



**House
Legislative
Analysis
Section**

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**GENERAL REVISIONS TO
CHILDREN'S OMBUDSMAN ACT**

**House Bill 4096 (Substitute H-4)
First Analysis (6-3-03)**

**Sponsor: Rep. Lauren Hager
Committee: Family and Children
Services**

THE APPARENT PROBLEM:

Public Act 204 of 1994 created the Office of Children's Ombudsman as an autonomous agency charged with the responsibility for independently investigating complaints regarding children under the supervision of the Family Independence Agency (FIA) and other private child placing agencies. Specifically, the acts states that the office was created "as a means of monitoring and ensuring compliance with relevant statutes, rules, and policies pertaining to children's protective services and the placement, supervision, and treatment of children in foster care and adoptive homes" (MCL 722.923). The office was established amid concerns that confidentiality laws regarding children in the child welfare system, while designed to protect the identities of such children, may have served to effectively prohibit outside investigatory entities from reviewing the action or inaction of the Family Independence Agency or its contracted private child placing agencies in certain cases where the conduct of the department or agencies, or their employees, was called into question.

Chief among its statutory duties, the office is permitted to act upon its own initiative or upon the receipt of a complaint from certain individuals, and investigate an action (or inaction) of the FIA or child placing agency that is alleged to be contrary to a law, rule, policy of the department, or policy of the agency that is imposed without an adequate statement of reason, or based on irrelevant, immaterial, or erroneous grounds.

As of the issuance of its 2001 annual report, the Office of Children's Ombudsman had completed 1,533 investigations since it was officially established on January 1, 1995. For the 2000-2001 fiscal year, the office received 815 complaints, involving 1,274 children from 76 counties throughout the state. Of the complaints received, the office opened 158 investigations. These investigations include 84 complaints involving protective services, 35

complaints involving foster care, 13 complaints involving adoption services, and 26 complaints involving more than one area of concern. During the same period, the office concluded 166 investigations. Of the concluded investigations, the office affirmed the actions of the FIA or the child placing agency in 86 cases and found violations in the remaining 80 cases. Based on its findings during each investigation, the office issues its finding and recommendations, which are then circulated among the ombudsman, the investigative team, and the FIA or the agency involved.

Recently, there has been some discussion regarding the duties and responsibilities of the office. Much of this discussion has come about due to the findings during the previous legislative session of the House Committee on Family and Children Services' subcommittee on Child Protective Services, chaired by Representative Hager. The subcommittee was charged with the responsibility of examining child protective services in the state, and was established, in part, as a response to a series of articles in the *Detroit Free Press*, which originally appeared December 4-8, 2000, that chronicled the murder of 2-year-old Ariana Swinson at the hands of her abusive parents. As the committee report states, the *Free Press* series, "highlighted what appeared to be a series of bureaucratic miscues by the state's child protection machinery, composed of the Family Independence Agency and the courts".

Among its findings and recommendations, the subcommittee report noted the importance of maintaining accountability in child protection matters. This would be achieved, in part, through reinforcing and guaranteeing the Office of Children's Ombudsman's independence from the executive branch. Legislation has been introduced that incorporates the findings of the Child Protective Services subcommittee.

House Bill 4096 (6-3-03)

THE CONTENT OF THE BILL:

The bill would amend several provisions regarding the Office of Children's Ombudsman relating to the appointment process; complaint process; powers and duties of the ombudsman; conduct of investigations; confidentiality and disclosure of information; and report of findings. The bill would also add that, in addition to those duties prescribed in current law, the office would be established as a means of effecting changes in policy, procedures, and legislation; educating the public; and investigating and reviewing actions of state agencies or entities receiving state funding.

Appointment. Under current law, the ombudsman is appointed by, and serves at the will of, the governor. The bill would amend the appointment process so that the governor, with the advice and consent of the Senate, would appoint a children's ombudsman. The person would be chosen from a list, submitted to the governor, of at least three individuals decided upon by a 13-member nominating committee, and would have to be duly qualified to perform the duties of the children's ombudsman. For an appointment made during the tenure of the governor serving on the effective date of the bill, the list of recommendations would include the name of the individual currently serving as the children's ombudsman.

