

HOUSE BILL NO. 4638

May 23, 2023, Introduced by Reps. Hoskins, Hope, Wilson, Tsernoglou, Paiz, Morse, Miller, Byrnes, Young, Pohutsky, Rheingans, Dievendorf, Hood, Wegela, O'Neal, Breen, Price, Tyrone Carter, Brixie, Morgan, MacDonell, Brenda Carter, Edwards, Brabec, Arbit, Glanville, McKinney, Scott, Conlin, Skaggs and Aiyash and referred to the Committee on Criminal Justice.

A bill to amend 1994 PA 204, entitled "The children's ombudsman act," by amending the title and sections 1, 2, 3, 4, 5, 5a, 6, 7, 8, 9, 10, 11, and 12 (MCL 722.921, 722.922, 722.923, 722.924, 722.925, 722.925a, 722.926, 722.927, 722.928, 722.929, 722.930, 722.931, and 722.932), the title and sections 3, 5, and 11 as amended by 2004 PA 560, sections 2 and 6 as amended by 2020 PA 186, sections 4 and 10 as amended by 2014 PA 243, section 5a as amended by 2014 PA 455, sections 7 and 8 as amended by 2013 PA 38, and section 9 as amended by 2020 PA 185.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 TITLE

2 An act to establish the ~~children's ombudsman~~ office **of the**
 3 **child advocate**; and to prescribe the powers and duties of the
 4 ~~children's ombudsman~~, **child advocate**, certain state departments and
 5 officers, ~~and~~ certain county and private agencies serving children,
 6 **and certain residential facilities providing juvenile justice**
 7 **services**; and to provide remedies from certain administrative acts.

8 Sec. 1. This act ~~shall be known and~~ may be cited as "~~the~~
 9 ~~children's ombudsman~~ **the "office of the child advocate act"**".

10 Sec. 2. As used in this act:

11 (a) "Administrative act" includes an action, omission,
 12 decision, recommendation, practice, or other procedure of the
 13 department, an adoption attorney, ~~or~~ a child placing agency, **or a**
 14 **residential facility**, with respect to a particular child related to
 15 adoption, foster care, ~~or~~ protective services, **or juvenile justice**
 16 **services**.

17 (b) "Adoption attorney" means that term as defined in section
 18 22 of the adoption code, MCL 710.22.

19 (c) "Adoption code" means the Michigan adoption code, chapter
 20 X of the probate code of 1939, 1939 PA 288, MCL 710.21 to 710.70.

21 (d) "Central registry" means that term as defined in section 2
 22 of the child protection law, MCL 722.622.

23 (e) "Child" means an individual under the age of 18.

24 (f) "Child abuse" and "child neglect" mean those terms as
 25 defined in section 2 of the child protection law, MCL 722.622.

26 (g) **"Child advocate" or "advocate" means the individual**
 27 **appointed to the office of child advocate under section 3.**

28 (h) ~~(g)~~ "Child caring institution" means that term as defined

1 in section 1 of 1973 PA 116, MCL 722.111.

2 (i) ~~(h)~~ "Child placing agency" means an organization licensed
3 or approved by the department to receive children for placement in
4 private family homes for foster care or adoption and to provide
5 services related to adoption.

6 ~~(i) "Complainant" means an individual who makes a complaint as
7 provided in section 5.~~

8 (j) "Child protection law" means the child protection law,
9 1975 PA 238, MCL 722.621 to 722.638.

10 ~~(k) "Children's ombudsman" or "ombudsman" means the individual
11 appointed to the office of children's ombudsman under section 3.~~

12 (k) ~~(l)~~ "Closed session" means that term as defined in section
13 2 of the open meetings act, 1976 PA 267, MCL 15.262.

14 (l) **"Complainant" means an individual who makes a complaint as
15 provided in section 5.**

16 (m) "Department" means the department of health and human
17 services.

