

Louisiana Requires an Office of Children’s Ombuds

“Louisiana, with struggling child services agencies and ranked next-to-last among the states for child well-being, has this in common with the four states ranked worst for children: Louisiana lacks an Office of Children’s Ombuds”

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EXECUTIVE SUMMARY

Louisiana's history of poor child well-being is chronic evidence that our state's children and families need a Louisiana Office of Children's Ombuds. That Louisiana's Department of Children and Family Services (DCFS) is preparing to privatize critical aspects of child welfare begs for a Louisiana Office of Children's Ombuds. That Ware Detention Center has made the front page of The New York Times¹ because of chronic maltreatment means children need an independent ear in Louisiana Government to hear their complaints.

Child Ombuds are state officials who receive, resolve, and report on complaints about state services for children. Louisiana has no Child Ombuds.

Current news reports document that many Louisiana children receive inadequate services from state departments and agencies intended for their care. As much as children and families need an objective Louisiana Office of Children's Ombuds to hear their grievances, Louisiana's Legislature requires the eyes and ears of an Office of Children's Ombuds to remain informed of how citizens perceive state services for children.

This paper explains the reasons that Louisiana's children, families, Legislature, and Governor need our state to create an Office of Children's Ombuds. It answers questions about the functions and duties of a Children's Ombuds. Also, it provides information about the recommendations of the National Conference of State Legislatures and examples of the work performed by Offices of Children's Ombuds in most states.

Without doubt, Louisiana requires an Office of Children's Ombuds, and Louisiana requires that Office to have teeth.

Louisiana's Children and Families Need the Services of an Office of Children's Ombuds.

What does Louisiana lack in common with the four states ranked worst for child well-being? Ranked next-to-last in the nation, Louisiana does not have an Office of Children's Ombuds – a critical element of child well-being that is available in 86% of states.

Recent headlines about the failures of Louisiana's agencies to protect children make it glaringly obvious that Louisiana's children, parents, and elected officials need an Office of Children's Ombuds:

*'Dying Inside': Chaos and Cruelty in Louisiana Juvenile Detention.*²

*Toddler deaths prompt changes for Louisiana's child welfare agency.*³

*How alarming is Louisiana's child welfare crisis? 3 numbers that show how kids are suffering.*⁴

*Youth justice advocates worry about sending juveniles to Angola.*⁵

*Frequent escapes from youth center cause state senator to call for its closure.*⁶

*'No light. No nothing.' Inside Louisiana's harshest juvenile lockup, quietly opened last year.*⁷

*Louisiana remains one of the worst states for child well-being.*⁸

Each of these news articles describes devastating shortcomings in the services Louisiana provides children. Unfortunately, the articles describe systemic breakdowns that have brewed for decades. The stories also describe parents' anguish because their children were harmed rather than helped.

When our children do not receive good services from state agencies and offices, they nor their parents or foster caregivers have an independent ombud to hear their grievances and seek resolution. Parents, kinship caregivers, and foster caregivers in Louisiana have no objective office where they trust their voices are heard and believed.

Today, no aspect of Louisiana's state government is responsible for gathering information about grievances related to children's services, ensuring complaints are resolved, and reporting on them to the public, the Legislature, and the Governor. To the point, Louisiana lacks a fundamental element of infrastructure to improve child well-being, an Office of Children's Ombuds.

Louisiana's Privatizing of Essential Pieces of Its Public Child Welfare System Begg for a Louisiana Office of Children's Ombuds.

Louisiana's Department of Children and Family Services is preparing to privatize Home Development work in the Baton Rouge, New Orleans, and Thibodaux regions. The unprecedented transfer of responsibility and accountability for recruiting, verifying, training, and certifying foster homes in Louisiana's three most difficult regions requires additional oversight.

While small-scale outsourcing of public child welfare work can secure exceptional care for children, the history of broader scale child welfare privatization is replete with examples of negative outcomes and adverse treatment of vulnerable children. Given the well-documented risks associated with privatizing foster care in Louisiana, our citizens and Louisiana's elected officials require an objective, independent, system-level observation of the successes and failures. Louisiana's children in foster care *need* an Office of Children's Ombuds. Louisiana's foster parents need the objective ear of Children's Ombuds.

Louisiana's Legislature Requires an Office of Children's Ombuds to Ensure It Receives Current, Objective Information about Louisiana's Public Child-Serving Agencies.

