HOUSE DOCKET, NO. 3044 FILED ON: 1/21/2011

HOUSE . . . . . No. 3264

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 passage of the accompanying:

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

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Dennis A. Rosa	*4th Worcester*
James J. Dwyer	*30th Middlesex*
Mary T. Jean	*16 Fifth Avenue* *Leominster, MA*

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By Mr. Rosa of Leominster, a petition (accompanied by bill, House, No. 3264) of Dennis A. Rosa, James J. Dwyer and Mary T. Jean for legislation to establish an Independent Ombudsman office. Children, Families and Persons with Disabilities.

The Commonwealth of Massachusetts

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:

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

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

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

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

"Department", department of children and families.

"Ombudsman", office of the independent ombudsman for children and families.

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

(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 statue; 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.