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HOUSE BILL 25-1200

BY REPRESENTATIVE(S) Feret and Armagost, Bacon, Boesenecker, Brown, Clifford, Duran, Gilchrist, Jackson, Lindsay, Lukens, Mabrey, Sirota, Stewart K., Stewart R., Story, McCluskie, Bird, Woodrow; also SENATOR(S) Cutter and Bright, Exum, Gonzales J., Jodeh, Kipp, Michaelson Jenet, Wallace, Coleman.

CONCERNING MODIFICATIONS 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, **add** 19-3.3-101.5 as follows:

19-3.3-101.5. Definitions. AS USED IN THIS ARTICLE 3.3, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "BOARD" MEANS THE CHILD PROTECTION OMBUDSMAN BOARD ESTABLISHED PURSUANT TO SECTION 19-3.3-102 (2)(a).

(2) "COMPLAINT" MEANS A REPORT OR COMPLAINT RELATING TO AN ACTION, INACTION, OR DECISION OF A PUBLIC AGENCY OR A PROVIDER THAT

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

RECEIVES PUBLIC MONEY THAT MAY ADVERSELY AFFECT THE SAFETY, PERMANENCY, OR WELL-BEING OF A CHILD OR YOUTH.

(3) "FACILITY" MEANS A FACILITY ESTABLISHED AND OPERATED BY THE STATE DEPARTMENT PURSUANT TO SECTION 19-2.5-1502.

(4) "OFFICE" MEANS THE OFFICE OF THE CHILD PROTECTION OMBUDSMAN ESTABLISHED PURSUANT TO SECTION 19-3.3-102 (1)(a).

(5) "OMBUDSMAN" MEANS THE CHILD PROTECTION OMBUDSMAN AND DIRECTOR OF THE OFFICE APPOINTED PURSUANT TO SECTION 19-3.3-102 (3)(a)(I).

(6) "PERSONNEL FILES" HAS THE SAME MEANING AS SET FORTH IN SECTION 24-72-202.

(7) "STATE-LICENSED RESIDENTIAL CHILD CARE FACILITY" HAS THE SAME MEANING AS SET FORTH IN SECTION 26-6-903.

(8) "WORK PRODUCT" HAS THE SAME MEANING AS SET FORTH IN SECTION 24-72-202.

SECTION 2. In Colorado Revised Statutes, 19-3.3-102, **amend** (1)(a), (2)(a), and (3)(a)(I) as follows:

19-3.3-102. Office of the child protection ombudsman established - child protection ombudsman advisory board - qualifications of ombudsman - duties. (1) (a) The independent office of the child protection ombudsman ~~referred to in this article 3.3 as the "office"~~, is established in the judicial department as an independent agency for the purpose of ensuring the greatest protections for the children of Colorado.

(2) (a) There is established an independent, nonpartisan child protection ombudsman board. ~~referred to in this article 3.3 as the "board"~~. The board consists of twelve members and, to the extent practicable, must include persons from throughout the state and persons with disabilities and must reflect the ethnic diversity of the state. All members must have child welfare policy or system expertise or experience.

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

(a) To oversee the following personnel decisions related to the ombudsman:

(I) To appoint a person to serve as the child protection ombudsman and director of the office. ~~referred to in this article 3.3 as the "ombudsman".~~ 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.

SECTION 3. In Colorado Revised Statutes, **amend** 19-3.3-103 as follows:

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

~~(a) (I) (A) To receive complaints concerning child protection services. For the purposes of this section, "complaint" means any report or complaint made by or on behalf of a child relating to any action, inaction, or decision of any public agency or any provider that receives public money that may adversely affect the safety, permanency, or well-being of the child. The ombudsman may, independently and impartially, investigate a complaint, which may include complaints about an incident of egregious abuse or neglect or near fatality, as described in section 26-1-139, or fatality of a child, as described in part 20.5 of title 25 and section 26-1-139. The ombudsman may seek resolution of a complaint, which may include but need not be limited to referring a complaint to the state department or appropriate agency or entity and making a recommendation for action relating to a complaint.~~

~~(B) The ombudsman shall treat all complaints received pursuant to subsection (1)(a)(I)(A) of this section as confidential, including the identities of complainants and individuals from whom information is acquired; except that disclosures may be permitted if the ombudsman deems it necessary to enable the ombudsman to perform the ombudsman's duties and to support any recommendations resulting from an investigation. Records relating to complaints received by the office and the investigation of complaints are exempt from public disclosure pursuant to article 72 of title 24.~~

