

SENATE BILL NO. 145

BY SENATORS BARROW, BOUDREAUX, BOUIE, CARTER, CATHEY, DUPLESSIS, FIELDS, HARRIS, HENRY, JACKSON-ANDREWS, LUNEAU, MILLER, MIZELL AND TALBOT AND REPRESENTATIVES BERAULT, BILLINGS, WILFORD CARTER, CARVER, CHASSION, DICKERSON, FIRMENT, FREIBERG, HILFERTY, HUGHES, KNOX, LAFLEUR, MARCELLE, NEWELL AND WYBLE

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AN ACT

To amend and reenact R.S. 24:525(C)(2), (5) through (8), and (11), R.S. 44:4(6), and Children's Code Arts. 412(O), 616.1.1(B), and the introductory paragraph of 616.1.1(C) and to enact R.S. 17:407.29(J), 3914(O), R.S. 24:525(F) and (G), R.S. 46:56(N), and Children's Code Art. 616.1.1(D), relative to the state child ombudsman; to provide for access to records and data; to provide for powers and duties of the state child ombudsman; to provide for exemptions to the Public Records Law; to provide for child abuse reporting and investigation; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 17:407.29(J) and 3914(O) are hereby enacted to read as follows:
§407.29. Confidentiality of applications and client case records for child care assistance clients; waiver; penalty

* * *

J. Notwithstanding any provision of law to the contrary, including this Section, the state child ombudsman shall receive, upon written request, records of the Department of Education concerning applications for assistance and

1 information contained in the case records of child care assistance clients of the
2 department.

3 * * *

4 §3914. Student information; privacy; legislative intent; definitions; prohibitions;
5 parental access; penalties

6 * * *

7 O. Notwithstanding any law to the contrary, including this Section, the
8 state child ombudsman shall receive, upon written request, any student record
9 for the purposes of carrying out the ombudsman's duties from any public
10 elementary or secondary school, any city, parish, or other local public school
11 system, or the Louisiana Department of Education.

12 Section 2. R.S. 24:525(C)(2), (5) through (8), and (11) are hereby amended and
13 reenacted and R.S. 24:525(F) and (G) are hereby enacted to read as follows:

14 §525. State child ombudsman; duties

15 * * *

16 C. The state child ombudsman shall have all of the following duties and
17 responsibilities:

18 * * *

19 (2) Periodically review the procedures established by any state agency
20 providing services to children, with a view toward the rights, **needs**, welfare, and
21 safety of the children, and recommend revisions to the procedures.

22 * * *

23 (5) Periodically review the facilities and procedures of any institution or
24 residences, public or private, where a child has been placed by any state agency or
25 department.

26 (a) For purposes of this Section, the term "residences" means congregate
27 care facilities and does not include foster homes.

28 (b) For purposes of this Section, the term "access" means policies and
29 availability of services.

30 (6) Recommend changes in state policies concerning children, including

1 changes in the system of providing juvenile justice, child care **assistance**, foster care,
 2 and access to physical and mental health treatment.

3 (7) Conduct programs of public education, undertake legislative advocacy,
 4 and make proposals for systemic reform in order to ensure the rights **and needs** of
 5 children who reside in this state.

6 (8) Periodically review and recommend changes in the policies and
 7 procedures for the placement of special needs children. **For purposes of this**
 8 **Section, "special needs" means the individualized care that children with a**
 9 **disability, whether physical, mental, behavioral, emotional, or learning**
 10 **difficulties, require to ensure their safety, access to public amenities, or ability**
 11 **to succeed in certain contexts.**

12 * * *

13 (11) Prepare a biennial, in-depth report on conditions of confinement
 14 regarding children twenty-one years of age or younger who are held in secure
 15 detention in any facility operated by a state agency **or those that receive state**
 16 **funding.**

