
SENATE BILL 6001

State of Washington

56th Legislature

1999 Regular Session

By Senators Hargrove, Long, Winsley and Rasmussen

Read first time 02/19/1999. Referred to Committee on Human Services & Corrections.

1 AN ACT Relating to the office of the family and children's
2 ombudsman; amending RCW 43.06A.030, 13.34.105, and 13.50.100; adding a
3 new section to chapter 26.12 RCW; adding new sections to chapter 43.06A
4 RCW; and adding a new section to chapter 13.50 RCW.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 **Sec. 1.** RCW 43.06A.030 and 1996 c 131 s 4 are each amended to read
7 as follows:

8 The ombudsman shall perform the following duties:

9 (1) Provide information as appropriate on the rights and
10 responsibilities of individuals receiving family and children's
11 services, and on the procedures for providing these services;

12 (2) Investigate, upon his or her own initiative or upon receipt of
13 a complaint, an administrative act alleged to be contrary to law, rule,
14 or policy, imposed without an adequate statement of reason, or based on
15 irrelevant, immaterial, or erroneous grounds; however, the ombudsman
16 may decline to investigate any complaint as provided by rules adopted
17 under this chapter;

18 (3) Monitor the procedures as established, implemented, and
19 practiced by the department to carry out its responsibilities in

1 delivering family and children's services with a view toward
2 appropriate preservation of families and ensuring children's health and
3 safety;

4 ~~(4) ((Review periodically the facilities and procedures of state
5 institutions serving children, and state licensed facilities or
6 residences;~~

7 ~~(5))~~ Recommend changes in the procedures for addressing the needs
8 of families and children;

9 ~~((6))~~ (5) Submit annually to the committee and to the governor by
10 November 1 a report analyzing the work of the office including
11 recommendations;

12 ~~((7))~~ (6) Grant the committee access to all relevant records in
13 the possession of the ombudsman unless prohibited by law; and

14 ~~((8))~~ (7) Adopt rules necessary to implement this chapter.

15 **Sec. 2.** RCW 13.34.105 and 1993 c 241 s 3 are each amended to read
16 as follows:

17 (1) Unless otherwise directed by the court, the duties of the
18 guardian ad litem include but are not limited to the following:

19 (a) To represent and be an advocate for the best interests of the
20 child;

21 (b) To collect relevant information about the child's situation;

22 (c) To monitor all court orders for compliance and to bring to the
23 court's attention any change in circumstances that may require a
24 modification of the court's order; and

25 (d) To report to the court information on the legal status of a
26 child's membership in any Indian tribe or band.

27 (2) The guardian ad litem shall be deemed an officer of the court
28 for the purpose of immunity from civil liability.

29 (3) Except for information or records specified in RCW
30 13.50.100~~((4))~~ (5), the guardian ad litem shall have access to all
31 information available to the state or agency on the case. Upon
32 presentation of the order of appointment by the guardian ad litem, any
33 agency, hospital, school organization, division or department of the
34 state, doctor, nurse, or other health care provider, psychologist,
35 psychiatrist, police department, or mental health clinic shall permit
36 the guardian ad litem to inspect and copy any records relating to the
37 child or children involved in the case, without the consent of the
38 parent or guardian of the child, or of the child if the child is under

1 the age of thirteen years, unless such access is otherwise specifically
2 prohibited by law.

3 (4) A guardian ad litem may release confidential information,
4 records, and reports to the office of the family and children's
5 ombudsman for the purposes of carrying out its duties under chapter
6 43.06A RCW.

7 (5) The guardian ad litem shall release case information in
8 accordance with the provisions of RCW 13.50.100.

9 **Sec. 3.** RCW 13.50.100 and 1997 c 386 s 22 are each amended to read
10 as follows:

11 (1) This section governs records not covered by RCW 13.50.050.

12 (2) Records covered by this section shall be confidential and shall
13 be released only pursuant to this section and RCW 13.50.010.

14 (3) Records retained or produced by any juvenile justice or care
15 agency may be released to other participants in the juvenile justice or
16 care system only when an investigation or case involving the juvenile
17 in question is being pursued by the other participant or when that
18 other participant is assigned the responsibility of supervising the
19 juvenile. Records covered under this section and maintained by the
20 juvenile courts which relate to the official actions of the agency may
21 be entered in the state-wide juvenile court information system.

22 (4) A contracting agency or service provider of the department of
23 social and health services that provides counseling, psychological,
24 psychiatric, or medical services may release confidential information,
25 records, or reports relating to the juvenile to the office of the
26 family and children's ombudsman for the purposes of carrying out its
27 duties under chapter 43.06A RCW.

28 (5) A juvenile, his or her parents, the juvenile's attorney and the
29 juvenile's parent's attorney, shall, upon request, be given access to
30 all records and information collected or retained by a juvenile justice
31 or care agency which pertain to the juvenile except:

32 (a) If it is determined by the agency that release of this
33 information is likely to cause severe psychological or physical harm to
34 the juvenile or his or her parents the agency may withhold the
35 information subject to other order of the court: PROVIDED, That if the
36 court determines that limited release of the information is
37 appropriate, the court may specify terms and conditions for the release
38 of the information; or

1 (b) If the information or record has been obtained by a juvenile
2 justice or care agency in connection with the provision of counseling,
3 psychological, psychiatric, or medical services to the juvenile, when
4 the services have been sought voluntarily by the juvenile, and the
5 juvenile has a legal right to receive those services without the
6 consent of any person or agency, then the information or record may not
7 be disclosed to the juvenile's parents without the informed consent of
8 the juvenile unless otherwise authorized by law; or

9 (c) That the department of social and health services may delete
10 the name and identifying information regarding persons or organizations
11 who have reported alleged child abuse or neglect.