~~(C) The ombudsman and any employee or person acting on behalf of the ombudsman shall not be compelled to provide oral and written testimony in a civil or criminal proceeding in which the ombudsman is not a legal party. Information, records, or documents requested and reviewed by the ombudsman pursuant to this section are not subject to a subpoena issued to the ombudsman, discovery from the ombudsman, or introduction into evidence through the ombudsman in a civil or criminal proceeding in which the ombudsman is not a legal party. Nothing in this subsection (1)(a)(I)(C) restricts or limits the right to discover or use in a civil or criminal action evidence that is discoverable independent of the proceedings of the ombudsman.~~

~~(H) (A) In investigating a complaint, the ombudsman has the authority to request, access, and review any information, records, or documents, including records of third parties, that the ombudsman deems necessary to conduct a thorough and independent review of a complaint so long as either the state department or a county department would be entitled to access or receive such information, records, or documents.~~

~~(B) In the course of investigating a complaint pursuant to subsection (1)(a)(I)(A) of this section that is related to a child fatality, near fatality, or incident of egregious abuse or neglect against a child, as defined in section 26-1-139 (2), upon request, the state department of human services' child fatality review team, pursuant to section 26-1-139 (5)(e), shall provide the ombudsman the final confidential, case-specific review report.~~

~~(C) In the course of investigating a complaint pursuant to subsection (1)(a)(I)(A) of this section that is related to a child fatality, upon request, the department of public health and environment's child fatality prevention review team, pursuant to section 25-20.5-405, shall provide the ombudsman with the nonidentifying case review findings and recommendations.~~

~~(D) The ombudsman must have access to all information, records, or documents described in subsection (1)(a)(H)(A) of this section created in an investigation of an event or incident described in subsection (1)(a)(H)(A), (1)(a)(H)(B), or (1)(a)(H)(C) of this section occurring in the state from any entity, including but not limited to a coroner's office, law enforcement agency, hospital, court, the office of state registrar of vital statistics described in section 25-2-103, and a state-licensed out-of-home placement provider, as defined in section 26-5-104.~~

~~(E) The ombudsman shall request, review, and receive copies of records as described in subsections (1)(a)(H)(A), (1)(a)(H)(B), and (1)(a)(H)(C) of this section without cost if electronic records are not available.~~

~~(F) Nothing in the provisions of subsection (1)(a)(H)(A), (1)(a)(H)(B), or (1)(a)(H)(C) of this section grants subpoena power to the ombudsman for purposes of investigating a complaint pursuant to subsection (1)(a)(H)(A), (1)(a)(H)(B), or (1)(a)(H)(C) of this section.~~

~~(H) The ombudsman shall refer any complaints relating to the judicial department and judicial proceedings, including but not limited to complaints concerning the conduct of judicial officers or attorneys of record, judicial determinations, and court processes and procedures to the appropriate entity or agency within the judicial department.~~

(a) TO RECEIVE AND CONDUCT AN INDEPENDENT AND IMPARTIAL INVESTIGATION OF COMPLAINTS CONCERNING CHILD PROTECTION SERVICES, INCLUDING:

(I) COMPLAINTS MADE BY OR ON BEHALF OF A CHILD;

(II) COMPLAINTS MADE BY OR ON BEHALF OF A CHILD'S OR YOUTH'S FAMILY, CAREGIVER, OR OTHER CONCERNED INDIVIDUAL;

(III) COMPLAINTS MADE BY OR ON BEHALF OF A CHILD OR YOUTH PURSUANT TO SECTIONS 19-2.5-1502.5 (4)(c), 19-3-211 (5)(a), AND 19-7-101 (2)(c)(II);

(IV) COMPLAINTS ABOUT AN INCIDENT OF EGREGIOUS ABUSE OR NEGLECT; NEAR FATALITY, AS DESCRIBED IN SECTION 26-1-139; OR A FATALITY OF A CHILD, AS DESCRIBED IN PART 20.5 OF TITLE 25 AND SECTION 26-1-139;

(V) COMPLAINTS CONCERNING SYSTEMIC ISSUES, INCLUDING, BUT NOT LIMITED TO, STATUTORY, BUDGETARY, REGULATORY, AND ADMINISTRATIVE ISSUES AFFECTING THE SAFETY OF AND OUTCOMES FOR CHILDREN, YOUTH, AND FAMILIES RECEIVING CHILD PROTECTION SERVICES IN COLORADO; AND

(VI) COMPLAINTS RAISED BY MEMBERS OF THE COMMUNITY
RELATING TO CHILD PROTECTION POLICIES OR PROCEDURES.

~~(a.5)~~ (b) (I) Notwithstanding any provision of this section to the contrary, the ombudsman may self-initiate an independent and impartial investigation and ongoing review of the safety and well-being of an unaccompanied immigrant child who lives in a state-licensed residential child care facility, as defined in section 26-6-903, and who is in the custody of the office of refugee resettlement of the federal department of health and human services as set forth in 8 U.S.C. sec. 1232 et seq. The ombudsman may seek resolution of such investigation and ongoing review, which may include, but need not be limited to, referring an investigation and ongoing review to the state department or appropriate agency or entity and making a recommendation for action relating to an investigation and ongoing review.

