

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas  
2 83rd General Assembly  
3 Regular Session, 2001  
4

As Engrossed: S4/4/01 H4/12/01

# A Bill

Act 1797 of 2001  
SENATE BILL 864

5 By: Senator Everett  
6  
7

## For An Act To Be Entitled

8  
9 AN ACT TO AMEND ARKANSAS CODE 16-87-216 AND  
10 REVISE THE DUTIES AND ROLE OF THE JUVENILE  
11 OMBUDSMAN DIVISION WITHIN THE ARKANSAS PUBLIC  
12 DEFENDER COMMISSION; AND FOR OTHER PURPOSES.  
13

## Subtitle

14  
15 AN ACT TO AMEND ARKANSAS CODE 16-87-216  
16 AND REVISE THE DUTIES AND ROLE OF THE  
17 JUVENILE OMBUDSMAN DIVISION WITHIN THE  
18 ARKANSAS PUBLIC DEFENDER COMMISSION.  
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20

21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
22

23 SECTION 1. Arkansas Code 16-87-216 is amended to read as follows:  
24 16-87-216. Juvenile Ombudsman Division.

25 ~~(a) For purposes of this section, the following definitions shall~~  
26 ~~apply:-~~

27 ~~(1) "Executive director" means the Executive Director of the~~  
28 ~~Arkansas Public Defender Commission;-~~

29 ~~(2) "DYS" means the Division of Youth Services of the Department~~  
30 ~~of Human Services;-~~

31 ~~(3) "Juvenile" means any juvenile who has been committed to the~~  
32 ~~custody of the Division of Youth Services pursuant to a disposition order of~~  
33 ~~a juvenile division of a circuit chancery court;-~~

34 ~~(4) "Best interests of the juvenile" include those actions and~~  
35 ~~courses of action which:-~~

36 ~~(A) Keep the juvenile safe from physical, mental, or~~

1 ~~sexual abuse while in state custody;~~

2 ~~(B) Carry out the court's disposition plan; and~~

3 ~~(C) Work toward rehabilitating the juvenile.~~

4 ~~(b)(1) It is the intent of the General Assembly to create a Juvenile~~  
5 ~~Ombudsman Division of the Arkansas Public Defender Commission to provide for~~  
6 ~~an independent oversight mechanism of the secure facilities to which many~~  
7 ~~juveniles are committed once placed in state custody pursuant to a~~  
8 ~~disposition order.~~

9 ~~(2)(A) There shall be created within the Arkansas Public~~  
10 ~~Defender Commission a Juvenile Ombudsman Division.~~

11 ~~(B) Within this division, there shall be regional offices~~  
12 ~~located in the geographic vicinity of the facilities to which juveniles in~~  
13 ~~the custody of the Division of Youth Services have been committed.~~

14 ~~(c)(1) The executive director shall appoint each juvenile ombudsman~~  
15 ~~and select a chief ombudsman to assist in the administration of the program.~~

16 ~~(2) The minimum qualifications for a juvenile ombudsman shall be~~  
17 ~~as follows:-~~

18 ~~(A) A master's degree in:-~~

19 ~~(i)(a) Social work;~~

20 ~~(b) Psychology; or~~

21 ~~(c) Law; or~~

22 ~~(ii) A related field; or~~

23 ~~(B) A bachelor degree in:-~~

24 ~~(i)(a)(1) Social work;~~

25 ~~(2) Psychology; or~~

26 ~~(3) Law; or~~

27 ~~(b) A related field; and~~

28 ~~(ii) Four (4) years' direct experience in programs~~  
29 ~~servicing juvenile offenders and their families.~~

30 ~~(3) Support staff for each regional office shall be hired by the~~  
31 ~~executive director.~~

32 ~~(d)(1) Each juvenile committed to a secure Division of Youth Services~~  
33 ~~facility shall be appointed a juvenile ombudsman.~~

34 ~~(2) The powers and duties of the juvenile ombudsman shall be as~~  
35 ~~follows:-~~

