



April 3, 2009

**ENGROSSED
HOUSE BILL No. 1602**

DIGEST OF HB 1602 (Updated April 1, 2009 2:22 pm - DI 106)

Citations Affected: IC 4-13; IC 31-19; IC 31-25; IC 31-27; IC 31-33; IC 31-39; IC 34-30.

Synopsis: Department of child services ombudsman. Establishes the office of department of child services ombudsman (office) within the department of administration. Provides that the ombudsman is appointed by the governor, serves at the pleasure of the governor, and may employ experts and other employees to carry out the duties of the office. Requires the ombudsman to be an attorney or a person with at least a master's degree in social work. Specifies that the ombudsman may receive, investigate, and attempt to resolve complaints that the department of child services has failed to follow a specific law, rule, or policy, and thereby failed to protect the health or safety of a child. Provides that the ombudsman may review certain records, and prohibits the redisclosure of certain confidential records. Provides that a copy of the office's annual report shall be posted on the department of child services' Internet web site and on any Internet web site maintained by the bureau. Specifies the powers and duties of the office. Provides immunity from civil liability to: (1) persons who release information to the office; and (2) the ombudsman and other employees of the office for the good faith performance of official duties. Makes it a Class A misdemeanor to interfere with an investigation of the office or, under certain conditions, to disclose information about a case before the conclusion of an investigation.

Effective: July 1, 2009.

Brown C, Barnes, Frizzell, Crouch

(SENATE SPONSORS — BRAY, LEISING, LANANE)

January 16, 2009, read first time and referred to Committee on Family, Children and Human Affairs.

February 19, 2009, amended, reported — Do Pass.

February 23, 2009, read second time, amended, ordered engrossed.

February 24, 2009, engrossed.

February 25, 2009, read third time, passed. Yeas 98, nays 0.

SENATE ACTION

March 3, 2009, read first time and referred to Committee on Judiciary.

April 2, 2009, amended, reported favorably — Do Pass; reassigned to Committee on Appropriations.

EH 1602—LS 6007/DI 107+

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April 3, 2009

First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

ENGROSSED HOUSE BILL No. 1602

A BILL FOR AN ACT to amend the Indiana Code concerning family law and juvenile law.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 4-13-1-4, AS AMENDED BY P.L.1-2006,
2 SECTION 63, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2009]: Sec. 4. The department shall, subject to this chapter,
4 do the following:

- 5 (1) Execute and administer all appropriations as provided by law,
6 and execute and administer all provisions of law that impose
7 duties and functions upon the executive department of
8 government, including executive investigation of state agencies
9 supported by appropriations and the assembly of all required data
10 and information for the use of the executive department and the
11 legislative department.
12 (2) Supervise and regulate the making of contracts by state
13 agencies.
14 (3) Perform the property management functions required by
15 IC 4-20.5-6.
16 (4) Assign office space and storage space for state agencies in the
17 manner provided by IC 4-20.5-5.

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- 1 (5) Maintain and operate the following for state agencies:
- 2 (A) Central duplicating.
- 3 (B) Printing.
- 4 (C) Machine tabulating.
- 5 (D) Mailing services.
- 6 (E) Centrally available supplemental personnel and other
- 7 essential supporting services.
- 8 The department may require state agencies to use these general
- 9 services in the interests of economy and efficiency. The general
- 10 services rotary fund is established through which these services
- 11 may be rendered to state agencies. The budget agency shall
- 12 determine the amount for the general services rotary fund.
- 13 (6) Control and supervise the acquisition, operation, maintenance,
- 14 and replacement of state owned vehicles by all state agencies. The
- 15 department may establish and operate, in the interest of economy
- 16 and efficiency, a motor vehicle pool, and may finance the pool by
- 17 a rotary fund. The budget agency shall determine the amount to
- 18 be deposited in the rotary fund.
- 19 (7) Promulgate and enforce rules relative to the travel of officers
- 20 and employees of all state agencies when engaged in the
- 21 performance of state business. These rules may allow
- 22 reimbursement for travel expenses by any of the following
- 23 methods:
- 24 (A) Per diem.
- 25 (B) For expenses necessarily and actually incurred.
- 26 (C) Any combination of the methods in clauses (A) and (B).
- 27 The rules must require the approval of the travel by the
- 28 commissioner and the head of the officer's or employee's
- 29 department prior to payment.
- 30 (8) Administer IC 4-13.6.
- 31 (9) Prescribe the amount and form of certified checks, deposits,
- 32 or bonds to be submitted in connection with bids and contracts
- 33 when not otherwise provided for by law.
- 34 (10) Rent out, with the approval of the governor, any state
- 35 property, real or personal:
- 36 (A) not needed for public use; or
- 37 (B) for the purpose of providing services to the state or
- 38 employees of the state;
- 39 the rental of which is not otherwise provided for or prohibited by
- 40 law. Property may not be rented out under this subdivision for a
- 41 term exceeding ten (10) years at a time. However, if property is
- 42 rented out for a term of more than four (4) years, the

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1 commissioner must make a written determination stating the
2 reasons that it is in the best interests of the state to rent property
3 for the longer term. This subdivision does not include the power
4 to grant or issue permits or leases to explore for or take coal, sand,
5 gravel, stone, gas, oil, or other minerals or substances from or
6 under the bed of any of the navigable waters of the state or other
7 lands owned by the state.

8 (11) Have charge of all central storerooms, supply rooms, and
9 warehouses established and operated by the state and serving
10 more than one (1) agency.

11 (12) Enter into contracts and issue orders for printing as provided
12 by IC 4-13-4.1.

13 (13) Sell or dispose of surplus property under IC 5-22-22, or if
14 advantageous, to exchange or trade in the surplus property toward
15 the purchase of other supplies, materials, or equipment, and to
16 make proper adjustments in the accounts and inventory pertaining
17 to the state agencies concerned.

18 (14) With respect to power, heating, and lighting plants owned,
19 operated, or maintained by any state agency:

- 20 (A) inspect;
- 21 (B) regulate their operation; and
- 22 (C) recommend improvements to those plants to promote
23 economical and efficient operation.

24 (15) Administer, determine salaries, and determine other
25 personnel matters of the department of correction ombudsman
26 bureau established by IC 4-13-1.2-3.

27 (16) Adopt rules to establish and implement a "Code Adam"
28 safety protocol as described in IC 4-20.5-6-9.2.

29 (17) Adopt policies and standards for making state owned
30 property reasonably available to be used free of charge as
31 locations for making motion pictures.

