

SENATE

STATE OF MINNESOTA

EIGHTY-NINTH SESSION

S.F. No. 1823

(SENATE AUTHORS: TORRES RAY)

DATE	D-PG	OFFICIAL STATUS
03/16/2015	909	Introduction and first reading Referred to State and Local Government
03/18/2015	973	Author stricken Hall
03/19/2015		Comm report: To pass as amended and re-refer to Finance

1.1

A bill for an act

1.2

relating to state government; restructuring councils representing certain ethnic

1.3

communities; creating a Department of Ethnic Affairs to strengthen three of the

1.4

ethnic councils; transferring the ombudsperson program for families and children

1.5

into the Department of Ethnic Affairs; appropriating money; amending Minnesota

1.6

Statutes 2014, section 15.01; proposing coding for new law in Minnesota

1.7

Statutes, chapter 3; proposing coding for new law as Minnesota Statutes,

1.8

chapter 16F; repealing Minnesota Statutes 2014, sections 3.9223; 3.9225;

1.9

3.9226, subdivisions 1, 2, 3, 4, 5, 6, 7; 257.0755; 257.076; 257.0761; 257.0762;

1.10

257.0763; 257.0764; 257.0765; 257.0766; 257.0767; 257.0768; 257.0769.

1.11

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.12

ARTICLE 1

1.13

DEPARTMENT OF ETHNIC AFFAIRS

1.14

Section 1. Minnesota Statutes 2014, section 15.01, is amended to read:

1.15

15.01 DEPARTMENTS OF THE STATE.

1.16

The following agencies are designated as the departments of the state government:

1.17

the Department of Administration; the Department of Agriculture; the Department of

1.18

Commerce; the Department of Corrections; the Department of Education; the Department

1.19

of Employment and Economic Development; the Department of Health; the Department

1.20

of Human Rights; the Department of Labor and Industry; the Department of Management

1.21

and Budget; the Department of Military Affairs; the Department of Natural Resources;

1.22

the Department of Public Safety; the Department of Human Services; the Department of

1.23

Revenue; the Department of Transportation; the Department of Veterans Affairs; the

1.24

Department of Ethnic Affairs; and their successor departments.

1.25

Sec. 2. [16F.01] DEPARTMENT OF ETHNIC AFFAIRS.

2.1 Subdivision 1. **Creation; purpose.** The Department of Ethnic Affairs is referred to
2.2 in this chapter as "department." The department is established to provide a voice to ethnic
2.3 minorities residing in the state on policy relating to subjects including, but not limited
2.4 to, education, health and human services, housing, employment, civil rights, corrections,
2.5 public safety, and economic development, as follows:

2.6 (1) the purpose of the department is to be the central coordinating body for
2.7 discussion and study of state policy affecting people of color in the state;

2.8 (2) the department is responsible for gathering, analyzing, proposing, and tracking
2.9 legislation that will improve the quality of life of people of color in the state;

2.10 (3) the Department of Ethnic Affairs is created to assist the executive and legislative
2.11 branches of government in identifying organizational practices, systemic policies, rules,
2.12 contract policies, and hiring policies to address long-standing inequities that generate
2.13 segregation and persistent disparities in Minnesota; and

2.14 (4) improving interagency coordination and information sharing to strengthen
2.15 state agency capacity and accountability to help ensure the effective implementation of
2.16 government efforts to promote racial and ethnic equality and advance the rights of people
2.17 of color.

2.18 Subd. 2. **Executive directors.** The department shall have the following coequal
2.19 agency heads:

2.20 (1) three executive directors, appointed by the governor and confirmed by the
2.21 senate, as follows:

2.22 (i) one person who is versed on issues that impact Black people in Minnesota, to
2.23 serve as a liaison to Black Minnesotans;

2.24 (ii) one person who is versed on issues that impact Latino-Hispanic people in
2.25 Minnesota, to serve as a liaison to Latino-Hispanic Minnesotans; and

2.26 (iii) one person who is versed on issues that impact Asian-Pacific people in
2.27 Minnesota, to serve as a liaison to Asian-Pacific Minnesotans; and

2.28 (2) three ombudspersons, appointed as provided in section 16F.050.

2.29 Each executive director must be a person who is of the community the director
2.30 represents. In selecting each executive director, the governor must seek and consider input
2.31 from each respective community as reflected by recommendations of the commissions
2.32 on director selection under section 16F.03.

2.33 Subd. 3. **Director terms.** The terms of each director shall be six years and until
2.34 the director's successor has been appointed and confirmed by the senate. The governor
2.35 may remove a director for cause, after notice and hearing. In the case of a vacancy, the
2.36 governor shall appoint, subject to senate confirmation, a person to fill the vacancy for the

remainder of the unexpired term considering nominees recommended by the relevant commission on executive director selection under section 16F.03.

Subd. 4. **Duties.** Each executive director shall perform the following duties:

(1) coordinate with each state agency and organization that receives state funds about the legislative priorities of each agency and organization;

(2) coordinate with each state department to ensure that communities of color are informed about new legislative initiatives; requests for proposals; implementation of existing policies, including rulemaking and board appointments; and other measures impacting the community;

(3) develop practical methods to inform the community about resources and opportunities available to the community the executive director represents, including hosting a Web site and issuing periodic newsletters;

(4) gather and coordinate statistical data to propose new policy to improve outcomes for the community;

(5) annually identify a set of legislative priorities and report these priorities by November 1 of each year to the legislature, governor, and the public;

(6) identify, analyze, and track legislation to determine whether it particularly affects the community that the executive director represents;

(7) testify at legislative committee hearings, as permitted by committee chairs, on legislation addressing issues of priority confronting the community as identified in the legislative planning report under subdivision 11;

(8) propose legislation and amendments to legislation to reduce detrimental effects or to improve outcomes resulting from the legislation for the community the executive director represents, and make best efforts to find a legislator in each body to introduce the proposed legislation, or a legislator that serves on relevant legislative committees to offer amendments;

(9) partner with state agencies and other organizations to collect and disseminate demographic information;

(10) to the extent practical, strive to create networks among ethnic minorities; and

(11) on topics relating to children, coordinate with the ombudsperson appointed under section 16F.050 who represents the same community.

Subd. 5. **Additional duty of the executive director representing Black Minnesotans.** The executive director representing Black people in Minnesota shall review data provided by the executive director of human services under section 260C.215, subdivision 5, and present recommendations on the out-of-home placement of Black

children. Recommendations must be presented to the executive director and the legislature by November 1 of each year thereafter.

Subd. 6. **Contracts and grants.** The department may enter into contracts for goods or services with public or private organizations, but may not accept or receive a loan or incur indebtedness, except as otherwise provided by law. The department may apply for, receive, and expend grants and gifts of money consistent with the powers and duties specified in this section.

Subd. 7. **Administrative support; agency partnerships.** The department shall receive administrative support from the commissioner of administration under section 16B.371. Other state agencies shall supply the department upon request with advisory staff services on matters relating to the duties of the department. The department shall cooperate and coordinate its activities with other state agencies to the highest possible degree.

Subd. 8. **Staff.** The executive directors and ombudspersons may hire staff necessary to carry out the department's duties. Staff members serve in the unclassified service.

