

# HOUSE BILL No. 5967

April 25, 2002, Introduced by Reps. Hager, Hart, Ehardt, Gilbert, Julian, Tabor, Vander Veen, Toy, Mortimer, Murphy, Van Woerkom, Bernero, Birkholz, Richardville, Voorhees, Ruth Johnson, Pappageorge, Newell, Vear, Stamas, Gosselin, DeVuyst, Howell, Bishop, Stewart, Jelinek, Cassis, Bisbee, Kuipers, DeRossett, Thomas, DeWeese, Hale and Lemmons and referred to the Committee on Family and Children Services.

A bill to amend 1994 PA 204, entitled  
"The children's ombudsman act,"  
by amending the title and sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10,  
11, and 12 (MCL 722.921, 722.922, 722.923, 722.924, 722.925,  
722.926, 722.927, 722.928, 722.929, 722.930, 722.931, and  
722.932); and to repeal acts and parts of acts.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

### TITLE

An act to ~~create the children's ombudsman~~ ESTABLISH THE  
CHILD ADVOCATE OFFICE; AND to prescribe the powers and duties of  
the ~~children's ombudsman~~ CHILD ADVOCATE, certain state depart-  
ments and officers, and certain county and private agencies serv-  
ing children. ~~and to provide remedies from certain~~  
~~administrative acts.~~

1       Sec. 1. This act shall be known and may be cited as ~~"the~~  
2 ~~children's ombudsman~~ THE "CHILD ADVOCATE OFFICE act".

3       Sec. 2. As used in this act:

4       ~~-(a) "Administrative act" includes an action, omission,~~  
5 ~~decision, recommendation, practice, or other procedure of the~~  
6 ~~department of social services, an adoption attorney, or a child~~  
7 ~~placing agency with respect to a particular child related to~~  
8 ~~adoption, foster care, or protective services.~~

9       ~~(b) "Adoption attorney" means that term as defined in sec-~~  
10 ~~tion 22 of the adoption code, being section 710.22 of the~~  
11 ~~Michigan Compiled Laws.~~

12       ~~(c) "Adoption code" means chapter X of Act No. 288 of the~~  
13 ~~Public Acts of 1939, being sections 710.21 to 710.70 of the~~  
14 ~~Michigan Compiled Laws.~~

15       (A) "CHILD" MEANS AN INDIVIDUAL UNDER THE AGE OF 18.

16       (B) "CHILD ADVOCATE" MEANS THE INDIVIDUAL APPOINTED TO THE  
17 OFFICE OF CHILD ADVOCATE UNDER SECTION 3.

18       (C) ~~-(d)-~~ "Child placing agency" means an organization  
19 licensed or approved by the department ~~of social services under~~  
20 ~~Act No. 116 of the Public Acts of 1973, being sections 722.111 to~~  
21 ~~722.128 of the Michigan Compiled Laws~~ UNDER 1973 PA 116,  
22 MCL 722.111 TO 722.128, to receive children for placement in pri-  
23 vate family homes for foster care or adoption and to provide  
24 services related to adoption.

25       ~~-(e) "Child" means an individual under the age of 18.~~

26       ~~(f) "Complainant" means an individual who makes a complaint~~  
27 ~~as provided in section 5.~~

(D) ~~(g)~~ "Department" means the ~~department of social services~~ FAMILY INDEPENDENCE AGENCY.

~~(h) "Foster parent" means an individual licensed by the department of social services under Act No. 116 of the Public Acts of 1973 to provide foster care to children.~~

~~(i) "Official" means an official or employee of the department or a child placing agency.~~

~~(j) "Ombudsman" means the children's ombudsman created in section 3.~~

(E) "FOSTER CARE" MEANS CARE PROVIDED TO A JUVENILE IN A FOSTER FAMILY HOME, FOSTER FAMILY GROUP HOME, OR CHILD CARING INSTITUTION LICENSED OR APPROVED UNDER 1973 PA 116, MCL 722.111 TO 722.128, OR CARE PROVIDED TO A JUVENILE IN A RELATIVE'S HOME UNDER A COURT ORDER.

(F) "OFFICE" MEANS THE CHILD ADVOCATE OFFICE ESTABLISHED UNDER SECTION 3.

