

1 _____ BILL NO. _____

2 INTRODUCED BY _____
3 (Primary Sponsor)

4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS RELATED TO THE CHILD AND
5 FAMILY OMBUDSMAN; PROVIDING FOR SYSTEMIC OVERSIGHT OF CHILD PROTECTIVE SERVICES;
6 CLARIFYING THAT THE OMBUDSMAN MAY INDEPENDENTLY INVESTIGATE A MATTER BEING
7 ADDRESSED IN ANOTHER MANNER; PROVIDING AN APPROPRIATION; AMENDING SECTIONS 41-3-
8 1209, 41-3-1211, AND 41-3-1212, MCA; AND PROVIDING EFFECTIVE DATES."

9
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11
12 NEW SECTION. **Section 1. Systemic oversight of child protective services activities.** (1) The
13 office shall provide oversight of the child protective services provided by the department to identify and report
14 on trends in the handling of the cases and make recommendations on ways to improve the child protective
15 services system.

16 (2) The office shall analyze information received, reviewed, and compiled by the ombudsman,
17 including but not limited to:

- 18 (a) the reports provided pursuant to 41-3-209;
- 19 (b) the requests for assistance received by the office;
- 20 (c) policies and procedures used by the department in responding to and investigating reports of child
21 abuse and neglect;
- 22 (d) findings relating to ombudsman investigations; and
- 23 (e) best practices for the handling of child abuse and neglect cases and the degree to which the
24 department is using those practices.

25 (3) Based on the analysis, the ombudsman shall provide systemic and trend recommendations twice
26 each calendar year to the department. The department shall respond to the recommendations within 60 days of
27 receiving the report unless the department has requested in writing and received an extension of the deadline
28 for response. The response must include a description of how it will implement the recommendations.

1 (4) If the department fails to respond to the recommendations as required, the ombudsman shall send
2 the report to the governor, the director of the department, and the children, families, health, and human services
3 interim committee.

4 (5) The ombudsman may carry out the oversight duties provided for in this section independently or in
5 conjunction with other governmental bodies or nongovernmental research organizations.

6

7 **Section 2.** Section 41-3-1209, MCA, is amended to read:

8 **"41-3-1209. Purpose and intent.** The legislature finds that an independent, impartial, and confidential
9 ombudsman serves:

10 (1) to protect the interests and rights of Montana's children and families; and

11 (2) to strengthen child and family services by working in ~~collaboration~~ consultation with the
12 department and with appropriate county attorneys in cases under review."

13

14 **Section 3.** Section 41-3-1211, MCA, is amended to read:

15 **"41-3-1211. Powers and duties.** The powers and duties of the ombudsman are:

16 (1) to respond to requests for assistance regarding administrative acts and to investigate
17 administrative acts;

18 (2) to investigate circumstances surrounding reports that are provided to the ombudsman pursuant to
19 41-3-209;

20 (3) to inspect, copy, or subpoena records as needed to perform the ombudsman's duties under this
21 part;

22 (4) to take appropriate steps to ensure that persons are made aware of the purpose, services, and
23 procedures of the ombudsman and how to contact the ombudsman;

24 (5) to share relevant findings related to an investigation, subject to disclosure restrictions and
25 confidentiality requirements, with individuals or entities legally authorized to receive, inspect, or investigate
26 reports of child abuse or neglect;

27 (6) to periodically review department procedures and promote best practices and effective programs
28 by working ~~collaboratively~~ in consultation with the department to improve procedures, practices, and programs;

1 (7) to undertake, participate in, and ~~cooperate~~consult with persons and the department in activities,
2 including but not limited to conferences, inquiries, panels, meetings, or studies, that serve to improve the
3 manner in which the department functions;

4 (8) to provide education on the legal rights of children;

5 (9) to apply for and accept grants, gifts, contributions, and bequests of funds for the purpose of
6 carrying out the ombudsman's responsibilities; and

7 (10) to report annually to the attorney general and the children, families, health, and human services
8 interim committee. The report must be public and may contain recommendations from the ombudsman
9 regarding ~~systematic~~systemic improvements for the department."
10

11 **Section 4.** Section 41-3-1212, MCA, is amended to read:

12 **"41-3-1212. Investigations -- discretion -- procedure.** (1) The ombudsman shall investigate a
13 request for assistance unless:

14 ~~(a) the request for assistance could reasonably be addressed by another remedy or channel;~~

15 ~~(b)~~(a) the request for assistance is trivial, frivolous, vexatious, or not made in good faith;

16 ~~(c)~~(b) the request for assistance is too delayed to justify an investigation;

17 ~~(d)~~(c) the person requesting assistance is not personally aggrieved by the subject matter of the
18 request; or

19 ~~(e)~~(d) the request for assistance has been previously investigated by the ombudsman.

20 (2) The ombudsman may investigate a request for assistance in a matter that is being or may
21 reasonably be addressed by another remedy or channel, including a matter that is before a court.

22 ~~(2)~~(3) (a) After an investigation is completed, the ombudsman shall provide to the department any
23 findings, conclusions, and recommendations.

24 (b) At the ombudsman's request, the department shall inform the ombudsman in a timely manner
25 about any action taken to address or any reasons for not addressing the ombudsman's findings, conclusions,
26 and recommendations."
27

28 NEW SECTION. **Section 5. Appropriation.** There is appropriated \$103,900 from the general fund to

1 the department of justice in each year of the biennium beginning July 1, 2021, to support one FTE to carry out
2 the provisions of [section 1].

3
4 NEW SECTION. Section 6. Codification instruction. [Section 1] is intended to be codified as an
5 integral part of Title 41, chapter 3, part 12, and the provisions of Title 41, chapter 3, part 12, apply to [section 1].

6
7 NEW SECTION. Section 7. Effective date. (1) Except as provided in subsection (2), [this act] is
8 effective on passage and approval.

9 (2) [Section 5] is effective July 1, 2021.

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