Subd. 9. **Preliminary policy planning report.** Each executive director shall submit a planning report to the governor and to the chairs and ranking minority members of the committees in the senate and the house of representatives with primary jurisdiction over state government operations by November 15 of each year. The planning report shall identify issues of priority confronting the community that the executive director represents, make recommendations to address issues, and list the specific steps the department will take to partner with the executive and legislative branches to address those issues.

Subd. 10. **Session report.** By February 1 of each year, each executive director shall submit a session report to the governor and to the chairs and ranking minority members of the committees in the senate and the house of representatives with primary jurisdiction over state government operations. The session report shall identify priority issues impacting each ethnic minority individually or collectively. The preliminary report must also identify specific policy measures to address the issues raised. The report in the odd-numbered year must address the first ten bills introduced in each body.

Subd. 11. **Results report.** Each executive director shall submit a results report to the governor and to the chairs and ranking minority members of the committees in the senate and the house of representatives with primary jurisdiction over state government operations by September 15 of each year. The results report shall summarize the activities of the department since its last report, list receipts and expenditures, and describe its success in meeting the objectives listed in the planning report and the session report of the prior year.

Sec. 3. [16F.03] COMMISSIONS ON EXECUTIVE DIRECTOR SELECTION.

5.1 Subdivision 1. **Commission established; members.** Three commissions are
5.2 established to select the three executive directors for the Department of Ethnic Affairs,
5.3 under section 16F.01, subdivision 2. Each commission on executive director selection
5.4 is composed of the following members:

5.5 (1) to select the executive director representing Latino-Hispanic Minnesotans, 13
5.6 members of Latino-Hispanic descent, appointed by the governor, one from each of the
5.7 state's congressional districts and five at-large;

5.8 (2) to select the executive director representing Black Minnesotans, 13 members
5.9 appointed by the governor, one from each of the state's congressional districts and five
5.10 at-large, who are broadly representative of the Black community of the state; and

5.11 (3) to select the executive director representing Asian-Pacific Minnesotans, 13
5.12 members appointed by the governor, one from each of the state's congressional districts
5.13 and five at-large, who are broadly representative of the Asian-Pacific community of
5.14 people whose ethnic heritage is from any of the countries in Asia east of, and including,
5.15 Afghanistan or the Pacific Islands.

5.16 Subd. 2. **Terms; vacancies.** Commission members are appointed to one six-year
5.17 term. If a vacancy occurs on a commission, the governor shall appoint an individual to
5.18 fill the vacancy for the unexpired term who is from the same state congressional district
5.19 as the vacating member.

5.20 Subd. 3. **Recruitment process.** Each commission shall prepare and make available
5.21 to the public the process and timeline the commission will follow in recruiting and
5.22 evaluating candidates to fill vacancies. Each commission shall actively seek out and
5.23 encourage qualified individuals to apply for the position of executive director.

5.24 Subd. 4. **Candidate evaluation.** The commission shall evaluate the extent to
5.25 which candidates have the following qualifications: experience with the legislative
5.26 process, experience developing and implementing public policy, and expertise in
5.27 consensus-building across the community they seek to represent. The commission shall
5.28 solicit, in writing, recommendations from community organizations and associations.

5.29 Subd. 5. **Commission meetings; notice; time.** Within 30 days after a vacancy
5.30 occurs or the governor has been notified that a vacancy will occur on a named date, the
5.31 governor shall give notice of the vacancy to the chair of the Commission on Executive
5.32 Director Selection. A meeting of the commission to consider the candidates for the
5.33 vacancy must be held not less than 30 days nor more than 45 days after the governor
5.34 provides notification of the vacancy.

6.1 Subd. 6. **Notice to public.** Upon receiving notice from the governor that a vacancy
6.2 has occurred or will occur on a specified date, the chair shall provide notice of the
6.3 following information:

6.4 (1) the office that is or will be vacant;

6.5 (2) that applications from qualified persons or on behalf of qualified persons are
6.6 being accepted by the commission;

6.7 (3) that application forms may be obtained from the governor or the commission
6.8 at a named address; and

6.9 (4) that application forms must be returned to the commission by a named date.

6.10 Subd. 7. **Nominees to governor.** Within 60 days after the receipt of a notice of a
6.11 vacancy, the commission shall recommend to the governor no fewer than three and no
6.12 more than five nominees for executive director. The names of the nominees must be
6.13 made public. The governor may fill the vacancy from the nominees recommended by
6.14 the commission. If the governor declines to select a nominee to fill the vacancy from
6.15 the list of nominees, or if no list is submitted to the governor under this subdivision,
6.16 the governor may select a person to fill the vacancy without regard to the commission's
6.17 recommendation. If fewer than 60 days remain in the term of office of a governor who
6.18 will not succeed to another term, the governor may fill a vacancy without waiting for the
6.19 commission to recommend a list of nominees.

6.20 Subd. 8. **Commission meetings and data.** Meetings of the commission may be
6.21 closed to discuss the candidates.

6.22 Sec. 4. **TRANSFER OF AUTHORITY.**

6.23 Minnesota Statutes, section 15.039, applies to the transfer of the responsibilities,
6.24 unexpended funds, personnel, and property of the Council on Affairs of Chicano-Latino
6.25 People under Minnesota Statutes, section 3.9223; the Council on Black Minnesotans
6.26 under Minnesota Statutes, section 3.9225; and the Council on Asian-Pacific Minnesotans
6.27 under Minnesota Statutes, section 3.9226, to the Department of Ethnic Affairs under
6.28 Minnesota Statutes, section 16F.01.

6.29 Sec. 5. **FIRST APPOINTMENTS.**

6.30 The governor shall appoint all governor-appointed members to the commissions on
6.31 executive director selection under Minnesota Statutes, section 16F.03, by July 31, 2015.
6.32 The commissions shall make recommendations for executive director to the governor
6.33 by September 30, 2015. The governor shall appoint the four executive directors under
6.34 Minnesota Statutes, section 16F.01, by October 30, 2015.

7.1 Sec. 6. **REPEALER.**

7.2 Minnesota Statutes 2014, sections 3.9223; 3.9225; and 3.9226, subdivisions 1,
7.3 2, 3, 4, 5, 6, and 7, are repealed.

7.4 **ARTICLE 2**

7.5 **OMBUDSPERSONS**

7.6 Section 1. **[16F.050] OMBUDSPERSONS FOR FAMILIES; QUALIFICATIONS;**
7.7 **FUNCTION.**

7.8 Subdivision 1. **Selection; qualifications.** One ombudsperson for each of the
7.9 following communities shall be appointed by the governor: Black Minnesotans;
7.10 Latino-Hispanic Minnesotans; and Asian-Pacific Minnesotans. Each ombudsperson
7.11 serves in the unclassified service at the pleasure of the governor and may be removed
7.12 only for just cause. Each ombudsperson must be selected without regard to political
7.13 affiliation, and shall be a person highly competent and qualified to analyze questions of
7.14 law, administration, and public policy regarding the protection and placement of children
7.15 from families of color. In addition, the ombudsperson must be experienced in dealing with
7.16 communities of color and knowledgeable about the needs of those communities. No
7.17 individual may serve as ombudsperson while holding any other public office.

7.18 Subd. 2. **Appropriation.** Money appropriated for each ombudsperson from the
7.19 general fund or the special fund authorized by section 256.01, subdivision 2, paragraph
7.20 (o), is under the control of each ombudsperson for which it is appropriated.