(II) (A) In self-initiating an investigation and ongoing review of the safety and well-being of an unaccompanied immigrant child who lives in a state-licensed residential child care facility, the ombudsman has the authority to request, review, and receive copies of any information, records, or documents, including records of third parties, that the ombudsman deems necessary to conduct a thorough and independent investigation and ongoing review as described in ~~subsection (1)(a.5)(I)~~ SUBSECTION (1)(b)(I) of this section, without cost to the ombudsman.

(B) A state-licensed residential child care facility shall notify the ombudsman and the state department within three days after the arrival of ~~an~~ EACH unaccompanied immigrant child.

(C) The ombudsman may create and distribute outreach materials to a state-licensed residential child care facility and to individuals who may have regular contact with an unaccompanied immigrant child.

(III) As used in this ~~subsection (1)(a.5)~~ SUBSECTION (1)(b), "unaccompanied immigrant child" means a child under the age of eighteen years, without lawful immigration status in the United States, who has been designated an unaccompanied child and transferred to the custody of the office of refugee resettlement of the federal department of health and human services pursuant to federal law.

~~(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;~~

(2) (a) IN INVESTIGATING A COMPLAINT DESCRIBED IN SUBSECTION (1)(a) OF THIS SECTION, THE OMBUDSMAN SHALL:

(I) REQUEST, ACCESS, AND REVIEW ANY INFORMATION, DOCUMENTS, OR RECORDS, INCLUDING RECORDS OF THIRD PARTIES, THE OMBUDSMAN DEEMS NECESSARY TO CONDUCT AN INDEPENDENT AND IMPARTIAL INVESTIGATION OF COMPLAINTS PURSUANT TO SECTION 19-3.3-103.4;

(II) SEEK RESOLUTION OF A COMPLAINT, WHICH MAY INCLUDE, BUT IS NOT LIMITED TO, REFERRING A COMPLAINT TO THE STATE DEPARTMENT OR APPROPRIATE AGENCY OR ENTITY AND MAKING A RECOMMENDATION FOR ACTION RELATING TO A COMPLAINT; AND

(III) REFER ANY COMPLAINTS RELATING TO THE JUDICIAL DEPARTMENT AND JUDICIAL PROCEEDINGS, INCLUDING, BUT NOT LIMITED TO, COMPLAINTS CONCERNING THE CONDUCT OF JUDICIAL OFFICERS OR ATTORNEYS OF RECORD, JUDICIAL DETERMINATIONS, AND COURT PROCESSES AND PROCEDURES, TO THE APPROPRIATE AGENCY OR ENTITY. NOTHING IN THIS SECTION GRANTS THE OFFICE THE AUTHORITY TO ACCESS INFORMATION, RECORDS, OR DOCUMENTS TO INVESTIGATE A COMPLAINT MADE IN REGARDS TO THE PROVISION OF LEGAL SERVICES BY AN INDEPENDENT JUDICIAL AGENCY OR ITS CONTRACTORS.

(b)(I) NOTWITHSTANDING SUBSECTION (2)(a)(I) OF THIS SECTION TO THE CONTRARY, THE OMBUDSMAN SHALL NOT HAVE ACCESS TO:

(A) PERSONNEL FILES;

(B) WORK PRODUCT;

(C) INFORMATION, DOCUMENTS, OR RECORDS THAT MAY BE PROTECTED BY AN AGENCY'S OR ENTITY'S ATTORNEY-CLIENT PRIVILEGE; OR

(D) INFORMATION, DOCUMENTS, OR RECORDS THAT MAY BE PROTECTED BY AN AGENCY'S DELIBERATIVE PROCESS PRIVILEGE.

(II) IF AN AGENCY OR ENTITY WITHHOLDS INFORMATION, DOCUMENTS, OR RECORDS DESCRIBED IN SUBSECTION (2)(b)(I) OF THIS SECTION FROM THE OMBUDSMAN, THE AGENCY OR ENTITY SHALL COMMUNICATE TO THE OMBUDSMAN THAT THE INFORMATION, DOCUMENTS, OR RECORDS WERE WITHHELD AND THE REASONS FOR WITHHOLDING THE INFORMATION, DOCUMENTS, OR RECORDS.

(c) THE OMBUDSMAN MAY DECLINE TO INVESTIGATE A COMPLAINT OR CONTINUE AN INVESTIGATION. IF THE OMBUDSMAN DECLINES TO INVESTIGATE A COMPLAINT OR CONTINUE AN INVESTIGATION, THE OFFICE SHALL NOTIFY THE COMPLAINANT OF THE DECISION AND THE REASON FOR THE OMBUDSMAN'S ACTIONS.

