

REFERENCE TITLE: **ombudsman-citizens aide; DCS assistant**

State of Arizona  
Senate  
Fifty-fourth Legislature  
Second Regular Session  
2020

## **SB 1406**

Introduced by  
Senator Farnsworth D

**AN ACT**

**AMENDING SECTIONS 41-1376 AND 41-1380, ARIZONA REVISED STATUTES; RELATING TO THE OMBUDSMAN-CITIZENS AIDE.**

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 41-1376, Arizona Revised Statutes, is amended to  
3 read:

4 41-1376. Powers and duties

5 A. The ombudsman-citizens aide shall:

6 1. Investigate the administrative acts of agencies pursuant to  
7 section 41-1377, subsections A and B except as provided in section  
8 41-1377, subsections C, D and E. The ombudsman-citizens aide shall  
9 investigate the administrative acts of an agency without regard to the  
10 finality of the administrative act.

11 2. Annually before January 1 prepare a written report to the  
12 governor, the legislature and the public that contains a summary of the  
13 ombudsman-citizens aide's activities during the previous fiscal year. The  
14 ombudsman-citizens aide shall semiannually present this report before the  
15 legislative council and distribute copies of the report to the director of  
16 the governor's office of strategic planning and budgeting, the chairperson  
17 of the joint legislative budget committee and the cochairpersons of the  
18 administrative rules oversight committee. This report shall include:

19 (a) The ombudsman-citizens aide's mission statement.

20 (b) The number of matters that were within each of the categories  
21 specified in section 41-1379, subsection B.

22 (c) Legislative issues affecting the ombudsman-citizens aide.

23 (d) Selected case studies that illustrate the ombudsman-citizens  
24 aide's work and reasons for complaints.

25 (e) Ombudsman-citizens aide's contact statistics.

26 (f) A description of the public awareness and outreach activities  
27 conducted by the ombudsman-citizens aide.

28 (g) Ombudsman-citizens aide's staff.

29 3. Before conducting the first investigation, adopt rules that  
30 ensure that confidential information that is gathered will not be  
31 disclosed.

32 4. Appoint a deputy ombudsman and prescribe the duties of employees  
33 or, subject to appropriation, contract for the services of independent  
34 contractors necessary to administer the duties of the office of  
35 ombudsman-citizens aide. All staff serves at the pleasure of the  
36 ombudsman-citizens aide, and they are exempt from chapter 4, articles 5  
37 and 6 of this title. All staff ~~shall be~~ IS subject to the conflict of  
38 interest provisions of title 38, chapter 3, article 8.

39 5. Before conducting the first investigation, adopt rules that  
40 establish procedures for receiving and processing complaints, including  
41 guidelines to ensure each complainant has exhausted all reasonable  
42 alternatives within the agency, conducting investigations, incorporating  
43 agency responses into recommendations and reporting findings.

44 6. Notify the chief executive or administrative officer of the  
45 agency in writing of the intention to investigate unless notification

1 would unduly hinder the investigation or make the investigation  
2 ineffectual.

3 ~~7. Appoint an assistant to help the ombudsman-citizens aide~~  
4 ~~investigate complaints relating to the department of child safety. The~~  
5 ~~assistant shall have expertise in the department of child safety~~  
6 ~~procedures and laws.~~ TRAIN ALL STAFF IN THE PROPER HANDLING OF DEPARTMENT  
7 OF CHILD SAFETY RECORDS AND INFORMATION. Notwithstanding any law to the  
8 contrary, the ombudsman-citizens aide and ~~the assistant~~ ALL STAFF have  
9 access to the department of child safety records and to any automated case  
10 management system used by the department of child safety.

11 B. After the conclusion of an investigation and notice to the head  
12 of the agency pursuant to section 41-1379, the ombudsman-citizens aide may  
13 present the ombudsman-citizens aide's opinion and recommendations to the  
14 governor, the legislature, the office of the appropriate prosecutor or the  
15 public, or any combination of these persons. The ombudsman-citizens aide  
16 shall include in the opinion the reply of the agency, including those  
17 issues that were resolved as a result of the ombudsman-citizens aide's  
18 preliminary opinion or recommendation.

19 Sec. 2. Section 41-1380, Arizona Revised Statutes, is amended to  
20 read:

21 41-1380. Ombudsman-citizens aide protections

22 A. A civil action may not be brought against the ombudsman-citizens  
23 aide or the staff of the ombudsman-citizens aide for any action or  
24 omission in performing the duties under this article except for gross  
25 negligence or intentional wrongful acts or omissions except as provided in  
26 title 38, chapter 3, article 8.

27 B. A proceeding or decision of the ombudsman-citizens aide may be  
28 reviewed in superior court only to determine if it is contrary to this  
29 article.

30 C. The ombudsman-citizens aide and the staff of the  
31 ombudsman-citizens aide shall not be required to testify in court  
32 regarding matters that come to their attention in the exercise of their  
33 duties except as may be necessary to enforce this article.

34 D. Records and files maintained by the ombudsman-citizens aide are  
35 not public records and are exempt from DISCLOSURE UNDER title 39,  
36 chapter 1. The information contained in these records and files that were  
37 prepared pursuant to an investigation conducted under this article are not  
38 subject to disclosure except WHEN REDACTED OF PERSONALLY IDENTIFIABLE  
39 INFORMATION AND INCLUDED IN AN OPINION AND RECOMMENDATIONS PREPARED  
40 PURSUANT TO SECTION 41-1376, SUBSECTION B, WHEN REDACTED OF PERSONALLY  
41 IDENTIFIABLE INFORMATION AND INCLUDED IN SELECTED CASE STUDIES FOR THE  
42 ANNUAL REPORT THAT IS PREPARED PURSUANT TO SECTION 41-1376, SUBSECTION A  
43 OR to the attorney general or any county attorney in connection with an  
44 investigation that has been referred to the attorney general or a county  
45 attorney pursuant to section 41-1379. For the purposes of this  
46 subsection: ~~;~~

1           1. "PERSONALLY IDENTIFIABLE INFORMATION" INCLUDES A PERSON'S NAME,  
2 ADDRESS, DATE OF BIRTH, SOCIAL SECURITY NUMBER, TRIBAL ENROLLMENT NUMBER,  
3 TELEPHONE OR FAX NUMBER, EMAIL ADDRESS, SOCIAL MEDIA IDENTIFIER, DRIVER  
4 LICENSE NUMBER, PLACE OF EMPLOYMENT, SCHOOL IDENTIFICATION OR MILITARY  
5 IDENTIFICATION NUMBER OR ANY OTHER DISTINGUISHING CHARACTERISTIC THAT  
6 TENDS TO IDENTIFY A PARTICULAR PERSON.

7           2. "Records and files" means all information the ~~department of~~  
8 ~~child safety and the~~ office of the ombudsman-citizens aide ~~gather~~ GATHERS  
9 during the course of ~~a department of child safety~~ AN investigation  
10 conducted under this article from the time a file is opened until it is  
11 closed. ~~Records and files do not include information that is contained in~~  
12 ~~child welfare agency licensing records.~~