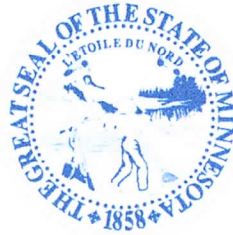


State of Minnesota
Office of Ombudsperson
For Families



1450 Energy Park Drive
Suite 106 Saint Paul,
Minnesota 55108-5227
Fax: 651-643-2539

March 5, 2021

Greetings! I am the Ombudsperson for Asian Pacific Families and I request your support in opposing Senate File 1038 (authored by Senators Kunesh and Abeler) and its companion bill, House File 1273 (authored by Representatives Keeler, Ecklund, Stephenson, Becker-Finn and Albirght) as they're currently drafted.

On March 2, 2021, the following joint statement from the Ombudsperson for Asian Pacific Families, the Ombudsperson for Spanish Speaking Families and the Ombudsperson for African American Families, as well as our respective community-boards and councils, was provided to the Human Services Reform Finance and Policy Committee:

The Minnesota Office of Ombudsperson for Families was created in 1991 as the result of a series of meetings with more than 100 concerned community members to address systematic discrimination faced by communities of color and American Indians in Minnesota's child welfare system. Since this time, as a matter of public policy, our Office also hears and investigates complaints regarding Caucasian child protection matters as there is no statutorily created Ombudsperson for this community.

Our collective and individual communities do not have resources at the state, or community level that responds to the issue of children and families involved in child welfare services. However, the American Indian community does. There's the American Indian Child Welfare Advisory Council; American Indian Child Welfare Initiative; 9 employees in the Minnesota Department of Human Services' ICWA Compliance Unit; the Minnesota Department of Human Services' ICWA Training Unit that is in collaboration with the University of Minnesota Center for Advanced Studies in Child Welfare (CACSW); the American Indian Advocates; Indian Child Welfare Center; ICWA Law Center; Minnesota Indian Women's Resources Center; Anishinabe Legal Services; American Indian Family Center and the Minneapolis American Indian Center; just to name a few. In addition to this, the Red Lake Nation and Boise Fort Band of Chippewa have exclusive jurisdiction over child protection matters. The Leech Lake Band of Ojibwe and White Earth Nation have agreement with the Minnesota Department of Human Services and local county agencies to accept and investigate or assess reports of Indian children within their reservations. Hennepin County and Ramsey County have robust ICWA units. Many local social service agencies throughout the state also have employees working specifically with ICWA and MIFPA compliance. Again, these kind resources are rarely, if ever, available to the other communities served by the Office of Ombudsperson for Families.

According to the United States Ombudsman Association, an Ombudsperson is an independent, impartial public official with the authority and responsibility to receive, investigate, or informally address complaints about government actions and, when appropriate, make findings and recommendations and publish reports. The Minnesota Office of Ombudsperson for Families embraces the 1997 Model Ombudsman Act's core principles of: independence; impartiality; fairness; a credible process; and confidentiality.

Senate File 1038 is problematic in that it upholds none of the aforementioned principles. How are independence and impartiality upheld when the Ombudsperson is seeking and applying for grants to develop new programs and initiatives and to continue existing programs and initiatives? Isn't performing work to develop or sustain programs and initiatives fundamentally counterintuitive to independence and impartiality? How does delegation

OFFICE OF OMBUDSPERSON FOR FAMILIES

March 5, 2021

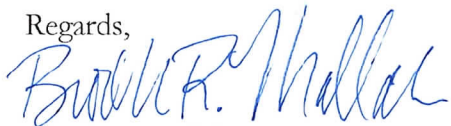
Pg. 2

of the Ombudsperson's duties and authorities, including subpoena powers to access confidential information, to members of their advisory board who serve on a voluntary basis and are not state employees, ensure fairness, credible review process and confidentiality?

We had hoped the collective spirit that led to the creation of the Office of Ombudsperson for Families 30 years ago would continue to exist today. Sadly, it hasn't. The Office of Ombudsperson for Families was neither consulted, nor apprised of S. F. 1038. However, we weren't surprised when we found out about it because this bill has been periodically reincarnated in the last 7 years. The continued rhetoric surrounding S. F. 1038 distracts us from focusing on our ombudspersons' duties and creates unnecessary division within our agency. It is for these reasons we support the creation of the Office of Ombudsperson for American Indian Families and its physical removal from the Office of Ombudsperson for Families, with the Office of Ombudsperson for Families retaining an equitable share of the agency's appropriation to continue serving Minnesota's families and communities. We do not object to the new office receiving $\frac{1}{4}$ of the special revenue fund. We do, however, object to the new office receiving any of the Office of Ombudsperson for Families general fund appropriation.