Louisiana's Legislature is responsible for overseeing and funding all the services the State of Louisiana provides to children and families. Louisiana's Legislature, and ultimately all our citizens, would benefit if law makers were informed by an Office of Children's Ombuds.

Without an Office of Children's Ombuds, Louisiana's Legislature has no official "eyes and ears" for seeing or hearing about the state's services for children. Rather than gaining objective knowledge of troublesome conditions early and responding proactively, the Legislature finds itself responding reactively to events that bring state agencies, the Legislature, and the Governor into the glare of public spotlight. The need for active oversight and corrective actions is always present, but the on-the-ground reports of an Ombuds' observations are never available in Louisiana.

During the October 20, 2022, Senate Health and Welfare Committee meeting⁹ with the administration of Louisiana's Department of Children and Family Services, members of the Committee seemed surprised by information and details provided in recent news reports, especially one published that morning.

The best surprise in that meeting *could* have been no surprise if an Office of Children's Ombuds had routinely provided objective reports from the field to the Legislature. The information would have been in hand, trends identified, and possibly, corrected before generating devastating events. Louisiana's Legislature needs the work of an Office of Children's Ombudsman to inform its oversight of state agencies and prevent the devolving conditions in the Office of Juvenile Justice, local detention centers, the Department of Children and Family Services, the Office of Citizens with Developmental Disabilities, and other child services agencies and providers.

So, these are a few of the many reasons Louisiana requires an Office of Children's Ombuds. In addition to understanding the role of an Office of Children's Ombuds, it is also necessary to understand what an Ombudsman is and how essential their work is to the well-being of children, the successful operation of state services, and the sharing of information with the public, Legislators, and Governors.

What Is an Ombud?

An *Ombud* is a state employee who acts as "an independent, impartial public official with authority and responsibility to receive, investigate or informally address complaints about government actions, and, when appropriate, make findings and recommendations, and publish reports."

An *Office of Children’s Ombuds* is an independent, impartial office of state government with employees who are responsible for receiving complaints and grievances from children, parents, and other stakeholders related to state services for children, investigating these matters, assisting and assuring their resolution, and reporting to inform the public, the Legislature, and the Governor about general and specific opportunities for improvement.

The National Conference of State Legislatures guides states interested in doing right by their children and has published a beneficial introduction to Children’s Ombudsman Offices¹⁰. Information for Legislatures is available at:

<https://www.ncsl.org/research/human-services/childrens-ombudsman-offices.aspx>

What do Offices of Children’s Ombuds Do?

The specific functions of an Office of Children’s Ombuds vary by state, but the essential roles of the offices include:

1. Handling and investigating complaints from citizens and families about government services for children and families. This generally includes all child-serving state agencies; child protection, foster care, adoptions, services for children with developmental and intellectual disabilities, and juvenile justice services.
2. Providing a “system accountability mechanism” by recommending system-wide improvements to benefit children and families. These recommendations are generally in the form of annual reports to the public, the Legislature, and the Governor.
3. Protecting children and families’ rights, individually and systemwide.
4. Monitoring programs, placements, and departments responsible for providing children’s services. In some jurisdictions, this includes objective reviews of state facilities and institutions, and state-funded facilities and programs.

How these functions might be conducted by a Louisiana Office of Children’s Ombuds will be a function of the laws and regulations that create and guide the work and the expertise and initiative of the Office’s staff members.

Nearly 30 years ago, the American Bar Association’s Center on Children and the Law published *Establishing Ombudsman Programs for Children and Youth*¹¹. This comprehensive guide identified the already well-established Rhode Island Office of the Child Advocate as a model ombudsman office for children. (With nearly every state offering Ombuds services for children, there are many examples of effective Offices of Children’s Ombuds to help Louisiana avoid reinventing the proverbial wheel. The regulations creating these offices may serve as sample legislation for Louisiana’s Legislature.)

How Does an Office of Children's Ombuds Handle Complaints?

When a citizen contacts an Office of Children's Ombuds with a complaint or grievance, the Ombuds determines what action is required. One option is to connect the caller with resources and make a good referral. In other cases, it will be appropriate to open a case.

When opening a case, the Ombuds provides notice of the complaint to the state agency or office and begins investigating the citizen's complaint. The Ombuds asks the identified state agency to respond.

In some cases, it may be necessary for the Office of Children's Ombuds to intervene more directly by facilitating communication, convening a meeting, or pursuing legal action.