32 **(18) Administer, determine salaries, and determine other**
33 **personnel matters of the department of child services**
34 **ombudsman established by IC 4-13-19-3.**

35 SECTION 2. IC 4-13-19 IS ADDED TO THE INDIANA CODE AS
36 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
37 1, 2009]:

38 **Chapter 19. Department of Child Services Ombudsman**

39 **Sec. 1. As used in this chapter, "child" means a person who:**

- 40 (1) is less than eighteen (18) years of age;
- 41 (2) is at least eighteen (18) years of age at the time the
42 complaint is made but was less than eighteen (18) years of age

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1 at the time of the alleged act or omission that is the subject of
 2 the complaint; or
 3 (3) is at least eighteen (18) years of age but has been under the
 4 continuing jurisdiction of a juvenile court based upon an
 5 informal adjustment, child in need of services action under
 6 IC 31-34, or termination of parental rights action under
 7 IC 31-35 since becoming eighteen (18) years of age.

8 **Sec. 2. As used in this chapter, "ombudsman" means:**

- 9 (1) the person appointed by the governor to serve as
 10 ombudsman; or
 11 (2) an employee or other individual approved by the office of
 12 the department of child services ombudsman to act in the
 13 capacity of ombudsman;

14 to investigate and resolve complaints that allege the department of
 15 child services failed to protect the health and safety of any child or
 16 failed to follow specific laws, rules, or written policies.

17 **Sec. 3. The office of department of child services ombudsman is**
 18 **established as a separate bureau within the department. The**
 19 **ombudsman appointed by the governor shall report directly to the**
 20 **commissioner. The ombudsman appointed by the governor must**
 21 **be an attorney licensed to practice law in Indiana or a social**
 22 **worker with at least a master's degree. The ombudsman appointed**
 23 **by the governor must have significant experience or education in**
 24 **child development and child advocacy, including at least two (2)**
 25 **years experience working with child abuse and neglect.**

26 **Sec. 4. (a) The governor shall appoint the ombudsman. The**
 27 **ombudsman serves at the pleasure of the governor. An individual**
 28 **may not be appointed as ombudsman if the individual has been**
 29 **employed by the department of child services at any time during**
 30 **the preceding twelve (12) months. The governor shall appoint a**
 31 **successor ombudsman not later than thirty (30) days after a**
 32 **vacancy occurs in the position of the ombudsman.**

33 **(b) The office of the department of child services ombudsman**
 34 **may employ technical experts and other employees to carry out the**
 35 **purposes of this chapter. However, the office of the department of**
 36 **child services ombudsman may not hire an individual to serve as**
 37 **an ombudsman if the individual has been employed by the**
 38 **department of child services during the preceding twelve (12)**
 39 **months.**

40 **(c) The ombudsman and any other person employed or**
 41 **authorized by the ombudsman:**

- 42 (1) are subject to the same criminal history and background

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1 checks, to be performed by the department of child services,
 2 that are required for department of child services family case
 3 managers; and
 4 (2) are subject to the same disqualification for employment
 5 criteria as department of child services family case managers.
 6 Sec. 5. (a) The office of the department of child services
 7 ombudsman may receive, investigate, and attempt to resolve a
 8 complaint alleging that the department of child services, by an
 9 action or omission occurring on or after January 11, 2005, failed
 10 to follow a specific law, rule, or department written policy and
 11 thereby failed to protect the health or safety of any child.
 12 (b) The office of the department of child services ombudsman
 13 may also do the following:
 14 (1) Take action, including the establishing of a program of
 15 public education, to secure and ensure the legal rights of
 16 children.
 17 (2) Periodically review relevant policies and procedures with
 18 a view toward the safety and welfare of children.
 19 (3) When appropriate, refer a person making a report of child
 20 abuse or neglect to the department of child services and, if
 21 appropriate, to an appropriate law enforcement agency.
 22 (4) Recommend changes in procedures for investigating
 23 reports of abuse and neglect and overseeing the welfare of
 24 children who are under the jurisdiction of a juvenile court.
 25 (5) Make the public aware of the services of the ombudsman,
 26 the purpose of the office, and information concerning
 27 contacting the office.
 28 (6) Examine policies and procedures and evaluate the
 29 effectiveness of the child protection system, specifically the
 30 respective roles of the department of child services, the court,
 31 the medical community, service providers, guardians ad litem,
 32 court appointed special advocates, and law enforcement
 33 agencies.
 34 (7) Review and make recommendations concerning
 35 investigative procedures and emergency responses contained
 36 in the report prepared under section 10 of this chapter.
 37 (c) Upon request of the office of the department of child services
 38 ombudsman, the local child protection team shall assist the office
 39 of the department of child services ombudsman by:
 40 (1) investigating and making recommendations on a matter;
 41 or
 42 (2) redacting or revising any report to be prepared for the

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1 complainant so that confidentiality laws are maintained.
2 If a local child protection team was involved in an initial
3 investigation, a different local child protection team may assist in
4 the investigation under this subsection.
5 (d) At the end of an investigation of a complaint, the office of the
6 department of child services ombudsman shall provide an
7 appropriate report as follows:
8 (1) If the complainant is a parent, guardian, custodian, court
9 appointed special advocate, guardian ad litem, or court, the
10 ombudsman may provide the same report to the complainant
11 and the department of child services.
12 (2) If the complainant is not a person described in subdivision
13 (1), the ombudsman shall provide a redacted version of its
14 findings to the complainant stating in general terms that the
15 actions of the department of child services were or were not
16 appropriate.
17 (e) The department of child services ombudsman shall provide
18 a copy of the report and recommendations to the department of
19 child services. The office of the department of child services
20 ombudsman may not disclose to:
21 (1) a complainant;
22 (2) another person who is not a parent, guardian, or custodian
23 of the child who was subject of the department of child
24 services' action or omission; or
25 (3) the court, court appointed special advocate, or guardian
26 ad litem of the child in a case that was filed as a child in need
27 of services or a termination of parental rights action;
28 any information that the department of child services could not, by
29 law, reveal to the complainant, parent, guardian, custodian,
30 person, court, court appointed special advocate, or guardian ad
31 litem.
32 (f) If, after reviewing a complaint or conducting an investigation
33 and considering the response of an agency, facility, or program and
34 any other pertinent material, the office of the department of child
35 services ombudsman determines that the complaint has merit or
36 the investigation reveals a problem, the ombudsman may
37 recommend that the agency, facility, or program:
38 (1) consider the matter further;
39 (2) modify or cancel its actions;
40 (3) alter a rule, order, or internal policy; or
41 (4) explain more fully the action in question.
42 (g) At the office of the department of child services

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1 ombudsman's request, the agency, facility, or program shall,
 2 within a reasonable time, inform the office of the department of
 3 child services ombudsman about the action taken on the
 4 recommendation or the reasons for not complying with it.

5 (h) The office of the department of child services ombudsman
 6 may not investigate the following:

7 (1) A complaint from an employee of the department of child
 8 services that relates to the employee's employment
 9 relationship with the department of child services.

10 (2) A complaint concerning a matter that is currently the
 11 subject of a pending administrative review procedure before
 12 the exhaustion of administrative remedies provided by law,
 13 rule, or written policy. Investigation of any such complaint
 14 received shall be stayed until the administrative remedy has
 15 been exhausted. However, if the administrative process is not
 16 completed within six (6) months after initiation of the
 17 administrative process, the office of child services
 18 ombudsman may proceed with its investigation.

