SLS 24RS-399 ORIGINAL

2024 Regular Session

SENATE BILL NO. 145

BY SENATOR BARROW

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

1	AN ACT
2	To amend and reenact R.S. 24:525(C)(2), (5) through (8), and (11), R.S. 44:4(6), and
3	Children's Code Art. 412(N), 616.1.1(B), and the introductory paragraph of
4	616.1.1(C) and to enact R.S. 17:407.29(J), 3138.12(I), 3914(O), R.S. 24:525(F) and
5	(G), R.S. 46:56(N), and Children's Code Art. 616.1.1(D), relative to the state child
6	ombudsman; to provide for access to records and data; to provide for powers and
7	duties of the state child ombudsman; to provide for exemptions to the Public Records
8	Law; to provide for child abuse reporting and investigation; and to provide for
9	related matters.
10	Be it enacted by the Legislature of Louisiana:
11	Section 1. R.S. 17:407.29(J), 3138.12(I), 3914(O) are hereby enacted to read as
12	follows:
13	§407.29. Confidentiality of applications and client case records for child care
14	assistance clients; waiver; penalty
15	* * *
16	J. Notwithstanding any provision of law to the contrary, including this
17	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.

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1 2 (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 3 4 department. 5 (a) For purposes of this Section, the term "residences" means congregate care facilities and does not include foster homes. 6 7 (b) For purposes of this Section, the term "access" means policies and 8 availability of services. 9 (6) Recommend changes in state policies concerning children, including 10 changes in the system of providing juvenile justice, child care assistance, foster care, 11 and access to physical and mental health treatment. 12 (7) Conduct programs of public education, undertake legislative advocacy, 13 and make proposals for systemic reform in order to ensure the rights and needs of children who reside in this state. 14 (8) Periodically review and recommend changes in the policies and 15 16 procedures for the placement of special needs children. For purposes of this Section, "special needs" means the individualized care that children with a 17 disability, whether physical, mental, behavioral, emotional, or learning 18 19 difficulties, required to ensure their safety, access to public amenities, or ability to succeed in certain contexts. 20 21 22 (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 23 24 detention in any facility operated by a state agency or those that receive state funding. 25 26 27 F. Notwithstanding any other provisions of law to the contrary, the state 28 child ombudsman shall, upon request, have access to documents and records

relevant to the ombudsman's statutory duties. Such documents and records

29

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, juvenile court records and records of children in the custody of the
4	office of juvenile justice, student records in the possession of the Louisiana
5	Department of Education, any parish or city school board, and any elementary
6	or secondary education school, including charter schools. The state child
7	ombudsman shall comply with any and all restrictions imposed by law on
8	documents, data, or information considered confidential or privileged and
9	furnished to the state child ombudsman.
10	G. Notwithstanding any other provision of law to the contrary, the state
11	child ombudsman shall not be compelled to be a witness or be deposed in any
12	case where the state child ombudsman is not personally a defendant.
13	Section 3. R.S. 44:4(6) is hereby amended and reenacted to read as follows:
14	§4. Applicability
15	This Chapter shall not apply:
16	* * *
17	(6)(a) To any records, writings, accounts, letters, letter books, photographs,
18	or copies or memoranda thereof in the custody or control of the legislative auditor,
19	or to unless otherwise provided.
20	(b) To any records, writings, accounts, letters, letter books, photographs,
21	or copies or memoranda thereof in the custody or control of the state child
22	ombudsman, unless otherwise provided.
23	(c) To the actual working papers of the internal auditor of a municipality until
24	the audit is complete, unless otherwise provided.
25	* * *
26	Section 4. R.S. 46:56(N) is hereby enacted to read as follows:
27	§56. Applications and client case records; definitions; confidentiality; waiver;
28	penalty
29	* * *

1	N. Notwithstanding any provisions of this Section or any other law to the
2	contrary, the department shall, upon request, provide copies of applications and
3	case files to the state child ombudsman for the purposes of carrying out the
4	ombudsman's statutory duties. Any such documents provided to the state child
5	ombudsman shall remain confidential and otherwise subject to the provisions
6	of this Section concerning any subsequent disclosures.
7	Section 5. Children's Code Arts. 412(N) and 616.1.1(B) and the introductory
8	paragraph of 616.1.1(C) are hereby amended and reenacted and Children's Code Art.
9	616.1.1(D) is hereby enacted to read as follows:
10	Art. 412. Confidentiality of records; disclosure exceptions; sanctions
11	* * *
12	N.(1) Notwithstanding any other law to the contrary, the state child
13	ombudsman shall have access to records and reports concerning matters or
14	proceedings before the juvenile court as needed in furtherance of the
15	ombudsman's statutory duties. Any records or reports provided to the state
16	child ombudsman shall remain confidential and shall not be subject to any
17	further disclosure, absent an order of the juvenile court for that purpose.
18	(2) The office of juvenile justice shall provide to the state child
19	ombudsman, upon written request of the state child ombudsman, any record or
20	report concerning a child in the custody of the office of juvenile justice needed
21	in furtherance of the ombudsman's statutory duties, including but not limited
22	to records related to condition, housing, supervision, treatment, rehabilitation
23	program, education, health, discipline, transition planning, risk assessments,
24	and status reports.
25	* * *
26	Art. 616.1.1. Appeal and review; correction of central registry entries; procedure
27	* * *
28	B. When a report alleging abuse or neglect is determined to be
29	inconclusive by the department, the individual who reported the suspected

1	abuse may make a formal written request to the division of administrative law
2	for an administrative appeal of the inconclusive determination, in accordance
3	with the procedures set forth in Title 67 of the Louisiana Administrative Code.
4	$\underline{\mathbf{C}}$. 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	C.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 and the following digest, which constitutes no part of the legislative instrument, were prepared by Amanda Trapp.

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Barrow

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

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

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

<u>Present law provides</u> 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.

<u>Proposed law</u> requires that those documents be provided to the ombudsman upon request.

<u>Present law</u> 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.

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

<u>Proposed law</u> 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. Art. 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))