

ARKANSAS SENATE
83rd General Assembly - Regular Session, 2001
Amendment Form

Subtitle of Senate Bill No. 864

"AN ACT TO AMEND VARIOUS SECTIONS OF THE ARKANSAS CODE TO ABOLISH
THE JUVENILE OMBUDSMAN DIVISION OF THE ARKANSAS PUBLIC DEFENDER
COMMISSION; AND FOR OTHER PURPOSES."

Amendment No. 1 to Senate Bill No. 864.

Amend Senate Bill No. 864 as originally introduced:

Page 1, delete lines 9 through 12 and substitute
"AN ACT TO REVISE THE DUTIES AND ROLE OF THE JUVENILE OMBUDSMAN DIVISION
WITHIN THE ARKANSAS PUBLIC DEFENDER COMMISSION; AND FOR OTHER PURPOSES."

AND

Page 1, delete lines 15 through 19 and substitute
"AN ACT TO REVISE THE DUTIES AND ROLE OF THE JUVENILE OMBUDSMAN DIVISION
WITHIN THE ARKANSAS PUBLIC DEFENDER COMMISSION."

AND

Delete everything after the Enacting Clause and substitute
"SECTION 1. (a) For purposes of this section, the following
definitions shall apply:
(1) "Executive director" means the Executive Director of the
Arkansas Public Defender Commission.
(2) "Division" means the Division of Youth Services of the
Department of Human Services.
(3) "Juvenile" means any juvenile who has been committed to the
custody of the Division of Youth Services pursuant to a disposition order of
a juvenile division of a circuit chancery court.
(b)(1) It is the intent of the General Assembly to create a Juvenile
Ombudsman Division of the Arkansas Public Defender Commission to provide for
independent oversight of the division's facilities and programs.
(2) There shall be created within the Arkansas Public Defender
Commission a Juvenile Ombudsman and Assistant Juvenile Ombudsmen that shall
be appointed by the executive director.
(3) The minimum qualifications for a juvenile ombudsman shall be
as follows:

- (A) A master's degree in:
 - (i) Social work;
 - (ii) Psychology;
 - (iii) Law; or
 - (iv) A related field; or
- (B) A bachelor's degree in:
 - (i) Social Work
 - (ii) Psychology; or
 - (iii) A related field; or
- (C) Four (4) years direct experience in programs serving juvenile offenders and their families.
- (D) No waiver of the above minimum qualifications shall be permitted.

(c) The powers of the juvenile ombudsman shall be as follows:

(1) The ombudsman shall be given on line access to all tracking systems maintained by the division including but not limited to the:

(A) Incident report tracking system and the disposition of incidents reported therein;

(B) Parent help line tracking system; and

(C) Juvenile tracking system.

(2) The ombudsman shall be given access to the complete records of all juveniles in the custody of the division.

(3) The Ombudsman may attend scheduled meetings or reviews of juvenile intake, program progress or aftercare planning for purposes of verification or documentation.

(4) The ombudsman shall be given access to any meeting or document that would be accessible to the general public through the Freedom of Information Act.

(5) The ombudsman shall be given reasonable prior notice of all major activities of the division's Audit and Compliance Section and shall be permitted to accompany the division's monitor or monitoring team on any monitoring visit or audit.

(6) The ombudsman shall be subject to the same compliance with all procedures, policies and laws regarding the confidentiality of juveniles committed to the division as required by division employees.

(d) The duties of the juvenile ombudsman shall be to provide independent oversight by monitoring:

(1) The division to verify that the division is working toward or meeting all the mandates established for the division by law;

(2) The division's Audit and Compliance process to verify and validate all reports submitted to the legislature by the division concerning the division's programs and facilities;

(3) The division's efforts to meet the needs identified in the diagnosis and evaluation of each juvenile in a timely manner according to Division of Youth Services policy and procedure or applicable statute.

(4) The division's Audit and Compliance process to verify that each juvenile in an unlicensed or unaccredited facility has a client advocate who meets with the juvenile not less than once a week;

(5) The division's Audit and Compliance process to verify that each parent is aware of the division's parent help line and that all inquiries or complaints are being addressed in a timely manner according to Division of Youth Services policy and procedure or applicable statute.