Sec. 3. (1) As a means of monitoring and ensuring compliance with relevant statutes, rules, and policies pertaining to children's protective services and the placement, supervision, and treatment of children in foster care and adoptive homes, the ~~children's ombudsman is created~~ CHILD ADVOCATE OFFICE IS ESTABLISHED as an autonomous entity in the department of management and budget. ~~The ombudsman shall exercise its powers and duties, including the functions of budgeting and procurement and other management-related functions, independently of the director of the department of management and budget.~~ THE OFFICE OF CHILD ADVOCATE IS CREATED IN THE CHILD ADVOCATE OFFICE. AN INDIVIDUAL

1 APPOINTED AS CHILD ADVOCATE SERVES A TERM OF 5 YEARS AND HOLDS  
2 OFFICE UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIED.

3 (2) ~~The ombudsman shall be appointed by the governor and~~  
4 ~~shall serve at the pleasure of the governor.~~ THE GOVERNOR SHALL  
5 APPOINT AN INDIVIDUAL AS THE CHILD ADVOCATE, WITH THE ADVICE AND  
6 CONSENT OF THE SENATE, FROM A LIST OF NOT LESS THAN 3 INDIVIDUALS  
7 SUBMITTED TO THE GOVERNOR BY A COMMITTEE CONSISTING OF THE FOL-  
8 LOWING MEMBERS:

9 (A) TWO ATTORNEYS APPOINTED BY THE STATE BAR OF MICHIGAN.

10 (B) TWO JUDGES WHO ARE SERVING IN THE FAMILY DIVISION OF  
11 CIRCUIT COURT APPOINTED BY THE SUPREME COURT.

12 (C) ONE PHYSICIAN APPOINTED BY THE MICHIGAN STATE MEDICAL  
13 SOCIETY.

14 (D) ONE MEMBER OF THE HOUSE OF REPRESENTATIVES APPOINTED BY  
15 THE SPEAKER OF THE HOUSE OF REPRESENTATIVES.

16 (E) ONE MEMBER OF THE SENATE APPOINTED BY THE SENATE MAJOR-  
17 ITY LEADER.

18 (F) ONE PSYCHOLOGIST APPOINTED BY THE GOVERNOR.

19 (G) ONE SOCIAL WORKER APPOINTED BY THE GOVERNOR.

20 (H) ONE REPRESENTATIVE OF A CHILD PLACING AGENCY APPOINTED  
21 BY THE GOVERNOR.

22 (I) ONE MEMBER OF THE GENERAL PUBLIC APPOINTED BY THE  
23 GOVERNOR.

24 (J) ONE REPRESENTATIVE OF THE DEPARTMENT OF STATE POLICE  
25 APPOINTED BY THE DIRECTOR OF THE DEPARTMENT OF STATE POLICE.

26 (3) THE COMMITTEE ESTABLISHED UNDER SUBSECTION (2) SHALL  
27 RECOMMEND NOT LESS THAN 3 INDIVIDUALS TO THE GOVERNOR FOR

1 SELECTION AS THE CHILD ADVOCATE. THE COMMITTEE SHALL NOT  
2 RECOMMEND AN INDIVIDUAL UNLESS THE INDIVIDUAL IS BOTH OF THE  
3 FOLLOWING:

4 (A) EITHER OF THE FOLLOWING:

5 (i) A MEMBER OF THE STATE BAR OF MICHIGAN FOR NOT LESS THAN  
6 3 YEARS.

7 (ii) AN ATTORNEY LICENSED IN GOOD STANDING IN ANOTHER STATE  
8 FOR NOT LESS THAN 3 YEARS WHO IS ELIGIBLE TO BE A MEMBER OF THE  
9 STATE BAR OF MICHIGAN.

10 (B) QUALIFIED BY TRAINING AND EXPERIENCE TO PERFORM THE  
11 DUTIES AND EXERCISE THE POWERS OF THE CHILD ADVOCATE AND THE  
12 CHILD ADVOCATE OFFICE AS PROVIDED IN THIS ACT.