Senate File 1038 and House File 1273 acts to pit Minnesota's BIPOC communities against one another and is, at its core, racial discrimination against the Spanish speaking, African American, Asian Pacific and Caucasian communities. Enclosed is correspondence to Senators Abeler and Kunesh addressing specific statements made during the Committee Hearing. Please join me in voicing opposition to the numerous improprieties contained within the proposed legislation and the alarming conduct of Senators Abeler and Kunesh.

Regards,



Brook R. Mallak, Esq.

Ombudsperson for Asian Pacific Families

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Enclosures: March 5, 2021, correspondence to Senator Abeler
March 5, 2021, correspondence to Senator Kunesh

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March 5, 2021

Senator Jim Abeler
Human Services Reform Finance and Policy Committee Chair

Via Email: sen.jim.abeler@senate.mn

RE: Senate File 1038

Dear Senator Abeler:

This correspondence is in follow up to the Committee's March 2, 2021, Hearing regarding Senate File 1038.

As the topic of Senate File 1038 was winding down, you stated, "The hook on me is the child protection for both the African Americans and the tribal families." The Ombudsperson for Spanish Speaking Families and I were introduced and clearly visible on the monitor. The Ombudsperson for Spanish Speaking Families testified at the Hearing. Under these circumstances, your omission of Asian Pacific and Spanish Speaking families can only be construed as intentional. This overt lack of concern for the Asian Pacific and Spanish Speaking Families involved in the child protection system is disappointing, to say the least.

During the hearing, you complimented the specific duties detailed in Senate File 1038 and commented that the current statute governing the Ombudspersons for Families "didn't go into detail to specify child protection." You are mistaken. Minnesota Statute 257.0762, subdivision 1 states, "Each ombudsperson shall monitor compliance with all laws governing child protection and placement, as they impact children of color." Emphasis added for your convenience.

You should also be aware that creation of a separate Office for Ombudsperson for American Indian Families will not save money and will result in duplication of work. Historically, the Office of Ombudsperson for Families (OBFF) has operated as a collective office without a central information sharing system, which has, at times, resulted in multiple Ombudspersons being contacted by the same complainant about the same case. Notwithstanding the situation created by the current pandemic, being housed in the same physical space has mostly alleviated this problem. OBFF is purchasing and implementing a case management system which will completely resolve this issue and enhance other areas of performance. The proposed Office of Ombudsperson for American Indian Families will not have access to the case management system or relevant case information to prevent duplicative work.

OBFF consists of the four Ombudspersons and a full-time Office Administrative Specialist. The legislature approved funding for OBFF to additional staff, to include an investigator and intake specialist. Hiring of these positions is projected to occur within the next six months. The new Office of Ombudsperson for American Indian Families will be without these additional supports to serve Minnesota's American Indian families. This legislation is short-sighted and creates significant harm to all Minnesota families.

OFFICE OF OMBUDSPERSON FOR FAMILIES

Senator Abeler
March 5, 2021
Pg. 2

Senate File 1038 acts to pit Minnesota's BIPOC communities against one another and is, at its core, racial discrimination against the Spanish speaking, African American, Asian Pacific and Caucasian communities. Your co-authoring of this bill and your statements during the Committee Hearing clearly reflect your biased concern for select BIPOC communities, which does not include the Asian Pacific community.

Regards,



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cc: Council on Asian Pacific Minnesotans
Council of Asian American Leaders
Japanese American Citizens League
CAPI
Hindu Society of MN
Asian Women United of Minnesota
Bhutanese Community Organization of Minnesota
United Cambodian Association of Minnesota
Chinese American Association of Minnesota
Hospitality Center for Chinese
Filipinx for Immigrant Rights & Racial Justice MN
Philippine Cultural Club of Rochester, MN
Guyunese Outreach, Inc.
Minnesota Asian Pacific Bar Association
Minnesota Hmong Chamber of Commerce
Asian Economic Development Association
Japan American Society of Minnesota
Karen Christian Fellowship
Karen Organization of Minnesota
KarenniCare Community Response
Korean American Association of Minnesota
Minnesota Association for Korean Americans
Lao Advancement Organization of America
Hmong 18 Council, Inc.
Hmong ABC
Hmong American Partnership
Hmong American Bar Association
Minnesota Children's Alliance
India Association of Minnesota
SEWA
Lao Family Community Center
Chinese Heritage Foundation
Cultural Society of Filipino Americans
Fil-Minnesota Association
Phil-Am Association
Hmong Cultural Center, Inc.
Hmong Women Achieving Together
Hmong Women Today
Cambodian Association of Rochester
Albert Lea Karen Group
Karen Community of Minnesota
Marshall Karen Group
Karenni Refugees
Korean Institute of Minnesota
Korean Quarterly
Lao Assistance Center of Minnesota

