67th Legislature

1		BILL NO	
2			
		(Primary Sponsor)	
3			
4		AN ACT ENTITLED: "AN ACT REVISING LAWS RELATING TO THE OFFICE OF THE CHILD	
5	AND FAMIL	Y OMBUDSMAN; REQUIRING THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN	
6	SERVICES	TO RESPOND TO REPORTS FROM THE OFFICE; ESTABLISHING A TIMELINE FOR	
7	RESPONSE	ES; AND AMENDING SECTIONS 41-3-209, 41-3-1211, AND 41-3-1212, MCA."	
8			
9	BE IT ENAC	CTED BY THE LEGISLATURE OF THE STATE OF MONTANA:	
10			
11	Sec	tion 1. Section 41-3-209, MCA, is amended to read:	
12	"41-	3-209. Reports to office of child and family ombudsman. (1) The department shall report to	
13	the office of the child and family ombudsman:		
14	(1)	within 1 business day, a death of a child who, within the last 12 months:	
15	(a)	had been the subject of a report of abuse or neglect;	
16	(b)	had been the subject of an investigation of alleged abuse or neglect;	
17	(c)	was in out-of-home care at the time of the child's death; or	
18	(d)	had received services from the department under a voluntary protective services agreement;	
19	(2)	The department shall report to the office of the child and family ombudsman within 5 business	
20	days:		
21	(a)	any criminal act concerning the abuse or neglect of a child;	
22	(b)	any critical incident, including but not limited to elopement, a suicide attempt, rape, nonroutine	
23	hospitalizati	ons, and neglect or abuse by a substitute care provider, involving a child who is receiving services	
24	from the department pursuant to this chapter; or		
25	(c)	a third report received within the last 12 months about a child at risk of or who is suspected of	
26	being abused or neglected.		
27	<u>(3)</u>	The department shall report to the ombudsman as required under 41-3-1212 on its response to	
28	<u>findings, cor</u>	nclusions, and recommendations made in cases investigated by the ombudsman."	



Unofficial Draft Copy

67th Legislature

1			
2	Section 2. Section 41-3-1211, MCA, is amended to read:		
3	"41-3-1211. Powers and duties. The powers and duties of the ombudsman are:		
4	(1) to respond to requests for assistance regarding administrative acts and to investigate		
5	administrative acts;		
6	(2) to investigate circumstances surrounding reports that are provided to the ombudsman pursuant to		
7	41-3-209;		
8	(3) to inspect, copy, or subpoena records as needed to perform the ombudsman's duties under this		
9	part;		
10	(4) to take appropriate steps to ensure that persons are made aware of the purpose, services, and		
11	procedures of the ombudsman and how to contact the ombudsman;		
12	(5) to share relevant findings related to an investigation, subject to disclosure restrictions and		
13	confidentiality requirements, with individuals or entities legally authorized to receive, inspect, or investigate		
14	reports of child abuse or neglect;		
15	(6) based on the investigations conducted, to provide oversight of the department's systems and		
16	policies for handling abuse and neglect cases;		
17	(6)(7) to periodically review department procedures and promote best practices and effective		
18	programs by working collaboratively with the department to improve procedures, practices, and programs;		
19	(7)(8) to undertake, participate in, and cooperate with persons and the department in activities,		
20	including but not limited to conferences, inquiries, panels, meetings, or studies, that serve to improve the		
21	manner in which the department functions;		
22	(8)(9) to provide education on the legal rights of children;		
23	(9)(10) to apply for and accept grants, gifts, contributions, and bequests of funds for the purpose of		
24	carrying out the ombudsman's responsibilities; and		
25	(10)(11) to report annually to the attorney general and the children, families, health, and human		
26	services interim committee. The report must be public and may contain recommendations from the ombudsman		
27	regarding systematic improvements for the department."		
28			



Unofficial Draft Copy

67th Legislature

1	Section 3. Section 41-3-1212, MCA, is amended to read:
2	"41-3-1212. Investigations discretion procedure. (1) The ombudsman shall investigate a
3	request for assistance unless:
4	(a) the request for assistance could reasonably be addressed by another remedy or channel;
5	(b) the request for assistance is trivial, frivolous, vexatious, or not made in good faith;
6	(c) the request for assistance is too delayed to justify an investigation;
7	(d) the person requesting assistance is not personally aggrieved by the subject matter of the request;
8	OF
9	(e) the request for assistance has been previously investigated by the ombudsman.
10	(2) (a) After an investigation is completed, the ombudsman shall provide to the department any
11	findings, conclusions, and recommendations.
12	(b) At the ombudsman's request, the The department shall inform the ombudsman in a timely manner
13	no later than 30 days after receipt of the report about any action taken to address or on the actions the
14	department has taken to resolve or correct any problems identified by the ombudsman. If the department has
15	not resolved or corrected a problem, the department shall inform the ombudsman of any reasons for not
16	addressing the ombudsman's findings, conclusions, and recommendations.
17	(c) The ombudsman shall include the following information in the report required under 41-3-1211:
18	(i) the number of findings reports made to the department;
19	(ii) the nature of the problems identified by the ombudsman;
20	(iii) the actions taken by the department to resolve or correct the problems; and
21	(iv) the problems that have not been resolved or corrected by the department, as well as the
22	department's reasons for not addressing the ombudsman's findings, conclusions, and recommendations."
23	- END -