7.21 Sec. 2. **[16F.051] DEFINITIONS.**

7.22 Subdivision 1. **Scope.** For the purposes of sections 16F.050 to 16F.061, the
7.23 following terms shall have the meanings given them in this section.

7.24 Subd. 2. **Agency.** "Agency" means the divisions, officials, or employees of the state
7.25 Departments of Human Services and Health and local district courts or a designated
7.26 county social service agency as defined in section 256G.02, subdivision 7, engaged in
7.27 providing child protection and placement services for children. Agency also means
7.28 any individual, service, or program providing child protection or placement services in
7.29 coordination with or under contract to any other entity specified in this subdivision.

7.30 Subd. 3. **Communities of color.** "Communities of color" means the following:
7.31 Hispanic-Latino, Asian-Pacific, African, and African-American communities.

7.32 Subd. 4. **Compadrazgo.** "Compadrazgo" is a kinship institution within the
7.33 Hispanic-Latino community used as a means of parenting and caring for children from
7.34 birth to adulthood.

8.1 Subd. 5. **Family of color.** "Family of color" means any family with a child under
8.2 the age of 18 who is identified by one or both parents or another trusted adult to be of
8.3 Hispanic-Latino, Asian-Pacific, African, or African-American descent.

8.4 Subd. 6. **Facility.** "Facility" means any entity required to be licensed under chapter
8.5 245A.

8.6 Subd. 7. **Trusted adult.** "Trusted adult" means an individual recognized by the
8.7 child's parent or legal guardian, the child's community, or both, as speaking for the child's
8.8 best interest. The term includes compadrazgo and other individuals with a kinship or
8.9 community relationship with the child.

8.10 Sec. 3. **[16F.054] OMBUDSPERSONS STAFF.**

8.11 Subdivision 1. **Staff; unclassified status; retirement.** The ombudsperson for
8.12 each community of color may select, appoint, and compensate out of available funds
8.13 the assistants and employees as deemed necessary to discharge responsibilities. All
8.14 employees, except the secretarial and clerical staff, shall serve at the pleasure of the
8.15 ombudsperson in the unclassified service. The ombudsperson and full-time staff shall be
8.16 members of the Minnesota State Retirement Association.

8.17 Subd. 2. **Delegation to staff.** The ombudsperson may delegate to staff members
8.18 any of the ombudsperson's authority or duties except the duty of formally making
8.19 recommendations to an administrative agency or reports to the governor, or to the
8.20 legislature.

8.21 Sec. 4. **[16F.055] DUTIES AND POWERS.**

8.22 Subdivision 1. **Duties.** (a) Each ombudsperson shall monitor agency compliance
8.23 with all laws governing child protection and placement, as they impact on children of
8.24 color. In particular, the ombudsperson shall monitor agency compliance with sections
8.25 260C.215; 260.751 to 260.835; and 260C.193, subdivision 3.

8.26 (b) The ombudsperson shall work with local state courts to ensure that:

8.27 (1) court officials, public policy makers, and service providers are trained in cultural
8.28 diversity. The ombudsperson shall document and monitor court activities in order to
8.29 heighten awareness of diverse belief systems and family relationships;

8.30 (2) experts from the appropriate community of color including tribal advocates are
8.31 used as court advocates and are consulted in placement decisions that involve children
8.32 of color;

8.33 (3) guardians ad litem and other individuals from communities of color are recruited,
8.34 trained, and used in court proceedings to advocate on behalf of children of color; and

9.1 (4) training programs for bilingual workers are provided.

9.2 Subd. 2. **Powers.** Each ombudsperson has the authority to investigate decisions,
9.3 acts, and other matters of an agency, program, or facility providing protection or placement
9.4 services to children of color. In carrying out this authority and the duties in subdivision
9.5 1, each ombudsperson has the power to:

9.6 (1) prescribe the methods by which complaints are to be made, reviewed, and acted
9.7 upon;

9.8 (2) determine the scope and manner of investigations to be made;

9.9 (3) investigate, upon a complaint or upon personal initiative, any action of any
9.10 agency;

9.11 (4) request and be given access to any information in the possession of any agency
9.12 deemed necessary for the discharge of responsibilities. The ombudsperson is authorized to
9.13 set reasonable deadlines within which an agency must respond to requests for information.
9.14 Data obtained from any agency under this clause shall retain the classification which it
9.15 had under section 13.02 and shall be maintained and disseminated by the ombudsperson
9.16 according to chapter 13;

9.17 (5) examine the records and documents of an agency;

9.18 (6) enter and inspect, during normal business hours, premises within the control
9.19 of an agency; and

9.20 (7) subpoena any agency personnel to appear, testify, or produce documentary or
9.21 other evidence which the ombudsperson deems relevant to a matter under inquiry, and
9.22 may petition the appropriate state court to seek enforcement with the subpoena; provided,
9.23 however, that any witness at a hearing or before an investigation as herein provided, shall
9.24 possess the same privileges reserved to such a witness in the courts or under the laws of
9.25 this state. The ombudsperson may compel nonagency individuals to testify or produce
9.26 evidence according to procedures developed by the advisory board.

9.27 **Sec. 5. [16F.056] MATTERS APPROPRIATE FOR REVIEW.**

9.28 (a) In selecting matters for review, an ombudsperson should give particular attention
9.29 to actions of an agency, facility, or program that:

9.30 (1) may be contrary to law or rule;

9.31 (2) may be unreasonable, unfair, oppressive, or inconsistent with a policy or order of
9.32 an agency, facility, or program;

9.33 (3) may result in abuse or neglect of a child;

9.34 (4) may disregard the rights of a child or other individual served by an agency
9.35 or facility; or

(5) may be unclear or inadequately explained, when reasons should have been revealed.

(b) An ombudsperson shall, in selecting matters for review, inform other interested agencies in order to avoid duplicating other investigations or regulatory efforts, including activities undertaken by a tribal organization under the authority of sections 260.751 to 260.835.

Sec. 6. **[16F.057] COMPLAINTS.**

An ombudsperson may receive a complaint from any source concerning an action of an agency, facility, or program. After completing a review, the ombudsperson shall inform the complainant, agency, facility, or program. Services to a child shall not be unfavorably altered as a result of an investigation or complaint. An agency, facility, or program shall not retaliate or take adverse action, as defined in section 626.556, subdivision 4a, paragraph (c), against an individual who, in good faith, makes a complaint or assists in an investigation.

Sec. 7. **[16F.058] RECOMMENDATIONS TO AGENCY.**

(a) If, after reviewing a complaint or conducting an investigation and considering the response of an agency, facility, or program and any other pertinent material, the ombudsperson determines that the complaint has merit or the investigation reveals a problem, the ombudsperson may recommend that the agency, facility, or program:

(1) consider the matter further;

(2) modify or cancel its actions;

(3) alter a rule, order, or internal policy;

(4) explain more fully the action in question; or

(5) take other action as authorized under section 257.0762.

(b) At the ombudsperson's request, the agency, facility, or program shall, within a reasonable time, inform the ombudsperson about the action taken on the recommendation or the reasons for not complying with it.

Sec. 8. **[16F.059] RECOMMENDATIONS AND PUBLIC REPORTS.**

Subdivision 1. **Specific reports.** An ombudsperson may send conclusions and suggestions concerning any matter reviewed to the governor and shall provide copies of all reports to the executive director. Before making public a conclusion or recommendation that expressly or implicitly criticizes an agency, facility, program, or any person, the ombudsperson shall inform the governor and the affected agency, facility, program, or person concerning the conclusion or recommendation. When sending a conclusion or

recommendation to the governor that is adverse to an agency, facility, program, or any person, the ombudsperson shall include any statement of reasonable length made by that agency, facility, program, or person in defense or mitigation of the ombudsperson's conclusion or recommendation.

