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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-SECOND SESSION

H. F. No. 3845

- 02/28/2022 Authored by Hanson, J.; Schomacker; Becker-Finn; Greenman; Fischer and others
The bill was read for the first time and referred to the Committee on State Government Finance and Elections
- 03/21/2022 Adoption of Report: Re-referred to the Committee on Human Services Finance and Policy
- 03/24/2022 Adoption of Report: Re-referred to the Committee on Judiciary Finance and Civil Law
- 03/30/2022 Adoption of Report: Re-referred to the Committee on Ways and Means

1.1 A bill for an act

1.2 relating to children and families; establishing the Office of the Foster Youth

1.3 Ombudsperson and Board of the Foster Youth Ombudsperson; appropriating money

1.4 for the Office of the Foster Youth Ombudsperson and Board of the Foster Youth

1.5 Ombudsperson; proposing coding for new law in Minnesota Statutes, chapters 13;

1.6 260C.

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

1.8 Section 1. [13.876] FOSTER YOUTH OMBUDSPERSON; DATA.

1.9 Subdivision 1. Private data. The following data maintained by the foster youth

1.10 ombudsperson are classified as private data, pursuant to section 13.02, subdivision 12:

1.11 (1) all data on individuals related to contacts made by individuals seeking the assistance

1.12 of the ombudsperson, except as specified in subdivision 2;

1.13 (2) data recorded from personal and phone conversations and in correspondence between

1.14 the ombudsperson's staff and persons interviewed during the course of an investigation;

1.15 (3) data from juvenile court proceedings in the possession of the foster youth

1.16 ombudsperson; and

1.17 (4) case assignment data.

1.18 Subd. 2. Confidential data. The written summary of the investigation maintained by

1.19 the ombudsperson is, to the extent that the data identifies individuals, classified as

1.20 confidential data, pursuant to section 13.02, subdivision 3.

1.21 Subd. 3. Access to data. The foster youth ombudsperson has access to juvenile placement

1.22 and medical data as provided under section 260C.82, subdivision 6.

2.1 **Sec. 2. [260C.80] OFFICE OF THE FOSTER YOUTH OMBUDSPERSON; BOARD.**

2.2 Subdivision 1. **Office of the Foster Youth Ombudsman.** The Office of the Foster
 2.3 Youth Ombudsman is hereby created. The ombudsman serves at the pleasure of the
 2.4 governor in the unclassified service, must be selected without regard to political affiliation,
 2.5 and must be a person highly competent and qualified to work to improve the lives of youth
 2.6 in the foster care system, while understanding the administration and public policy related
 2.7 to youth in the foster care system. No person may serve as the foster youth ombudsman
 2.8 while holding any other public office. The foster youth ombudsman is accountable to the
 2.9 governor and may investigate decisions, acts, and other matters related to the health, safety,
 2.10 and welfare of youth in foster care to promote the highest attainable standards of competence,
 2.11 efficiency, and justice for youth who are in the care of the state.

2.12 Subd. 2. **Board of the Foster Youth Ombudsman.** The Board of the Foster Youth
 2.13 Ombudsman is established to make recommendations to the foster youth ombudsman
 2.14 and staff while continuously overseeing the foster youth ombudsman's work. The board
 2.15 shall evaluate the foster youth ombudsman's effectiveness through regular meetings with
 2.16 current and former youth in the foster care system and community advocates working closely
 2.17 with the foster care system. The board consists of:

2.18 (1) five youth who are currently in the foster care system or who were recently in the
 2.19 foster care system;

2.20 (2) four adults who were in the foster care system as youths;

2.21 (3) one attorney who works in the juvenile court system or family court;

2.22 (4) one social worker who works in the juvenile justice system or family court; and

2.23 (5) three nonprofit professionals who work at nonprofits serving foster youth.

2.24 Subd. 3. **Terms; compensation; removal; vacancies.** The membership terms,
 2.25 compensation, removal of members, and filling of vacancies on the Board of the Foster
 2.26 Youth Ombudsman are governed by section 15.0575. A member of the Board of the
 2.27 Foster Youth Ombudsman must not have a conflict of interest with the board due to the
 2.28 member's employment with a county or the agency.

2.29 **Sec. 3. [260C.81] ORGANIZATION OF THE OFFICE OF THE FOSTER YOUTH**
 2.30 **OMBUDSPERSON.**

2.31 The foster youth ombudsman may select, appoint, and compensate out of available
 2.32 funds assistants and employees to perform the ombudsman's responsibilities, including

3.1 intake, investigation, administrative support, legal advocacy, and other support necessary
 3.2 to assist foster youth. The foster youth ombudsperson and full-time staff are members of
 3.3 the Minnesota State Retirement Association. The foster youth ombudsperson may delegate
 3.4 to staff members any of the ombudsperson's authority or duties except the duty of formally
 3.5 making recommendations to an administrative agency or reports to the Office of the Governor
 3.6 or to the legislature. The Office of the Foster Youth Ombudsperson shall provide outreach,
 3.7 resources, and assistance to youth in foster care by directly engaging with youth in residential
 3.8 treatment facilities, group homes, and family foster homes.