If the office were to become vacant, a nominating committee would form and recommend candidates for the position in the same manner as above. The committee would have to submit a list of at least three candidates for the position, ranked in order of preference, not more than 60 days after a vacancy occurs.

Not more than 60 days after the committee submits its recommendations, the governor would have to appoint an individual (from the list of recommendations submitted by the committee) to fill the vacancy. An appointment to fill a vacancy would also be subject to the advice and consent of the Senate. If the governor failed to appoint a person to fill the vacancy, the individual who ranked the highest among the committee's recommendations would be appointed to the position of Children's Ombudsman.

In addition, the governor would be permitted to remove the ombudsman from office for cause that would include, though would not be limited to, incompetence, official misconduct, habitual or willful neglect of duty, or any other misfeasance or malfeasance in connection with the operation of the

office. Furthermore, the bill would require the governor to report to the legislature the reason for removing the ombudsman from office. However, the individual serving as the children's ombudsman on the bill's effective date would continue to serve at the pleasure of the governor.

Complaints. Current law lists several individuals who may file a complaint with the ombudsman. These individuals include the child, a biological parent, a foster parent, a current or prospective adoptive parent, a legal guardian, a guardian ad litem, an adult relative within the fifth degree of consanguinity, a state legislator, and an attorney for any of the above individuals (except for a legislator). The bill simply states that *any* individual could make a complaint to the ombudsman.

The act also states that the listed individuals may file a complaint alleging that an administrative action taken by the FIA, an adoption attorney, or child placing agency is contrary to law, rule or policy; imposed without an adequate statement of reason; or based on irrelevant, immaterial, or erroneous grounds. The bill would allow an individual to file a complaint with the ombudsman if the subject matter falls within the duties and powers of the ombudsman. The ombudsman would have the sole discretion and authority to determine if a complaint falls within his or her duties and powers.

Similar to current law, the bill would allow the ombudsman to conduct an investigation without receiving a complaint, and to define the scope, duration, and issues considered as part of the investigation. The bill would add that during the course of an investigation, the ombudsman could refer a case to the FIA if he or she determined that the FIA received a report on the case, but did not conduct a field investigation. If the ombudsman were to refer a case to the department, the department would be required to conduct a field investigation of the case and report its findings to the ombudsman.

Duties of the Ombudsman. The bill states that the ombudsman would be required to do all of the following:

- Pursue all necessary action, including but not limited to legal action, to protect the rights and welfare of each child or the class of children under the jurisdiction of the FIA, the Michigan Children's Institute, the family division of the circuit court, a child caring institution, or a child placing agency.

- Pursue all possible legislative advocacy in the best interest of children.
- Review the policies and procedures relating to the FIA's involvement with children and make recommendations.
- Investigate each child's death that may have resulted from child abuse or child neglect.

In cases of abuse or neglect, the ombudsman could access, inspect, and copy all records and reports necessary to carry out his or her duties. These records could include, though would not be limited to, the records of the FIA, a child placing agency, and the family court, including those otherwise made confidential by law; medical records; medical examiner records; mental health records; and school records.

The bill provides that, with certain exceptions, the bill would permit the ombudsman to access records and reports necessary to carry out the office's responsibilities, to the same extent and in the same manner as provided to the FIA under the Child Protection Law. The ombudsman would be provided access to medical records and mental health records in the same manner as provided to the FIA under the Public Health Code and the Mental Health Code, respectively.