Subd. 2. **General reports.** In addition to whatever conclusions or recommendations the ombudsperson may make to the governor on an ad hoc basis, the ombudsperson shall at the end of each year report to the governor concerning the exercise of the ombudsperson's functions during the preceding year.

Sec. 9. **[16F.060] CIVIL ACTIONS.**

The ombudsperson and designees are not civilly liable for any action taken under sections 16F.050 to 16F.061 if the action was taken in good faith, was within the scope of the ombudsperson's authority, and did not constitute willful or reckless misconduct.

Sec. 10. **[16F.061] FUNDING FOR THE OMBUDSPERSON PROGRAM.**

Subdivision 1. **Appropriations.** Three-quarters of the money in the special fund authorized by section 256.01, subdivision 2, paragraph (o), is appropriated to the Department of Ethnic Affairs for the purposes of section 16F.055.

Subd. 2. **Title IV-E reimbursement.** The department shall obtain federal title IV-E financial participation for eligible activity by the ombudspersons for families under section 16F.050. The ombudsperson for families shall maintain and transmit to the Department of Human Services documentation that is necessary in order to obtain federal funds.

Sec. 11. **TRANSFER OF AUTHORITY.**

Minnesotas Statutes, section 15.039, applies to the transfer of responsibilities, unexpended funds, personnel, and property under the control of the ombudspersons for Chicano-Latino people, Black Minnesotans, and Asian-Pacific Minnesotans under Minnesota Statutes, chapter 257, to the Department of Ethnic Affairs under Minnesota Statutes, section 16F.01.

Sec. 12. **REVISOR'S INSTRUCTION.**

Within the chapters or sections governing each department, agency, and organization receiving funding from the state, add the following: "The department or agency or organization is required to coordinate its legislative priorities with the Department of Ethnic Affairs." Within the chapters governing each department, add the following: "The department must coordinate with the Department of Ethnic Affairs to ensure that

12.1 communities of color are informed about new legislative initiatives; announcements of
12.2 requests for proposals; implementation of existing policies, such as rulemaking, board
12.3 appointments, and vacancies; and other measures that impact people of color."

12.4 Sec. 13. **REPEALER.**

12.5 Minnesota Statutes 2014, sections 257.0755; 257.076; 257.0761; 257.0762;
12.6 257.0763; 257.0764; 257.0765; 257.0766; 257.0767; 257.0768; and 257.0769, are
12.7 repealed.

12.8 **ARTICLE 3**

12.9 **OMBUDSPERSON FOR AMERICAN INDIAN FAMILIES**

12.10 Section 1. **[3.9281] OMBUDSPERSON; CREATION; QUALIFICATIONS;**
12.11 **FUNCTION.**

12.12 An ombudsperson for American Indian families shall be selected by the governor.
12.13 The ombudsperson serves in the unclassified service at the pleasure of the governor
12.14 and may be removed only for just cause. The ombudsperson must be selected without
12.15 regard to political affiliation and shall be a person highly competent and qualified to
12.16 analyze questions of law, administration, and public policy regarding the protection and
12.17 placement of children from American Indian families. In addition, the ombudsperson
12.18 must be experienced in dealing with American Indians and knowledgeable about the
12.19 needs of those communities. No individual may serve as ombudsperson while holding
12.20 any other public office.

12.21 Sec. 2. **[3.9282] DEFINITIONS.**

12.22 Subdivision 1. **Scope.** For the purposes of sections 257.0755 to 257.0768, the
12.23 following terms shall have the meanings given them in this section.

12.24 Subd. 2. **Agency.** "Agency" means the divisions, officials, or employees of the state
12.25 Departments of Human Services and Health and local district courts or a designated
12.26 county social service agency as defined in section 256G.02, subdivision 7, engaged in
12.27 providing child protection and placement services for children. Agency also means
12.28 any individual, service, or program providing child protection or placement services in
12.29 coordination with or under contract to any other entity specified in this subdivision.

12.30 Subd. 3. **Family of American Indians.** "Family of American Indians" means any
12.31 family with a child under the age of 18 who is identified by one or both parents or another
12.32 trusted adult to be of American Indian descent.

Subd. 4. **Facility.** "Facility" means any entity required to be licensed under chapter 245A.

Subd. 5. **Trusted adult.** "Trusted adult" means an individual recognized by the child's parent or legal guardian, the child's community, or both, as speaking for the child's best interest. The term includes compadrazgo and other individuals with a kinship or community relationship with the child.

Sec. 3. **[3.9283] OMBUDSPERSON STAFF.**

Subdivision 1. **Staff; unclassified status; retirement.** The ombudsperson for American Indian families may select, appoint, and compensate out of available funds the assistants and employees as deemed necessary to discharge responsibilities. All employees, except the secretarial and clerical staff, shall serve at the pleasure of the ombudsperson in the unclassified service. The ombudsperson and full-time staff shall be members of the Minnesota State Retirement Association.

Subd. 2. **Delegation to staff.** The ombudsperson may delegate to staff members any of the ombudsperson's authority or duties except the duty of formally making recommendations to an administrative agency or reports to the Office of the Governor, or to the legislature.

Sec. 4. **[3.9284] DUTIES AND POWERS.**

Subdivision 1. **Duties.** (a) The ombudsperson shall monitor agency compliance with all laws governing child protection and placement, as they impact on children of color. In particular, the ombudsperson shall monitor agency compliance with sections 260.751 to 260.835; 260C.193, subdivision 3; and 260C.215.

(b) The ombudsperson shall work with local state courts to ensure that:

(1) court officials, public policy makers, and service providers are trained in cultural diversity. The ombudsperson shall document and monitor court activities in order to heighten awareness of diverse belief systems and family relationships;

(2) experts from the appropriate community of color including tribal advocates are used as court advocates and are consulted in placement decisions that involve American Indian children;

(3) guardians ad litem and other individuals from American Indian communities are recruited, trained, and used in court proceedings to advocate on behalf of American Indian children; and

(4) training programs for bilingual workers are provided.

14.1 Subd. 2. **Powers.** Each ombudsperson has the authority to investigate decisions,
14.2 acts, and other matters of an agency, program, or facility providing protection or
14.3 placement services to American Indian children. In carrying out this authority and the
14.4 duties in subdivision 1, each ombudsperson has the power to:

14.5 (1) prescribe the methods by which complaints are to be made, reviewed, and acted
14.6 upon;

14.7 (2) determine the scope and manner of investigations to be made;

14.8 (3) investigate, upon a complaint or upon personal initiative, any action of any
14.9 agency;

14.10 (4) request and be given access to any information in the possession of any agency
14.11 deemed necessary for the discharge of responsibilities. The ombudsperson is authorized to
14.12 set reasonable deadlines within which an agency must respond to requests for information.
14.13 Data obtained from any agency under this clause shall retain the classification which it
14.14 had under section 13.02 and shall be maintained and disseminated by the ombudsperson
14.15 according to chapter 13;

14.16 (5) examine the records and documents of an agency;

14.17 (6) enter and inspect, during normal business hours, premises within the control
14.18 of an agency; and

14.19 (7) subpoena any agency personnel to appear, testify, or produce documentary or
14.20 other evidence which the ombudsperson deems relevant to a matter under inquiry, and
14.21 may petition the appropriate state court to seek enforcement with the subpoena; provided,
14.22 however, that any witness at a hearing or before an investigation as herein provided, shall
14.23 possess the same privileges reserved to such a witness in the courts or under the laws of
14.24 this state. The ombudsperson may compel nonagency individuals to testify or produce
14.25 evidence according to procedures developed by the advisory board.