After concluding its investigation and action, the Office of Children's Ombuds will provide a report and allow the agency to respond. Also, on an annual basis, the Office of Children's Ombuds will aggregate and summarize citizen complaints, identify system trends, and produce a yearly report for the public, Legislature, and Governor.

What Type of Reports do Children's Ombuds Provide Legislators and the Public?

Children's Ombuds provide reports for many purposes. Nearly every Office of Children's Ombuds produces an annual report of the office's activities, the general condition of a state's children, and the results of surveys, aggregated grievances, and outcomes of improvement activities.

In addition, some Offices of Children's Ombuds create ad hoc reports at the request of their Legislatures or Governors. Topics include the conditions of children in group homes, the hoteling of children in foster care, the condition of state and contracted facilities, etc.

The three examples below provide an overview of the general reporting conducted of Offices of Children's Ombuds. One is Washington's child fatalities report¹², one is the Texas' annual report¹³, and the last is the first annual report of the West Virginia Foster Care Ombudsman¹⁴ that found 90% of complainants (children, families *and* contracted providers) chose to use the new Ombuds office due to fear of retaliation by child welfare workers.

Washington

Child Fatalities and Near Fatalities in Washington State. August 2022. 55 pages. Washington State Office of the Family and Children's Ombuds. https://ofco.wa.gov/sites/default/files/2022-08/2022_Critical_Incident_Report.pdf

Texas

Report of the Ombudsman for Children and Youth in Foster Care, As Required by S.B. 830, 84th Legislature, Regular Session, 2015. December 2020. 33 pages. Office of the Ombudsman, Texas Health and Human Services. <https://www.hhs.texas.gov/sites/default/files/documents/laws-regulations/reports-presentations/2020/ombudsman-children-youth-foster-care-fy-2020.pdf>

West Virginia

WV Foster Care Ombudsman Program, The First Year in Review. March 25, 2021. 32 pages. State of West Virginia, Department of Health and Human Resources, Office of the Inspector General, Foster Care Ombudsman.

<https://www.wvdhhr.org/oig/pdf/FCO/First%20Report%20of%20the%20Foster%20Care%20Ombudsman.pdf>

These reports demonstrate the effective work and positive outcomes that are created for children in states that have an Office of Children’s Ombuds.

How Many States Offer Ombuds Services to Their Citizens and Legislatures?

State	State Ombuds Office for Children?	Kids Count Rank 2021
Massachusetts	YES	1
New Hampshire	YES	2
Minnesota	YES	3
Vermont	YES	4
Utah	YES	5
New Jersey	YES	6
Nebraska	YES	7
Connecticut	YES	8
Iowa	YES	9
Wisconsin	NO	10
Maine	YES	11
North Dakota	NO	12
Virginia	YES	13
Washington	YES	14
Colorado	YES	15
Idaho	NO	16
Wyoming	YES	17
Kansas	YES	18
Pennsylvania	Developing	19
South Dakota	YES	20
Illinois	YES	21
Montana	YES	22
Rhode Island	YES	23
Maryland	YES	24
Oregon	YES	25
Hawaii	YES	26
New York	YES	27
Michigan	YES	28
Indiana	YES	29
Missouri	YES	30
Ohio	YES	31
Delaware	YES	32
California	YES	33
North Carolina	YES	34
Florida	YES	35
Tennessee	YES	36
Kentucky	YES	37
Georgia	YES	38
Arkansas	YES	39
Arizona	YES	40
South Carolina	YES	41
Oklahoma	YES	42
Alaska	YES	43
West Virginia	YES	44
Nevada	YES	45
Texas	YES	46
Alabama	NO	47
Louisiana	NO	48
New Mexico	NO	49
Mississippi	NO	50
Number of States with Child Ombud	43	
Percent of States with Child Ombud	86%	

States establish Children’s Ombuds Offices to provide oversight of children’s services. Most states have established a Children’s Ombuds (sometimes called “Office of the Child Advocate”) with duties and purposes specifically related to children’s services.

In addition to the states with formal Offices of Children’s Ombuds which focus exclusively on children’s issues, five other states maintain an Ombudsman program to address citizens’ concerns related to all governmental agencies, including services for children. Also, nine states have related Ombuds services, program-specific services, or county-run programs to address citizen grievances and supply information to their Legislatures.