3.9 **Sec. 4. [260C.82] POWERS OF FOSTER YOUTH OMBUDSPERSON;**
 3.10 **INVESTIGATION; ACTION ON COMPLAINTS; RECOMMENDATIONS.**

3.11 Subdivision 1. **Powers.** (a) The foster youth ombudsperson may:

3.12 (1) establish a complaint process, including how a person may make a complaint and
 3.13 how the ombudsperson may review and act upon the complaint;

3.14 (2) determine the scope and manner of the ombudsperson's and staff's investigations;

3.15 (3) make conclusions, recommendations, and proposals to the governor or to the
 3.16 legislature, provided that the governor or legislature may request and receive information
 3.17 from the ombudsperson at any time;

3.18 (4) investigate, upon a complaint or upon personal initiative, any action of an
 3.19 administrative agency, including a request from a youth in foster care to examine the physical
 3.20 placement where the child resides;

3.21 (5) request and be given access to information from an administrative agency that is
 3.22 necessary for performing the ombudsperson's responsibilities;

3.23 (6) subpoena any person to appear, give testimony, or produce documents or other
 3.24 evidence that the ombudsperson considers relevant to a matter under inquiry and may petition
 3.25 a state district court to seek enforcement of a subpoena. Any witness at a hearing or before
 3.26 an investigation has the same privileges reserved to a witness in the courts or under the laws
 3.27 of this state; and

3.28 (7) be present at court hearings, conferences, meetings, and deliberations when a youth
 3.29 in foster care requests the ombudsperson's presence.

3.30 (b) Neither the ombudsperson nor any member of the ombudsperson's staff shall be
 3.31 compelled to testify or to produce evidence in any judicial or administrative proceeding
 3.32 with respect to any matter involving the exercise of the ombudsperson's official duties.

4.1 Subd. 2. **Liability.** No proceeding or civil action except removal from office or a
4.2 proceeding brought pursuant to chapter 13 shall be commenced against the foster youth
4.3 ombudsperson for actions taken under sections 260C.80 to 260C.82, unless the act or
4.4 omission demonstrates malicious intent or was grossly negligent.

4.5 Subd. 3. **Complaints.** (a) The ombudsperson may receive a complaint from any source
4.6 concerning the health, safety, or welfare of a youth in foster care. The ombudsperson may,
4.7 at the request of another or on the ombudsperson's own initiative, investigate any action of
4.8 an administrative agency, family foster home, custodian, parent, or facility licensed by the
4.9 state, including a residential treatment facility and secured detention facility. The
4.10 ombudsperson may exercise powers without regard to the finality of any action. The
4.11 ombudsperson may require a complainant to pursue other remedies or channels of complaint
4.12 open to the complainant before accepting or investigating a complaint. After completing
4.13 the investigation of a complaint, the ombudsperson shall inform the complainant, the
4.14 administrative agency, and any person who is the subject of the investigation of the action
4.15 taken.

4.16 (b) A facility or family foster home must immediately forward any letter to the
4.17 ombudsperson from a person in the facility or family foster home. The facility or family
4.18 foster home must not open any letter to the ombudsperson from a person at the facility or
4.19 foster home. A facility or family foster home must deliver any mail or forward any e-mail
4.20 from the ombudsperson to a person in the facility or family foster home immediately after
4.21 the facility or family foster home receives the mail or e-mail. A facility or family foster
4.22 home must not punish a person for making a complaint to the ombudsperson. A facility or
4.23 family foster home must not unfavorably alter the conditions of a person's placement as a
4.24 consequence for making a complaint to the ombudsperson.

4.25 Subd. 4. **Recommendations.** (a) If the ombudsperson considers a complaint to be valid,
4.26 the ombudsperson may recommend that an administrative agency or judicial officer:

4.27 (1) consider the matter further;

4.28 (2) modify or cancel the agency's or judicial officer's actions;

4.29 (3) change a ruling or explain an action; or

4.30 (4) take any other step that the ombudsperson recommends to provide direction or require
4.31 action by a facility, placement, or custodian providing a residence to the complainant.

4.32 (b) If the ombudsperson requests, the agency shall, within the time that the ombudsperson
4.33 specifies, inform the ombudsperson about the action taken based on the ombudsperson's

5.1 recommendations or the reasons for not complying with the ombudsperson's
5.2 recommendations. If the ombudsperson has the reason to believe that any person, including
5.3 a public official, has acted in a manner warranting criminal or disciplinary proceedings, the
5.4 ombudsperson may refer the matter to the appropriate authorities. If the ombudsperson
5.5 believes that an action upon which a valid complaint is founded had a statutory basis, and
5.6 that the statute produced results or effects that were unfair or otherwise objectionable, the
5.7 ombudsperson shall bring to the attention of the governor and the legislature the
5.8 ombudsperson's view concerning desirable statutory change.

5.9 Subd. 5. **Grants.** The ombudsperson may apply for and receive grants from public and
5.10 private entities for the purposes of carrying out the ombudsperson's powers and duties under
5.11 this section.

5.12 Subd. 6. **Data.** State district courts and administrative agencies must provide the foster
5.13 youth ombudsperson with access to juvenile court data, foster care placement data, and
5.14 medical data maintained by an agency and classified as private data on individuals or
5.15 confidential data on individuals when access to the data is necessary for the ombudsperson
5.16 to perform the ombudsperson's duties under sections 260C.80 to 260C.82.

5.17 **Sec. 5. APPROPRIATION; OFFICE OF THE FOSTER YOUTH OMBUDSPERSON.**

5.18 \$650,000 in fiscal year 2023 is appropriated from the general fund to the governor's
5.19 office for the establishment and operation of the Office of the Foster Youth Ombudsperson
5.20 and the Board of the Foster Youth Ombudsperson.