36 ~~(A) To initiate and maintain contact with the juvenile~~

1 ~~throughout the juvenile's custodial placement and for a period of up to six~~  
2 ~~(6) months following the juvenile's release from state custody;~~

3 ~~(B) To explain:~~

4 ~~(i) The disposition and the treatment plan to the~~  
5 ~~juvenile and the juvenile's family; and~~

6 ~~(ii) What is expected of the juvenile and the~~  
7 ~~family;~~

8 ~~(C) To work with the Division of Youth Services and other~~  
9 ~~persons involved in the treatment plan to ensure that the letter and spirit~~  
10 ~~of the court's orders are carried out, including, but not limited to, meeting~~  
11 ~~with treatment teams as needed and appropriate;~~

12 ~~(D) To document the juvenile's questions, complaints, and~~  
13 ~~concerns and seek answers to those questions and address the complaints and~~  
14 ~~concerns in an expedient manner;~~

15 ~~(E) To request and review, as needed, all records on the~~  
16 ~~history and treatment of the juvenile, including family and foster care~~  
17 ~~history as well as any previous Division of Youth Services custodial~~  
18 ~~placements;~~

19 ~~(F) To maintain frequent contact or communication with the~~  
20 ~~following:~~

21 ~~(i) The juvenile;~~

22 ~~(ii) The juvenile's family;~~

23 ~~(iii) Division of Youth Services officials,~~  
24 ~~including, but not limited to, school and treatment staff of the Division of~~  
25 ~~Youth Services and private entities involved in the custody and care of the~~  
26 ~~juvenile;~~

27 ~~(iv) The court having jurisdiction over the~~  
28 ~~juvenile, in the form of progress reports, to be submitted at least every~~  
29 ~~forty five (45) days; and~~

30 ~~(v) The executive director;~~

31 ~~(G)(i) To identify instances where necessary services are~~  
32 ~~not being provided or are not being provided in an appropriate manner.~~

33 ~~(ii) When such a problem is identified, the~~  
34 ~~ombudsman shall:~~

35 ~~(a) Notify the Director of the Division of~~  
36 ~~Youth Services, the juvenile court having jurisdiction, and the juvenile's~~

1 ~~attorney or attorneys of the problem; and~~

2 ~~(b) Seek to mediate an appropriate solution~~  
3 ~~which is consistent with the orders of the court and in the best interests of~~  
4 ~~the juvenile;~~

5 ~~(H) To make unannounced visits to the Division of Youth~~  
6 ~~Services facilities in the ombudsman's region, whether state run or privately~~  
7 ~~operated facilities, to assure the safety and well-being of the juveniles;~~

8 ~~(I) Upon receipt of a complaint, the ombudsman shall~~  
9 ~~follow the child maltreatment act, § 12-12-501 et seq., in reporting the~~  
10 ~~complaint to:~~

11 ~~(i) The executive director;~~

12 ~~(ii) The Department of Arkansas State Police; and~~

13 ~~(iii) The Director of the Division of Youth~~  
14 ~~Services, who shall be responsible for ensuring that the juvenile is~~  
15 ~~immediately sequestered to an area of safety; and~~

16 ~~(J) To prepare annual reports on the overall functioning~~  
17 ~~of each facility in the ombudsman's region to be submitted to:~~

18 ~~(i) The executive director;~~

19 ~~(ii) The juvenile court;~~

20 ~~(iii) The Director of the Division of Youth~~  
21 ~~Services;~~

22 ~~(iv) The House Interim Committee on Aging, Children~~  
23 ~~& Youth, Legislative and Military Affairs;~~

24 ~~(v) The Senate Interim Committee on Children and~~  
25 ~~Youth; and~~

26 ~~(vi) The Governor.~~

27 ~~(e)(1) All matters under investigation by the Juvenile Ombudsman~~  
28 ~~Division shall be confidential.~~

29 ~~(2) However, disclosure may be necessary to perform the duties~~  
30 ~~of the office and to support recommendations resulting from the~~  
31 ~~investigation.~~

