

**Second Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO**

REENGROSSED

*This Version Includes All Amendments
Adopted in the House of Introduction*

LLS NO. 10-0661.01 Brita Darling

SENATE BILL 10-171

SENATE SPONSORSHIP

Newell, Bacon, Boyd, Heath, Hodge, Hudak, Keller, Kester, Lundberg, Morse, Penry, Romer, Shaffer B., Spence, Steadman, Williams

HOUSE SPONSORSHIP

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Senate Committees

Health and Human Services
Appropriations

House Committees

A BILL FOR AN ACT

101 **CONCERNING THE CREATION OF A CHILD PROTECTION OMBUDSMAN**
102 **PROGRAM.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

The bill establishes the child protection ombudsman program (program) as an independent program in the department of human services (state department) that shall be operated by the executive director of the state department (executive director) either directly or by contract with a private nonprofit or public agency or organization. The child

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
*Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

SENATE
3rd Reading Unamended
April 5, 2010

SENATE
Amended 2nd Reading
April 1, 2010

protection ombudsman (ombudsman) will direct the program.

The powers and duties of the ombudsman shall include:

- ! Reviewing and seeking resolution of complaints concerning child protection services made by or on behalf of a child, including requesting and reviewing information relating to the case;
- ! Evaluating and making recommendations for a statewide grievance policy; and
- ! Filing an annual report concerning the duties of the program and recommendations for improvements to the child protection system.

The powers and duties of the ombudsman may include:

- ! Reviewing issues raised by members of the community relating to child protection services and making recommendations for resolution of the issues;
- ! Helping to educate the public concerning the prevention of child maltreatment;
- ! Promoting best practices and effective programs relating to the child protection system; and
- ! Recommending statutory, regulatory, budgetary, and administrative changes to improve the child protection system.

The program will comply with all state and federal laws relating to the treatment of confidential information.

The ombudsman will act independently of the state department and the county departments of social services (county departments). Positions taken by the ombudsman may not reflect those of the state department or the county departments.

The ombudsman and employees of the program will have qualified immunity from suit and liability except in cases of willful and wanton misconduct.

Within 45 days after the effective date of the bill, the executive director shall appoint and convene an advisory work group to assist in developing a detailed plan for the design of the program (detailed plan), including the qualifications of the ombudsman. If the program is administered through a contract, the work group shall also advise the executive director concerning the criteria for the request for proposals issued for the contract. The work group may consist of members who represent county departments, mandatory reporters, families and children who have been involved with the child protection system, child protection advocates, members of the general assembly, and any other person with expertise in child protection. Members of the work group shall serve without compensation and at the pleasure of the executive director.

If the executive director is operating the program through a contract, within 30 days after completing the detailed plan for the

program, the executive director shall issue a request for proposals; except that the executive director shall not issue the request for proposals unless he or she determines that sufficient moneys are committed or available for awarding and implementing the contract for the program. The proposal submission period, the review of proposals, and the award of the contract shall be completed within 60 days after the issuance of the request for proposals.

The bill creates the child protection ombudsman program fund and authorizes the department to seek gifts, grants, and donations for the program.

The ombudsman will prepare and submit an annual report concerning the program to the executive director for review and comment, and the executive director will forward the report to the governor and to each member of the health and human services committees of the house of representatives and the senate.

At the beginning of the third year after implementation of the program, the state auditor's office will conduct a performance and fiscal audit of the program.

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

2 **SECTION 1.** Title 19, Colorado Revised Statutes, is amended BY
3 THE ADDITION OF A NEW ARTICLE to read:

4 **ARTICLE 3.3**

5 **Child Protection Ombudsman Program**

6 **19-3.3-101. Legislative declaration.** (1) THE GENERAL
7 ASSEMBLY FINDS AND DECLARES THAT:

8 (a) CHILD ABUSE AND NEGLECT IS A SERIOUS AND REPREHENSIBLE
9 PROBLEM IN SOCIETY;

10 (b) THE PROTECTION OF CHILDREN FROM ABUSE AND NEGLECT BY
11 APPLYING PREVENTION MEASURES AND OBSERVING BEST PRACTICES IN
12 TREATING CHILDREN WHO ARE ABUSED AND NEGLECTED MUST BE ONE OF
13 COLORADO'S HIGHEST PUBLIC POLICY PRIORITIES;

14 (c) THE CHILD PROTECTION SYSTEM MUST PROTECT AND SERVE
15 COLORADO'S CHILDREN IN A MANNER THAT KEEPS THEM SAFE AND

1 HEALTHY AND PROMOTES THEIR WELL-BEING;

2 (d) THE CHILDREN AND FAMILIES SERVED BY THE CHILD
3 PROTECTION SYSTEM, AS WELL AS THE PUBLIC, MUST HAVE A HIGH LEVEL
4 OF CONFIDENCE THAT THE SYSTEM WILL ACT IN A CHILD'S BEST INTERESTS
5 AND WILL RESPOND TO THE CHILD'S NEEDS IN A TIMELY AND PROFESSIONAL
6 MANNER;

