

NOTE: This bill has been prepared for the signatures of the appropriate legislative officers and the Governor. To determine whether the Governor has signed the bill or taken other action on it, please consult the legislative status sheet, the legislative history, or the Session Laws.

An Act

HOUSE BILL 21-1272

BY REPRESENTATIVE(S) Cutter and Bradfield, Amabile, Bacon, Bird, Boesenecker, Caraveo, Duran, Esgar, Exum, Froelich, Gonzales-Gutierrez, Gray, Herod, Hooton, Jackson, Jodeh, Kennedy, Lontine, McCormick, McLachlan, Michaelson Jenet, Mullica, Ortiz, Ricks, Sirota, Titone, Valdez A., Valdez D., Woodrow, Young, Garnett, Benavidez, Bernett, Kipp, McCluskie, Pico, Sullivan, Tipper;
also SENATOR(S) Danielson, Bridges, Ginal, Kolker, Pettersen, Story, Garcia.

CONCERNING ENHANCING SUPPORTS TO THE OFFICE OF THE CHILD PROTECTION OMBUDSMAN IN ITS ROLE CONCERNING CHILD PROTECTIONS.

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

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

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

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

(a) (I) (A) To receive complaints concerning child protection services. FOR THE PURPOSES OF THIS SECTION, "COMPLAINT" MEANS ANY REPORT OR COMPLAINT made by or on behalf of a child relating to any action, inaction, or decision of any public agency or any provider that receives public ~~moneys~~ MONEY that may adversely affect the safety, permanency, or well-being of the child. The ombudsman may, independently and impartially, investigate ~~and seek resolution of such complaints, which resolution may include, but need not be limited to, referring a complaint to the state department or appropriate agency or entity and making a recommendation for action relating to a complaint.~~ A COMPLAINT, WHICH MAY INCLUDE COMPLAINTS ABOUT AN INCIDENT OF EGREGIOUS ABUSE OR NEGLECT OR NEAR FATALITY, AS DESCRIBED IN SECTION 26-1-139, OR FATALITY OF A CHILD, AS DESCRIBED IN PART 20.5 OF TITLE 25 AND SECTION 26-1-139. THE OMBUDSMAN MAY SEEK RESOLUTION OF A COMPLAINT, WHICH MAY INCLUDE BUT NEED NOT BE LIMITED TO REFERRING A COMPLAINT TO THE STATE DEPARTMENT OR APPROPRIATE AGENCY OR ENTITY AND MAKING A RECOMMENDATION FOR ACTION RELATING TO A COMPLAINT.

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

(C) THE OMBUDSMAN AND ANY EMPLOYEE OR PERSON ACTING ON BEHALF OF THE OMBUDSMAN SHALL NOT BE COMPELLED TO PROVIDE ORAL AND WRITTEN TESTIMONY IN A CIVIL OR CRIMINAL PROCEEDING IN WHICH THE OMBUDSMAN IS NOT A LEGAL PARTY. INFORMATION, RECORDS, OR DOCUMENTS REQUESTED AND REVIEWED BY THE OMBUDSMAN PURSUANT TO THIS SECTION ARE NOT SUBJECT TO A SUBPOENA ISSUED TO THE OMBUDSMAN, DISCOVERY FROM THE OMBUDSMAN, OR INTRODUCTION INTO EVIDENCE THROUGH THE OMBUDSMAN IN A CIVIL OR CRIMINAL PROCEEDING IN WHICH THE OMBUDSMAN IS NOT A LEGAL PARTY. NOTHING IN THIS SUBSECTION (1)(a)(I)(C) RESTRICTS OR LIMITS THE RIGHT TO DISCOVER OR

USE IN A CIVIL OR CRIMINAL ACTION EVIDENCE THAT IS DISCOVERABLE INDEPENDENT OF THE PROCEEDINGS OF THE OMBUDSMAN.

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

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

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

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

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

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

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

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

(e) To recommend to the general assembly, the executive director, and any appropriate agency or entity statutory, budgetary, regulatory, and administrative changes, including systemic changes, to improve the safety of and promote better outcomes for children and families receiving child protection services in Colorado; AND

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

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

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

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

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

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

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

26-1-139. Child fatality and near fatality prevention - process - department of human services child fatality review team - reporting - rules - legislative declaration - definitions. (5) (e) The team shall provide the final confidential, case-specific review report to the executive director, the director for any county or community agency referenced in the report, the county board of human services of any county department with previous involvement, as defined in ~~paragraph (c) of subsection (2)~~ SUBSECTION (2)(c) of this section, the legislative members of the team appointed pursuant to ~~paragraph (f) of subsection (6)~~ SUBSECTION (6)(f) of this section, ~~and~~ the department of public health and environment, AND THE OFFICE OF THE CHILD PROTECTION OMBUDSMAN PURSUANT TO SECTION 19-3.3-103 (1)(a)(II)(B).

SECTION 5. Safety clause. The general assembly hereby finds,

determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety.

Alec Garnett
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Leroy M. Garcia
PRESIDENT OF
THE SENATE

Robin Jones
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Cindi L. Markwell
SECRETARY OF
THE SENATE

APPROVED _____
(Date and Time)

Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO