



Rep. Kelly M. Cassidy

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1 AMENDMENT TO SENATE BILL 2352

2 AMENDMENT NO. _____. Amend Senate Bill 2352 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Unified Code of Corrections is amended by
5 adding Article 2.7 of Chapter III as follows:

6 (730 ILCS 5/Ch. III Art. 2.7 heading new)

7 ARTICLE 2.7. DEPARTMENT OF JUVENILE JUSTICE
8 INDEPENDENT JUVENILE OMBUDSMAN

9 (730 ILCS 5/3-2.7-1 new)

10 Sec. 3-2.7-1. Short title. This Article may be cited as the
11 Department of Juvenile Justice Independent Juvenile Ombudsman
12 Law.

13 (730 ILCS 5/3-2.7-5 new)

14 Sec. 3-2.7-5. Purpose. The purpose of this Article is to

1 create within the Department of Juvenile Justice the Office of
2 Independent Juvenile Ombudsman for the purpose of securing the
3 rights of youth committed to the Department of Juvenile
4 Justice, including youth released on aftercare before final
5 discharge.

6 (730 ILCS 5/3-2.7-10 new)

7 Sec. 3-2.7-10. Definitions. In this Article, unless the
8 context requires otherwise:

9 "Department" means the Department of Juvenile Justice.

10 "Immediate family or household member" means the spouse,
11 child, parent, brother, sister, grandparent, or grandchild,
12 whether of the whole blood or half blood or by adoption, or a
13 person who shares a common dwelling.

14 "Juvenile justice system" means all activities by public or
15 private agencies or persons pertaining to youth involved in or
16 having contact with the police, courts, or corrections.

17 "Office" means the Office of the Independent Juvenile
18 Ombudsman.

19 "Ombudsman" means the Department of Juvenile Justice
20 Independent Juvenile Ombudsman.

21 "Youth" means any person committed by court order to the
22 custody of the Department of Juvenile Justice, including youth
23 released on aftercare before final discharge.

24 (730 ILCS 5/3-2.7-15 new)

1 Sec. 3-2.7-15. Appointment of Independent Juvenile
2 Ombudsman. The Governor shall appoint the Independent Juvenile
3 Ombudsman with the advice and consent of the Senate for a term
4 of 4 years, with the first term expiring February 1, 2017. A
5 person appointed as Ombudsman may be reappointed to one or more
6 subsequent terms. A vacancy shall occur upon resignation,
7 death, or removal. The Ombudsman may only be removed by the
8 Governor for incompetency, malfeasance, neglect of duty, or
9 conviction of a felony. If the Senate is not in session or is
10 in recess when an appointment subject to its confirmation is
11 made, the Governor shall make a temporary appointment which
12 shall be subject to subsequent Senate approval. The Ombudsman
13 may employ deputies to perform, under the direction of the
14 Ombudsman, the same duties and exercise the same powers as the
15 Ombudsman, and may employ other support staff as deemed
16 necessary. The Ombudsman and deputies must:

17 (1) be over the age of 21 years;

18 (2) have a bachelor's or advanced degree from an accredited
19 college or university; and

20 (3) have relevant expertise in areas such as the juvenile
21 justice system, investigations, or civil rights advocacy as
22 evidenced by experience in the field or by academic background.

23
24 (730 ILCS 5/3-2.7-20 new)

25 Sec. 3-2.7-20. Conflicts of interest. A person may not

1 serve as Ombudsman or as a deputy if the person or the person's
2 immediate family or household member:

3 (1) is or has been employed by the Department of Juvenile
4 Justice or Department of Corrections within one year prior to
5 appointment, other than as Ombudsman or Deputy Ombudsman;

6 (2) participates in the management of a business entity or
7 other organization receiving funds from the Department of
8 Juvenile Justice;

9 (3) owns or controls, directly or indirectly, any interest
10 in a business entity or other organization receiving funds from
11 the Department of Juvenile Justice;

12 (4) uses or receives any amount of tangible goods,
13 services, or funds from the Department of Juvenile Justice,
14 other than as Ombudsman or Deputy Ombudsman; or

15 (5) is required to register as a lobbyist for an
16 organization that interacts with the juvenile justice system.

17 (730 ILCS 5/3-2.7-25 new)

18 Sec. 3-2.7-25. Duties and powers.

19 (a) The Independent Juvenile Ombudsman shall function
20 independently within the Department of Juvenile Justice with
21 respect to the operations of the Office in performance of his
22 or her duties under this Article and shall report to the
23 Governor. The Ombudsman shall adopt rules and standards as may
24 be necessary or desirable to carry out his or her duties.
25 Funding for the Office shall be designated separately within

1 Department funds. The Department shall provide necessary
2 administrative services and facilities to the Office of the
3 Independent Juvenile Ombudsman.