13 Sec. 4. (1) ~~The ombudsman~~ INDEPENDENTLY FROM THE DEPART-  
14 MENT OF MANAGEMENT AND BUDGET AND FROM THE EXECUTIVE OFFICE OF  
15 THE GOVERNOR, THE CHILD ADVOCATE shall establish procedures FOR  
16 THE OFFICE for budgeting, expending ~~funds~~ MONEY, and employing  
17 personnel. Subject to annual appropriations, the ~~ombudsman~~  
18 CHILD ADVOCATE shall employ sufficient personnel to carry out the  
19 duties and powers prescribed by this act.

20 (2) The ~~ombudsman~~ CHILD ADVOCATE shall establish proce-  
21 dures for receiving and processing complaints from ~~complainants~~  
22 THE PUBLIC, conducting investigations, holding INFORMAL hearings,  
23 and reporting findings resulting from investigations.

24 (3) IF THE SUBJECT MATTER OF A COMPLAINT FALLS WITHIN THE  
25 DUTIES AND POWERS OF THE CHILD ADVOCATE TO INVESTIGATE, ANY INDI-  
26 VIDUAL MAY SUBMIT THE COMPLAINT TO THE CHILD ADVOCATE. THE CHILD  
27 ADVOCATE HAS THE SOLE DISCRETION AND AUTHORITY TO DETERMINE IF A

1 COMPLAINT FALLS WITHIN HIS OR HER DUTIES AND POWERS TO  
2 INVESTIGATE. THE CHILD ADVOCATE MAY INITIATE AN INVESTIGATION  
3 WITHOUT RECEIVING A COMPLAINT. THE CHILD ADVOCATE DEFINES THE  
4 SCOPE, DURATION, AND ISSUES TO BE CONSIDERED AS PART OF THE  
5 INVESTIGATION.

6 (4) THE CHILD ADVOCATE, ON HIS OR HER INITIATIVE, MAY INVES-  
7 TIGATE CASES IN WHICH THE DEPARTMENT DID NOT INVESTIGATE A  
8 REPORT. THE CHILD ADVOCATE, ON HIS OR HER OWN INITIATIVE, MAY  
9 INVESTIGATE A CASE IN WHICH THE DEPARTMENT CONDUCTED AN INVESTI-  
10 GATION BUT DID NOT CLASSIFY THE CASE AS A CENTRAL REGISTRY CASE  
11 AS DEFINED IN SECTION 2 OF THE CHILD PROTECTIVE LAW ACT, 1975  
12 PA 238, MCL 722.622.

13 Sec. 5. ~~All of the following individuals may make a com=~~  
14 ~~plaint to the ombudsman with respect to a particular child,~~  
15 ~~alleging that an administrative act is contrary to law, rule, or~~  
16 ~~policy, imposed without an adequate statement of reason, or based~~  
17 ~~on irrelevant, immaterial, or erroneous grounds:~~

18 ~~(a) The child, if he or she is able to articulate a~~  
19 ~~complaint.~~

20 ~~(b) A biological parent of the child.~~

21 ~~(c) A foster parent of the child.~~

22 ~~(d) An adoptive parent or a prospective adoptive parent of~~  
23 ~~the child.~~

24 ~~(e) A legally appointed guardian of the child.~~

25 ~~(f) A guardian ad litem of the child.~~

26 ~~(g) An adult who is related to the child within the fifth~~  
27 ~~degree by marriage, blood, or adoption, as defined in section 22~~

1 ~~of the adoption code, being section 710.22 of the Michigan~~  
2 ~~Compiled Laws.~~

3 ~~(h) A Michigan legislator.~~

4 ~~(i) An attorney for any individual described in subpara-~~  
5 ~~graphs (a) to (g).~~ THE CHILD ADVOCATE SHALL DO ALL OF THE

6 FOLLOWING:

7 (A) TAKE THE STEPS NECESSARY TO PROTECT THE RIGHTS AND WEL-  
8 FARE OF EACH CHILD SUBJECT TO THE JURISDICTION AND CONTROL OF THE  
9 DEPARTMENT, THE MICHIGAN CHILDREN'S INSTITUTE, THE FAMILY DIVI-  
10 SION OF CIRCUIT COURT, ANOTHER STATE AGENCY, OR A CHILD PLACING  
11 AGENCY.