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

(7) The division's case management process to verify that parents are informed of the status or any status change of their child, that the committing court receives progress reports by the Division of Youth Services on each juvenile at least every forty-five (45) days, and that the division provides its community based providers sufficient and adequate information in accordance with Division of Youth Services policy and procedure or applicable statute to formulate an aftercare plan to further the goals of the treatment plan; and

(8) To verify that all juveniles in the custody of the division have unhampered access to their attorney.

(e) The ombudsman shall prepare a written quarterly report that specifically addresses each of the duties set out in this section. The quarterly report shall be submitted simultaneously to:

- (1) The executive director;
- (2) The Director of the Division of Youth Services; and
- (3) The appropriate committees of the Legislature.

(f) The ombudsman shall also prepare a written annual report that provides a summation of the duties performed as set forth in this section. The report shall be submitted simultaneously to:

- (1) The executive director;
- (2) The Administrative Office of the Courts for distribution to the juvenile judges;
- (3) The Director of the Division of Youth Services;
- (4) The House Interim Committee on Aging, Children and Youth, Legislative and Military Affairs;
- (5) The Senate Interim Committee on Children and Youth; and
- (6) The Governor.

(g)(1) When the ombudsman discovers information that would be reportable under the division's incident reporting policy he shall investigate whether the incident has been previously reported and if it has not been, he shall file an incident report as provided for in the division's incident reporting policy and procedure.

(2) The ombudsman is a mandatory reporter under §§ 12-12-501 through 12-12-518. Upon receipt of information or a complaint which gives the ombudsman reasonable cause to believe there has been an incident involving mal treatment that has not previously been properly reported the ombudsman shall:

- (A) Immediately report the incident, allegation or complaint to the Child Abuse Hotline;
- (B) File an incident report in a manner consistent with the Division's incident reporting policy and procedure; and
- (C) Immediately report the incident, allegation or complaint to the Executive Director.

(h) The ombudsman shall make unannounced visits to the division's facilities, whether state run or privately operated, to assure the safety and well-being of the juveniles committed to the care and custody of the division.

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

SECTION 2. Arkansas Code 16-87-216 is repealed.

~~16-87-216. Juvenile Ombudsman Division.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~(b) Psychology; or~~

~~(c) Law; or~~

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

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

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

~~(2) Psychology; or~~

~~(3) Law; or~~

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

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

~~(3) Support staff for each regional office shall be hired by the~~

~~executive director.~~

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

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

~~(A) To initiate and maintain contact with the juvenile throughout the juvenile's custodial placement and for a period of up to six (6) months following the juvenile's release from state custody;~~

~~(B) To explain:~~

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

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

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

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

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

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

~~(i) The juvenile;~~

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

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

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

~~(v) The executive director;~~

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

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

~~(a) Notify the Director of the Division of Youth Services, the juvenile court having jurisdiction, and the juvenile's attorney or attorneys of the problem; and~~

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

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

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

~~(i) The executive director;~~
~~(ii) The Department of Arkansas State Police; and~~
~~(iii) The Director of the Division of Youth Services, who shall be responsible for ensuring that the juvenile is immediately sequestered to an area of safety; and~~

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

~~(i) The executive director;~~
~~(ii) The juvenile court;~~
~~(iii) The Director of the Division of Youth Services;~~
~~(iv) The House Interim Committee on Aging, Children & Youth, Legislative and Military Affairs;~~
~~(v) The Senate Interim Committee on Children and Youth; and~~
~~(vi) The Governor.~~

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

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

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

~~(2)(A) In a situation in which there is convincing physical evidence to support an allegation of abuse by a juvenile which stems from involvement with another juvenile assigned to the same ombudsman, the ombudsman shall notify the executive director of the conflict situation.~~

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

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

SECTION 3. Arkansas Code 29-30-190 is repealed.

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

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

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

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

The Amendment was read the first time, rules suspended and read the second time and _____

By: Senator Everett

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Secretary