19 (i) If the office of the department of child services ombudsman
 20 does not investigate a complaint, the office of the department of
 21 child services ombudsman shall notify the complainant of the
 22 decision not to investigate and the reasons for the decision.

23 Sec. 6. (a) The office of the department of child services
 24 ombudsman shall be given appropriate access to department of
 25 child services records of a child who is the subject of a complaint
 26 that is filed under this chapter.

27 (b) A state or local government agency or entity that has records
 28 that are relevant to a complaint or an investigation conducted by
 29 an ombudsman shall provide the ombudsman with access to the
 30 records.

31 (c) A person is immune from:

32 (1) civil or criminal liability; and

33 (2) actions taken under:

34 (A) a professional disciplinary procedure; or

35 (B) procedures related to the termination or imposition of
 36 penalties under a contract dealing with an employee or
 37 contractor of the department of child services;

38 for the release or disclosure of records to the ombudsman under
 39 this chapter, unless the release or disclosure constitutes gross
 40 negligence or willful or wanton misconduct.

41 (d) Information or records of a state or local government agency
 42 provided to the office of the department of child services

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1 ombudsman may not be disclosed to the complainant or others if
2 confidential under laws, rules, or regulations governing the state
3 or local government agency that provided the information or
4 records.

5 Sec. 7. (a) The office of the department of child services
6 ombudsman shall do the following:

- 7 (1) Establish procedures to receive and investigate complaints.
- 8 (2) Establish physical, technological, and administrative
9 access controls for all information maintained by the office of
10 the department of child services ombudsman.
- 11 (3) Except as necessary to investigate and resolve a complaint,
12 ensure that the identity of a complainant will not be disclosed
13 without:
 - 14 (A) the complainant's written consent; or
 - 15 (B) a court order.

16 (b) Records created and received by the office of the department
17 of child services ombudsman concerning a specific child's case are
18 confidential, and a communication by the ombudsman concerning
19 a specific child's case is a privileged communication.

20 Sec. 8. The office of the department of child services
21 ombudsman may adopt rules under IC 4-22-2 necessary to carry
22 out this chapter.

23 Sec. 9. An ombudsman is not personally liable for the good faith
24 performance of the ombudsman's official duties.

25 Sec. 10. (a) The office of the department of child services
26 ombudsman shall prepare a report each year on the operations of
27 the office.

28 (b) The office of the department of child services ombudsman
29 shall include the following information in the annual report
30 required under subsection (a):

- 31 (1) The office of the department of child services
32 ombudsman's activities.
- 33 (2) The general status of children in Indiana, including:
 - 34 (A) the health and education of children; and
 - 35 (B) the administration or implementation of programs for
36 children; and
 - 37 (3) any other issues, concerns, or information concerning
38 children.
- 39 (c) A copy of the report shall be provided to the following:
 - 40 (1) The governor.
 - 41 (2) The legislative council.
 - 42 (3) The Indiana department of administration.

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**(4) The department of child services.
A report provided under this subsection to the legislative council must be in an electronic format under IC 5-14-6.**

(d) A copy of the report shall be posted on the department of child services' Internet web site and on any Internet web site maintained by the office of the department of child services ombudsman.

Sec. 11. (a) A person who:

(1) except as provided in subsection (b), intentionally interferes with or prevents the completion of the work of an ombudsman;

(2) knowingly offers compensation to an ombudsman in an effort to affect the outcome of an investigation or a potential investigation;

(3) knowingly or intentionally retaliates against another person who provides information to an ombudsman; or

(4) knowingly or intentionally threatens an ombudsman, a person who has filed a complaint, or a person who provides information to an ombudsman, because of an investigation or potential investigation;

commits interference with the office of the department of child services ombudsman, a Class A misdemeanor.

(b) Expungement of records held by the department of child services that occurs by statutory mandate, judicial order or decree, administrative review or process, automatic operation of the Indiana Child Welfare Information System (ICWIS) computer system, or in the normal course of business shall not be considered intentional interference or prevention for the purposes of subsection (a).

(c) A complainant who knowingly or intentionally discloses to the public information about a case before the conclusion of an investigation and the release of the finding to the department of child services commits unlawful disclosure of information concerning a department of child services investigation, a Class A misdemeanor.

Sec. 12. The Indiana department of administration shall provide and maintain office space for the office of the department of child services ombudsman.

SECTION 3. IC 31-19-19-2, AS AMENDED BY P.L.145-2006, SECTION 254, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. (a) All files and records pertaining to the adoption proceedings in:

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1 ~~(1) the county office of family and children;~~
 2 ~~(2) (1) the department; or~~
 3 ~~(3) (2) any of the licensed child placing agencies;~~
 4 are confidential and open to inspection only as provided in
 5 IC 31-19-13-2(2), IC 31-19-17, or IC 31-19-25.

6 (b) The files and records described in subsection (a), including
 7 investigation records under IC 31-19-8-5 (or IC 31-3-1-4 before its
 8 repeal):

9 (1) are open to the inspection of the court hearing the petition for
 10 adoption; and

11 (2) on order of the court, may be:

12 (A) introduced into evidence; and

13 (B) made a part of the record;

14 in the adoption proceeding.

15 SECTION 4. IC 31-25-5 IS ADDED TO THE INDIANA CODE AS
 16 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
 17 1, 2009]:

18 **Chapter 5. Cooperation With Department of Child Services**
 19 **Ombudsman**

20 **Sec. 1. As used in this chapter, "ombudsman" refers to the office**
 21 **of the department of child services ombudsman established within**
 22 **the Indiana department of administration by IC 4-13-19-3. The**
 23 **term includes an employee of the office of the department of child**
 24 **services ombudsman or an individual approved by the office of the**
 25 **department of child services ombudsman to investigate and resolve**
 26 **complaints regarding the health and safety of a child.**

27 **Sec. 2. The department and the juvenile court with jurisdiction**
 28 **over a child shall provide the ombudsman with:**

29 (1) appropriate access to all records of the department
 30 concerning the child, excluding adoption records, but
 31 including all records of the department related to vendors and
 32 contractors; and

33 (2) immediate access, without prior notice, to any facility in
 34 which the child is placed or is receiving services funded by the
 35 department.

36 SECTION 5. IC 31-27-3-18, AS AMENDED BY P.L.138-2007,
 37 SECTION 49, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 38 JULY 1, 2009]: Sec. 18. (a) A licensee shall keep records regarding
 39 each child in the control and care of the licensee as the department
 40 requires and shall report to the department upon request the facts the
 41 department requires with reference to children.

42 (b) The department shall keep records regarding children and facts

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1 learned about children and the children's parents or relatives
2 confidential.

