

PREVAILED	Roll Call No. _____
FAILED	Ayes _____
WITHDRAWN	Noes _____
RULED OUT OF ORDER	

HOUSE MOTION _____

MR. SPEAKER:

I move that Engrossed Senate Bill 286 be amended to read as follows:

- 1 Page 1, between the enacting clause and line 1, begin a new
- 2 paragraph and insert:
- 3 "SECTION 1. IC 4-13-19-4, AS ADDED BY P.L.182-2009(ss),
- 4 SECTION 55, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 5 JULY 1, 2012]: Sec. 4. (a) The governor shall appoint the ombudsman.
- 6 The ombudsman serves at the pleasure of the governor. An individual
- 7 may not be appointed as ombudsman if the individual has been
- 8 employed by the department of child services at any time during the
- 9 preceding twelve (12) months. The governor shall appoint a successor
- 10 ombudsman not later than thirty (30) days after a vacancy occurs in the
- 11 position of the ombudsman.
- 12 (b) The office of the department of child services ombudsman:
- 13 **(1) shall employ at least two (2) full time employees to assist**
- 14 **the ombudsman with receiving, investigating, and attempting**
- 15 **to resolve complaints described in section 5 of this chapter;**
- 16 **and**
- 17 **(2) may employ technical experts and other employees to carry**
- 18 **out the purposes of this chapter.**
- 19 **(c) However,** The office of the department of child services
- 20 ombudsman may not hire an individual to serve as an ombudsman if
- 21 the individual has been employed by the department of child services
- 22 during the preceding twelve (12) months.
- 23 ~~(c)~~ **(d)** The ombudsman and any other person employed or
- 24 authorized by the ombudsman:

- 1 (1) are subject to the same criminal history and background
 2 checks, to be performed by the department of child services, that
 3 are required for department of child services family case
 4 managers; and
 5 (2) are subject to the same disqualification for employment
 6 criteria as department of child services family case managers.".
- 7 SECTION 2. IC 4-13-19-13 IS ADDED TO THE INDIANA CODE
 8 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
 9 UPON PASSAGE]: **Sec. 13. (a) This section applies to any of the**
 10 **following:**
- 11 (1) **An appropriation for the department of administration,**
 12 **department of child services ombudsman bureau.**
 13 (2) **An appropriation for the department of administration,**
 14 **office of the department of child services ombudsman.**
 15 (3) **An amount directly appropriated for the department of**
 16 **child services ombudsman bureau.**
 17 (4) **An amount directly appropriated for the office of the**
 18 **department of child services ombudsman.**
- 19 (b) **An amount described in subsection (a):**
- 20 (1) **is to fund the responsibilities of the office of the**
 21 **department of child services ombudsman under this chapter;**
 22 (2) **does not revert at the end of any state fiscal year but**
 23 **remains available for the purposes of the appropriation in**
 24 **subsequent state fiscal years, notwithstanding IC 4-13-2-19 or**
 25 **any other law; and**
 26 (3) **is not subject to transfer to any other fund or to transfer,**
 27 **assignment, or reassignment for any other use or purpose by:**
 28 (A) **the state board of finance notwithstanding IC 4-9.1-1-7,**
 29 **IC 4-13-2-23, or any other law; or**
 30 (B) **the budget agency notwithstanding IC 4-12-1-12 or any**
 31 **other law.**
- 32 (b) **This subsection applies notwithstanding IC 4-13-2-18 or any**
 33 **other law. The department of administration and office of the**
 34 **department of child services ombudsman shall:**
- 35 (1) **expend amounts described in subsection (a) for the**
 36 **purposes of the office of the department of child services**
 37 **ombudsman in the state fiscal year for which the**
 38 **appropriation is made; or**
 39 (2) **encumber the appropriated amounts within that state**
 40 **fiscal year for expenditure within a reasonable period**
 41 **following the end of that state fiscal year.**
- 42 **The department of administration and the office of the department**
 43 **of child services ombudsman may not withhold or reduce a request**
 44 **for an allotment of an amount described in subsection (a) in order**
 45 **to revert or fail to expend an appropriation described in subsection**
 46 **(a). To the extent that an appropriation has not been previously**
 47 **allotted, the budget agency shall allot an amount described in**

1 subsection (a) to the department of administration (if the
 2 appropriation was made to the department of administration) or
 3 otherwise to the office of the department of child services
 4 ombudsman for the purposes of the office of the department of
 5 child services ombudsman upon request by the department of
 6 administration or the office of the department of child services
 7 ombudsman."

