

5 3. Enter into contracts, within the limit of funds made available,
6 with individuals, organizations, and institutions for services further-
7 ing the objectives of the commission as listed in section four (4) of
8 this Act.

9 4. Seek advice and counsel of informed individuals, or any agricul-
10 tural, industrial, professional, labor or trade association, or civic group
11 in the accomplishment of the objectives of the commission.

12 5. Accept grants of money or property from the federal government
13 or any other source, and may upon its own order use this money,
14 property, or other resources to accomplish the objectives of the com-
15 mission.

1 SEC. 7. Access to information. The commission shall have access
2 to all nonconfidential records, data, information, and statistics of all
3 departments, boards, commissions, agencies, and institutions of this
4 state, and upon terms which may be mutually agreed upon, have
5 studies and research conducted.

1 SEC. 8. Annual report. Not later than February first of each year
2 the commission shall file a report with the governor and the general
3 assembly of its proceedings for the previous calendar year, and may
4 submit with the report such recommendations pertaining to its affairs
5 as it deems desirable, including recommendations for legislative con-
6 sideration and other action it deems necessary.

Approved April 19, 1972.

CHAPTER 1123

CITIZENS' AIDE (OMBUDSMAN)

H. F. 1291

AN ACT relating to the establishment of an office of citizens' aide, his duties, and providing penalties and making an appropriation.

Be It Enacted by the General Assembly of the State of Iowa:

1 SECTION 1. As used in this Act:

2 1. "Person" means an individual, aggregate of individuals, corpo-
3 ration, partnership, or unincorporated association.

4 2. "Agency" means all governmental entities, departments, boards,
5 commissions, councils or institutions, and any officer, employee or
6 member thereof acting or purporting to act in the exercise of his
7 official duties, but it does not include:

8 a. Any court or judge or appurtenant judicial staff.

9 b. The members, committees, or permanent or temporary staffs of
10 the Iowa general assembly.

11 c. The governor of Iowa or his personal staff.

12 d. Any instrumentality formed pursuant to an interstate compact
13 and answerable to more than one state.

14 3. "Officer" means any officer of an agency.

15 4. "Employee" means any employee of an agency.

16 5. "Administrative action" means any policy or action taken by an
17 agency or failure to act pursuant to law.

1 SEC. 2. The office of citizens' aide is established.

1 SEC. 3. The citizens' aide shall be appointed by the legislative coun-
2 cil with the approval and confirmation of a constitutional majority of
3 the senate and with the approval and confirmation of a constitutional
4 majority of the house of representatives. The legislative council shall
5 fill a vacancy in this office in the same manner as the original appoint-
6 ment. If the appointment or vacancy occurs while the general assem-
7 bly is not in session, such appointment shall be reported to the senate
8 and the house of representatives within thirty days of their convening
9 at their next regular session for approval and confirmation.

10 The citizens' aide shall employ and supervise all employees under
11 his direction in such positions and at such salaries as shall be author-
12 ized by the legislative council.

1 SEC. 4. The citizens' aide shall be a citizen of the state of Iowa,
2 and shall be qualified to analyze problems of law, administration and
3 public policy.

1 SEC. 5. The citizens' aide shall hold office for four years from the
2 first day in July of the year of his approval by the senate and the
3 house of representatives, and until his successor is appointed by the
4 legislative council, unless he can no longer perform his official duties,
5 or is removed from office. The citizens' aide may at any time be
6 removed from office by constitutional majority vote of the two houses
7 of the general assembly or as provided by chapter sixty-six (66) of
8 the Code. If a vacancy occurs in the office of citizens' aide, the deputy
9 citizens' aide shall act as citizens' aide until the vacancy is filled by
10 the legislative council.

1 SEC. 6. The citizens' aide shall designate one of the members of
2 his staff as the deputy citizens' aide, with authority to act as citizens'
3 aide when the citizens' aide is absent from the state or becomes dis-
4 abled. The citizens' aide may delegate to members of his staff any
5 of his authority or duties except the duty of formally making rec-
6 ommendations to agencies or reports to the governor or the general
7 assembly.

1 SEC. 7. Neither the citizens' aide nor any member of his staff
2 shall:

3 1. Hold any other public office of trust or profit under the laws of
4 this state.

5 2. Engage in any other employment for remuneration.

6 3. Knowingly engage in or maintain any business transactions with
7 persons employed by agencies against whom complaints may be made
8 under the provisions of this Act.

