

# MAINE STATE LEGISLATURE

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# 119th MAINE LEGISLATURE

## FIRST REGULAR SESSION-1999

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Legislative Document

No. 1290

H.P. 912

House of Representatives, February 16, 1999

**An Act to Create the Position of Ombudsman in the Department of  
Human Services.**

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Reference to the Committee on Health and Human Services suggested and ordered printed.

A handwritten signature in cursive script that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative PLOWMAN of Hampden.  
Cosponsored by Senator: BENOIT of Franklin.

2 **Be it enacted by the People of the State of Maine as follows:**

4 **Sec. 1. 22 MRSA subtitle 7 is enacted to read:**

6 **SUBTITLE 7**

8 **HUMAN SERVICES OMBUDSMAN**

10 **CHAPTER 1701**

12 **HUMAN SERVICES OMBUDSMAN**

14 **§9001. Human Services Ombudsman**

16 1. Office established. The Office of Human Services  
18 Ombudsman is established within the Executive Department,  
20 autonomous from any other state agency, to represent the best  
22 interests of individuals involved in the human services system  
and to provide independent clinical oversight over cases in the  
department.

24 2. Appointment. The Governor shall appoint the Human  
26 Services Ombudsman, referred to in this subtitle as the  
28 "ombudsman." Appointment of the ombudsman is subject to review  
30 by the joint standing committee of the Legislature having  
jurisdiction over human resource matters and to confirmation by  
the Legislature. The ombudsman serves at the pleasure of the  
Governor. Any vacancy must be filled by similar appointment.

32 3. Duties. The ombudsman shall:

34 A. Employ personnel the ombudsman considers necessary to  
carry out the purposes of this chapter, subject to the Civil  
Service Law;

36 B. Provide ombudsman services to individual citizens  
38 relating to human services matters that are under the  
jurisdiction of the State;

40 C. Provide independent clinical oversight for cases in the  
42 human services system; and

44 D. At the request of a judge, Legislator, clinician or  
46 staff member of the department, review and render an opinion  
on a case currently being handled within the State's human  
services system.

48 4. Confidentiality of records. Notwithstanding Title 1,  
50 section 401 and except as provided in subsection 5, information

2 or records maintained by the ombudsman relating to a complaint or  
3 request for independent clinical analysis may not be disclosed  
4 unless the ombudsman authorizes the disclosure and the disclosure  
5 is otherwise permitted pursuant to law. The ombudsman may not  
6 disclose the identity of any requestor or complainant unless:

7 A. The requestor or complainant or a legal representative  
8 consents in writing to the disclosure; or

9 B. A court orders the disclosure.

10  
11 In providing the consent, a requestor or complainant or a legal  
12 representative may specify to whom the identity of the requestor  
13 or complainant may be disclosed and for what purposes, in which  
14 event any other disclosure is not authorized.

15  
16 5. Access by Legislator to records. Notwithstanding Title  
17 1, section 401 and subsection 4, and with the consent of the  
18 parents of a child who is the subject of a custody case in which  
19 the department is involved, a Legislator may request and obtain  
20 access to any records maintained by the ombudsman relating to  
21 that child custody case.

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23 6. Administration. The ombudsman shall:

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25 A. Administer funds appropriated for expenditure by the  
26 ombudsman and grants or gifts accepted and received by the  
27 ombudsman in accordance with current fiscal and accounting  
28 rules of the State and in accordance with the philosophy,  
29 objectives and authority of this chapter;

30  
31 B. Make an annual report, which must be submitted directly  
32 to the commissioner, the Governor and the joint standing  
33 committee of the Legislature having jurisdiction over human  
34 resource matters no later than March 1st of each year,  
35 concerning work and interests of the previous fiscal year  
36 and future plans and recommendations; and

37 C. Make interim reports the ombudsman considers advisable.

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39 Copies of reports under this subsection must be made available to  
40 all Legislators and other state agencies upon request.

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42 7. Expenses of ombudsman. Within established budgetary  
43 limits and as allowed by law, the ombudsman shall authorize and  
44 approve travel, subsistence and related necessary expenses of the  
45 ombudsman or members of the office incurred while traveling on  
46 official business.

47  
48 8. Information from state agencies. State agencies shall  
49 provide to the ombudsman copies of all reports and other  
50 information required to carry out the purposes of this chapter.  
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2           9. Legal services. The Department of the Attorney General  
3           shall provide legal services as necessary to carry out the  
4           purposes of this chapter.

6           10. Location. Office space must be made available for the  
7           ombudsman within the capitol complex.

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## SUMMARY

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14           This bill creates the Office of Human Services Ombudsman, an  
15           autonomous agency designed to represent the best interests of  
16           individuals involved in matters in the Department of Human  
17           Services and to provide independent clinical oversight for cases  
18           in the Department of Human Services.

18

20           This bill also gives Legislators access to records  
21           maintained by the ombudsman relating to child custody cases in  
22           which the department is involved, as long as the parents of the  
            child agree.