14.26 **Sec. 5. [3.9285] MATTERS APPROPRIATE FOR REVIEW.**

14.27 (a) In selecting matters for review, an ombudsperson should give particular attention
14.28 to actions of an agency, facility, or program that:

14.29 (1) may be contrary to law or rule;

14.30 (2) may be unreasonable, unfair, oppressive, or inconsistent with a policy or order of
14.31 an agency, facility, or program;

14.32 (3) may result in abuse or neglect of a child;

14.33 (4) may disregard the rights of a child or other individual served by an agency
14.34 or facility; or

(5) may be unclear or inadequately explained, when reasons should have been revealed.

(b) An ombudsperson shall, in selecting matters for review, inform other interested agencies in order to avoid duplicating other investigations or regulatory efforts, including activities undertaken by a tribal organization under the authority of sections 260.751 to 260.835.

Sec. 6. **[3.9286] COMPLAINTS.**

An ombudsperson may receive a complaint from any source concerning an action of an agency, facility, or program. After completing a review, the ombudsperson shall inform the complainant, agency, facility, or program. Services to a child shall not be unfavorably altered as a result of an investigation or complaint. An agency, facility, or program shall not retaliate or take adverse action, as defined in section 626.556, subdivision 4a, paragraph (c), against an individual who, in good faith, makes a complaint or assists in an investigation.

Sec. 7. **[3.9287] RECOMMENDATIONS TO AGENCY.**

(a) If, after reviewing a complaint or conducting an investigation and considering the response of an agency, facility, or program and any other pertinent material, the ombudsperson determines that the complaint has merit or the investigation reveals a problem, the ombudsperson may recommend that the agency, facility, or program:

(1) consider the matter further;

(2) modify or cancel its actions;

(3) alter a rule, order, or internal policy;

(4) explain more fully the action in question; or

(5) take other action as authorized under section 257.0762.

(b) At the ombudsperson's request, the agency, facility, or program shall, within a reasonable time, inform the ombudsperson about the action taken on the recommendation or the reasons for not complying with it.

Sec. 8. **[3.9288] RECOMMENDATIONS AND PUBLIC REPORTS.**

Subdivision 1. **Specific reports.** An ombudsperson may send conclusions and suggestions concerning any matter reviewed to the governor and shall provide copies of all reports to the advisory board and to the groups specified in section 257.0768, subdivision 1. Before making public a conclusion or recommendation that expressly or implicitly criticizes an agency, facility, program, or any person, the ombudsperson shall inform the governor and the affected agency, facility, program, or person concerning the conclusion

or recommendation. When sending a conclusion or recommendation to the governor that is adverse to an agency, facility, program, or any person, the ombudsperson shall include any statement of reasonable length made by that agency, facility, program, or person in defense or mitigation of the ombudsperson's conclusion or recommendation.

Subd. 2. **General reports.** In addition to whatever conclusions or recommendations the ombudsperson may make to the governor on an ad hoc basis, the ombudsperson shall at the end of each year report to the governor concerning the exercise of the ombudsperson's functions during the preceding year.

Sec. 9. **[3.9289] CIVIL ACTIONS.**

The ombudsperson and designees are not civilly liable for any action taken under sections 257.0755 to 257.0768 if the action was taken in good faith, was within the scope of the ombudsperson's authority, and did not constitute willful or reckless misconduct.

Sec. 10. **[3.9290] FUNDING FOR THE OMBUDSPERSON PROGRAM.**

Subdivision 1. **Appropriations.** One-fourth of the money from the special fund authorized by section 256.01, subdivision 2, paragraph (o), is appropriated to the Indian Affairs Council for the purposes of sections 257.0755 to 257.0768.

Subd. 2. **Title IV-E reimbursement.** The commissioner shall obtain federal title IV-E financial participation for eligible activity by the ombudsperson for American Indian families under section 3.9281. The ombudsperson for families shall maintain and transmit to the Department of Human Services documentation that is necessary in order to obtain federal funds.

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3.9223 COUNCIL ON AFFAIRS OF CHICANO/LATINO PEOPLE.

Subdivision 1. **Membership.** The state Council on Affairs of Chicano/Latino People consists of 11 members appointed by the governor, including eight members representing each of the state's congressional districts and three members appointed at large. The demographic composition of the council members must accurately reflect the demographic composition of Minnesota's Chicano/Latino community, including migrant workers, as determined by the state demographer. Membership, terms, compensation, removal of members, and filling of vacancies are as provided in section 15.0575. Because the council performs functions that are not purely advisory, the council is not subject to the expiration date in section 15.059. Two members of the house of representatives appointed by the speaker and two members of the senate appointed by the Subcommittee on Committees of the Committee on Rules and Administration shall serve as nonvoting members of the council. The council shall annually elect from its membership a chair and other officers it deems necessary.

Subd. 2. **Chicano/Latino people.** For purposes of subdivisions 3 to 7, the term "Chicano/Latino person" means a person who was born in, or whose ancestors are from, Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Cuba, Dominican Republic, Ecuador, El Salvador, Guatemala, Honduras, Mexico, Nicaragua, Peru, Panama, Paraguay, Puerto Rico, Uruguay, or Venezuela.

Subd. 3. **Duties.** The council shall:

(1) advise the governor and the legislature on the nature of the issues confronting Chicano/Latino people in this state, including the unique problems encountered by Chicano/Latino migrant agricultural workers;

(2) advise the governor and the legislature on statutes or rules necessary to ensure Chicano/Latino people access to benefits and services provided to people in this state;

(3) recommend to the governor and the legislature legislation to improve the economic and social condition of Chicano/Latino people in this state;

(4) serve as a conduit to state government for organizations of Chicano/Latino people in the state;

(5) serve as a referral agency to assist Chicano/Latino people to secure access to state agencies and programs;

(6) serve as a liaison with the federal government, local government units, and private organizations on matters relating to the Chicano/Latino people of this state;

(7) perform or contract for the performance of studies designed to suggest solutions to problems of Chicano/Latino people in the areas of education, employment, human rights, health, housing, social welfare, and other related programs;

(8) implement programs designed to solve problems of Chicano/Latino people when authorized by other statute, rule, or order; and

(9) publicize the accomplishments of Chicano/Latino people and their contributions to this state.

Subd. 4. **Review and recommendation authority.** All applications for the receipt of federal money and proposed rules of a state agency that will have their primary effect on Chicano/Latino people must be submitted to the council for review and recommendation at least 15 days before submission to a federal agency or initial publication in the State Register.

Subd. 5. **Powers.** The council may contract in its own name. Contracts must be approved by a majority of the members of the council and executed by the chair and the executive director. The council may apply for, receive, and expend in its own name grants and gifts of money consistent with the power and duties specified in this section.