7 (e) TO ENGENDER THIS HIGH LEVEL OF CONFIDENCE IN THE CHILD
8 PROTECTION SYSTEM, IT IS IMPORTANT THAT CHILDREN AND FAMILIES WHO
9 BECOME INVOLVED IN THE SYSTEM, MANDATORY REPORTERS, AND THE
10 GENERAL PUBLIC HAVE A WELL-PUBLICIZED, EASILY ACCESSIBLE, AND
11 TRANSPARENT GRIEVANCE PROCESS FOR VOICING CONCERNS REGARDING
12 THE CHILD PROTECTION SYSTEM ALONG WITH THE EXPECTATION THAT
13 THOSE CONCERNS, ONCE VOICED, WILL BE HEARD AND ADDRESSED IN A
14 TIMELY AND APPROPRIATE MANNER; AND

15 (f) TO IMPROVE CHILD PROTECTION OUTCOMES AND TO FOSTER
16 BEST PRACTICES, THERE MUST BE EFFECTIVE ACCOUNTABILITY
17 MECHANISMS, INCLUDING THE REVIEW AND EVALUATION OF CONCERNS
18 VOICED BY CHILDREN AND FAMILIES, MANDATORY REPORTERS, PERSONS
19 INVOLVED IN THE CHILD PROTECTION SYSTEM, AND MEMBERS OF THE
20 GENERAL PUBLIC, THAT PROVIDE POLICYMAKERS WITH THE INFORMATION
21 NECESSARY TO FORMULATE SYSTEMIC CHANGES, WHERE APPROPRIATE.

22 (2) THE GENERAL ASSEMBLY FURTHER FINDS AND DECLARES THAT
23 THE ESTABLISHMENT OF THE CHILD PROTECTION OMBUDSMAN PROGRAM
24 WILL:

25 (a) IMPROVE ACCOUNTABILITY AND TRANSPARENCY IN THE CHILD
26 PROTECTION SYSTEM AND PROMOTE BETTER OUTCOMES FOR CHILDREN
27 AND FAMILIES INVOLVED IN THE CHILD PROTECTION SYSTEM; AND

1 (b) ALLOW FAMILIES, CONCERNED CITIZENS, MANDATORY
2 REPORTERS, EMPLOYEES OF THE STATE DEPARTMENT AND COUNTY
3 DEPARTMENTS, AND OTHER PROFESSIONALS WHO WORK WITH CHILDREN
4 AND FAMILIES TO VOICE THEIR CONCERNS, WITHOUT FEAR OF REPRISAL,
5 ABOUT THE RESPONSE BY THE CHILD PROTECTION SYSTEM TO CHILDREN
6 EXPERIENCING, OR AT RISK OF EXPERIENCING, CHILD MALTREATMENT.

7 **19-3.3-102. Child protection ombudsman program -**
8 **independence of office - administrative rules.** (1) THE CHILD
9 PROTECTION OMBUDSMAN PROGRAM, REFERRED TO IN THIS ARTICLE AS
10 THE "PROGRAM", IS HEREBY ESTABLISHED IN THE STATE DEPARTMENT.
11 THE EXECUTIVE DIRECTOR SHALL ESTABLISH AND ADMINISTER THE
12 PROGRAM UNDER THE STATE DEPARTMENT BY CONTRACT WITH A
13 PUBLIC AGENCY OR OTHER APPROPRIATE PRIVATE NONPROFIT
14 ORGANIZATION.

15 (2) (a) THE HEAD OF THE CHILD PROTECTION OMBUDSMAN
16 PROGRAM SHALL BE KNOWN AS THE CHILD PROTECTION OMBUDSMAN,
17 REFERRED TO IN THIS ARTICLE AS THE "OMBUDSMAN". THE PROGRAM
18 SHALL BE OPERATED BY A FULL-TIME, QUALIFIED OMBUDSMAN WITH THE
19 PROFESSIONAL DESIGNATIONS AND QUALIFICATIONS DETERMINED
20 APPROPRIATE BY THE EXECUTIVE DIRECTOR AFTER CONSULTATION WITH
21 THE WORK GROUP CREATED PURSUANT TO SECTION 19-3.3-105.

22 (b) PURSUANT TO THE PROVISIONS OF SECTION 19-3.3-103, THE
23 OMBUDSMAN SHALL FACILITATE A PROCESS FOR INDEPENDENT, IMPARTIAL
24 REVIEW OF FAMILY AND COMMUNITY CONCERNS; REQUEST INDEPENDENT,
25 ACCURATE INFORMATION; AND, IF APPROPRIATE, CONDUCT CASE REVIEWS
26 TO HELP RESOLVE CHILD PROTECTION ISSUES.

27 (c) THE OMBUDSMAN SHALL ALSO BE A KEY ADVISOR CONCERNING

1 ISSUES RELATING TO CHILD SAFETY AND PROTECTION IN COLORADO BY
2 VIRTUE OF HIS OR HER RESPONSIBILITY AND AUTHORITY TO MAKE
3 ADVISORY RECOMMENDATIONS TO THE STATE DEPARTMENT, COUNTY
4 DEPARTMENTS, COUNTY COMMISSIONERS, THE GOVERNOR, AND THE
5 GENERAL ASSEMBLY BASED UPON THE OMBUDSMAN'S EXPERIENCE AND
6 EXPERTISE.