8 Page 5, between lines 36 and 37, begin a new paragraph and insert:

9 "SECTION 4. IC 10-11-2-33 IS ADDED TO THE INDIANA CODE
 10 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
 11 UPON PASSAGE]: **Sec. 33. The department shall perform all
 12 investigations necessary for the department of child services as
 13 required under IC 31-25-2.5."**

14 Page 12, between lines 24 and 25, begin a new paragraph and insert:

15 "SECTION 10. IC 31-9-2-20.7 IS ADDED TO THE INDIANA
 16 CODE AS A NEW SECTION TO READ AS FOLLOWS
 17 [EFFECTIVE UPON PASSAGE]: **Sec. 20.7. "Committee", for the
 18 purposes of IC 31-25-2-24, has the meaning set forth in
 19 IC 31-25-2-24(a)."**

20 Page 19, between lines 11 and 12, begin a new paragraph and insert:

21 "SECTION 26. IC 31-25-2-23.5 IS ADDED TO THE INDIANA
 22 CODE AS A NEW SECTION TO READ AS FOLLOWS
 23 [EFFECTIVE UPON PASSAGE]: **Sec. 23.5. (a) Beginning June 10,
 24 2012, the department shall submit a report to the legislative council
 25 not later than the tenth day of each month concerning the
 26 department's expenditures for the preceding month.**

27 **(b) The report described in subsection (a) must be in an
 28 electronic format under IC 5-14-6.**

29 SECTION 27. IC 31-25-2-24 IS ADDED TO THE INDIANA
 30 CODE AS A NEW SECTION TO READ AS FOLLOWS
 31 [EFFECTIVE UPON PASSAGE]: **Sec. 24. (a) As used in this section,
 32 "committee" means the audit advisory committee established
 33 under subsection (b).**

34 **(b) The audit advisory committee is established.**

35 **(c) The committee consists of the following members:**

36 **(1) A representative of the Children's Coalition of Indiana
 37 appointed by the minority leader of the house of
 38 representatives.**

39 **(2) A representative of the Indiana Coalition for Human
 40 Services appointed by the speaker of the house of
 41 representatives.**

42 **(3) A representative of IARCCA—An Association of Children
 43 and Family Services appointed by the president pro tempore
 44 of the senate.**

45 **(4) A representative of Mental Health America of Indiana
 46 appointed by the minority leader of the senate.**

