

OFFICE OF THE GOVERNOR
STATE OF MONTANA

STEVE BULLOCK
GOVERNOR



MIKE COONEY
LT. GOVERNOR

May 8, 2019

The Honorable Corey Stapleton
Secretary of State
State Capitol
Helena, MT 59601

Dear Secretary Stapleton:

In accordance with the power vested in me as Governor by the Constitution and laws of the State of Montana, I hereby veto House Bill 753 (HB 753), "AN ACT ALLOWING A PARENT, FAMILY MEMBER, OR FOSTER PARENT TO SUBMIT A COMPLAINT TO THE OFFICE OF THE CHILD AND FAMILY OMBUDSMAN FOR RETALIATORY ACTION BY A CHILD PROTECTIVE SERVICES EMPLOYEE OF THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES; AUTHORIZING THE OFFICE OF THE CHILD AND FAMILY OMBUDSMAN TO INVESTIGATE COMPLAINTS OF RETALIATORY ACTION; PROVIDING AN APPROPRIATION; AMENDING SECTION 41-3-1211, MCA; AND PROVIDING AN EFFECTIVE DATE."

Child Protectives Services (CPS) workers are tasked with one of the hardest jobs imaginable—to protect children from abuse and neglect. The job requires them to make difficult decisions to hold parents accountable and to provide the supports necessary to allow a child to be returned to a parent. Montana, like other states, has challenges recruiting for these positions because of the immense pressure and stress of the work.

House Bill 753 allows a parent, family member or foster parent to file claims of retaliation against CPS workers. It creates a process that places the Office of the Child and Family Ombudsman in the role of investigator, prosecutor and judge in determining the validity of a claim. The process established by HB 753 deprives CPS workers of due process and equal protection guaranteed by Article II, Sections 4 and 7 of the Montana Constitution. This bill would permit civil lawsuits based on ex parte investigations against workers, disregarding their due process rights. Any other state employee would be granted their rights through the process outlined in the Montana Human Rights Act (Act).

In the event of true retaliation, HB 753 is unnecessary. There is already a myriad of avenues for addressing claims of retaliation—from the Department of Public Health and Human Services Critical Incident and Complaint Manager, to more formal avenues such as the Human Rights Bureau. The Bureau provides a well-established process under the Act that guarantees parties' due process rights.

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It is important to remember that the decisions made by CPS workers are routinely reviewed and approved by prosecutors and judges. Decisions made about the welfare of children and the reunification of families are not made in a vacuum. Policy makers should be looking for ways to better support these workers and the system. House Bill 573 creates a specter of legal liability that will make it even harder for the state to recruit and retain good workers, leaving children less safe and delaying the goal of everyone involved: family reunification.

For these reasons, I veto HB 753.

Sincerely,



STEVE BULLOCK
Governor

cc: Legislative Services Division
Greg Hertz, Speaker of the House
Scott Sales, President of the Senate