3 (c) The following have access to records regarding children and
4 facts learned about children:

- 5 (1) A state agency involved in the licensing of the child caring
6 institution.
- 7 (2) A legally mandated child protection agency.
- 8 (3) A law enforcement agency.
- 9 (4) An agency having the legal responsibility to care for a child
10 placed at the child caring institution.
- 11 (5) The parent, guardian, or custodian of the child at the child
12 caring institution.
- 13 (6) A citizen review panel established under IC 31-25-2-20.4.
- 14 **(7) The department of child services ombudsman established**
15 **by IC 4-13-19-3.**

16 SECTION 6. IC 31-27-4-21, AS AMENDED BY P.L.138-2007,
17 SECTION 54, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
18 JULY 1, 2009]: Sec. 21. (a) A licensee shall keep records required by
19 the department regarding each child in the control and care of the
20 licensee and shall report to the department upon request the facts the
21 department requires with reference to children.

22 (b) The department shall keep records regarding children and facts
23 learned about children and the children's parents or relatives
24 confidential.

25 (c) The following have access to records regarding children and
26 facts learned about children:

- 27 (1) A state agency involved in the licensing of the foster family
28 home.
- 29 (2) A legally mandated child protection agency.
- 30 (3) A law enforcement agency.
- 31 (4) An agency having the legal responsibility to care for a child
32 placed at the foster family home.
- 33 (5) The parent, guardian, or custodian of the child at the foster
34 family home.
- 35 (6) A citizen review panel established under IC 31-25-2-20.4.
- 36 **(7) The department of child services ombudsman established**
37 **by IC 4-13-19-3.**

38 SECTION 7. IC 31-27-5-18, AS AMENDED BY P.L.138-2007,
39 SECTION 58, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
40 JULY 1, 2009]: Sec. 18. (a) A licensee shall keep records required by
41 the department regarding each child in the control and care of the
42 licensee and shall report to the department, upon request, the facts the

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1 department requires with reference to children.

2 (b) The department shall keep records regarding children and facts
3 learned about children and the children's parents or relatives
4 confidential.

5 (c) The following have access to records regarding children and
6 facts learned about children:

7 (1) A state agency involved in the licensing of the group home.
8 (2) A legally mandated child protection agency.
9 (3) A law enforcement agency.
10 (4) An agency having the legal responsibility to care for a child
11 placed at the group home.
12 (5) The parent, guardian, or custodian of the child at the group
13 home.
14 (6) A citizen review panel established under IC 31-25-2-20.4.
15 **(7) The department of child services ombudsman established**
16 **by IC 4-13-19-3.**

17 SECTION 8. IC 31-27-6-15, AS AMENDED BY P.L.138-2007,
18 SECTION 62, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
19 JULY 1, 2009]: Sec. 15. (a) A licensee shall keep records required by
20 the department regarding each child in the control and care of the
21 licensee and shall report to the department upon request the facts the
22 department requires with reference to children.

23 (b) The department shall keep records regarding children and facts
24 learned about children and the children's parents or relatives
25 confidential.

26 (c) The following have access to records regarding children and
27 facts learned about children:

28 (1) A state agency involved in the licensing of the child placing
29 agency.
30 (2) A legally mandated child protection agency.
31 (3) A law enforcement agency.
32 (4) A citizen review panel established under IC 31-25-2-20.4.
33 **(5) The department of child services ombudsman established**
34 **by IC 4-13-19-3.**

35 SECTION 9. IC 31-33-18-1, AS AMENDED BY P.L.145-2006,
36 SECTION 283, IS AMENDED TO READ AS FOLLOWS
37 [EFFECTIVE JULY 1, 2009]: Sec. 1. (a) Except as provided in section
38 1.5 of this chapter, the following are confidential:

39 (1) Reports made under this article (or IC 31-6-11 before its
40 repeal).
41 (2) Any other information obtained, reports written, or
42 photographs taken concerning the reports in the possession of:

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- 1 (A) the division of family resources;
- 2 (B) the county office; or
- 3 (C) the department; or
- 4 **(D) the department of child services ombudsman**
- 5 **established by IC 4-13-19-3.**

6 (b) Except as provided in section 1.5 of this chapter, all records held
7 by:

- 8 (1) the division of family resources;
- 9 (2) a county office;
- 10 (3) the department;
- 11 (4) a local child fatality review team established under
- 12 IC 31-33-24; or
- 13 (5) the statewide child fatality review committee established
- 14 under IC 31-33-25; or
- 15 **(6) the department of child services ombudsman established**
- 16 **by IC 4-13-19-3;**

17 regarding the death of a child determined to be a result of abuse,
18 abandonment, or neglect are confidential and may not be disclosed.

19 SECTION 10. IC 31-33-18-1.5, AS AMENDED BY P.L.145-2006,
20 SECTION 284, IS AMENDED TO READ AS FOLLOWS
21 [EFFECTIVE JULY 1, 2009]: Sec. 1.5. (a) This section applies to
22 records held by:

- 23 (1) the division of family resources;
- 24 (2) a county office;
- 25 (3) the department;
- 26 (4) a local child fatality review team established under
- 27 IC 31-33-24; or
- 28 (5) the statewide child fatality review committee established
- 29 under IC 31-33-25; or
- 30 **(6) the department of child services ombudsman established**
- 31 **by IC 4-13-19-3;**

32 regarding a child whose death or near fatality may have been the result
33 of abuse, abandonment, or neglect.

34 (b) For purposes of subsection (a), a child's death or near fatality
35 may have been the result of abuse, abandonment, or neglect if:

- 36 (1) an entity described in subsection (a) determines that the child's
- 37 death or near fatality is the result of abuse, abandonment, or
- 38 neglect; or
- 39 (2) a prosecuting attorney files:
- 40 (A) an indictment or information; or
- 41 (B) a complaint alleging the commission of a delinquent act;
- 42 that, if proven, would cause a reasonable person to believe that

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1 the child's death or near fatality may have been the result of
2 abuse, abandonment, or neglect.

3 Upon the request of any person, or upon its own motion, the court
4 exercising juvenile jurisdiction in the county in which the child's death
5 or near fatality occurred shall determine whether the allegations
6 contained in the indictment, information, or complaint described in
7 subdivision (2), if proven, would cause a reasonable person to believe
8 that the child's death or near fatality may have been the result of abuse,
9 abandonment, or neglect.

10 (c) As used in this section:

11 (1) "identifying information" means information that identifies an
12 individual, including an individual's:

13 (A) name, address, date of birth, occupation, place of
14 employment, and telephone number;

15 (B) employer identification number, mother's maiden name,
16 Social Security number, or any identification number issued by
17 a governmental entity;

18 (C) unique biometric data, including the individual's
19 fingerprint, voice print, or retina or iris image;

20 (D) unique electronic identification number, address, or
21 routing code;

22 (E) telecommunication identifying information; or

23 (F) telecommunication access device, including a card, a plate,
24 a code, an account number, a personal identification number,
25 an electronic serial number, a mobile identification number, or
26 another telecommunications service or device or means of
27 account access; and

28 (2) "near fatality" has the meaning set forth in 42 U.S.C. 5106a.

