

**HOUSE . . . . . No. 146**

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**The Commonwealth of Massachusetts**

PRESENTED BY:

***Dennis A. Rosa***

*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act to establish an Independent Ombudsman office, external of the Department of Children and Families.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Dennis A. Rosa</i>	<i>4th Worcester</i>	<i>1/3/2013</i>
<i>Stephen L. DiNatale</i>	<i>3rd Worcester</i>	<i>1/3/2013</i>
<i>James J. Dwyer</i>	<i>30th Middlesex</i>	<i>1/31/2013</i>

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By Mr. Rosa of Leominster, a petition (accompanied by bill, House, No. 146) of Dennis A. Rosa, Stephen L. DiNatale and James J. Dwyer for legislation to create an independent ombudsman office to oversee certain functions of the Department of Children and Families. Children, Families and Persons with Disabilities.

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[SIMILAR MATTER FILED IN PREVIOUS SESSION  
SEE HOUSE, NO. 3264 OF 2011-2012.]

**The Commonwealth of Massachusetts**

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**In the Year Two Thousand Thirteen**  
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An Act to establish an Independent Ombudsman office, external of the Department of Children and Families.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 SECTION 1. Chapter 119 of the general laws is hereby amended by adding the following  
2 section:-

3 Section 86. Those individuals who are found to be the subject of creditable evidence of a  
4 severe violation of this chapter which includes allowing, overlooking or failing to act which  
5 results in physical or sexual harm to a child shall, upon initial investigation within the first 15  
6 days, be immediately suspended from their position without pay, stipend or funding until the  
7 determination of the investigation is completed by the department within no longer than 90 days.  
8 Upon the determination of alleged violation to be without merit, the employee shall be reinstated  
9 to their position and shall face no further disciplinary action.

10 SECTION 2. Chapter 211 of the general laws is hereby amended by adding the  
11 following section:-

12 Section 29. (a) As used in this section the following words shall have the following  
13 meanings:

14 “Department”, department of children and families.

15 “Ombudsman”, office of the independent ombudsman for children and families.

16 (b) There shall be within the supreme judicial court an office of the independent  
17 ombudsman for children and families located at the supreme judicial court, John Adams  
18 courthouse, in the city of Boston. The ombudsman shall be appointed by the chief justice of the  
19 supreme judicial court and shall serve at the pleasure of the chief justice.

20 (c) The ombudsman shall have the following rights and powers:

21 (1) to investigate and address: (i) creditable consumer complaints against the department  
22 and (ii) violations or failure to follow the department’s regulations and possible illegal action by  
23 those employed, or contract agencies associated, with the department;

24 (2) investigative power to include family-net access and case files, subpoenas, enforcing  
25 corrective steps to include, but not limited to, reunification, case closing or service plan task  
26 reduction by the department; and

27 (3) refer all infractions committed by department employees, contract employees or any  
28 nonprofit agency who receives funding from the Children's Trust Fund to an appropriate law  
29 enforcement agency for prosecution. Said prosecution is relative, but not limited to: (i) filing a  
30 false affidavit in a care and protection hearing; (ii) filing false information within section 51B of  
31 chapter 119 on a child abuse investigation report; (iii) filing a frivolous report under section 51A  
32 of chapter 119; (iv) failure to screen in said section 51A allegations against any department  
33 approved foster home or contract residential placement which shall fall under any child  
34 endangerment statute; and (v) all other violations of the general laws regarding a violation of the  
35 statement of philosophy of the department.

36 (d) Any consumer of the department shall have the right to designate a representative to  
37 assist with filing complaints to the ombudsman.

38 (e) All investigation documentation and determinations of the ombudsman shall be  
39 available to those who are parties of the case within 30 days of written request upon completion  
40 of investigation.