STATE OF NEW YORK

3109

2021-2022 Regular Sessions

IN SENATE

January 27, 2021

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 Assembly, do enact as follows:

Section 1. Title 3 of article 19-G of the executive law is amended by 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.

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

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

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

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

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

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

4. "Foster parents" means all adults providing out of home care to children at risk for or who have been removed from their home pursuant to article ten of the family court act. This includes relatives and non-relatives.

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

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

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

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

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

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

(d) ensure that any resolution or response does not result in retaliation against the person contacting the foster care ombudsman;

(e) provide information to foster parents, biological parents, relatives, and youth in care about applicable law, regulation and policy;

(f) work with the local department of social services, voluntary agencies, foster parents, biological parents, relatives, and youth in care to resolve conflicts concerning application of applicable law, regulation and policy with regard to the provision of foster care;

(g) monitor the implementation of applicable law, regulation and policy concerning the provision of foster care through the process of receiving, documenting, tracking and responding to inquiries, grievances and complaints;

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

(i) prepare an annual report to the commissioner and the legislature, which shall be publicly posted on the office's website, with aggregate data on the total number and types of concerns raised to the foster care ombudsman, the number of parties serviced, the number of disputes resolved and responses provided, the nature of the resolution, the trends and issues that arose while responding to the concerns, by

region, and recommendations for changes to applicable law, rules, regulations and policy concerning the provision of foster care; and

(j) present quarterly reports containing information regarding major inquiries, grievances, and complaints received by the office of the foster care ombudsman, and the status of the responses to such inquiries, grievances and complaints, to the commissioner and the independent foster care ombudsman review board.

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

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

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

1. provide administrative supervision and oversight to the ombudsmen;

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

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

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

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

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

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

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

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

§ 524-g. Confidentiality of reports. Office of the foster care ombudsman reports created in response to individual inquiries, grievances and complaints raised by foster parents, biological parents, relatives, and youth in care are confidential and shall be safeguarded from coming to the knowledge of, and from inspection or examination by, any person other than the commissioner, their designee or members of the independent review board established pursuant to section five hundred twenty-four-h of this subtitle. Authorized persons receiving such reports shall not divulge information contained therein without the written consent of the commissioner. The authorized disclosure of any such information shall not contain any individually identifiable information. Nothing in this section shall prevent the office from preparing

and disseminating the reports required under paragraphs (h) and (i) of subdivision one of section five hundred twenty-four-c of this subtitle.

§ 524-h. Foster care ombudsman independent review board. 1. There is hereby established an independent foster care ombudsman review board, hereby referred to as the "board". The board shall be composed of twelve board members, and shall consist of persons who are not employed by the office. The board shall be composed of a diverse group of persons with either child welfare policy expertise or child welfare system experience. The board members shall be appointed by April first, two thousand twenty-two, as follows:

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

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

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

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

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

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

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

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

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

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

(ii) a current or former foster parent, relative caregiver, or adoptive parent; and

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

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

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

(ii) a health care professional or psychologist with previous experience with child abuse and neglect cases; and

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

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

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

(b) meet with the director and ombudsmen quarterly;

(c) review reports submitted by the office of the foster care ombudsman;

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

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

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

§ 524-i. Access to records. In the conduct of his or her duties pursuant to this subtitle, the ombudsman shall have access to all books, 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.