7 (3) THE EXECUTIVE DIRECTOR SHALL ADMINISTER THE CONTRACT
8 FOR THE PROGRAM INDEPENDENTLY OF THE DIVISIONS WITHIN THE STATE
9 DEPARTMENT THAT ARE RESPONSIBLE FOR CHILD WELFARE, YOUTH
10 CORRECTIONS, OR CHILD CARE.

11 (4) THE STATE DEPARTMENT SHALL DEVELOP POLICIES AND
12 PROCEDURES AND SHALL PROMULGATE IN ACCORDANCE WITH THE "STATE
13 ADMINISTRATIVE PROCEDURE ACT", ARTICLE 4 OF TITLE 24, C.R.S., ANY
14 RULES NECESSARY FOR THE IMPLEMENTATION, OPERATION, AND
15 ADMINISTRATION OF THE PROGRAM.

16 (5) THE EXECUTIVE DIRECTOR SHALL BE RESPONSIBLE FOR
17 OVERSEEING THE CONTRACT FOR THE PROGRAM AND SHALL PROVIDE
18 TRAINING AND OTHER ASSISTANCE TO THE OMBUDSMAN AND EMPLOYEES
19 OF THE PROGRAM TO ENSURE THAT THE PROGRAM OPERATES IN
20 COMPLIANCE WITH THE PROVISIONS OF THIS ARTICLE AND WITH THE
21 TERMS, PERFORMANCE MEASURES, AND ACCOUNTABILITY REQUIREMENTS
22 IN THE CONTRACT, AS WELL AS STATE AND FEDERAL LAWS RELATING TO
23 THE CHILD WELFARE SYSTEM.

24 (6) SUBJECT TO THE PROVISIONS OF ANY CONTRACT AWARDED
25 PURSUANT TO SECTION 19-3.3-106, THE STATE DEPARTMENT SHALL
26 PROVIDE FOR THE AVAILABILITY OF LEGAL COUNSEL TO THE OMBUDSMAN
27 FOR THE PURPOSE OF LEGAL ADVICE CONCERNING PERFORMING THE DUTIES

1 OF THE OMBUDSMAN, AND MAY PROVIDE FOR LEGAL REPRESENTATION OF
2 THE OMBUDSMAN IN ANY ACTION BROUGHT AGAINST THE OMBUDSMAN IN
3 CONNECTION WITH THE DUTIES OF THE OMBUDSMAN PURSUANT TO THIS
4 ARTICLE.

5 **19-3.3-103. Child protection ombudsman program - powers**
6 **and duties - access to information - confidentiality - testimony.** (1) IN
7 ADDITION TO ANY OTHER DUTIES SPECIFIED IN THE DETAILED PLAN FOR
8 THE PROGRAM DEVELOPED PURSUANT TO SECTION 19-3.3-105, THE
9 OMBUDSMAN SHALL HAVE THE FOLLOWING DUTIES:

10 (a) (I) (A) TO RECEIVE COMPLAINTS CONCERNING CHILD
11 PROTECTION SERVICES MADE BY OR ON BEHALF OF A CHILD RELATING TO
12 ANY ACTION, INACTION, OR DECISION OF ANY PUBLIC AGENCY OR ANY
13 PROVIDER THAT RECEIVES PUBLIC MONEYS THAT MAY ADVERSELY AFFECT
14 THE SAFETY, PERMANENCY, AND WELL-BEING OF THE CHILD. THE
15 OMBUDSMAN MAY INVESTIGATE AND SEEK RESOLUTION OF SUCH
16 COMPLAINTS, WHICH RESOLUTION MAY INCLUDE, BUT NEED NOT BE
17 LIMITED TO, REFERRING A COMPLAINT TO THE STATE DEPARTMENT OR
18 APPROPRIATE AGENCY OR ENTITY AND MAKING A RECOMMENDATION FOR
19 ACTION RELATING TO A COMPLAINT.

20 (B) THE OMBUDSMAN SHALL TREAT ALL COMPLAINTS RECEIVED
21 PURSUANT TO SUB-SUBPARAGRAPH (A) OF THIS SUBPARAGRAPH (I) AS
22 CONFIDENTIAL, INCLUDING THE IDENTITIES OF COMPLAINANTS AND
23 INDIVIDUALS FROM WHOM INFORMATION IS ACQUIRED; EXCEPT THAT
24 DISCLOSURES MAY BE PERMITTED IF THE OMBUDSMAN DEEMS IT
25 NECESSARY TO ENABLE THE OMBUDSMAN TO PERFORM HIS OR HER DUTIES
26 AND TO SUPPORT ANY RECOMMENDATIONS RESULTING FROM AN
27 INVESTIGATION. RECORDS RELATING TO COMPLAINTS RECEIVED BY THE

1 PROGRAM AND THE INVESTIGATION OF COMPLAINTS ARE EXEMPT FROM
2 PUBLIC DISCLOSURE PURSUANT TO ARTICLE 72 OF TITLE 24, C.R.S.