18 (n) "Foster care" means care provided to a child in a foster
19 family home, foster family group home, or child caring institution
20 licensed by the department under 1973 PA 116, MCL 722.111 to
21 722.128, or care provided to a child in a relative's home under a
22 court order.

23 (o) "Foster parent's bill of rights law" means the foster
24 parent's bill of rights law created in section 8a of the foster
25 care and adoption services act, 1994 PA 203, MCL 722.958a.

26 (p) "Full investigation" means an act of fact finding,
27 document review, or systematic inquiry or examination that occurs
28 after the completion of a preliminary investigation.

29 (q) "Investigation" means either a preliminary investigation

1 or a full investigation.

2 (r) **"Juvenile justice services"** means that term as defined in
3 **section 117a of the social welfare act, 1939 PA 280, MCL 400.117a.**

4 (s) ~~(r)~~-"Office" means the ~~children's ombudsman~~ office of the
5 **child advocate** established under section 3.

6 (t) ~~(s)~~-"Preliminary investigation" means an act of fact
7 finding, document review, or systematic inquiry or examination to
8 determine if there is a correlation between an administrative act
9 and the death of a child or to determine if a trend or systematic
10 issue is identified that would cause the ombudsman to open a full
11 investigation.

12 (u) **"Residential facility"** means a facility that provides
13 **juvenile justice services and is state operated, county operated,**
14 **public, private and contracted, secure, or nonsecure.**

15 Sec. 3. (1) As a means of effecting changes in policy,
16 procedure, and legislation, educating the public, investigating and
17 reviewing actions of the department, child placing agencies, ~~or~~
18 child caring institutions, **or residential facilities**, monitoring
19 and ensuring compliance with relevant statutes, rules, and policies
20 pertaining to children's protective services and the placement,
21 supervision, treatment, and improving delivery of care of children
22 in foster care and adoptive homes, **and providing juvenile justice**
23 **services**, the ~~children's ombudsman~~ **office of the child advocate** is
24 established as an autonomous entity in the department of
25 **technology**, management, and budget.

26 (2) The governor shall appoint an individual as the ~~ombudsman,~~
27 **child advocate** with the advice and consent of the senate. The
28 individual ~~shall~~ **must** be qualified by training and experience to
29 perform the duties and exercise the powers of the ~~children's~~

1 ~~ombudsman and the children's ombudsman office~~ **child advocate and**
2 **the office of the child advocate** as provided in this act.

3 (3) The governor may remove the ~~children's ombudsman~~ **child**
4 **advocate** from office for cause that includes, but is not limited
5 to, incompetency to properly exercise duties, official misconduct,
6 habitual or willful neglect of duty, or other misfeasance or
7 malfeasance in connection with the operation of the office of the
8 ~~children's ombudsman.~~ **child advocate**. The governor ~~shall~~ **must**
9 report the reason for the removal to the legislature.

10 (4) The ~~children's ombudsman serving in office on the~~
11 ~~effective date of the amendatory act that added this subsection~~
12 ~~shall serve~~ **child advocate serves** at the pleasure of the governor.

13 Sec. 4. (1) The ~~ombudsman~~ **child advocate** shall establish
14 procedures for the office for budgeting, expending money, and
15 employing personnel according to the management and budget act,
16 1984 PA 431, MCL 18.1101 to 18.1594. Subject to annual
17 appropriations, the ~~ombudsman shall~~ **child advocate must** employ
18 sufficient personnel to carry out the duties and powers prescribed
19 by this act.

20 (2) The ~~ombudsman shall~~ **child advocate must** establish
21 procedures for receiving and processing complaints from
22 complainants and individuals not meeting the definition of
23 complainant, conducting investigations, holding informal hearings,
24 and reporting findings and recommendations resulting from
25 investigations.

