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H.P. 1154

House of Representatives, April 18, 2019

An Act To Enhance the Child Welfare Ombudsman Program

Reference to the Committee on Health and Human Services suggested and ordered printed.

A handwritten signature in cursive script that reads "R B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative MASTRACCIO of Sanford.
Cosponsored by Senator GRATWICK of Penobscot and
Representatives: FAY of Raymond, FECTEAU of Biddeford, GATTINE of Westbrook,
HYMANSON of York, KORNFELD of Bangor, MADIGAN of Waterville, Senators:
BELLOWS of Kennebec, BREEN of Cumberland.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 22 MRSA §4087-A, sub-§2**, as enacted by PL 2001, c. 439, Pt. X, §5 and
3 amended by PL 2003, c. 689, Pt. B, §6, is further amended to read:

4 **2. Program established.** The ombudsman program is established as an independent
5 program ~~within the Executive Department~~ to provide ombudsman services to the children
6 and families of the State regarding child welfare services provided by the Department of
7 Health and Human Services. The program shall consider and promote the best interests
8 of the child involved, answer inquiries and investigate, advise and work toward resolution
9 of complaints of infringement of the rights of the child and family involved. The
10 program shall provide oversight of child welfare practice and policy to ensure the rights
11 and safety of children and their families. The program must be staffed, ~~under contract, by~~
12 a full-time ombudsman and 2 full-time associate ombudsmen, which positions must be
13 filled by an attorney or a master's level social worker who must have experience in with
14 experience in child welfare and child development and advocacy, and support staff as
15 determined to be necessary. The program must be supported by a full-time administrative
16 assistant. The program shall function through the staff of the program and volunteers
17 recruited and trained to assist in the duties of the program. Office space must be included
18 in funds budgeted to the program.

19 **Sec. 2. 22 MRSA §4087-A, sub-§3**, as enacted by PL 2001, c. 439, Pt. X, §5, is
20 amended to read:

21 **3. Appointment.** The program shall operate ~~by contract with~~ as a nonprofit
22 organization that ~~the Executive Department determines to be~~ is free of potential conflict
23 of interest and best able to provide ~~the~~ investigative, oversight and advocacy services on a
24 statewide basis. The Governor shall appoint the ombudsman, subject to review by the
25 joint standing committee of the Legislature having jurisdiction over health and human
26 services matters and to confirmation by the Legislature. The ombudsman serves a 7-year
27 term of office. The program functions with a nonprofit structure. The ombudsman shall
28 submit the ombudsman's budget recommendations, using a format prescribed by the State
29 Budget Officer, as part of the unified current services budget legislation in accordance
30 with Title 5, sections 1663 to 1666. Funds appropriated or allocated to the program must
31 be expended at the discretion of the ombudsman. Full-time employees of the program
32 must have access to health insurance benefits provided to state employees, including
33 health insurance benefits for family members, and retirement benefits provided to state
34 employees. The ombudsman and staff are not considered state employees, but employees
35 of the nonprofit organization. The ombudsman may not be actively involved in state-
36 level political party activities or publicly endorse, solicit funds for or make contributions
37 to political parties on the state level or candidates for statewide elective office. The
38 ombudsman may not be a candidate for or hold any statewide elective or appointive
39 public office.

40 **Sec. 3. 22 MRSA §4087-A, sub-§4**, as amended by PL 2005, c. 410, §1, is
41 further amended to read:

1 **4. Services.** The program shall provide services directly ~~or under contract to~~
2 individuals and families and may provide systemwide comment to the department and the
3 joint standing committee of the Legislature having jurisdiction over health and human
4 services matters. The first priority in the work of the program ~~and any contract for~~
5 ~~ombudsman services~~ must be case-specific advocacy services. In performing services
6 under this section, the program, as it determines to be appropriate, may create and
7 maintain records and case-specific reports. ~~Any work on systems improvements or~~
8 ~~lobbying must be adjunctive to case-specific activities~~ The program may provide relevant
9 oversight of child welfare services as the ombudsman considers important to the rights
10 and safety of children and families. The program may:

11 A. Provide information to the public about the services of the program through a
12 comprehensive outreach program. The ombudsman shall provide information
13 through a toll-free telephone number or numbers;

