

By Mr. Stevens of Bedford, petition of James R. Nolen and Chandler H. Stevens, Jr., for legislation to establish the Massachusetts information and referral agency under the office of ombudsman. State Administration.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Sixty-Eight.

AN ACT ESTABLISHING THE MASSACHUSETTS INFORMATION AND REFERRAL AGENCY UNDER THE OFFICE OF OMBUDSMAN.

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

1 Chapter 9 of the General Laws is hereby amended by
2 inserting after section 27 under the caption MASSACHUSETTS
3 INFORMATION AND REFERRAL AGENCY UNDER THE OFFICE OF
4 OMBUDSMAN the following eleven sections:—

5 *Section 28.* The following words and phrases as used in
6 sections twenty-eight to thirty-eight inclusive, unless a dif-
7 ferent meaning is plainly required by the context, shall have
8 the following meanings:—"Administrative Act" includes any
9 action, omission, decision, recommendation, practise, or pro-
10 cedures, but does not include the preparation or presentation
11 of legislation. "Agency" includes any department, board,
12 commission, division or authority of the commonwealth or
13 subdivision of any of the foregoing or official of the common-
14 wealth authorized by law to make regulations or to conduct
15 proceedings, but does not include a court; the legislature, its
16 committees or staff; or the governor and his personal staff.

17 *Section 29.* There shall be directly under the general court,
18 but not subject to its control, a Massachusetts information
19 and referral agency under the direction of the office of
20 ombudsman. Said office shall, in response to inquiries or
21 complaints submitted by any person, provide information
22 relative to any administrative act or action of an agency or
23 refer said inquiry or complaint to an appropriate agency or,

24 on its own initiative investigate any administrative act or
25 review any action of an agency if it reasonably believes that
26 said act or action may give rise to legitimate grievances;
27 provided, however, that its powers shall be only advisory and
28 it shall not be authorized to veto, alter or amend any
29 administrative decision.

30 The office of ombudsman shall make such reports and
31 recommendations to the governor, attorney general, general
32 court, or any other officer, or agency of the commonwealth as
33 it may deem desirable on the basis of its investigations.

34 *Section 30.* The office of ombudsman may investigate an
35 administrative act or an action of an agency which in its
36 opinion is contrary to law; unreasonable, unfair or unneces-
37 sarily discriminatory, even though in accordance with law;
38 based on a mistake of fact; based on improper or irrelevant
39 grounds; unaccompanied by an adequate statement of of
40 purpose; performed in an inefficient manner; or, otherwise
41 erroneous.

42 If the office of ombudsman decides to make such an
43 investigation it shall notify the agency involved of its inten-
44 tion to investigate, and if said investigation is based on a
45 complaint, the complainant shall be notified of the intention
46 to investigate. A copy of any report filed by the office shall be
47 sent to the agency involved and the complainant.

48 The ombudsman shall have any such additional powers as
49 generally provided for agencies conducting adjudicatory pro-
50 ceedings under chapter thirty A of the General Laws.

51 *Section 31.* The office of ombudsman may refuse to investi-
52 gate any complaint which is subject to investigation under
53 the provisions of the preceding section if it determines that
54 there has been undue or unreasonable delay in filing the
55 complaint; the complaint is trivial or made in bad faith; the
56 facilities of the office are insufficient for adequate investiga-
57 tion; or, there are other complaints more worthy of immed-
58 ate attention.

59 Said office shall give notice to the complainant of its
60 decision not to investigate and it may state its reasons for
61 such failure to investigate.

62 *Section 32.* The office of ombudsman shall keep a record of
63 all public publications of the commonwealth; provide de-

64 tailed information of the purposes, scope and procedures of
65 all major programs or refer any persons to the appropriate
66 office which can provide said information; keep a record of
67 the existence and procedures of all boards of appeal and
68 similar agencies to whom a person aggrieved may appeal for
69 possible redress and relief.

70 If said office refers a person to any other agency, it shall
71 later confirm with such person whether further action on its
72 part is required to satisfy the original request.

73 Any information required to be kept by the office of
74 ombudsman shall be made available to all interested persons
75 upon request except information deemed to be of a confiden-
76 tial nature.

77 *Section 33.* The office of ombudsman shall be kept in-
78 formed as to the progress and final disposition of a case
79 referred to another agency and may take such further action
80 within the scope of its powers as may be necessary to effect a
81 satisfactory solution.

82 *Section 34.* The office of ombudsman may publish its
83 reports or recommendations, or such portions of them, as it
84 may deem to be in the public interest; provided that any
85 material which is deemed to be of confidential nature and not
86 properly in the public domain may be withheld from
87 publication.

88 *Section 35.* There shall be in the office of ombudsman, a
89 chief officer who shall devote full time to his official duties,
90 who shall be known as the ombudsman, and who shall be
91 elected for a term of ten years by a two thirds vote of the
92 senators and representatives, meeting jointly. The election
93 will be made from one or more nominees chosen by a
94 committee consisting of the senate president, the speaker of
95 the house and the minority leaders of both branches. An
96 ombudsman may not serve more than one term and may be
97 removed or suspended from office for neglect of duty, mis-
98 conduct or disability by a two thirds vote of the senators and
99 representatives meeting jointly. No person may serve as
100 ombudsman while he is a candidate for or holds any other
101 state office. If the ombudsman dies, resigns, becomes ineligi-
102 ble to serve, or is removed or suspended from office, the first
103 assistant to the ombudsman shall become the acting

104 ombudsman until a new ombudsman is appointed and quali-
105 fied for the remainder of the term.

106 *Section 36.* The ombudsman shall appoint a first assistant
107 and such other officers and employees, as shall be necessary to
108 carry out the duties of the office of ombudsman, who shall not
109 be subject to the provisions of chapter thirty-one.

110 The ombudsman shall take an oath that he will not, except
111 for the purpose of carrying out the duties of his office, divulge
112 any confidential information received by him provided that
113 the ombudsman may disclose in any report made by him such
114 matters as in his opinion should be disclosed in order to
115 establish grounds for his conclusions and recommendations.
116 Every official under the ombudsman shall take a similar
117 oath.

118 *Section 37.* Information received by the office of ombuds-
119 man shall be privileged, and such privilege may be waived
120 only by the person furnishing such information to said
121 office.

122 *Section 38.* The ombudsman shall submit an annual report
123 of his activities to the governor and the general court.