(3) IN ADDITION TO THE DUTIES DESCRIBED IN SUBSECTION (1)(a) OF THIS SECTION, THE OMBUDSMAN HAS THE FOLLOWING DUTIES:

~~(c)~~ (a) To report, as required by ~~the provisions of~~ section 19-3.3-108, concerning the actions of the ombudsman related to the goals and duties of the office;

~~(d)~~ (b) 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)~~ (c) To act on behalf of the office and serve as signator for the office;

~~(f)~~ (d) To ensure accountability and consistency in the operating policies and procedures, including reasonable rules to administer the provisions of this ~~article~~ ARTICLE 3.3 and any other standards of conduct and reporting requirements as provided by law; ~~and~~

~~(g)~~ (e) To serve or designate a person to serve on the youth restraint and seclusion working group pursuant to section 26-20-110 (1)(i);

~~(2) The ombudsman has the following powers, at a minimum:~~

~~(a) To review issues raised by members of the community relating to child protection policies or procedures and make recommendations to the~~

~~appropriate agency or entity concerning those issues;~~

~~(b)~~ (f) To review and evaluate the effectiveness and efficiency of any existing grievance resolution mechanisms and to make recommendations to the general assembly, executive director, and any appropriate agency or entity for the improvement of the grievance resolution mechanisms;

~~(c)~~ (g) To help educate the public concerning ISSUES AND RECOMMENDATIONS THE OMBUDSMAN IDENTIFIES, INCLUDING ON child maltreatment and the role of the community in strengthening families and keeping children safe;

~~(d)~~ (h) To promote best practices and effective programs relating to a publicly funded child protection system and to work collaboratively with county departments, when appropriate, regarding improvement of processes; AND

~~(e)~~ (i) To recommend to the general assembly, the executive director, and any appropriate agency or entity statutory, budgetary, regulatory, and administrative changes, including systemic changes, to improve the safety of and promote better outcomes for children and families receiving child protection services in Colorado. RECOMMENDATIONS MAY ADDRESS ISSUES THE OMBUDSMAN IDENTIFIES DURING THE COURSE OF AN INVESTIGATION OF COMPLAINTS, AS DESCRIBED IN SUBSECTION (1)(a) OF THIS SECTION. THE OMBUDSMAN'S RECOMMENDATIONS ARE SUBJECT TO PUBLIC DISCLOSURE PURSUANT TO ARTICLE 72 OF TITLE 24. and

~~(f) To request, access, and review information, records, or documents received pursuant to subsection (1)(a)(II) of this section.~~

~~(3) The ombudsman, employees of the office, and any persons acting on behalf of the office shall comply with all state and federal confidentiality laws that govern the department of early childhood, the state department, or a county department with respect to the treatment of confidential information or records and the disclosure of such information and records.~~

~~(4) Nothing in this article shall be construed to direct or authorize ARTICLE 3.3 DIRECTS OR AUTHORIZES the ombudsman to intervene in any~~

criminal or civil judicial proceeding or to interfere in a criminal investigation.

(5) In the performance of the ombudsman's duties, the ombudsman shall act independently of ANY PUBLIC AGENCY OR PROVIDER THAT RECEIVES PUBLIC MONEY AND THAT MAY ADVERSELY AFFECT THE SAFETY, PERMANENCY, OR WELL-BEING OF A CHILD OR YOUTH, INCLUDING the division within the department of early childhood that is responsible for child care, ~~of the divisions within the state department that are responsible for child welfare or youth services, of the county departments of human or social services, and of all judicial AND INDEPENDENT agencies. including, but not limited to, the office of the child's representative, the office of the respondent parents' counsel, the office of state public defender, the office of alternate defense counsel, and the office of attorney regulation counsel.~~ Any recommendations made by the ombudsman or positions taken by the ombudsman do not reflect those of ANY PUBLIC AGENCY, INCLUDING the department of early childhood, state department, judicial department AND INDEPENDENT AGENCIES, or county departments of human or social services.