29 (d) Unless information in a record is otherwise confidential under
30 state or federal law, a record described in subsection (a) that has been
31 redacted in accordance with this section is not confidential and may be
32 disclosed to any person who requests the record. The person requesting
33 the record may be required to pay the reasonable expenses of copying
34 the record.

35 (e) When a person requests a record described in subsection (a), the
36 entity having control of the record shall immediately transmit a copy of
37 the record to the court exercising juvenile jurisdiction in the county in
38 which the death or near fatality of the child occurred. However, if the
39 court requests that the entity having control of a record transmit the
40 original record, the entity shall transmit the original record.

41 (f) Upon receipt of the record described in subsection (a), the court
42 shall, within thirty (30) days, redact the record to exclude:

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- 1 (1) identifying information described in subsection (c)(1)(B)
- 2 through (c)(1)(F) of a person; and
- 3 (2) all identifying information of a child less than eighteen (18)
- 4 years of age.

5 (g) The court shall disclose the record redacted in accordance with
 6 subsection (f) to any person who requests the record, if the person has
 7 paid:

- 8 (1) to the entity having control of the record, the reasonable
- 9 expenses of copying under IC 5-14-3-8; and
- 10 (2) to the court, the reasonable expenses of copying the record.

11 (h) The court's determination under subsection (f) that certain
 12 identifying information or other information is not relevant to
 13 establishing the facts and circumstances leading to the death or near
 14 fatality of a child is not admissible in a criminal proceeding or civil
 15 action.

16 SECTION 11. IC 31-33-18-2, AS AMENDED BY P.L.138-2007,
 17 SECTION 66, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 18 JULY 1, 2009]: Sec. 2. The reports and other material described in
 19 section 1(a) of this chapter and the unredacted reports and other
 20 material described in section 1(b) of this chapter shall be made
 21 available only to the following:

- 22 (1) Persons authorized by this article.
- 23 (2) A legally mandated public or private child protective agency
- 24 investigating a report of child abuse or neglect or treating a child
- 25 or family that is the subject of a report or record.
- 26 (3) A police or other law enforcement agency, prosecuting
- 27 attorney, or coroner in the case of the death of a child who is
- 28 investigating a report of a child who may be a victim of child
- 29 abuse or neglect.
- 30 (4) A physician who has before the physician a child whom the
- 31 physician reasonably suspects may be a victim of child abuse or
- 32 neglect.
- 33 (5) An individual legally authorized to place a child in protective
- 34 custody if:
 - 35 (A) the individual has before the individual a child whom the
 - 36 individual reasonably suspects may be a victim of abuse or
 - 37 neglect; and
 - 38 (B) the individual requires the information in the report or
 - 39 record to determine whether to place the child in protective
 - 40 custody.
- 41 (6) An agency having the legal responsibility or authorization to
- 42 care for, treat, or supervise a child who is the subject of a report

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or record or a parent, guardian, custodian, or other person who is responsible for the child's welfare.

(7) An individual named in the report or record who is alleged to be abused or neglected or, if the individual named in the report is a child or is otherwise incompetent, the individual's guardian ad litem or the individual's court appointed special advocate, or both.

(8) Each parent, guardian, custodian, or other person responsible for the welfare of a child named in a report or record and an attorney of the person described under this subdivision, with protection for the identity of reporters and other appropriate individuals.

(9) A court, for redaction of the record in accordance with section 1.5 of this chapter, or upon the court's finding that access to the records may be necessary for determination of an issue before the court. However, except for disclosure of a redacted record in accordance with section 1.5 of this chapter, access is limited to in camera inspection unless the court determines that public disclosure of the information contained in the records is necessary for the resolution of an issue then pending before the court.

(10) A grand jury upon the grand jury's determination that access to the records is necessary in the conduct of the grand jury's official business.

(11) An appropriate state or local official responsible for child protection services or legislation carrying out the official's official functions.

(12) A foster care review board established by a juvenile court under IC 31-34-21-9 (or IC 31-6-4-19 before its repeal) upon the court's determination that access to the records is necessary to enable the foster care review board to carry out the board's purpose under IC 31-34-21.

(13) The community child protection team appointed under IC 31-33-3 (or IC 31-6-11-14 before its repeal), upon request, to enable the team to carry out the team's purpose under IC 31-33-3.

(14) A person about whom a report has been made, with protection for the identity of:

- (A) any person reporting known or suspected child abuse or neglect; and
- (B) any other person if the person or agency making the information available finds that disclosure of the information would be likely to endanger the life or safety of the person.

(15) An employee of the department, a caseworker, or a juvenile probation officer conducting a criminal history check under

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1 IC 31-26-5, IC 31-34, or IC 31-37 to determine the
 2 appropriateness of an out-of-home placement for a:
 3 (A) child at imminent risk of placement;
 4 (B) child in need of services; or
 5 (C) delinquent child.
 6 The results of a criminal history check conducted under this
 7 subdivision must be disclosed to a court determining the
 8 placement of a child described in clauses (A) through (C).
 9 (16) A local child fatality review team established under
 10 IC 31-33-24-6.
 11 (17) The statewide child fatality review committee established by
 12 IC 31-33-25-6.
 13 (18) The department.
 14 (19) The division of family resources, if the investigation report:
 15 (A) is classified as substantiated; and
 16 (B) concerns:
 17 (i) an applicant for a license to operate;
 18 (ii) a person licensed to operate;
 19 (iii) an employee of; or
 20 (iv) a volunteer providing services at;
 21 a child care center licensed under IC 12-17.2-4 or a child care
 22 home licensed under IC 12-17.2-5.
 23 (20) A citizen review panel established under IC 31-25-2-20.4.
 24 **(21) The department of child services ombudsman established**
 25 **by IC 4-13-19-3.**
 26 SECTION 12. IC 31-33-25-6, AS ADDED BY P.L.145-2006,
 27 SECTION 288, IS AMENDED TO READ AS FOLLOWS
 28 [EFFECTIVE JULY 1, 2009]: Sec. 6. (a) The statewide child fatality
 29 review committee is established to review a child's death that is:
 30 (1) sudden;
 31 (2) unexpected; or
 32 (3) unexplained;
 33 if the county where the child died does not have a local child fatality
 34 review team or if the local child fatality review team requests a review
 35 of the child's death by the statewide committee.
 36 (b) The statewide child fatality review committee may also review
 37 the death of a child upon request by an individual **or the department**
 38 **of child services ombudsman established by IC 4-13-19-3.**
 39 (c) A request submitted under subsection (b) must set forth:
 40 (1) the name of the child;
 41 (2) the age of the child;
 42 (3) the county where the child died;

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- 1 (4) whether a local child fatality review team reviewed the death;
- 2 and
- 3 (5) the cause of death of the deceased child.

