

1 HOUSE BILL NO. 426

2 INTRODUCED BY D. LENZ

3

4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATING TO THE OFFICE OF THE CHILD
 5 AND FAMILY OMBUDSMAN; REQUIRING THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN
 6 SERVICES TO RESPOND TO REPORTS FROM THE OFFICE; ESTABLISHING A TIMELINE FOR
 7 RESPONSES; CLARIFYING THAT THE OMBUDSMAN MAY INDEPENDENTLY INVESTIGATE A MATTER
 8 BEING ADDRESSED IN ANOTHER MANNER; AND AMENDING SECTIONS 41-3-209, 41-3-1211, AND 41-3-
 9 1212, MCA."

10

11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12

13 **Section 1.** Section 41-3-209, MCA, is amended to read:

14 **"41-3-209. Reports to office of child and family ombudsman.** (1) The department shall report to
 15 the office of the child and family ombudsman:

16 ~~(1)~~ within 1 business day, a death of a child who, within the last 12 months:

17 (a) had been the subject of a report of abuse or neglect;

18 (b) had been the subject of an investigation of alleged abuse or neglect;

19 (c) was in out-of-home care at the time of the child's death; or

20 (d) had received services from the department under a voluntary protective services agreement;

21 (2) The department shall report to the office of the child and family ombudsman within 5 business
 22 days:

23 (a) any criminal act concerning the abuse or neglect of a child;

24 (b) any critical incident, including but not limited to elopement, a suicide attempt, rape, nonroutine
 25 hospitalizations, and neglect or abuse by a substitute care provider, involving a child who is receiving services
 26 from the department pursuant to this chapter; or

27 (c) a third report received within the last 12 months about a child at risk of or who is suspected of
 28 being abused or neglected.

1 (3) The department shall report to the ombudsman as required under 41-3-1212 on its response to
 2 findings, conclusions, and recommendations made in cases investigated by the ombudsman."

3

4 **Section 2.** Section 41-3-1211, MCA, is amended to read:

5 **"41-3-1211. Powers and duties.** The powers and duties of the ombudsman are:

6 (1) to respond to requests for assistance regarding administrative acts and to investigate
 7 administrative acts;

8 (2) to investigate circumstances surrounding reports that are provided to the ombudsman pursuant to
 9 41-3-209;

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

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

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

17 (6) based on the investigations conducted, to provide oversight of the department's systems and
 18 policies for handling abuse and neglect cases;

19 ~~(6)~~(7) to periodically review department procedures and promote best practices and effective
 20 programs by working collaboratively with the department to improve procedures, practices, and programs;

21 ~~(7)~~(8) to undertake, participate in, and cooperate with persons and the department in activities,
 22 including but not limited to conferences, inquiries, panels, meetings, or studies, that serve to improve the
 23 manner in which the department functions;

24 ~~(8)~~(9) to provide education on the legal rights of children;

25 ~~(9)~~(10) to apply for and accept grants, gifts, contributions, and bequests of funds for the purpose of
 26 carrying out the ombudsman's responsibilities; and

27 ~~(10)~~(11) to report annually to the attorney general and the children, families, health, and human
 28 services interim committee. The report must be public and may contain recommendations from the ombudsman

1 regarding systematic improvements for the department."

2

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

4 **"41-3-1212. Investigations -- discretion -- procedure.** (1) The ombudsman shall investigate a
5 request for assistance unless:

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

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

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

9 ~~(d)(C)~~ the person requesting assistance is not personally aggrieved by the subject matter of the
10 request; or

11 ~~(e)(D)~~ the request for assistance has been previously investigated by the ombudsman.

12 (2) THE OMBUDSMAN MAY INVESTIGATE A REQUEST FOR ASSISTANCE IN A MATTER THAT IS BEING OR MAY
13 REASONABLY BE ADDRESSED BY ANOTHER REMEDY OR CHANNEL, INCLUDING A MATTER THAT IS BEFORE A COURT.

14 ~~(2)(3)~~ (a) After an investigation is completed, the ombudsman shall provide to the department any
15 findings, conclusions, and recommendations.

16 (b) ~~At the ombudsman's request, the~~ The department shall inform the ombudsman in a timely manner
17 no later than 30-60 days after receipt of the report about any action taken to address or on the actions the
18 department has taken IS TAKING to resolve or correct any problems identified by the ombudsman. If the
19 department has not resolved or corrected a problem, the department shall inform the ombudsman of any
20 reasons for not addressing the ombudsman's findings, conclusions, and recommendations.

21 (c) The ombudsman shall include the following information in the report required under 41-3-1211:

22 (i) the number of findings reports made to the department;

23 (ii) the nature of the problems identified by the ombudsman;

24 (iii) the actions taken by the department to resolve or correct the problems; and

25 (iv) the problems that have not been resolved or corrected by the department, as well as the
26 department's reasons for not addressing the ombudsman's findings, conclusions, and recommendations."

27

- END -