

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

INTRODUCED

LLS NO. 15-0524.01 Jane Ritter x4342

SENATE BILL 15-204

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A BILL FOR AN ACT

101 **CONCERNING THE INDEPENDENT FUNCTIONING OF 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>.)

Currently, the office of the child protection ombudsman (office) operates within the department of human services (department), with the administration of the program and office awarded by the department through a contract. The bill removes the office from the department and into the legislative branch, with oversight by an independent 15-member board. Representatives from the judicial, executive, and legislative

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.*

branches shall appoint members to the board.

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

2 **SECTION 1.** In Colorado Revised Statutes, **repeal and reenact,**
3 **with amendments,** 19-3.3-102 as follows:

4 **19-3.3-102. Office of the child protection ombudsman - board**
5 **- qualifications of ombudsman.** (1) THE OFFICE OF THE CHILD
6 PROTECTION OMBUDSMAN, REFERRED TO IN THIS ARTICLE AS THE
7 "OFFICE", IS CREATED AND ESTABLISHED AS AN AGENCY OF THE GENERAL
8 ASSEMBLY. THE OFFICE SHALL CONTINUE TO WORK COOPERATIVELY WITH
9 THE DEPARTMENT OF HUMAN SERVICES AND OTHER CHILD WELFARE
10 ORGANIZATIONS AS APPROPRIATE TO FORM A PARTNERSHIP BETWEEN
11 THOSE ENTITIES AND PERSONS, PARENTS, AND THE STATE FOR THE
12 PURPOSE OF ENSURING THE GREATEST PROTECTIONS FOR THE CHILDREN OF
13 COLORADO.

14 (2) (a) THE MEMBERSHIP OF THE NONPARTISAN CHILD PROTECTION
15 OMBUDSMAN BOARD, REFERRED TO IN THIS ARTICLE AS THE "BOARD",
16 MUST NOT EXCEED FIFTEEN MEMBERS AND, TO THE EXTENT PRACTICABLE,
17 MUST INCLUDE PERSONS FROM THROUGHOUT THE STATE AND PERSONS
18 WITH DISABILITIES AND MUST REFLECT THE ETHNIC DIVERSITY OF THE
19 STATE. ALL MEMBERS MUST HAVE CHILD WELFARE POLICY OR SYSTEM
20 EXPERTISE.

21 (b) THE BOARD MEMBERS MUST BE APPOINTED ON OR BEFORE JULY
22 1, 2015, AS FOLLOWS:

23 (I) THE CHIEF JUSTICE OF THE COLORADO SUPREME COURT SHALL
24 APPOINT AN INDIVIDUAL WITH EXPERIENCE WITH THE RESPONDENT
25 PARENTS' COUNSEL;

- 1 (II) THE GOVERNOR SHALL APPOINT:
- 2 (A) AN INDIVIDUAL WITH EXPERIENCE WITH A RURAL COUNTY
- 3 HUMAN OR SOCIAL SERVICES AGENCY OR A RURAL PRIVATE CHILD
- 4 WELFARE ADVOCACY AGENCY;
- 5 (B) AN INDIVIDUAL WITH EXPERIENCE WITH THE DEPARTMENT OF
- 6 HUMAN SERVICES;
- 7 (C) A BUSINESS PERSON WHO IS INTERESTED IN CHILD WELFARE
- 8 AND PROTECTION;
- 9 (D) AN INDIVIDUAL WITH EXPERIENCE IN LAW ENFORCEMENT;
- 10 (E) AN INDIVIDUAL WITH EXPERIENCE DEFENDING JUVENILES IN
- 11 COURT PROCEEDINGS; AND
- 12 (F) AN INDIVIDUAL WITH EXPERIENCE IN PRIMARY AND
- 13 SECONDARY EDUCATION;
- 14 (III) THE PRESIDENT AND MINORITY LEADER OF THE SENATE SHALL
- 15 APPOINT:
- 16 (A) ONE OF MORE MEMBERS OF THE GENERAL PUBLIC;
- 17 (B) AN INDIVIDUAL WHO WAS FORMERLY A CHILD IN THE FOSTER
- 18 CARE SYSTEM; AND
- 19 (C) AN INDIVIDUAL WITH EXPERIENCE WITH COUNTY AND
- 20 COMMUNITY CHILD PROTECTION ADVOCATES; AND
- 21 (IV) THE SPEAKER AND THE MINORITY LEADER OF THE HOUSE OF
- 22 REPRESENTATIVES SHALL APPOINT:
- 23 (A) A CURRENT OR FORMER FOSTER PARENT;
- 24 (B) AN INDIVIDUAL WITH EXPERIENCE IN HEALTH CARE; AND
- 25 (C) AN INDIVIDUAL WITH LEGAL EXPERIENCE IN DEPENDENCY AND
- 26 NEGLECT CASES.
- 27 (c) BOARD MEMBERS SHALL SERVE FOR TERMS OF FOUR YEARS;

