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State of Minnesota
HOUSE OF REPRESENTATIVES
NINETIETH SESSION

H. F. No. 2872

02/20/2018 Authored by Quam
The bill was read for the first time and referred to the Committee on Health and Human Services Reform

1.1 A bill for an act
1.2 relating to families; expanding the Office of Ombudsperson for Families; requiring
1.3 a report; appropriating money; amending Minnesota Statutes 2016, sections
1.4 257.0755, subdivision 1; 257.076, subdivision 1, by adding a subdivision; 257.0761;
1.5 257.0762; 257.0766; 257.0767; 257.0768, subdivision 6; 257.0769; 393.07,
1.6 subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 257;
1.7 repealing Minnesota Statutes 2016, section 257.0755, subdivision 3.

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

1.9 Section 1. **[257.0751] OFFICE OF OMBUDSPERSON FOR FAMILIES; CREATION.**

1.10 Subdivision 1. **Creation.** The Office of Ombudsperson for Families shall consist of a
1.11 director, 12 ombudspersons, and an advisory council.

1.12 Subd. 2. **Director.** The director of the Office of Ombudsperson for Families is responsible
1.13 for the activities of the office, including hiring and supervising the ombudspersons and other
1.14 staff, except that the ombudspersons for communities of color shall be selected in the manner
1.15 described in section 257.0755. The director shall also be responsible for making an annual
1.16 report to the governor and proposing legislation as necessary. The director shall be appointed
1.17 by the governor for a term of six years and shall not serve more than two consecutive terms.
1.18 The director serves in the unclassified service and may be removed during a term only for
1.19 just cause.

1.20 Subd. 3. **Ombudspersons.** (a) There shall be four ombudspersons for communities of
1.21 color that operate in collaboration with community-specific boards, as described in section
1.22 257.0755.

1.23 (b) The remaining ombudspersons shall be hired by the director and shall focus on
1.24 particular issue areas as described in section 257.0756.

2.1 (c) The duties of the ombudspersons shall be as described in section 257.0762.

2.2 Subd. 4. **Advisory council.** The advisory council shall be organized as described in
2.3 section 257.171.

2.4 Sec. 2. Minnesota Statutes 2016, section 257.0755, subdivision 1, is amended to read:

2.5 Subdivision 1. ~~Creation~~ **Generally.** There shall be four ombudspersons for communities
2.6 of color. Each ombudsperson shall operate independently from but in collaboration with
2.7 the community-specific board that appointed the ombudsperson under section 257.0768:
2.8 the Indian Affairs Council, the Minnesota Council on Latino Affairs, the Council for
2.9 Minnesotans of African Heritage, and the Council on Asian-Pacific Minnesotans.

2.10 Sec. 3. [257.0756] **ADDITIONAL OMBUDSPERSONS.**

2.11 Subdivision 1. **Generally.** There shall be four ombudspersons who focus on particular
2.12 issue areas, as described in this section. The ombudspersons in this section shall work
2.13 together to ensure that cases are handled in a timely manner. If an ombudsperson in this
2.14 section has a light caseload in the ombudsperson's issue area, the ombudsperson shall provide
2.15 backup to other ombudspersons as necessary, including the ombudspersons for communities
2.16 of color.

2.17 Subd. 2. **Ombudsperson for child protection and welfare.** The ombudsperson for
2.18 child protection and welfare shall focus on issues surrounding state statutes, rules, and court
2.19 procedures related to child protection and welfare; the appropriate use of screening and
2.20 investigation; the recommendations of the Governor's Task Force on the Protection of
2.21 Children; the continuum of out-of-home care used by counties for placement of children
2.22 and youth; childhood trauma and risk factors; and the responsibilities of state agencies and
2.23 facilities when acting in loco parentis.

2.24 Subd. 3. **Ombudsperson for juvenile justice.** The ombudsperson for juvenile justice
2.25 shall focus on the continuum of services for youth involved in the juvenile justice system
2.26 including prevention, diversion, delinquency court proceedings, probation, short-term
2.27 programs, group homes, juvenile correctional facilities, and transition services.

2.28 Subd. 4. **Ombudsperson for education.** The ombudsperson for education shall focus
2.29 on issues related to pre-K through grade 12 and special education systems, and shall work
2.30 closely with the Department of Education compliance and accountability officer.

2.31 Subd. 5. **Ombudsperson for underserved populations.** The ombudsperson for
2.32 underserved populations shall focus on the unique needs and challenges of underserved

3.1 populations, including youth and families who are homeless or at risk of becoming homeless,
 3.2 who identify as LGBT, and who are new immigrants. The ombudsperson for underserved
 3.3 populations shall be knowledgeable about resources available to these populations.