In addition, the ombudsman could issue a subpoena requiring a person to produce a record or report. If a person who was subpoenaed failed to produce the record, the ombudsman could petition the court for the enforcement of the subpoena. [Note: *This provision would be repealed five years after the bill's effective date.*]

The act permits the ombudsman to make recommendations to the governor. The bill would specify that the ombudsman would be allowed to make such recommendations without prior review by other offices, departments, or agencies within the executive branch, in order to facilitate rapid implementation of recommendations or for suggested improvements to the recommendations. Further, no other office, department, or agency could obstruct the ombudsman in releasing a recommendation to the governor or the legislature.

In addition, the bill would delete two provisions pertaining to actions by an adoption attorney. The first provision provides the ombudsman may conduct a preliminary investigation to determine whether an adoption attorney may have acted contrary to law,

rule, or standards of professional conduct. The second provision provides that that if a preliminary investigation leads the ombudsman to believe that the subject matter may involve the misconduct by an adoption attorney, the ombudsman may refer the complaint to the attorney grievance commission of the state bar.

Investigations. Under the act, if a person files a complaint against a child placing agency, the ombudsman is required to refer the matter to the FIA. The bill states that the ombudsman would refer to matter to the Department of Consumer and Industry Services.

The bill would delete a provision that allows the ombudsman to file a petition on behalf of a child requesting the court to take jurisdiction (see MCL 712A.2) or a petition for the termination of parental rights (see MCL 712A.19b) if he or she is satisfied that the complainant has contacted the FIA, the prosecuting attorney, the child's attorney, and the child's guardian ad litem, if any, and that none of the above persons intended to file the same petition. The bill would say that the ombudsman could take any legal action that he or she considers appropriate to protect a child.

In addition, the bill provides that if the ombudsman conducts an investigation, he or she would be required to use protocols and tools substantially similar to those used by the FIA. Staff of the office would be required to undergo training in those protocols and tools prior to conducting a field investigation.

Duties of the FIA and a child placing agency. The bill would add that upon the request of the ombudsman, the FIA and a child placing agency would be required to provide any requested information within five business days. The bill would allow the attorney general to take necessary action to require that the information is provided to the ombudsman. The FIA would also be required to provide the ombudsman, in his or her own office, access to the departmental computer networks, unless otherwise prohibited by federal law, or the release of the information would jeopardize federal funding.

Disclosure. All information obtained or gathered by the ombudsman would be confidential and exempt from disclosure under the Freedom of Information Act (Public Act 442 of 1976), would not be subject to a court subpoena, and would not be discoverable in a legal proceeding. However, the ombudsman could release information regarding the FIA's actions in a

case under the Child Protection Law or generated during the course of an investigation to a complainant or to a closed session of a legislative committee that has jurisdiction over family and children's issues.

Unless otherwise part of a public record, the ombudsman would be prevented from releasing to the general public any confidential information on a parent or child relating to mental health evaluations or treatments; evaluations or treatments of a substance-abuse related disorder; medical diagnoses or treatments; domestic violence-related or sexual assault services. However, the ombudsman could disclose such information to a court or a public or private agency that is responsible for the welfare of the child, if the disclosure would be necessary to identify, prevent, or respond to child abuse or child neglect. Nonetheless, the ombudsman could not disclose the address, telephone number, or other information regarding the whereabouts of a victim of suspected victim of domestic violence, unless otherwise ordered by the court.

The ombudsman could disclose information generated or obtained by the office if he or she determined that doing so was in the public interest or was necessary to enable him or her to perform his or her duties. If the ombudsman determined that the disclosure was necessary to identify, prevent, or treat an abused or neglected child, the ombudsman could disclose such information to the appropriate agency responsible for the child's welfare. The ombudsman would be prohibited from disclosing any confidential information that pertains to an active law enforcement investigation.

The ombudsman would be prohibited from disclosing the identity of an individual making a complaint of child abuse or child neglect under the Child Protection Law without prior written permission from that individual or upon a court order. The ombudsman would also be prohibited from disclosing information regarding an ongoing law enforcement investigation or child protective services investigation. The ombudsman could, however, release the identity of an individual who intentionally makes a false report of child abuse or child neglect under the Child Protection Law.