SECTION 4. In Colorado Revised Statutes, **add with amended and relocated provisions** 19-3.3-103.4 and 19-3.3-103.5 as follows:

19-3.3-103.4. Office of the child protection ombudsman - access to information. (1) (a) (I) [Formerly 19-3.3-103 (1)(a)(II)(A)] In investigating a complaint, the ~~ombudsman~~ OFFICE has the authority to request, access, and review any information, records, or documents, including records of third parties, that the ~~ombudsman~~ OFFICE deems necessary to conduct a thorough and independent review of a complaint ~~so long as~~ OR EVENT DESCRIBED IN SECTION 19-3.3-103 (1)(a). IN THE INVESTIGATION OF A COMPLAINT OR EVENT DESCRIBED IN SECTION 19-3.3-103 (1)(a) THAT OCCURS IN THE STATE, THE OFFICE MUST HAVE ACCESS TO INFORMATION, RECORDS, OR DOCUMENTS THAT either the state department, THE DEPARTMENT OF EARLY CHILDHOOD, or a county department would be entitled to access or receive. ~~such information, records, or documents.~~

(II) THE OMBUDSMAN SHALL NOT HAVE ACCESS TO INFORMATION, DOCUMENTS, OR RECORDS DESCRIBED IN SECTION 19-3.3-103 (2)(b)(I).

(b) (I) [Formerly 19-3.3-103 (1)(a)(II)(D)] The ~~ombudsman~~ OFFICE

must have access to all information, records, or documents ~~described in subsection (1)(a)(II)(A) of this section created in an investigation of an event or incident described in subsection (1)(a)(II)(A), (1)(a)(II)(B), or (1)(a)(II)(C) of this section~~ THAT THE OFFICE DEEMS NECESSARY TO CONDUCT A THOROUGH AND INDEPENDENT REVIEW OF A COMPLAINT OR EVENT DESCRIBED IN SECTION 19-3.3-103 (1)(a) occurring in the state from any entity, including, but not limited to, a coroner's office, law enforcement agency, hospital, court, the office of state registrar of vital statistics described in section 25-2-103, and a state-licensed out-of-home placement provider, as defined in section 26-5-104.

(II) THE OMBUDSMAN SHALL NOT HAVE ACCESS TO INFORMATION, DOCUMENTS, OR RECORDS DESCRIBED IN SECTION 19-3.3-103 (2)(b)(I).

(c) (I) **[Formerly 19-3.3-103 (1)(a)(II)(B)]** In the course of investigating a complaint ~~pursuant to subsection (1)(a)(I)(A) of this section~~ DESCRIBED IN SECTION 19-3.3-103 (1)(a) that is related to a child fatality, near fatality, or incident of egregious abuse or neglect against a child, as defined in section 26-1-139 (2), upon request, the state department of human services' child fatality review team, pursuant to section 26-1-139 (5)(e), shall provide the ~~ombudsman~~ OFFICE the final confidential, case-specific review report.

(II) **[Formerly 19-3.3-103 (1)(a)(II)(C)]** In the course of investigating a complaint ~~pursuant to subsection (1)(a)(I)(A) of this section~~ DESCRIBED IN SECTION 19-3.3-103 (1)(a) that is related to a child fatality, upon request, the department of public health and environment's child fatality prevention review team, pursuant to section 25-20.5-405, shall provide the ~~ombudsman~~ OFFICE with the nonidentifying case review findings and recommendations.

(2) (a) THE STATE DEPARTMENT SHALL ENSURE THE OFFICE HAS UNRESTRICTED ACCESS TO TRAILS, AS DEFINED IN SECTION 26-5-118.

(b) FOR EDUCATIONAL PURPOSES, THE STATE DEPARTMENT SHALL ENSURE OFFICE EMPLOYEES ARE PERMITTED TO ATTEND THE CHILD WELFARE TRAINING ACADEMY ESTABLISHED IN SECTION 26-5-109.

(3) **[Formerly 19-3.3-103 (1)(a)(II)(E)]** The ~~ombudsman~~ OFFICE shall request, review, and receive copies of records as described in

~~subsections (1)(a)(II)(A), (1)(a)(II)(B), and (1)(a)(II)(C)~~ SUBSECTION (1) of this section without cost if electronic records are not available.

(4) **[Formerly 19-3.3-103 (1)(a)(II)(F)]** Nothing in ~~the provisions of subsection (1)(a)(II)(A), (1)(a)(II)(B), or (1)(a)(II)(C) of this section~~ grants subpoena power to the ombudsman, EMPLOYEES OF THE OFFICE, AND ANY OTHER PERSON ACTING ON BEHALF OF THE OFFICE for purposes of investigating a complaint pursuant to ~~subsection (1)(a)(II)(A), (1)(a)(II)(B), or (1)(a)(II)(C) of this section~~ DESCRIBED IN SECTION 19-3.3-103 (1)(a).

19-3.3-103.5. Office of the child protection ombudsman - confidentiality. (1) THE OMBUDSMAN, EMPLOYEES OF THE OFFICE, AND ANY PERSON ACTING ON BEHALF OF THE OFFICE SHALL COMPLY WITH ALL STATE AND FEDERAL CONFIDENTIALITY LAWS THAT GOVERN THE DEPARTMENT OF EARLY CHILDHOOD, THE STATE DEPARTMENT, OR A COUNTY DEPARTMENT WITH RESPECT TO THE TREATMENT OF CONFIDENTIAL INFORMATION OR RECORDS AND THE DISCLOSURE OF SUCH INFORMATION AND RECORDS.