9 4. Be actively involved in partisan affairs.

1 SEC. 8. The citizens' aide may maintain secrecy in respect to all
2 matters including the identities of the complainants or witnesses com-
3 ing before him, except that the general assembly, any standing com-
4 mittee of the general assembly or the governor may require disclosure
5 of any matter and shall have complete access to the records and files
6 of the citizens' aide. The citizens' aide may conduct private hearings.

1 SEC. 9. The citizens' aide shall have the following powers:

2 1. He may investigate, on complaint or on his own motion, any
3 administrative action of any agency, without regard to the finality of
4 the administrative action, except that he shall not investigate the com-
5 plaint of an employee of an agency in regard to that employee's em-
6 ployment relationship with the agency.

7 2. He may prescribe the methods by which complaints are to be
8 made, received, and acted upon; determine the scope and manner of
9 investigations to be made; and, subject to the requirements of this
10 Act, he may determine the form, frequency, and distribution of his
11 conclusions and recommendations.

12 3. He may request and shall be given by each agency such assistance
13 and information as may be necessary in the performance of his duties.
14 He may examine the records and documents of all agencies not specifi-
15 cally made confidential by law. He may enter and inspect premises
16 within any agency's control.

17 4. He may issue a subpoena to compel any person to appear, give
18 sworn testimony, or produce documentary or other evidence deemed
19 relevant to a matter under his inquiry. The citizens' aide, his deputy
20 and his assistants shall have the power to administer oaths to per-
21 sons giving testimony before them. If a witness either fails or refuses
22 to obey a subpoena issued by the citizens' aide, the citizens' aide may
23 petition the district court having jurisdiction for an order directing
24 obedience to the subpoena. In the event the court finds that the sub-
25 poena should be obeyed, it shall enter an order requiring obedience to
26 the subpoena, and refusal to obey such court order shall be subject to
27 punishment for contempt.

1 SEC. 10. No monetary or other charge shall be levied upon any
2 person as a prerequisite to presentation of a complaint to the citizens'
3 aide.

1 SEC. 11. An appropriate subject for investigation by the office of
2 the citizens' aide is an administrative action that might be:

3 1. Contrary to law or regulation.

4 2. Unreasonable, unfair, oppressive, or inconsistent with the gen-
5 eral course of an agency's functioning, even though in accordance
6 with law.

7 3. Based on a mistake of law or arbitrary in ascertainments of fact.

8 4. Based on improper motivation or irrelevant consideration.

9 5. Unaccompanied by an adequate statement of reasons. The citi-
10 zens' aide may also concern himself with strengthening procedures
11 and practices which lessen the risk that objectionable administrative
12 actions will occur.

1 SEC. 12. The citizens' aide may receive a complaint from any
2 source concerning an administrative action. He shall conduct a suit-
3 able investigation into the administrative actions complained of unless
4 he finds substantiating facts that:

5 1. The complainant has available to him another remedy or chan-
6 nel of complaint which he could reasonably be expected to use.

7 2. The grievance pertains to a matter outside the citizens' aide
8 power.

9 3. The complainant has no substantive or procedural interest which
10 is directly affected by the matter complained about.

11 4. The complaint is trivial, frivolous, vexatious, or not made in
12 good faith.

13 5. Other complaints are more worthy of attention.

14 6. The citizens' aide resources are insufficient for adequate investi-
15 gation.

16 7. The complaint has been delayed too long to justify present exam-
17 ination of its merit.

18 The citizens' aide may decline to investigate a complaint, but shall
19 not be prohibited from inquiring into the matter complained about
20 or into related problems at some future time.

1 SEC. 13. If the citizens' aide decides not to investigate, he shall
2 within sixty days inform the complainant in writing of that decision
3 and shall state his reasons. If the citizens' aide decides to investigate,
4 he shall within sixty days notify the complainant in writing of his
5 decision and he shall also notify the agency of his intention to investi-
6 gate. After completing his consideration of a complaint, whether or
7 not it has been investigated, the citizens' aide shall without delay in-
8 form the complainant of the fact, and when appropriate, the adminis-
9 trative agency or agencies involved. The citizens' aide shall on request
10 of the complainant, and as appropriate, report the status of his inves-
11 tigation to the complainant.