12 (B) PURSUE ALL NECESSARY LEGAL ACTION TO SAFEGUARD THE WEL-  
13 FARE OF A CHILD WHO IS SUBJECT TO THE JURISDICTION, CONTROL, OR  
14 SUPERVISION OF THE MICHIGAN CHILDREN'S INSTITUTE OR ANOTHER STATE  
15 AGENCY AND WITH WHOM THE CHILD ADVOCATE IS INVOLVED.

16 (C) PURSUE ALL POSSIBLE LEGISLATIVE ADVOCACY ON BEHALF OF  
17 CHILDREN WHO ARE AT RISK FOR ABUSE AND NEGLECT.

18 (D) REVIEW POLICIES AND PROCEDURES RELATING TO THE  
19 DEPARTMENT'S INVOLVEMENT WITH CHILDREN AND MAKE RECOMMENDATIONS  
20 FOR IMPROVEMENT.

21 (E) REVIEW AND INVESTIGATE, BASED ON A COMPLAINT FROM THE  
22 PUBLIC OR ON THE CHILD ADVOCATE'S OWN INITIATIVE, THE SITUATION  
23 OF A CHILD WHO MAY BE ABUSED OR NEGLECTED.

24 (F) INVESTIGATE EACH CHILD'S DEATH THAT MAY HAVE RESULTED  
25 FROM ABUSE OR NEGLECT.

26 Sec. 6. The ~~ombudsman~~ CHILD ADVOCATE may do all of the  
27 following IN RELATION TO A CHILD WHO MAY BE ABUSED OR NEGLECTED:

1 (a) Upon ~~its own initiative or upon~~ receipt of a  
2 complaint, ~~from a complainant,~~ investigate an ~~administrative~~  
3 act OR OMISSION that is alleged to be contrary to law or rule,  
4 ~~or~~ contrary to policy of the department or a child placing  
5 agency, imposed without an adequate statement of reason, or based  
6 on irrelevant, immaterial, or erroneous grounds.

7 (b) Decide, in its discretion, whether to investigate a  
8 complaint.

9 (c) Upon ~~its own initiative or upon~~ receipt of a  
10 complaint, ~~from a complainant,~~ conduct a preliminary CONDUCT AN  
11 investigation to determine whether an ~~adoption~~ attorney  
12 INVOLVED IN AN ADOPTION may have committed an ~~administrative~~  
13 act OR OMISSION that is alleged to be contrary to law, rule, or  
14 the Michigan rules of professional conduct adopted by the  
15 Michigan supreme court.

16 (D) IN THE SOLE DISCRETION OF THE CHILD ADVOCATE, ACCESS,  
17 INSPECT, AND COPY ALL RECORDS AND REPORTS NECESSARY TO CARRY OUT  
18 THE CHILD ADVOCATE'S DUTIES AND POWERS, INCLUDING, BUT NOT  
19 LIMITED TO, RECORDS OF THE DEPARTMENT, CHILD PLACING AGENCY  
20 RECORDS, FAMILY COURT RECORDS INCLUDING THOSE OTHERWISE MADE CON-  
21 FIDENTIAL BY LAW, MEDICAL RECORDS, MEDICAL EXAMINER RECORDS,  
22 MENTAL HEALTH RECORDS, AND SCHOOL RECORDS. TO THE EXTENT THESE  
23 RECORDS ARE MADE CONFIDENTIAL BY LAW, THE RULES OF CONFIDENTIAL-  
24 ITY ARE ABROGATED TO THE EXTENT THAT THEY ARE ABROGATED BY SEC-  
25 TION 11 OF THE CHILD PROTECTION LAW ACT, 1975 PA 238,  
26 MCL 722.631.



(E) ISSUE A SUBPOENA REQUIRING THE PRODUCTION OF A RECORD OR REPORT NECESSARY TO CARRY OUT THE CHILD ADVOCATE'S DUTIES AND POWERS. IF THE PERSON TO WHOM A SUBPOENA IS ISSUED FAILS OR REFUSES TO PRODUCE THE RECORD OR REPORT, THE CHILD ADVOCATE MAY PETITION THE COURT FOR ENFORCEMENT OF THE SUBPOENA.

