

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Child and Family Services Agency



Public Hearing on
**Bill 23-437, the “Child Safety and Well-Being Ombudsperson
Establishment Act of 2019”**

Testimony of
Brenda Donald
Director

Before the
Committee on Human Services
The Honorable Brianne Nadeau, Chairperson

Council of the District of Columbia
Room 412
John A. Wilson Building,
1350 Pennsylvania Avenue, NW
Washington, D.C. 20004

October 28, 2019
10:00 a.m.

Good morning, Chairwomen Nadeau and members of the Committee on Human Services. I am Brenda Donald, Director of the D.C. Child and Family Services Agency (“CFSA”). I am testifying on Bill 23-437, the “Child Safety and Well-Being Ombudsman Establishment Act of 2019.” This bill, if enacted, will create an independent Ombudsman’s office with oversight of CFSA that we believe will infringe upon the agency’s legal and clinical authority, as well as detract from our ability to continue critical agency reforms.

We have serious concerns about this legislation. Our concerns are not with the concept of an effective Ombudsman’s office. To the contrary, CFSA is confident in the work we do in service to the District’s families. However, the Ombudsman, as proposed by this bill, is not the best practice for a child welfare agency. It establishes an adversarial process, rather than educating and improving communication and dispute resolution, which are the traditional roles of an Ombudsman. The national best practice for child welfare systems is one where constituents can directly engage the agency Ombudsman and have their concerns and complaints addressed in real time, which is currently what CFSA has in place.

At CFSA, we promote transparency and strive for open dialogue. Thus, the introduction of this bill is surprising, given how CFSA has evolved over the years and is seen nationally as a model for child welfare. Moreover, CFSA has consistently met performance measures and demonstrated adherence to best child welfare practices, as evidenced by CFSA’s improved and sustained performance under the *LaShawn* lawsuit. Recently, the District and the *LaShawn* Plaintiffs successfully negotiated the reduction of the 88 performance measures to 23, as a result of CFSA’s sustained performance as a child welfare agency. As we continue to move toward exiting *Lashawn*, there will be negotiations on what, if any, future oversight should look like. This legislation may interfere with exit negotiations, and it fails to acknowledge the performance improvements that we have consistently made. This legislation also seems premature and does not allow CFSA an opportunity to continue demonstrating the agency’s ability to be highly transparent, self-regulating, and self-correcting following our exit from the lawsuit.

CFSA understands that navigating the child welfare system can be challenging, particularly for parents whose children have been removed. For that reason, over 15 years ago, CFSA established an Ombudsman Program so constituents would have access to an impartial, neutral office responsible for addressing their concerns. CFSA’s Ombudsman has been an important educational resource for constituents and agency partners in the child welfare system. In fact, most calls to the CFSA Ombudsman (60 percent) are from birth parents whose children have been recently removed. The Ombudsman responds directly to their concerns and helps them understand and navigate the child welfare system. The CFSA Ombudsman also helps resolve complaints made by or on behalf of birth parents, foster parents, foster children, and community partners regarding a host of issues, such as child care, placement, and other services. Finally, CFSA’s Ombudsman is responsible for identifying trends and systemic issues within the agency and recommending changes to CFSA management.

We also have serious concerns that the broad powers given to the Ombudsperson by this legislation will result in an unprecedented level of oversight of CFSA's daily activities. For example, the legislation requires CFSA to participate in alternative dispute resolution when ordered by the Ombudsperson. This could potentially overrule the agency's clinical practice and decision-making and the agency Director's authority on how a particular matter should be handled. The legislation will usurp CFSA's decision-making authority and potentially interfere with the agency's ability to immediately/timely implement best child welfare practices, and meet federal and regulatory requirements.

In fact, the Ombudsperson proposed by this legislation more closely resembles an Office of Inspector General, or a watch dog. The proposed Ombudsperson's office is more expansive than the District's own Office of Inspector General, but without proper oversight or checks and balances. In our research, we found that this legislation is similar to only one other Ombudsman's office in the nation. Again, that is of concern to CFSA as the District does not have the same systemic issues that plagued that jurisdiction and its child welfare system.

It is important to note that numerous local and federal entities already have oversight of CFSA, including various levels of authority within the Executive Office of the Mayor, as well as the D.C. Council. Other examples are the D.C. Superior Court, Guardian Ad Litem, the Citizen Review Panel, Mayor's Advisory Committee on Child Abuse and Neglect, the Child Fatality Review Committee, and the Federal Administration for Children and Families. Furthermore, as long as we are under *LaShawn*, we have the Court Monitor, plaintiffs, and a Federal judge overseeing the Agency as well. In addition to these entities, individuals dissatisfied with certain decisions made by CFSA can file an appeal with the Office of Administrative Hearings. They also have the option of participating in a Program Administrator Review (PAR), to help resolve their concerns. The Family Court also plays a critical role and provides important oversight of CFSA decisions for abuse and neglect court cases. Additionally, parents, children, and often foster parents are represented by attorneys who can address their concerns.

We believe that the creation of an independent Ombudsperson, with such unprecedented and unlimited authority, is not only unnecessary, but will have the unintended effect of compromising the agency's relationships with stakeholders, and hinders CFSA's ability to run the agency. Anyone who knows child welfare knows that issues and disputes will arise; there may be aggrieved parents whose children have been removed, and foster youth and foster or adoptive parents who do not agree with an agency's clinical or administrative decisions. However, CFSA has not engaged in conduct that has put our children's safety at risk that would require this level of oversight.

We recommend convening a working group so various stakeholders such as foster parents, community partners, and birth parents can have a voice and provide their concerns and

recommendations, versus rushing it to a finish line. We look forward to working collaboratively with Council, birth parents, foster parents and community partners to revisit the responsibilities of the Office of Ombudsman to ensure that the children and families in our care receive the best services possible.

I am happy to answer any questions you may have.