

FIRST REGULAR SESSION

SENATE BILL NO. 43

92ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR DOUGHERTY.

Pre-filed December 1, 2002, and 1,000 copies ordered printed.

TERRY L. SPIELER, Secretary.

0488S.011

AN ACT

To amend chapter 660, RSMo, by adding thereto five new sections relating to children's protection and services, with penalty provisions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Chapter 660, RSMo, is amended by adding thereto five new sections, to be known as sections 660.700, 660.703, 660.706, 660.709, and 660.720, to read as follows:

660.700. As used in sections 660.700 to 660.709, the following terms mean:

- (1) "Department", the department of social services;
- (2) "Office", the office of the state ombudsman for children's protection and services;
- (3) "Ombudsman", the state ombudsman for the office of the state ombudsman for children's protection and services within the department of social services;
- (4) "Recipient", any child who is receiving services from the department of social services.

660.703. 1. There is hereby established within the department of social services the "Office of State Ombudsman For Children's Protection and Services", for the purpose of assuring that children receive adequate protection and care from services and programs offered by the department of social services.

2. The office shall be administered by the state ombudsman, who shall devote his or her entire time to the duties of his or her position.

3. The office shall establish and implement procedures for receiving, processing, responding to, and resolving complaints made by or on behalf of children of the department's services relating to action, inaction, or decisions of providers, or

their representatives, of public agencies or of social service agencies, which may adversely affect the health, safety, welfare, or rights of such recipient.

4. The department shall establish and implement procedures for resolution of complaints. The ombudsman or representative of the office shall have the authority to:

(1) Enter any facility operated by the department and have access to children residing in such facility at a reasonable time and in a reasonable manner. The ombudsman shall have access to review recipient records, if given permission by the recipient or the recipient's legal guardian;

(2) Make the necessary inquiries and review such information and records as the ombudsman or representative of the office deems necessary to accomplish the objective of verifying these complaints.

5. The office shall acknowledge complaints, report its findings, make recommendations, gather and disseminate information and other material, and publicize its existence.

6. The ombudsman may recommend to the relevant governmental agency changes in the rules and regulations adopted or proposed by such governmental agency which do or may adversely affect the health, safety, welfare, or civil or human rights of any recipient. The office shall analyze and monitor the development and implementation of federal, state and local laws, regulations, and policies with respect to services in the state and shall recommend to the department changes in such laws, regulations, and policies deemed by the office to be appropriate.

7. The office shall promote community contact and involvement with recipients through the use of volunteers and volunteer programs directed by the ombudsman.

8. The office shall develop and establish by regulation of the department statewide policies and standards for implementing the activities of the ombudsman program, including the qualifications and the training of ombudsman volunteers.

9. The office shall develop and propose programs for use, training, and coordination of volunteers in conjunction with the ombudsman and may:

(1) Establish and conduct recruitment programs for volunteers;

(2) Establish and conduct training seminars, meetings, and other programs for volunteers; and

(3) Supply personnel, written materials, and such other reasonable assistance, including publicizing their activities, as may be deemed necessary.

10. The office shall prepare and distribute to each facility written notices which set forth the address and telephone number of the office, a brief explanation of the function of the office, the procedure to follow in filing a complaint, and other

pertinent information.

11. The office shall inform recipients, their guardians, or their families of their rights and entitlements under state and federal laws and rules and regulations by means of the distribution of educational materials and group meetings.

660.706. 1. Any files maintained by the ombudsman program shall be disclosed only at the discretion of the ombudsman having authority over the disposition of such files, except that the identity of any complainant or recipient shall not be disclosed by such ombudsman unless:

(1) Such complainant or recipient, or the complainant's or recipient's legal representative, consents in writing to such disclosure; or

(2) Such disclosure is required by court order.

2. Any representative of the office conducting or participating in any examination of a complaint who shall knowingly and willfully disclose to any person other than the office, or those authorized by the office to receive it, the name of any witness examined or any information obtained or given upon such examination, shall be guilty of a class A misdemeanor. However, the ombudsman conducting or participating in any examination of a complaint shall disclose the final result of the examination with the consent of the recipient.

3. Any statement or communication made by the office relevant to a complaint received by, proceedings before, or activities of the office and any complaint or information made or provided in good faith by any person, shall be absolutely privileged and such person shall be immune from suit.

4. The office shall not be required to testify in any court with respect to matters held to be confidential in this section except as the court may deem necessary to enforce the provisions of sections 660.700 to 660.709, or where otherwise required by court order.

660.709. 1. Any program staff, whether an employee or an unpaid volunteer, shall be treated as a representative of the office. No representative of the office shall be held liable for good faith performance of his official duties under the provisions of sections 660.700 to 660.709 and shall be immune from suit for the good faith performance of such duties. Every representative of the office shall be considered a state employee pursuant to section 105.711, RSMo.

2. No reprisal or retaliatory action shall be taken against any recipient or employee of the department for any communication made or information given to the office. Any person who knowingly or willfully violates the provisions of this subsection shall be guilty of a class A misdemeanor.

660.720. 1. There is hereby established within the department of social services

a "Task Force on Children's Justice". The task force is established to benefit and enhance children's lives by recommending improvement of child abuse and neglect laws, policies, programs, professional education, and public awareness, and to provide funding to support these recommendations.

2. The task force shall be composed of professionals with knowledge and experience relating to the criminal justice system and issues of child physical abuse, child neglect, child sexual abuse and exploitation, and child maltreatment related facilities. The task force members shall be appointed by the governor, with the advice and consent of the senate and shall include the following:

- (1) The lieutenant governor;
- (2) The state ombudsman for children's protection and services;
- (3) An individual representing the law enforcement community;
- (4) A judge involved in both civil and criminal court proceedings related to child abuse and neglect;
- (5) An attorney involved in both civil and criminal court proceedings related to child abuse and neglect;
- (6) A court appointed child special advocate;
- (7) A health professional;
- (8) A mental health professional;
- (9) An individual experienced in working with children with disabilities;
- (10) An individual representing a child protective service agency; and
- (11) A parent or representative from a parent's group.

3. The task force shall review and evaluate the state's investigative, administrative, and judicial handling of cases of child abuse and neglect, child sexual abuse and exploitation, cases involving suspected child maltreatment related fatalities, and cases involving a potential combination of jurisdictions, such as interstate and federal-state.

4. The task force shall make policy and training recommendations in each category described in subsection 3 of this section and may make other recommendations as considered relevant.