4 SECTION 13. IC 31-33-25-8, AS AMENDED BY P.L.225-2007,
 5 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 6 JULY 1, 2009]: Sec. 8. The statewide child fatality review committee
 7 consists of the following members appointed by the governor:

- 8 (1) a coroner or deputy coroner;
- 9 (2) a representative from:
 - 10 (A) the state department of health established by IC 16-19-1-1;
 - 11 (B) a local health department established under IC 16-20-2; or
 - 12 (C) a multiple county health department established under
 - 13 IC 16-20-3;
- 14 (3) a pediatrician;
- 15 (4) a representative of law enforcement;
- 16 (5) a representative from an emergency medical services provider;
- 17 (6) the director or a representative of the department;
- 18 (7) a representative of a prosecuting attorney;
- 19 (8) a pathologist who is:
 - 20 (A) certified by the American Board of Pathology in forensic
 - 21 pathology; and
 - 22 (B) licensed to practice medicine in Indiana;
- 23 (9) a mental health provider;
- 24 (10) a representative of a child abuse prevention program; ~~and~~
- 25 (11) a representative of the department of education; **and**
- 26 **(12) at the discretion of the department of child services**
- 27 **ombudsman, a representative of the department of child**
- 28 **services ombudsman established by IC 4-13-19-3.**

29 SECTION 14. IC 31-33-26-5, AS ADDED BY P.L.138-2007,
 30 SECTION 67, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 31 JULY 1, 2009]: Sec. 5. (a) Subject to the accessibility to files provided
 32 in subsection (b), at least ten (10) levels of security for confidentiality
 33 in the index must be maintained.

34 (b) The index must have a comprehensive system of limited access
 35 to information as follows:

- 36 (1) The index must be accessed only by the entry of an operator
- 37 identification number and a password.
- 38 (2) A child welfare caseworker must be allowed to access only:
 - 39 (A) cases that are assigned to the caseworker; and
 - 40 (B) other cases or investigations that involve:
 - 41 (i) a family member of a child; or
 - 42 (ii) a child;

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- 1 who is the subject of a case described in clause (A).
- 2 (3) A child welfare supervisor may access only the following:
- 3 (A) Cases assigned to the supervisor.
- 4 (B) Cases assigned to a caseworker who reports to the
- 5 supervisor.
- 6 (C) Other cases or investigations that involve:
- 7 (i) a family member of a child; or
- 8 (ii) a child;
- 9 who is the subject of a case described in clause (A) or (B).
- 10 (D) Cases that are unassigned.
- 11 (4) To preserve confidentiality in the workplace, child welfare
- 12 managers, as designated by the department, may access any case,
- 13 except restricted cases involving:
- 14 (A) a state employee; or
- 15 (B) the immediate family member of a state employee;
- 16 who has access to the index. Access to restricted information
- 17 under this subdivision may be obtained only if an additional level
- 18 of security is implemented.
- 19 (5) Access to records of authorized users, including passwords, is
- 20 restricted to:
- 21 (A) users designated by the department as administrators; and
- 22 (B) the administrator's level of access as determined by the
- 23 department.
- 24 (6) Ancillary programs that may be designed for the index may
- 25 not be executed in a manner that would circumvent the index's
- 26 log-on security measures.
- 27 (7) Certain index functions must be accessible only to index
- 28 operators with specified levels of authorization as determined by
- 29 the department.
- 30 (8) Files containing passwords must be encrypted.
- 31 (9) There must be two (2) additional levels of security for
- 32 confidentiality as determined by the department.
- 33 **(10) The department of child services ombudsman established**
- 34 **by IC 4-13-19-3 shall have read only access to the index**
- 35 **concerning:**
- 36 **(A) children who are the subject of complaints filed with;**
- 37 **or**
- 38 **(B) cases being investigated by;**
- 39 **the department of child services ombudsman. The office of the**
- 40 **department of child services ombudsman shall not have access**
- 41 **to any information related to cases or information that**
- 42 **involves the ombudsman or any member of the ombudsman's**

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1 **immediate family.**
 2 SECTION 15. IC 31-39-2-6, AS AMENDED BY P.L.145-2006,
 3 SECTION 359, IS AMENDED TO READ AS FOLLOWS
 4 [EFFECTIVE JULY 1, 2009]: Sec. 6. The records of the juvenile court
 5 are available without a court order to:

- 6 (1) the attorney for the department of child services; or
 7 (2) any authorized staff member of:
 8 (A) the county office;
 9 (B) the department of child services; ~~or~~
 10 (C) the department of correction; **or**
 11 **(D) the department of child services ombudsman**
 12 **established by IC 4-13-19-3.**

13 SECTION 16. IC 31-39-4-7, AS AMENDED BY P.L.145-2006,
 14 SECTION 361, IS AMENDED TO READ AS FOLLOWS
 15 [EFFECTIVE JULY 1, 2009]: Sec. 7. The records of a law enforcement
 16 agency are available, without specific permission from the head of the
 17 agency, to: ~~the:~~

- 18 **(1) the** attorney for the department of child services or any
 19 authorized staff member; **or**
 20 **(2) any authorized staff member of the department of child**
 21 **services ombudsman established by IC 4-13-19-3.**

22 SECTION 17. IC 31-39-9-1, AS ADDED BY P.L.67-2007,
 23 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 24 JULY 1, 2009]: Sec. 1. The following entities and agencies may
 25 exchange records of a child who is a child in need of services or has
 26 been determined to be a delinquent child under IC 31-37-1-2, if the
 27 information or records are not confidential under state or federal law:

- 28 (1) A court.
 29 (2) A law enforcement agency.
 30 (3) The department of correction.
 31 (4) The department of child services.
 32 (5) The office of the secretary of family and social services.
 33 (6) A primary or secondary school, including a public or
 34 nonpublic school.
 35 **(7) The department of child services ombudsman established**
 36 **by IC 4-13-19-3.**

37 SECTION 18. IC 34-30-2-39.6 IS ADDED TO THE INDIANA
 38 CODE AS A **NEW SECTION** TO READ AS FOLLOWS
 39 [EFFECTIVE JULY 1, 2009]: **Sec. 39.6. IC 4-13-19-6 (Concerning**
 40 **a person who releases information to the department of child**
 41 **services ombudsman).**

42 SECTION 19. IC 34-30-2-39.7 IS ADDED TO THE INDIANA

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1 CODE AS A NEW SECTION TO READ AS FOLLOWS
2 [EFFECTIVE JULY 1, 2009]: **Sec. 39.7. IC 4-13-19-9 (Concerning**
3 **the department of child services ombudsman for the good faith**
4 **performance of official duties).**

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Family, Children and Human Affairs, to which was referred House Bill 1602, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 7, line 5, delete "correction" and insert "**child services**".

and when so amended that said bill do pass.

(Reference is to HB 1602 as introduced.)

SUMMERS, Chair

Committee Vote: yeas 11, nays 0.