3.4 Sec. 4. Minnesota Statutes 2016, section 257.076, subdivision 1, is amended to read:

3.5 Subdivision 1. **Scope.** For the purposes of sections ~~257.0755~~ 257.0751 to ~~257.0768~~
 3.6 257.171, the following terms shall have the meanings given them in this section.

3.7 Sec. 5. Minnesota Statutes 2016, section 257.076, is amended by adding a subdivision to
 3.8 read:

3.9 Subd. 4a. **Director.** "Director" means the director of the Office of Ombudsperson for
 3.10 Families.

3.11 Sec. 6. Minnesota Statutes 2016, section 257.0761, is amended to read:

3.12 **257.0761 ORGANIZATION OF OFFICE OF OMBUDSPERSON.**

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

3.20 (b) The ombudspersons shall be selected as provided in sections 257.0755 and 257.0756.

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

3.25 Sec. 7. Minnesota Statutes 2016, section 257.0762, is amended to read:

3.26 **257.0762 DUTIES AND POWERS.**

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

4.1 (b) Each ombudsperson shall also perform the following duties as appropriate:

4.2 (1) receive and investigate complaints from any person regarding a state, county, or
 4.3 local agency, or a facility;

4.4 (2) mediate settlements or other resolutions between children, families, and agencies;

4.5 (3) track complaints;

4.6 (4) recommend law, rule, or policy changes;

4.7 (5) maintain relationships with relevant agencies;

4.8 (6) work with the director to submit an annual report to the governor pursuant to section
 4.9 257.0766; and

4.10 (7) provide backup to other ombudspersons as necessary to ensure that cases are handled
 4.11 in a timely manner.

4.12 ~~(b)~~ (c) In addition, the ombudsperson ombudspersons for communities of color in section
 4.13 257.0755 shall work with local state courts to ensure that:

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

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

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

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

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

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

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

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

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

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

5.8 (6) enter and inspect, during normal business hours, premises within the control of an
 5.9 agency; ~~and~~

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

5.17 (8) require agencies to engage in mediation when appropriate, in consultation with the
 5.18 Office of Collaboration and Dispute Resolution.

5.19 Sec. 8. Minnesota Statutes 2016, section 257.0766, is amended to read:

5.20 **257.0766 RECOMMENDATIONS AND PUBLIC REPORTS.**

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

5.32 Subd. 2. **General reports.** In addition to whatever conclusions or recommendations ~~the~~
 5.33 ~~ombudsperson~~ an ombudsperson or the director may make to the governor on an ad hoc

6.1 basis, the ~~ombudsperson~~ director shall at the end of each year report to the governor
 6.2 concerning the exercise of the ~~ombudsperson's~~ functions of the Office of Ombudsperson
 6.3 for Families during the preceding year. This annual report must include statistics on the
 6.4 types of complaints received and issues addressed.

6.5 Sec. 9. Minnesota Statutes 2016, section 257.0767, is amended to read:

6.6 **257.0767 CIVIL ACTIONS.**

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

6.11 Sec. 10. Minnesota Statutes 2016, section 257.0768, subdivision 6, is amended to read:

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

6.15 Sec. 11. Minnesota Statutes 2016, section 257.0769, is amended to read:

6.16 **257.0769 FUNDING FOR THE ~~OMBUDSPERSON PROGRAM~~ OFFICE OF**
 6.17 **OMBUDSPERSON FOR FAMILIES.**

6.18 Subdivision 1. **Appropriations.** (a) Money is appropriated from the special fund
 6.19 authorized by section 256.01, subdivision 2, paragraph (o), to the ~~Indian Affairs Council~~
 6.20 Office of Ombudsperson for Families and to each individual ombudsperson for the purposes
 6.21 of sections ~~257.0755 to 257.0768~~ 257.0751 to 257.171.

6.22 (b) ~~Money is appropriated from the special fund authorized by section 256.01, subdivision~~
 6.23 ~~2, paragraph (o), to the Minnesota Council on Latino Affairs for the purposes of sections~~
 6.24 ~~257.0755 to 257.0768.~~ Money appropriated for each ombudsperson from the general fund
 6.25 or the special fund authorized by section 256.01, subdivision 2, paragraph (o), is under the
 6.26 control of each ombudsperson for which it is appropriated.

6.27 (c) ~~Money is appropriated from the special fund authorized by section 256.01, subdivision~~
 6.28 ~~2, paragraph (o), to the Council for Minnesotans of African Heritage for the purposes of~~
 6.29 ~~sections 257.0755 to 257.0768.~~

7.1 ~~(d) Money is appropriated from the special fund authorized by section 256.01, subdivision~~
 7.2 ~~2, paragraph (o), to the Council on Asian-Pacific Minnesotans for the purposes of sections~~
 7.3 ~~257.0755 to 257.0768.~~

7.4 Subd. 2. **Title IV-E reimbursement.** The commissioner shall obtain federal title IV-E
 7.5 financial participation for eligible activity by the Office of Ombudsperson for Families
 7.6 under section 257.0755. The ~~ombudsperson for families~~ director shall maintain and transmit
 7.7 to the Department of Human Services documentation that is necessary in order to obtain
 7.8 federal funds.

