

HOUSE BILL NO. 5248

November 13, 2019, Introduced by Reps. Hall, Schroeder, LaFave, Steven Johnson, Webber, LaGrand, Camilleri, Crawford and Liberati and referred to the Committee on Families, Children, and Seniors.

A bill to amend 1994 PA 204, entitled
"The children's ombudsman act,"
by amending section 9 (MCL 722.929), as amended by 2013 PA 38.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 9. (1) Subject to subsections (2) through (7) **and except**
2 **as provided in subsection (8)**, a record of the children's
3 ombudsman's office is confidential, shall only be used for purposes
4 set forth in this act, is not subject to court subpoena, and is not
5 discoverable in a legal proceeding. A record of the children's



1 ombudsman's office is exempt from disclosure under the freedom of
2 information act, 1976 PA 442, MCL 15.231 to 15.246. If the
3 ombudsman identifies action or inaction by the state, through its
4 agencies or services, that failed to protect children, the
5 ombudsman shall provide his or her findings and recommendations to
6 the agency affected by those findings, and make those findings and
7 recommendations available to the complainant, ~~and~~ the legislature
8 upon request, **and the public upon request**, to the extent consistent
9 with state or federal law. The ombudsman ~~shall~~**must** not disclose
10 any information that impairs the rights of the child or the child's
11 parents or guardians.

12 (2) The ombudsman may release information to a complainant or
13 to a closed session of a legislative committee that has
14 jurisdiction over family and children's services issues regarding
15 the department's handling of a case under the child protection law
16 that is obtained or generated during an investigation conducted by
17 the office.

18 (3) Unless otherwise part of the public record, the office
19 ~~shall~~**must** not release any of the following confidential
20 information to the general public:

21 (a) Records relating to mental health evaluation or treatment
22 of a parent or child.

23 (b) Records relating to the evaluation or treatment of a
24 substance ~~abuse-related~~**use** disorder of a parent or child.

25 (c) Records relating to medical diagnosis or treatment of a
26 parent or child.

27 (d) Records relating to domestic violence-related services and
28 sexual assault services provided to a parent or child.

29 (e) Records relating to educational services provided to a



1 parent or child.

2 (4) Notwithstanding subsection (3), if the ombudsman
3 determines that disclosure of confidential information is necessary
4 to identify, prevent, or respond to the **child** abuse or **child**
5 neglect of a child, the ombudsman may disclose information in his
6 or her possession to the department, a court, a law enforcement
7 agency, or a prosecuting attorney investigating a report of known
8 or suspected child abuse or child neglect. The ombudsman shall not
9 release the address, telephone number, or other information
10 regarding the whereabouts of a victim or suspected victim of
11 domestic violence unless ordered to by a court.

12 (5) Except as provided in subsection (4), the ombudsman shall
13 not disclose information relating to an ongoing law enforcement
14 investigation or an ongoing children's protective services
15 investigation. The ombudsman may release the results of its
16 investigation to a complainant, or an individual not meeting the
17 definition of complainant, if the ombudsman receives notification
18 that releasing the results of its investigation is not related to
19 and will not interfere with an ongoing law enforcement
20 investigation or ongoing child protective services investigation.

21 (6) The ombudsman shall not disclose the identity of an
22 individual making a child abuse or child neglect complaint under
23 the child protection law unless that individual's written
24 permission is obtained first or a court has ordered the ombudsman
25 to release that information.

26 (7) The ombudsman may release an individual's identity who
27 makes an intentionally false report of child abuse or child neglect
28 under the child protection law.

29 **(8) At the end of an investigation conducted by the office**



1 under this act, the ombudsman may release his or her findings and
2 recommendations to the public. The ombudsman shall redact
3 confidential information, including, but not limited to,
4 information described in subsection (3) and any other material as
5 the ombudsman considers appropriate.