3 (II) (A) IN INVESTIGATING A COMPLAINT, THE OMBUDSMAN SHALL
4 HAVE THE AUTHORITY TO REQUEST AND REVIEW ANY INFORMATION,
5 RECORDS, OR DOCUMENTS, INCLUDING RECORDS OF THIRD PARTIES, THAT
6 THE OMBUDSMAN DEEMS NECESSARY TO CONDUCT A THOROUGH AND
7 INDEPENDENT REVIEW OF A COMPLAINT SO LONG AS EITHER THE STATE
8 DEPARTMENT OR A COUNTY DEPARTMENT WOULD BE ENTITLED TO ACCESS
9 OR RECEIVE SUCH INFORMATION, RECORDS, OR DOCUMENTS.

10 (B) NOTHING IN THE PROVISIONS OF SUB-SUBPARAGRAPH (A) OF
11 THIS SUBPARAGRAPH (II) SHALL BE CONSTRUED TO GRANT SUBPOENA
12 POWER TO THE OMBUDSMAN FOR PURPOSES OF INVESTIGATING A
13 COMPLAINT PURSUANT TO SUB-SUBPARAGRAPH (A) OF SUBPARAGRAPH (I)
14 OF THIS PARAGRAPH (a)

15 (III) THE OMBUDSMAN SHALL REFER ANY COMPLAINTS RELATING
16 TO THE JUDICIAL DEPARTMENT AND JUDICIAL PROCEEDINGS, INCLUDING
17 BUT NOT LIMITED TO COMPLAINTS CONCERNING THE CONDUCT OF JUDICIAL
18 OFFICERS OR ATTORNEYS OF RECORD, JUDICIAL DETERMINATIONS, AND
19 COURT PROCESSES AND PROCEDURES TO THE APPROPRIATE ENTITY OR
20 AGENCY WITHIN THE JUDICIAL DEPARTMENT.

21 (b) TO EVALUATE AND MAKE A RECOMMENDATION TO THE
22 EXECUTIVE DIRECTOR AND ANY APPROPRIATE AGENCY OR ENTITY FOR THE
23 CREATION OF A STATEWIDE GRIEVANCE POLICY THAT IS ACCESSIBLE BY
24 CHILDREN AND FAMILIES WITHIN THE CHILD PROTECTION SYSTEM AND
25 THAT IS TRANSPARENT AND ACCOUNTABLE; AND

26 (c) TO REPORT AT LEAST ANNUALLY, PURSUANT TO SECTION
27 19-3.3-108, CONCERNING THE ACTIONS TAKEN BY THE OMBUDSMAN WITH

1 RESPECT TO THE GOALS AND DUTIES OF THE PROGRAM.

2 (2) IN ADDITION TO ANY OTHER DUTIES SPECIFIED IN THE DETAILED
3 PLAN FOR THE PROGRAM DEVELOPED PURSUANT TO SECTION 19-3.3-105,
4 THE OMBUDSMAN SHALL HAVE THE FOLLOWING POWERS:

5 (a) TO REVIEW ISSUES RAISED BY MEMBERS OF THE COMMUNITY
6 RELATING TO CHILD PROTECTION POLICIES OR PROCEDURES AND MAKE
7 RECOMMENDATIONS TO THE APPROPRIATE AGENCY OR ENTITY
8 CONCERNING THOSE ISSUES;

9 (b) TO REVIEW AND EVALUATE THE EFFECTIVENESS AND
10 EFFICIENCY OF ANY EXISTING GRIEVANCE RESOLUTION MECHANISMS AND
11 TO MAKE RECOMMENDATIONS TO THE EXECUTIVE DIRECTOR AND ANY
12 APPROPRIATE AGENCY OR ENTITY FOR THE IMPROVEMENT OF THE
13 GRIEVANCE RESOLUTION MECHANISMS;

14 (c) TO HELP EDUCATE THE PUBLIC CONCERNING CHILD
15 MALTREATMENT AND THE ROLE OF THE COMMUNITY IN STRENGTHENING
16 FAMILIES AND KEEPING CHILDREN SAFE;

17 (d) TO PROMOTE BEST PRACTICES AND EFFECTIVE PROGRAMS
18 RELATING TO A PUBLICLY FUNDED CHILD PROTECTION SYSTEM AND TO
19 WORK COLLABORATIVELY WITH COUNTY DEPARTMENTS, WHEN
20 APPROPRIATE, REGARDING IMPROVEMENT OF PROCESSES; AND

21 (e) TO RECOMMEND TO THE EXECUTIVE DIRECTOR AND ANY
22 APPROPRIATE AGENCY OR ENTITY STATUTORY, BUDGETARY, REGULATORY,
23 AND ADMINISTRATIVE CHANGES, INCLUDING SYSTEMIC CHANGES, TO
24 IMPROVE THE SAFETY OF AND PROMOTE BETTER OUTCOMES FOR CHILDREN
25 AND FAMILIES RECEIVING CHILD PROTECTION SERVICES IN COLORADO.