Report of Findings. The bill specifies that a report by the ombudsman would not be subject to prior approval by a person outside of the office. In addition, the bill would delete a requirement that the ombudsman consult with an individual, the FIA, or a child placing agency prior to announcing a conclusion or recommendation that criticizes the

individual, the FIA, or the child placing agency, and that the report include a response from the FIA or agency.

The act requires the ombudsman to provide the complainant with a copy of his or her recommendation regarding a complaint. The bill would permit (though not require) the ombudsman to provide the individual filing the complaint with a copy of the ombudsman's report of findings, recommendations to the department, the department's response; any information that has been made public; and any confidential information, but only the extent that that release of confidential information is necessary to enable the complainant to take action to protect the child from abuse or neglect. However, the ombudsman would be prohibited from releasing to the complainant, any information that would endanger the health or welfare of the child or other individual.

Repeals. The bill would repeal section 13 (MCL 722.933), which requires the ombudsman to maintain a registry of adoption attorneys. Section 6(d) (MCL 722.926(d)), pertaining to the subpoena power of the ombudsman, would be repealed five years after the bill's effective date. The bill would also repeal sections 14 and 15 (MCL 722.934 and 722.935), concerning the current act's effective date and tie-bars to other legislation enacted in 1994.

MCL 722.922 et al.

BACKGROUND INFORMATION:

Confidentiality of Child Abuse or Neglect Records. Under the Child Protection Law (Public Act 238 of 1975), unless made public by a decision of the FIA director, a written report, document, or photograph filed with the FIA in relation to a matter of alleged child abuse is confidential and may only be disclosed to certain individuals including, among others, police or law enforcement agencies; a physician treating the child; a person legally authorized to place a child in protective services; a person named in the report or record as the perpetrator or alleged perpetrator; a court; a grand jury; a legislative committee with jurisdiction over protective services; a child care regulatory agency; and the children's ombudsman (MCL 722.627). The Child Protection Law (MCL 722.627d) permits the director upon his or her initiative, or upon a written request, to release specific information if there is clear and convincing evidence that either of the following is true:

- The release of such information is in the best interest of the child to whom the specified information relates.

- The release of such information is not in conflict with the best interest of the child and one or more of the following is true:

--The release is in the best interest of a member of the child's family or of an individual who resides in the same home as the child.

--The release clarifies actions taken by the department on a specific case.

--The report or record concerns a child who has died or concerns a member of that child's family.

--All or part of the report or record is publicly disclosed in a judicial proceeding.

--A complaint or investigation to which the report or record pertains has been part of the subject matter of a published or broadcast media story.

--The report or record concerns a substantiated report of sexual abuse, serious injury, or life threatening harm involving the child or a sibling or the child identified in the request.

In addition, the law prohibits the FIA director from denying a request for specific information based on a desire to shield a lack of or an inappropriate performance by the department (MCL 722.627e).

Complaint Process and Investigative Procedures.
The following is based on the complaint/investigative process of the office as described in the office's 2001 annual report.

Upon receiving a complaint, it is classified into one of three categories: inquiries, referrals, and valid complaints. Inquiries are complaints that do not involve child protective services, foster care, or adoption services, but often concern custody matters and child support problems. Referrals are complaints that concern a child involved with child protective services, foster care, or adoption services, but the concern really involved an aspect of the child welfare system other than the FIA or a private agency, providing the ombudsman with no authority to investigate. Valid complaints are those complaints that fall within the strictures of the Children's Ombudsman's Act. However, not all valid complaints result in an open investigation.

Once an investigation is opened, a letter is sent to the complainant informing him or her that a case will be reviewed. The goals of the investigation are established by the intake investigator and the ombudsman. Generally, the investigation focuses on, though is not limited to, the issues raised by the complainant. Investigations include an extensive review of the case file, interviews with agency or FIA personnel and other interested parties, court appearances, case conferences, and consultation with outside experts.