26 (3) Personnel employed by the office of the ~~children's~~
27 ~~ombudsman shall receive mandatory training conducted by the~~
28 ~~Michigan domestic violence prevention and treatment board in~~
29 ~~domestic violence and in handling complaints of~~ **child advocate**

1 **shall receive training in the areas of** child abuse or child neglect
2 ~~that involve a history of domestic violence.~~ **as determined by the**
3 **child advocate.**

4 (4) Any individual may submit a complaint to the ~~ombudsman.~~
5 **child advocate.** The ~~ombudsman~~ **child advocate** has the sole
6 discretion and authority to determine if a complaint falls within
7 his or her duties and powers to investigate and if a complaint
8 involves an administrative act. The ~~ombudsman~~ **child advocate** may
9 initiate an investigation without receiving a complaint. The
10 ~~ombudsman~~ **child advocate** may initiate an investigation upon receipt
11 of a complaint from an individual not meeting the definition of
12 complainant. An individual not meeting the definition of
13 complainant is not entitled to receive information under this act
14 as if he or she is a complainant. The individual is entitled to
15 receive the **published findings and** recommendations of the ~~ombudsman~~
16 **child advocate** and the department's **or the residential facility's**
17 response to the recommendations of the ~~ombudsman~~ **child advocate** in
18 accordance with state and federal law. During the course of an
19 investigation, the ~~ombudsman~~ **child advocate** may refer a case to the
20 department if the ~~ombudsman~~ **child advocate** determines that the
21 department received a complaint on the case, but did not conduct a
22 ~~field~~ **an** investigation. If the ~~ombudsman~~ **child advocate** refers a
23 case to the department, the department ~~shall~~ **must** conduct a ~~field~~
24 **an** investigation of the case or provide notice to the ~~ombudsman~~
25 **child advocate** why a ~~field~~ **an** investigation was not conducted, or
26 what alternative steps may have been taken to address the
27 situation. If a ~~field~~ **an** investigation has been conducted, the
28 department ~~shall~~ **must** report the results to the ~~ombudsman~~ **child**
29 **advocate.**

1 (5) The ~~ombudsman shall~~**child advocate must** notify the
 2 department **or residential facility** of any immediate safety concerns
 3 regarding a child or children who are part of an active or open
 4 child protective services or foster care case. This notification
 5 ~~shall~~**must** occur as soon as possible, but not later than 1 business
 6 day after the ~~ombudsman~~**child advocate** becomes aware of the
 7 concerns.

8 Sec. 5. All of the following individuals may make a complaint
 9 to the ~~ombudsman~~**child advocate** with respect to a particular child,
 10 alleging that an administrative act is contrary to law, rule, or
 11 policy, imposed without an adequate statement of reason, or based
 12 on irrelevant, immaterial, or erroneous grounds:

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

14 (b) A biological parent of the child.

15 (c) A foster parent of the child.

16 (d) An adoptive parent or a prospective adoptive parent of the
 17 child.

18 (e) A legally appointed guardian of the child.

19 (f) A guardian ad litem of the child.

20 (g) An adult who is related to the child within the fifth
 21 degree by marriage, blood, or adoption, as defined in section 22 of
 22 the adoption code, MCL 710.22.

23 (h) A Michigan legislator.

24 (i) An individual required to report child abuse or child
 25 neglect under section 3 of the child protection law, ~~1975 PA 238,~~
 26 MCL 722.623.

27 (j) **A judge for a juvenile receiving juvenile justice**
 28 **services.**

29 (k) **The governor.**

1 (l) ~~(j)~~—An attorney for any individual described in
2 subdivisions (a) to ~~(g)~~ **(k)**.

3 Sec. 5a. The ~~children's ombudsman has the authority~~ **child**
4 **advocate is authorized** to do all of the following:

5 (a) Pursue all necessary action, including, but not limited
6 to, legal action, to protect the rights and welfare of a child
7 under the jurisdiction, control, or supervision of the department,
8 the Michigan children's institute, the family division of circuit
9 court under section 2(a)(1) of chapter XIIIA of the probate code of
10 1939, 1939 PA 288, MCL 712A.2, a child caring institution, ~~or a~~
11 child placing agency, **or a residential facility or a child who is**
12 **the victim in a child protective services maltreatment in care**
13 **investigation. A court's placement decision is not subject to the**
14 **child advocate's authority.**

15 (b) Pursue legislative advocacy in the best interests of
16 children.