It is particularly telling that the four states ranked worst for child well-being in the Annie E. Casey Foundation’s *KIDS COUNT Data Book*¹⁵ lack any form of Child Ombud. The *KIDS COUNT Data Book* is an annual ranking of states on 16 key measures of child well-being. Since the inception of *KIDS COUNT* in 1989, Louisiana has held the average rank of 49th among the states for child well-being.

Louisiana has a Long-Term Care Ombudsman for Elderly Affairs, but Not for Children. Why is This So?

Some are surprised that Louisiana has a Long-Term Care Ombudsman in the Governor's Office of Elderly Affairs but lacks an Office of Children's Ombuds. The reason is simple.

The federal government passed the *Older Americans Act*¹⁶ in 1965, which requires all states to provide a long-term care ombudsman program for the elderly. It stops there. No federal law requires similar protection for children. States are free to choose whether to protect children's rights in the same way they must defend the rights of the elderly.

Consequently, each state government determines whether it wishes to "listen" to children and parents and provide recourse when state services are not up to par. With more than 1,090,000 children (and each child is a compelling reason to listen), Louisiana is one of the last states without an Office of Children's Ombuds.

The requirement that states have ombuds for the elderly is a consequence of intensive lobbying work at the federal level in the past by advocates for the elderly.

Unfortunately, children have no political voice, do not vote, and do not make campaign contributions. So, children must rely on the goodwill of each state's elected officials to establish Ombuds services.

What Are the Costs of an Office of Child Ombuds?

In terms of budget, the ombuds work conducted by the Governor's Office of Elderly Affairs offers a good analogy. As reported in the *Louisiana Long-Term Care Ombudsman Program FFY 2020 Annual Report*¹⁷, the yearly cost of Louisiana's Long-Term Care Ombudsman Program for the elderly is \$1,267,799. (Services for children are very different than for the elderly. Given the condition of Louisiana's services for children, Child Ombuds, should anticipate a more active role than can be conducted by trained volunteers.)

The cost of not having a Louisiana Office of Children's Ombuds is incalculable.

When children receive inadequate or harmful services, the entire future changes for the worse – theirs and ours. The child who bounces through too many foster homes to settle into an educational routine loses interest in learning. All of us in Louisiana lose that child's potential. Would she have been a doctor?

How much does it cost when a teen incarcerated in a state facility that has been historically neglected, who receives ineffective mental health services, and is socialized toward criminal behavior, returns to the community with crime on the mind?

What does it cost when a child lives too far from community-based mental health services to participate in care? How much worse do mental health problems become without prevention and early intervention? How much more costly if their absence is ignored creating the need

for expensive out-of-home care for intensive psychiatric care that could have been prevented if an Office of Children's Ombuds were transparently reporting on the gaps in services.

An effective Office of Children's Ombuds will keep the critical deficits of child-serving agencies, operations, and facilities before all our eyes, and help citizens, the Legislature, and the Governor make informed decisions about how Louisiana cares for our children.

Not having an Office of Children's Ombuds costs Louisiana much more than our state will ever spend on establishing and maintaining a strong Louisiana Office of Children's Ombuds.

Conclusion: Now is the Time

Louisiana's children, parents, state employees, Legislature, and Governor, need an Office of Children's Ombuds. Unfortunately, Louisiana is among the last states to create this critical service. As a result, we are missing significant opportunities to support children and parents, keep our Legislators and governors proactively informed, and improve child well-being in the state ranked 49th for child well-being for 33 years.

Indeed, other states have had effective Offices of Children's Ombuds for decades. With the chronic shortcomings in state services for children, we need the same in Louisiana.

Surely, now is the decisive moment for Louisiana's Legislature and Governor to create an Office of Children's Ombuds.

