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SENATE BILL 10-171

BY SENATOR(S) Newell, Bacon, Boyd, Heath, Hodge, Hudak, Keller, Kester, Lundberg, Morse, Penry, Romer, Shaffer B., Spence, Steadman, Williams, Carroll M., Foster, Sandoval, Schwartz, Tochtrop, Whitehead; also REPRESENTATIVE(S) Gagliardi, Acree, Casso, DelGrosso, Ferrandino, Frangas, Hullinghorst, Kefalas, Kerr J., Labuda, Levy, McNulty, Middleton, Nikkel, Primavera, Rice, Ryden, Scanlan, Todd, Tyler, Apuan, Court, Curry, Fischer, Gardner C., Kagan, Kerr A., McFadyen, Pace, Schafer S., Weissmann, Carroll T.

CONCERNING THE CREATION OF A CHILD PROTECTION OMBUDSMAN PROGRAM, AND MAKING AN APPROPRIATION THEREFOR.

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

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

ARTICLE 3.3
Child Protection Ombudsman Program

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

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

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

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

(c) THE CHILD PROTECTION SYSTEM MUST PROTECT AND SERVE COLORADO'S CHILDREN IN A MANNER THAT KEEPS THEM SAFE AND HEALTHY AND PROMOTES THEIR WELL-BEING;

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

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

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

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

(a) IMPROVE ACCOUNTABILITY AND TRANSPARENCY IN THE CHILD PROTECTION SYSTEM AND PROMOTE BETTER OUTCOMES FOR CHILDREN AND

FAMILIES INVOLVED IN THE CHILD PROTECTION SYSTEM; AND

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

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

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

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

(c) THE OMBUDSMAN SHALL ALSO BE A KEY ADVISOR CONCERNING ISSUES RELATING TO CHILD SAFETY AND PROTECTION IN COLORADO BY VIRTUE OF HIS OR HER RESPONSIBILITY AND AUTHORITY TO MAKE ADVISORY RECOMMENDATIONS TO THE STATE DEPARTMENT, COUNTY DEPARTMENTS, COUNTY COMMISSIONERS, THE GOVERNOR, AND THE GENERAL ASSEMBLY BASED UPON THE OMBUDSMAN'S EXPERIENCE AND EXPERTISE.

(3) THE EXECUTIVE DIRECTOR SHALL ADMINISTER THE CONTRACT FOR THE PROGRAM INDEPENDENTLY OF THE DIVISIONS WITHIN THE STATE

DEPARTMENT THAT ARE RESPONSIBLE FOR CHILD WELFARE, YOUTH CORRECTIONS, OR CHILD CARE.

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

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

(6) SUBJECT TO THE PROVISIONS OF ANY CONTRACT AWARDED PURSUANT TO SECTION 19-3.3-106, AND SUBJECT TO AVAILABLE APPROPRIATIONS FOR THE PROGRAM, THE STATE DEPARTMENT SHALL PROVIDE FOR THE AVAILABILITY OF LEGAL COUNSEL TO THE OMBUDSMAN FOR THE PURPOSE OF LEGAL ADVICE CONCERNING PERFORMING THE DUTIES OF THE OMBUDSMAN, AND MAY PROVIDE FOR LEGAL REPRESENTATION OF THE OMBUDSMAN IN ANY ACTION BROUGHT AGAINST THE OMBUDSMAN IN CONNECTION WITH THE DUTIES OF THE OMBUDSMAN PURSUANT TO THIS ARTICLE.

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

(a) (I) (A) TO RECEIVE COMPLAINTS CONCERNING CHILD PROTECTION SERVICES 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 MONEYS THAT MAY ADVERSELY AFFECT THE SAFETY, PERMANENCY, AND WELL-BEING OF THE CHILD. THE OMBUDSMAN MAY INVESTIGATE AND SEEK RESOLUTION OF SUCH COMPLAINTS, WHICH

RESOLUTION 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 SUB-SUBPARAGRAPH (A) OF THIS SUBPARAGRAPH (I) 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 HIS OR HER DUTIES AND TO SUPPORT ANY RECOMMENDATIONS RESULTING FROM AN INVESTIGATION. RECORDS RELATING TO COMPLAINTS RECEIVED BY THE PROGRAM AND THE INVESTIGATION OF COMPLAINTS ARE EXEMPT FROM PUBLIC DISCLOSURE PURSUANT TO ARTICLE 72 OF TITLE 24, C.R.S.

