

STATE OF NEW YORK

7964

IN SENATE

March 5, 2020

Introduced by Sens. PERSAUD, SALAZAR -- read twice and ordered printed,
and when printed to be committed to the Committee on Children and
Families

AN ACT to amend the executive law, in relation to establishing the
office of the foster care ombudsman

The People of the State of New York, represented in Senate and Assem-
bly, do enact as follows:

1 Section 1. Title 3 of article 19-G of the executive law is amended by
2 adding a new subtitle C to read as follows:

SUBTITLE C

OFFICE OF THE FOSTER CARE OMBUDSMAN

Section 524. Purpose.

524-a. Definitions.

524-b. Office of the foster care ombudsman.

524-c. Duties of the office of the foster care ombudsman.

524-d. Access to the office of the foster care ombudsman.

524-e. Duties of the director.

524-f. Conduct and scope of mediation and problem-solving.

524-g. Confidentiality of reports.

524-h. Foster care ombudsman independent review board.

524-i. Access to records.

15 § 524. Purpose. The purpose of this subtitle is to support foster
16 parents, including kinship families, as well as relatives or fictive
17 kin, in providing family-based foster care to children at risk for or
18 removed from their homes pursuant to article ten of the family court
19 act, by codifying the office of the foster care ombudsman.

20 § 524-a. Definitions. As used in this subtitle:

21 1. "Commissioner" means the commissioner of the office of children and
22 family services.

23 2. "Director" means the director of the office of the foster care
24 ombudsman.

25 3. "Office" means the office of children and family services.

26 4. "Foster parents" means all adults providing out of home care to
27 children at risk for or who have been removed from their home pursuant

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 to article ten of the family court act. This includes relatives and
2 non-relatives.

3 5. "Anti-bias training" means instruction on implicit bias, discrimi-
4 nation, cultural competency and structural inequity, including with
5 respect to gender, race and sexual orientation, and on how these factors
6 impact the work of the office of the foster care ombudsman.

7 § 524-b. Office of the foster care ombudsman. There is hereby estab-
8 lished the office of the foster care ombudsman in the office of children
9 and family services. The independent review board described in section
10 five hundred twenty-four-h of this subtitle shall appoint the director
11 of the office of the foster care ombudsman, who shall report to the
12 commissioner. The director shall have expertise in the areas of child
13 welfare, foster care, dispute resolution and system improvement, specif-
14 ically in the state of New York, as evidenced by at least ten years of
15 relevant experience in the field. A two-thirds majority vote of the
16 independent review board shall be required to appoint or remove the
17 director. Persons employed by the office of the foster care ombudsman
18 to act as "ombudsmen" shall have a comprehensive knowledge of the
19 state's foster care system and expertise in the fields of child welfare,
20 foster care, and dispute resolution, specifically in the state of New
21 York, as evidenced by demonstrated professional and personal experience,
22 or by academic background, the level and sufficiency of which shall be
23 determined by the director.

24 § 524-c. Duties of the office of the foster care ombudsman. 1. The
25 office of the foster care ombudsman shall:

26 (a) receive, document and respond to inquiries, grievances and
27 complaints raised by foster parents, biological parents, relatives, and
28 youth in care;

29 (b) investigate and seek resolution of inquiries, grievances, and
30 complaints;

31 (c) make referrals, where appropriate, to additional information,
32 services and resources;

33 (d) ensure that any resolution or response does not result in retali-
34 ation against the person contacting the foster care ombudsman;

35 (e) provide information to foster parents, biological parents, rela-
36 tives, and youth in care about applicable law, regulation and policy;

37 (f) work with the local department of social services, voluntary agen-
38 cies, foster parents, biological parents, relatives, and youth in care
39 to resolve conflicts concerning application of applicable law, regu-
40 lation and policy with regard to the provision of foster care;

41 (g) monitor the implementation of applicable law, regulation and poli-
42 cy concerning the provision of foster care through the process of
43 receiving, documenting, tracking and responding to inquiries, grievances
44 and complaints;

45 (h) recommend policies, regulations, and legislation designed to
46 promote and improve family-based foster care;

47 (i) prepare an annual report to the commissioner and the legislature,
48 which shall be publicly posted on the office's website, with aggregate
49 data on the total number and types of concerns raised to the foster care
50 ombudsman, the number of parties serviced, the number of disputes
51 resolved and responses provided, the nature of the resolution, the
52 trends and issues that arose while responding to the concerns, by
53 region, and recommendations for changes to applicable law, rules, regu-
54 lations and policy concerning the provision of foster care; and

55 (j) present quarterly reports containing information regarding major
56 inquiries, grievances, and complaints received by the office of the

1 foster care ombudsman, and the status of the responses to such
2 inquiries, grievances and complaints, to the commissioner and the inde-
3 pendent foster care ombudsman review board.

4 2. Nothing in this section shall permit the office of the foster care
5 ombudsman to participate in any pending child welfare investigation or
6 family court proceeding.

7 § 524-d. Access to the office of the foster care ombudsman. The
8 office of the foster care ombudsman shall provide information to any
9 person who contacts it, including, but not limited to: 1. foster
10 parents; 2. biological parents; 3. relatives; 4. youth in care; 5. coun-
11 ty officials; and 6. private agencies, through telephone and internet-
12 based communication.