26 (3) AN AGENCY OR ORGANIZATION THAT IS AWARDED THE
27 CONTRACT FOR THE OPERATION OF THE PROGRAM, THE OMBUDSMAN,

1 EMPLOYEES OF THE PROGRAM, AND ANY PERSONS ACTING ON BEHALF OF
2 THE PROGRAM SHALL COMPLY WITH ALL STATE AND FEDERAL
3 CONFIDENTIALITY LAWS THAT GOVERN THE STATE DEPARTMENT OR A
4 COUNTY DEPARTMENT WITH RESPECT TO THE TREATMENT OF
5 CONFIDENTIAL INFORMATION OR RECORDS AND THE DISCLOSURE OF SUCH
6 INFORMATION AND RECORDS.

7 (4) NOTHING IN THIS ARTICLE SHALL BE CONSTRUED TO DIRECT OR
8 AUTHORIZE THE OMBUDSMAN TO INTERVENE IN ANY CRIMINAL OR CIVIL
9 JUDICIAL PROCEEDING OR TO INTERFERE IN A CRIMINAL INVESTIGATION.

10 (5) THE OMBUDSMAN SHALL ACT INDEPENDENTLY OF THE
11 DIVISIONS WITHIN THE STATE DEPARTMENT THAT ARE RESPONSIBLE FOR
12 CHILD WELFARE, YOUTH CORRECTIONS, OR CHILD CARE AND OF THE
13 COUNTY DEPARTMENTS IN THE PERFORMANCE OF HIS OR HER DUTIES. ANY
14 RECOMMENDATIONS MADE BY THE OMBUDSMAN OR POSITIONS TAKEN BY
15 THE OMBUDSMAN DO NOT NECESSARILY REFLECT THOSE OF THE STATE
16 DEPARTMENT OR OF THE COUNTY DEPARTMENTS.

17 **19-3.3-104. Qualified immunity.** THE OMBUDSMAN AND
18 EMPLOYEES OR PERSONS ACTING ON BEHALF OF THE PROGRAM SHALL BE
19 IMMUNE FROM SUIT AND LIABILITY, EITHER PERSONALLY OR IN THEIR
20 OFFICIAL CAPACITIES, FOR ANY CLAIM FOR DAMAGE TO OR LOSS OF
21 PROPERTY, OR FOR PERSONAL INJURY OR OTHER CIVIL LIABILITY CAUSED
22 BY OR ARISING OUT OF ANY ACTUAL OR ALLEGED ACT, ERROR, OR OMISSION
23 THAT OCCURRED WITHIN THE SCOPE OF EMPLOYMENT, DUTIES, OR
24 RESPONSIBILITIES PERTAINING TO THE PROGRAM, INCLUDING BUT NOT
25 LIMITED TO ISSUING REPORTS OR RECOMMENDATIONS; EXCEPT THAT
26 NOTHING IN THIS SECTION SHALL BE CONSTRUED TO PROTECT SUCH
27 PERSONS FROM SUIT OR LIABILITY FOR DAMAGE, LOSS, INJURY, OR

1 LIABILITY CAUSED BY THE INTENTIONAL OR WILLFUL AND WANTON
2 MISCONDUCT OF ANY SUCH PERSON.

3 **19-3.3-105. Selection of advisory work group - development of**
4 **detailed plan.** (1) WITHIN FORTY-FIVE DAYS AFTER THE EFFECTIVE DATE
5 OF THIS ARTICLE, THE EXECUTIVE DIRECTOR SHALL CONVENE A
6 VOLUNTARY WORK GROUP, REFERRED TO IN THIS ARTICLE AS THE "WORK
7 GROUP". THE WORK GROUP SHALL BE SELECTED PURSUANT TO SUBSECTION
8 (2) OF THIS SECTION AND SHALL CONSIST OF PERSONS WITH EXPERTISE IN
9 ISSUES RELATING TO THE PUBLICLY FUNDED CHILD PROTECTION SYSTEM
10 AND INTEREST IN ASSISTING AND ADVISING THE EXECUTIVE DIRECTOR WITH
11 RESPECT TO THE DEVELOPMENT OF A DETAILED PLAN, REFERRED TO IN THIS
12 ARTICLE AS THE "DETAILED PLAN", FOR THE ESTABLISHMENT AND
13 OPERATION OF THE PROGRAM.

14 (2) (a) THE PRESIDENT OF THE SENATE AND THE MINORITY LEADER
15 OF THE HOUSE OF REPRESENTATIVES SHALL EACH SELECT ONE MEMBER
16 FROM THEIR RESPECTIVE CHAMBERS TO SERVE ON THE WORK GROUP. THE
17 REMAINING MEMBERS SHALL BE SELECTED BY THE GOVERNOR. THE WORK
18 GROUP MAY INCLUDE REPRESENTATION FROM COUNTY DEPARTMENTS, THE
19 JUDICIAL DEPARTMENT, MANDATORY REPORTERS, SERVICE PROVIDERS,
20 PERSONS OR FAMILY MEMBERS OF PERSONS WHO HAVE HAD PRIOR
21 INVOLVEMENT AS CHILDREN WITH THE CHILD WELFARE SYSTEM, CHILD
22 PROTECTION ADVOCATES, LAW ENFORCEMENT AGENCIES, AND ANY
23 OTHER PERSONS THE EXECUTIVE DIRECTOR SELECTS BY VIRTUE OF THEIR
24 EXPERTISE CONCERNING THE CHILD PROTECTION SYSTEM.