17 (c) Review policies and procedures relating to the
18 department's **or a residential facility's** involvement with children
19 and make recommendations for improvement.

20 (d) Subject to an appropriation of funds, commence and conduct
21 investigations into alleged violations of the foster parent's bill
22 of rights law.

23 (e) **Mediate issues and educate the public regarding complaints**
24 **dealing with certain county and private agencies serving children,**
25 **maltreatment in care investigations, and investigations of lack of**
26 **or insufficient services regarding a residential facility.**

27 Sec. 6. (1) The ~~ombudsman~~ **child advocate** may do all of the
28 following in relation to a child who may be a victim of child abuse
29 or child neglect, including a child who may have died as a result

1 of suspected child abuse or child neglect:

2 (a) Upon his or her own initiative or upon receipt of a
3 complaint, investigate an administrative act that is alleged to be
4 contrary to law or rule, contrary to policy of the department, ~~or a~~
5 child placing agency, **or a residential facility**, imposed without an
6 adequate statement of reason, or based on irrelevant, immaterial,
7 or erroneous grounds. The ~~ombudsman~~**child advocate** has sole
8 discretion to determine if a complaint involves an administrative
9 act.

10 (b) Decide, in his or her discretion, whether to investigate
11 an administrative act.

12 (c) Upon his or her own initiative or upon receipt of a
13 complaint and subject to an appropriation of funds, investigate an
14 alleged violation of the foster parent's bill of rights law.

15 (d) Except as otherwise provided in this subdivision, access
16 records and reports necessary to carry out the ~~ombudsman's~~**child**
17 **advocate's** powers and duties under this act to the same extent and
18 in the same manner as provided to the department under the
19 provisions of the child protection law. The ~~ombudsman~~**child**
20 **advocate** must be provided access to medical records in the same
21 manner as access is provided to the department under section 16281
22 of the public health code, 1978 PA 368, MCL 333.16281. The
23 ~~ombudsman shall~~**child advocate must** be provided access to mental
24 health records in the same manner as access is provided to the
25 department in section 748a of the mental health code, 1974 PA 258,
26 MCL 330.1748a, subject to section 9. The ~~ombudsman~~**child advocate**
27 may request substance use disorder records if the ~~ombudsman~~**child**
28 **advocate** obtains a valid consent or a court order under 42 CFR part
29 2. The ~~ombudsman~~**child advocate** is subject to the same standards

1 for safeguarding the confidentiality of information under this
2 section and the same sanctions for unauthorized release of
3 information as the department. In the course of a child fatality
4 investigation, the ~~ombudsman~~**child advocate** may access records from
5 the court of jurisdiction, attorney general, prosecuting attorney,
6 or any attorney retained by the department and reports from a
7 county child fatality review team to the same extent and in the
8 same manner as provided to the department under state law.

9 (e) Request a subpoena from a court requiring the production
10 of a record or report necessary to carry out the ~~ombudsman's~~**child**
11 **advocate's** duties and powers, including a child fatality
12 investigation. If the person to whom a subpoena is issued fails or
13 refuses to produce the record or report, the ~~ombudsman~~**child**
14 **advocate** may petition the court for enforcement of the subpoena.

15 (f) Hold informal hearings and request that individuals appear
16 before the ~~ombudsman~~**child advocate** and give testimony or produce
17 documentary or other evidence that the ~~ombudsman~~**child advocate**
18 considers relevant to a matter under investigation.