(2) (a) **[Formerly 19-3.3-103 (1)(a)(I)(B)]** The ~~ombudsman~~ OFFICE shall treat all complaints received pursuant to ~~subsection (1)(a)(I)(A) of this section~~ SECTION 19-3.3-103 (1)(a) as confidential, including the identities of complainants and individuals from whom information is acquired; except that disclosures may be permitted if the ombudsman deems it necessary to enable the ombudsman to perform the ombudsman's duties and to support any recommendations resulting from an investigation. ~~Records relating to complaints received by the office and the investigation of complaints are exempt from public disclosure pursuant to article 72 of title 24.~~

(b) RECORDS RELATING TO COMPLAINTS RECEIVED BY THE OFFICE AND THE INVESTIGATION OF COMPLAINTS ARE EXEMPT FROM PUBLIC DISCLOSURE PURSUANT TO ARTICLE 72 OF TITLE 24.

(c) **[Formerly 19-3.3-103 (1)(a)(I)(C)]** The ombudsman and any employee or person acting on behalf of the ombudsman shall not be compelled to provide oral and written testimony in a civil or criminal proceeding in which the ombudsman is not a legal party. Information, records, or documents requested and reviewed by the ombudsman pursuant to this section are not subject to a subpoena issued to the ombudsman, discovery from the ombudsman, or introduction into evidence through the

ombudsman in a civil or criminal proceeding in which the ombudsman is not a legal party. Nothing in this ~~subsection (1)(a)(I)(C)~~ SUBSECTION (2)(a) restricts or limits the right to discover or use in a civil or criminal action evidence that is discoverable independent of the proceedings of the ombudsman.

SECTION 5. In Colorado Revised Statutes, **add** 19-3.3-113 as follows:

19-3.3-113. Office of the child protection ombudsman - access to state-licensed residential child care facilities and facilities - education of children and youth in state-licensed residential child care facilities and facilities. (1) (a) A STATE-LICENSED RESIDENTIAL CHILD CARE FACILITY AND A FACILITY SHALL PROVIDE PHYSICAL ACCESS TO ITS FACILITY PURSUANT TO THIS SUBSECTION (1)(a). THE OFFICE MAY ONLY ACCESS A STATE-LICENSED RESIDENTIAL CHILD CARE FACILITY OR A FACILITY IN COORDINATION WITH THE FACILITY DIRECTORS:

(I) IN RESPONSE TO A REQUEST FROM A CHILD OR YOUTH RESIDING IN THE STATE-LICENSED RESIDENTIAL CHILD CARE FACILITY OR FACILITY;

(II) IN RESPONSE TO A REQUEST FROM A CHILD'S OR YOUTH'S FAMILY MEMBER, CAREGIVER, OR OTHER CONCERNED INDIVIDUAL; OR

(III) TO DISTRIBUTE MATERIALS PURSUANT TO SUBSECTION (2)(a) OF THIS SECTION.

(b) A STATE-LICENSED RESIDENTIAL CHILD CARE FACILITY OR FACILITY SHALL NOT DENY THE OFFICE ACCESS TO THE STATE-LICENSED RESIDENTIAL CHILD CARE FACILITY OR FACILITY TO CARRY OUT THE OFFICE'S DUTIES AS DESCRIBED IN THIS SECTION OR SECTION 19-3.3-103.

(c) DEPENDENT UPON AVAILABLE RESOURCES AND AT THE DISCRETION OF THE OMBUDSMAN, THE OFFICE MAY MEET WITH THE CHILD OR YOUTH VIA A CONFIDENTIAL, VIRTUAL MEETING.

(d) UPON A CHILD'S OR YOUTH'S REQUEST, THE STATE-LICENSED RESIDENTIAL CHILD CARE FACILITY OR FACILITY SHALL PROVIDE A PRIVATE AND CONFIDENTIAL SPACE FOR THE CHILD OR YOUTH TO MEET WITH THE OMBUDSMAN, AN OFFICE EMPLOYEE, OR A PERSON ACTING ON BEHALF OF

THE OMBUDSMAN.

(e) THE OMBUDSMAN, AN EMPLOYEE OF THE OFFICE, OR A PERSON ACTING ON BEHALF OF THE OMBUDSMAN IS SUBJECT TO THE PROTOCOL AND POLICIES OF EACH STATE-LICENSED RESIDENTIAL CHILD CARE FACILITY AND FACILITY.