12 ~~((+5+))~~ (6) A juvenile or his or her parent denied access to any
13 records following an agency determination under subsection ~~((+4+))~~ (5)
14 of this section may file a motion in juvenile court requesting access
15 to the records. The court shall grant the motion unless it finds
16 access may not be permitted according to the standards found in
17 subsections ~~((+4+))~~ (5)(a) and (b) of this section.

18 ~~((+6+))~~ (7) The person making a motion under subsection ~~((+5+))~~ (6)
19 of this section shall give reasonable notice of the motion to all
20 parties to the original action and to any agency whose records will be
21 affected by the motion.

22 ~~((+7+))~~ (8) Subject to the rules of discovery in civil cases, any
23 party to a proceeding seeking a declaration of dependency or a
24 termination of the parent-child relationship and any party's counsel
25 and the guardian ad litem of any party, shall have access to the
26 records of any natural or adoptive child of the parent, subject to the
27 limitations in subsection ~~((+4+))~~ (5) of this section. A party denied
28 access to records may request judicial review of the denial. If the
29 party prevails, he or she shall be awarded attorneys' fees, costs, and
30 an amount not less than five dollars and not more than one hundred
31 dollars for each day the records were wrongfully denied.

32 NEW SECTION. Sec. 4. A new section is added to chapter 26.12 RCW
33 to read as follows:

34 Any guardian ad litem appointed under this chapter may release
35 confidential information, records, and reports to the office of the
36 family and children's ombudsman for the purposes of carrying out its
37 duties under chapter 43.06A RCW.

1 NEW SECTION. **Sec. 5.** A new section is added to chapter 43.06A RCW
2 to read as follows:

3 The department of social and health services shall:

4 (1) Allow the ombudsman or the ombudsman's designee to communicate
5 privately by mail or orally with any child or family receiving family
6 and children's services;

7 (2) Upon the ombudsman's request, grant the ombudsman or the
8 ombudsman's designee the right to access, inspect, and copy all
9 relevant information, records, or documents in the possession or
10 control of the department that the ombudsman considers necessary in an
11 investigation; and

12 (3) Grant the office of the family and children's ombudsman
13 unrestricted on-line access to the case and management information
14 system (CAMIS).

15 NEW SECTION. **Sec. 6.** A new section is added to chapter 43.06A RCW
16 to read as follows:

17 (1) The office of the family and children's ombudsman shall have
18 the following rights and powers:

19 (a) To subpoena records and documents in the possession or control
20 of the department of social and health services that the ombudsman
21 considers necessary in an investigation;

22 (b) To apply for and accept grants, gifts, and bequests of funds
23 from other states, federal and interstate agencies, independent
24 authorities, and private firms, individuals, and foundations for the
25 purpose of carrying out his or her lawful responsibilities. The funds
26 shall be deposited in the family and children's ombudsman account
27 created in section 7 of this act.

28 (2) Actions of the office shall be solely advisory to the governor,
29 the department, and other agencies. The office shall not be delegated
30 any administrative authority or responsibility, and its functions shall
31 not supplant existing avenues for recourse or appeals.

32 NEW SECTION. **Sec. 7.** A new section is added to chapter 43.06A RCW
33 to read as follows:

34 The family and children's ombudsman account is created in the
35 custody of the state treasurer. All receipts from grants, gifts, and
36 bequests shall be deposited into the account. Expenditures from the
37 account may be used only as provided for in this chapter. Only the

1 ombudsman or the ombudsman's designee may authorize expenditures from
2 the account. The account is subject to allotment procedures under
3 chapter 43.88 RCW, but no appropriation is required for expenditures.

4 NEW SECTION. **Sec. 8.** A new section is added to chapter 43.06A RCW
5 to read as follows:

6 (1) An employee of the office of the family and children's
7 ombudsman is not liable for good faith performance of responsibilities
8 under this chapter.

9 (2) No discriminatory, disciplinary, or retaliatory action may be
10 taken against an employee of the department, an employee of a
11 contracting agency of the department, a foster parent, or a recipient
12 of family and children's services for any communication made, or
13 information given or disclosed, to aid the office of the family and
14 children's ombudsman in carrying out its responsibilities, unless the
15 communication or information is made, given, or disclosed maliciously
16 or without good faith. This subsection is not intended to infringe on
17 the rights of the employer to supervise, discipline, or terminate an
18 employee for other reasons.

19 (3) All communications by an ombudsman, if reasonably related to
20 the requirements of that individual's responsibilities under this
21 chapter and done in good faith, are privileged under RCW 9.58.070 and
22 that privilege shall serve as a defense in any action in libel or
23 slander.

24 NEW SECTION. **Sec. 9.** A new section is added to chapter 13.50 RCW
25 to read as follows:

26 Any communication or advice privileged under RCW 5.60.060 that is
27 disclosed by the office of the attorney general to the office of the
28 family and children's ombudsman may not be deemed to be a waiver of the
29 privilege as to others.

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