OFFICE OF OMBUDSPERSON FOR FAMILIES

Senator Abeler

March 5, 2021

Pg. 3

Association of Nepalis in Minnesota

Minnesota Sri Lanka Friendship Foundation

Tibetan American Foundation of Minnesota

Vietnamese Social Services of Minnesota

Minnesota Senate

NAACP – St. Paul

Cultural and Ethnic Communities Leadership Council

US-China Peoples Friendship Association – MN Chapter

CABERI: Cultural Association of Bengalees in Rochester

Karen Culture Organization of United States of America

Alight

Thai Cultural Council of MN

Vietnamese Community of Minnesota

Minnesota House of Representatives

NAACP – Minneapolis

NAACP – Rochester

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March 5, 2021

Senator Mary K. Kunesh

Via Email: sen.mary.kunesh@senate.mn

RE: SF 1038

Dear Senator Kunesh:

This correspondence is in follow up to the March 2, 2021, Human Services Reform Finance and Policy Committee Hearing on Senate File 1038.

You stated that, based upon “old records of reports” you reviewed, the Ombudsperson for American Indian Families has “more access, responsibility and addresses more calls and actions than any of the others.” This information appears to be incorrect as the Ombudsperson for African American Families receives the most calls. Please provide the “old records and reports” you referenced to support this statement. If your statement was an error, please advise what you intend to do to correct this public misinformation.

You also stated, “it makes sense for the office to be aligned with the Minnesota Indian Affairs Council.” According to Minnesota Statute 257.0755, “Each ombudsperson shall act independently from but in collaboration with the community-specific board that appointed the ombudsperson . . .” As such, the family ombudspersons are statutorily required to be independent. Aligning with and being housed within the Minnesota Indian Affairs Council significantly erodes the independence of the Ombudsperson. Unfortunately, history is doomed to repeat itself as the Ombudspersons were initially housed within their respective Councils and, in 1994, moved to a separate physical location due, in large part, to confidentiality concerns. Please advise how you believe independence and confidentiality will be preserved if what you propose comes to fruition.

As the Office of Ombudsperson for Families (OBFF) began its work on the Fiscal Note following the Committee Hearing, it learned the Minnesota Indian Affairs Council does not have adequate space to house the Office of Ombudsperson for American Indian Families. Obviously, the constituents who came to you with this proposal failed to discuss the relocation with the Council. This will increase the cost of the proposed office as there will be rent, furniture and equipment expenses for the Ombudsperson and a support staff.

You stated the separation is necessary because, “duties are unique to the American Indian Ombudsperson, particularly because of the need and necessity for her to travel through greater Minnesota and so this allows for her to use those funds for different services” and therefore, this position needs “flexibility in funding.” The OBFF serves families throughout the State of Minnesota. Currently, I’m monitoring Asian Pacific child protection cases in Ramsey, Hennepin, Carver, Roseau, Cottonwood, Mower and Washington counties. I’ve also received calls regarding Asian Pacific families in Isanti and Steele counties. Like the American Indians, the Caucasian, African American, Spanish Speaking and Asian American communities OBFF serves are also located in greater Minnesota. Therefore, I fail to understand why the Ombudsperson for American Indian Families has different travel needs than the rest of us.

OFFICE OF OMBUDSPERSON FOR FAMILIES

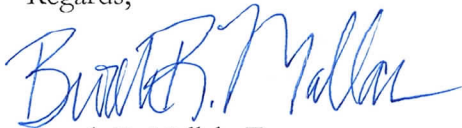
Senator Kunesh

March 5, 2021

Pg. 2

Senate File 1038 acts to pit Minnesota's BIPOC communities against one another and is, at its core, racial discrimination against the Spanish speaking, African American, Asian Pacific and Caucasian communities. It is disappointing and alarming to see a person with your level of power delegated to you by the citizens of Minnesota partaking in these overt acts of discrimination and sloppy work.

Regards,



Brook R. Mallak, Esq.

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Guyunese Outreach, Inc.
Minnesota Asian Pacific Bar Association
Minnesota Hmong Chamber of Commerce
Asian Economic Development Association
Japan American Society of Minnesota
Karen Christian Fellowship
Karen Organization of Minnesota
KarenniCare Community Response
Korean American Association of Minnesota
Minnesota Association for Korean Americans
Lao Advancement Organization of America
Hmong 18 Council, Inc.
Hmong ABC
Hmong American Partnership
Hmong American Bar Association
Minnesota Children's Alliance
India Association of Minnesota
SEWA
Lao Family Community Center
Chinese Heritage Foundation
Cultural Society of Filipino Americans
Fil-Minnesota Association
Phil-Am Association
Hmong Cultural Center, Inc.
Hmong Women Achieving Together
Hmong Women Today
Cambodian Association of Rochester
Albert Lea Karen Group
Karen Community of Minnesota
Marshall Karen Group
Karenni Refugees
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Korean Quarterly
Lao Assistance Center of Minnesota

OFFICE OF OMBUDSPERSON FOR FAMILIES

Senator Kunesh

March 5, 2021

Pg. 3

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