

2023 Regular Session

SENATE BILL NO. 137

BY SENATORS BARROW, BOUDREAUX, BOUIE, CARTER, CATHEY, CLOUD, DUPLESSIS, FESI, HENSGENS, HEWITT, LUNEAU, MCMATH, FRED MILLS, MIZELL, MORRIS, POPE, PRICE, SMITH AND WOMACK

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 the introductory paragraph of R.S. 40:2019(C) and R.S. 44:4.1(B)(34)

3 and to enact R.S. 36:4.1(C)(16), R.S. 40:2019(C)(23), and R.S. 49:210.1, relative to

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

5 Child Ombudsman within the office of the governor; to provide for the state child

6 ombudsman; to provide for the duties of the office; to provide for the duties of state

7 agencies; to provide for access to certain records; to provide for confidentiality of

8 certain records and an exception to the Public Records Law; to provide for legislative

9 review; to prohibit retaliation 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. The introductory paragraph of R.S. 40:2019(C) is hereby amended and
6 reenacted and R.S. 40:2019(C)(23) is hereby enacted to read as follows:

7 §2019. Child death investigation

8 * * *

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

13 * * *

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

15 * * *

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

17 §4.1. Exceptions

18 * * *

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

24 * * *

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

26 * * *

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

28 **§210.1. Office of the State Child Ombudsman; state child ombudsman; duties**

29 **A. The Office of the State Child Ombudsman is hereby created, subject**

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

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

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

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

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

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

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

1 state.

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

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

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

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

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

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

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

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

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

1 to contact the office.

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

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

9 (13) Notify the senator and representative who represent the district in
10 which a child has died as a result of abuse or neglect, within twenty-four hours
11 of the death of the child.

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

17 (2) Any state agency having responsibility for the custody or care of
18 children shall provide monthly notice to the state child ombudsman of the death
19 of a child in its custody or care.

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

29 (2) In the performance of his duties and responsibilities provided for in

1 this Section, the state child ombudsman may communicate privately with any
2 child or person who has received, is receiving, or should have received services
3 from the state. The communications shall be confidential and not subject to
4 disclosure, except as provided in Subsection I of this Section.

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

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

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

27 K. The standing committee of each house of the legislature having
28 responsibility for oversight shall perform a biennial review and evaluation of
29 the Office of the State Child Ombudsman, the position of state child

1 **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 Re-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 provides that the Office of the State Child Ombudsman shall be created only if funds are appropriated 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 the 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 further requires the state child ombudsman to notify the senator and representative who represent the district in which a child has died as a result of abuse or neglect within 24 hours of the death of the child.

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) and R.S. 40:2019(C)(intro para); 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.

Senate Floor Amendments to reengrossed bill

1. Requires the state child ombudsman to notify the senator and representative who represent the district in which a child has died as a result of abuse or neglect within 24 hours of the death of the child.
2. Makes technical changes.