

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

***** 722.926.amended THIS AMENDED SECTION IS EFFECTIVE FEBRUARY 13, 2024 *****

722.926.amended Victim of child abuse or child neglect; powers of child advocate; child fatality cases; investigation.

Sec. 6. (1) The child advocate 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, a child placing agency, or a residential facility, imposed without an adequate statement of reason, or based on irrelevant, immaterial, or erroneous grounds. The child advocate 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 child advocate'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 child advocate must 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 child advocate must 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 child advocate may request substance use disorder records if the child advocate obtains a valid consent or a court order under 42 CFR part 2. The child advocate 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 child advocate 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 child advocate'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 child advocate may petition the court for enforcement of the subpoena.

(f) Hold informal hearings and request that individuals appear before the child advocate and give testimony or produce documentary or other evidence that the child advocate 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, foster care, or juvenile justice services 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 child placing agency shall prohibit the release of a child advocate's recommendation to the governor or the legislature.

(2) The child advocate must conduct a preliminary investigation into all child fatality cases that occurred or are alleged to have occurred due to child abuse or child neglect in 1 or more of 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 was not a previous child protective services or licensing complaint 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.

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

(3) Upon completing a preliminary investigation into a child fatality case described under subsection (2), the child advocate must determine whether a full investigation is necessary. If the child advocate determines a full investigation is necessary, he or she must open a full investigation into the child fatality case described

under subsection (2).

(4) Subject to state appropriations, a full investigation under subsection (3) must be completed within 12 months after the child advocate opens that child fatality case for a full 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;—Am. 2020, Act 186, Imd. Eff. Oct. 8, 2020;—Am. 2023, Act 303, Eff. Feb. 13, 2024.