7.9 Sec. 12. **[257.077] ADVISORY COUNCIL.**

7.10 Subdivision 1. **Creation.** The Office of Ombudsperson for Families Advisory Council
 7.11 is established.

7.12 Subd. 2. **Duties.** The council's duty is to provide guidance, advice, and recommendations
 7.13 to the Office of Ombudsperson for Families regarding issues or areas of interest to research
 7.14 and investigate.

7.15 Subd. 3. **Membership.** The council consists of 15 members, appointed as follows:

7.16 (1) four members representing the community-specific boards listed in section 257.0768.
 7.17 Each community-specific board shall appoint one member to the council and that member
 7.18 shall serve at the pleasure of the appointing board; and

7.19 (2) 11 members appointed by the governor, representing a diverse group of people who
 7.20 have knowledge of and interest in one or more of the following areas: health and human
 7.21 services, child welfare, residential and permanency services, homelessness, education, health
 7.22 care, racial disparities, and culturally appropriate practices and services. The governor shall
 7.23 appoint at least one member from each of the following groups: current or former clients,
 7.24 relatives of current or former clients, organizations that advocate for clients, and human
 7.25 services or health care professionals.

7.26 Subd. 4. **Membership terms; compensation; removal.** (a) Except as provided in
 7.27 paragraph (b), the membership terms, compensation, and removal of council members are
 7.28 governed by section 15.0575.

7.29 (b) The four members appointed pursuant to subdivision 3, clause (1), shall not be
 7.30 appointed in the manner provided in section 15.0597.

7.31 Subd. 5. **Chair.** The council shall select its chair by a majority vote.

8.1 Subd. 6. **Funding.** The director shall allocate and administer the funds reasonably
8.2 necessary to cover the operational costs of the council.

8.3 Subd. 7. **Staff.** The director shall provide staff services reasonably required by the
8.4 council.

8.5 Sec. 13. Minnesota Statutes 2016, section 393.07, subdivision 1, is amended to read:

8.6 Subdivision 1. **Public child welfare program.** (a) To assist in carrying out the child
8.7 protection, delinquency prevention and family assistance responsibilities of the state, the
8.8 local social services agency shall administer a program of social services and financial
8.9 assistance to be known as the public child welfare program. The public child welfare program
8.10 shall be supervised by the commissioner of human services and administered by the local
8.11 social services agency in accordance with law and with rules of the commissioner.

8.12 (b) The purpose of the public child welfare program is to assure protection for and
8.13 financial assistance to children who are confronted with social, physical, or emotional
8.14 problems requiring protection and assistance. These problems include, but are not limited
8.15 to the following:

8.16 (1) mental, emotional, or physical disability;

8.17 (2) birth of a child to a mother who was not married to the child's father when the child
8.18 was conceived nor when the child was born, including but not limited to costs of prenatal
8.19 care, confinement and other care necessary for the protection of a child born to a mother
8.20 who was not married to the child's father at the time of the child's conception nor at the
8.21 birth;

8.22 (3) dependency, neglect;

8.23 (4) delinquency;

8.24 (5) abuse or rejection of a child by its parents;

8.25 (6) absence of a parent or guardian able and willing to provide needed care and
8.26 supervision;

8.27 (7) need of parents for assistance with child rearing problems, or in placing the child in
8.28 foster care.

8.29 (c) A local social services agency shall make the services of its public child welfare
8.30 program available as required by law, by the commissioner, or by the courts and shall
8.31 cooperate with other agencies, public or private, dealing with the problems of children and
8.32 their parents as provided in this subdivision.

9.1 (d) A local social services agency may rent, lease, or purchase property, or in any other
9.2 way approved by the commissioner, contract with individuals or agencies to provide needed
9.3 facilities for foster care of children. It may purchase services or child care from duly
9.4 authorized individuals, agencies or institutions when in its judgment the needs of a child or
9.5 the child's family can best be met in this way.

9.6 (e) A local social services agency shall provide each client with information about the
9.7 client's rights relating to child protection, delinquency prevention, and family assistance
9.8 services during the agency's first contact with the client.

9.9 Sec. 14. **REPEALER.**

9.10 Minnesota Statutes 2016, section 257.0755, subdivision 3, is repealed.

APPENDIX
Repealed Minnesota Statutes: HF2872-0

257.0755 OFFICE OF OMBUDSPERSON; CREATION; QUALIFICATIONS; FUNCTION.

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.