

## CHILD AND FAMILY OMBUDSMAN

### LEGISLATOR NOTICE

The Legislative Services Division is required to offer a brief history on the subject matter of a bill draft request prior to drafting. (5-4-105, MCA; [Chapter 309, Laws of 2017](#)) The history must include related legislation introduced over the last five sessions and hyperlinks to the bill, hearing information, and fiscal notes. The links below open to the page showing the status and history of bills introduced on this topic in the past. The bill text and any related fiscal notes can be accessed through the link at the top of that page.

**Legislation can be complex and this history is not intended to be exhaustive. Please contact the drafter of the requested bill for more information.**

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### Background Materials and Research

**Topic Summary:** Montana has had an Office of the Child and Family Ombudsman since passage of House Bill No. 76 in 2013. The bill was introduced at the request of the Children, Families, Health, and Human Services Interim Committee after the committee conducted a study of childhood health trauma during the 2011-2012 interim.

The ombudsman office, located within the Montana Department of Justice, was created to be an independent and impartial office to protect the rights and interests of children and families involved in the child protective services system because of actual or suspected abuse or neglect. The child protective services system is within the Department of Public Health and Human Services (DPHHS). Caseworkers in that agency investigate reports of abuse and neglect, determine whether protective services are needed, and monitor families while their cases are in the court system.

State law specifically authorizes the ombudsman's office to respond to requests for assistance from families, inspect documents related to child abuse and neglect cases, and review DPHHS procedures and practices in providing child protective services. The ombudsman also may investigate the circumstances surrounding:

- the death of a child who was in out-of-home care at the time of death or who, in the past year, had been the subject of an abuse or neglect report or investigation or received voluntary protective services from DPHHS;
- any criminal act concerning the abuse or neglect of a child;
- any critical incident, such as a suicide attempt or elopement, of a child receiving protective services from DPHHS; and
- a third report received within the last 12 months about a child at risk of or suspected of being abused or neglected.

## Legislative Services Division Materials:

- [Senate Joint Resolution 30 Study Materials \(2011-2012 Interim\)](#)  
(Click on the "SJR 30: Childhood Health Trauma" for links to materials presented during the study)

## Other Materials:

- [Office of the Child and Family Ombudsman Annual Report: 2019](#)  
(For past reports and other materials produced by the office, click [here](#).)

## Introduced Legislation

\* A status of "Chapter Number Assigned" means the bill was passed by the Legislature and approved by the governor.

### **2019**

[House Bill No. 410](#) (2<sup>nd</sup> Reading Not Passed) -- A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS RELATED TO CHILD PROTECTIVE SERVICES; DEFINING "IMMEDIATE OR APPARENT DANGER"; REQUIRING CERTAIN EMPLOYEES TO UNDERGO CONTINUING EDUCATION AND DRUG TESTING AND WEAR BODY CAMERAS DURING CONTACT WITH A CHILD; ~~REQUIRING APPOINTMENT OF A GUARDIAN AD LITEM WHEN ABUSE OR NEGLECT IS ALLEGED;~~ REVISING THE PROCEDURE FOR RECEIVING AND RESPONDING TO REPORTS OF CHILD ABUSE OR NEGLECT; REVISING PURPOSES FOR WHICH CONFIDENTIAL CASE INFORMATION MAY BE USED; REVISING EMERGENCY CHILD PROTECTIVE PROCEDURES AND STANDARDS; REQUIRING THAT A PARENTAL VISITATION SCHEDULE BE INCLUDED IN A TREATMENT PLAN; PREVENTING A CONTRIBUTION ORDER FROM BEING MODIFIED EXCEPT BY WRITTEN COURT ORDER; AMENDING SECTIONS ~~40-4-205~~, 41-3-102, 41-3-108, 41-3-112, 41-3-202, 41-3-205, 41-3-301, 41-3-423, 41-3-427, 41-3-443, 41-3-446, 41-3-1010, AND 52-2-102, MCA; AND PROVIDING AN EFFECTIVE DATE.

[House Bill No. 753](#) (Vetoed by the Governor) -- 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.

[Senate Bill No. 216](#) (Vetoed by the Governor) -- 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.

**2017:** None

### **2015**

[House Bill No. 472](#) (Chapter Number Assigned) -- AN ACT REVISING LAWS RELATING TO THE OFFICE OF THE CHILD AND FAMILY OMBUDSMAN; PERMANENTLY ESTABLISHING THE OFFICE OF THE CHILD AND FAMILY OMBUDSMAN; PROVIDING POWERS, DUTIES, AND INVESTIGATIVE PROCEDURES OF THE OMBUDSMAN; REQUIRING THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES TO PROVIDE THE OMBUDSMAN WITH CERTAIN REPORTS; PROVIDING PRIVILEGE; TRANSFERRING APPROPRIATION

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AUTHORITY; AMENDING SECTIONS 41-3-205 AND 41-3-208, MCA; AND PROVIDING AN EFFECTIVE DATE.

### **2013**

[House Bill No. 76](#) (Chapter Number Assigned) -- AN ACT CREATING AN INDEPENDENT OFFICE OF THE CHILD AND FAMILY OMBUDSMAN; DESCRIBING THE DUTIES AND POWERS OF THE OFFICE; AMENDING SECTION 41-3-205, MCA; PROVIDING FOR CONTINGENT VOIDNESS; AND PROVIDING AN EFFECTIVE DATE AND A TERMINATION DATE.

**2011:** None

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