14 B. Answer inquiries, investigate and work toward resolution of complaints regarding
15 the performance and services of the department and participate in conferences; or
16 meetings ~~and studies~~ that may improve the performance of the department;

17 C. Provide services to persons to assist them in protecting their rights;

18 D. Inform persons of the means of obtaining services from the department;

19 E. Provide information and referral services;

20 F. Analyze and provide opinions and recommendations to agencies, the Governor
21 and the Legislature on current or proposed state programs, rules, policies and laws;

22 G. Determine what types of complaints and inquiries will be accepted for action by
23 the program and adopt policies and procedures regarding communication with
24 persons making inquiries or complaints and the department;

25 H. Apply for and utilize grants, gifts and funds for the purpose of performing the
26 duties of the program; and

27 I. Collect and analyze records and data relevant to the duties and activities of the
28 program and make reports as required by law or determined to be appropriate.

29 The department or designee of the department shall inform the ombudsman of any
30 statewide policy or practice changes in child welfare before these changes take effect.
31 The ombudsman must be allowed to participate in any department trainings, studies or
32 policy development activities at the ombudsman's request.

33 The ombudsman must have input into training initiatives for personnel in and outside of
34 the department, including mandated reporter training. The ombudsman must be available
35 to provide information about child welfare issues on a statewide basis to individuals and
36 entities outside the department.

37 **Sec. 4. 22 MRSA §4087-A, sub-§6,** as repealed and replaced by PL 2005, c. 410,
38 §2, is amended to read:

39 **6. Confidentiality of records.** Information held by or records or case-specific
40 reports maintained by the program are confidential. Disclosure may be made as allowed
41 or required in accordance with the provisions of section 4008, subsections 2 and 3. The

1 ombudsman may disclose confidential information, records or case-specific reports to a
2 joint standing committee, joint select committee or oversight committee of the
3 Legislature meeting in executive session. Unlawful dissemination is subject to the
4 provisions of section 4008, subsection 4. Except as provided in this subsection,
5 ombudsman communications with the department are not confidential and are a matter of
6 public record.

7 **Sec. 5. 22 MRSA §4087-A, sub-§11**, as enacted by PL 2001, c. 439, Pt. X, §5, is
8 amended to read:

9 **11. Oversight.** The joint standing committee of the Legislature having jurisdiction
10 over health and human services matters shall review the operations of the program ~~and~~
11 ~~may make recommendations to the Governor regarding the contract for services under~~
12 ~~this section.~~ The committee may submit legislation that it determines necessary to amend
13 or repeal this section.

14 SUMMARY

15 This bill makes the following changes to the laws governing the ombudsman program
16 that provides ombudsman services to the children and families of the State regarding
17 child welfare services provided by the Department of Health and Human Services.

18 1. It provides that the program is an independent program operated as a nonprofit
19 organization to provide investigative, oversight and advocacy services on a statewide
20 basis.

21 2. It requires the program to provide oversight of child welfare practice and policy to
22 ensure the rights and safety of children and their families.

23 3. It specifies staffing for the program.

24 4. It provides that the Governor appoints the ombudsman, subject to review by the
25 joint standing committee of the Legislature having jurisdiction over health and human
26 services matters and to confirmation by the Legislature.

27 5. It provides that the ombudsman serves a 7-year term of office.

28 6. It requires the ombudsman to submit the ombudsman's budget recommendations,
29 using a format prescribed by the State Budget Officer, as part of the unified current
30 services budget legislation.

31 7. It provides full-time program employees access to health insurance benefits
32 provided to state employees and retirement benefits provided to state employees.

33 8. It requires the program to provide services directly to individuals and families and
34 authorizes the program to provide systemwide comment to the department and the joint
35 standing committee of the Legislature having jurisdiction over health and human services
36 matters.

1 9. It requires the department to inform the ombudsman of any statewide policy or
2 practice changes in child welfare before they take effect.

3 10. It allows the ombudsman to participate in trainings, studies or policy
4 development activities conducted by the department.

5 11. It requires the ombudsman to be available to provide information about child
6 welfare issues on a statewide basis to individuals and entities outside the department.

7 12. It authorizes the ombudsman to disclose confidential information, records or
8 case-specific reports to a joint standing committee, joint select committee or oversight
9 committee of the Legislature meeting in executive session.