(II) (A) IN INVESTIGATING A COMPLAINT, THE OMBUDSMAN SHALL HAVE THE AUTHORITY TO REQUEST 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) NOTHING IN THE PROVISIONS OF SUB-SUBPARAGRAPH (A) OF THIS SUBPARAGRAPH (II) SHALL BE CONSTRUED TO GRANT SUBPOENA POWER TO THE OMBUDSMAN FOR PURPOSES OF INVESTIGATING A COMPLAINT PURSUANT TO SUB-SUBPARAGRAPH (A) OF SUBPARAGRAPH (I) OF THIS PARAGRAPH (a).

(III) 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.

(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 SECTION 19-3.3-108, CONCERNING THE ACTIONS TAKEN BY THE OMBUDSMAN WITH RESPECT TO THE GOALS AND DUTIES OF THE PROGRAM.

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

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

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

(d) 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) TO RECOMMEND TO 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.

(3) AN AGENCY OR ORGANIZATION THAT IS AWARDED THE CONTRACT FOR THE OPERATION OF THE PROGRAM, THE OMBUDSMAN, EMPLOYEES OF THE PROGRAM, AND ANY PERSONS ACTING ON BEHALF OF THE PROGRAM SHALL COMPLY WITH ALL STATE AND FEDERAL CONFIDENTIALITY LAWS THAT

GOVERN 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 THE OMBUDSMAN TO INTERVENE IN ANY CRIMINAL OR CIVIL JUDICIAL PROCEEDING OR TO INTERFERE IN A CRIMINAL INVESTIGATION.

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

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

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

OPERATION OF THE PROGRAM.

(2) (a) THE PRESIDENT OF THE SENATE AND THE MINORITY LEADER OF THE HOUSE OF REPRESENTATIVES SHALL EACH SELECT ONE MEMBER FROM THEIR RESPECTIVE CHAMBERS TO SERVE ON THE WORK GROUP. THE REMAINING MEMBERS SHALL BE SELECTED BY THE GOVERNOR. THE WORK GROUP MAY INCLUDE REPRESENTATION FROM COUNTY DEPARTMENTS, COUNTY ATTORNEYS, COUNTY COMMISSIONERS, THE JUDICIAL DEPARTMENT, MANDATORY REPORTERS, SERVICE PROVIDERS, PERSONS OR FAMILY MEMBERS OF PERSONS WHO HAVE HAD PRIOR INVOLVEMENT AS CHILDREN WITH THE CHILD WELFARE SYSTEM, CHILD PROTECTION ADVOCATES, AND LAW ENFORCEMENT AGENCIES.

(b) THE GOVERNOR SHALL ESTABLISH A PROCESS BY WHICH PERSONS INTERESTED IN PARTICIPATING IN THE WORK GROUP MAY SUBMIT LETTERS OF INTEREST TO THE GOVERNOR. POTENTIAL MEMBERS OF THE WORK GROUP SHALL ADVISE THE GOVERNOR OF ANY CONFLICTS OF INTEREST THAT THEY MAY HAVE WITH RESPECT TO PARTICIPATING IN THE WORK GROUP. THE MEMBERSHIP OF THE WORK GROUP SHALL, TO THE EXTENT PRACTICABLE, INCLUDE PERSONS FROM THROUGHOUT THE STATE AND REFLECT THE ETHNIC DIVERSITY OF THE STATE, AND MEMBERS OF THE WORK GROUP SHALL PARTICIPATE IN THE WORK GROUP WITHOUT COMPENSATION.

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

(4) WITHIN NINETY DAYS AFTER THE WORK GROUP IS INITIALLY CONVENEED, THE EXECUTIVE DIRECTOR, WITH THE ASSISTANCE OF THE WORK GROUP, SHALL COMPLETE A WRITTEN, DETAILED PLAN FOR THE ESTABLISHMENT AND OPERATION OF THE PROGRAM THAT SHALL INCLUDE, BUT NEED NOT BE LIMITED TO, THE POWERS AND DUTIES OF THE PROGRAM AS PROVIDED IN SECTION 19-3.3-103, THE QUALIFICATIONS AND PROFESSIONAL DESIGNATIONS APPROPRIATE FOR THE OMBUDSMAN, AND SPECIFIC PERFORMANCE BENCHMARKS FOR THE PROGRAM. UPON COMPLETION OF THE DETAILED PLAN, THE EXECUTIVE DIRECTOR SHALL PROVIDE A COPY OF THE DETAILED PLAN TO THE HEALTH AND HUMAN SERVICES COMMITTEES OF THE SENATE AND THE HOUSE OF REPRESENTATIVES, OR ANY SUCCESSOR COMMITTEES, AND SHALL POST THE DETAILED PLAN ON THE WEB SITE OF THE

