

ASSEMBLY, No. 5249

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED JANUARY 12, 2021

Sponsored by:

Assemblywoman JOANN DOWNEY

District 11 (Monmouth)

SYNOPSIS

Renames Office of Ombudsman for Individuals with Intellectual or Developmental Disabilities, creates position of Deputy Ombudsman, and expands duties of office to apply to all persons with disabilities and their families.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning the purpose and name of the Office of the
2 Ombudsman for Individuals with Intellectual or Developmental
3 Disabilities and Their Families and supplementing and amending
4 P.L.2017, c.269.

5
6 BE IT ENACTED by the Senate and General Assembly of the State
7 of New Jersey:

8
9 1. Section 1 of P.L.2017, c.269 (C.30:1AA-9.1) is amended to
10 read as follows:

11 1. a. (1) There is established in but not of the Department of
12 the Treasury the Office of the Ombudsman for Individuals with
13 Intellectual or Developmental Disabilities and their Families. For
14 the purpose of complying with the provisions of Article V, Section
15 IV, paragraph 1 of the New Jersey Constitution, the Office of the
16 Ombudsman for Individuals with Intellectual or Developmental
17 Disabilities and their Families is hereby allocated within the
18 Department of the Treasury, but notwithstanding this allocation, the
19 office shall be independent of any supervision or control by the
20 department or any board or officer thereof, or any other cabinet-
21 level department, board, or officer thereof. The purpose of the
22 ombudsman is to serve as a resource to provide information and
23 support to individuals with intellectual or developmental disabilities
24 and their families.

25 (2) On or after the effective date of P.L. , c. (C.)
26 (pending before the Legislature as this bill), the Office of the
27 Ombudsman for Individuals with Intellectual or Developmental
28 Disabilities and Their Families, established by this subsection, shall
29 be entitled and known as the Office of the Ombudsman for
30 Individuals with Disabilities and Their Families. The revised and
31 expanded purpose of the Office of the Ombudsman for Individuals
32 with Disabilities and Their Families, and of the ombudsman thereof,
33 shall be to serve as a resource for, and provide information and
34 support to, all individuals with disabilities and their families.

35 (3) Whenever, in any law, rule, regulation, judicial or
36 administrative proceeding, or otherwise, reference is made to the
37 Office of the Ombudsman for Individuals with Intellectual or
38 Developmental Disabilities and Their Families or to the
39 ombudsman thereof, the same shall mean and refer, respectively, to
40 the Office of the Ombudsman for Individuals with Disabilities and
41 Their Families and the ombudsman thereof.

42 b. (1) The Governor shall appoint an **【Ombudsman for**
43 **Individuals with Intellectual or Developmental Disabilities and their**
44 **Families】** ombudsman, who shall be qualified by training and
45 experience to perform the duties of the office. The ombudsman

EXPLANATION – Matter enclosed in bold-faced brackets **【thus】** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 shall be a person of recognized judgment, integrity, and objectivity,
2 **【and】** shall be skilled in communication**【,】** and conflict resolution,
3 and **【professionalism】** shall have personal or professional
4 experience with individuals with disabilities and their families.

5 (2) The ombudsman appointed pursuant to this subsection shall
6 select and appoint a deputy ombudsman to support the ombudsman
7 in the execution of the ombudsman's duties. The deputy
8 ombudsman shall be authorized to act in the ombudsman's stead
9 and perform all relevant duties of the ombudsman in any case
10 where: (a) the ombudsman is unavailable, due to illness, disability,
11 leave, or other absence; or (b) the ombudsman, in the ombudsman's
12 sole discretion, determines that there is an appearance of
13 impropriety or partiality or a conflict of interest that prevents the
14 ombudsman from effectively discharging his or her duties in any
15 particular matter.

16 c. The ombudsman shall hire sufficient professional and
17 clerical staff and organize and direct the work of the office,
18 including the work of such professional and clerical staff, as may be
19 necessary to carry out the ombudsman's duties under
20 P.L.2017, c.269 (C.30:1AA-9.1 et seq.), as amended and
21 supplemented by P.L. , c. (C.) (pending before the
22 Legislature as this bill). All employees of the office shall serve at
23 the pleasure of the ombudsman. The ombudsman, or the deputy
24 ombudsman acting in the ombudsman's stead, may delegate, to any
25 employee of the office, any of the authorities, duties, or powers
26 granted under P.L.2017, c.269 (C.30:1AA-9.1 et seq.), as amended
27 and supplemented by P.L. , c. (C.) (pending before the
28 Legislature as this bill), except for the delegation authority granted
29 pursuant to this subsection or the reporting duties contained in
30 section 3 of P.L.2017, c.269 (C.30:1AA-9.3).

