

Department of Legislative Services
 Maryland General Assembly
 2015 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 609

(Senator Brochin, *et al.*)

Judicial Proceedings

Judiciary

State Government - Office of the Child Welfare Ombudsman - Pilot Program

This bill establishes the Office of the Child Welfare Ombudsman Pilot Program in the Office of the Attorney General. The purpose of the pilot program is to authorize the office to investigate and determine whether, in Baltimore and Prince George’s counties, (1) the needs of children and families under the jurisdiction of the local departments are being met in compliance with State law; (2) the rights of children and families are being upheld; and (3) the children are being protected from abuse and neglect. After a period of three years, the pilot program must evaluate whether funding and staffing levels for the office should be increased and the scope of the office’s work should be expanded.

The bill terminates September 30, 2019.

Fiscal Summary

State Effect: General fund expenditures increase by \$176,200 in FY 2016 for the State to establish and staff the newly created Office of the Child Welfare Ombudsman. Future year expenditures reflect annualization and inflation and the termination of the pilot program in FY 2020.

(in dollars)	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	176,200	228,900	239,300	250,200	65,400
Net Effect	(\$176,200)	(\$228,900)	(\$239,300)	(\$250,200)	(\$65,400)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary:

Child Welfare Ombudsman

The Attorney General must appoint the Child Welfare Ombudsman. The ombudsman must have been admitted to practice law in the State and have at least five years of experience in child welfare. The term of the ombudsman is four years. The ombudsman is a full-time State employee and entitled to an annual salary as provided in the State budget. The Attorney General may remove the ombudsman for good cause shown after notice and an opportunity to be heard.

Office of the Child Welfare Ombudsman

The Office of the Child Welfare Ombudsman must include a full-time ombudsman and a full-time administrative assistant, as provided for in the State budget. To the extent practicable, the ombudsman must use the services and personnel of the Office of the Attorney General, the Department of State Police, and other State and law enforcement units. These entities must cooperate, to the extent practicable, with the ombudsman and the office's administrative assistant. If the ombudsman requires assistance investigating or responding to complaints concerning activities or conditions that present a serious risk of harm to the safety and well-being of children under the jurisdiction of a local department, the ombudsman may request additional staff from the Department of Human Resources (DHR), and DHR must immediately comply with such a request.

The budget of the ombudsman and the office must be a part of the budget of the Office of the Attorney General, and the Governor must provide in the State budget sufficient money for the office to employ a full-time administrative assistant. If the budget is insufficient to allow the office to perform its duties, the ombudsman may apply to the Board of Public Works for additional money from the General Emergency Fund.

Duties of the Ombudsman

The ombudsman must:

- establish and implement procedures for receiving, processing, responding to, and resolving complaints of abuse or neglect made by or on behalf of children who are recipients of the services of the local departments in Baltimore and Prince George's counties; and

- establish and maintain a 24-hour voice mail helpline and website to receive and respond to complaints regarding the safety and welfare of children in the custody of the local departments in Baltimore and Prince George's counties.

Regarding children and services in Baltimore and Prince George's counties, the ombudsman may:

- identify, receive, investigate, and seek the resolution or referral of complaints made by or on behalf of a child involved in child in need of assistance (CINA) cases concerning any act, omission, practice, policy, or procedure of a State or local agency or any person working on behalf of the agency that may adversely affect the health, safety, or welfare of the child;
- inspect and review the operation, policies, and procedures of foster care homes, group homes, kinship care homes, residential treatment facilities, shelters for the care of abused or neglected children, and independent living arrangements operated, licensed, or approved for payment by DHR or a local department or used for the care of children in the custody of a local department;
- review, evaluate, report, and make recommendations to a State or local agency concerning procedures established by the agency to provide services to children and families that are at risk of abuse or neglect, children in State or institutional custody, or children and families who receive child protective kinship care or foster care services;
- receive, investigate, and make referrals to other State or local agencies, or take appropriate actions with respect to a complaint received by the office regarding the actions of DHR, a local department, or a State-funded private entity that provides services to children and families who are at risk of abuse or neglect, children in State or institutional custody, or children and families who receive child protective kinship care or foster care services;
- conduct unannounced site visits at reasonable times and in a reasonable manner to any institution or facility to which children are committed or placed, as specified;
- consult with any appropriate State or county agency or State-funded private entity providing child welfare services to children, and may request from such entity, and the entity is authorized and directed to provide, such cooperation and assistance as will enable the child advocate to properly perform its responsibilities;

- review and copy relevant laws, policies, procedures, and specified records and reports, including those relating to an individual child;
- conduct interviews with staff, children, and others;
- issue subpoenas to compel the attendance and testimony of witnesses or the production of books, papers, and other documents, and apply to the appropriate circuit court for relief in instances of noncompliance;
- administer oaths to witnesses; and
- if the ombudsman considers that legislation would affect the interests of persons under its jurisdiction, recommend such legislation to the General Assembly.

Complaints

A child in Baltimore or Prince George's counties who is the recipient of services from a local department or is a CINA may file a complaint with the ombudsman, as specified. The complaint process must be confidential, expedient, and responsive to the child's perception of safety issues and the child's emotional needs. The ombudsman must give priority to complaints concerning abuse, neglect, or discrimination against children under the jurisdiction of a local department. For other complaints, the ombudsman may set priorities based on the substance and likely seriousness of the complaints. Local departments of social services in Baltimore and Prince George's counties must include, in developmentally appropriate language, specified information in each child's record about the complaint procedure. A child must be given the information at the initial court hearing, before any subsequent court hearings, and before every new placement.