References

- 1, 2 Megan Shutzer and Rachel Lauren Mueller. “‘Dying Inside’: Chaos and Cruelty in Louisiana Juvenile Detention.” *The New York Times*. 30 October 2022. <https://www.nytimes.com/interactive/2022/10/29/us/juvenile-detention-abuses-louisiana.html>. Accessed 1 November 2022.
- 3 Wesley Muller. “Toddler deaths prompt changes for Louisiana’s child welfare agency.” *KTBS.com*. 21 October, 2022. https://www.ktbs.com/news/louisiana/toddler-deaths-prompt-changes-for-louisiana-s-child-welfare-agency/article_f8f9f4e3-f39e-50da-b02d-486db8992955.html. Accessed 1 November 2022.
- 4 Andrea Gallo. “How alarming is Louisiana’s child welfare crisis? 3 numbers that show how kids are suffering.” *The Times-Picayune | The Advocate*. 21 August 2022. https://www.nola.com/news/article_6be7c996-1fe3-11ed-9aa7-43ad90fff1d4.html. Accessed 1 November 2022.
- 5 Jessica Know. “Youth justice advocates worry about sending juveniles to Angola.” *BRPRoud.com*. 8 September 2022. <https://www.brproud.com/news/local-news/youth-justice-advocates-worry-about-sending-juveniles-to-angola/>. Accessed 1 November 2022.
- 6 Sarah Lawrence. “Frequent escapes from youth center cause state senator to call for its closure.” *WBRZ.com*. 11 April 2022. <https://www.wbrz.com/news/frequent-escapes-from-youth-center-cause-state-senator-to-call-for-its-closure/>. Accessed 1 November 2022.
- 7 Beth Schwartzapfel, The Marshall Project; Erin Einhorn, NBC News; and Annie Waldman, ProPublica. “‘No light. No nothing.’ Inside Louisiana’s harshest juvenile lockup, quietly opened last year.” *The Marshall Project*. 10 March 2022. <https://www.themarshallproject.org/2022/03/10/no-light-no-nothing-inside-louisiana-s-harshest-juvenile-lockup>. Accessed 1 November 2022.
- 8 Associated Press. “Louisiana remains one of the worst states for child well-being.” *WWLTV.com*. 18 June 2019. <https://www.wwltv.com/article/news/health/louisiana-remains-one-of-the-worst-states-for-child-well-being/289-eeee405e-c4cb-4c08-b4a9-ba168bfdce8f>. Accessed 1 November 2022.
- 9 “Archived Video of Louisiana State Senate Health and Welfare Committee.” Louisiana State Senate Website, 20 October 2022, https://senate.la.gov/s_video/VideoArchivePlayer.aspx?v=senate/2022/10/102022HW. Accessed 1 November 2022.
- 10 National Conference of State Legislatures. “Children’s Ombudsman Offices | Office of the Child Advocate.” 5 October 2021, <https://www.ncsl.org/research/human-services/childrens-ombudsman-offices.aspx>. Accessed 1 November 2022.
- 11 Davidson, H.A. , et al. *Establishing Ombudsman Programs for Children and Youth: How Government’s Response to Its Young Citizens Can Be Improved*. American Bar Association. 1993.

- 12 *Child Fatalities and Near Fatalities in Washington State*. August 2022. 55 pages. Washington State Office of the Family and Children's Ombuds. https://ofco.wa.gov/sites/default/files/2022-08/2022_Critical_Incident_Report.pdf
- 13 *Report of the Ombudsman for Children and Youth in Foster Care, As Required by S.B. 830, 84th Legislature, Regular Session, 2015*. December 2020. 33 pages. Office of the Ombudsman, Texas Health and Human Services. <https://www.hhs.texas.gov/sites/default/files/documents/laws-regulations/reports-presentations/2020/ombudsman-children-youth-foster-care-fy-2020.pdf>
- 14 *WV Foster Care Ombudsman Program, The First Year in Review*. 25 March 2021. 32 pages. State of West Virginia, Department of Health and Human Resources, Office of the Inspector General, Foster Care Ombudsman. <https://www.wvdhhr.org/oig/pdf/FCO/First%20Report%20of%20the%20Foster%20Care%20Ombudsman.pdf>
- 15 The Annie E. Casey Foundation. *2021 KIDS COUNT Data Book: 2021 State Trends in Child Well-Being*. Baltimore: The Annie E. Casey Foundation, 2021. <https://www.aecf.org/resources/2021-kids-count-data-book>. Accessed 1 November 2022.
- 16 United States. *Older Americans Act of 1965, as Amended*. Washington, D.C.: Administration on Aging, Office of Human Development Services, U.S. Department of Health, Education, and Welfare, 1978.
- 17 Louisiana Long-Term Care Ombudsman Program. *FFY 2020 Annual Report*. Louisiana Governor's Office of Elderly Affairs, 2020. <http://goea.louisiana.gov/assets/Ombudsman/FFY2020LouisianaOmbudsmanProgramAnnualReport.pdf>. Accessed 1 November 2022.