

**First Regular Session
Seventy-third General Assembly
STATE OF COLORADO**

ENGROSSED

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

LLS NO. 21-0506.02 Alana Rosen x2606

HOUSE BILL 21-1272

HOUSE SPONSORSHIP

Cutter and Bradfield,

SENATE SPONSORSHIP

Danielson,

House Committees

Public & Behavioral Health & Human Services

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING ENHANCING SUPPORTS TO THE OFFICE OF THE CHILD**
102 **PROTECTION OMBUDSMAN IN ITS ROLE CONCERNING CHILD**
103 **PROTECTIONS.**

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://leg.colorado.gov>.)

The bill exempts an employee or person acting on behalf of the office of the child protection ombudsman (ombudsman) from testifying in a civil or criminal proceeding in which the ombudsman is not a legal party. The bill prohibits information, documents, and reports requested and reviewed by the ombudsman from being subpoenaed in a civil or

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
*Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

HOUSE
Amended 2nd Reading
April 28, 2021

criminal proceeding in which the ombudsman is not a legal party.

The bill authorizes the ombudsman to receive information, records, or documents related to a critical incident, incident of egregious abuse or neglect, near fatality, or fatality of a child during the course of an investigation of a complaint. The department of public health and environment's child fatality prevention review team shall provide the ombudsman the nonidentifying case review findings and recommendations related to an investigation of a complaint. The department of human services' child fatality review team shall provide the ombudsman the final confidential, case-specific review report related to an investigation of a complaint. The bill also requires the department of human services' division of youth services to provide the ombudsman information, records, and documents related to a critical incident. If electronic copies are not available, the ombudsman shall access, review, and receive copies of documents without cost to the ombudsman.

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

2 **SECTION 1.** In Colorado Revised Statutes, 19-3.3-103, **amend**
3 (1)(a)(I), (1)(a)(II), (2)(d), and (2)(e); and **add** (2)(f) as follows:

4 **19-3.3-103. Office of the child protection ombudsman - powers**
5 **and duties - access to information - confidentiality - testimony -**
6 **judicial review - definition.** (1) The ombudsman has the following
7 duties, at a minimum:

8 (a) (I) (A) To receive complaints concerning child protection
9 services. FOR THE PURPOSES OF THIS SECTION, "COMPLAINT" MEANS ANY
10 REPORT OR COMPLAINT made by or on behalf of a child relating to any
11 action, inaction, or decision of any public agency or any provider that
12 receives public ~~moneys~~ MONEY that may adversely affect the safety,
13 permanency, or well-being of the child. The ombudsman may,
14 independently and impartially, investigate ~~and seek resolution of such~~
15 ~~complaints, which resolution may include, but need not be limited to,~~
16 ~~referring a complaint to the state department or appropriate agency or~~
17 ~~entity and making a recommendation for action relating to a complaint.~~


1 A COMPLAINT, WHICH MAY INCLUDE ■ ■ AN INCIDENT OF EGREGIOUS
2 ABUSE OR NEGLECT OR NEAR FATALITY, AS DESCRIBED IN SECTION
3 26-1-139, OR FATALITY OF A CHILD, AS DESCRIBED IN PART 20.5 OF TITLE
4 25 AND SECTION 26-1-139. THE OMBUDSMAN MAY SEEK RESOLUTION OF
5 A COMPLAINT, WHICH MAY INCLUDE BUT NEED NOT BE LIMITED TO
6 REFERRING A COMPLAINT TO THE STATE DEPARTMENT OR APPROPRIATE
7 AGENCY OR ENTITY AND MAKING A RECOMMENDATION FOR ACTION
8 RELATING TO A COMPLAINT.

