

**Testimony by
Emily Diamond-Falk**

**On behalf of
Foster Parent and Adoptive Parent Advocacy Center (FAPAC)**

**Regarding
B23-0437
Child Safety and Well-Being Ombudsperson Establishment Act of 2019**

**Before the
Council of the District of Columbia Committee on Human Services**

October 28, 2019

Good morning, Councilmember Nadeau and members and staff of the Human Services Committee. I am Emily Diamond-Falk and I am testifying on behalf of The Foster & Adoptive Parent Advocacy Center (FAPAC).

FAPAC is an organization founded by foster parents in October 2000. It supports a vision of strong prevention programs to keep families intact; high-quality, well-trained and supported foster placements when children do need to come into care; serious efforts towards reunification and other permanency options; and meaningful and effective post-permanency services to support families and keep them stable and healthy. FAPAC provides training and support for families, works to strengthen relationships between foster parents and birth parents, and partners with CFSA to develop solutions to systemic problems. Over the years FAPAC's scope has expanded to include programming directed at stabilizing families, so that, perhaps, their children will not need to enter the foster care system, or will reunite successfully.

We appreciate the opportunity to testify today about the proposed "Child Safety and Well-Being Ombudsperson Establishment Act of 2019." When this legislation was introduced, FAPAC's Director convened a small working group of foster parents who serve DC's children. As FAPAC as well as some foster parents testified last year about the need for strengthening the CFSA Ombudsperson role, our working group spent much time in discussion about the pros and cons of this specific legislation. The working group appreciates this committee for hearing our concerns and trying to address them and we would hope we might get to where we can support the bill. ***However, the legislation as currently introduced does not resolve the specific issues that are the focus of our most significant concerns.***

Most significantly, the working group has critical concerns that, although we had the opportunity to participate today because we are connected to FAPAC, other constituent groups who will be most impacted by this legislation perhaps had no such opportunity. This includes birth and kin families of children in care as well as our older youth themselves.

In testimonies last year, we stated that the most significant limitation in the current CFSA internal Ombudsperson role is the lack of a defined influence or authority, the "teeth" necessary to intervene in Agency decision-making. Specifically, the Ombudsperson has no authority when it comes to "clinical" decisions, nor breaches in the code of social work conduct. Because most of the important decisions that impact our children and families are made by social workers, any decision can thus be called "clinical" and therefore is considered off limits for the Ombudsperson and their office's intervention. Additionally, the current scope does not provide an infrastructure for gathering broader data on social workers or supervisors when there are grievances brought by families. Therefore, families don't feel that their complaints are

currently being used to improve CFSA practices and procedures, nor in a consistent manner to impact the actions of its staff members. ***The question before our workgroup was: Does this legislation address those concerns? As currently written, we do not believe it does.***

The legislation announcement highlighted four main duties.

- To provide information, guidance and mediation to children, youth, and the families that come into contact with the child welfare system;
- To undertake a formal investigation of CFSA's administrative acts when informal guidance and mediation do not sufficiently resolve an issue;
- To monitor CFSA's policies, procedures, and directives, and recommend changes; and
- To prepare and provide reports to the Agency, the Mayor, the Council, and the public about systemic trends as well as individual investigations.

By intermingling these four, we feel that the "real-time" individual case resolution that families have been asking for takes a back seat to the investigatory/monitoring role both in the description of the role and job responsibilities, and throughout the legislative language.

The legislation falls short of ensuring easy and quick access, responsiveness or timely investigations and decisions so that issues with practice can be resolved quickly and efficiently. As written, the Ombudsperson can refuse to take a case "if resources are insufficient" or "other complaints are more worthy of attention." This gives us no assurance that individual issues will be considered, and raises concern that the office will prove less useful for its primary purpose as a place to address the situations that impact families most directly.

Additionally, the external office will still have no real authority to redirect Agency practice decisions. The text states that the office may "require the Agency's participation in alternative dispute resolution;" however the office does not have any authority to ensure that participation results in any redirection of any action, even if the investigation turns up egregious practice. The text states "if the Ombudsperson believes that any Agency official or employee has acted in a manner warranting criminal or disciplinary proceedings, the Ombudsperson shall refer the matter to the 'appropriate authorities';" however, *appropriate authorities* is nowhere defined. Furthermore, it remains silent on whether any requirements apply equally to children and families served by CFSA's foster and congregate care contract agencies and does not ensure any protocol to hold the agencies responsible for any retribution against families or staff that turn to the office for help.

As FAPAC is unable to endorse this legislation as currently written, we'd like to ask the Council for the following considerations so that we could feel more comfortable to support it:

1. First and foremost, we recommend a short-term stakeholder working group before mark- up with the emphasis on inviting youth, birth family, kinship family and other impacted voices to the table. We think this is a critical step that has so far been excluded from the process. We would be glad to recommend organizations that represent these constituencies and help in any way to bring people together so we could move quickly to convene and complete the task in this legislative cycle. It would be our strong recommendation that an independent party mediate this process to keep all parties on task and accountable.
2. We request that language in the bill include the mandate for quick, easy, and efficient access to problem intervention and resolution for youth and families. The CFSA internal Ombudsperson currently does a very good job at responding quickly to family requests, and we are concerned that the process may slow with a solely external role.
3. As such, FAPAC would like to propose the consideration of a position remaining inside CFSA to facilitate ease of access for families and a conducive atmosphere for continuing to offer services currently well provided, i.e. information, support, and resolution of less controversial issues. The external person could take on those more complex or divisive issues that cannot be resolved internally as well as systemic oversight.
4. We strongly recommend reconsideration of the Citizens Review Panel as the hiring body and would instead suggest a multi-stakeholder organization panel, with specific inclusion of organizations consisting of those who would be clients of the office.
5. We would like to request that “foster and kinship parents” be added to “children, youth and families” throughout the document, to ensure us that our concerns will be seen as equal priority.
6. Finally, and significantly, we would like to see a clearly defined process for next steps should an investigation find poor practices or decisions by agency employees or contractors.

In closing, we appreciate and acknowledge this committee for hearing our concerns about the lack of authority of the internal office that was expressed at prior hearings. We also appreciate and acknowledge CFSA Director Brenda Donald and her team for the changes that they have been making to be more responsive to issues as they emerge. FAPAC 's operating model is that bringing all relevant voices together at the table to solve problems yields better resolutions. In this light, we hope that we can count on this committee to keep the work on this legislation transparent and open until representative youth, birth families and kinship families have had the opportunity we have had today to weigh in, and until the other issues we raised are addressed.

Thank you.