SENATE BILL NO. 250

INTRODUCED BY D. LENZ

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS RELATED TO THE OFFICE OF THE CHILD AND FAMILY OMBUDSMAN; PROVIDING FOR ADDITIONAL PERSONNEL; REVISING THE POWERS AND DUTIES OF THE OMBUDSMAN TO INCLUDE PROVIDING TIMELY RESPONSES AND ACTIVE EFFORTS TO ASSIST INDIVIDUALS WHO FILE REQUESTS FOR ASSISTANCE AND TO FORWARD REPORTS OF ~~MISCONDUCT TO THE DEPARTMENT OF JUSTICE~~ ALLEGED VIOLATIONS OF DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES POLICIES AND PROCEDURES TO THE DEPARTMENT; AMENDING SECTIONS 41-3-1208, 41-3-1211, AND 41-3-1215, MCA; AND REPEALING SECTION 41-3-1213, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 41-3-1208, MCA, is amended to read:

"**41-3-1208. Office of child and family ombudsman established -- personnel.** (1) There is an office of the child and family ombudsman within the department of justice provided for in 2-15-2001.

(2) (a) The attorney general shall appoint a person who is a resident of this state and is qualified by training and experience to perform the duties of the ombudsman.

(b) The ombudsman shall hire and supervise other personnel necessary to perform the function of the office of the child and family ombudsman, including:

(i) two intake and outreach specialists;

(ii) two associate ombudsmen; and

(iii) two research and data analysts."

**Section 2.** Section 41-3-1211, MCA, is amended to read:

"**41-3-1211. Powers and duties.** The powers and duties of the ombudsman are:

(1) to respond to requests for assistance regarding administrative acts and to investigate administrative acts;

(2) to provide timely responses to individuals who file requests for assistance and keep those individuals informed of any findings of the ombudsman or actions taken by the department in response to the ombudsman's investigation;

(3) to make active efforts to assist individuals who file requests for assistance in resolving issues identified by the ombudsman;

~~(2)~~(4) to investigate circumstances surrounding reports that are provided to the ombudsman pursuant to 41-3-209;

~~(3)~~(5) to inspect, copy, or subpoena records as needed to perform the ombudsman's duties under this part;

~~(4)~~(6) to take appropriate steps to ensure that persons are made aware of the purpose, services, and procedures of the ombudsman and how to contact the ombudsman;

~~(5)~~(7) to share relevant findings related to an investigation, subject to disclosure restrictions and confidentiality requirements, with individuals or entities legally authorized to receive, inspect, or investigate reports of child abuse or neglect;

~~(6)~~(8) based on the investigations conducted, to provide oversight of the department's systems and policies for handling abuse and neglect cases;

~~(9) TO FORWARD REPORTS~~ ~~OF MISCONDUCT BY A CHILD PROTECTION SPECIALIST TO THE DEPARTMENT OF JUSTICE FOR REVIEW BY A SPECIAL PROSECUTOR;~~

(9) to forward reports of an alleged violation of department policies and procedures by a child protection specialist to the department;

~~(7)~~~~(9)~~(10) to periodically review department procedures and promote best practices and effective programs by working in consultation with the department to improve procedures, practices, and programs;

~~(8)~~~~(10)~~(11) to undertake, participate in, and consult with persons and the department in activities, including but not limited to conferences, inquiries, panels, meetings, or studies, that serve to improve the manner in which the department functions;

~~(9)~~~~(11)~~(12) to provide education on the legal rights of children;

~~(10)~~~~(12)~~(13) to apply for and accept grants, gifts, contributions, and bequests of funds for the purpose of carrying out the ombudsman's responsibilities; and

~~(11)~~~~(13)~~(14) to report annually to the attorney general and the children, families, health, and human services interim committee in accordance with 5-11-210. The report must be public and may contain recommendations from the ombudsman regarding systemic improvements for the department."

**Section 3.** Section 41-3-1215, MCA, is amended to read:

"**41-3-1215. Systemic oversight of child protective services activities.** (1) The office of the child and family ombudsman shall provide oversight of the child protective services provided by the department to identify and report on trends in the handling of the cases and make recommendations on ways to improve the child protective services system.

(2) The office shall analyze information received, reviewed, and compiled by the ombudsman, including but not limited to:

(a) the reports provided pursuant to 41-3-209;

(b) the requests for assistance received by the office;

(c) policies and procedures used by the department in responding to and investigating reports of child abuse and neglect;

(d) findings relating to ombudsman investigations; and

(e) best practices for the handling of child abuse and neglect cases and the degree to which the department is using those practices.

(3) Based on the analysis, the ombudsman shall provide systemic and trend recommendations twice each calendar year to the department. The department shall respond to the recommendations within 60 days of receiving the report unless the department has requested in writing and received an extension of the deadline for response. The response must include a description of how it will implement the recommendations or justification as to why the department is not implementing the recommendations at that time.

(4) If the department fails to respond to the recommendations as required or provides justification

as to why it is not implementing the recommendations, the ombudsman shall send the report to the governor, the director of the department, and the children, families, health, and human services interim committee.

(5) The ombudsman may carry out the oversight duties provided for in this section independently or in conjunction with other governmental bodies or nongovernmental research organizations, consistent with the disclosure and confidentiality provisions of ~~41-3-1211(5)~~ 41-3-1211(7)."

NEW SECTION. **Section 4. Repealer.** The following section of the Montana Code Annotated is repealed:

41-3-1213. Privilege.

- END -

AMEND