17 * * *

18 **F. Notwithstanding any other provision of law to the contrary and to the**
 19 **extent allowed by federal law, the state child ombudsman shall, upon request,**
 20 **have permission to view and use documents and records relevant to the**
 21 **ombudsman's statutory duties. To the extent allowed by federal law, such**
 22 **documents and records shall include but not be limited to the applications and**
 23 **case files of the Louisiana Department of Health and the Department of**
 24 **Children and Family Services except for the name and any identifying**
 25 **information of the reporter of child abuse or neglect and restrictions provided**
 26 **in Title IV-D of the Social Security Act and the Internal Revenue Code, juvenile**
 27 **court judgements and court minute entries, records and reports of children in**
 28 **the custody of or under the supervision of the office of juvenile justice, student**
 29 **records in the possession of the Louisiana Department of Education, any parish**
 30 **or city school board, and any elementary or secondary education school,**

1 including charter schools. The state child ombudsman shall comply with any
2 and all restrictions imposed by law on documents, data, or information
3 considered confidential or privileged and furnished to the state child
4 ombudsman.

5 G. Notwithstanding any other provision of law to the contrary, the state
6 child ombudsman shall not be compelled to be a witness or be deposed in any
7 case where the state child ombudsman is not personally a defendant.

8 Section 3. R.S. 44:4(6) is hereby amended and reenacted to read as follows:

9 §4. Applicability

10 This Chapter shall not apply:

11 * * *

12 (6)(a) To any records, writings, accounts, letters, letter books, photographs,
13 or copies or memoranda thereof in the custody or control of the legislative auditor,
14 ~~or to~~ unless otherwise provided.

15 (b) To any records, writings, accounts, letters, letter books, photographs,
16 or copies or memoranda thereof in the custody or control of the state child
17 ombudsman, unless otherwise provided.

18 (c) To the actual working papers of the internal auditor of a municipality until
19 the audit is complete, unless otherwise provided.

20 * * *

21 Section 4. R.S. 46:56(N) is hereby enacted to read as follows:

22 §56. Applications and client case records; definitions; confidentiality; waiver;
23 penalty

24 * * *

25 N. Notwithstanding any provisions of this Section or any other law to the
26 contrary and to the extent allowed by federal law, the department shall, upon
27 request, provide copies of applications and case files to the state child
28 ombudsman for the purposes of carrying out the ombudsman's statutory duties.
29 Any such documents provided to the state child ombudsman shall remain
30 confidential and otherwise subject to the provisions of this Section concerning

1 **any subsequent disclosures.**

2 Section 5. Children's Code Arts. 412(O) and 616.1.1(B) and the introductory
3 paragraph of 616.1.1(C) are hereby amended and reenacted and Children's Code Art.
4 616.1.1(D) is hereby enacted to read as follows:

5 Art. 412. Confidentiality of records; disclosure exceptions; sanctions

6 * * *

7 **O.(1) Notwithstanding any other law to the contrary, the state child**
8 **ombudsman shall have access to judgements and court minute entries**
9 **concerning matters or proceedings before the juvenile court as needed in**
10 **furtherance of the ombudsman's statutory duties. Any judgements and court**
11 **minute entries provided to the state child ombudsman shall remain confidential**
12 **and shall not be subject to any further disclosure, absent an order of the**
13 **juvenile court for that purpose.**

14 **(2) The office of juvenile justice shall provide to the state child**
15 **ombudsman, upon written request of the state child ombudsman, any record or**
16 **report concerning a child in the custody of or under the supervision of the office**
17 **of juvenile justice needed in furtherance of the ombudsman's statutory duties,**
18 **including but not limited to records related to condition, housing, supervision,**
19 **treatment, rehabilitation program, education, health, discipline, transition**
20 **planning, risk assessments, and status reports.**

21 * * *

22 Art. 616.1.1. Appeal and review; correction of central registry entries; procedure

23 * * *

24 **B. When a report alleging abuse or neglect is determined to be**
25 **inconclusive by the department, there shall be an internal second level approval**
26 **of any inconclusive finding.**

27 **C.** The department shall provide a written notice to the individual who is or
28 was the subject of the determination in clear, concise, and understandable language
29 that is easy to read, containing all of the following:

30 * * *

1 ~~C.D.~~ The department shall promulgate, in accordance with the Administrative
2 Procedure Act, all rules and regulations necessary to implement the provisions of this
3 Article.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____