

§407.29. Confidentiality of applications and client case records for child care assistance clients; waiver; penalty

* * *

J. Notwithstanding any provision of law to the contrary, including this Section, the state child ombudsman shall receive, upon written request, records

1 of the Department of Education concerning applications for assistance and
 2 information contained in the case records of child care assistance clients of the
 3 department.

4 * * *

5 §3138.12. Louisiana's Foundational Integrated Research System for Transformation
 6 (LA FIRST)

7 * * *

8 I. Notwithstanding any other provisions of law to the contrary,
 9 LAFIRST, through the Board of Regents, shall provide, upon request, the state
 10 child ombudsman with access to shared data under this Section.

11 * * *

12 §3914. Student information; privacy; legislative intent; definitions; prohibitions;
 13 parental access; penalties

14 * * *

15 O. Notwithstanding any law to the contrary, including this Section, the
 16 state child ombudsman shall receive, upon written request, any student record
 17 for the purposes of carrying out the ombudsman's duties from any public
 18 elementary or secondary school, any city, parish, or other local public school
 19 system, or the Louisiana Department of Education.

20 Section 2. R.S. 24:525(C)(2), (5) through (8), and (11) are hereby amended and
 21 reenacted and R.S. 24:525(F) and (G) are hereby enacted to read as follows:

22 §525. State child ombudsman; duties

23 * * *

24 C. The state child ombudsman shall have all of the following duties and
 25 responsibilities:

26 * * *

27 (2) Periodically review the procedures established by any state agency
 28 providing services to children, with a view toward the rights, **needs**, welfare, and
 29 safety of the children, and recommend revisions to the procedures.

* * *

(5) Periodically review the facilities and procedures of any institution or residences, public or private, where a child has been placed by any state agency or department.

(a) For purposes of this Section, the term "residences" means congregate care facilities and does not include foster homes.

(b) For purposes of this Section, the term "access" means policies and availability of services.

(6) Recommend changes in state policies concerning children, including changes in the system of providing juvenile justice, child care **assistance**, foster care, and access to physical and mental health treatment.

(7) Conduct programs of public education, undertake legislative advocacy, and make proposals for systemic reform in order to ensure the rights **and needs** of children who reside in this state.

(8) Periodically review and recommend changes in the policies and procedures for the placement of special needs children. **For purposes of this Section, "special needs" means the individualized care that children with a disability, whether physical, mental, behavioral, emotional, or learning difficulties, required to ensure their safety, access to public amenities, or ability to succeed in certain contexts.**

* * *

(11) Prepare a biennial, in-depth report on conditions of confinement regarding children twenty-one years of age or younger who are held in secure detention in any facility operated by a state agency **or those that receive state funding.**

* * *

F. Notwithstanding any other provisions of law to the contrary, the state child ombudsman shall, upon request, have access to documents and records relevant to the ombudsman's statutory duties. Such documents and records

1 shall include but not be limited to the applications and case files of the
 2 Louisiana Department of Health and the Department of Children and Family
 3 Services except for the name and any identifying information of the reporter of
 4 child abuse or neglect and restrictions provided in Title IV-D of the Social
 5 Security Act and the Internal Revenue Code, juvenile court records and records
 6 of children in the custody of the office of juvenile justice, student records in the
 7 possession of the Louisiana Department of Education, any parish or city school
 8 board, and any elementary or secondary education school, including charter
 9 schools. The state child ombudsman shall comply with any and all restrictions
 10 imposed by law on documents, data, or information considered confidential or
 11 privileged and furnished to the state child ombudsman.

12 G. Notwithstanding any other provision of law to the contrary, the state
 13 child ombudsman shall not be compelled to be a witness or be deposed in any
 14 case where the state child ombudsman is not personally a defendant.

15 Section 3. R.S. 44:4(6) is hereby amended and reenacted to read as follows:

16 §4. Applicability

17 This Chapter shall not apply:

18 * * *

19 (6)(a) To any records, writings, accounts, letters, letter books, photographs,
 20 or copies or memoranda thereof in the custody or control of the legislative auditor,
 21 ~~or to~~ unless otherwise provided.

22 (b) To any records, writings, accounts, letters, letter books, photographs,
 23 or copies or memoranda thereof in the custody or control of the state child
 24 ombudsman, unless otherwise provided.