25 (b) THE GOVERNOR SHALL ESTABLISH A PROCESS BY WHICH
26 PERSONS INTERESTED IN PARTICIPATING IN THE WORK GROUP MAY SUBMIT
27 LETTERS OF INTEREST TO THE GOVERNOR. POTENTIAL MEMBERS OF THE

1 WORK GROUP SHALL ADVISE THE GOVERNOR OF ANY CONFLICTS OF
2 INTEREST THAT THEY MAY HAVE WITH RESPECT TO PARTICIPATING IN THE
3 WORK GROUP. THE MEMBERSHIP OF THE WORK GROUP SHALL, TO THE
4 EXTENT PRACTICABLE, INCLUDE PERSONS FROM THROUGHOUT THE STATE
5 AND REFLECT THE ETHNIC DIVERSITY OF THE STATE, AND MEMBERS OF THE
6 WORK GROUP SHALL PARTICIPATE IN THE WORK GROUP WITHOUT
7 COMPENSATION. THE MEMBERS OF THE WORK GROUP SHALL SERVE AT THE
8 PLEASURE OF THE EXECUTIVE DIRECTOR.

9 (3) THE EXECUTIVE DIRECTOR, OR HIS OR HER DESIGNEE, MAY
10 CONVENE THE WORK GROUP WITHOUT ALL MEMBERS PRESENT AND MAY
11 ORGANIZE SUBCOMMITTEES CONSISTING OF WORK GROUP MEMBERS AND
12 ANY OTHER PERSONS INVITED TO PARTICIPATE BY THE EXECUTIVE
13 DIRECTOR.

14 (4) WITHIN NINETY DAYS AFTER THE WORK GROUP IS INITIALLY
15 CONVENED, THE EXECUTIVE DIRECTOR, WITH THE ASSISTANCE OF THE
16 WORK GROUP, SHALL COMPLETE A WRITTEN, DETAILED PLAN FOR THE
17 ESTABLISHMENT AND OPERATION OF THE PROGRAM THAT SHALL INCLUDE,
18 BUT NEED NOT BE LIMITED TO, THE POWERS AND DUTIES OF THE PROGRAM
19 AS PROVIDED IN SECTION 19-3.3-103, THE QUALIFICATIONS AND
20 PROFESSIONAL DESIGNATIONS APPROPRIATE FOR THE OMBUDSMAN, AND
21 SPECIFIC PERFORMANCE BENCHMARKS FOR THE PROGRAM. UPON
22 COMPLETION OF THE DETAILED PLAN, THE EXECUTIVE DIRECTOR SHALL
23 PROVIDE A COPY OF THE DETAILED PLAN TO THE HEALTH AND HUMAN
24 SERVICES COMMITTEES OF THE SENATE AND THE HOUSE OF
25 REPRESENTATIVES, OR ANY SUCCESSOR COMMITTEES, AND SHALL POST THE
26 DETAILED PLAN ON THE WEB SITE OF THE STATE DEPARTMENT. THE
27 MEMBERS OF THE WORK GROUP SHALL ALSO ADVISE THE EXECUTIVE

1 DIRECTOR WITH RESPECT TO THE LENGTH OF THE CONTRACT AND THE
2 CRITERIA FOR THE REQUEST FOR PROPOSALS RELATING TO THE CONTRACT
3 FOR THE OPERATION OF THE PROGRAM. THE WORK GROUP IS ENCOURAGED
4 TO CONSIDER A MULTIPLE-YEAR CONTRACT FOR THE OPERATION OF THE
5 PROGRAM.

6
7 **19-3.3-106. Award of contract.** (1) (a) SUBJECT TO THE
8 PROVISIONS OF SUBSECTION (2) OF THIS SECTION, WITHIN THIRTY DAYS
9 AFTER COMPLETION OF THE DETAILED PLAN PURSUANT TO SECTION
10 19-3.3-105, THE EXECUTIVE DIRECTOR, IN ACCORDANCE WITH THE
11 "PROCUREMENT CODE", ARTICLES 101 TO 112 OF TITLE 24, C.R.S., SHALL
12 ISSUE THE REQUEST FOR PROPOSALS FOR THE ADMINISTRATION OF THE
13 PROGRAM. THE PROPOSAL SUBMISSION PERIOD, THE REVIEW OF
14 SUBMISSIONS, AND THE AWARD OF THE CONTRACT SHALL BE COMPLETED
15 WITHIN SIXTY DAYS AFTER THE ISSUANCE OF THE REQUEST FOR PROPOSALS.

16 (b) THE REQUEST FOR PROPOSALS SHALL INCLUDE LANGUAGE
17 PROHIBITING THE AWARD OF THE CONTRACT TO A CONTRACTOR WHO WILL
18 CONTINUE TO BE INVOLVED IN PROVIDING CHILD PROTECTION SERVICES OR
19 INVOLVED IN THE LEGAL REPRESENTATION OF CHILDREN AFTER THE AWARD
20 OF THE CONTRACT OR WHO HAS ANY OTHER CONFLICT OF INTEREST OR WHO
21 IS UNABLE TO INDEPENDENTLY AND IMPARTIALLY PERFORM THE DUTIES OF
22 THE PROGRAM.