1 EXCEPT THAT, OF THE MEMBERS FIRST APPOINTED, THE MEMBER
2 APPOINTED PURSUANT TO SUBPARAGRAPH (I) OF PARAGRAPH (b) OF THIS
3 SUBSECTION (2) AND TWO MEMBERS APPOINTED PURSUANT TO
4 SUBPARAGRAPHS (II) TO (IV) OF PARAGRAPH (b) OF THIS SUBSECTION (2),
5 AS DESIGNATED BY THE APPOINTING OFFICIALS, SEVEN SHALL SERVE
6 INITIAL TERMS OF TWO YEARS. THE APPOINTING ENTITY SHALL FILL ANY
7 VACANCIES ON THE BOARD FOR THE REMAINDER OF ANY UNEXPIRED TERM.

8 (d) THE BOARD SHALL ESTABLISH PROCEDURES FOR ITS
9 OPERATIONS.

10 (e) THE BOARD SHALL MEET A MINIMUM OF TWO TIMES PER YEAR
11 AND ADDITIONALLY AS NEEDED. AT LEAST ONE MEETING PER YEAR MUST
12 BE HELD OUTSIDE OF THE DENVER METROPOLITAN AREA.

13 (f) BOARD MEMBERS SHALL SERVE WITHOUT COMPENSATION BUT
14 MAY BE REIMBURSED FOR ACTUAL AND REASONABLE EXPENSES INCURRED
15 IN THE PERFORMANCE OF THEIR DUTIES.

16 (g) EXPENSES INCURRED FOR THE BOARD MUST BE PAID FROM THE
17 GENERAL OPERATING BUDGET OF THE OFFICE OF THE CHILD PROTECTION
18 OMBUDSMAN.

19 (3) THE BOARD HAS THE FOLLOWING RESPONSIBILITIES:

20 (a) ON OR BEFORE JANUARY 1, 2016, AND AS NECESSARY
21 THEREAFTER, TO APPOINT, AND DISCHARGE FOR CAUSE, A PERSON TO
22 SERVE AS THE CHILD PROTECTION OMBUDSMAN, REFERRED TO IN THIS
23 ARTICLE AS THE "OMBUDSMAN". A TWO-THIRDS MAJORITY VOTE IS
24 REQUIRED TO HIRE OR DISCHARGE THE OMBUDSMAN. THE GENERAL
25 ASSEMBLY SHALL DETERMINE THE OMBUDSMAN'S COMPENSATION, AND
26 THE OMBUDSMAN'S COMPENSATION MAY NOT BE REDUCED DURING HIS OR
27 HER APPOINTMENT.

1 (b) TO FILL ANY VACANCY IN THE OMBUDSMAN POSITION;

2 (c) TO WORK COOPERATIVELY WITH THE OMBUDSMAN TO PROVIDE
3 FISCAL OVERSIGHT OF THE GENERAL OPERATING BUDGET OF THE OFFICE,
4 TO ASSIST WITH TRAINING, AS NEEDED, AND PROVIDE ANY OTHER
5 ASSISTANCE TO ENSURE THAT THE OFFICE AND OMBUDSMAN OPERATE IN
6 COMPLIANCE WITH THE PROVISIONS OF THIS ARTICLE AND WITH STATE
7 AND FEDERAL LAWS RELATING TO THE CHILD WELFARE SYSTEM; AND

8 (d) TO ASSIST WITH THE MEMORANDUM OF UNDERSTANDING
9 BETWEEN THE OMBUDSMAN AND THE STATE DEPARTMENT AND
10 APPROPRIATE COUNTY DEPARTMENTS OF HUMAN OR SOCIAL SERVICES.
11 THE MEMORANDUM OF UNDERSTANDING MUST BE COMPLETED AND
12 SIGNED NO LATER THAN NINETY DAYS AFTER THE FIRST MEETING OF THE
13 BOARD.