19 (g) Make recommendations to the governor and the legislature
20 concerning the need for children's protective services, adoption,
21 ~~or~~ foster care, **or juvenile justice services** legislation, policy,
22 or practice without prior review by other offices, departments, or
23 agencies in the executive branch in order to facilitate rapid
24 implementation of recommendations or for suggested improvements to
25 the recommendations. No other office, department, or **child placing**
26 agency shall prohibit the release of ~~an ombudsman's~~**a child**
27 **advocate's** recommendation to the governor or the legislature.

28 (2) The ~~ombudsman shall~~**child advocate must** conduct a
29 preliminary investigation into all child fatality cases that

1 occurred or are alleged to have occurred due to child abuse or
2 child neglect in 1 or more of the following situations:

3 (a) A child died during an active child protective services
4 investigation or open services case, or there was an assigned or
5 rejected child protective services complaint within 24 months
6 immediately preceding the child's death.

7 (b) A child died while in foster care, unless the death
8 resulted from natural causes and there was not a previous child
9 protective services or licensing complaint concerning the foster
10 home.

11 (c) A child was returned home from foster care and there is an
12 active foster care case.

13 (d) The foster care case involving the deceased child or
14 sibling was closed within 24 months immediately preceding the
15 child's death.

16 **(e) A child died while committed to a residential facility.**

17 (3) Upon completing a preliminary investigation into a child
18 fatality case described under subsection (2), the ~~ombudsman shall~~
19 **child advocate must** determine whether a full investigation is
20 necessary. If the ~~ombudsman~~ **child advocate** determines a full
21 investigation is necessary, he or she ~~shall~~ **must** open a full
22 investigation into the child fatality case described under
23 subsection (2).

24 (4) Subject to state appropriations, a full investigation
25 under subsection (3) must be completed within 12 months after the
26 ~~ombudsman~~ **child advocate** opens that child fatality case for a full
27 investigation.

28 Sec. 7. (1) Upon deciding to investigate a complaint, from a
29 complainant and an individual not meeting the definition of

1 complainant, the ~~ombudsman shall~~ **child advocate must** notify the
 2 complainant or the individual not meeting the definition of
 3 complainant of the decision to investigate and ~~shall~~ **must** notify
 4 the department, adoption attorney, ~~or~~ child placing agency, **or**
 5 **residential facility** of the intention to investigate. If the
 6 ~~ombudsman~~ **child advocate** declines to investigate a complaint or
 7 continue an investigation, the ~~ombudsman shall~~ **child advocate must**
 8 notify the complainant or the individual not meeting the definition
 9 of complainant and the department, ~~or~~ child placing agency, **or**
 10 **residential facility** of the decision and of the reasons for the
 11 ~~ombudsman's~~ **child advocate's** action.

12 (2) The ~~ombudsman shall~~ **child advocate must** advise a
 13 complainant of administrative remedies and may advise the
 14 individual to pursue all administrative remedies or channels of
 15 complaint open to the complainant before pursuing a complaint with
 16 the ~~ombudsman~~ **child advocate**. Subsequent to the administrative
 17 processing of a complaint, the ~~ombudsman~~ **child advocate** may conduct
 18 further investigations of a complaint upon the request of the
 19 complainant or upon the ~~ombudsman's~~ **child advocate's** own
 20 initiative.

21 (3) If the ~~ombudsman~~ **child advocate** finds in the course of an
 22 investigation that an individual's action is in violation of state
 23 or federal criminal law, the ~~ombudsman shall~~ **child advocate must**
 24 immediately report that fact to the county prosecutor or the
 25 attorney general. If the complaint is against a child placing
 26 agency **or residential facility**, the ~~ombudsman shall~~ **child advocate**
 27 **must** refer the matter to the department for further action with
 28 respect to licensing.

29 (4) The ~~ombudsman~~ **child advocate** may file a petition on behalf

1 of a child requesting the court to take jurisdiction under section
 2 2(b) of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL
 3 712A.2, or a petition for termination of parental rights under
 4 section 19b of chapter XIIA of the probate code of 1939, 1939 PA
 5 288, MCL 712A.19b, if the ~~ombudsman~~**child advocate** is satisfied
 6 that the complainant has contacted the department, the prosecuting
 7 attorney, the child's attorney, and the child's guardian ad litem,
 8 if any, and that none of these persons intend to file a petition as
 9 described in this subsection.

