


Government of the District of Columbia  
Office of the Chief Financial Officer



Jeffrey S. DeWitt  
Chief Financial Officer

**MEMORANDUM**

**TO:** The Honorable Phil Mendelson  
Chairman, Council of the District of Columbia

**FROM:** Jeffrey S. DeWitt  
Chief Financial Officer 

**DATE:** November 23, 2020

**SUBJECT:** Fiscal Impact Statement – Office of the Ombudsperson for Children  
Establishment Act of 2020

**REFERENCE:** Bill 23-437, Draft Committee Print as provided to the Office of Revenue  
Analysis on November 7, 2020

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**Conclusion**

Funds are not sufficient in the fiscal year 2021 through fiscal year 2024 budget and financial plan to implement the bill. The bill costs \$577,000 in fiscal year 2021 and \$3 million over the financial plan.

**Background**

The bill establishes an Office of the Ombudsperson for Children (Office) which is headed by the Ombudsperson for Children (Ombudsperson). The Office is tasked with improving outcomes for Child and Family Services Agency (CFSA) children.<sup>1</sup> The Chairman of the Council is responsible for appointing the Ombudsperson to serve a term of five years, subject to the approval of a majority of the Council. The Ombudsperson may be removed only for cause by a two-thirds vote of the Council.

The Ombudsperson must appoint and fix the compensation of a person as Deputy Ombudsperson and may select and appoint employees as necessary to discharge the duties of the Office. The Ombudsperson shall serve as the exclusive personnel authority for employees of the Office and may

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<sup>1</sup> “CFSA Child” is defined in the bill as “any individual who 21 years of age or younger, and involved with, previously involved with, or otherwise known to CFSA, a CFSA licensed or contracted service and placement provider, and any entity that must operate under or comply with guidance from CFSA.”

hire staff to support the Office's operations consistent with the Office's budget. All officers and employees shall serve at the Ombudsperson's pleasure.

The Ombudsperson must also appoint a person as the Child and Family Services Agency Ombudsperson (CFSA Ombudsperson). CFSA must provide suitable office facilities for the CFSA Ombudsperson at CFSA Headquarters at no additional cost to the Office.

The Office is responsible for the following functions:

- Facilitating interagency communication and coordination related to issues impacting CFSA children;
- Developing and maintaining a database that tracks complaints received by the Office and the resolution of those complaints;
- Identifying and investigating systemic concerns relating to CFSA children and administrative acts of CFSA, and their licensed or contracted service and placement providers;
- Recommending changes to CFSA policies and procedures, staff training, and strategies;
- Submitting annual reports to Council;
- Participating as a member of the Students in the Care of D.C. Coordinating Committee,<sup>2</sup>
- Adopting rules and regulations;
- Creating and maintaining a website for the Office;
- Preparing and administering a budget for Office;
- Coordinating with the Office of the Inspector General and the Office of the District of Columbia Auditor regarding any matters that may fall within the jurisdiction and mission of those offices;
- Making criminal or disciplinary referrals to appropriate authorities when Agency officials or employees act in a manner warranting criminal or disciplinary proceedings;
- Providing information as appropriate on the rights and responsibilities of CFSA constituents;
- Receiving complaints from CFSA constituents involving the services, policies, practices and procedures of CFSA;
- Generating options for resolving complaints;
- Offering conflict resolution services; and
- Participating as a member in the District Child Fatality Review Commission, CFSA Internal Child Fatality Review Committee, and the Mayor's Advisory Committee on Child Abuse.

The bill grants the Ombudsperson the power to do the following:

- Access, examine, and copy records that are required to discharge the Ombudsperson's duties;
- Access CFSA's web-based case management and electronic data systems that service CFSA children;
- Enter and inspect without prior notice the premises of CFSA and all licensed or contracted placement providers, including secure facilities and group homes;
- Enter and inspect, with prior notice and consent, all single-family foster homes, contracted and licensed service providers;

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<sup>2</sup> As established under D.C. Official Code § 2-1599.01 *et seq.*

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FIS: Bill 23-437, "Office of the Ombudsperson for Children Establishment Act of 2020," Draft Committee Print as shared with the Office of Revenue Analysis on November 7, 2020

- Subpoena, compel the attendance and testimony of, and require the production of any records from, any agency, licensed or contracted service and placement provider;
- Communicate privately with a CFSA child;
- Communicate privately with any CFSA employee; and
- Enforce a subpoena by applying to the Superior Court of the District of Columbia for an order to appear.

The bill requires CFSA to notify the Office in writing within 24 hours after CFSA becomes aware of an allegation of a critical incident. CFSA must also provide the Office with copies of proposed revisions to current policies or regulations, or proposed new policies or regulations, including administrative issuances, at least ten days prior to issuance.