The council shall appoint an executive director who is experienced in administrative activities and familiar with the problems and needs of Chicano/Latino people. The council may delegate to the executive director powers and duties under this section that do not require council approval. The executive director and council staff serve in the unclassified service. The executive director may be removed at any time by a majority vote of the entire council. The executive director shall recommend to the council the appropriate staffing necessary to carry out its duties. The commissioner of administration shall provide the council with necessary administrative services.

Subd. 6. **State agency assistance.** Other state agencies shall supply the council upon request with advisory staff services on matters relating to the jurisdiction of the council. The council shall cooperate and coordinate its activities with other state agencies to the highest possible degree.

Subd. 7. **Report.** The council shall prepare and submit a report to the governor and legislature by November 15 of each year. The report shall summarize the activities of the

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council since its last report, list receipts and expenditures, identify the major problems and issues confronting Chicano/Latino people, make recommendations to address issues, and list the specific objectives that the council seeks to attain during the next biennium. The council shall report on outcome measures.

3.9225 COUNCIL ON BLACK MINNESOTANS.

Subdivision 1. **Creation.** A state Council on Black Minnesotans consists of 13 members appointed by the governor. The members of the council must be broadly representative of the Black community of the state and include at least five males and at least five females. One member of the council must be a person whose ethnic heritage is from West Africa, and one member of the council must be a person whose ethnic heritage is from East Africa. Membership terms, compensation, removal of members, and filling of vacancies for nonlegislative members are as provided in section 15.0575. Because the council performs functions that are not purely advisory, the council is not subject to the expiration date in section 15.059. Two members of the house of representatives appointed by the speaker and two members of the senate appointed by the Subcommittee on Committees of the Committee on Rules and Administration shall serve as nonvoting members of the council. The council shall annually elect from its membership a chair and other officers it deems necessary.

Subd. 2. **Definitions.** For the purpose of this section:

(1) "Black" describes persons who consider themselves as having origin in any of the Black racial groups of Africa;

(2) "East Africa" means the eastern region of the continent of Africa, comprising areas occupied by the countries of Burundi, Kenya, Rwanda, Tanzania, Uganda, and Somalia; and

(3) "West Africa" means the western region of the continent of Africa comprising areas occupied by the countries of Mauritania, Senegal, The Gambia, Guinea-Bissau, Guinea, Sierra Leone, Liberia, Cote d'Ivoire, Ghana, Togo, Benin, Nigeria, Burkina Faso, and those parts of Mali and Niger south of the Sahara.

Subd. 3. **Duties.** The council shall:

(a) advise the governor and the legislature on the nature of the issues confronting Black people in this state;

(b) advise the governor and the legislature on statutes or rules necessary to ensure that Black people have access to benefits and services provided to people in this state;

(c) recommend to the governor and the legislature any revisions in the state's affirmative action program and other steps that are necessary to eliminate underutilization of Blacks in the state's work force;

(d) recommend to the governor and the legislature legislation to improve the economic and social condition of Black people in this state;

(e) serve as a conduit to state government for organizations of Black people in the state;

(f) serve as a referral agency to assist Black people to secure access to state agencies and programs;

(g) serve as a liaison with the federal government, local government units, and private organizations on matters relating to the Black people of this state;

(h) perform or contract for the performance of studies designed to suggest solutions to problems of Black people in the areas of education, employment, human rights, health, housing, social welfare, and other related areas;

(i) implement programs designed to solve problems of Black people when authorized by other statute, rule, or order;

(j) review data provided by the commissioner of human services under section 260C.215, subdivision 5, and present recommendations on the out-of-home placement of Black children. Recommendations must be presented to the commissioner and the legislature by February 1, 1990; November 1, 1990; and November 1 of each year thereafter; and

(k) publicize the accomplishments of Black people and their contributions to this state.

Subd. 4. **Review of grant applications.** All applications by a state department or agency for the receipt of federal funds which will have their primary effect on Black Minnesotans shall be submitted to the council for review and recommendation at least 30 days before submission to a federal agency.

Subd. 5. **Powers.** (a) The council may contract in its own name, but no money shall be accepted or received as a loan nor indebtedness incurred except as otherwise provided by law. Contracts shall be approved by a majority of the members of the council and executed by the chair and the executive director. The council may apply for, receive, and expend in its own name grants and gifts of money consistent with the power and duties specified in subdivisions 1 to 7.

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(b) The council may solicit and accept payments for advertising, use of exhibition space, or commemorative videos or other items in connection with publications, events, media productions, and informational programs that are sponsored by the council. These revenues must be deposited in an account in the special revenue fund and are appropriated to the council to defray costs of publications, events, media productions, or informational programs consistent with the powers and duties specified in subdivisions 1 to 7. The council may not publish advertising or provide exhibition space for any elected official or candidate for elective office. The council must report by January 15 each year to the chairs and ranking minority members of the house of representatives and senate funding divisions with jurisdiction over the council on the amount and source of each payment received under this paragraph in the prior fiscal year.

(c) The council shall appoint an executive director who is experienced in administrative activities and familiar with the problems and needs of Black people. The council may delegate to the executive director powers and duties under subdivisions 1 to 7 which do not require council approval. The executive director serves in the unclassified service and may be removed at any time by the council. The executive director shall recommend to the council, and the council may appoint the appropriate staff necessary to carry out its duties. Staff members serve in the unclassified service. The commissioner of administration shall provide the council with necessary administrative services.

Subd. 6. **State agency assistance.** Other state agencies shall supply the council upon request with advisory staff services on matters relating to the jurisdiction of the council. The council shall cooperate and coordinate its activities with other state agencies to the highest possible degree.

Subd. 7. **Report.** The council shall prepare and submit a report to the governor and legislature by November 15 of each year. The report shall summarize the activities of the council since its last report, list receipts and expenditures, identify the major problems and issues confronting Black people, make recommendations to address issues, and list the specific objectives which the council seeks to attain during the next biennium. The council shall report on outcome measures.

3.9226 COUNCIL ON ASIAN-PACIFIC MINNESOTANS.

Subdivision 1. **Membership.** The state Council on Asian-Pacific Minnesotans consists of 23 members. Nineteen members are appointed by the governor and must be broadly representative of the Asian-Pacific community of the state. Each Asian-Pacific ethnic community from the area described in subdivision 2 may be represented by no more than one council member. In making appointments, the governor shall consider an appointee's proven dedication and commitment to the Asian-Pacific community and any special skills possessed by the appointee that might be beneficial to the council, including at a minimum experience in public policy, legal affairs, social work, business, management, or economics. Terms, compensation, and filling of vacancies for appointed members are as provided in section 15.0575. Because the council performs functions that are not purely advisory, the council is not subject to the expiration date in section 15.059. Two members of the house of representatives appointed under the rules of the house of representatives and two members of the senate appointed under the rules of the senate shall serve as nonvoting members of the council. In making legislative appointments, the speaker of the house and the Subcommittee on Committees of the Committee on Rules and Administration of the senate shall consult with the council in an effort to select appointees knowledgeable and interested in the affairs of the Asian-Pacific community. The council shall annually elect from its membership a chair and other officers it deems necessary. The council shall encourage Asian-Pacific ethnic communities and organizations to designate persons to serve as liaisons with the council. Liaisons may participate in council meetings, but may not vote, and may serve on council committees.

The council shall adopt rules to implement designation of Asian-Pacific ethnic communities to be represented with seats on the council.