10 Sec. 8. (1) The department, ~~and a child placing agency, shall~~
 11 **and a residential facility must** do all of the following:

12 (a) Upon the ~~ombudsman's~~**child advocate's** request, grant the
 13 ~~ombudsman~~**child advocate** or his or her designee access to all
 14 information, records, and documents in the possession of the
 15 department, ~~or child placing agency,~~ **or residential facility** that
 16 the ~~ombudsman~~**child advocate** considers relevant and necessary in an
 17 investigation.

18 (b) Assist the ~~ombudsman~~**child advocate** to obtain the
 19 necessary releases of those documents that are specifically
 20 restricted.

21 (c) Upon the ~~ombudsman's~~**child advocate's** request, provide the
 22 ~~ombudsman~~**child advocate** with progress reports concerning the
 23 administrative processing of a complaint.

24 (d) Upon the ~~ombudsman's~~**child advocate's** request, provide the
 25 ~~ombudsman~~**child advocate** information he or she requests under
 26 subdivision (a) within 10 business days after the request. If the
 27 department determines that release of the information would violate
 28 federal or state law, the ~~ombudsman shall~~**child advocate must** be
 29 notified of that determination within the same 10-day deadline.

1 (2) The department, an attorney involved with an adoption, ~~and~~
 2 a child placing agency, ~~shall~~ **and a residential facility must**
 3 provide information to a biological parent, **legal guardian,**
 4 prospective adoptive parent, or foster parent regarding the
 5 provisions of this act.

6 (3) The ~~ombudsman,~~ **child advocate,** the department, and the
 7 department of technology, management, and budget ~~shall~~ **must** ensure
 8 that the ~~ombudsman~~ **child advocate** has access, in the ~~ombudsman's~~
 9 **child advocate's** own office, to departmental computer networks
 10 pertaining to protective services, foster care, adoption, juvenile
 11 delinquency, ~~and~~ the central registry, **and juvenile justice**
 12 **services,** unless otherwise prohibited by state or federal law, or
 13 the release of the information to the ~~ombudsman~~ **child advocate**
 14 would jeopardize federal funding. The cost of implementing this
 15 subsection ~~shall~~ **must** be negotiated among the office of the
 16 ~~children's ombudsman,~~ **child advocate,** the department, and the
 17 department of technology, management, and budget.

18 (4) **A residential facility must conspicuously post in an area**
 19 **accessible to residents, employees, and visitors a description of**
 20 **the office of child advocate services and the contact information**
 21 **for the purpose of filing a complaint.**

22 (5) **During the course of an investigation conducted by the**
 23 **child advocate, the residential facility must ensure that a**
 24 **resident has anonymity, privacy, and procedures in place to**
 25 **accommodate interviews conducted by the office of child advocate.**

26 Sec. 9. (1) Subject to subsections (2) through (7) and except
 27 as provided in subsection (8), a record of the ~~children's~~
 28 ~~ombudsman's~~ **child advocate's** office is confidential, shall only be
 29 used for purposes set forth in this act, is not subject to court

1 subpoena, and is not discoverable in a legal proceeding. A record
2 of the ~~children's ombudsman's~~ **child advocate's** office is exempt
3 from disclosure under the freedom of information act, 1976 PA 442,
4 MCL 15.231 to 15.246. If the ~~ombudsman~~ **child advocate** identifies
5 action or inaction by the state, through its agencies or services,
6 that failed to protect children, the ~~ombudsman shall~~ **child advocate**
7 **must** provide his or her findings and recommendations to the **child**
8 **placing** agency affected by those findings, and make those findings
9 and recommendations available to the complainant and the
10 legislature upon request to the extent consistent with state or
11 federal law. The ~~ombudsman~~ **child advocate** must not disclose any
12 information that impairs the rights of the child or the child's
13 parents or guardians.