23 (2) (a) NOTWITHSTANDING ANY PROVISIONS OF THIS ARTICLE TO
24 THE CONTRARY, THE EXECUTIVE DIRECTOR SHALL NOT AWARD A
25 CONTRACT FOR THE OPERATION OF THE PROGRAM UNTIL SUCH TIME AS
26 THE EXECUTIVE DIRECTOR DETERMINES THAT SUFFICIENT MONEYS ARE
27 AVAILABLE OR HAVE BEEN COMMITTED FOR THE OPERATION OF THE

1 PROGRAM.

2 (b) IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT THE
3 MONEYS NECESSARY TO OPERATE THE PROGRAM SHALL NOT BE
4 APPROPRIATED FROM THE GENERAL FUND IN FISCAL YEARS 2010-11 OR
5 2011-12.

6 **19-3.3-107. Child protection ombudsman program fund -**
7 **created.** (1) THERE IS HEREBY CREATED IN THE STATE TREASURY THE
8 CHILD PROTECTION OMBUDSMAN PROGRAM FUND, REFERRED TO IN THIS
9 ARTICLE AS THE "FUND". THE FUND SHALL CONSIST OF ANY MONEYS THAT
10 MAY BE APPROPRIATED TO THE FUND BY THE GENERAL ASSEMBLY AND ANY
11 GIFTS, GRANTS, OR DONATIONS THAT MAY BE CREDITED TO THE FUND
12 PURSUANT TO SUBSECTION (2) OF THIS SECTION.

13 (2) THE STATE DEPARTMENT IS AUTHORIZED TO SEEK, ACCEPT, AND
14 EXPEND GIFTS, GRANTS, OR DONATIONS FROM PRIVATE OR PUBLIC SOURCES
15 FOR THE PURPOSES OF THIS ARTICLE; EXCEPT THAT THE STATE
16 DEPARTMENT MAY NOT ACCEPT A GIFT, GRANT, OR DONATION THAT
17 CREATES THE APPEARANCE OF IMPROPRIETY, THAT THE EXECUTIVE
18 DIRECTOR DETERMINES IS CONTRARY TO THE BEST INTERESTS OF THE
19 PROGRAM, OR THAT IS SUBJECT TO CONDITIONS THAT ARE INCONSISTENT
20 WITH THIS ARTICLE OR ANY OTHER STATE OR FEDERAL LAW. THE STATE
21 DEPARTMENT SHALL TRANSMIT ALL PRIVATE AND PUBLIC MONEYS
22 RECEIVED THROUGH GIFTS, GRANTS, OR DONATIONS TO THE STATE
23 TREASURER, WHO SHALL CREDIT THE SAME TO THE FUND.

24 (3) THE MONEYS IN THE FUND ARE CONTINUOUSLY APPROPRIATED
25 TO THE STATE DEPARTMENT FOR THE DIRECT AND INDIRECT COSTS
26 ASSOCIATED WITH IMPLEMENTING THIS ARTICLE; EXCEPT THAT ANY
27 MONEYS APPROPRIATED TO THE FUND PURSUANT TO SUBSECTION (1) OF

1 THIS SECTION SHALL BE SUBJECT TO ANNUAL APPROPRIATION BY THE
2 GENERAL ASSEMBLY TO THE STATE DEPARTMENT. THE STATE
3 DEPARTMENT MAY ANNUALLY EXPEND NO MORE THAN TEN PERCENT OF
4 THE MONEYS ANNUALLY CREDITED TO THE FUND TO OFFSET THE
5 ADMINISTRATIVE COSTS INCURRED IN IMPLEMENTING THIS ARTICLE.

6 (4) ANY MONEYS IN THE FUND NOT EXPENDED FOR THE PURPOSES
7 OF THIS ARTICLE MAY BE INVESTED BY THE STATE TREASURER AS
8 PROVIDED BY LAW. ALL INTEREST AND INCOME DERIVED FROM THE
9 INVESTMENT AND DEPOSIT OF MONEYS IN THE FUND SHALL BE CREDITED TO
10 THE FUND. ANY UNEXPENDED AND UNENCUMBERED MONEYS REMAINING
11 IN THE FUND AT THE END OF A FISCAL YEAR SHALL REMAIN IN THE FUND
12 AND SHALL NOT REVERT OR BE CREDITED OR TRANSFERRED TO THE
13 GENERAL FUND OR TO ANOTHER FUND.

14 **19-3.3-108. Child protection ombudsman program - annual**
15 **report.** (1) ON OR BEFORE SEPTEMBER 1 OF EACH YEAR, COMMENCING
16 WITH THE SEPTEMBER 1 FOLLOWING THE FIRST FISCAL YEAR IN WHICH THE
17 PROGRAM IS IMPLEMENTED, THE OMBUDSMAN SHALL PREPARE A WRITTEN
18 REPORT THAT SHALL INCLUDE, BUT NEED NOT BE LIMITED TO,
19 INFORMATION FROM THE PRECEDING FISCAL YEAR AND ANY
20 RECOMMENDATIONS CONCERNING THE FOLLOWING:

21 (a) ACTIONS TAKEN BY THE OMBUDSMAN RELATING TO THE DUTIES
22 OF THE PROGRAM SET FORTH IN SECTION 19-3.3-103;

23 (b) STATUTORY, REGULATORY, BUDGETARY, OR ADMINISTRATIVE
24 CHANGES RELATING TO CHILD PROTECTION, INCLUDING SYSTEMIC
25 CHANGES, TO IMPROVE THE SAFETY OF AND PROMOTE BETTER OUTCOMES
26 FOR CHILDREN AND FAMILIES RECEIVING CHILD WELFARE SERVICES IN
27 COLORADO.