32 ~~(f)(1) The executive director shall operate the Juvenile Ombudsman~~  
33 ~~Division in such a manner that the respective juvenile ombudsmen shall not be~~  
34 ~~deemed to be a part of the same office for purposes of appointments in~~  
35 ~~conflict of interest situations.~~

36 ~~(2)(A) In a situation in which there is convincing physical~~

1 ~~evidence to support an allegation of abuse by a juvenile which stems from~~  
2 ~~involvement with another juvenile assigned to the same ombudsman, the~~  
3 ~~ombudsman shall notify the executive director of the conflict situation.~~

4 ~~(B) The executive director shall then assign a temporary~~  
5 ~~ombudsman from within the system or, if necessary, appoint a temporary~~  
6 ~~ombudsman from outside the system for each juvenile involved until the~~  
7 ~~situation is resolved.~~

8 ~~(C) In the event a temporary ombudsman is appointed from~~  
9 ~~outside the Juvenile Ombudsman Division, compensation for the temporary~~  
10 ~~ombudsman shall be paid by the Arkansas Public Defender Commission.~~

11 (a) For purposes of this section, the following definitions shall  
12 apply:

13 (1) "Executive director" means the Executive Director of the  
14 Arkansas Public Defender Commission.

15 (2) "Division" means the Division of Youth Services of the  
16 Department of Human Services.

17 (3) "Juvenile" means any juvenile who has been committed to the  
18 custody of the Division of Youth Services pursuant to a disposition order of  
19 the juvenile division of a circuit court.

20 (4) "Best interests of the juvenile" includes those actions and  
21 courses of action which:

22 (A) Keep the juvenile safe from physical, mental or sexual  
23 abuse while in state custody;

24 (B) Are considerate of the court's recommendations and  
25 adhere to the juvenile's treatment plan; and

26 (C) Work toward rehabilitating the juvenile.

27 (b)(1) It is the intent of the General Assembly to create a Juvenile  
28 Ombudsman Division of the Arkansas Public Defender Commission to provide for  
29 independent oversight of the division's facilities and programs.

30 (2) There shall be created within the Arkansas Public Defender  
31 Commission a Juvenile Ombudsman and Assistant Juvenile Ombudsmen that shall  
32 be appointed by the executive director.

33 (3) The minimum qualifications for a juvenile ombudsman shall be  
34 as follows:

35 (A) A master's degree in:

36 (i) Social work;

- 1                   (ii) Psychology;
- 2                   (iii) Law; or
- 3                   (iv) A related field; or
- 4                   (B) A bachelor's degree in:
  - 5                   (i) Social Work
  - 6                   (ii) Psychology; or
  - 7                   (iii) A related field; or
- 8                   (C) Four (4) years direct experience in programs serving
- 9 juvenile offenders and their families.
- 10                   (D) No waiver of the above minimum qualifications shall be
- 11 permitted.
- 12                   (c) The powers and duties of the juvenile ombudsman shall be as
- 13 follows:
  - 14                   (1) The ombudsman shall be given on line access to all tracking
  - 15 systems maintained by the division including but not limited to the:
    - 16                   (A) Incident report tracking system and the disposition of
    - 17 incidents reported therein;
    - 18                   (B) Parent help line tracking system; and
    - 19                   (C) Juvenile tracking system.
  - 20                   (2) The Ombudsman may attend scheduled meetings or reviews of
  - 21 juvenile intake, program progress or aftercare planning.
  - 22                   (3) The ombudsman shall be given access to any meeting or
  - 23 document that would be accessible to the general public through the Freedom
  - 24 of Information Act.
  - 25                   (4) The ombudsman shall be given reasonable prior notice of all
  - 26 major activities of the division's Audit and Compliance Section and shall be
  - 27 permitted to accompany the division's monitor or monitoring team on any
  - 28 monitoring visit or audit.
  - 29                   (5) The ombudsman shall be subject to the same compliance with
  - 30 all procedures, policies and laws regarding the confidentiality of juveniles
  - 31 committed to the division as required by division employees.
  - 32                   (6) The ombudsman may initiate and maintain contact with any
  - 33 juvenile during the juvenile's custodial placement or while on aftercare
  - 34 status.
  - 35                   (7) The ombudsman shall be given access to the juveniles and
  - 36 juveniles' records and meetings of program progress and case planning at all

