



## 103RD GENERAL ASSEMBLY

### State of Illinois

2023 and 2024

HB3002

Introduced 2/16/2023, by Rep. Patrick Windhorst

#### SYNOPSIS AS INTRODUCED:

New Act

Creates the Department of Children and Family Services Independent Ombudsperson Act. Establishes the Department of Children and Family Services Ombudsperson Bureau as a separate bureau within the Department of Children and Family Services (Department). Requires the Governor to appoint a Bureau Director within 30 days after the effective date of the Act. Provides that the Governor shall appoint a successor Bureau Director within 30 days after a vacancy occurs in the position of the Bureau Director. Provides that the Bureau Director may employ technical experts and other employees to carry out the purposes of the Act, but shall not hire a person to serve as an Ombudsperson who has been employed by the Department during the preceding year. Provides that the Ombudsperson may receive, investigate, and attempt to resolve complaints that the Department or a foster parent: (1) violated a specific law, rule, or Department written policy; or (2) endangered the health or safety of any person. Provides that at the conclusion of an investigation of a complaint, the Ombudsperson shall report the Ombudsperson's findings to the complainant. Requires the Ombudsperson to create a monthly report that includes a summary of the findings of all substantiated complaints. Contains provisions authorizing the Ombudsperson to conduct investigations of alleged violations of Department policy and rules at any Department facility; to make recommendations for changes to Department policies or practices; to report evidence of a crime to law enforcement; and other powers and duties of the Ombudsperson. Requires the Department to provide the Ombudsperson with timely access to Department records and facilities relevant to a complaint or investigation. Grants the Bureau rulemaking authority. Requires the Director of the Bureau to prepare annual reports on its operations. Makes it a Class A misdemeanor to obstruct an Ombudsperson in the performance of the Ombudsperson's duties.

LRB103 28258 KTG 54637 b

1 AN ACT concerning children.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the  
5 Department of Children and Family Services Independent  
6 Ombudsperson Act.

7 Section 5. Definitions. As used in this Act:

8 "Bureau" means the Department of Children and Family  
9 Services Ombudsperson Bureau established in this Act,  
10 including persons approved to act in the capacity of  
11 Ombudsperson by the Bureau.

12 "Department" means the Department of Children and Family  
13 Services.

14 "Ombudsperson" means an employee of the Bureau who  
15 investigates and resolves complaints that the Department  
16 endangered the health and safety of any person or that the  
17 Department violated specific laws, rules, or written policies.

18 Section 10. Department of Children and Family Services  
19 Ombudsperson Bureau. The Department of Children and Family  
20 Services Ombudsperson Bureau is established as a separate  
21 bureau within the Department.

1 Section 15. Director of the Bureau; employees.

2 (a) The Governor shall appoint a Director of the Bureau  
3 within 30 days after the effective date of this Act. The  
4 Governor shall appoint a successor Director within 30 days  
5 after a vacancy occurs in the position of the Director of the  
6 Bureau. The Director of the Bureau shall serve at the pleasure  
7 of the Governor.

8 (b) The Director of the Bureau may employ technical  
9 experts and other employees to carry out the purposes of this  
10 Act. The Director of the Bureau may not hire a person to serve  
11 as an Ombudsperson who has been employed by the Department  
12 during the preceding year.

13 (c) The Department shall provide and maintain office space  
14 for the Bureau.

15 Section 20. Powers of Ombudsperson.

16 (a) The Ombudsperson may receive, investigate, and attempt  
17 to resolve complaints that the Department or a foster parent:

18 (1) violated a specific law, rule, or Department  
19 written policy; or

20 (2) endangered the health or safety of any person.

21 However, the Ombudsperson shall not investigate a  
22 complaint from an employee of the Department that relates to  
23 the employee's employment relationship with the Department.  
24 The Ombudsperson shall not investigate complaints alleging  
25 violations of the State Officials and Employees Ethics Act. If

1 the Ombudsperson determines that a possible violation of the  
2 State Officials and Employees Ethics Act has occurred, the  
3 Ombudsperson shall immediately refer the incident to the  
4 Office of the Inspector General.

