

2 EHB 3041 - CONF REPT  
3 By Conference Committee

4 ADOPTED 3/12/98

5 Strike everything after the enacting clause and insert the  
6 following:

7 NEW SECTION. Sec. 1. A new section is added to chapter 43.06A  
8 RCW to read as follows:

9 Neither the ombudsman nor the ombudsman's staff may be compelled,  
10 in any judicial or administrative proceeding, to testify or to produce  
11 evidence regarding the exercise of the official duties of the ombudsman  
12 or of the ombudsman's staff. All related memoranda, work product,  
13 notes, and case files of the ombudsman's office are confidential, are  
14 not subject to discovery, judicial or administrative subpoena, or other  
15 method of legal compulsion, and are not admissible in evidence in a  
16 judicial or administrative proceeding. This section shall not apply to  
17 the legislative oversight committee.

18 NEW SECTION. Sec. 2. A new section is added to chapter 43.06A RCW  
19 to read as follows:

20 Identifying information about complainants or witnesses shall not  
21 be subject to any method of legal compulsion, nor shall such  
22 information be revealed to the legislative oversight committee or the  
23 governor except under the following circumstances: (1) The complainant  
24 or witness waives confidentiality; (2) under a legislative subpoena  
25 when there is a legislative investigation for neglect of duty or  
26 misconduct by the ombudsman or ombudsman's office when the identifying  
27 information is necessary to the investigation of the ombudsman's acts;  
28 or (3) under an investigation or inquiry by the governor as to neglect  
29 of duty or misconduct by the ombudsman or ombudsman's office when the  
30 identifying information is necessary to the investigation of the  
31 ombudsman's acts.

32 For the purposes of this section, "identifying information"  
33 includes the complainant's or witness's name, location, telephone  
34 number, likeness, social security number or other identification  
35 number, or identification of immediate family members.

1        NEW SECTION.    **Sec. 3.** A new section is added to chapter 43.06A RCW  
2 to read as follows:

3        The privilege described in section 1 of this act does not apply  
4 when:

5        (1) The ombudsman or ombudsman's staff member has direct knowledge  
6 of an alleged crime, and the testimony, evidence, or discovery sought  
7 is relevant to that allegation;

8        (2) The ombudsman or a member of the ombudsman's staff has received  
9 a threat of, or becomes aware of a risk of, imminent serious harm to  
10 any person, and the testimony, evidence, or discovery sought is  
11 relevant to that threat or risk;

12        (3) The ombudsman has been asked to provide general information  
13 regarding the general operation of, or the general processes employed  
14 at, the ombudsman's office; or

15        (4) The ombudsman or ombudsman's staff member has direct knowledge  
16 of a failure by any person specified in RCW 26.44.030, including the  
17 state family and children's ombudsman or any volunteer in the  
18 ombudsman's office, to comply with RCW 26.44.030.

19        NEW SECTION.    **Sec. 4.** A new section is added to chapter 43.06A RCW  
20 to read as follows:

21        When the ombudsman or ombudsman's staff member has reasonable cause  
22 to believe that any public official, employee, or other person has  
23 acted in a manner warranting criminal or disciplinary proceedings, the  
24 ombudsman or ombudsman's staff member shall report the matter, or cause  
25 a report to be made, to the appropriate authorities.

26        NEW SECTION.    **Sec. 5.** A new section is added to chapter 43.06A RCW  
27 to read as follows:

28        Nothing in this chapter shall be construed to conflict with the  
29 duty to report specified in RCW 26.44.030.

30        **Sec. 6.** RCW 43.06A.010 and 1996 c 131 s 2 are each amended to read  
31 as follows:

32        There is hereby created an office of the family and children's  
33 ombudsman within the office of the governor for the purpose of  
34 promoting public awareness and understanding of family and children  
35 services, identifying system issues and responses for the governor and  
36 the legislature to act upon, and monitoring and ensuring compliance

1 with administrative acts, relevant statutes, rules, and policies  
2 pertaining to family and children's services and the placement,  
3 supervision, and treatment of children in the state's care or in state-  
4 licensed facilities or residences. The ombudsman shall report directly  
5 to the governor and the legislative oversight committee and shall  
6 exercise his or her powers and duties independently of the secretary.

7 **Sec. 7.** RCW 43.06A.020 and 1996 c 131 s 3 are each amended to read  
8 as follows:

9 (1) Subject to confirmation by the senate, the governor shall  
10 appoint an ombudsman who shall be a person of recognized judgment,  
11 independence, objectivity, and integrity, and shall be qualified by  
12 training or experience, or both, in family and children's services law  
13 and policy. Prior to the appointment, the governor shall consult with,  
14 and may receive recommendations from the committee, regarding the  
15 selection of the ombudsman.

16 (2) The person appointed ombudsman shall hold office for a term of  
17 three years and shall continue to hold office until reappointed or  
18 until his or her successor is appointed. The governor may remove the  
19 ombudsman only for neglect of duty, misconduct, or inability to perform  
20 duties. Any vacancy shall be filled by similar appointment for the  
21 remainder of the unexpired term.

22 NEW SECTION. **Sec. 8.** If any provision of this act or its  
23 application to any person or circumstance is held invalid, the  
24 remainder of the act or the application of the provision to other  
25 persons or circumstances is not affected.

26 NEW SECTION. **Sec. 9.** This act is necessary for the immediate  
27 preservation of the public peace, health, or safety, or support of the  
28 state government and its existing public institutions, and takes effect  
29 immediately."

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33 On page 1, line 3 of the title, after "proceedings;" strike the  
34 remainder of the title and insert "amending RCW 43.06A.010 and

1 43.06A.020; adding new sections to chapter 43.06A RCW; and declaring an  
2 emergency."

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