1 (2) THE OMBUDSMAN SHALL TRANSMIT THE ANNUAL REPORT TO
2 THE EXECUTIVE DIRECTOR FOR REVIEW AND COMMENT. THE EXECUTIVE
3 DIRECTOR SHALL DISTRIBUTE THE REPORT TO THE GOVERNOR AND TO THE
4 HEALTH AND HUMAN SERVICES COMMITTEES OF THE HOUSE OF
5 REPRESENTATIVES AND OF THE SENATE, OR ANY SUCCESSOR COMMITTEES.
6 THE OMBUDSMAN SHALL PRESENT THE REPORT TO THE HEALTH AND
7 HUMAN SERVICES COMMITTEES OF THE HOUSE OF REPRESENTATIVES AND
8 OF THE SENATE, OR ANY SUCCESSOR COMMITTEES, UPON REQUEST OF
9 THOSE COMMITTEES.

10 (3) THE STATE DEPARTMENT SHALL POST THE ANNUAL REPORT
11 ISSUED BY THE OMBUDSMAN TO THE WEB SITE OF THE STATE DEPARTMENT.

12 **19-3.3-109. Review by the state auditor's office.** THE STATE
13 AUDITOR SHALL CONDUCT OR CAUSE TO BE CONDUCTED A PERFORMANCE
14 AND FISCAL AUDIT OF THE PROGRAM AT THE BEGINNING OF THE THIRD
15 YEAR OF OPERATION OF THE PROGRAM, OR PURSUANT TO THE TIME FRAME
16 RECOMMENDED IN THE DETAILED PLAN DEVELOPED PURSUANT TO SECTION
17 19-3.3-105, WHICHEVER DATE IS SOONER. THEREAFTER, AT THE
18 DISCRETION OF THE LEGISLATIVE AUDIT COMMITTEE, THE STATE AUDITOR
19 SHALL CONDUCT OR CAUSE TO BE CONDUCTED A PERFORMANCE AND
20 FISCAL AUDIT OF THE PROGRAM.

21 **SECTION 2.** 19-1-103 (32) and (103), Colorado Revised Statutes,
22 are amended, and the said 19-1-103 is further amended BY THE
23 ADDITION OF A NEW SUBSECTION, to read:

24 **19-1-103. Definitions.** As used in this title or in the specified
25 portion of this title, unless the context otherwise requires:

26 (32) (a) "County department", as used in this article and part 2,
27 part 3, and part 7 of article 3 of this title and part 2 of article 5 of this title,

1 means the county or district department of social services.

2 (b) "County department", as used in section 19-3-211 AND IN
3 ARTICLE 3.3 OF THIS TITLE, means a county or a city and county
4 department of social services.

5 ==
6 (47.5) "EXECUTIVE DIRECTOR", AS USED IN ARTICLE 3.3 OF THIS
7 TITLE, MEANS THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF HUMAN
8 SERVICES.

9 (103) "State department", as used in section 19-3-211, and part 3
10 of article 3 of this title, AND ARTICLE 3.3 OF THIS TITLE, means the
11 department of human services created by section 24-1-120, C.R.S.

12 **SECTION 3.** 19-1-307 (2), Colorado Revised Statutes, is
13 amended BY THE ADDITION OF A NEW PARAGRAPH to read:

14 **19-1-307. Dependency and neglect records and information -**
15 **access - fee - rules - records and reports fund - misuse of information**
16 **- penalty. (2) Records and reports - access to certain persons -**
17 **agencies.** Except as otherwise provided in section 19-1-303, only the
18 following persons or agencies shall be given access to child abuse or
19 neglect records and reports:

20 (u) THE CHILD PROTECTION OMBUDSMAN PROGRAM CREATED IN
21 SECTION 19-3.3-102, WHEN CONDUCTING AN INVESTIGATION PURSUANT TO
22 ARTICLE 3.3 OF THIS TITLE.

23 **SECTION 4.** 19-3-304 (2), Colorado Revised Statutes, is
24 amended BY THE ADDITION OF A NEW PARAGRAPH to read:

25 **19-3-304. Persons required to report child abuse or neglect.**
26 **(2) Persons required to report such abuse or neglect or circumstances or**
27 **conditions shall include any:**

1 (gg) THE CHILD PROTECTION OMBUDSMAN AS CREATED IN ARTICLE
2 3.3 OF THIS TITLE.

3 **SECTION 5. Safety clause.** The general assembly hereby finds,
4 determines, and declares that this act is necessary for the immediate
5 preservation of the public peace, health, and safety.