5 (b) At the conclusion of an investigation of a complaint,  
6 the Ombudsperson shall report the Ombudsperson's findings to  
7 the complainant.

8 (c) If the Ombudsperson does not investigate a complaint,  
9 the Ombudsperson shall notify the complainant of the decision  
10 not to investigate and the reasons for the decision.

11 (d) The Ombudsperson shall create a monthly report that  
12 includes a summary of the findings of all substantiated  
13 complaints.

14 (e) The Ombudsperson may conduct investigations of alleged  
15 violations of Department policy, State or federal laws, and  
16 Department rules at any Department facility.

17 (f) The Ombudsperson may recommend changes to the Director  
18 of the Department concerning Department policies or practices  
19 based upon information learned or observations made by the  
20 Ombudsperson during the course of an investigation.

21 (g) If the Ombudsperson discovers evidence that the  
22 Ombudsperson reasonably believes constitutes the commission of  
23 a crime, the Ombudsperson shall immediately inform the  
24 Director of the Department, who shall conduct an  
25 investigation. If, after conducting the investigation, the  
26 Director of the Department has reasonable suspicion to believe

1 that a crime has been committed, the Director of the  
2 Department shall immediately report the evidence to the  
3 appropriate law enforcement agency. If the Ombudsperson  
4 reasonably believes that waiting for an investigation would  
5 pose a serious risk to the health or safety of any person, the  
6 Ombudsperson shall immediately report the evidence directly to  
7 the appropriate law enforcement agency.

8 Section 25. Access to records and facilities.

9 (a) The Department shall timely provide an Ombudsperson  
10 appropriate access to all Department records and facilities  
11 relevant to the complaint or investigation.

12 (b) A State or local governmental agency or entity that  
13 has records that are relevant to a complaint or an  
14 investigation conducted by the Ombudsperson shall provide the  
15 Ombudsperson with access to the records.

16 Section 30. Duties of Ombudsperson.

17 (a) The Ombudsperson shall:

18 (1) establish procedures to receive and investigate  
19 complaints;

20 (2) establish access controls for all information  
21 maintained by the Bureau; and

22 (3) except as is necessary to investigate and resolve  
23 a complaint, ensure that the identity of a complainant  
24 will not be disclosed without:

1 (A) the complainant's written consent; or

2 (B) a court order.

3 (b) The correspondence and communication between the  
4 Ombudsperson and any person is a privileged communication.

5 Section 35. Rulemaking, liability.

6 (a) The Bureau may adopt rules to carry out its duties  
7 under this Act.

8 (b) The Ombudsperson is not civilly liable for the good  
9 faith performance of the Ombudsperson's official duties.

10 Section 40. Reporting. The Director of the Bureau shall  
11 prepare a report each year on its operations. A copy of the  
12 report shall be provided to the Governor, the General  
13 Assembly, and the Director of the Department.

14 Section 45. Obstruction of the Ombudsperson.

15 (a) A person commits obstruction of the Ombudsperson when  
16 the person:

17 (1) intentionally interferes with or prevents the  
18 completion of the work of the Ombudsperson;

19 (2) knowingly offers compensation to the Ombudsperson  
20 in an effort to affect the outcome of an investigation or a  
21 potential investigation;

22 (3) knowingly or intentionally retaliates against a  
23 person who provides information to the Ombudsperson; or

1           (4) makes threats because of an investigation or  
2 potential investigation against:

3                   (A) the Ombudsperson;

4                   (B) a person who has filed a complaint; or

5                   (C) a person who provides information to the  
6 Ombudsperson.

7           (b) Sentence. Obstruction of the Ombudsperson is a Class A  
8 misdemeanor.