

OFFICE OF THE GOVERNOR
STATE OF MONTANA

STEVE BULLOCK
GOVERNOR



MIKE COONEY
LT. GOVERNOR

May 2, 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 Senate Bill 216 (SB 216), "AN ACT REVISING PROCEDURES RELATED TO THE OFFICE OF THE CHILD AND FAMILY OMBUDSMAN; REQUIRING NOTIFICATION TO A COURT OF A CASE UNDER OMBUDSMAN REVIEW; ESTABLISHING TIMELINES FOR DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES RESPONSES TO OMBUDSMAN REPORTS; REQUIRING THE ATTORNEY GENERAL TO NOTIFY COUNTY ATTORNEYS OF REPEATED VIOLATIONS OF POLICIES OR PRACTICES; AND AMENDING SECTIONS 41-3-205, 41-3-1211, AND 41-3-1212, MCA."

In Montana, the Child and Family Ombudsman is supposed to "protect the interests and rights of Montana's children and families" by "working in collaboration with the [Department of Public Health and Human Services] and with appropriate county attorneys." Section 41-3-1209, MCA.

Senate Bill 216 transforms the Ombudsman into a Czar—without any evidence that such a change will better serve Montana children and families.

Under the bill, the Ombudsman would exercise a significant new level of control over the administration of child welfare policy, practices, and procedures. The Ombudsman would be able to make determinations about whether policies, practices, and procedures have been violated without any requirement for input by parents, the Department of Public Health and Human Services (Department), or other affected parties. If an affected party disagrees with the Ombudsman's findings, there is no appeals process. And there is no process for a court or other decision-maker to assess the truth, accuracy, and appropriateness of the Ombudsman's findings.

Senate Bill 216 creates grave due process concerns for the parties involved in abuse and neglect cases—particularly parents. By requiring publication of the Ombudsman's unilateral findings to county attorneys, SB 216 makes it likely that the same findings will reach judges. But, by law the Ombudsman cannot be forced to testify on these findings. As a result, a parent who disagrees with

Secretary Stapleton
May 2, 2019
Page 2

the findings has no opportunity to cross examine the Ombudsman on why or how it reached a determination. This appears to have the opposite effect on parents' rights that the bill intends.

The Department will continue to work with the Ombudsman in the collaborative, independent manner that Montana law requires. Senate Bill 216 would significantly alter that relationship, transforming the administration of Montana's child welfare laws and risking parents' due process rights without a corresponding benefit to the children and families of Montana.

For these reasons, I veto SB 216.

Sincerely,



STEVE BULLOCK
Governor

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