14 (4) MEETINGS OF THE BOARD ARE SUBJECT TO THE PROVISIONS OF
15 SECTION 24-6-402, C.R.S., EXCEPT FOR EXECUTIVE PERSONNEL ACTIONS
16 OR MEETINGS REQUIRING THE PROTECTION OF CONFIDENTIALITY FOR
17 CHILDREN'S OR PARENTS' PERSONAL DATA PURSUANT TO THE FEDERAL
18 "CHILD ABUSE PREVENTION AND TREATMENT ACT", PUB.L. 93-247, AND
19 STATE PRIVACY LAWS.

20 **SECTION 2.** In Colorado Revised Statutes, 19-3.3-103, **amend**
21 (1) (a) (I) (A), (2) (b), (2) (e), and (3) as follows:

22 **19-3.3-103. Office of the child protection ombudsman - powers**
23 **and duties - access to information - confidentiality - testimony.**

24 (1) The ombudsman has the following duties, at a minimum:

25 (a) (I) (A) To receive complaints concerning child protection
26 services made by or on behalf of a child relating to any action, inaction,
27 or decision of any public agency or any provider that receives public

1 moneys that may adversely affect the safety, permanency, ~~and~~ OR
2 well-being of the child. The ombudsman may, INDEPENDENTLY AND
3 IMPARTIALLY, investigate and seek resolution of such complaints, which
4 resolution may include, but need not be limited to, referring a complaint
5 to the state department or appropriate agency or entity and making a
6 recommendation for action relating to a complaint.

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

8 (b) To review and evaluate the effectiveness and efficiency of any
9 existing grievance resolution mechanisms and to make recommendations
10 to the BOARD, executive director, and any appropriate agency or entity for
11 the improvement of the grievance resolution mechanisms;

12 (e) To recommend to the BOARD, THE executive director, and any
13 appropriate agency or entity statutory, budgetary, regulatory, and
14 administrative changes, including systemic changes, to improve the safety
15 of and promote better outcomes for children and families receiving child
16 protection services in Colorado.

17 (3) ~~An agency or organization that is awarded the contract for the~~
18 ~~operation of the program,~~ The ombudsman, employees of the program,
19 and any persons acting on behalf of the program shall comply with all
20 state and federal confidentiality laws that govern the state department or
21 a county department with respect to the treatment of confidential
22 information or records and the disclosure of such information and
23 records.

24 **SECTION 3.** In Colorado Revised Statutes, **repeal** 19-3.3-106
25 and 19-3.3-107.

26 **SECTION 4.** In Colorado Revised Statutes, 19-3.3-108, **amend**
27 (2) and (3) as follows:

1 **19-3.3-108. Child protection ombudsman program - annual**

2 **report.** (2) The ombudsman shall transmit the annual report to the
3 executive director for review and comment. The ~~executive director~~
4 OMBUDSMAN shall distribute the WRITTEN report to the governor and to
5 ~~the health and human services committees of the house of representatives~~
6 ~~and of the senate, or any successor committees~~ THE GENERAL ASSEMBLY.

7 The ombudsman shall present the report to the health and human services
8 committees of the house of representatives and of the senate, or any
9 successor committees. ~~upon request of those committees.~~

10 (3) The ~~state department~~ OMBUDSMAN shall post the annual report
11 ~~issued by the ombudsman to the web site of the state department~~ ON THE
12 OFFICE OF THE CHILD PROTECTION OMBUDSMAN'S WEB SITE AND THE
13 GENERAL ASSEMBLY'S WEB SITE.

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