9 (B) The ombudsman shall treat all complaints received pursuant
10 to ~~sub-subparagraph (A) of this subparagraph (F)~~ SUBSECTION (1)(a)(I)(A)
11 OF THIS SECTION as confidential, including the identities of complainants
12 and individuals from whom information is acquired; except that
13 disclosures may be permitted if the ombudsman deems it necessary to
14 enable the ombudsman to perform ~~his or her~~ THE OMBUDSMAN'S duties
15 and to support any recommendations resulting from an investigation.
16 Records relating to complaints received by the office and the
17 investigation of complaints are exempt from public disclosure pursuant
18 to article 72 of title 24. ~~C.R.S.~~

19 (C) THE OMBUDSMAN AND ANY EMPLOYEE OR PERSON ACTING ON
20 BEHALF OF THE OMBUDSMAN SHALL NOT BE COMPELLED TO PROVIDE ORAL
21 AND WRITTEN TESTIMONY IN A CIVIL OR CRIMINAL PROCEEDING IN WHICH
22 THE OMBUDSMAN IS NOT A LEGAL PARTY. INFORMATION, RECORDS, OR
23 DOCUMENTS REQUESTED AND REVIEWED BY THE OMBUDSMAN PURSUANT
24 TO THIS SECTION ARE NOT SUBJECT TO A SUBPOENA ISSUED TO THE
25 OMBUDSMAN, DISCOVERY FROM THE OMBUDSMAN, OR INTRODUCTION
26 INTO EVIDENCE THROUGH THE OMBUDSMAN IN A CIVIL OR CRIMINAL
27 PROCEEDING IN WHICH THE OMBUDSMAN IS NOT A LEGAL PARTY. NOTHING

1 IN THIS SUBSECTION (1)(a)(I)(C) RESTRICTS OR LIMITS THE RIGHT TO
2 DISCOVER OR USE IN A CIVIL OR CRIMINAL ACTION EVIDENCE THAT IS
3 DISCOVERABLE INDEPENDENT OF THE PROCEEDINGS OF THE OMBUDSMAN.

4 (II) (A) In investigating a complaint, the ombudsman ~~shall have~~
5 HAS the authority to request, ACCESS, and review any information,
6 records, or documents, including records of third parties, that the
7 ombudsman deems necessary to conduct a thorough and independent
8 review of a complaint so long as either the state department or a county
9 department would be entitled to access or receive such information,
10 records, or documents.

11 
12 (B) IN THE COURSE OF INVESTIGATING A COMPLAINT PURSUANT TO
13 SUBSECTION (1)(a)(I)(A) OF THIS SECTION THAT IS RELATED TO A CHILD
14 FATALITY, NEAR FATALITY, OR INCIDENT OF EGREGIOUS ABUSE OR
15 NEGLECT AGAINST A CHILD, AS DEFINED IN SECTION 26-1-139 (2), UPON
16 REQUEST, THE STATE DEPARTMENT OF HUMAN SERVICES' CHILD FATALITY
17 REVIEW TEAM, PURSUANT TO SECTION 26-1-139 (5)(e), SHALL PROVIDE
18 THE OMBUDSMAN THE FINAL CONFIDENTIAL, CASE-SPECIFIC REVIEW
19 REPORT.

20 (C) IN THE COURSE OF INVESTIGATING A COMPLAINT PURSUANT TO
21 SUBSECTION (1)(a)(I)(A) OF THIS SECTION THAT IS RELATED TO A CHILD
22 FATALITY, UPON REQUEST, THE DEPARTMENT OF PUBLIC HEALTH AND
23 ENVIRONMENT'S CHILD FATALITY PREVENTION REVIEW TEAM, PURSUANT
24 TO SECTION 25-20.5-405, SHALL PROVIDE THE OMBUDSMAN WITH THE
25 NONIDENTIFYING CASE REVIEW FINDINGS AND RECOMMENDATIONS.

26 (D) THE OMBUDSMAN MUST HAVE ACCESS TO ALL INFORMATION,
27 RECORDS, OR DOCUMENTS DESCRIBED IN SUBSECTION (1)(a)(II)(A) OF THIS

1 SECTION CREATED IN AN INVESTIGATION OF AN EVENT OR INCIDENT
2 DESCRIBED IN SUBSECTION (1)(a)(II)(A), (1)(a)(II)(B), OR (1)(a)(II)(C)
3 OF THIS SECTION OCCURRING IN THE STATE FROM ANY ENTITY, INCLUDING
4 BUT NOT LIMITED TO A CORONER'S OFFICE, LAW ENFORCEMENT AGENCY,
5 HOSPITAL, COURT, THE OFFICE OF STATE REGISTRAR OF VITAL STATISTICS
6 DESCRIBED IN SECTION 25-2-103, AND A STATE-LICENSED OUT-OF-HOME
7 PLACEMENT PROVIDER, AS DEFINED IN SECTION 26-6-102.