The office must develop training materials on complaint policies and procedures to distribute to specified workers as well as other professionals working with children through CINA cases in the pilot program counties. The training materials must be provided as part of the professionals' employment orientation and continuing professional development.

The office must inform the child, in a developmentally appropriate way, of the outcome of any investigation. If the outcome of the investigation entails site visits with the child for a specified period of time, the child must be informed of the scope and intent of the follow-up process. The ombudsman must treat all complaints received as confidential, including the identities of complainants and individuals from whom information is acquired. However, the ombudsman may disclose information as necessary to enable the performance of the duties of the ombudsman and to support any recommendations resulting from an

investigation. Records relating to complaints received by the office and the investigation of complaints are exempt from disclosure under the Public Information Act.

Reporting Requirements

The office must report in a timely manner to the Secretary of Human Resources and the General Assembly knowledge of any systemic or life-threatening problems and any findings, actions, and recommendations relating to investigations regarding the care, supervision, and treatment of (1) children and families who are at risk of abuse or neglect; (2) children in local department custody; or (3) children and families who receive protective kinship or foster care services. All other findings, actions, and recommendations related to the office's activities must also be reported.

By September 30 of each year, the office must report to the Secretary of Human Resources, the Citizens Review Board for Children, the State Council on Child Abuse and Neglect (SCCAN), the Governor, and the General Assembly on all the office's activities and specified information regarding the complaints made to the office. By November 30 of each year, the Secretary of Human Resources must report to the ombudsman and the entities specified above the actions taken by DHR or a local department in response to the findings and recommendations of the office and other specified information. The office and DHR must remove any identifying information as necessary to protect the privacy of the child and the child's family.

Current Law/Background: There is no State Office of the Child Welfare Ombudsman. DHR, through its Social Services Administration, has the primary responsibility for child welfare services throughout the State, which are provided primarily by the local departments of social services.

A CINA is a child who requires court intervention because the child was abused or neglected or has a developmental disability or a mental disorder, and the child's parents, guardian, or custodian are unable or unwilling to give proper care and attention to the child and the child's needs.

DHR is required to establish a program of out-of-home placement for minor children (1) who are placed in the custody of a local department, for a period of up to 180 days, by a parent or legal guardian under a voluntary placement agreement; (2) who are abused, abandoned, neglected, or dependent, if a juvenile court has determined that continued residence in the child's home is contrary to the child's welfare and has committed the child to the custody or guardianship of a local department; or (3) who, with the approval of DHR, are placed in an out-of-home placement by a local department under a voluntary placement agreement regarding a child with a developmental disability or a mental illness, as specified. Out-of-home placements are placements of a child into foster care, kinship care,

group care, or residential treatment care. DHR must also establish a program of out-of-home placement for former CINAs.

As one of its responsibilities, the State Citizen’s Review Board for Children may review specific child welfare and out-of-home placement cases and evaluate the extent to which State and local agencies are effectively discharging their child protection responsibilities in accordance with (1) the State plan required by the federal government; (2) the child protection standards set forth in State and federal law; and (3) any other criteria it considers important to ensure the protection of children. It also reviews the extent to which the State child protective services system is coordinated with the foster care and adoption program established under Title IV-E of the Social Security Act and conducts reviews of child fatality and near fatality reports. Each jurisdiction must establish a local board of review for minor children in out-of-home care, or establish a multicounty local board. The local boards also conduct case reviews as to minor children who reside in out-of-home care. Local governments may establish local citizens review panels to assist and advise the board and SCCAN.

SCCAN is another entity responsible for evaluating the extent to which State and local agencies are effectively discharging their child protection responsibilities in accordance with the criteria specified above. SCCAN is required to examine the policies and procedures of State and local agencies and specific cases that it considers necessary to perform its duties.

State Fiscal Effect: General fund expenditures increase by \$176,237 in fiscal 2016, which reflects a start date of October 1, 2015, for the ombudsman and the administrative assistant. The estimate includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Positions	2
Salaries and Fringe Benefits	\$164,369
Operating Expenses	<u>11,868</u>
Total FY 2016 State Expenditures	\$176,237

Future year expenditures through fiscal 2019 reflect full salaries with annual increases and employee turnover as well as annual increases in ongoing expenses. General fund expenditures increase by only \$65,387 in fiscal 2020, which reflects the pilot program’s termination date of September 30, 2019.

This estimate is a *preliminary estimate* only since an accurate determination of the expenditures associated with creating the office depends in large part on the scope of activities undertaken by the office, as well as the number of complaints that are received. However, because the bill limits the pilot program to two jurisdictions and requires the

ombudsman to give priority to complaints concerning abuse, neglect, or discrimination, it is expected that any potential additional impact is minimal. The bill also authorizes the ombudsman to request additional staff from a local department of social services in specified circumstances, and for a local department to immediately comply with a request for assistance. It is also assumed that these provisions do not materially impact the workload of caseworkers for DHR. The Department of Legislative Services notes that the estimate also does not include any potential impact from the provision allowing the ombudsman to apply to the Board of Public Works for additional money from the general emergency fund.

Additional Information

Prior Introductions: None.

Cross File: HB 1022 (Delegate C. Wilson, *et al.*) - Judiciary.

Information Source(s): Office of the Attorney General, Department of Budget and Management, Judiciary (Administrative Office of the Courts), Department of State Police, Howard and Montgomery counties, Baltimore City, cities of Bowie and Takoma Park, Department of Legislative Services

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