4 (b) The Office of Independent Juvenile Ombudsman shall have
5 the following duties:

6 (1) review and monitor the implementation of the rules
7 and standards established by the Department of Juvenile
8 Justice and evaluate the delivery of services to youth to
9 ensure that the rights of youth are fully observed;

10 (2) provide assistance to a youth or family who the
11 Ombudsman determines is in need of assistance, including
12 advocating with an agency, provider, or other person in the
13 best interests of the youth;

14 (3) investigate and attempt to resolve complaints made
15 by or on behalf of youth, other than complaints alleging
16 criminal behavior or violations of the State Officials and
17 Employee Ethics Act, if the Office determines that the
18 investigation and resolution would further the purpose of
19 the Office, and:

20 (A) a youth committed to the Department of Juvenile
21 Justice or the youth's family is in need of assistance
22 from the Office; or

23 (B) a systemic issue in the Department of Juvenile
24 Justice's provision of services is raised by a
25 complaint;

26 (4) review or inspect periodically the facilities and

1 procedures of any facility in which a youth has been placed
2 by the Department of Juvenile Justice to ensure that the
3 rights of youth are fully observed; and

4 (5) be accessible to and meet confidentially and
5 regularly with youth committed to the Department and serve
6 as a resource by informing them of pertinent laws, rules,
7 and policies, and their rights thereunder.

8 (c) The following cases shall be reported immediately to
9 the Director of Juvenile Justice and the Governor:

10 (1) cases of severe abuse or injury of a youth;

11 (2) serious misconduct, misfeasance, malfeasance, or
12 serious violations of policies and procedures concerning
13 the administration of a Department of Juvenile Justice
14 program or operation;

15 (3) serious problems concerning the delivery of
16 services in a facility operated by or under contract with
17 the Department of Juvenile Justice;

18 (4) interference by the Department of Juvenile Justice
19 with an investigation conducted by the Office; and

20 (5) other cases as deemed necessary by the Ombudsman.

21 (d) Notwithstanding any other provision of law, the
22 Ombudsman may not investigate alleged criminal behavior or
23 violations of the State Officials and Employees Ethics Act. If
24 the Ombudsman determines that a possible criminal act has been
25 committed, or that special expertise is required in the
26 investigation, he or she shall immediately notify the

1 Department of State Police. If the Ombudsman determines that a
2 possible violation of the State Officials and Employees Ethics
3 Act has occurred, he or she shall immediately refer the
4 incident to the Office of the Governor's Executive Inspector
5 General for investigation. If the Ombudsman receives a
6 complaint from a youth or third party regarding suspected abuse
7 or neglect of a child, the Ombudsman shall refer the incident
8 to the Child Abuse and Neglect Hotline or to the State Police
9 as mandated by the Abused and Neglected Child Reporting Act.
10 Any investigation conducted by the Ombudsman shall not be
11 duplicative and shall be separate from any investigation
12 mandated by the Abused and Neglected Child Reporting Act. All
13 investigations conducted by the Ombudsman shall be conducted in
14 a manner designed to ensure the preservation of evidence for
15 possible use in a criminal prosecution.

16 (e) In performance of his or her duties, the Ombudsman may:

17 (1) review court files of youth;

18 (2) recommend policies, rules, and legislation
19 designed to protect youth;

20 (3) make appropriate referrals under any of the duties
21 and powers listed in this Section;

22 (4) attend internal administrative and disciplinary
23 hearings to ensure the rights of youth are fully observed
24 and advocate for the best interest of youth when deemed
25 necessary; and

26 (5) perform other acts, otherwise permitted or

1 required by law, in furtherance of the purpose of the
2 Office.

3 (f) To assess if a youth's rights have been violated, the
4 Ombudsman may, in any matter that does not involve alleged
5 criminal behavior, contact or consult with an administrator,
6 employee, youth, parent, expert, or any other individual in the
7 course of his or her investigation or to secure information as
8 necessary to fulfill his or her duties.

9 (730 ILCS 5/3-2.7-30 new)

10 Sec. 3-2.7-30. Duties of the Department of Juvenile
11 Justice.

12 (a) The Department of Juvenile Justice shall allow any
13 youth to communicate with the Ombudsman or a deputy at any
14 time. The communication:

15 (1) may be in person, by phone, by mail, or by any
16 other means deemed appropriate in light of security
17 concerns; and

18 (2) is confidential and privileged.