(F) ~~(d)~~ Hold informal hearings and request that individuals appear before the ~~ombudsman~~ CHILD ADVOCATE and give testimony or produce documentary or other evidence that the ~~ombudsman~~ CHILD ADVOCATE considers relevant to a matter under investigation. THE CHILD ADVOCATE MAY ISSUE A SUBPOENA REQUIRING AN INDIVIDUAL TO APPEAR AT AN INFORMAL HEARING. IF THE PERSON TO WHOM A SUBPOENA IS ISSUED FAILS OR REFUSES TO APPEAR AT THE HEARING, THE CHILD ADVOCATE MAY PETITION THE COURT FOR ENFORCEMENT OF THE SUBPOENA.

(G) ~~(e)~~ Make recommendations to the governor and the legislature concerning the need for CHILDREN'S protective services, adoption, or foster care legislation, POLICY, OR PRACTICE WITHOUT PRIOR REVIEW BY OTHER OFFICES IN THE EXECUTIVE BRANCH.

Sec. 7. (1) Upon ~~rendering a decision~~ DECIDING to investigate a complaint, ~~from a complainant, the ombudsman~~ THE CHILD ADVOCATE shall notify the ~~complainant~~ COMPLAINING INDIVIDUAL of the decision to investigate and shall notify the department, ~~adoption~~ attorney, or child placing agency of the intention to investigate. If the ~~ombudsman~~ CHILD ADVOCATE declines to investigate a complaint or continue an investigation, the ~~ombudsman~~ CHILD ADVOCATE shall notify the ~~complainant~~ COMPLAINING INDIVIDUAL and the department, ~~adoption~~ attorney,

1 or child placing agency of the decision and of the reasons for  
2 the ~~ombudsman's~~ CHILD ADVOCATE'S action.

3 (2) If ~~the preliminary~~ AN investigation described in sec-  
4 tion 6 leads the ~~ombudsman~~ CHILD ADVOCATE to believe that the  
5 matter may involve misconduct by an ~~adoption~~ attorney, the  
6 ~~ombudsman~~ CHILD ADVOCATE shall immediately refer the complaint  
7 to the attorney grievance commission of the state bar of  
8 Michigan.

9 (3) The ~~ombudsman~~ CHILD ADVOCATE may advise a  
10 ~~complainant~~ COMPLAINING INDIVIDUAL to pursue all administrative  
11 remedies or channels of complaint open to the ~~complainant~~  
12 INDIVIDUAL before pursuing a complaint with the ~~ombudsman~~ CHILD  
13 ADVOCATE. Subsequent to the administrative processing of a com-  
14 plaint, the ~~ombudsman~~ CHILD ADVOCATE may conduct further inves-  
15 tigations of ~~any~~ A complaint upon the request of the  
16 ~~complainant or upon the ombudsman's own initiative~~ COMPLAINING  
17 INDIVIDUAL.

18 (4) If the ~~ombudsman~~ CHILD ADVOCATE finds in the course of  
19 an investigation that an individual's action is in violation of  
20 state or federal criminal law, the ~~ombudsman~~ CHILD ADVOCATE  
21 shall immediately report that fact to the county prosecutor or  
22 the attorney general. If the complaint is against a child plac-  
23 ing agency, the ~~ombudsman~~ CHILD ADVOCATE shall refer the matter  
24 to the department of ~~social~~ CONSUMER AND INDUSTRY services for  
25 further action with respect to licensing.

26 (5) ~~The ombudsman may file a petition on behalf of a child~~  
27 ~~requesting the court to take jurisdiction under section 2(b) of~~

1 ~~chapter XIIIA of Act No. 288 of the Public Acts of 1939, being~~  
2 ~~section 712A.2 of the Michigan Compiled Laws, or a petition for~~  
3 ~~termination of parental rights under section 19b of chapter XIIIA~~  
4 ~~of Act No. 288 of the Public Acts of 1939, being section 712A.19b~~  
5 ~~of the Michigan Compiled Laws, if the ombudsman is satisfied that~~  
6 ~~the complainant has contacted the department, the prosecuting~~  
7 ~~attorney, the child's attorney, and the child's guardian ad~~  
8 ~~litem, if any, and that none of these persons intend to file a~~  
9 ~~petition as described in this subsection.~~ THE CHILD ADVOCATE MAY  
10 TAKE ANY LEGAL ACTION THAT HE OR SHE CONSIDERS APPROPRIATE TO  
11 PROTECT AN INDIVIDUAL CHILD OR THE WELFARE OF THIS STATE'S ABUSED  
12 AND NEGLECTED CHILDREN AS A CLASS.