- 1 **(5) A representative of the Arc of Indiana appointed by the**
 2 **chairperson of the legislative council.**
- 3 **(6) A representative of the Indiana Prosecuting Attorneys**
 4 **Council appointed by the director of the Indiana Prosecuting**
 5 **Attorneys Council or the director's designee.**
- 6 **(7) A representative of the Indiana Judges Association**
 7 **appointed by the director of the Indiana Judges Association**
 8 **or the director's designee.**
- 9 **(8) One (1) member of the house of representatives appointed**
 10 **by the speaker of the house of representatives.**
- 11 **(9) One (1) member of the house of representatives appointed**
 12 **by the minority leader of the house of representatives.**
- 13 **(10) One (1) member of the senate appointed by the president**
 14 **pro tempore of the senate.**
- 15 **(11) One (1) member of the senate appointed by the minority**
 16 **leader of the senate.**
- 17 **(d) A member of the committee listed in subsection (c)(1)**
 18 **through (c)(7) is not entitled to:**
- 19 **(1) the minimum salary per diem provided by**
 20 **IC 4-10-11-2.1(b); or**
- 21 **(2) reimbursement from state funds for traveling expenses**
 22 **and other expenses actually incurred in connection with the**
 23 **member's duties.**
- 24 **(e) Each member of the committee who is a member of the**
 25 **general assembly is entitled to receive the same per diem, mileage,**
 26 **and travel allowances paid to legislative members of interim study**
 27 **committees established by the legislative council.**
- 28 **(f) The committee shall select a member of the committee to**
 29 **serve as chairperson. The committee shall meet at the call of the**
 30 **chairperson of the committee. A vacancy on the committee shall be**
 31 **filled by the original appointing authority. The affirmative votes of**
 32 **a majority of the members appointed to the committee are**
 33 **required for the committee to take action on any measure,**
 34 **including the report described in subsection (g).**
- 35 **(g) The committee shall, not later than May 1, 2013, submit a**
 36 **report to the legislative council recommending the names of**
 37 **private entities to perform an audit of the department concerning:**
- 38 **(1) caseworker turnover rates;**
- 39 **(2) the effectiveness of the department's investigation of**
 40 **alleged child abuse and neglect reports;**
- 41 **(3) the department's oversight of caseworkers;**
- 42 **(4) the effectiveness and quality control of the child abuse**
 43 **hotline;**
- 44 **(5) the training, education levels, and supervision of the**
 45 **employees who receive reports on the child abuse hotline;**
- 46 **(6) caseload levels;**
- 47 **(7) caseworker training; and**

1 **(8) any other department matters recommended by the**
 2 **committee.**

3 **The report described in this subsection must be in an electronic**
 4 **format under IC 5-14-6.**

5 **(h) The legislative council shall contract with one (1) of the**
 6 **private entities recommended by the committee under subsection**
 7 **(g) to audit the department. The legislative council shall pay the**
 8 **expenses of an audit conducted under this section.**

9 **(i) The private entity with which the legislative council contracts**
 10 **under subsection (h) shall provide a report concerning the audit**
 11 **described under subsection (g) to the legislative council not later**
 12 **than November 1, 2013.**

13 **(j) This section expires July 1, 2014.**

14 **SECTION 28. IC 31-25-2-25 IS ADDED TO THE INDIANA**
 15 **CODE AS A NEW SECTION TO READ AS FOLLOWS**
 16 **[EFFECTIVE UPON PASSAGE]: Sec. 25. (a) An appropriation to**
 17 **the department:**

18 **(1) is to fund the responsibilities of the department specified**
 19 **in section 7 of this chapter;**

20 **(2) does not revert at the end of any state fiscal year but**
 21 **remains available for the purposes of the appropriation in**
 22 **subsequent state fiscal years, notwithstanding IC 4-13-2-19 or**
 23 **any other law; and**

24 **(3) is not subject to transfer to any other fund or to transfer,**
 25 **assignment, or reassignment for any other use or purpose by:**

26 **(A) the state board of finance notwithstanding IC 4-9.1-1-7,**
 27 **IC 4-13-2-23, or any other law; or**

28 **(B) the budget agency notwithstanding IC 4-12-1-12 or any**
 29 **other law.**

30 **However, the budget agency may, upon request from the**
 31 **department, assign or reassign an appropriation to the department**
 32 **from one (1) purpose of the department to another purpose of the**
 33 **department to meet the most critical needs of children and families**
 34 **in Indiana.**

35 **(b) This subsection applies notwithstanding IC 4-13-2-18 or any**
 36 **other law. The department shall expend amounts appropriated to**
 37 **the department for the purposes of the department in the state**
 38 **fiscal year for which the appropriation is made or encumber the**
 39 **appropriated amounts within that state fiscal year for expenditure**
 40 **within a reasonable period following the end of that state fiscal**
 41 **year. The department may not withhold or reduce a request for an**
 42 **allotment of an amount appropriated to the department in order**
 43 **to revert or fail to expend an appropriation to the department. To**
 44 **the extent that an appropriation has not been previously allotted,**
 45 **the budget agency shall allot an amount appropriated to the**
 46 **department for the purposes of the department upon request by**
 47 **the department.**