19 (b) The Department shall allow the Ombudsman and deputies
20 full and unannounced access to youth and Department facilities
21 at any time. The Department shall furnish the Ombudsman and
22 deputies with appropriate meeting space in each facility in
23 order to preserve confidentiality.

24 (c) The Department shall allow the Ombudsman and deputies
25 to participate in professional development opportunities

1 provided by the Department of Juvenile Justice as practical and
2 to attend appropriate professional training when requested by
3 the Ombudsman.

4 (d) The Department shall provide the Ombudsman copies of
5 critical incident reports involving a youth residing in a
6 facility operated by the Department. Critical incidents
7 include, but are not limited to, severe injuries that result in
8 hospitalization, suicide attempts that require medical
9 intervention, sexual abuse, and escapes.

10 (e) The Department shall provide the Ombudsman with
11 reasonable advance notice of all internal administrative and
12 disciplinary hearings regarding a youth residing in a facility
13 operated by the Department.

14 (f) The Department of Juvenile Justice may not discharge,
15 demote, discipline, or in any manner discriminate or retaliate
16 against a youth or an employee who in good faith makes a
17 complaint to the Office of the Independent Juvenile Ombudsman
18 or cooperates with the Office.

19 (730 ILCS 5/3-2.7-35 new)

20 Sec. 3-2.7-35. Reports. The Independent Juvenile Ombudsman
21 shall provide to the General Assembly and the Governor, no
22 later than January 1 of each year, a summary of activities done
23 in furtherance of the purpose of the Office for the prior
24 fiscal year. The summaries shall contain data both aggregated
25 and disaggregated by individual facility and describe:

1 (1) the work of the Ombudsman;

2 (2) the status of any review or investigation undertaken by
3 the Ombudsman, but may not contain any confidential or
4 identifying information concerning the subjects of the reports
5 and investigations; and

6 (3) any recommendations that the Independent Juvenile
7 Ombudsman has relating to a systemic issue in the Department of
8 Juvenile Justice's provision of services and any other matters
9 for consideration by the General Assembly and the Governor.

10 (730 ILCS 5/3-2.7-40 new)

11 Sec. 3-2.7-40. Complaints. The Office of Independent
12 Juvenile Ombudsman shall promptly and efficiently act on
13 complaints made by or on behalf of youth filed with the Office
14 that relate to the operations or staff of the Department of
15 Juvenile Justice. The Office shall maintain information about
16 parties to the complaint, the subject matter of the complaint,
17 a summary of the results of the review or investigation of the
18 complaint, including any resolution of or recommendations made
19 as a result of the complaint. The Office shall make information
20 available describing its procedures for complaint
21 investigation and resolution. When applicable, the Office
22 shall notify the complaining youth that an investigation and
23 resolution may result in or will require disclosure of the
24 complaining youth's identity. The Office shall periodically
25 notify the complaint parties of the status of the complaint

1 until final disposition.

2 (730 ILCS 5/3-2.7-45 new)

3 Sec. 3-2.7-45. Confidentiality. The name, address, or
4 other personally identifiable information of a person who files
5 a complaint with the Office, information generated by the
6 Office related to a complaint or other activities of the
7 Office, and confidential records obtained by the Office are not
8 subject to disclosure under the Freedom of Information Act. The
9 Office shall disclose the records only if required by court
10 order on a showing of good cause.

11 (730 ILCS 5/3-2.7-50 new)

12 Sec. 3-2.7-50. Promotion and Awareness of Office. The
13 Independent Juvenile Ombudsman shall promote awareness among
14 the public and youth of:

15 (1) the rights of youth committed to the Department;

16 (2) purpose of the Office;

17 (3) how the Office may be contacted;

18 (4) the confidential nature of communications; and

19 (5) the services the Office provides.

20 (730 ILCS 5/3-2.7-55 new)

21 Sec. 3-2.7-55. Access to information of governmental
22 entities. The Department of Juvenile Justice shall provide the
23 Independent Juvenile Ombudsman unrestricted access to all

1 master record files of youth under Section 3-5-1 of this Code.
2 Access to educational, social, psychological, mental health,
3 substance abuse, and medical records shall not be disclosed
4 except as provided in Section 5-910 of the Juvenile Court Act
5 of 1987, the Mental Health and Developmental Disabilities
6 Confidentiality Act, the School Code, and any applicable
7 federal laws that govern access to those records.

8 Section 99. Effective date. This Act takes effect upon
9 becoming law.".