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 HOUSE MOTION

Mr. Speaker: I move that House Bill 1602 be amended to read as follows:

Page 4, line 13, after "governor." insert "**An individual may not be appointed as director if the individual has been employed by the department of child services at any time during the preceding twelve (12) months.**".

Page 4, line 25, after "initiative," insert "**initiate a**".

Page 4, line 26, delete "a child's death that is sudden, unexpected, or unexplained" and insert "**of any department of child services' action, policy, or procedure or a review**".

Page 5, between lines 39 and 40, begin a new paragraph and insert:

"(c) A copy of the report shall be posted on the department of child services' Internet web site and on any Internet web site maintained by the bureau."

Page 7, line 8, delete "the records of a child who is the" and insert "**all records of the department, including all records of the department related to vendors and contractors; and**".

Page 7, delete line 9.

Page 7, line 10, after "access" insert "**, without prior notice,**".

Page 7, line 10, delete "who is the".

Page 7, line 11, delete "subject of an investigation by the ombudsmen".

(Reference is to HB 1602 as printed February 20, 2009.)

FRIZZELL

EH 1602—LS 6007/DI 107+



COMMITTEE REPORT

Madam President: The Senate Committee on Judiciary, to which was referred House Bill No. 1602, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 3, line 34, delete "bureau".

Page 3, line 38, delete "Bureau".

Page 3, delete lines 39 through 41, begin a new paragraph and insert:

"Sec. 1. As used in this chapter, "child" means a person who:

- (1) is less than eighteen (18) years of age;**
- (2) is at least eighteen (18) years of age at the time the complaint is made but was less than eighteen (18) years of age at the time of the alleged act or omission that is the subject of the complaint; or**
- (3) is at least eighteen (18) years of age but has been under the continuing jurisdiction of a juvenile court based upon an informal adjustment, child in need of services action under IC 31-34, or termination of parental rights action under IC 31-35 since becoming eighteen (18) years of age."**

Page 3, line 42, delete "means" and insert "means:

- (1) the person appointed by the governor to serve as ombudsman; or**
- (2)".**

Page 3, line 42, after "an" insert **"employee or other individual approved by the office of the department of child services ombudsman to act in the capacity of ombudsman; to investigate and resolve complaints that allege the department of child services failed to protect the health and safety of any child or failed to follow specific laws, rules, or written policies."**

Page 4, delete lines 1 through 6.

Page 4, line 7, after "The" insert **"office of"**.

Page 4, line 7, delete "bureau".

Page 4, line 8, delete "Indiana".

Page 4, line 8, delete "of" and insert **". The ombudsman appointed by the governor shall report directly to the commissioner. The ombudsman appointed by the governor must be an attorney licensed to practice law in Indiana or a social worker with at least a master's degree. The ombudsman appointed by the governor must have significant experience or education in child development and child advocacy, including at least two (2) years experience working with child abuse and neglect."**

EH 1602—LS 6007/DI 107+



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Page 4, delete lines 9 through 42, begin a new paragraph and insert:

"Sec. 4. (a) The governor shall appoint the ombudsman. The ombudsman serves at the pleasure of the governor. An individual may not be appointed as ombudsman if the individual has been employed by the department of child services at any time during the preceding twelve (12) months. The governor shall appoint a successor ombudsman not later than thirty (30) days after a vacancy occurs in the position of the ombudsman.

(b) The office of the department of child services ombudsman may employ technical experts and other employees to carry out the purposes of this chapter. However, the office of the department of child services ombudsman may not hire an individual to serve as an ombudsman if the individual has been employed by the department of child services during the preceding twelve (12) months.

(c) The ombudsman and any other person employed or authorized by the ombudsman:

(1) are subject to the same criminal history and background checks, to be performed by the department of child services, that are required for department of child services family case managers; and

(2) are subject to the same disqualification for employment criteria as department of child services family case managers.

Sec. 5. (a) The office of the department of child services ombudsman may receive, investigate, and attempt to resolve a complaint alleging that the department of child services, by an action or omission occurring on or after January 11, 2005, failed to follow a specific law, rule, or department written policy and thereby failed to protect the health or safety of any child.

(b) The office of the department of child services ombudsman may also do the following:

(1) Take action, including the establishing of a program of public education, to secure and ensure the legal rights of children.

(2) Periodically review relevant policies and procedures with a view toward the safety and welfare of children.

(3) When appropriate, refer a person making a report of child abuse or neglect to the department of child services and, if appropriate, to an appropriate law enforcement agency.

(4) Recommend changes in procedures for investigating reports of abuse and neglect and overseeing the welfare of children who are under the jurisdiction of a juvenile court.

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(5) Make the public aware of the services of the ombudsman, the purpose of the office, and information concerning contacting the office.

(6) Examine policies and procedures and evaluate the effectiveness of the child protection system, specifically the respective roles of the department of child services, the court, the medical community, service providers, guardians ad litem, court appointed special advocates, and law enforcement agencies.

(7) Review and make recommendations concerning investigative procedures and emergency responses contained in the report prepared under section 10 of this chapter.

(c) Upon request of the office of the department of child services ombudsman, the local child protection team shall assist the office of the department of child services ombudsman by:

(1) investigating and making recommendations on a matter; or

(2) redacting or revising any report to be prepared for the complainant so that confidentiality laws are maintained.

If a local child protection team was involved in an initial investigation, a different local child protection team may assist in the investigation under this subsection.

(d) At the end of an investigation of a complaint, the office of the department of child services ombudsman shall provide an appropriate report as follows:

(1) If the complainant is a parent, guardian, custodian, court appointed special advocate, guardian ad litem, or court, the ombudsman may provide the same report to the complainant and the department of child services.

(2) If the complainant is not a person described in subdivision (1), the ombudsman shall provide a redacted version of its findings to the complainant stating in general terms that the actions of the department of child services were or were not appropriate.

(e) The department of child services ombudsman shall provide a copy of the report and recommendations to the department of child services. The office of the department of child services ombudsman may not disclose to:

(1) a complainant;

(2) another person who is not a parent, guardian, or custodian of the child who was subject of the department of child services' action or omission; or

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(3) the court, court appointed special advocate, or guardian ad litem of the child in a case that was filed as a child in need of services or a termination of parental rights action; any information that the department of child services could not, by law, reveal to the complainant, parent, guardian, custodian, person, court, court appointed special advocate, or guardian ad litem.

(f) If, after reviewing a complaint or conducting an investigation and considering the response of an agency, facility, or program and any other pertinent material, the office of the department of child services ombudsman determines that the complaint has merit or the investigation reveals a problem, the ombudsman may recommend that the agency, facility, or program:

- (1) consider the matter further;
- (2) modify or cancel its actions;
- (3) alter a rule, order, or internal policy; or
- (4) explain more fully the action in question.

(g) At the office of the department of child services ombudsman's request, the agency, facility, or program shall, within a reasonable time, inform the office of the department of child services ombudsman about the action taken on the recommendation or the reasons for not complying with it.