1 SECTION 29. IC 31-25-2.5 IS ADDED TO THE INDIANA CODE
 2 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 3 UPON PASSAGE]:

4 **Chapter 2.5. Investigations**

5 **Sec. 1. All investigations required for the department shall be**
 6 **referred to the state police department.**

7 **Sec.2. The state police department shall perform**
 8 **all investigations necessary for the department."**

9 Page 30, between lines 12 and 13, begin a new paragraph and insert:
 10 "SECTION 43. IC 31-33-18-1, AS AMENDED BY
 11 P.L.182-2009(ss), SECTION 378, IS AMENDED TO READ AS
 12 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) Except as
 13 provided in ~~section~~ **sections 1.5 and 1.8** of this chapter, the following
 14 are confidential:

15 (1) Reports made under this article (or IC 31-6-11 before its
 16 repeal).

17 (2) Any other information obtained, reports written, or
 18 photographs taken concerning the reports in the possession of:

19 (A) the division of family resources;

20 (B) the county office;

21 (C) the department; or

22 (D) the department of child services ombudsman established
 23 by IC 4-13-19-3.

24 (b) Except as provided in section 1.5 of this chapter, all records held
 25 by:

26 (1) the division of family resources;

27 (2) a county office;

28 (3) the department;

29 (4) a local child fatality review team established under
 30 IC 31-33-24;

31 (5) the statewide child fatality review committee established
 32 under IC 31-33-25; or

33 (6) the department of child services ombudsman established by
 34 IC 4-13-19-3;

35 regarding the death of a child determined to be a result of abuse,
 36 abandonment, or neglect are confidential and may not be disclosed.

37 SECTION 44. IC 31-33-18-1.8 IS ADDED TO THE INDIANA
 38 CODE AS A NEW SECTION TO READ AS FOLLOWS
 39 [EFFECTIVE UPON PASSAGE]: **Sec. 1.8. A prosecuting attorney**
 40 **is entitled to an unredacted copy of any department record**
 41 **concerning a child who:**

42 (1) resides;

43 (2) has resided; or

44 (3) has been involved in an incident that the department has
 45 investigated;

46 **in the prosecuting attorney's county."**

1 Page 30, line 15, delete "[EFFECTIVE JULY 1, 2012]:" and insert
2 "[EFFECTIVE UPON PASSAGE]:".

3 Page 30, line 23, strike "prosecuting".

4 Page 30, line 24, strike "attorney,".

5 Page 32, line 23, delete "The" and insert "**After June 30, 2012,**
6 **the**".

7 Page 34, delete lines 16 through 32, begin a new paragraph and
8 insert:

9 "SECTION 52. IC 31-33-24-7, AS AMENDED BY P.L.225-2007,
10 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
11 UPON PASSAGE]: Sec. 7. (a) A child fatality review consists of
12 determining:

13 (1) whether similar future deaths could be prevented; ~~and~~

14 (2) agencies or resources that should be involved to adequately
15 prevent future deaths of children;

16 **(3) whether any party or state agency may have violated any**
17 **law; and**

18 **(4) whether a potential criminal act should be referred to the**
19 **prosecuting attorney.**

20 (b) In conducting the child fatality review under subsection (a), the
21 local child fatality review team shall review every record concerning
22 the deceased child that is held by the department.

23 (c) If a local child fatality review team requests records from a
24 hospital, physician, coroner, or mental health professional regarding a
25 death that the local child fatality review team is investigating, the
26 hospital, physician, coroner, or mental health professional shall provide
27 the requested records, subject to IC 34-30-15, to the child fatality
28 review team.