14 (2) The ~~ombudsman~~ **child advocate** may release information to a
15 complainant or to a closed session of a legislative committee that
16 has jurisdiction over family and children's services issues **or**
17 **juvenile justice issues** regarding the department's handling of a
18 case under the child protection law that is obtained or generated
19 during an investigation conducted by the office.

20 (3) Unless otherwise part of the public record, the office
21 must not release any of the following confidential information to
22 the general public:

23 (a) Records relating to mental health evaluation or treatment
24 of a parent or child.

25 (b) Records relating to the evaluation or treatment of a
26 substance use disorder of a parent or child.

27 (c) Records relating to medical diagnosis or treatment of a
28 parent or child.

29 (d) Records relating to domestic violence-related services and

1 sexual assault services provided to a parent or child.

2 (e) Records relating to educational services provided to a
3 parent or child.

4 (4) Notwithstanding subsection (3), if the ~~ombudsman~~**child**
5 **advocate** determines that disclosure of confidential information is
6 necessary to identify, prevent, or respond to the child abuse or
7 child neglect of a child, the ~~ombudsman~~**child advocate** may disclose
8 information in his or her possession to the department, a court, a
9 law enforcement agency, or a prosecuting attorney investigating a
10 report of known or suspected child abuse or child neglect. The
11 ~~ombudsman~~**child advocate** shall not release the address, telephone
12 number, or other information regarding the whereabouts of a victim
13 or suspected victim of domestic violence unless ordered to by a
14 court.

15 (5) Except as provided in subsection (4), the ~~ombudsman~~ shall
16 **child advocate must** not disclose information relating to an ongoing
17 law enforcement investigation or an ongoing children's protective
18 services investigation. The ~~ombudsman~~**child advocate** may release
19 the results of its investigation to a complainant, or an individual
20 not meeting the definition of complainant, if the ~~ombudsman~~**child**
21 **advocate** receives notification that releasing the results of its
22 investigation is not related to and will not interfere with an
23 ongoing law enforcement investigation or ongoing child protective
24 services investigation.

25 (6) The ~~ombudsman~~ shall **child advocate must** not disclose the
26 identity of an individual making a child abuse or child neglect
27 complaint under the child protection law unless that individual's
28 written permission is obtained first or a court has ordered the
29 ~~ombudsman~~**child advocate** to release that information.

1 (7) The ~~ombudsman~~ **child advocate** may release an individual's
2 identity who makes an intentionally false report of child abuse or
3 child neglect under the child protection law.

4 (8) Not more than 30 days after the case closure date of a
5 case investigated by the office under this act, the ~~ombudsman shall~~
6 **child advocate must** release his or her findings, recommendations,
7 and the **child placing agency or residential facility** responses, if
8 any, to the public. The ~~ombudsman shall~~ **child advocate must** redact
9 confidential information consistent with state and federal law.

10 Sec. 10. (1) The ~~ombudsman shall~~ **child advocate must** prepare a
11 report of the factual findings of an investigation and make
12 recommendations to the department, ~~or~~ the child placing agency, **or**
13 **the residential facility** if the ~~ombudsman~~ **child advocate** finds 1 or
14 more of the following:

15 (a) A matter should be further considered by the department,
16 ~~or~~ the child placing agency, **or the residential facility**.

17 (b) An administrative act or omission should be modified,
18 canceled, or corrected.

19 (c) Reasons should be given for an administrative act or
20 omission.

21 (d) Other action should be taken by the department, ~~or~~ the
22 child placing agency, **or the residential facility**.