25 (c) To the actual working papers of the internal auditor of a municipality until
 26 the audit is complete, unless otherwise provided.

27 * * *

28 Section 4. R.S. 46:56(N) is hereby enacted to read as follows:

29 §56. Applications and client case records; definitions; confidentiality; waiver;

1 penalty

2 * * *

3 N. Notwithstanding any provisions of this Section or any other law to the
4 contrary, the department shall, upon request, provide copies of applications and
5 case files to the state child ombudsman for the purposes of carrying out the
6 ombudsman's statutory duties. Any such documents provided to the state child
7 ombudsman shall remain confidential and otherwise subject to the provisions
8 of this Section concerning any subsequent disclosures.

9 Section 5. Children's Code Arts. 412(N) and 616.1.1(B) and the introductory
10 paragraph of 616.1.1(C) are hereby amended and reenacted and Children's Code Art.
11 616.1.1(D) is hereby enacted to read as follows:

12 Art. 412. Confidentiality of records; disclosure exceptions; sanctions

13 * * *

14 N.(1) Notwithstanding any other law to the contrary, the state child
15 ombudsman shall have access to records and reports concerning matters or
16 proceedings before the juvenile court as needed in furtherance of the
17 ombudsman's statutory duties. Any records or reports provided to the state
18 child ombudsman shall remain confidential and shall not be subject to any
19 further disclosure, absent an order of the juvenile court for that purpose.

20 (2) The office of juvenile justice shall provide to the state child
21 ombudsman, upon written request of the state child ombudsman, any record or
22 report concerning a child in the custody of the office of juvenile justice needed
23 in furtherance of the ombudsman's statutory duties, including but not limited
24 to records related to condition, housing, supervision, treatment, rehabilitation
25 program, education, health, discipline, transition planning, risk assessments,
26 and status reports.

27 * * *

28 Art. 616.1.1. Appeal and review; correction of central registry entries; procedure

29 * * *

1 **B. When a report alleging abuse or neglect is determined to be**
 2 **inconclusive by the department, there shall be an internal second level approval**
 3 **of any inconclusive finding.**

4 **C.** The department shall provide a written notice to the individual who is or
 5 was the subject of the determination in clear, concise, and understandable language
 6 that is easy to read, containing all of the following:

7 * * *

8 **€D.** The department shall promulgate, in accordance with the Administrative
 9 Procedure Act, all rules and regulations necessary to implement the provisions of this
 10 Article.

The original instrument was prepared by Amanda Trapp. The following digest, which does not constitute a part of the legislative instrument, was prepared by Matt Deville.

DIGEST

SB 145 Engrossed

2024 Regular Session

Barrow

Present law creates a state child ombudsman appointed by the legislative auditor and provides for the powers and duties of the ombudsman.

Proposed law defines terms used included in the ombudsman's duties and grants the ombudsman authority to access certain documents and records to perform those duties.

Proposed law prohibits the ombudsman from being compelled to be a witness or be deposed in any case where the ombudsman is not personally a defendant.

Present law provides for confidentiality of certain documents maintained by the Department of Education, Louisiana's Foundational Integrated Research System for Transformation (LA FIRST), public elementary and secondary schools and local public school systems, the Department of Children and Family Services, juvenile courts, and the office of juvenile justice.

Proposed law requires that those documents be provided to the ombudsman upon request.

Present law exempts certain documents in the custody or control of the legislative auditor and the internal auditor of a municipality from public records disclosure.

Proposed law adds an exemption for documents in the custody or control of the ombudsman.

Present law provides for Department of Children and Family Services procedures relative to reported alleged abuse or neglect.

Proposed law adds procedures for cases of inconclusive determination.

Effective August 1, 2024.

(Amends R.S. 24:525(C)(2), (5)-(8), and (11), R.S. 44:4(6), and Ch.C. Arts. 412(N), 616.1.1(B), and 616.1.1(C)(intro para); adds R.S. 17:407.29(J), 3138.12(I), 3914(O), R.S. 24:525(F) and (G), R.S. 46:56(N), and Ch.C. Art. 616.1.1(D))

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Senate and Governmental Affairs to the original bill

1. Exempt the name and identifying information of the reporter of child abuse and certain financial information from the records available to the child ombudsman.
2. Provide that an inconclusive report regarding a determination of abuse or neglect will be evaluated internally.