

AN ACT concerning State government.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

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

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

ARTICLE 2.7. DEPARTMENT OF JUVENILE JUSTICE

INDEPENDENT JUVENILE OMBUDSMAN

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

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

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

Sec. 3-2.7-5. Purpose. The purpose of this Article is to create within the Department of Juvenile Justice the Office of Independent Juvenile Ombudsman for the purpose of securing the rights of youth committed to the Department of Juvenile Justice, including youth released on aftercare before final discharge.

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

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

"Department" means the Department of Juvenile Justice.

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

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

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

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

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

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

Sec. 3-2.7-15. Appointment of Independent Juvenile Ombudsman. The Governor shall appoint the Independent Juvenile Ombudsman with the advice and consent of the Senate for a term of 4 years, with the first term expiring February 1, 2017. A person appointed as Ombudsman may be reappointed to one or more subsequent terms. A vacancy shall occur upon resignation, death, or removal. The Ombudsman may only be removed by the

Governor for incompetency, malfeasance, neglect of duty, or conviction of a felony. If the Senate is not in session or is in recess when an appointment subject to its confirmation is made, the Governor shall make a temporary appointment which shall be subject to subsequent Senate approval. The Ombudsman may employ deputies to perform, under the direction of the Ombudsman, the same duties and exercise the same powers as the Ombudsman, and may employ other support staff as deemed necessary. The Ombudsman and deputies must:

(1) be over the age of 21 years;

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

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

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

Sec. 3-2.7-20. Conflicts of interest. A person may not serve as Ombudsman or as a deputy if the person or the person's immediate family or household member:

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

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

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

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

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

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

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

(a) The Independent Juvenile Ombudsman shall function independently within the Department of Juvenile Justice with respect to the operations of the Office in performance of his or her duties under this Article and shall report to the Governor. The Ombudsman shall adopt rules and standards as may be necessary or desirable to carry out his or her duties. Funding for the Office shall be designated separately within Department funds. The Department shall provide necessary administrative services and facilities to the Office of the Independent Juvenile Ombudsman.

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

(1) review and monitor the implementation of the rules and standards established by the Department of Juvenile Justice and evaluate the delivery of services to youth to

ensure that the rights of youth are fully observed;

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

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

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

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

(4) review or inspect periodically the facilities and procedures of any facility in which a youth has been placed by the Department of Juvenile Justice to ensure that the rights of youth are fully observed; and

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

(c) The following cases shall be reported immediately to

the Director of Juvenile Justice and the Governor:

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

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

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

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

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

(d) Notwithstanding any other provision of law, the Ombudsman may not investigate alleged criminal behavior or violations of the State Officials and Employees Ethics Act. If the Ombudsman determines that a possible criminal act has been committed, or that special expertise is required in the investigation, he or she shall immediately notify the Department of State Police. If the Ombudsman determines that a possible violation of the State Officials and Employees Ethics Act has occurred, he or she shall immediately refer the incident to the Office of the Governor's Executive Inspector General for investigation. If the Ombudsman receives a complaint from a youth or third party regarding suspected abuse or neglect of a child, the Ombudsman shall refer the incident to the Child Abuse and Neglect Hotline or to the State Police

as mandated by the Abused and Neglected Child Reporting Act. Any investigation conducted by the Ombudsman shall not be duplicative and shall be separate from any investigation mandated by the Abused and Neglected Child Reporting Act. All investigations conducted by the Ombudsman shall be conducted in a manner designed to ensure the preservation of evidence for possible use in a criminal prosecution.

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

(1) review court files of youth;

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

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

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

(5) perform other acts, otherwise permitted or required by law, in furtherance of the purpose of the Office.

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

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

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

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

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

(2) is confidential and privileged.

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

(c) The Department shall allow the Ombudsman and deputies to participate in professional development opportunities provided by the Department of Juvenile Justice as practical and to attend appropriate professional training when requested by the Ombudsman.

(d) The Department shall provide the Ombudsman copies of critical incident reports involving a youth residing in a facility operated by the Department. Critical incidents include, but are not limited to, severe injuries that result in hospitalization, suicide attempts that require medical

intervention, sexual abuse, and escapes.

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

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

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

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

(1) the work of the Ombudsman;

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

(3) any recommendations that the Independent Juvenile Ombudsman has relating to a systemic issue in the Department of Juvenile Justice's provision of services and any other matters

for consideration by the General Assembly and the Governor.

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

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

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

Sec. 3-2.7-45. Confidentiality. The name, address, or other personally identifiable information of a person who files a complaint with the Office, information generated by the Office related to a complaint or other activities of the Office, and confidential records obtained by the Office are not

subject to disclosure under the Freedom of Information Act. The Office shall disclose the records only if required by court order on a showing of good cause.

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

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

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

(2) purpose of the Office;

(3) how the Office may be contacted;

(4) the confidential nature of communications; and

(5) the services the Office provides.

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

Sec. 3-2.7-55. Access to information of governmental entities. The Department of Juvenile Justice shall provide the Independent Juvenile Ombudsman unrestricted access to all master record files of youth under Section 3-5-1 of this Code. Access to educational, social, psychological, mental health, substance abuse, and medical records shall not be disclosed except as provided in Section 5-910 of the Juvenile Court Act of 1987, the Mental Health and Developmental Disabilities Confidentiality Act, the School Code, and any applicable federal laws that govern access to those records.

Section 99. Effective date. This Act takes effect upon

Public Act 098-1032

SB2352 Enrolled

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becoming law.