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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-SECOND SESSION

H. F. No. 61

01/11/2021 Authored by Demuth, Albright, Petersburg, Theis, Jurgens and others
The bill was read for the first time and referred to the Committee on Early Childhood Finance and Policy
03/18/2021 Adoption of Report: Re-referred to the Committee on Judiciary Finance and Civil Law

1.1 A bill for an act
1.2 relating to human services; creating the Office of Ombudsperson for Child Care
1.3 Providers; providing appointments; requiring reports; appropriating money;
1.4 proposing coding for new law in Minnesota Statutes, chapter 119B.

1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.6 Section 1. 119B.27 OMBUDSPERSON FOR CHILD CARE PROVIDERS.

1.7 Subdivision 1. Appointment. The governor shall appoint an ombudsperson in the
1.8 classified service to assist child care providers, including family child care providers and
1.9 legal nonlicensed child care providers, with licensing, compliance, and other issues facing
1.10 child care providers. The ombudsperson must be selected without regard to the person's
1.11 political affiliation. The ombudsperson shall serve a term of two years and may be removed
1.12 prior to the end of the term for just cause.

1.13 Subd. 2. Duties. (a) The ombudsperson's duties shall include:

1.14 (1) addressing all areas of concern to child care providers related to the provision of
1.15 child care services, including licensing, correction orders, penalty assessments, complaint
1.16 investigations, and other interactions with agency staff;

1.17 (2) providing recommendations for child care improvement or child care provider
1.18 education;

1.19 (3) operating a telephone line to answer questions and provide guidance to child care
1.20 providers; and

1.21 (4) assisting child care license applicants.

2.1 (b) The ombudsperson must report annually by December 31 to the commissioner and
2.2 the chairs and ranking minority members of the legislative committees with jurisdiction
2.3 over child care on the services provided by the ombudsperson to child care providers,
2.4 including the number, types, and locations of child care providers served, and the activities
2.5 of the ombudsperson to carry out the duties under this section. The commissioner shall
2.6 determine the form of the report and may specify additional reporting requirements.

2.7 Subd. 3. **Staff.** The ombudsperson may appoint and compensate out of available funds
2.8 a deputy, confidential secretary, and other employees in the unclassified service as authorized
2.9 by law. The ombudsperson and the full-time staff are members of the Minnesota State
2.10 Retirement Association. The ombudsperson may delegate to members of the staff any
2.11 authority or duties of the office except the duty to formally make recommendations to a
2.12 child care provider or reports to the commissioner or the legislature.

2.13 Subd. 4. **Access to records.** (a) The ombudsperson or designee, excluding volunteers,
2.14 has access to data of a state agency necessary for the discharge of the ombudsperson's duties,
2.15 including records classified as confidential data on individuals or private data on individuals
2.16 under chapter 13 or any other law. The ombudsperson's data request must relate to a specific
2.17 case and is subject to section 13.03, subdivision 4. If the data concerns an individual, the
2.18 ombudsperson or designee shall first obtain the individual's consent. If the individual cannot
2.19 consent and has no legal guardian, then access to the data is authorized by this section.

2.20 (b) On a quarterly basis, each state agency responsible for licensing, regulating, and
2.21 enforcing state and federal laws and regulations concerning child care providers must provide
2.22 the ombudsperson copies of all correction orders, penalty assessments, and complaint
2.23 investigation reports for all child care providers.

2.24 Subd. 5. **Independence of action.** In carrying out the duties under this section, the
2.25 ombudsperson may act independently of the department to provide testimony to the
2.26 legislature, make periodic reports to the legislature, and address areas of concern to child
2.27 care providers.

2.28 Subd. 6. **Civil actions.** The ombudsperson or designee is not civilly liable for any action
2.29 taken under this section if the action was taken in good faith, was within the scope of the
2.30 ombudsperson's authority, and did not constitute willful or reckless misconduct.

2.31 Subd. 7. **Qualifications.** The ombudsperson must be a person who has knowledge and
2.32 experience concerning the provision of child care. The ombudsperson must be experienced
2.33 in dealing with governmental entities, interpretation of laws and regulations, investigations,

3.1 record keeping, report writing, public speaking, and management. A person is not eligible
3.2 to serve as the ombudsperson while holding public office.

3.3 Subd. 8. **Office support.** The commissioner shall provide the ombudsperson with the
3.4 necessary office space, supplies, equipment, and clerical support to effectively perform the
3.5 duties under this section.

3.6 Subd. 9. **Posting.** (a) The commissioner shall post on the department's website the address
3.7 and telephone number for the office of the ombudsperson. The commissioner shall provide
3.8 all child care providers with the address and telephone number of the office. Counties must
3.9 provide child care providers with the name, address, and telephone number of the office.

3.10 (b) The ombudsperson must approve all posting and notice required by the department
3.11 and counties under this subdivision.

3.12 Sec. 2. **APPROPRIATION.**

3.13 \$..... in fiscal year 2022 and \$..... in fiscal year 2023 are appropriated from the general
3.14 fund to the commissioner of human services for the ombudsperson for child care providers
3.15 under Minnesota Statutes, section 119B.27.

3.16 **EFFECTIVE DATE.** This section is effective July 1, 2021.