(h) The office of the department of child services ombudsman may not investigate the following:

- (1) A complaint from an employee of the department of child services that relates to the employee's employment relationship with the department of child services.
- (2) A complaint concerning a matter that is currently the subject of a pending administrative review procedure before the exhaustion of administrative remedies provided by law, rule, or written policy. Investigation of any such complaint received shall be stayed until the administrative remedy has been exhausted. However, if the administrative process is not completed within six (6) months after initiation of the administrative process, the office of child services ombudsman may proceed with its investigation.

(i) If the office of the department of child services ombudsman does not investigate a complaint, the office of the department of child services ombudsman shall notify the complainant of the decision not to investigate and the reasons for the decision.

Sec. 6. (a) The office of the department of child services ombudsman shall be given appropriate access to department of

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child services records of a child who is the subject of a complaint that is filed under this chapter.

(b) A state or local government agency or entity that has records that are relevant to a complaint or an investigation conducted by an ombudsman shall provide the ombudsman with access to the records.

(c) A person is immune from:

(1) civil or criminal liability; and

(2) actions taken under:

(A) a professional disciplinary procedure; or

(B) procedures related to the termination or imposition of penalties under a contract dealing with an employee or contractor of the department of child services;

for the release or disclosure of records to the ombudsman under this chapter, unless the release or disclosure constitutes gross negligence or willful or wanton misconduct.

(d) Information or records of a state or local government agency provided to the office of the department of child services ombudsman may not be disclosed to the complainant or others if confidential under laws, rules, or regulations governing the state or local government agency that provided the information or records.

Sec. 7. (a) The office of the department of child services ombudsman shall do the following:

(1) Establish procedures to receive and investigate complaints.

(2) Establish physical, technological, and administrative access controls for all information maintained by the office of the department of child services ombudsman.

(3) Except as necessary to investigate and resolve a complaint, ensure that the identity of a complainant will not be disclosed without:

(A) the complainant's written consent; or

(B) a court order.

(b) Records created and received by the office of the department of child services ombudsman concerning a specific child's case are confidential, and a communication by the ombudsman concerning a specific child's case is a privileged communication.

Sec. 8. The office of the department of child services ombudsman may adopt rules under IC 4-22-2 necessary to carry out this chapter.

Sec. 9. An ombudsman is not personally liable for the good faith performance of the ombudsman's official duties.

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Sec. 10. (a) The office of the department of child services ombudsman shall prepare a report each year on the operations of the office.

(b) The office of the department of child services ombudsman shall include the following information in the annual report required under subsection (a):

- (1) The office of the department of child services ombudsman's activities.**
- (2) The general status of children in Indiana, including:**
 - (A) the health and education of children; and**
 - (B) the administration or implementation of programs for children; and**
- (3) any other issues, concerns, or information concerning children.**

(c) A copy of the report shall be provided to the following:

- (1) The governor.**
- (2) The legislative council.**
- (3) The Indiana department of administration.**
- (4) The department of child services.**

A report provided under this subsection to the legislative council must be in an electronic format under IC 5-14-6.

(d) A copy of the report shall be posted on the department of child services' Internet web site and on any Internet web site maintained by the office of the department of child services ombudsman.

Sec. 11. (a) A person who:

- (1) except as provided in subsection (b), intentionally interferes with or prevents the completion of the work of an ombudsman;**
- (2) knowingly offers compensation to an ombudsman in an effort to affect the outcome of an investigation or a potential investigation;**
- (3) knowingly or intentionally retaliates against another person who provides information to an ombudsman; or**
- (4) knowingly or intentionally threatens an ombudsman, a person who has filed a complaint, or a person who provides information to an ombudsman, because of an investigation or potential investigation;**

commits interference with the office of the department of child services ombudsman, a Class A misdemeanor.

(b) Expungement of records held by the department of child services that occurs by statutory mandate, judicial order or decree,

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administrative review or process, automatic operation of the Indiana Child Welfare Information System (ICWIS) computer system, or in the normal course of business shall not be considered intentional interference or prevention for the purposes of subsection (a).

(c) A complainant who knowingly or intentionally discloses to the public information about a case before the conclusion of an investigation and the release of the finding to the department of child services commits unlawful disclosure of information concerning a department of child services investigation, a Class A misdemeanor.

Sec. 12. The Indiana department of administration shall provide and maintain office space for the office of the department of child services ombudsman."

Delete page 5.

Page 6, delete lines 1 through 19.

Page 6, strike line 24.

Page 6, line 25, strike "(2)" and insert "(1)".

Page 6, line 26, strike "(3)" and insert "(2)".

Page 6, line 33, reset in roman "and".

Page 6, line 37, delete "; and" and insert ".".

Page 6, delete lines 38 through 39.

Page 7, delete lines 3 through 20, begin a new paragraph and insert:

"Sec. 1. As used in this chapter, "ombudsman" refers to the office of the department of child services ombudsman established within the Indiana department of administration by IC 4-13-19-3. The term includes an employee of the office of the department of child services ombudsman or an individual approved by the office of the department of child services ombudsman to investigate and resolve complaints regarding the health and safety of a child.

Sec. 2. The department and the juvenile court with jurisdiction over a child shall provide the ombudsman with:

(1) appropriate access to all records of the department concerning the child, excluding adoption records, but including all records of the department related to vendors and contractors; and

(2) immediate access, without prior notice, to any facility in which the child is placed or is receiving services funded by the department."

Page 7, line 41, delete "bureau".

Page 8, line 21, delete "bureau".

Page 8, line 42, delete "bureau".

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Page 9, line 18, delete "bureau".

Page 9, line 29, strike "or".

Page 9, line 30, delete "." and insert "; or

(D) the department of child services ombudsman established by IC 4-13-19-3."

Page 9, line 40, delete "bureau".

Page 10, line 13, delete "bureau".

Page 14, line 7, delete "bureau".

Page 14, delete lines 9 through 42.

Page 15, delete lines 1 through 14.

Page 15, line 27, delete "bureau".

Page 16, line 15, after "(12)" insert "**at the discretion of the department of child services ombudsman,**".

Page 16, line 16, delete "bureau".

Page 17, line 21, delete "bureau".

Page 17, line 22, delete "unlimited" and insert "**read only**".

Page 17, line 24, after "(A)" insert "**children who are the subject of**".

Page 17, line 26, delete "bureau." and insert ". **The office of the department of child services ombudsman shall not have access to any information related to cases or information that involves the ombudsman or any member of the ombudsman's immediate family.**".

Page 17, delete lines 27 through 40.

Page 18, line 8, delete "bureau".

Page 18, line 18, delete "bureau".

Page 18, line 32, delete "bureau".

Renumber all SECTIONS consecutively.

and when so amended that said bill be reassigned to the Senate Committee on Appropriations.

(Reference is to HB 1602 as reprinted February 24, 2009.)

BRAY, Chairperson

Committee Vote: Yeas 9, Nays 0.

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