31 (cf: P.L.2017, c.269, s.1)

32
33 2. (New section) As used in P.L.2017, c.269 (C.30:1AA-9.1 et
34 seq.):

35 "Appropriate services" means any services, including, but not
36 limited to, assessment, placement, treatment, support, planning,
37 housing, employment, health care, or behavioral health care
38 services, which are made available by a relevant department in the
39 State to assist individuals with disabilities or the family members
40 thereof.

41 "Individual with a disability" means an individual who has a
42 temporary or permanent, partial or total physical or sensory
43 disability, infirmity, malformation, or disfigurement caused by
44 bodily injury, birth defect, or illness such as epilepsy or other
45 seizure disorders. "Individual with a disability" includes, but shall
46 not be limited to, an individual who has any degree of paralysis,
47 amputation, lack of physical coordination, blindness or visual
48 impairment, deafness or hearing impairment, muteness or speech

1 impairment, or physical reliance on a service or guide dog,
2 wheelchair, or other remedial appliance or device, or any mental,
3 psychological, or developmental disability or impairment, including
4 autism spectrum disorder, which either results from anatomical,
5 psychological, physiological, or neurological conditions preventing
6 the typical exercise of any bodily or mental function or is
7 demonstrable, medically or psychologically, by accepted clinical or
8 laboratory diagnostic techniques.

9 “Relevant department” or “department” means the Department of
10 Human Services, the Department of Children and Families, the
11 Department of Labor and Workforce Development, the Department
12 of Education, the Department of Health, or any other executive
13 department or agency that provides appropriate services to
14 individuals with disabilities or their families through any office or
15 division thereof.

16
17 3. Section 2 of P.L.2017, c.269 (C.30:1AA-9.2) is amended to
18 read as follows:

19 2. a. The duties of the Ombudsman for Individuals with
20 **【Intellectual or Developmental】** Disabilities and their Families
21 shall include, but not be limited to, the following:

22 (1) to serve as a source of information for all individuals with
23 **【intellectual or developmental】** disabilities and their families
24 **【and】**, as well as for other interested members of the public and
25 members of the media, to help them better understand State and
26 federal laws and regulations governing individuals with
27 **【intellectual or developmental】** disabilities;

28 (2) to provide, in coordination with the State Council on
29 Developmental Disabilities, the State Centers of Independent
30 Living, the State designated protection and advocacy organization
31 for individuals with disabilities, and members of the State
32 Legislature:

33 (a) information and **【support】** supports to individuals with
34 **【intellectual or developmental】** disabilities and their families, as
35 may be necessary to assist them in identifying, navigating, and
36 understanding the process for obtaining services and supports from,
37 **【the Division of Developmental Disabilities in the Department of**
38 **Human Services and the Division of Children's System of Care in**
39 **the Department of Children and Families】** relevant departments in
40 the State【, including information and support regarding individuals
41 who transition from receiving services and supports from the
42 Division of Children's System of Care to receiving services and
43 supports from the Division of Developmental Disabilities】; and

44 (b) direct assistance to individuals with **【intellectual or**
45 **developmental】** disabilities **【in obtaining from the Division of**
46 **Children's System of Care or the Division of Developmental**
47 **Disabilities】**, as may be necessary to ensure that such persons are

1 able to obtain appropriate~~[],~~ services, supports, and opportunities
2 that focus on their personal goals and that help those goals become
3 a reality;

4 (3) to provide information and communication strategies to
5 individuals with ~~[],~~ intellectual or developmental disabilities and
6 their families ~~[],~~ for resolving a disagreement in association with the
7 resolution of disputes or disagreements with ~~[],~~ the Division of
8 Children's System of Care, the Division of Developmental
9 Disabilities, the Division of Disabilities, Division of Deaf and Hard
10 of Hearing the Department of Children and Families, or the
11 Department of Human Services~~[],~~ relevant departments regarding the
12 evaluation, placement, or provision of services and supports to ~~[],~~ an
13 individual with an intellectual or developmental disability such
14 persons; and to educate individuals with ~~[],~~ intellectual or
15 developmental disabilities and their families on the available
16 options for resolving such disputes and disagreements;

17 (4) to work neutrally and objectively with all parties to help
18 ensure that a fair process is followed in the resolution of disputes
19 and disagreements with relevant departments concerning the
20 provision of services and supports to individuals with ~~[],~~ intellectual
21 or developmental disabilities ~~[],~~ receiving services from the Division
22 of Children's System of Care or the Division of Developmental
23 Disabilities, as appropriate;

24 (5) to identify any patterns of complaints that emerge regarding
25 the rights ~~[],~~ of, or services ~~[],~~ provided to, individuals with
26 ~~[],~~ intellectual or developmental disabilities, and ~~[],~~ to recommend
27 provide suggestions to relevant departments recommending the
28 revision of rules, regulations, policies, procedures, and protocols or
29 the implementation of new and innovative methods or strategies
30 for improvement to the Division of Children's System of Care and
31 the Division of Developmental Disabilities or the Department of
32 Children and Families and the Department of Human Services to
33 better protect the rights of individuals with disabilities and ensure
34 their improved access to, and timely receipt of, individualized and
35 appropriate services; and

36 (6) to assist ~~[],~~ the Division of Children's System of Care and the
37 Division of Developmental Disabilities~~[],~~ relevant departments in
38 creating public information programs that are designed to acquaint
39 and educate individuals with ~~[],~~ intellectual or developmental
40 disabilities, as well as their ~~[],~~ families, family members and other
41 members of the public, about the duties of the ombudsman.