(2) (a) THE OFFICE SHALL CREATE AND DISTRIBUTE OUTREACH MATERIALS TO STATE-LICENSED RESIDENTIAL CHILD CARE FACILITIES AND FACILITIES. THE MATERIALS MUST CONTAIN INFORMATION ON HOW TO ACCESS THE OFFICE, THE OFFICE'S SERVICES, AND HOW TO FILE A COMPLAINT WITH THE OFFICE.

(b) EACH STATE-LICENSED RESIDENTIAL CHILD CARE FACILITY AND FACILITY SHALL DISPLAY THE MATERIALS DESCRIBED IN SUBSECTION (2)(a) OF THIS SECTION IN A LOCATION VISIBLE TO CHILDREN OR YOUTH RECEIVING SERVICES FROM THE RESIDENTIAL CHILD CARE FACILITY OR FACILITY.

(c) THE OFFICE SHALL SUPPLY THE MATERIALS DESCRIBED IN SUBSECTION (2)(a) OF THIS SECTION AT THE OFFICE'S EXPENSE. THE OFFICE SHALL PROVIDE UPDATES ON OUTREACH EFFORTS IN ITS ANNUAL REPORT DESCRIBED IN SECTION 19-3.3-108.

(d) THE OFFICE SHALL COORDINATE WITH EACH STATE-LICENSED RESIDENTIAL CHILD CARE FACILITY AND FACILITY TO PROVIDE IN-PERSON EDUCATIONAL COURSES TO CHILDREN AND YOUTH RESIDING IN THE FACILITIES ON HOW TO ACCESS THE OFFICE, THE OFFICE'S SERVICES, AND HOW TO FILE A COMPLAINT WITH THE OFFICE.

(3) THE OFFICE AND EACH STATE-LICENSED RESIDENTIAL CHILD CARE FACILITY OR FACILITY SHALL OPERATE PURSUANT TO A MEMORANDUM OF UNDERSTANDING BETWEEN THE OFFICE AND EACH RESIDENTIAL CHILD CARE FACILITY OR FACILITY. THE MEMORANDUM OF UNDERSTANDING MUST, AT A MINIMUM, REQUIRE THAT:

(a) THE OFFICE PROVIDES EACH STATE-LICENSED RESIDENTIAL CHILD CARE FACILITY OR FACILITY WITH NOTICE OF A CHILD'S OR YOUTH'S REQUEST TO VISIT WITH THE OMBUDSMAN WITHIN FORTY-EIGHT BUSINESS HOURS AFTER RECEIVING THE REQUEST;

(b) THE STATE-LICENSED RESIDENTIAL CHILD CARE FACILITY OR FACILITY PROVIDES THE OMBUDSMAN ACCESS TO A FACILITY AND A PRIVATE, CONFIDENTIAL SPACE TO MEET WITH A CHILD OR YOUTH WITHIN FIVE BUSINESS DAYS AFTER THE OFFICE RECEIVES THE CHILD'S OR YOUTH'S REQUEST TO MEET;

(c) THE OFFICE PROVIDES THE STATE-LICENSED RESIDENTIAL CHILD CARE FACILITY OR FACILITY WITH NOTICE AT LEAST FIVE BUSINESS DAYS BEFORE THE OFFICE WOULD LIKE TO ENTER THE STATE-LICENSED RESIDENTIAL CHILD CARE FACILITY OR FACILITY TO DISTRIBUTE MATERIALS PURSUANT TO SUBSECTION (2)(a) OF THIS SECTION;

(d) THE STATE-LICENSED RESIDENTIAL CHILD CARE FACILITY OR FACILITY PROVIDES THE OFFICE WITH PROOF THAT THE MATERIALS DESCRIBED IN SUBSECTION (2)(a) OF THIS SECTION ARE DISPLAYED IN A LOCATION VISIBLE TO CHILDREN OR YOUTH AS REQUIRED PURSUANT TO THIS SECTION; AND

(e) CERTAIN PROCESSES OCCUR TO PROVIDE A CHILD OR YOUTH A CONFIDENTIAL, VIRTUAL MEETING TO MEET WITH THE OMBUDSMAN, AN EMPLOYEE OF THE OFFICE, OR A PERSON ACTING ON BEHALF OF THE OFFICE.

(4) THIS SECTION DOES NOT GRANT THE OFFICE AUTHORITY TO CONDUCT ACTIVITIES DESCRIBED IN PART 9 OF ARTICLE 6 OF TITLE 26.

SECTION 6. In Colorado Revised Statutes, 19-3.3-108, **add** (1)(d) as follows:

19-3.3-108. Office of the child protection ombudsman - annual report. (1) On or before September 1 of each year, commencing with the September 1 following the first fiscal year in which the office was established, the ombudsman shall prepare a written report that must include, but need not be limited to, information from the preceding fiscal year and any recommendations concerning the following:

(d) UPDATES ON OUTREACH EFFORTS TO STATE-LICENSED RESIDENTIAL CHILD CARE FACILITIES AND FACILITIES ESTABLISHED AND OPERATED BY THE DEPARTMENT OF HUMAN SERVICES AS DESCRIBED IN SECTION 19-3.3-113 (2)(c).

