

Second Regular Session  
Seventieth General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 16-0762.01 Jane Ritter x4342

SENATE BILL 16-013

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SENATE SPONSORSHIP

Newell, Kefalas, Lundberg

HOUSE SPONSORSHIP

Singer,

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Senate Committees  
Judiciary

House Committees

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A BILL FOR AN ACT

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

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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/bills/summaries>.)*

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.*

- ! 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.

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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 (1) (b), (1) (c), (2) (a), (2) (b) introductory portion, (2) (c), (2) (d), (2) (e),  
4 (2) (f), (3), (4), and (5); and **add** (1) (a.5) as follows:

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

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

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

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

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

20           (A) PERSONNEL MATTERS;

21           (B) RECRUITMENT;

22           (C) PAYROLL;

1 (D) BENEFITS;  
2 (E) BUDGET SUBMISSION, AS NEEDED;  
3 (F) ACCOUNTING; AND  
4 (G) OFFICE SPACE, FACILITIES, AND TECHNICAL SUPPORT LIMITED  
5 TO THE BUILDING THAT HOUSES THE OFFICE OF THE STATE COURT  
6 ADMINISTRATOR; AND

7 (V) ANY OTHER PROVISIONS REGARDING ADMINISTRATIVE  
8 SUPPORT THAT WILL HELP MAINTAIN THE INDEPENDENCE OF THE OFFICE.

9 (b) ~~The office and the related child protection ombudsman board,~~  
10 ~~established in subsection (2) of this section,~~ shall operate with full  
11 independence. EXCEPT AS PROVIDED FOR IN PARAGRAPH (a) OF  
12 SUBSECTION (3) OF THIS SECTION, ~~the board and office have~~ OMBUDSMAN  
13 HAS complete autonomy, control, and authority over operations, budget,  
14 and personnel decisions related to the office. ~~board, and ombudsman.~~

15 (c) The office shall work cooperatively with the child protection  
16 ombudsman ADVISORY board established in subsection (2) of this section,  
17 the department of human services, and other child welfare organizations,  
18 as appropriate, to form a partnership between those entities and persons,  
19 parents, and the state for the purpose of ensuring the greatest protections  
20 for the children of Colorado.

21 (2) (a) There is established an independent, nonpartisan child  
22 protection ombudsman ADVISORY board, referred to in this article as the  
23 "ADVISORY board". The membership of the ADVISORY board must not  
24 exceed twelve members and, to the extent practicable, must include  
25 persons from throughout the state and persons with disabilities and must  
26 reflect the ethnic diversity of the state. All members must have child  
27 welfare policy or system expertise or experience.

1 (b) The ADVISORY board members must be appointed on or before  
2 August 1, 2015, as follows:

3 (c) ADVISORY board members shall serve for terms of four years;  
4 except that, of the members first appointed, two members appointed  
5 pursuant to subparagraphs (I), (II), and (III) of paragraph (b) of this  
6 subsection (2) and one member appointed pursuant to subparagraph (IV)  
7 of paragraph (b) of this subsection (2), as designated by the appointing  
8 officials, shall serve initial terms of two years. The appointing officials  
9 shall fill any vacancies on the ADVISORY board for the remainder of any  
10 unexpired term.

11 (d) The ADVISORY board shall meet a minimum of two times per  
12 year and additionally as needed. At least one meeting per year must be  
13 held outside of the Denver metropolitan area.

14 (e) ADVISORY board members shall serve without compensation  
15 but may be reimbursed for actual and reasonable expenses incurred in the  
16 performance of their duties.

17 (f) Expenses incurred for the ADVISORY board must be paid from  
18 the general operating budget of the office of the child protection  
19 ombudsman.

20 (3) The ADVISORY board has the following duties and  
21 responsibilities:

22 (a) To oversee THE FOLLOWING personnel decisions related to the  
23 ombudsman: ~~including, but not limited to:~~

24 (I) On or before December 1, 2015, and as necessary thereafter,  
25 appointing a person to serve as the child protection ombudsman and  
26 director of the office, referred to in this article as the "ombudsman". The  
27 ombudsman appointed by the ADVISORY board on or before December 1,

1 2015, shall assume his or her position on the effective date of the  
2 memorandum of understanding between the judicial department and the  
3 office. ~~developed pursuant to section 19-3.3-102 (3) (e).~~ The ADVISORY  
4 board may also discharge an acting ombudsman for cause. A two-thirds  
5 majority vote is required to hire or discharge the ombudsman. The general  
6 assembly shall set the ombudsman's compensation, and such  
7 compensation may not be reduced during the term of the ombudsman's  
8 appointment.

