

THE CHILDREN'S OMBUDSMAN ACT (EXCERPT)
Act 204 of 1994

***** 722.926.amended THIS AMENDED SECTION IS EFFECTIVE APRIL 1, 2015 *****

722.926.amended Victim of child abuse or child neglect; powers of children's ombudsman; child fatality cases; investigation.

Sec. 6. (1) The ombudsman may do all of the following in relation to a child who may be a victim of child abuse or child neglect, including a child who may have died as a result of suspected child abuse or child neglect:

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

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

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

(d) Except as otherwise provided in this subdivision, access records and reports necessary to carry out the ombudsman's powers and duties under this act to the same extent and in the same manner as provided to the department under the provisions of the child protection law. The ombudsman shall be provided access to medical records in the same manner as access is provided to the department under section 16281 of the public health code, 1978 PA 368, MCL 333.16281. The ombudsman shall be provided access to mental health records in the same manner as access is provided to the department in section 748a of the mental health code, 1974 PA 258, MCL 330.1748a, subject to section 9. The ombudsman may request substance use disorder records if the ombudsman obtains a valid consent or a court order under 42 CFR part 2. The ombudsman is subject to the same standards for safeguarding the confidentiality of information under this section and the same sanctions for unauthorized release of information as the department. In the course of a child fatality investigation, the ombudsman may access records from the court of jurisdiction, attorney general, prosecuting attorney, or any attorney retained by the department and reports from a county child fatality review team to the same extent and in the same manner as provided to the department under state law.

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

(f) Hold informal hearings and request that individuals appear before the ombudsman and give testimony or produce documentary or other evidence that the ombudsman considers relevant to a matter under investigation.

(g) 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, departments, or agencies in the executive branch in order to facilitate rapid implementation of recommendations or for suggested improvements to the recommendations. No other office, department, or agency shall prohibit the release of an ombudsman's recommendation to the governor or the legislature.

(2) The ombudsman shall investigate all child fatality cases that occurred or are alleged to have occurred due to child abuse or child neglect in the following situations:

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

(b) A child died while in foster care, unless the death resulted from natural causes and there were no prior child protective services or licensing complaints concerning the foster home.

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

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

(3) Subject to state appropriations, an investigation under subsection (2) shall be completed within 12 months after the ombudsman opens a child fatality case for investigation.

History: 1994, Act 204, Eff. Jan. 1, 1995;—Am. 2004, Act 560, Imd. Eff. Jan. 3, 2005;—Am. 2013, Act 38, Imd. Eff. June 4, 2013;—Am. 2014, Act 243, Eff. Sept. 25, 2014;—Am. 2014, Act 455, Eff. Apr. 1, 2015.