1 SEC. 14. A letter to the citizens' aide from a person in a correc-
2 tional institution, a hospital, or other institution under the control
3 of an administrative agency shall be immediately forwarded, unopened
4 to the citizens' aide by the institution where the writer of the letter
5 is a resident. A letter from the citizens' aide to such a person shall
6 be immediately delivered, unopened to the person.

1 SEC. 15. Before announcing a conclusion or recommendation that
2 criticizes an agency or any officer or employee, the citizens' aide shall
3 consult with that agency, officer or employee, and shall attach to every
4 report sent or made under the provisions of this Act a copy of any
5 unedited comments made by or on behalf of the officer, employee, or
6 agency.

1 SEC. 16. If, having considered a complaint and whatever material
2 he deems pertinent, the citizens' aide finds substantiating facts that:

- 3 1. A matter should be further considered by the agency;
- 4 2. An administrative action should be modified or canceled;
- 5 3. A rule or regulation on which an administrative action is based
6 should be altered;
- 7 4. Reasons should be given for an administrative action; or
- 8 5. Any other action should be taken by the agency, he shall state
9 his recommendations to the agency. If the citizens' aide requests, the
10 agency shall, within twenty working days notify him of any action
11 taken on his recommendations or the reasons for not complying with
12 them.

13 If the citizens' aide believes that an administrative action has
14 occurred because of laws whose results are unfair or otherwise objec-
15 tionable, he shall notify the general assembly concerning desirable
16 statutory change.

1 SEC. 17. The citizens' aide may publish his conclusions, recom-
2 mendations, and suggestions and transmit them to the governor, the

3 general assembly or any of its committees. When publishing an opin-
4 ion adverse to an administrative agency or official he shall, unless
5 excused by the agency or official affected, include with the opinion
6 any unedited reply made by the agency.

7 Any conclusions, recommendations, and suggestions so published
8 may at the same time be made available to the news media or others
9 who may be concerned.

1 SEC. 18. In addition to whatever reports he may make from time
2 to time, the citizens' aide shall by February fifteenth of each year
3 report to the general assembly and to the governor concerning the
4 exercise of his functions during the preceding calendar year. In dis-
5 cussing matters with which he has been concerned, the citizens' aide
6 need not identify specific persons or agencies if to do so would cause
7 needless hardship. If the annual report criticizes named agencies or
8 officials, it must also include unedited replies made by the agency or
9 official to the criticism, unless excused by the agency or official affected.

1 SEC. 19. If the citizens' aide believes that any public official,
2 employee or other person has acted in a manner warranting criminal
3 or disciplinary proceedings, he shall refer the matter to the appro-
4 priate authorities.

1 SEC. 20. No civil action, except removal from office as provided in
2 chapter sixty-six (66) of the Code, or proceeding shall be commenced
3 against the citizens' aide or any member of his staff for any act or
4 omission performed pursuant to the provisions of this Act unless the
5 act or omission is actuated by malice or is grossly negligent, nor shall
6 the citizens' aide or any member of his staff be compelled to testify in
7 any court with respect to any matter involving the exercise of his
8 official duties except as may be necessary to enforce the provisions of
9 this Act.

1 SEC. 21. A person required by the citizens' aide to provide infor-
2 mation shall be paid the same fees and travel allowances as are
3 extended to witnesses whose attendance has been required in the dis-
4 trict courts of this state. Officers and employees of an agency shall
5 not be entitled to such fees and allowances. A person who, with or
6 without service of compulsory process, provides oral or documentary
7 information requested by the citizens' aide shall be accorded the same
8 privileges and immunities as are extended to witnesses in the courts
9 of this state, and shall also be entitled to be accompanied and advised
10 by counsel while being questioned.

1 SEC. 22. A person who willfully obstructs or hinders the lawful
2 actions of the citizens' aide or his staff, or who willfully misleads or
3 attempts to mislead the citizens' aide in his inquiries, shall be subject
4 to a fine of not more than one thousand dollars.

1 SEC. 23. There is appropriated from the general fund of the state
2 for the office of citizens' aide for the fiscal year beginning July 1, 1972
3 and ending June 30, 1973, the sum of fifty-two thousand (52,000)
4 dollars, or so much thereof as may be necessary, for the purpose of
5 carrying out the provisions of this Act.

1 SEC. 24. This Act shall be known and may be cited as the "Iowa
2 Citizens' Aide Act".

Approved April 20, 1972.