The Ombudsperson may issue reports on their activities to the Council, or any of its committees, the Citizens Review Panel on Child Abuse and Neglect, the Mayor, the Office of the Inspector General, relevant agencies, and the public. The Ombudsperson must submit an annual report to Council that contains the following data and information:

- The number and category of complaints made to the Office and the CFSA Ombudsperson, and the mechanism by which they were received (i.e. telephone, website, in person, or otherwise);
- The number of complaints broken down by type of complainant;
- The number of complaints still pending, dismissed, investigated, mediated, and resolved;
- Trend analysis that includes an examination of common root causes, structural issues, or systemic problems underlying complaints;
- A summary of any systemic investigations undertaken at the Ombudsperson's own initiative;
- CFSA data on placement stability, hospitalizations and placements in residential treatment facilities, and access to behavioral health services; and,
- Crossover Youth<sup>3</sup> data on the number, demographics, and other relevant characteristics of the Crossover Youth population.

The bill provides protections to the Ombudsperson and Office staff. The substantive content of any finding, conclusion, recommendation, or report of the Ombudsperson or member of the Ombudsperson's staff is not reviewable in any court. All related memoranda, work product, notes, and case files of the Ombudsperson's office are confidential, are not subject to discovery, judicial or administrative subpoena, or other method of legal compulsion, and are not admissible in evidence in a judicial or administrative proceeding. The Ombudsperson cannot be held personally liable for the good faith performance of their responsibilities under this chapter, except that no immunity extends to criminal acts, or other acts that violate District or federal law. The Ombudsperson must keep all matters under investigation confidential, except as far as disclosures may be necessary to enable the Ombudsperson to perform the duties of the Office and to support any recommendations resulting from an investigation.

## **Financial Plan Impact**

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<sup>3</sup> Crossover Youth are children who are currently or have been previously subject to a petition alleging delinquency filed by the Office of the Attorney General pursuant to D.C. Official Code § 16-2305 or by any other jurisdiction.

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Funds are not sufficient in the fiscal year 2021 through fiscal year 2024 budget and financial plan to implement the bill. The bill costs \$577,000 in fiscal year 2021 and \$3 million over the financial plan.

Funding must be allocated to pay for personal and non-personal expenses associated with setting up a new office and executing office functions. The Ombudsperson, along with Office support staff, will require a salary and fringe benefits. Support staff will include a Deputy CFSA Ombudsperson, a Deputy Ombudsperson for Children, Legal Counsel, and a Staff Assistant. The total salary and fringe costs for these new employees is \$325,000 in fiscal year 2021 and \$2.29 million over the financial plan.

Additionally, the Office will need funding to lease office space and will need to purchase furniture, phones, office supplies, computers, and printers. The Office also needs funding to support the development of a website and database to track complaints. The Council Office of the Secretary will need funding to provide the Office with human resources services, procurement services, budget services, and IT support. In total, the non-personal costs associated with establishing the Office are \$252,000 in fiscal year 2021 and \$718,000 over the financial plan.

Bill 23-437 - Office of the Ombudsperson for Children Establishment Act of 2020					
Total Cost					
FIS Table	FY 2021	FY 2022	FY 2023	FY 2024	Total
Salary <sup>(a)</sup>	\$262,000	\$524,000	\$524,000	\$524,000	\$1,834,000
Fringe <sup>(b)</sup>	\$63,000	\$128,000	\$130,000	\$132,000	\$453,000
Office Space <sup>(c)</sup>	\$30,000	\$60,000	\$60,000	\$60,000	\$210,000
Office Supplies and Other Expenses <sup>(d)</sup>	\$57,000	\$32,000	\$32,000	\$57,000	\$178,000
IT Costs <sup>(e)</sup>	\$135,000	\$25,000	\$25,000	\$25,000	\$210,000
Administrative Support <sup>(f)</sup>	\$30,000	\$30,000	\$30,000	\$30,000	\$120,000
Total	\$577,000	\$799,000	\$801,000	\$828,000	\$3,005,000

Table Notes

- (a) Includes salary for one Grade ES-8 Ombudsperson, two Grade ES-7 Deputy Ombudspersons, one Grade LS-14 Attorney, and one Grade ES-5 Staff Assistant. Assumes start date of March 1, 2021.
- (b) Assumes fringe benefit rate of 24 percent and cost growth of 1.5 percent. Assumes start date of March 1, 2021.
- (c) Assumes 1,000 square feet of office space at a cost of \$60 per square foot. Assumes lease start date of March 1, 2021.
- (d) Includes the cost of phones, cell phones, office supplies, travel expenses, computers, printers, copiers, professional association memberships and conference fees.
- (e) Includes cost to develop and maintain a website, construct a case management database and install IT infrastructure.
- (f) Includes cost of providing human resources, procurement, budget and IT support.