

LD 1960 (Child welfare ombudsman)

L.D. 1960

Date: amendment + bill

(Filing No. S-)

HEALTH AND HUMAN SERVICES

Reproduced and distributed under the direction of the Secretary of the Senate.

STATE OF MAINE

SENATE

130TH LEGISLATURE

SECOND REGULAR SESSION

COMMITTEE AMENDMENT “ ” to S.P. 698, L.D. 1960, “An Act To Make Changes to the Laws Governing the Child Welfare Services Ombudsman Program”

Amend the bill by inserting before section 1 the following:

Sec. 1. 22 MRSA §4004, sub-§1, ¶E, as amended by PL 2017, c. 473, §1, is further amended to read:

E. Establishing a child death and serious injury review panel for reviewing deaths and serious injuries to children. The panel consists of the following members: the Chief Medical Examiner, a pediatrician, a public health nurse, forensic and community mental health clinicians, law enforcement officers, departmental child welfare staff, district attorneys ~~and~~, criminal or civil assistant attorneys general and the ombudsman pursuant to section 4087-A or a designee of the ombudsman.

The purpose of the panel is to recommend to state and local agencies methods of improving the child protection system, including modifications of statutes, rules, policies and procedures. Beginning January 1, 2023 and every 2 years thereafter, the department shall submit a report to the joint standing committee of the Legislature having jurisdiction over health and human services matters;

Sec. 2. 22 MRSA §4008, sub-§3-A, as enacted by PL 1993, c. 294, §4, is amended to read:

3-A. Confidentiality. The proceedings and records of the child death and serious injury review panel created in accordance with section 4004, subsection 1, paragraph E are confidential and are not subject to subpoena, discovery or introduction into evidence in a civil or criminal action. The commissioner shall disclose conclusions of the review panel upon request and recommendations pursuant to section 4004, subsection 1, paragraph E, but may not disclose data that is otherwise classified as confidential.

Amend the bill by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

COMMITTEE AMENDMENT

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SUMMARY

This amendment includes the ombudsman or the ombudsman's designee as a member of the child death and serious injury review panel established by the Department of Health and Human Services and requires that the panel, beginning January 1, 2023 and every 2 years thereafter, submit a report on the panel's recommendations to the joint standing committee of the Legislature having jurisdiction over health and human services matters.

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 of
8 the child involved, answer inquiries and investigate, advise and work toward resolution of
9 complaints of infringement of the rights of the child and family involved. The program
10 must be staffed, under contract, by a full-time director who is an attorney or a master's level
11 social worker who must have with experience in child welfare, development and advocacy,
12 and support staff as determined to be necessary. The program shall function through the
13 staff of the program and volunteers recruited and trained, at the discretion of the nonprofit
14 organization under contract pursuant to subsection 3, to assist in the duties of the program.

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

17 **3. Contracted services; terms.** The program shall operate by contract with a
18 nonprofit organization that the Executive Department determines to be free of potential
19 conflict of interest and best able to provide the services on a statewide basis. The
20 ombudsman may not be actively involved in state-level political party activities or publicly
21 endorse, solicit funds for or make contributions to political parties on the state level or
22 candidates for statewide elective office. The ombudsman may not be a candidate for or
23 hold any statewide elective or appointive public office. The contract must include funds for
24 the nonprofit organization to provide health insurance benefits to the staff of the
25 ombudsman program. The contract must be for a term of 5 years, except that the contract
26 may be terminated consistent with the terms of the contract.

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

29 **4. Services.** The program shall provide services directly or under contract to persons
30 and families involved with child welfare services and may provide input on the State's child
31 welfare system to the department and the joint standing committee of the Legislature
32 having jurisdiction over health and human services matters. The first priority in the work
33 of the program and any contract for ombudsman services must be case-specific advocacy
34 services. In performing services under this section, the program, as it determines to be
35 appropriate, may create and maintain records and case-specific reports. Any work on
36 systems improvements or lobbying must be adjunctive to case-specific activities. The
37 program may:

38 A. Provide information to the public about the services of the program through a
39 comprehensive outreach program. The ombudsman shall provide information through
40 a toll-free telephone number or numbers and a publicly accessible website;

41 B. Answer inquiries, investigate and work toward resolution of complaints regarding
42 the performance and services of the department and participate in conferences,
43 meetings and studies that may improve the performance of the department;

- 1 C. Provide services to persons to assist them in protecting their rights;
2 D. Inform persons of the means of obtaining services from the department;
3 E. Provide information and referral services;
4 F. Analyze and provide opinions and recommendations to agencies, the Governor and
5 the Legislature on current or proposed state programs, rules, policies and laws;
6 G. Determine what types of complaints and inquiries will be accepted for action by
7 the program and adopt policies and procedures regarding communication with persons
8 making inquiries or complaints and the department;
9 H. Apply for and utilize grants, gifts and funds for the purpose of performing the duties
10 of the program; and
11 I. Collect and analyze records and data relevant to the duties and activities of the
12 program and make reports as required by law or determined to be appropriate.

13 The department or designee of the department shall notify the ombudsman of any statewide
14 policy changes affecting the State's child welfare system before the changes take effect.

15 **Sec. 4. 22 MRSA §4087-A, sub-§12** is enacted to read:

16 **12. Notification of child fatality required.** The department shall notify the
17 ombudsman of a fatality of a child if:

18 A. The child was involved with child welfare services at any time; or

19 B. The fatality is suspected of being the result of abuse or neglect.

20 Notification under this subsection must occur within 48 hours of a determination by the
21 department that this subsection applies to the fatality. The notification may be provided by
22 oral or electronic communication.

23 SUMMARY

24 This bill makes the following changes to the laws governing the child welfare services
25 ombudsman program.

26 1. It provides that the director of the ombudsman program must serve full time and
27 expands the director's required experience to include child welfare.

28 2. It provides that the staffing for the ombudsman program is at the discretion of the
29 nonprofit organization under contract to provide ombudsman services.

30 3. It provides that the contract to provide ombudsman services is for a period of 5 years,
31 except that the contract may be terminated consistent with the terms of the contract.

32 4. It provides that the contract to provide ombudsman services must include funds for
33 the nonprofit organization to provide health insurance benefits for employees of the
34 ombudsman program.

35 5. It provides that the ombudsman program must provide information about its services
36 through a publicly accessible website and makes a technical correction regarding plural
37 language.

38 6. It clarifies that the ombudsman program may provide opinions and recommendations
39 on current or proposed state programs, rules, policies and laws.

- 1 7. It clarifies that the ombudsman program may provide input on the State's child
2 welfare system to the Department of Health and Human Services and the joint standing
3 committee of the Legislature having jurisdiction over health and human services matters.
- 4 8. It clarifies that the ombudsman program provides services to persons and families
5 involved with the State's child welfare system.
- 6 9. It requires the Department of Health and Human Services to notify the ombudsman
7 program of any statewide policy changes affecting the State's child welfare system before
8 the changes take effect.
- 9 10. It requires the Department of Health and Human Services to notify the ombudsman
10 program of certain child fatalities.