When the investigation is completed, the ombudsman will affirm or disaffirm the actions of the FIA or agency. If the ombudsman affirms the actions of the agency or the FIA, it notifies the agency or the FIA, and the complainant. If it is determined that the agency or the FIA did not comply with the applicable laws, the ombudsman issues a draft report of findings and recommendations to the FIA or the agency, which then have 60 days to respond. The complainant then receives a letter indicating that the case has been closed, and includes the ombudsman's recommendations, the agency's or FIA's response, and any corrective actions taken by the FIA or the agency.

FISCAL IMPLICATIONS:

In an analysis of a similar bill in the 2001-2002 legislative session, the House Fiscal Agency reported that, given that the bill does not require action on the part of the ombudsman, but only authorizes it, the bill would have no fiscal impact to the state. If the ombudsman were to exercise the expanded duties and powers authorized by the bill, additional costs to the state would occur. The amount of the costs is indeterminate and would depend on the actions of the ombudsman. (HFA analysis of House Bill 4967 of 2001-2002 dated 9-25-02)

ARGUMENTS:

For:

Under current law, the children's ombudsman is designed to be an "autonomous entity" that ensures compliance with relevant statutes, rules, and policies pertaining to children's protective services through its role as a watchdog of the state's Family Independence Agency and contracted private agencies. However, given the current provisions regarding the appointment of the ombudsman, it appears to some people that there is reason to question the independence of the office.

First, the ombudsman is appointed by, and serves at the pleasure of, the governor. Indeed, the second person to hold the position had previously served as the governor's human services policy coordinator. While in no way questioning that person's integrity or qualifications for the position, or the office's operations during that time, it is that sort of situation that clouds the oversight capacity of the office. By virtue of the ombudsman's status as a gubernatorial appointee, he or she is placed in the precarious position of having to be critical of the FIA and, ultimately, the administration to which the ombudsman belongs. Due to this relationship, it appears, on the surface, that the children's ombudsman may not investigate the actions of the FIA as critically or as thoroughly as he or she should, due to loyalty or for fear of retribution or retaliation.

Second, due to the fact that the office and the FIA both fall under the control of the executive office, it appears that the relationship between the two offices has a propensity to become too "comfortable". This, in turn, compromises the impartiality and investigatory role of the ombudsman's office, and fails to ensure proper oversight of the department's actions. While one would certainly want the two offices to work together to some degree, there should exist a certain amount of tension between the two offices to ensure that the findings and recommendations of the office carry enough weight to impact the decisions, policies, and procedures of the FIA.

As an oversight agency, the ombudsman's office should be granted enough independence to thoroughly investigate the actions or inaction of the FIA without undue influence from the department or the executive office, and be granted adequate authority to ensure that its findings and recommendations are taken into consideration and addressed by the department.

For these objectives to be accomplished, the office should be removed from the direct control of the governor. Rather than having the ombudsman being appointed by, and serving at the pleasure of, the governor, the ombudsman, under the provisions of the bill, would be appointed by the governor, with the consent of the Senate, chosen from a list submitted by a nominating committee, and removed from office only upon the showing of good cause. The nominating committee would be composed of a diverse group of individuals with intimate knowledge of the workings of the child welfare system who could offer a unique insight as to the type of person that would effectively serve as the ombudsman.

Furthermore, removing the governor from direct control over the hiring and firing of the ombudsman ensures that the office can operate with a certain degree of separation and independence from the executive branch.

Against:

If the intent of the bill is to ensure the independence of the ombudsman, the office should be established within the Legislative Council in a manner similar to that of the Legislative Corrections Ombudsman, created under Public Act 46 of 1975. Under that act, the corrections ombudsman is appointed by, and serves at the pleasure of, the council. Also, under Senate Bill 723 of the 1993-1994 session - the bill that originally established the ombudsman's office - the office was to have been established within the Legislative Council (see Senate Bill 723 of 1993-94, as introduced). Under House Bill 4096, the children's ombudsman would, ultimately, remain a gubernatorial appointee, which still fails to ensure the true independence of the office. Finally, the bill grants the governor the sole authority to remove the ombudsman from office. The governor only is required to report the reason for such removal to the legislature. If the legislature finds that the ombudsman was unjustly removed from office, there are no provisions in the bill to overturn the governor's action.

