

NOTE: The governor signed this measure on 4/15/2016.



SENATE BILL 16-013

BY SENATOR(S) Newell, Kefalas, Lundberg, Garcia, Grantham, Guzman, Heath, Johnston, Kerr, Lambert, Martinez Humenik, Merrifield, Scheffel, Steadman, Todd, Cadman;
also REPRESENTATIVE(S) Singer, Fields, Kagan, Lebsock, Lontine, Melton, Pettersen, Ryden, Young.

CONCERNING STATUTORY CHANGES RELATED TO THE OFFICE OF THE CHILD PROTECTION OMBUDSMAN.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, 19-3.3-102, **amend** (3); and **add** (1) (a.5) as follows:

19-3.3-102. Office of the child protection ombudsman established - child protection ombudsman advisory board - qualifications of ombudsman - duties. (1) (a.5) THE OFFICE AND THE JUDICIAL DEPARTMENT SHALL OPERATE PURSUANT TO A MEMORANDUM OF UNDERSTANDING BETWEEN THE TWO ENTITIES. THE MEMORANDUM OF UNDERSTANDING CONTAINS, AT A MINIMUM:

(I) A REQUIREMENT THAT THE OFFICE HAS ITS OWN PERSONNEL RULES;

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

(II) A REQUIREMENT THAT THE OMBUDSMAN HAS INDEPENDENT HIRING AND TERMINATION AUTHORITY OVER OFFICE EMPLOYEES;

(III) A REQUIREMENT THAT THE OFFICE MUST FOLLOW JUDICIAL FISCAL RULES;

(IV) A REQUIREMENT THAT THE OFFICE OF THE STATE COURT ADMINISTRATOR SHALL OFFER THE OFFICE OF THE CHILD PROTECTION OMBUDSMAN LIMITED SUPPORT WITH RESPECT TO:

(A) PERSONNEL MATTERS;

(B) RECRUITMENT;

(C) PAYROLL;

(D) BENEFITS;

(E) BUDGET SUBMISSION, AS NEEDED;

(F) ACCOUNTING; AND

(G) OFFICE SPACE, FACILITIES, AND TECHNICAL SUPPORT LIMITED TO THE BUILDING THAT HOUSES THE OFFICE OF THE STATE COURT ADMINISTRATOR; AND

(V) ANY OTHER PROVISIONS REGARDING ADMINISTRATIVE SUPPORT THAT WILL HELP MAINTAIN THE INDEPENDENCE OF THE OFFICE.

(3) The board has the following duties and responsibilities:

(a) To oversee THE FOLLOWING personnel decisions related to the ombudsman: ~~including, but not limited to:~~

(I) On or before December 1, 2015, and as necessary thereafter, appointing a person to serve as the child protection ombudsman and director of the office, referred to in this article as the "ombudsman". The ombudsman appointed by the board on or before December 1, 2015, shall assume his or her position on the effective date of the memorandum of

understanding between the judicial department and the office. ~~developed pursuant to section 19-3.3-102 (3) (e)~~. The board may also discharge an acting ombudsman for cause. A two-thirds majority vote is required to hire or discharge the ombudsman. The general assembly shall set the ombudsman's compensation, and such compensation may not be reduced during the term of the ombudsman's appointment.

(II) Filling ~~any~~ A vacancy in the ombudsman position;

(III) EVALUATING THE OMBUDSMAN'S PERFORMANCE AS DETERMINED NECESSARY BASED ON FEEDBACK RECEIVED RELATED TO THE OMBUDSMAN; AND

(IV) DEVELOPING A PUBLIC COMPLAINT PROCESS RELATED TO THE OMBUDSMAN'S PERFORMANCE;

(b) ~~To ensure accountability and consistency in the operating policies and procedures, including reasonable rules to administer the provisions of this article and any other standards of conduct and reporting requirements as provided by law~~ TO OVERSEE AND ADVISE THE OMBUDSMAN ON THE STRATEGIC DIRECTION OF THE OFFICE AND ITS MISSION AND TO HELP PROMOTE THE USE, ENGAGEMENT, AND ACCESS TO THE OFFICE;

(c) To work cooperatively with the ombudsman to provide fiscal oversight of the general operating budget of the office ~~to assist with training, as needed, and provide any other assistance to~~ AND ensure that the office ~~and ombudsman~~ OPERATES in compliance with the provisions of this article, THE MEMORANDUM OF UNDERSTANDING, and ~~with~~ state and federal laws relating to the child welfare system;

(d) ~~To assist with the memorandum of understanding between the office and the state department. The memorandum of understanding must be completed and signed no later than November 1, 2015.~~