STATE DEPARTMENT. THE MEMBERS OF THE WORK GROUP SHALL ALSO ADVISE THE EXECUTIVE DIRECTOR WITH RESPECT TO THE LENGTH OF THE CONTRACT AND THE CRITERIA FOR THE REQUEST FOR PROPOSALS RELATING TO THE CONTRACT FOR THE OPERATION OF THE PROGRAM. THE WORK GROUP IS ENCOURAGED TO CONSIDER A MULTIPLE-YEAR CONTRACT FOR THE OPERATION OF THE PROGRAM.

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

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

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

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

(2) THE STATE DEPARTMENT IS AUTHORIZED TO SEEK, ACCEPT, AND

EXPEND GIFTS, GRANTS, OR DONATIONS FROM PRIVATE OR PUBLIC SOURCES FOR THE PURPOSES OF THIS ARTICLE; EXCEPT THAT THE STATE DEPARTMENT MAY NOT ACCEPT A GIFT, GRANT, OR DONATION THAT CREATES THE APPEARANCE OF IMPROPRIETY, THAT THE EXECUTIVE DIRECTOR DETERMINES IS CONTRARY TO THE BEST INTERESTS OF THE PROGRAM, OR THAT IS SUBJECT TO CONDITIONS THAT ARE INCONSISTENT WITH THIS ARTICLE OR ANY OTHER STATE OR FEDERAL LAW. THE STATE DEPARTMENT SHALL TRANSMIT ALL PRIVATE AND PUBLIC MONEYS RECEIVED THROUGH GIFTS, GRANTS, OR DONATIONS TO THE STATE TREASURER, WHO SHALL CREDIT THE SAME TO THE FUND.

(3) THE MONEYS IN THE FUND ARE CONTINUOUSLY APPROPRIATED TO THE STATE DEPARTMENT FOR THE DIRECT AND INDIRECT COSTS ASSOCIATED WITH IMPLEMENTING THIS ARTICLE.

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

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

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

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

(2) THE OMBUDSMAN SHALL TRANSMIT THE ANNUAL REPORT TO THE EXECUTIVE DIRECTOR FOR REVIEW AND COMMENT. THE EXECUTIVE DIRECTOR SHALL DISTRIBUTE THE REPORT TO THE GOVERNOR AND TO THE HEALTH AND HUMAN SERVICES COMMITTEES OF THE HOUSE OF REPRESENTATIVES AND OF THE SENATE, OR ANY SUCCESSOR COMMITTEES. 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, UPON REQUEST OF THOSE COMMITTEES.

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

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 PROGRAM AT THE BEGINNING OF THE THIRD YEAR OF OPERATION OF THE PROGRAM, OR PURSUANT TO THE TIME FRAME RECOMMENDED IN THE DETAILED PLAN DEVELOPED PURSUANT TO SECTION 19-3.3-105, WHICHEVER DATE IS SOONER. 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 PROGRAM.

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

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

(32) (a) "County department", as used in this article and part 2, part 3, and part 7 of article 3 of this title and part 2 of article 5 of this title, means the county or district department of social services.

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

(47.5) "EXECUTIVE DIRECTOR", AS USED IN ARTICLE 3.3 OF THIS TITLE, MEANS THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF HUMAN

SERVICES.

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

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

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

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

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

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

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

SECTION 5. Appropriation. In addition to any other appropriation, there is hereby appropriated, out of any moneys in the general fund not otherwise appropriated, to the department of human services, for allocation to the executive director's office, for the child protection ombudsman program, for the fiscal year beginning July 1, 2010, the sum of one hundred seventy-five thousand dollars (\$175,000), or so much thereof as may be necessary, for the implementation of this act.

SECTION 6. 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.

Brandon C. Shaffer
PRESIDENT OF
THE SENATE

Terrance D. Carroll
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Karen Goldman
SECRETARY OF
THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

APPROVED _____

Bill Ritter, Jr.
GOVERNOR OF THE STATE OF COLORADO