9 (II) Filling ~~any~~ A vacancy in the ombudsman position;

10 (b) ~~To ensure accountability and consistency in the operating~~  
11 ~~policies and procedures, including reasonable rules to administer the~~  
12 ~~provisions of this article and any other standards of conduct and reporting~~  
13 ~~requirements as provided by law;~~

14 (c) ~~To work cooperatively with the ombudsman to provide fiscal~~  
15 ~~oversight of the general operating budget of the office, to assist with~~  
16 ~~training, as needed, and provide any other assistance to ensure that the~~  
17 ~~office and ombudsman operate in compliance with the provisions of this~~  
18 ~~article and with state and federal laws relating to the child welfare system;~~

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

22 (e) ~~To collaborate with the judicial department and the office on~~  
23 ~~the creation of an administrative memorandum of understanding between~~  
24 ~~the office and the judicial department. The memorandum of~~  
25 ~~understanding must be completed and signed no later than November 1,~~  
26 ~~2015, and have an effective date of no later than January 1, 2016. The~~  
27 ~~memorandum of understanding must contain, at a minimum:~~

- 1           ~~(I) A requirement that the office has its own personnel rules;~~  
2           ~~(II) A requirement that the ombudsman has independent hiring~~  
3 ~~and termination authority over office employees;~~  
4           ~~(III) A requirement that the office must follow judicial fiscal~~  
5 ~~rules;~~  
6           ~~(IV) A requirement that the office of the state court administrator~~  
7 ~~shall offer the office of the child protection ombudsman limited support~~  
8 ~~with respect to:~~  
9           ~~(A) Personnel matters;~~  
10          ~~(B) Recruitment;~~  
11          ~~(C) Payroll;~~  
12          ~~(D) Benefits;~~  
13          ~~(E) Budget submission, as needed;~~  
14          ~~(F) Accounting; and~~  
15          ~~(G) Office space, facilities, and technical support limited to the~~  
16 ~~building that houses the office of the state court administrator;~~  
17          ~~(V) Any other provisions regarding administrative support that~~  
18 ~~will help maintain the independence of the office;~~  
19          ~~(f) To assist with training for the ombudsman, office, or as~~  
20 ~~otherwise needed; and~~  
21          ~~(g) To assist with reporting requirements to the general assembly.~~  
22          (h) TO ADVISE THE OMBUDSMAN ON THE STRATEGIC DIRECTION OF  
23 THE OFFICE, INCLUDING MAKING RECOMMENDATIONS TO THE OMBUDSMAN  
24 THAT IMPROVE THE OVERALL EFFECTIVENESS AND RESPONSIVENESS OF  
25 THE OFFICE;  
26          (i) TO PROMOTE THE MISSION OF THE OFFICE TO THE PUBLIC; AND  
27          (j) TO PROVIDE ASSISTANCE, AS PRACTICABLE AND AS REQUESTED

1 BY THE OMBUDSMAN, TO FACILITATE THE STATUTORY INTENT OF THIS  
2 ARTICLE.

3 (4) Meetings of the ADVISORY board are subject to the provisions  
4 of section 24-6-402, C.R.S., except for executive personnel actions or  
5 meetings requiring the protection of confidentiality for children's or  
6 parents' personal data pursuant to the federal "Child Abuse Prevention  
7 and Treatment Act", Pub.L. 93-247, and state privacy laws.

8 (5) The records of the ADVISORY board and the office are subject  
9 to the provisions of part 2 of article 72 of title 24, C.R.S.

10 **SECTION 2.** In Colorado Revised Statutes, 19-3.3-103, **amend**  
11 (1) (b) and (4); and **add** (1) (d), (1) (e), and (1) (f) as follows:

12 **19-3.3-103. Office of the child protection ombudsman - powers**  
13 **and duties - access to information - confidentiality - testimony -**  
14 **judicial review.** (1) The ombudsman has the following duties, at a  
15 minimum:

16 (b) To evaluate and make a recommendation to the executive  
17 director and any appropriate agency or entity for the creation of a  
18 statewide grievance policy that is accessible by children and families  
19 within the child protection system and that is transparent and accountable;  
20 **and**

21 (d) TO ANNUALLY REVIEW THE MEMORANDUM OF UNDERSTANDING  
22 BETWEEN THE OFFICE AND THE JUDICIAL DEPARTMENT AND MAKE  
23 RECOMMENDATIONS FOR CHANGES TO SUCH MEMORANDUM OF  
24 UNDERSTANDING TO THE OFFICE AND THE DEPARTMENT;

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

27 (f) TO ENSURE ACCOUNTABILITY AND CONSISTENCY IN THE

1 OPERATING POLICIES AND PROCEDURES, INCLUDING REASONABLE RULES  
2 TO ADMINISTER THE PROVISIONS OF THIS ARTICLE AND ANY OTHER  
3 STANDARDS OF CONDUCT AND REPORTING REQUIREMENTS AS PROVIDED  
4 BY LAW.

5 (4) (a) Nothing in this article ~~shall be~~ IS construed to direct or  
6 authorize the ombudsman to intervene in any criminal or civil judicial  
7 proceeding or to interfere in a criminal investigation.

8 (b) THE OMBUDSMAN MAY NOT BE SUBPOENAED BY INDEPENDENT  
9 PARTIES TO TESTIFY IN PROCEEDINGS RELATED TO ALLOCATION OF  
10 PARENTAL RESPONSIBILITIES PURSUANT TO TITLE 14, C.R.S.

11 **SECTION 3.** In Colorado Revised Statutes, **amend** 19-3.3-109  
12 as follows:

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

19 **SECTION 4. Safety clause.** The general assembly hereby finds,  
20 determines, and declares that this act is necessary for the immediate  
21 preservation of the public peace, health, and safety.