29 **(d) If a local child fatality review team determines that an**
30 **individual person may have committed a criminal act, the local**
31 **child fatality review team shall inform the prosecuting attorney of**
32 **the possible criminal act and shall forward to the prosecuting**
33 **attorney all documents concerning the possible criminal act that**
34 **the local child fatality review team possesses."**

35 Page 36, delete lines 12 through 42, begin a new paragraph and
36 insert:

37 SECTION 54. IC 31-33-24-16 IS ADDED TO THE INDIANA
38 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
39 [EFFECTIVE UPON PASSAGE]: **Sec. 16. The department shall**
40 **reimburse a county for all expenses incurred under this chapter.**

41 SECTION 55. IC 31-33-25-6, AS AMENDED BY
42 P.L.182-2009(ss), SECTION 381, IS AMENDED TO READ AS
43 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 6. (a) The statewide
44 child fatality review committee is established to review a child's death
45 that is:

46 (1) sudden;

- 1 (2) unexpected; or
 2 (3) unexplained; or
 3 **(4) assessed by the department for alleged abuse or neglect**
 4 **that resulted in the fatality;**
 5 if the county where the child died does not have a local child fatality
 6 review team or if the local child fatality review team requests a review
 7 of the child's death by the statewide committee.
 8 (b) The statewide child fatality review committee may also review
 9 the death of a child upon request by ~~an individual~~ or the department of
 10 child services ombudsman established by IC 4-13-19-3.
 11 (c) A request submitted under subsection (b) must set forth:
 12 (1) the name of the child;
 13 (2) the age of the child;
 14 (3) the county where the child died;
 15 (4) whether a local child fatality review team reviewed the death;
 16 and
 17 (5) the cause of death of the deceased child.
 18 **(d) In conducting a child fatality review, the statewide child**
 19 **fatality review committee shall determine whether:**
 20 **(1) any party or state agency may have violated any law; and**
 21 **(2) a potential criminal act should be referred to the**
 22 **prosecuting attorney.**
 23 **If the statewide child fatality review committee determines that an**
 24 **individual person may have committed a criminal act, the**
 25 **statewide child fatality review committee shall inform the**
 26 **prosecuting attorney of the county where the incident occurred of**
 27 **the possible criminal act and shall forward to the prosecuting**
 28 **attorney all documents concerning the possible criminal act that**
 29 **the statewide child fatality review committee possesses."**
 30 Delete pages 37 through 39.
 31 Page 40, delete lines 1 through 41.
 32 Page 42, line 14, after "(b)" insert "**The department shall retain**
 33 **information relating to an unsubstantiated assessment of child**
 34 **abuse or neglect for at least five (5) years after the completion of**
 35 **the assessment under this article."**
 36 Page 42, line 16, delete "at any time," and insert "**after five (5)**
 37 **years after the completion of the assessment,"**
 38 Page 44, between lines 4 and 5, begin a new paragraph and insert:
 39 "SECTION 58. IC 31-33-28 IS ADDED TO THE INDIANA CODE
 40 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 41 UPON PASSAGE]:
 42 **Chapter 28. Grand Jury**
 43 **Sec. 1. (a) A court may call a grand jury under IC 35-34-2 into**
 44 **session, at the request of a prosecuting attorney, to hear and**
 45 **examine evidence concerning:**
 46 **(1) investigations and determinations made by the department**

1 concerning a child:

2 (A) who is a child in need of services; or

3 (B) whom the department investigated as a potential child
4 in need of services; or

5 (2) potential crimes that involved a child:

6 (A) who is a child in need of services;

7 (B) whom the department investigated as a potential child
8 in need of services; or

9 (C) who satisfies both clauses (A) and (B).

10 Sec. 2. Except as set forth in this chapter, the court shall use the
11 procedures set forth under IC 35-34-2 for a grand jury under this
12 chapter.

13 Sec. 3. (a) If a member of the grand jury has reason to believe
14 that the department failed to properly investigate a child in need
15 of services or failed to properly request a juvenile court to
16 authorize the filing of a petition that a child is a child in need of
17 services under IC 31-34-9-1, the juror may report this information
18 to fellow jurors who may then investigate the department's
19 decision.

20 (b) If a member of the grand jury has reason to believe that a
21 crime occurred in the investigation of a child in need of services or
22 involving a child who is the subject of a child in need of services
23 investigation, the juror may report this information to fellow
24 jurors who may then investigate the department's decision.

