

**Second Regular Session
Seventieth General Assembly
STATE OF COLORADO**

REVISED

*This Version Includes All Amendments Adopted
on Second Reading in the Second House*

LLS NO. 16-0762.01 Jane Ritter x4342

SENATE BILL 16-013

SENATE SPONSORSHIP

Newell, Kefalas, Lundberg

HOUSE SPONSORSHIP

Singer,

Senate Committees

Judiciary

House Committees

Public Health Care & Human Services

A BILL FOR AN ACT

101 **CONCERNING STATUTORY CHANGES RELATED TO THE OFFICE OF THE**
102 **CHILD PROTECTION OMBUDSMAN.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

The bill addresses several items in the statutes relating to the office of the child protection ombudsman (office), including:

- ! Clarifying that the child protection ombudsman board's (board) duties are advisory only;
- ! Shifting the responsibility for accountability in policies and procedures from the board to the office;

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.

Capital letters indicate new material to be added to existing statute.

Dashes through the words indicate deletions from existing statute.

HOUSE
2nd Reading Unamended
March 28, 2016

SENATE
3rd Reading Unamended
February 26, 2016

SENATE
Amended 2nd Reading
February 25, 2016

- ! Clarifying that the ombudsman cannot be subpoenaed by independent parties to testify in personal custody proceedings; and
- ! Removing the statutory requirement for an audit of the office by the office of the state auditor but leaving it at the discretion of the legislative audit committee to request such an audit at a future date.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 19-3.3-102, **amend**
3 **(3); and add (1) (a.5) as follows:**

4 **19-3.3-102. Office of the child protection ombudsman**
5 **established - child protection ombudsman advisory board -**
6 **qualifications of ombudsman - duties.** (1) (a.5) THE OFFICE AND THE
7 JUDICIAL DEPARTMENT SHALL OPERATE PURSUANT TO A MEMORANDUM OF
8 UNDERSTANDING BETWEEN THE TWO ENTITIES. THE MEMORANDUM OF
9 UNDERSTANDING CONTAINS, AT A MINIMUM:

10 (I) A REQUIREMENT THAT THE OFFICE HAS ITS OWN PERSONNEL
11 RULES;

12 (II) A REQUIREMENT THAT THE OMBUDSMAN HAS INDEPENDENT
13 HIRING AND TERMINATION AUTHORITY OVER OFFICE EMPLOYEES;

14 (III) A REQUIREMENT THAT THE OFFICE MUST FOLLOW JUDICIAL
15 FISCAL RULES;

16 (IV) A REQUIREMENT THAT THE OFFICE OF THE STATE COURT
17 ADMINISTRATOR SHALL OFFER THE OFFICE OF THE CHILD PROTECTION
18 OMBUDSMAN LIMITED SUPPORT WITH RESPECT TO:

19 (A) PERSONNEL MATTERS;

20 (B) RECRUITMENT;

21 (C) PAYROLL;

22 (D) BENEFITS;

- 1 (E) BUDGET SUBMISSION, AS NEEDED;
- 2 (F) ACCOUNTING; AND
- 3 (G) OFFICE SPACE, FACILITIES, AND TECHNICAL SUPPORT LIMITED
- 4 TO THE BUILDING THAT HOUSES THE OFFICE OF THE STATE COURT
- 5 ADMINISTRATOR; AND
- 6 (V) ANY OTHER PROVISIONS REGARDING ADMINISTRATIVE
- 7 SUPPORT THAT WILL HELP MAINTAIN THE INDEPENDENCE OF THE OFFICE.

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- 9 (3) The ___ board has the following duties and responsibilities:
- 10 (a) To oversee THE FOLLOWING personnel decisions related to the
- 11 ombudsman: ~~including, but not limited to:~~

12 (I) On or before December 1, 2015, and as necessary thereafter,

13 appointing a person to serve as the child protection ombudsman and

14 director of the office, referred to in this article as the "ombudsman". The

15 ombudsman appointed by the ___ board on or before December 1, 2015,

16 shall assume his or her position on the effective date of the memorandum

17 of understanding between the judicial department and the office.

18 ~~developed pursuant to section 19-3.3-102(3)(e).~~ The ___ board may also

19 discharge an acting ombudsman for cause. A two-thirds majority vote is

20 required to hire or discharge the ombudsman. The general assembly shall

21 set the ombudsman's compensation, and such compensation may not be

22 reduced during the term of the ombudsman's appointment.

- 23 (II) Filling ~~any~~ A vacancy in the ombudsman position;
- 24 (III) EVALUATING THE OMBUDSMAN'S PERFORMANCE AS
- 25 DETERMINED NECESSARY BASED ON FEEDBACK RECEIVED RELATED TO THE
- 26 OMBUDSMAN; AND
- 27 (IV) DEVELOPING A PUBLIC COMPLAINT PROCESS RELATED TO THE

1 OMBUDSMAN'S PERFORMANCE:

2 (b) ~~To ensure accountability and consistency in the operating~~
3 ~~policies and procedures, including reasonable rules to administer the~~
4 ~~provisions of this article and any other standards of conduct and reporting~~
5 ~~requirements as provided by law~~ TO OVERSEE AND ADVISE THE
6 OMBUDSMAN ON THE STRATEGIC DIRECTION OF THE OFFICE AND ITS
7 MISSION AND TO HELP PROMOTE THE USE, ENGAGEMENT, AND ACCESS TO
8 THE OFFICE:

9 (c) To work cooperatively with the ombudsman to provide fiscal
10 oversight of the general operating budget of the office to assist with
11 training, as needed, and provide any other assistance to AND ensure that
12 the office and ombudsman operate OPERATES in compliance with the
13 provisions of this article, THE MEMORANDUM OF UNDERSTANDING, and
14 with state and federal laws relating to the child welfare system;

15 (d) ~~To assist with the memorandum of understanding between the~~
16 ~~office and the state department. The memorandum of understanding must~~
17 ~~be completed and signed no later than November 1, 2015.~~

18 (e) ~~To collaborate with the judicial department and the office on~~
19 ~~the creation of an administrative memorandum of understanding between~~
20 ~~the office and the judicial department. The memorandum of~~
21 ~~understanding must be completed and signed no later than November 1,~~
22 ~~2015, and have an effective date of no later than January 1, 2016. The~~
23 ~~memorandum of understanding must contain, at a minimum:~~

24 (I) ~~A requirement that the office has its own personnel rules;~~

25 (II) ~~A requirement that the ombudsman has independent hiring~~
26 ~~and termination authority over office employees;~~

27 (III) ~~A requirement that the office must follow judicial fiscal~~

1 rules;

2 ~~(IV) A requirement that the office of the state court administrator~~
3 ~~shall offer the office of the child protection ombudsman limited support~~
4 ~~with respect to:~~

5 ~~(A) Personnel matters;~~
6 ~~(B) Recruitment;~~
7 ~~(C) Payroll;~~
8 ~~(D) Benefits;~~
9 ~~(E) Budget submission, as needed;~~
10 ~~(F) Accounting; and~~
11 ~~(G) Office space, facilities, and technical support limited to the~~
12 ~~building that houses the office of the state court administrator;~~

13 ~~(V) Any other provisions regarding administrative support that~~
14 ~~will help maintain the independence of the office;~~

15 ~~(f) To assist with training for the ombudsman, office, or as~~
16 ~~otherwise needed; and~~

17 ~~(g) To assist with reporting requirements to the general assembly.~~

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19 (h) TO PROMOTE THE MISSION OF THE OFFICE TO THE PUBLIC; AND

20 (i) TO PROVIDE ASSISTANCE, AS PRACTICABLE AND AS REQUESTED

21 BY THE OMBUDSMAN, TO FACILITATE THE STATUTORY INTENT OF THIS

22 ARTICLE.

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24 **SECTION 2.** In Colorado Revised Statutes, 19-3.3-103, **amend**

25 (1) (b) and (1) (c); and **add** (1) (d), (1) (e), and (1) (f) as follows:

26 **19-3.3-103. Office of the child protection ombudsman - powers**

27 **and duties - access to information - confidentiality - testimony -**

1 **judicial review.** (1) The ombudsman has the following duties, at a
2 minimum:

3 (b) To evaluate and make a recommendation to the executive
4 director and any appropriate agency or entity for the creation of a
5 statewide grievance policy that is accessible by children and families
6 within the child protection system and that is transparent and accountable;
7 **and**

8 (c) To report, at least annually, pursuant to AS REQUIRED BY THE
9 PROVISIONS OF section 19-3.3-108, concerning the actions taken by the
10 ombudsman with respect OF THE OMBUDSMAN RELATED to the goals and
11 duties of the office;

12 (d) TO REVIEW THE MEMORANDUM OF UNDERSTANDING BETWEEN
13 THE OFFICE AND THE JUDICIAL DEPARTMENT AND RENEGOTIATE SUCH
14 MEMORANDUM OF UNDERSTANDING AT ANY TIME AS THE OFFICE AND THE
15 JUDICIAL DEPARTMENT MUTUALLY DEEM APPROPRIATE;

16 (e) TO ACT ON BEHALF OF THE OFFICE AND SERVE AS SIGNATOR
17 FOR THE OFFICE; AND

18 (f) TO ENSURE ACCOUNTABILITY AND CONSISTENCY IN THE
19 OPERATING POLICIES AND PROCEDURES, INCLUDING REASONABLE RULES
20 TO ADMINISTER THE PROVISIONS OF THIS ARTICLE AND ANY OTHER
21 STANDARDS OF CONDUCT AND REPORTING REQUIREMENTS AS PROVIDED
22 BY LAW.

23 **SECTION 3. In Colorado Revised Statutes, 19-3.3-108, amend**
24 **(2); and add (4) as follows:**

25 **19-3.3-108. Office of the child protection ombudsman - annual**
26 **report. (2) The ombudsman shall transmit the annual report to the**
27 **executive director for review and comment The ombudsman shall**

1 distribute the written report to the governor, the chief justice, THE BOARD,
2 and the general assembly. The ombudsman shall present the report to the
3 health and human services committees of the house of representatives and
4 of the senate, or any successor committees.

5 (4) THE OMBUDSMAN SHALL PRESENT OR COMMUNICATE
6 QUARTERLY UPDATES TO THE BOARD ON THE ACTIVITIES OF THE OFFICE.

7 **SECTION 4.** In Colorado Revised Statutes, **amend** 19-3.3-109
8 as follows:

9 **19-3.3-109. Review by the state auditor's office.** ~~The state~~
10 ~~auditor shall conduct or cause to be conducted a performance and fiscal~~
11 ~~audit of the office at the beginning of the third year of operation of the~~
12 ~~office. Thereafter,~~ At the discretion of the legislative audit committee, the
13 state auditor shall conduct or cause to be conducted a performance and
14 fiscal audit of the office.

15 **SECTION 5. Safety clause.** The general assembly hereby finds,
16 determines, and declares that this act is necessary for the immediate
17 preservation of the public peace, health, and safety.