8 (E) THE OMBUDSMAN SHALL REQUEST, REVIEW, AND RECEIVE
9 COPIES OF RECORDS AS DESCRIBED IN SUBSECTIONS (1)(a)(II)(A),
10 (1)(a)(II)(B), AND (1)(a)(II)(C) OF THIS SECTION WITHOUT COST IF
11 ELECTRONIC RECORDS ARE NOT AVAILABLE.

12 ~~(B)~~ (F) Nothing in the provisions of ~~sub-subparagraph (A) of this~~
13 ~~subparagraph (H) shall be construed to grant~~ SUBSECTION (1)(a)(II)(A),
14 (1)(a)(II)(B), OR (1)(a)(II)(C) OF THIS SECTION GRANTS subpoena power
15 to the ombudsman for purposes of investigating a complaint pursuant to
16 ~~sub-subparagraph (A) of subparagraph (I) of this paragraph (a).~~
17 SUBSECTION (1)(a)(II)(A), (1)(a)(II)(B), OR (1)(a)(II)(C) OF THIS
18 SECTION.

19 (2) The ombudsman has the following powers, at a minimum:

20 (d) To promote best practices and effective programs relating to
21 a publicly funded child protection system and to work collaboratively
22 with county departments, when appropriate, regarding improvement of
23 processes; ~~and~~

24 (e) To recommend to the general assembly, the executive director,
25 and any appropriate agency or entity statutory, budgetary, regulatory, and
26 administrative changes, including systemic changes, to improve the safety
27 of and promote better outcomes for children and families receiving child

1 protection services in Colorado; AND

2 (f) TO REQUEST, ACCESS, AND REVIEW INFORMATION, RECORDS, OR
3 DOCUMENTS RECEIVED PURSUANT TO SUBSECTION (1)(a)(II) OF THIS
4 SECTION.

5
6 **SECTION 2.** In Colorado Revised Statutes, 25-20.5-405, **amend**
7 (2)(d) as follows:

8 **25-20.5-405. Local review teams - duties - authority.** (2) With
9 respect to each child fatality reviewed, the local or regional review team
10 shall:

11 (d) Report case review findings, as appropriate, to public and
12 private agencies that have responsibilities for children, INCLUDING THE
13 OFFICE OF THE CHILD PROTECTION OMBUDSMAN PURSUANT TO SECTION
14 19-3.3-103, and make prevention recommendations to these agencies that
15 may help to reduce the number of child fatalities;

16 **SECTION 3.** In Colorado Revised Statutes, 25-20.5-408, **amend**
17 (2)(c)(I) as follows:

18 **25-20.5-408. Access to records.** (2) **Public access to records**
19 **and information.** (c) **Release of information.** (I) Members of the state
20 review team, members of the local or regional review teams, a person
21 who attends a review team meeting, and a person who presents
22 information to a review team may release information to governmental
23 agencies as necessary to fulfill the requirements of this part 4, INCLUDING
24 SECTION 25-20.5-405 (2)(d), AND SECTION 19-3.3-103 (1)(a)(II)(D).

25 **SECTION 4.** In Colorado Revised Statutes, 26-1-139, **amend**
26 (5)(e) as follows:

27 **26-1-139. Child fatality and near fatality prevention - process**

1 - department of human services child fatality review team - reporting
2 - rules - legislative declaration - definitions. (5) (e) The team shall
3 provide the final confidential, case-specific review report to the executive
4 director, the director for any county or community agency referenced in
5 the report, the county board of human services of any county department
6 with previous involvement, as defined in ~~paragraph (c) of subsection (2)~~
7 SUBSECTION (2)(c) of this section, the legislative members of the team
8 appointed pursuant to ~~paragraph (f) of subsection (6)~~ SUBSECTION (6)(f)
9 of this section, ~~and~~ the department of public health and environment, AND
10 THE OFFICE OF THE CHILD PROTECTION OMBUDSMAN PURSUANT TO
11 SECTION 19-3.3-103.

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