25 Sec. 4. (a) A grand jury may deliberate whether the department
26 failed to properly investigate a potential child in need of services or
27 failed to properly request a juvenile court to authorize the filing of
28 a petition that a child is a child in need of services.

29 (b) If at least five (5) grand jurors determine that the
30 department failed to investigate whether a child is a child in need
31 of services or if the department failed to properly request a
32 juvenile court to authorize the filing of a petition that a child is a
33 child in need of services, the department shall reopen the
34 investigation and the prosecutor shall request the juvenile court to
35 authorize the filing of a petition that a child is a child in need of
36 services. A determination under this section must be:

37 (1) signed by the prosecuting attorney or a deputy prosecuting
38 attorney; and

39 (2) signed by the foreman of the grand jury or five (5)
40 members of the grand jury.

41 Sec. 5. If a grand jury determines that a crime occurred as
42 described in section 3(b), the indictment procedures set forth in
43 IC 35-34-2 apply."

44 Page 45, between lines 23 and 24, begin a new paragraph and insert:
45 "SECTION 60. IC 31-34-4-8 IS ADDED TO THE INDIANA CODE
46 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
47 UPON PASSAGE]: Sec. 8. Not later than December 31, 2012, the

1 department shall ensure that in every county in Indiana homes or
2 facilities exist that can accept emergency placements of children
3 under this chapter.

4 SECTION 61. IC 31-34-4-9 IS ADDED TO THE INDIANA CODE
5 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
6 1, 2012]: Sec. 9. (a) The department may not decrease rates paid to
7 a home or facility under this chapter without approval of the
8 general assembly.

9 (b) The department shall ensure that there is adequate funding
10 for homes and facilities under this chapter.

11 SECTION 62. IC 31-34-9-1, AS AMENDED BY P.L.146-2008,
12 SECTION 588, IS AMENDED TO READ AS FOLLOWS
13 [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) The attorney for the
14 department:

- 15 (1) may request the juvenile court to authorize the filing of a
16 petition alleging that a child is a child in need of services; and
- 17 (2) shall represent the interests of the state at this proceeding and
18 at all subsequent proceedings on the petition.

19 (b) A prosecuting attorney may request the juvenile court to
20 authorize the filing of a petition alleging that a child is a child in
21 need of services under IC 31-34-1."

22 Page 56, between lines 34 and 35, begin a new paragraph and insert:
23 "SECTION 76. IC 31-37-5-9 IS ADDED TO THE INDIANA CODE
24 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
25 UPON PASSAGE]: Sec. 9. Not later than December 31, 2012, the
26 department shall ensure that in every county in Indiana homes or
27 facilities exist that can accept emergency placements of children
28 under this chapter.

29 SECTION 77. IC 31-37-5-10 IS ADDED TO THE INDIANA
30 CODE AS A NEW SECTION TO READ AS FOLLOWS
31 [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) The department may
32 not decrease rates paid to a home or facility under this chapter
33 without approval of the general assembly.

34 (b) The department shall ensure that there is adequate funding
35 for homes and facilities under this chapter."

36 Page 62, between lines 22 and 23, begin a new paragraph and insert:
37 "SECTION 82. [EFFECTIVE UPON PASSAGE] The department
38 of child services shall prepare a report concerning the following:

- 39 (1) Listing by category the number of placements for children,
40 including:
 - 41 (A) foster family homes;
 - 42 (B) group homes; and
 - 43 (C) other homes or facilities in which the department
44 places children;
- 45 in each county for the calendar years 2007, 2008, 2009, 2010,
46 and 2011.

- 1 **(2) Listing by category, the amount of money that the**
- 2 **department of child services has spent on:**
- 3 **(A) foster family homes;**
- 4 **(B) group homes; and**
- 5 **(C) other homes or facilities in which the department**
- 6 **places children;**
- 7 **in each county for the calendar years 2007, 2008, 2009, 2010,**
- 8 **and 2011."**

9 Renumber all SECTIONS consecutively.
(Reference is to ESB 286 as printed February 24, 2012.)

Representative Summers