(e) ~~To collaborate with the judicial department and the office on the creation of an administrative memorandum of understanding between the office and the judicial department. The memorandum of understanding must be completed and signed no later than November 1, 2015, and have an effective date of no later than January 1, 2016. The memorandum of understanding must contain, at a minimum:~~

- (I) A requirement that the office has its own personnel rules;
- (II) A requirement that the ombudsman has independent hiring and termination authority over office employees;
- (III) A requirement that the office must follow judicial fiscal rules;
- (IV) A requirement that the office of the state court administrator shall offer the office of the child protection ombudsman limited support with respect to:
 - (A) Personnel matters;
 - (B) Recruitment;
 - (C) Payroll;
 - (D) Benefits;
 - (E) Budget submission, as needed;
 - (F) Accounting; and
 - (G) Office space, facilities, and technical support limited to the building that houses the office of the state court administrator;
- (V) Any other provisions regarding administrative support that will help maintain the independence of the office;
 - (f) To assist with training for the ombudsman, office, or as otherwise needed; and
 - (g) To assist with reporting requirements to the general assembly.
 - (h) To PROMOTE THE MISSION OF THE OFFICE TO THE PUBLIC; AND
 - (i) TO PROVIDE ASSISTANCE, AS PRACTICABLE AND AS REQUESTED BY THE OMBUDSMAN, TO FACILITATE THE STATUTORY INTENT OF THIS ARTICLE.

SECTION 2. In Colorado Revised Statutes, 19-3.3-103, **amend** (1) (b) and (1) (c); and **add** (1) (d), (1) (e), and (1) (f) as follows:

19-3.3-103. Office of the child protection ombudsman - powers and duties - access to information - confidentiality - testimony - judicial review. (1) The ombudsman has the following duties, at a minimum:

(b) To evaluate and make a recommendation to the executive director and any appropriate agency or entity for the creation of a statewide grievance policy that is accessible by children and families within the child protection system and that is transparent and accountable; **and**

(c) To report, ~~at least annually, pursuant to~~ AS REQUIRED BY THE PROVISIONS OF section 19-3.3-108, concerning the actions ~~taken by the ombudsman with respect of~~ OF THE OMBUDSMAN RELATED to the goals and duties of the office;

(d) TO REVIEW THE MEMORANDUM OF UNDERSTANDING BETWEEN THE OFFICE AND THE JUDICIAL DEPARTMENT AND RENEgotiate SUCH MEMORANDUM OF UNDERSTANDING AT ANY TIME AS THE OFFICE AND THE JUDICIAL DEPARTMENT MUTUALLY DEEM APPROPRIATE;

(e) TO ACT ON BEHALF OF THE OFFICE AND SERVE AS SIGNATOR FOR THE OFFICE; **and**

(f) TO ENSURE ACCOUNTABILITY AND CONSISTENCY IN THE OPERATING POLICIES AND PROCEDURES, INCLUDING REASONABLE RULES TO ADMINISTER THE PROVISIONS OF THIS ARTICLE AND ANY OTHER STANDARDS OF CONDUCT AND REPORTING REQUIREMENTS AS PROVIDED BY LAW.

SECTION 3. In Colorado Revised Statutes, 19-3.3-108, **amend** (2); and **add** (4) as follows:

19-3.3-108. Office of the child protection ombudsman - annual report. (2) ~~The ombudsman shall transmit the annual report to the executive director for review and comment~~ The ombudsman shall distribute the written report to the governor, the chief justice, THE BOARD, and the general assembly. The ombudsman shall present the report to the health and human services committees of the house of representatives and of the

senate, or any successor committees.

(4) THE OMBUDSMAN SHALL PRESENT OR COMMUNICATE QUARTERLY UPDATES TO THE BOARD ON THE ACTIVITIES OF THE OFFICE.

SECTION 4. In Colorado Revised Statutes, **amend** 19-3.3-109 as follows:

19-3.3-109. Review by the state auditor's office. ~~The state auditor shall conduct or cause to be conducted a performance and fiscal audit of the office at the beginning of the third year of operation of the office. Thereafter, At the discretion of the legislative audit committee, the state auditor shall conduct or cause to be conducted a performance and fiscal audit of the office.~~

SECTION 5. Safety clause. The general assembly hereby finds,

determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Bill L. Cadman
PRESIDENT OF
THE SENATE

Dickey Lee Hullinghorst
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Effie Ameen
SECRETARY OF
THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

APPROVED _____

John W. Hickenlooper
GOVERNOR OF THE STATE OF COLORADO