Response:

The bill's provisions pertaining to the appointment of the ombudsman would provide adequate assurances that the office would remain independent of the executive branch. The current system for appointing the ombudsman is problematic because the governor is granted an unfettered discretion over the hiring and firing of the ombudsman. The bill does not grant the governor with direct control over the appointment of the ombudsman.

For:

The bill would permit any individual to file a complaint with the ombudsman. Current law lists several individuals who may file a complaint with the ombudsman, including the child, a biological parent, a foster parent, a current or prospective adoptive parent, a legal guardian, a guardian ad litem, an adult relative within the fifth degree of consanguinity, a state legislator, and an attorney for any of the above individuals (except for a legislator). However, current law does not permit a neighbor, schoolteacher, or any other responsible adult who may have regular contact with a child to file a complaint directly with the office. Anyone not explicitly stated as a possible complainant would

have to first contact their state representative or hope that the situation is brought to the attention of the office to prompt it to open an investigation on its own. Permitting any individual to file a complaint with the ombudsman is necessary to ensure the protection, safety, and well-being of children within the child welfare system.

For:

The bill clarifies the ability to investigate actions *not* taken by the department. Under current law, the ombudsman is permitted to investigate an act that is alleged to be contrary to a law, rule, policy, or procedure. It has been the practice of previous ombudsmen to also investigate a failure to take an action, based on the fact that not taking an action still requires an administrative act or decision. However, in these instances, it has been asserted by some that the ombudsman lacked the authority to investigate a case in which an action was not taken, which then hinders the ombudsman to thoroughly investigate a matter. The bill ensures that the ombudsman has the clear authority to investigate cases in which an action was not taken by the department. This, too, ensures the safety and protection of children involved in the child welfare system.

For:

The bill also strengthens and clarifies the duties and responsibilities of the ombudsman. Under current law the duties of the ombudsman include investigating an administrative act of the department; determining whether to investigate a complaint; investigating an action of an adoption attorney; holding informal hearings; and making recommendations to the governor and the legislature. The bill adds several duties that will ensure the safety and protection of children, by permitting the ombudsman to take certain affirmative actions. The bill requires the ombudsman to take the steps necessary to protect the rights and welfare of each child in the child welfare system, and to pursue all necessary legal action to safeguard the welfare of a child in the child welfare system. These added responsibilities grant clear authority to the ombudsman to remove children residing in a dangerous environment, notwithstanding any actions or determinations by the department and the courts.

Against:

As written, the bill severely limits the disclosure of any information obtained by the ombudsman. Under the bill, all information obtained or generated by the office would be confidential and exempt from disclosure under the Freedom of Information Act, not