1 Division of Youth Services privately contracted facilities.

2 (8) Identify instances where necessary services are not being  
3 provided with respect to the safety, health, education, and rehabilitation of  
4 the juvenile as identified in a treatment plan. When a problem is identified,  
5 the ombudsman shall notify the Director of the Division of Youth Services or  
6 the director's designee, the juvenile court having jurisdiction, the  
7 juvenile's parents or guardian, the juvenile's attorney or attorneys of the  
8 problem.

9 (9) Document juvenile's questions, complaints and concerns  
10 related to the juvenile's health, safety, education and treatment, and seek  
11 answers to those questions and address the complaints and concerns in an  
12 expedient manner.

13 (10) To request and review, as needed, all records on the  
14 history and treatment of the juvenile while in the custody of the division or  
15 in aftercare, including related agency and court records.

16 (11) To make unannounced visits to the Division of Youth  
17 Services facilities, whether state run or privately operated, to assure the  
18 safety and well being of the juveniles.

19 (12) Upon receipt of a complaint involving alleged child  
20 malreatment, the ombudsman shall immediately report the alleged incident to  
21 the Child Abuse Hotline, the facility director and the Director of the  
22 Division of Youth Services or the director's designee, who shall be  
23 responsible for ensuring the juvenile's safety.

24 (13) To prepare annual reports on the overall functioning of the  
25 Division of Youth Services ability to provide for the safety, health,  
26 education and rehabilitation of juveniles committed to DYS. The report shall  
27 be submitted to:

28 (A) The Director of Department of Human Services and the  
29 Director of the Division of Youth Services;

30 (B) The House Interim Committee on Aging, Children and  
31 Youth, Legislative and Military Affairs;

32 (C) The Senate Interim Committee on Children and Youth;

33 (D) The judges of the Juvenile Division of Circuit Court;

34 and

35 (E) The Governor.

36 (14) To prepare annual reports comparing the court's

1 recommendations, DYS's treatment plans and the actual services provided.

2 (15) Division's Audit and Compliance process to verify that each  
3 juvenile has unhampered access to a grievance process that addresses the  
4 juvenile's questions, complaints, and concerns in a timely manner in  
5 accordance with Division of Youth Services policy and procedure or applicable  
6 statute.

7 (d) The Ombudsman shall have no authority to command or otherwise  
8 instruct any Division employee or contracted agent of the Division of Youth  
9 Services regarding any aspect of programming or operations, nor may the  
10 Ombudsman alter or countermand any instruction to, or participation by,  
11 juveniles that is consistent with the policy and procedure of the Division of  
12 Youth Services or otherwise part of the treatment plan, program or operations  
13 associated with the agency.

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17 SECTION 2. Arkansas Code 29-30-190 is repealed.

18 ~~29-30-190. Arkansas Public Defender Commission—Juvenile Ombudsman~~  
19 ~~Division.~~

20 ~~(a) It is the intent of the General Assembly to create a Juvenile~~  
21 ~~Ombudsman Division to provide for an independent oversight mechanism of the~~  
22 ~~secure facilities, to which many juveniles are committed once placed in state~~  
23 ~~custody pursuant to a disposition order.~~

24 ~~(b) Effective July 1, 1999, there shall be created within the Arkansas~~  
25 ~~Public Defender Commission a Juvenile Ombudsman Division.~~

26 ~~(c) Within this Division, there shall be regional offices located in~~  
27 ~~the geographic vicinity of the facilities to which juveniles in DYS custody~~  
28 ~~have been committed.~~

29 /s/ Everett

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32 APPROVED: 4/19/2001