13       Sec. 8. (1) The department and a child placing agency shall  
14 do all of the following:

15       (a) Upon the ~~ombudsman's~~ CHILD ADVOCATE'S request, grant  
16 the ~~ombudsman~~ CHILD ADVOCATE or ~~its~~ HIS OR HER designee  
17 access to all ~~relevant~~ information, records, and documents in  
18 the possession of the department or child placing agency that the  
19 ~~ombudsman~~ CHILD ADVOCATE considers RELEVANT AND necessary in an  
20 investigation.

21       (b) Assist the ~~ombudsman~~ CHILD ADVOCATE to obtain the nec-  
22 essary releases of those documents that are specifically  
23 restricted.

24       (c) Provide the ~~ombudsman~~ CHILD ADVOCATE upon request with  
25 progress reports concerning the administrative processing of a  
26 complaint.

(D) UPON THE CHILD ADVOCATE'S REQUEST, PROVIDE THE CHILD ADVOCATE INFORMATION HE OR SHE REQUESTS WITHIN 5 BUSINESS DAYS AFTER THE DATE OF REQUEST. THE ATTORNEY GENERAL MAY TAKE APPROPRIATE ACTION TO REQUIRE THAT THE INFORMATION REQUESTED BE PROVIDED TO THE CHILD ADVOCATE. FAILURE TO COMPLY WITH REQUESTS FOR INFORMATION WHICH IMPEDES AN INVESTIGATION IS A MISDEMEANOR SUBJECT TO A FINE OF \$500.00.

(2) The department, an ~~adoption~~ attorney INVOLVED WITH AN ADOPTION, and a child placing agency shall provide information to a biological parent, prospective adoptive parent, or foster parent regarding the provisions of this act.

(3) THE DEPARTMENT SHALL PROVIDE THE CHILD ADVOCATE WITH ACCESS, IN THE CHILD ADVOCATE'S OWN OFFICE, TO DEPARTMENTAL COMPUTER NETWORKS WHERE CHILD ABUSE AND NEGLECT RECORDS ARE KEPT.

Sec. 9. (1) ~~The ombudsman shall treat all matters under investigation, including the identities of recipients or individuals from whom information is acquired, as confidential, except so far as disclosures may be necessary to enable the ombudsman to perform the duties of the office and to support any recommendations resulting from an investigation. A record of the office of the ombudsman is confidential, shall be used only for purposes set forth in this act, and is not subject to court subpoena. A record of the office of the ombudsman is exempt from disclosure under the freedom of information act, Act No. 442 of the Public Acts of 1976, being sections 15.231 to 15.246 of the Michigan Compiled Laws.~~ SUBJECT TO SUBSECTION (2), ALL INFORMATION OBTAINED OR GENERATED BY THE OFFICE OF THE CHILD ADVOCATE IS

1 CONFIDENTIAL AND EXEMPT FROM DISCLOSURE UNDER THE FREEDOM OF  
2 INFORMATION ACT, 1976 PA 442, MCL 15.231 TO 15.246, IS NOT  
3 SUBJECT TO A COURT SUBPOENA, AND IS NOT DISCOVERABLE IN A LEGAL  
4 PROCEEDING.

5 (2) THE CHILD ADVOCATE MAY DISCLOSE CONFIDENTIAL INFORMATION  
6 OBTAINED OR GENERATED BY THE OFFICE OF THE CHILD ADVOCATE THAT IS  
7 OTHERWISE EXEMPT FROM DISCLOSURE IF THE CHILD ADVOCATE DETERMINES  
8 THAT THE DISCLOSURE IS IN THE GENERAL PUBLIC INTEREST OR IS NEC-  
9 ESSARY TO ENABLE THE CHILD ADVOCATE TO PERFORM HIS OR HER RESPON-  
10 SIBILITIES UNDER THIS ACT. IF THE CHILD ADVOCATE DETERMINES THAT  
11 DISCLOSURE OF INFORMATION IS NECESSARY TO IDENTIFY, PREVENT, OR  
12 TREAT THE ABUSE OR NEGLECT OF A CHILD, THE CHILD ADVOCATE MAY  
13 DISCLOSE THAT INFORMATION TO THE APPROPRIATE AGENCY RESPONSIBLE  
14 FOR THE WELFARE OF THE CHILD. HOWEVER, THE CHILD ADVOCATE MAY  
15 NOT DISCLOSE INFORMATION THAT IS CONFIDENTIAL AND THAT CONCERNS A  
16 PENDING LAW ENFORCEMENT INVESTIGATION OR A PENDING PROSECUTION.