13 § 524-e. Duties of the director. The director shall:

14 1. provide administrative supervision and oversight to the ombudsmen;

15 2. establish procedures to ensure that the office of the foster care
16 ombudsman services are made available to foster parents, biological
17 parents, relatives, and youth in care;

18 3. participate in the policy development process of the office;

19 4. conduct annual anti-bias training for ombudsmen; and

20 5. oversee the preparation of the reports required under paragraphs
21 (h) and (i) of subdivision one of section five hundred twenty-four-c of
22 this subtitle.

23 § 524-f. Conduct and scope of mediation and problem-solving. 1. The
24 office of the foster care ombudsman shall provide relevant information
25 about applicable law and policy, and provide a means to resolve issues
26 among and between foster parents, biological parents, relatives, and
27 youth in care, involving the local department of social services and the
28 voluntary agency when necessary.

29 2. The office of the foster care ombudsman shall develop and apply a
30 process for receiving, documenting, investigating, and resolving or
31 answering inquiries, grievances and complaints raised by foster parents,
32 biological parents, relatives, and youth in care orally or in written
33 form.

34 3. The office of the foster care ombudsman shall review and evaluate
35 the effectiveness and efficiency of resolution procedures, and make
36 recommendations to the independent review board described in section
37 five hundred twenty-four-h for the improvement of such procedures.

38 4. The office of the foster care ombudsman shall develop and apply a
39 process for protecting those bringing inquiries, grievances and
40 complaints from retaliation.

41 § 524-g. Confidentiality of reports. Office of the foster care
42 ombudsman reports created in response to individual inquiries, griev-
43 ances and complaints raised by foster parents, biological parents, rela-
44 tives, and youth in care are confidential and shall be safeguarded from
45 coming to the knowledge of, and from inspection or examination by, any
46 person other than the commissioner, their designee or members of the
47 independent review board established pursuant to section five hundred
48 twenty-four-h of this subtitle. Authorized persons receiving such
49 reports shall not divulge information contained therein without the
50 written consent of the commissioner. The authorized disclosure of any
51 such information shall not contain any individually identifiable infor-
52 mation. Nothing in this section shall prevent the office from preparing
53 and disseminating the reports required under paragraphs (h) and (i) of
54 subdivision one of section five hundred twenty-four-c of this subtitle.

55 § 524-h. Foster care ombudsman independent review board. 1. There is
56 hereby established an independent foster care ombudsman review board,

1 hereby referred to as the "board". The board shall be composed of twelve
2 board members, and shall consist of persons who are not employed by the
3 office. The board shall be composed of a diverse group of persons with
4 either child welfare policy expertise or child welfare system experi-
5 ence. The board members shall be appointed by April first, two thousand
6 twenty-one, as follows:

7 (a) The chief judge of the New York court of appeals shall appoint
8 three board members which shall be:

9 (i) an individual with experience representing children in family
10 court;

11 (ii) an individual with experience representing parents in family
12 court; and

13 (iii) an individual with experience as a family court judge.

14 (b) The governor shall appoint three board members which shall be:

15 (i) an individual with previous professional experience as a child
16 welfare case worker;

17 (ii) an individual with experience in primary or secondary education;
18 and

19 (iii) an individual with previous professional experience with a human
20 or social services agency or a private child welfare agency.

21 (c) The senate shall appoint three board members which shall be:

22 (i) an individual who was formerly a child in the foster care system;

23 (ii) a current or former foster parent, relative caregiver, or adop-
24 tive parent; and

25 (iii) an individual with professional or volunteer experience as a
26 court appointed special advocate.

27 (d) The assembly shall appoint three board members which shall be:

28 (i) a current or former foster parent, relative caregiver, or adoptive
29 parent;

30 (ii) a health care professional or psychologist with previous experi-
31 ence with child abuse and neglect cases; and

32 (iii) a licensed clinical social worker with previous experience with
33 child abuse and neglect cases.

34 2. Board members shall serve for terms of three years. Board members
35 shall be reimbursed for actual and reasonable expenses incurred in the
36 conduct of their duties. The board shall meet at least quarterly with
37 the director, the ombudsmen, and other appropriate officials to discuss
38 and review reports submitted by the office of the foster care ombudsman.
39 The board shall have the authority to:

40 (a) appoint the director of the office of the foster care ombudsman;

41 (b) meet with the director and ombudsmen quarterly;

42 (c) review reports submitted by the office of the foster care ombuds-
43 man;

44 (d) advise the office of the ombudsman on matters concerning
45 complaints and grievances, dispute resolution, and recommendations for
46 changes to applicable law, rules, regulations and policy concerning the
47 foster care system;

48 (e) evaluate the effectiveness and performance of the office of the
49 ombudsman and provide any necessary feedback in order to promote the
50 improvement of the foster care system; and

51 (f) take steps to advise the public of the services offered by the
52 foster care ombudsman and promote the use of and access to the office of
53 the foster care ombudsman.

54 § 524-i. Access to records. In the conduct of his or her duties
55 pursuant to this subtitle, the ombudsman shall have access to all books,
56 records, logs, reports, memoranda and any and all other materials or

documents in the possession of a local department of social services, the office, and facilities or programs of the office, including files maintained in the New York State Child Welfare Information System. The ombudsman may copy or make reference to any such report, document, memorandum, log entry or other material or document and, where appropriate, may include a copy in his or her report. Consistent with applicable laws and regulations, the confidentiality of records and documents obtained by the ombudsmen shall be maintained by the ombudsmen.

§ 2. This act shall take effect immediately.