SECTION 7. In Colorado Revised Statutes, 19-3.1-101, **amend** (3)(a) introductory portion as follows:

19-3.1-101. Petition for dependency order for unaccompanied children or youth in federal custody - definition. (3) (a) The court shall schedule a hearing within thirty-five days after the petition is filed, unless a motion is made for a forthwith hearing because the child is approaching eighteen years of age or other emergent circumstances, in which case the court shall schedule the hearing within seven days. If the court finds the statements in the petition are supported by a preponderance of the evidence, the court shall declare the child dependent on the court. A child declared dependent pursuant to this section may be eligible for oversight and services by the office of the child protection ombudsman ~~pursuant to section 19-3.3-103 (1)(a.5)~~ AS DESCRIBED IN SECTION 19-3.3-103 (1)(b). Upon request, the court may also issue an order establishing the child's eligibility for classification as a special immigrant juvenile under federal law, including:

SECTION 8. In Colorado Revised Statutes, 25-20.5-405, **amend** (2)(d) as follows:

25-20.5-405. Local review teams - duties - authority. (2) With respect to each child fatality reviewed, the local or regional review team shall:

(d) Report case review findings, as appropriate, to public and private agencies that have responsibilities for children, including the office of the child protection ombudsman ~~pursuant to section~~ AS DESCRIBED IN SECTIONS 19-3.3-103 AND 19-3.3-103.4, and make prevention recommendations to these agencies that may help to reduce the number of child fatalities;

SECTION 9. In Colorado Revised Statutes, 25-20.5-408, **amend** (2)(c)(I) as follows:

25-20.5-408. Access to records. (2) **Public access to records and information.** (c) **Release of information.** (I) Members of the state review team, members of the local or regional review teams, a person who attends a review team meeting, and a person who presents information to a review team may release information to governmental agencies as necessary to fulfill the requirements of this part 4, including section 25-20.5-405 (2)(d)

and ~~section 19-3.3-103 (1)(a)(H)(D)~~ SECTION 19-3.3-103.4 (1)(b).

SECTION 10. In Colorado Revised Statutes, 26-1-139, **amend** (5)(e) as follows:

26-1-139. Child fatality and near fatality prevention - process - department of human services child fatality review team - reporting - rules - legislative declaration - definitions. (5) (e) The team shall provide the final confidential, case-specific review report to the executive director, the director for any county or community agency referenced in the report, the county board of human services of any county department with previous involvement, as defined in subsection (2)(c) of this section, the legislative members of the team appointed pursuant to subsection (6)(f) of this section, the department of public health and environment, and the office of the child protection ombudsman ~~pursuant to section 19-3.3-103 (1)(a)(H)(B)~~ AS DESCRIBED IN SECTION 19-3.3-103.4 (1)(c)(I).

SECTION 11. In Colorado Revised Statutes, 26-20-110, **amend** (1)(i) as follows:

26-20-110. Youth restraint and seclusion working group - membership - purpose - repeal. (1) There is established within the division of youth services a youth restraint and seclusion working group, referred to in this section as the "working group". The working group consists of:

(i) The child protection ombudsman or ~~his or her~~ THE CHILD PROTECTION OMBUDSMAN'S designee ~~pursuant to section 19-3.3-103 (1)(g)~~ AS DESCRIBED IN SECTION 19-3.3-103 (3)(e); and

SECTION 12. In Colorado Revised Statutes, 27-50-108, **amend** (4)(c) as follows:

27-50-108. Systemwide behavioral health grievance system. (4) On or before July 1, 2024, the BHA and state agencies shall execute formal data-sharing agreements addressing data sharing consistent with state and federal requirements, cooperation between the BHA and state agencies, and any other provisions necessary to implement this section. At a minimum, the BHA and the following entities shall execute such agreements:

(c) The child protection ombudsman, appointed pursuant to ~~section 19-3.3-103~~ SECTION 19-3.3-102 (3)(a)(I). All data released by the ombudsman shall comply with ~~section 19-3.3-103 (1)(a)(I)(B) and (3)~~ SECTION 19-3.3-103.5 (1) AND (2).

SECTION 13. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in

November 2026 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Julie McCluskie
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

James Rashad Coleman, Sr.
PRESIDENT OF
THE SENATE

Vanessa Reilly
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Esther van Mourik
SECRETARY OF
THE SENATE

APPROVED _____
(Date and Time)

Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO