

2023 Regular Session

SENATE BILL NO. 137

BY SENATORS BARROW, BOUDREAUX, CARTER, HENSGENS, LUNEAU,
MCMATH, FRED MILLS, MIZELL AND POPE

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

CHILDREN. Creates the Office of the State Child Ombudsman and the state child
ombudsman. (8/1/23)

1 AN ACT

2 To amend and reenact R.S. 44:4.1(B)(34) and to enact R.S. 36:4.1(C)(16), R.S.

3 40:2019(C)(23), and R.S. 49:210.1, relative to the Office of the State Child

4 Ombudsman; to provide for the Office of the State Child Ombudsman within the

5 office of the governor; to provide for the state child ombudsman; to provide for the

6 duties of the office; to provide for the duties of state agencies; to provide for access

7 to certain records; to provide for confidentiality of certain records and an exception

8 to the Public Records Law; to provide for legislative review; to prohibit retaliation

9 by certain parties; and to provide for related matters.

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. R.S. 36:4.1(C)(16) is hereby enacted to read as follows:

12 §4.1. Agencies transferred from the Department of Economic Development to the

13 office of the governor; agencies placed within the office of the

14 governor

15 * * *

16 C. The following agencies are hereby transferred to and shall be placed

17 within the office of the governor and shall perform and exercise their powers, duties,

1 functions, and responsibilities as provided in R.S. 36:803:

2 * * *

3 **(16) Office of the State Child Ombudsman (R.S. 49:210.1).**

4 * * *

5 Section 2. R.S. 40:2019(C)(23) is hereby enacted to read as follows:

6 §2019. Child death investigation

7 * * *

8 C. Child Death Review Panel. There is established within the Louisiana
9 Department of Health the Louisiana State Child Death Review Panel, hereinafter
10 referred to as the "state panel", which shall be composed of ~~twenty-seven~~ **twenty-**
11 **eight** persons. Members of the panel shall include:

12 * * *

13 **(23) The state child ombudsman or his designee.**

14 * * *

15 Section 3. R.S. 44:4.1(B)(34) is hereby amended and reenacted to read as follows:

16 §4.1. Exceptions

17 * * *

18 B. The legislature further recognizes that there exist exceptions, exemptions,
19 and limitations to the laws pertaining to public records throughout the revised
20 statutes and codes of this state. Therefore, the following exceptions, exemptions, and
21 limitations are hereby continued in effect by incorporation into this Chapter by
22 citation:

23 * * *

24 (34) ~~R.S. 49:220.25,~~ **R.S. 49:210.1, 220.25,** 956, 997, 1055

25 * * *

26 Section 4. R.S. 49:210.1 is hereby enacted to read as follows:

27 **§210.1. Office of the State Child Ombudsman; state child ombudsman; duties**

28 **A. The Office of the State Child Ombudsman is hereby created, subject**
29 **to the appropriation of funds by the legislature, within the office of the**

1 governor, to act as an independent ombudsman agency monitoring and
2 evaluating the public and private agencies involved in the protection of children
3 and delivery of services to children, reviewing state policies and procedures to
4 ensure they protect children's rights and promote their best interest, and
5 safeguarding the welfare of children through educational advocacy, system
6 reform, public awareness, and training.

7 B.(1) The chief officer of the Office of the State Child Ombudsman shall
8 be the state child ombudsman. The state child ombudsman shall be appointed
9 by the governor, shall be submitted to the Senate for confirmation, and shall
10 have knowledge of the child welfare system and the legal system. No person
11 shall be appointed to serve as state child ombudsman unless that person is
12 qualified by training and experience to perform the duties of the office as
13 provided for in this Section.

14 (2) The state child ombudsman shall serve at the pleasure of the
15 governor at a salary fixed by the governor, which shall not exceed the amount
16 approved for the position by the legislature while in session.

17 C. Notwithstanding any other provision of law to the contrary, the Office
18 of the State Child Ombudsman and the state child ombudsman shall act
19 independently of any state department in the performance of their duties.

20 D. The state child ombudsman may, within available funds appropriated
21 for the Office of the State Child Ombudsman, employ any staff deemed
22 necessary. The duties of the staff may include the duties and powers of the state
23 child ombudsman if performed under the direction of the state child
24 ombudsman.

25 E. The Office of the State Child Ombudsman shall have all of the
26 following duties and responsibilities:

27 (1) Evaluate the delivery of services to children by state agencies and
28 those entities that provide services to children through funds provided by the
29 state.

1 **(2) Review periodically the procedures established by any state agency**
2 **providing services to children, with a view toward the rights of the children and**
3 **recommend revisions to the procedures.**

4 **(3) Review complaints of persons concerning the actions of any state**
5 **agency providing services to children and of any entity that provides services**
6 **to children through funds provided by the state, make appropriate referrals,**
7 **and coordinate when the state child advocate determines that a child or family**
8 **may be in need of assistance from the Office of the State Child Ombudsman or**
9 **that a systemic issue in the state's provision of services to children is raised by**
10 **the complaint.**

11 **(4) Act as a liaison for a child or family, including but not limited to**
12 **advocating with an agency, provider, or others on behalf of the best interests of**
13 **the child.**

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

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

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

23 **(8) Periodically review and recommend changes in the policies and**
24 **procedures for the placement of special needs children.**

25 **(9) Serve or designate a person to serve as a member of the child death**
26 **review panel.**

27 **(10) Take appropriate steps to advise the public of the services of the**
28 **Office of the State Child Ombudsman, the purpose of the office, and procedures**
29 **to contact the office.**

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

4 **(12) Present to the legislature an annual report on the goals of and**
5 **projects undertaken by the Office of the State Child Ombudsman, within**
6 **available appropriations, that are consistent with the duties and responsibilities**
7 **provided for in this Section.**

8 **F.(1) A state agency contacted by the Office of the State Child**
9 **Ombudsman, pursuant to the duties and responsibilities provided for in this**
10 **Section, shall submit a written acknowledgment and, if appropriate, an**
11 **anticipated plan of action and regular status updates to the state child**
12 **ombudsman.**

13 **(2) Any state agency having responsibility for the custody or care of**
14 **children shall provide monthly notice to the state child ombudsman of the death**
15 **of a child in its custody or care.**

16 **G.(1) Notwithstanding any provision of law to the contrary, the state**
17 **child ombudsman may request and shall have access to, including the right to**
18 **promptly inspect and copy, any records necessary to carry out the duties and**
19 **responsibilities of the Office of the State Child Ombudsman as provided for in**
20 **this Section. The records shall be provided to the state child ombudsman not**
21 **later than fourteen business days from the date of the request. If the state child**
22 **ombudsman is denied access to any records necessary to carry out the duties**
23 **and responsibilities provided for in this Section, the state child ombudsman may**
24 **seek a subpoena for the production of the records.**

25 **(2) In the performance of his duties and responsibilities provided for in**
26 **this Section, the state child ombudsman may communicate privately with any**
27 **child or person who has received, is receiving, or should have received services**
28 **from the state. The communications shall be confidential and not subject to**
29 **disclosure, except as provided in Subsection I of this Section.**

1 H. The state child ombudsman may apply for and accept grants,
2 donations, and bequests of funds from other states, federal and interstate
3 agencies, independent authorities, private firms, individuals, and foundations
4 for the purpose of carrying out the duties and responsibilities of the Office of
5 the State Child Ombudsman pursuant to this Section.

6 I. The name, address, and other personally identifiable information of
7 a person who makes a complaint to the Office of the State Child Ombudsman,
8 all information obtained or generated by the office in the course of an
9 investigation, and all confidential records obtained by the state child
10 ombudsman or a designee shall be confidential and shall not be subject to
11 disclosure, except that the information and records, other than confidential
12 information concerning a pending law enforcement investigation or a pending
13 prosecution, may be disclosed if the state child ombudsman determines that
14 disclosure is in the general public interest and the disclosure does not violate
15 existing state or federal confidentiality laws. The state child ombudsman may
16 disclose the information to the appropriate agency responsible for the welfare
17 of the child or the legal representative for the child.

18 J. No state agency or entity providing publicly funded services shall
19 discharge, or in any manner discriminate or retaliate against, any employee
20 solely on the basis that the employee in good faith made a complaint to the state
21 child ombudsman or cooperated with the Office of the State Child Ombudsman
22 in an investigation.

23 K. The standing committee of each house of the legislature having
24 responsibility for oversight shall perform a biennial review and evaluation of
25 the Office of the State Child Ombudsman, the position of state child
26 ombudsman, and the provisions of this Section.

The original instrument was prepared by Brandi Cannon. The following digest, which does not constitute a part of the legislative instrument, was prepared by Tracy Sabina Sudduth.

DIGEST

SB 137 Reengrossed

2023 Regular Session

Barrow

Proposed law creates the Office of the State Child Ombudsman (office), within the office of the governor, to act as an independent ombudsman agency monitoring and evaluating the public and private agencies involved in the protection of children, and reviewing state policies and procedures to ensure they protect children's rights and promote their best interest. Proposed law further provides for the duties of the office which have the goal of safeguarding the welfare of children through educational advocacy, system reform, public awareness and training.

Proposed law that the Office of the State Child Ombudsman shall only be created within the office of the governor subject to the appropriation of funds by the legislature.

Proposed law provides for the chief officer of the Office of the State Child Ombudsman to be the state child ombudsman, who shall be appointed by the governor, shall be submitted to the Senate for confirmation, and shall have knowledge of the child welfare system and the legal system. Proposed law further provides that no person shall be appointed to serve as state child ombudsman unless that person is qualified by training and experience to perform the duties of the office.

Proposed law provides that the Office of the State Child Ombudsman and the state child ombudsman shall act independently of any state department in the performance of their duties.

Proposed law provides that the state child ombudsman shall serve or designate a person to serve as a member of the child death review panel.

Proposed law provides that the state health ombudsman shall take appropriate steps to advise the public of the services of the Office of the State Child Ombudsman, the purpose of the office, and procedures to contact the office.

Proposed law provides that the office shall prepare the following reports:

- (1) A biennial, in-depth report on conditions of confinement regarding children 21 years of age or younger who are held in secure detention in any facility operated by a state agency.
- (2) An annual report on the goals of and projects undertaken by the office, within available appropriations, that are consistent with its duties and responsibilities.

Proposed law provides for any state agency having responsibility for the custody or care of children to provide written acknowledgment to the state child ombudsman of the death of a child in its custody or care.

Proposed law provides that the state child ombudsman shall have access to any records necessary to carry out the duties and responsibilities of the Office of the State Child Ombudsman.

Proposed law for confidentiality for conversations between the state child ombudsman and any child or person who has received, is receiving, or should have received services from the state. Proposed law also provides for the confidentiality of personally identifiable information of a person who makes a complaint to the Office of the State Child Ombudsman,

all information obtained or generated by the office in the course of an investigation, and all confidential records obtained by the state child ombudsman or a designee. Proposed law further provides that certain confidential information may be disclosed if the state child ombudsman determines that disclosure is in the general public interest or necessary to enable the state child ombudsman to perform his duties and responsibilities and does not violate state or federal confidentiality laws.

Proposed law provides that no state agency or entity providing publicly funded services shall discharge, or in any manner discriminate or retaliate against, any employee who in good faith makes a complaint to the state child ombudsman or cooperates with the Office of State Child Ombudsman in an investigation.

Proposed law provides that the standing committee of each house having responsibility for oversight shall perform a biennial review and evaluation of the Office, the ombudsman, and the provisions of this law.

Effective August 1, 2023.

(Amends R.S. 44:4.1(B)(34); adds R.S. 36:4.1(C)(16), R.S. 40:2019(C)(23), and R.S. 49:210.1)

Summary of Amendments Adopted by the Senate

Committee Amendments Proposed by the Senate Committee on Finance to the engrossed bill

1. Changes the Office of Child Advocacy to the Office of the State Child Ombudsman.
2. Adds a provision that the Office of the State Child Ombudsman shall only be created within the office of the governor subject to the appropriation of funds by the legislature.
3. Changes state child advocate to state child ombudsman.
4. Removes provision for legal representation for children.
5. Remove provision that any state agency cited in report shall submit a response within 90 days.
6. Adds a provision that in the event of the death of child in state custody or care, the responsible agency shall submit a monthly notice to the state child ombudsman.
7. Specifies that the disclosure of any confidential information does not violate existing state or federal confidentiality laws.
8. Adds provision for legislative review.