subject to a court subpoena, and not discoverable in a legal proceeding. While the bill contains certain exceptions for disclosure of such information to the complainant or a closed session of a legislative committee, or if disclosure would be necessary to identify, prevent, or respond to child abuse or neglect (in which case such information would only be disclosed to a court or the public or private agency responsible for the welfare of that child), the bill fails to provide one additional, and highly important, exception: the interest of the public. Indeed, previous versions of the bill had stated that otherwise confidential information could be disclosed if such a disclosure was in the “general public interest”. Permitting otherwise confidential information to be made public - pursuant to a court order, for instance - provides for a certain amount of public accountability and oversight; a watchdog over the watchdog, if you will. This is not to say that the public should be granted free and unfettered access to every morsel of information in every case, as certainly limitations would have to be in place; rather, it creates a certain amount of tension and anxiety (in a good way) within the child protection system. Just as one would expect the actions of the FIA and its private contracted agencies to improve with the possibility of having those actions second-guessed (after the fact) by the Office of Children’s Ombudsman, providing for public disclosure of otherwise confidential information in select instances (presumably, the most egregious of cases) could very well improve not only the operations of the office, but also improve the ombudsman’s relations with the administration and the FIA and its private contracted agencies, the actions of the FIA and private agencies, and the child welfare system as a whole. For instance, one of the chief concerns about the current process is the relationship between the ombudsman and the administration (including the FIA). While in no way insinuating that it occurs, some believe that the ombudsman could be unduly influenced by the administration or department to withhold any damning evidence and strong criticisms of the department. Public disclosure of the ombudsman’s records would permit the public (including a myriad of child advocacy organizations) to view those records and offer their own “unbiased” findings. While the bill goes to great lengths to strengthen the authority and independence of the office, in reality, it is just another cog in the machine that is the child welfare system, and is subject to its own set of problems, similar to those which continue to plague the FIA. Public disclosure helps guard against any unprincipled or substandard behavior on the part of the children’s ombudsman and the FIA and its contracted private agencies.

Response:

Given the increased access provided to the children's ombudsman to review delicate information, the prospects of full public disclosure on a case under investigation by the office could have a chilling affect on the child protection system. In addition, under current state and federal law, confidential child protection records may be disclosed in the best interests of the *child*. To that end, any disclosure of confidential information should be disclosed to the public, only if it is in the child's best interest, and even in those instances, such information would have to be carefully censored so as to protect the identities of those individuals involved in the matter.

For:

In written testimony provided to the Committee on Family and Children Services, the Office of Children's Ombudsman provided the following comments on an earlier, though substantially similar, version of the bill:

- "In section 4(2), we support the provision that would allow any person to file a complaint with OCO. We currently open investigations in cases where it seems appropriate, even if the complainant is not a listed person, by listing the Ombudsman as the complainant."
- "We strongly support language in Section 4(4) that gives the Ombudsman sole discretion to determine whether a complaint falls within his or her duties and powers to investigate and to refer cases immediately to the department for investigation or action. We use a process much like the one described in this section and find it a valuable mechanism for protecting children."
- "We strongly support language in Section 6(f) that gives OCO authority to make recommendations to the governor and legislature without review by any other entity in the executive branch."
- "In Section 7, we support language removing responsibility from OCO for reviewing the work of adoption attorneys."
- "We strongly support language in Section 8(3) that would give OCO access to FIA computer systems including the Central Registry, SWSS, and CIMS. We are pleased to report that the Department also supports this language, and we are engaged in discussion with FIA regarding the implementation of this section."

- "We strongly support language in Sec. 11 that assures the ability of OCO to accomplish its work and issue reports without the review of other parties."

Against:

In written testimony regarding the provision in Section 5 that provides the children's ombudsman with the authority to investigate each child's death that may have resulted from child abuse or child neglect, the children's ombudsman notes, "[t]he language in Section 5(d) is somewhat confusing. Our role is to determine whether FIA or child-placing agency followed law and policy regarding children who are in Child Protective Services, Foster Care or Adoption services. We are neither charged nor empowered to conduct a criminal investigation of a child's death. It is also the case that not every child whose death may have resulted from abuse or neglect was in one of the programs over which we have responsibility. OCO already has authority to open a case on any child in the child welfare system, and the proposed language may duplicate the function of Child Death Review Teams."

POSITIONS:

The Office of Children's Ombudsman is supportive of the bill, but has concerns regarding the confidentiality provisions. (5-30-03)

Michigan's Children supports the concept of the bill. (5-30-03)

The National Association of Social Workers, Michigan Chapter, supports the bill. (6-2-03)

The National Alliance for Parents and Families provided written testimony in support of the bill. (5-28-03)

The Michigan Press Association opposes the bill in its current form due to a lack of disclosure and oversight regarding the confidentiality provisions. (5-30-03)

Analyst: M. Wolf

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.