42 b. The ombudsman, deputy ombudsman, and all other staff of
43 the office shall ~~[],~~ maintain confidentiality with respect to any
44 communications or records that are received ~~[],~~ in the course of by
45 the office in effectuating the ombudsman's duties ~~[],~~ including.
46 The ombudsman, deputy ombudsman, and all other office staff shall

1 not disclose personally identifiable information regarding
2 individuals with [intellectual or developmental] disabilities [and],
3 their families, [and others] or any other persons from whom
4 information is acquired, [as confidential,] except when such
5 disclosure is necessary to enable the ombudsman to perform the
6 duties of the office and consent for the disclosure is obtained. Upon
7 receipt of information that by law is confidential or privileged, the
8 ombudsman shall maintain the confidentiality of the information
9 and shall not disclose or disseminate the information except as
10 provided by applicable State or federal law. Whenever confidential
11 records are obtained from a relevant department, pursuant to
12 paragraph (2) of subsection c. of this section, the ombudsman shall
13 maintain the confidentiality of such records to the same extent as is
14 required of the legal custodian of the records.

15 c. In effectuating the duties required by this section, the
16 ombudsman shall be authorized to:

17 (1) consult with other State ombudsman offices;

18 (2) receive complaints from individuals with disabilities and
19 their family members; and

20 (3) solicit and obtain information from relevant departments, as
21 may be necessary to facilitate the discharge of the ombudsman's
22 duties hereunder, and examine, obtain, and copy any records
23 maintained by a relevant department, including records that are
24 deemed confidential under law, without being required to pay any
25 fee therefor. The department receiving a request from the
26 ombudsman for information or records pursuant to this paragraph
27 shall promptly provide the office with the information or records
28 requested.

29 (cf: P.L.2017, c.269, s.2)

30

31 4. Section 3 of P.L.2017, c.269 (C.30:1AA-9.3) is amended to
32 read as follows:

33 3. a. The Ombudsman for Individuals with [Intellectual or
34 Developmental] Disabilities and their Families shall annually issue
35 a written report [annually] to the following persons:

36 (1) the Governor and, pursuant to section 2 of P.L.1991, c.164
37 (C.52:14-19.1), the Senate President, the Speaker of the General
38 Assembly, and the Minority Leaders of the Senate and General
39 Assembly;

40 (2) the Commissioner of Human Services [and], the
41 Commissioner of Children and Families, and the head of any other
42 relevant department; and

43 (3) the public, through publication of the report on the
44 ombudsman's Internet website. [The]

45 b. Each report issued under subsection a. of this section shall
46 include a summary of the services the ombudsman provided during
47 the year[,] and any specific recommendations the ombudsman

1 deems appropriate and necessary concerning the State's
2 implementation of procedures with respect to **【providing】** the
3 provision of appropriate services and supports to **【individuals】**
4 persons with **【intellectual or developmental】** disabilities **【with**
5 services and supports】 and their families.

6 **【b. The ombudsman also shall issue the report prepared pursuant**
7 **to subsection a. of this section to the Governor, and pursuant to**
8 **section 2 of P.L.1991, c.164 (C.52:14-19.1) to the Legislature】**

9 c. The date of release of each annual report issued pursuant to
10 this section shall be set by the ombudsman; however, in no case
11 shall the ombudsman allow more than 365 days to elapse between
12 consecutive annual release dates. The release of a report pursuant
13 to this section, at least once per annum, shall be mandatory, and the
14 ombudsman shall not be authorized to delay the issuance of an
15 annual report beyond the mandatory timeframe provided by this
16 subsection. Special or interim reports may be issued, at any time, in
17 the discretion of the ombudsman.

18 (cf: P.L.2017, c.269, s.3).

19
20 5. This act shall take effect immediately.

21 22 23 STATEMENT

24
25 This bill would rename and expand the purpose and duties of the
26 Office of the Ombudsman for Individuals with Intellectual or
27 Developmental Disabilities and Their Families and the ombudsman
28 thereof.