23 (2) Before announcing a conclusion or recommendation that
24 expressly or by implication criticizes an individual, the
25 department, ~~or~~ a child placing agency, **or a residential facility**,
26 the ~~ombudsman shall~~ **child advocate must** consult with that
27 individual, the department, ~~or~~ the child placing agency, **or the**
28 **residential facility**. When publishing an opinion adverse to the
29 department, ~~or~~ child placing agency, **or residential facility**, the

1 ~~ombudsman shall~~ **child advocate must** include in the publication any
2 statement of reasonable length made to the ~~ombudsman~~ **child advocate**
3 by the department, ~~or~~ child placing agency, **or residential facility**
4 in defense or mitigation of the action. The ~~ombudsman~~ **child**
5 **advocate** may request to be notified by the department, ~~or~~ child
6 placing agency, **or residential facility**, within a specified time,
7 of any action taken on any recommendation presented.

8 (3) The ~~ombudsman shall~~ **child advocate must** notify the
9 complainant of the actions taken by the ombudsman and by the
10 department, ~~or~~ child placing agency, **or residential facility**.

11 (4) The ~~ombudsman~~ **child advocate** may provide to the
12 complainant the following information:

13 (a) A copy of the ~~ombudsman's~~ **child advocate's** report
14 regarding the investigation's findings, recommendations to the
15 department made according to the investigation, the department's
16 response to the ~~ombudsman's~~ **child advocate's** findings and
17 recommendations, and any epilogue to the ~~ombudsman's~~ **child**
18 **advocate's** report and the department's response.

19 (b) Information that has otherwise been made public.

20 (5) The ~~ombudsman~~ **child advocate** shall not release information
21 to the individual making the complaint that will endanger the
22 health or welfare of a child or another individual.

23 (6) With respect to a child fatality case investigated under
24 section 6(2) and upon review of records or other information
25 received under section 6(1)(c) or (d), in the course of a child
26 fatality investigation, if there is no ongoing child protection
27 proceeding involving a sibling of the child who died, the ~~ombudsman~~
28 ~~shall~~ **child advocate must** provide any necessary recommendations for
29 improving systemic issues that are discovered during the

1 investigation of the child fatality. The recommendations may be
 2 provided to the court of jurisdiction, the state court
 3 administrative office, the county child fatality review team,
 4 medical professionals, **law enforcement**, or attorneys or other legal
 5 professionals involved with the particular child who died. The
 6 recommendations ~~shall~~**must** also be summarized and included in the
 7 annual report referenced in subsection (7).

8 (7) The ~~ombudsman shall~~**child advocate must** submit to the
 9 governor, the director of the department, and the legislature an
 10 annual report on the ~~ombudsman's~~**child advocate's** conduct,
 11 including any recommendations regarding the need for legislation or
 12 for change in rules or policies.

13 Sec. 11. (1) Subject to subsection (4), an official, the
 14 department, ~~or a~~ child placing agency, ~~shall~~**or a residential**
 15 **facility must** not penalize any person for filing a complaint or
 16 cooperating with the ~~ombudsman~~**child advocate** in investigating a
 17 complaint.

18 (2) An individual, the department, an adoption attorney, ~~or a~~
 19 child placing agency, ~~shall~~**or a residential facility must** not
 20 hinder the lawful actions of the ~~ombudsman~~**child advocate** or **his or**
 21 **her** employees. ~~of the ombudsman.~~

22 (3) A report by the ~~ombudsman~~**child advocate** is not subject to
 23 prior approval by a person outside of the office.

24 (4) An individual who intentionally makes a false complaint of
 25 child abuse or **child** neglect under this act is subject to the
 26 penalties contained in section 13(5) of the child protection law,
 27 MCL 722.633.

28 Sec. 12. The authority granted the ~~ombudsman~~**child advocate**
 29 under this act is in addition to the authority granted under the

1 provisions of any other act or rule under which the remedy or right
2 of appeal or objection is provided for a person, or any procedure
3 provided for the inquiry into or investigation of any matter. The
4 authority granted the ~~ombudsman~~**child advocate** does not limit or
5 affect the remedy or right of appeal or objection and is not an
6 exclusive remedy or procedure.