Subd. 2. **Definition.** For the purpose of this section, the term Asian-Pacific means a person whose ethnic heritage is from any of the countries in Asia east of, and including, Afghanistan, or the Pacific Islands.

Subd. 3. **Duties.** The council shall:

(1) advise the governor and the legislature on issues confronting Asian-Pacific people in this state, including the unique problems of non-English-speaking immigrants and refugees;

(2) advise the governor and the legislature of administrative and legislative changes necessary to ensure that Asian-Pacific people have access to benefits and services provided to people in this state;

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(3) recommend to the governor and the legislature any revisions in the state's affirmative action program and other steps that are necessary to eliminate underutilization of Asian-Pacific people in the state's work force;

(4) recommend to the governor and the legislature legislation to improve the economic and social condition of Asian-Pacific people in this state;

(5) serve as a conduit to state government for organizations of Asian-Pacific people in the state;

(6) serve as a referral agency to assist Asian-Pacific people to secure access to state agencies and programs;

(7) serve as a liaison with the federal government, local government units, and private organizations on matters relating to the Asian-Pacific people of this state;

(8) perform or contract for the performance of studies designed to suggest solutions to the problems of Asian-Pacific people in the areas of education, employment, human rights, health, housing, social welfare, and other related areas;

(9) implement programs designed to solve the problems of Asian-Pacific people when authorized by other law;

(10) publicize the accomplishments of Asian-Pacific people and their contributions to this state;

(11) work with other state and federal agencies and organizations to develop small business opportunities and promote economic development for Asian-Pacific Minnesotans;

(12) supervise development of an Asian-Pacific trade primer, outlining Asian and Pacific customs, cultural traditions, and business practices, including language usage, for use by Minnesota's export community;

(13) cooperate with other state and federal agencies and organizations to develop improved state trade relations with Asian and Pacific countries; and

(14) assist recent immigrants in adaptation into the culture and promote the study of English as a second language.

Subd. 4. **Review of grant applications and budget requests.** State departments and agencies shall consult with the council concerning any application for federal money that will have its primary effect on Asian-Pacific Minnesotans before development of the application. The council shall advise the governor and the commissioner of management and budget concerning any state agency request that will have its primary effect on Asian-Pacific Minnesotans.

Subd. 5. **Powers.** (a) The council may contract in its own name but may not accept or receive a loan or incur indebtedness except as otherwise provided by law. Contracts must be approved by a majority of the members of the council and executed by the chair and the executive director. The council may apply for, receive, and expend in its own name grants and gifts of money consistent with the powers and duties specified in this section.

(b) The council shall appoint an executive director who is experienced in administrative activities and familiar with the problems and needs of Asian-Pacific people. The council may delegate to the executive director powers and duties under this section that do not require council approval. The executive director serves in the unclassified service and may be removed at any time by the council. The executive director shall appoint the appropriate staff necessary to carry out the duties of the council. All staff members serve in the unclassified service. The commissioner of administration shall provide the council with necessary administrative services.

Subd. 6. **State agency assistance.** At its request, state agencies shall supply the council with advisory staff services on matters relating to its jurisdiction. The council shall cooperate and coordinate its activities with other state agencies to the highest possible degree.

Subd. 7. **Report.** The council shall prepare and submit a report to the governor and legislature by November 15 of each year. The report shall summarize the activities of the council since its last report, list receipts and expenditures, identify the major problems and issues confronting Asian-Pacific people, make recommendations to address issues, and list the specific objectives that the council seeks to attain during the next biennium. The council shall report on outcome measures.

257.0755 OFFICE OF OMBUDSPERSON; CREATION; QUALIFICATIONS; FUNCTION.

Subdivision 1. **Creation.** Each ombudsperson shall operate independently from but in collaboration with the community-specific board that appointed the ombudsperson under section 257.0768: the Indian Affairs Council, the Council on Affairs of Chicano/Latino people, the Council on Black Minnesotans, and the Council on Asian-Pacific Minnesotans.

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Subd. 2. **Selection; qualifications.** The ombudsperson for each community shall be selected by the applicable community-specific board established in section 257.0768. Each ombudsperson serves in the unclassified service at the pleasure of the community-specific board and may be removed only for just cause. Each ombudsperson must be selected without regard to political affiliation, and shall be a person highly competent and qualified to analyze questions of law, administration, and public policy regarding the protection and placement of children from families of color. In addition, the ombudsperson must be experienced in dealing with communities of color and knowledgeable about the needs of those communities. No individual may serve as ombudsperson while holding any other public office.

Subd. 3. **Appropriation.** Money appropriated for each ombudsperson from the general fund or the special fund authorized by section 256.01, subdivision 2, paragraph (o), is under the control of each ombudsperson for which it is appropriated.

257.076 DEFINITIONS.

Subdivision 1. **Scope.** For the purposes of sections 257.0755 to 257.0768, the following terms shall have the meanings given them in this section.

Subd. 2. **Agency.** "Agency" means the divisions, officials, or employees of the state Departments of Human Services and Health and local district courts or a designated county social service agency as defined in section 256G.02, subdivision 7, engaged in providing child protection and placement services for children. "Agency" also means any individual, service, or program providing child protection or placement services in coordination with or under contract to any other entity specified in this subdivision.

Subd. 3. **Communities of color.** "Communities of color" means the following: American Indian, Hispanic-Latino, Asian-Pacific, African, and African-American communities.

Subd. 4. **Compadrazgo.** "Compadrazgo" is a kinship institution within the Hispanic-Latino community used as a means of parenting and caring for children from birth to adulthood.

Subd. 5. **Family of color.** "Family of color" means any family with a child under the age of 18 who is identified by one or both parents or another trusted adult to be of American Indian, Hispanic-Latino, Asian-Pacific, African, or African-American descent.

Subd. 6. **Facility.** "Facility" means any entity required to be licensed under chapter 245A.

Subd. 7. **Trusted adult.** "Trusted adult" means an individual recognized by the child's parent or legal guardian, the child's community, or both, as speaking for the child's best interest. The term includes compadrazgo and other individuals with a kinship or community relationship with the child.

257.0761 ORGANIZATION OF OFFICE OF OMBUDSPERSON.

Subdivision 1. **Staff; unclassified status; retirement.** The ombudsperson for each group specified in section 257.0755 may select, appoint, and compensate out of available funds the assistants and employees as deemed necessary to discharge responsibilities. All employees, except the secretarial and clerical staff, shall serve at the pleasure of the ombudsperson in the unclassified service. The ombudsperson and full-time staff shall be members of the Minnesota State Retirement Association.

Subd. 2. **Delegation to staff.** The ombudsperson may delegate to staff members any of the ombudsperson's authority or duties except the duty of formally making recommendations to an administrative agency or reports to the Office of the Governor, or to the legislature.

257.0762 DUTIES AND POWERS.

Subdivision 1. **Duties.** (a) Each ombudsperson shall monitor agency compliance with all laws governing child protection and placement, as they impact on children of color. In particular, the ombudsperson shall monitor agency compliance with sections 260C.215; 260.751 to 260.835; and 260C.193, subdivision 3.

(b) The ombudsperson shall work with local state courts to ensure that:

(1) court officials, public policy makers, and service providers are trained in cultural diversity. The ombudsperson shall document and monitor court activities in order to heighten awareness of diverse belief systems and family relationships;

(2) experts from the appropriate community of color including tribal advocates are used as court advocates and are consulted in placement decisions that involve children of color;

(3) guardians ad litem and other individuals from communities of color are recruited, trained, and used in court proceedings to advocate on behalf of children of color; and

(4) training programs for bilingual workers are provided.