29 Specifically, the bill would rename the office as the Office of the
30 Ombudsman for Individuals with Disabilities and Their Families,
31 and it would expand the purpose and duties of the office and the
32 ombudsman to enable the office and ombudsman to provide
33 services to all persons with disabilities and their families (instead of
34 providing services only to those persons who have developmental
35 disabilities and their families, as is provided by existing law).
36 “Person with a disability” is defined to mean any individual who
37 has a temporary or permanent, partial or total physical or sensory
38 disability, infirmity, malformation, or disfigurement caused by
39 bodily injury, birth defect, or illness such as epilepsy or other
40 seizure disorders, including, but not limited to, an individual who
41 has any degree of paralysis, amputation, lack of physical
42 coordination, blindness or visual impairment, deafness or hearing
43 impairment, muteness or speech impairment, or physical reliance on
44 a service or guide dog, wheelchair, or other remedial appliance or
45 device, or who has any mental, psychological, or developmental
46 disability or impairment, including autism spectrum disorder, which
47 either results from anatomical, psychological, physiological, or

1 neurological conditions preventing the typical exercise of any
2 bodily or mental function or is demonstrable, medically or
3 psychologically, by accepted clinical or laboratory diagnostic
4 techniques.

5 Under the bill's provisions, the repurposed Office of the
6 Ombudsman for Individuals with Disabilities and Their Families,
7 and the ombudsman thereof, will be required to provide information
8 and other assistance to all persons with disabilities and their
9 families with respect to the receipt of services from, and the
10 resolution of disputes or disagreements occurring with, any relevant
11 department in the State that provides services to persons with
12 disabilities or their families. The ombudsman will also be required
13 to provide relevant information to members of the public and the
14 media about the laws pertaining to individuals with disabilities and
15 provide suggestions to relevant departments recommending the
16 revision of rules, regulations, policies, procedures, and protocols or
17 the implementation of new and innovative methods or strategies to
18 better protect the rights of individuals with disabilities and ensure
19 their improved access to, and timely receipt of, individualized and
20 appropriate services in the State.

21 The bill would provide for the ombudsman to select and appoint
22 a deputy ombudsman to support the ombudsman in the execution of
23 the office's duties. The deputy ombudsman will be authorized to
24 act in the ombudsman's stead and perform all relevant duties of the
25 ombudsman in any case where: 1) the ombudsman is unavailable,
26 due to illness, disability, leave, or other absence; or 2) the
27 ombudsman, in the ombudsman's sole discretion, determines that
28 there is an appearance of impropriety or partiality or a conflict of
29 interest that prevents the ombudsman from effectively discharging
30 his or her duties in any particular matter.

31 The bill further requires the ombudsman to hire sufficient
32 professional and clerical staff to effectuate the office's expanded
33 purpose and duties. All employees of the office would serve at the
34 pleasure of the ombudsman. The bill expressly authorizes the
35 ombudsman, or the deputy ombudsman acting in the ombudsman's
36 stead, to delegate the ombudsman's authorities, duties, or powers
37 (except the power to delegate and the duty to engage in annual
38 reporting) to any employee of the office.

39 The bill clarifies that the ombudsman, deputy ombudsman, and
40 all other staff of the office will be required to maintain
41 confidentiality with respect to any communications or records
42 received thereby in the course of the office's duties. Moreover, the
43 bill specifies that, whenever confidential records are obtained from
44 a relevant department, the ombudsman will be required to maintain
45 the confidentiality of such records to the same extent as is required
46 of the legal custodian of the records.

47 In effectuating the expanded duties of the office, as provided by
48 the bill, the ombudsman will be authorized to:

1 1) consult with other State ombudsman offices;
2 2) receive complaints from individuals with disabilities and
3 their family members; and
4 3) solicit and obtain information from relevant departments and
5 examine, obtain, and copy any records maintained by a relevant
6 department, including records that are deemed confidential under
7 law, without being required to pay any fee therefor. Any
8 department receiving a request from the ombudsman for
9 information or records will be required to promptly provide the
10 office with the information or records requested.

11 The bill requires each annual report produced by the office to be
12 issued to:

13 1) the Governor, the Senate President, the Speaker of the
14 General Assembly, and the Minority Leaders of the Senate and
15 General Assembly;

16 2) the Commissioner of Human Services, the Commissioner of
17 Children and Families, and the head of any other relevant
18 department that provides services to individuals with disabilities or
19 their families; and

20 3) the public, through publication of the report on the
21 ombudsman's Internet website.

22 The bill authorizes the ombudsman to establish the date of
23 release of each annual report; however, it specifies that, in no case
24 may the ombudsman allow more than 365 days to elapse between
25 consecutive annual release dates. The release of a report, at least
26 once per annum, is mandatory under the bill's provisions, and the
27 ombudsman will not be authorized to delay the issuance of an
28 annual report beyond the mandatory timeframe provided by the bill.
29 The bill further provides, however, that special or interim reports
30 may be issued by the office, at any time, in the ombudsman's
31 discretion.