17 Sec. 10. (1) The ~~ombudsman~~ CHILD ADVOCATE shall prepare a  
18 report of the FACTUAL findings of an investigation and make rec-  
19 ommendations to the department or child placing agency if the  
20 ~~ombudsman~~ CHILD ADVOCATE finds 1 or more of the following:

21 (a) A matter should be further considered by the department  
22 or child placing agency.

23 (b) An ~~administrative~~ act OR OMISSION should be modified,  
24 ~~or~~ canceled, OR CORRECTED.

25 (c) Reasons should be given for an ~~administrative~~ act OR  
26 OMISSION.

(d) Other action should be taken by the department or child placing agency.

~~-(2) Before announcing a conclusion or recommendation that expressly or by implication criticizes an individual, the department, or a child placing agency, the ombudsman shall consult with that individual, the department, or the child placing agency. When publishing an opinion adverse to the department or child placing agency, the ombudsman shall include in the publication any statement of reasonable length made to the ombudsman by the department or child placing agency in defense or mitigation of the action. The ombudsman may request to be notified by the department or child placing agency, within a specified time, of any action taken on any recommendation presented.~~

(2) ~~-(3)-~~ The ~~ombudsman~~ CHILD ADVOCATE shall notify the ~~complainant~~ COMPLAINING INDIVIDUAL of the actions taken by the ~~ombudsman~~ CHILD ADVOCATE and by the department or child placing agency.

~~-(4) The ombudsman shall provide the complainant with a copy of its recommendations on a complaint.~~

(3) THE CHILD ADVOCATE MAY PROVIDE THE COMPLAINING INDIVIDUAL WITH A COPY OF THE CHILD ADVOCATE'S RECOMMENDATIONS IN RESPONSE TO A COMPLAINT. SUBJECT TO SECTION 9, THE CHILD ADVOCATE HAS DISCRETION TO DETERMINE WHAT CONFIDENTIAL INFORMATION SHALL BE PROVIDED TO THE COMPLAINING INDIVIDUAL.

(4) ~~-(5)-~~ The ~~ombudsman~~ CHILD ADVOCATE shall submit to the governor, the director of the department, and the legislature an annual report on the conduct of the ~~ombudsman~~ CHILD ADVOCATE,

1 including any recommendations regarding the need for legislation  
2 or for change in rules or policies.

3 Sec. 11. (1) An official, the department, or a child plac-  
4 ing agency shall not penalize any person for filing a complaint  
5 or cooperating with the ~~ombudsman~~ CHILD ADVOCATE in investigat-  
6 ing a complaint.

7 (2) An individual, the department, an ~~adoption~~ attorney  
8 INVOLVED IN AN ADOPTION, or a child placing agency shall not  
9 hinder the lawful actions of the ~~ombudsman~~ CHILD ADVOCATE or  
10 employees of the ~~ombudsman~~ CHILD ADVOCATE.

11 (3) A REPORT BY THE CHILD ADVOCATE IS NOT SUBJECT TO REVIEW  
12 BY A PERSON OUTSIDE OF THE OFFICE.

13 Sec. 12. The authority granted the ~~ombudsman~~ CHILD  
14 ADVOCATE under this act is in addition to the authority granted  
15 under the provisions of any other act or rule under which the  
16 remedy or right of appeal or objection is provided for a person,  
17 or any procedure provided for the inquiry into or investigation  
18 of any matter. The authority granted the ~~ombudsman~~ CHILD  
19 ADVOCATE does not limit or affect the remedy or right of appeal  
20 or objection and is not an exclusive remedy or procedure.

21 Enacting section 1. Sections 13, 14, and 15 of the  
22 children's ombudsman act, 1994 PA 204, MCL 722.933, 722.934, and  
23 722.935, are repealed.