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Subd. 2. **Powers.** Each ombudsperson has the authority to investigate decisions, acts, and other matters of an agency, program, or facility providing protection or placement services to children of color. In carrying out this authority and the duties in subdivision 1, each ombudsperson has the power to:

- (1) prescribe the methods by which complaints are to be made, reviewed, and acted upon;
- (2) determine the scope and manner of investigations to be made;
- (3) investigate, upon a complaint or upon personal initiative, any action of any agency;
- (4) request and be given access to any information in the possession of any agency deemed necessary for the discharge of responsibilities. The ombudsperson is authorized to set reasonable deadlines within which an agency must respond to requests for information. Data obtained from any agency under this clause shall retain the classification which it had under section 13.02 and shall be maintained and disseminated by the ombudsperson according to chapter 13;
- (5) examine the records and documents of an agency;
- (6) enter and inspect, during normal business hours, premises within the control of an agency; and
- (7) subpoena any agency personnel to appear, testify, or produce documentary or other evidence which the ombudsperson deems relevant to a matter under inquiry, and may petition the appropriate state court to seek enforcement with the subpoena; provided, however, that any witness at a hearing or before an investigation as herein provided, shall possess the same privileges reserved to such a witness in the courts or under the laws of this state. The ombudsperson may compel nonagency individuals to testify or produce evidence according to procedures developed by the advisory board.

257.0763 MATTERS APPROPRIATE FOR REVIEW.

(a) In selecting matters for review, an ombudsperson should give particular attention to actions of an agency, facility, or program that:

- (1) may be contrary to law or rule;
- (2) may be unreasonable, unfair, oppressive, or inconsistent with a policy or order of an agency, facility, or program;
- (3) may result in abuse or neglect of a child;
- (4) may disregard the rights of a child or other individual served by an agency or facility; or
- (5) may be unclear or inadequately explained, when reasons should have been revealed.

(b) An ombudsperson shall, in selecting matters for review, inform other interested agencies in order to avoid duplicating other investigations or regulatory efforts, including activities undertaken by a tribal organization under the authority of sections 260.751 to 260.835.

257.0764 COMPLAINTS.

An ombudsperson may receive a complaint from any source concerning an action of an agency, facility, or program. After completing a review, the ombudsperson shall inform the complainant, agency, facility, or program. Services to a child shall not be unfavorably altered as a result of an investigation or complaint. An agency, facility, or program shall not retaliate or take adverse action, as defined in section 626.556, subdivision 4a, paragraph (c), against an individual who, in good faith, makes a complaint or assists in an investigation.

257.0765 RECOMMENDATIONS TO AGENCY.

(a) If, after reviewing a complaint or conducting an investigation and considering the response of an agency, facility, or program and any other pertinent material, the ombudsperson determines that the complaint has merit or the investigation reveals a problem, the ombudsperson may recommend that the agency, facility, or program:

- (1) consider the matter further;
- (2) modify or cancel its actions;
- (3) alter a rule, order, or internal policy;
- (4) explain more fully the action in question; or
- (5) take other action as authorized under section 257.0762.

(b) At the ombudsperson's request, the agency, facility, or program shall, within a reasonable time, inform the ombudsperson about the action taken on the recommendation or the reasons for not complying with it.

257.0766 RECOMMENDATIONS AND PUBLIC REPORTS.

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Subdivision 1. **Specific reports.** An ombudsperson may send conclusions and suggestions concerning any matter reviewed to the governor and shall provide copies of all reports to the advisory board and to the groups specified in section 257.0768, subdivision 1. Before making public a conclusion or recommendation that expressly or implicitly criticizes an agency, facility, program, or any person, the ombudsperson shall inform the governor and the affected agency, facility, program, or person concerning the conclusion or recommendation. When sending a conclusion or recommendation to the governor that is adverse to an agency, facility, program, or any person, the ombudsperson shall include any statement of reasonable length made by that agency, facility, program, or person in defense or mitigation of the ombudsperson's conclusion or recommendation.

Subd. 2. **General reports.** In addition to whatever conclusions or recommendations the ombudsperson may make to the governor on an ad hoc basis, the ombudsperson shall at the end of each year report to the governor concerning the exercise of the ombudsperson's functions during the preceding year.

257.0767 CIVIL ACTIONS.

The ombudsperson and designees are not civilly liable for any action taken under sections 257.0755 to 257.0768 if the action was taken in good faith, was within the scope of the ombudsperson's authority, and did not constitute willful or reckless misconduct.

257.0768 COMMUNITY-SPECIFIC BOARDS.

Subdivision 1. **Membership.** Four community-specific boards are created. Each board consists of five members. The chair of each of the following groups shall appoint the board for the community represented by the group: the Indian Affairs Council; the Council on Affairs of Chicano/Latino people; the Council on Black Minnesotans; and the Council on Asian-Pacific Minnesotans. In making appointments, the chair must consult with other members of the council.

Subd. 2. **Compensation; chair.** Members do not receive compensation but are entitled to receive reimbursement for reasonable and necessary expenses incurred.

Subd. 3. **Meetings.** Each board shall meet regularly at the request of the appointing chair or the ombudsperson.

Subd. 4. **Duties.** Each board shall appoint the ombudsperson for its community. Each board shall advise and assist the ombudsperson for its community in selecting matters for attention; developing policies, plans, and programs to carry out the ombudspersons' functions and powers; establishing protocols for working with the communities of color; developing procedures for the ombudspersons' use of the subpoena power to compel testimony and evidence from nonagency individuals; and making reports and recommendations for changes designed to improve standards of competence, efficiency, justice, and protection of rights.

Subd. 5. **Terms, compensation, removal, and expiration.** The membership terms, compensation, and removal of members of each board and the filling of membership vacancies are governed by section 15.0575.

Subd. 6. **Joint meetings.** The members of the four community-specific boards shall meet jointly at least four times each year to advise the ombudspersons on overall policies, plans, protocols, and programs for the office.

257.0769 FUNDING FOR THE OMBUDSPERSON PROGRAM.

Subdivision 1. **Appropriations.** (a) Money is appropriated from the special fund authorized by section 256.01, subdivision 2, paragraph (o), to the Indian Affairs Council for the purposes of sections 257.0755 to 257.0768.

(b) Money is appropriated from the special fund authorized by section 256.01, subdivision 2, paragraph (o), to the council on affairs of Chicano/Latino people for the purposes of sections 257.0755 to 257.0768.

(c) Money is appropriated from the special fund authorized by section 256.01, subdivision 2, paragraph (o), to the Council of Black Minnesotans for the purposes of sections 257.0755 to 257.0768.

(d) Money is appropriated from the special fund authorized by section 256.01, subdivision 2, paragraph (o), to the Council on Asian-Pacific Minnesotans for the purposes of sections 257.0755 to 257.0768.

Subd. 2. **Title IV-E reimbursement.** The commissioner shall obtain federal title IV-E financial participation for eligible activity by the ombudsperson for families under section

APPENDIX

Repealed Minnesota Statutes: 15-3760

257.0755. The ombudsperson for families shall maintain and transmit to the Department of Human Services documentation that is necessary in order to obtain federal funds.