

**OFFICE OF THE FAMILY AND CHILDREN'S OMBUDSMAN**

**TESTIMONY ON 2SSB 6206**

**HOUSE COMMITTEE ON EARLY LEARNING & CHILDREN'S SERVICES**

February 26, 2008

Olympia, WA

Good afternoon Madam Chair Kagi and Members of the Committee. My name is Mary Meinig and I am the Director of the Office of the Family & Children's Ombudsman. We welcome this opportunity to provide testimony on Second Substitute Senate Bill (2SSB) 6206. We testified in the Senate on the original version of the bill introduced by Senator Zarelli.

This second substitute version of Senate Bill 6206 (section 1, subsection (1)) **retains the requirement that the Department of Social and Health Services (DSHS) review both child fatalities and near fatalities that appear to be the result of abuse by a parent or caregiver.**

- *We strongly support requiring DSHS to review near-fatalities as they can provide important clues to risk factors that compromise the child's safety and system safeguards that must be put in place.<sup>1</sup>*

2SSB 6206 (section 1, subsection (2)) **requires that when a fatality or near fatality appears to be the result of abuse by a parent or caregiver, the review team be comprised of individuals who were not involved with the child's case--what is currently known as an Executive Child Fatality Review (ECFR).**

- *We support this change because of the impartiality that is brought by drawing upon professional expertise from the larger community. We also favor reinstatement of the provision in the original version of SB 6206 which provided that an Executive Review would be triggered **if recommended by OFCO**. This is consistent with recommendations we have made in our prior annual reports.*

2SSB 6206 (section 4 subsection (1)) **retains the requirement that DSHS issue a report on the results of the fatality review within 180 days, but allows an extension of this time frame if granted by the Governor.**

2 SSB 6206 (section 4 subsection (2)) also retains the provision that **provides for DSHS to make child fatality and near fatality review reports accessible to the public on a web site.**

- ❖ *We have no objection to this.*

The bill (section 5) **retains the provision that OFCO shall issue an annual report to the legislature on the status of the Department's implementation of child fatality and near-fatality review recommendations.<sup>2</sup>**

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<sup>1</sup> *Currently, OFCO receives immediate notice of child deaths and near-fatalities known to DSHS via the CA CAMIS data system. This provides the date of the critical incident and sufficient identifying information so that we are able to conduct further investigation on the child by way of DSHS records, law enforcement reports, medical records, and autopsy reports to create a profile of the fatality. OFCO records this profile in its child fatality data base. It includes information such as the circumstance of the death; age; gender; race of the child; family history; family's history of involvement with CPS/CWS; and legal status of the child at the time of death.*

<sup>2</sup> *The purpose of a review is to identify what went wrong --how a death or a devastating injury could have been prevented. This leads to recommendations that are typically the result of countless hours of reviewing and analyzing DSHS case records, medical reports, law enforcement reports, and records from other service providers and community*

- *This provision seeks to address a systemic shortcoming that OFCO has been very vocal about in prior testimony to the legislature and through our work on the Child Safety Task Force<sup>3</sup>--that well thought out recommendations resulting from fatality reviews are virtually meaningless if they are not implemented by DSHS. **We support this provision, if we are given the resources to carry it out, because we believe it increases transparency and accountability in the system. It is consistent with our legislative mandate to monitor the child welfare system and to bring about systemic reform.***
- *We propose an added requirement that DSHS report to OFCO on a semi-annual basis as to the status of implementation of recommendations. This provides OFCO with a baseline from which to analyze the agency's work and subsequently report to the legislature.*

2SSB 6206 (section 6 subsection (13)) incorporates from SB 6209 a provision providing additional oversight of families with chronic referrals. It narrows the scope of the original provision by **requiring DSHS to notify the Ombudsman when it receives a third or more founded<sup>4</sup> report of abuse or neglect within the last 12 months on a child or family.**

- *This modification would narrow and reduce the number and types of reports that the Ombudsman would be notified about. This provision, as currently drafted, pertains to those cases in which reports have been screened in, investigated, and a finding has been made. Based on our existing statutory authority, we anticipate that after OFCO receives notification from the agency, we will then review these reports to determine that the agency is taking appropriate action to safeguard children in these families.*
- *The bill does not address OFCO's ongoing concern that there needs to be an accounting of cases in which the agency has repeatedly screened referrals concerning the same family or child as "information only," meaning the referrals were not investigated. Our concern is that this is putting children at risk of harm in families that are being entirely overlooked by the system because referrals are not being screened in for investigation.*

2SSB 6206 (section (9)) adds a new section that **requires the Ombudsman to review all referrals made by mandated reporters during 2006 and 2007.** OFCO must then report to the appropriate committees of the legislature on **5 required elements: 1) the number and types of referrals from mandated reporters; 2) the disposition of those referrals; 3) how many resulted in the filing of dependency actions; 4) any patterns established by DSHS in how it dealt with such referrals; and 5) whether the history of fatalities in 2006 and 2007 showed referrals by mandated reporters.**

- *We believe, based on our conversations with legislators and their staff, that the intent of this provision is to recognize and begin to address concerns about reports of child abuse or neglect from mandated reporters being screened out for investigation and that there are some child fatalities with a family history of referrals from mandated reporters that were never investigated. We support this intent. It appears that the goal is to get clearer data on the extent of this phenomenon and to put OFCO in the position of assessing the agency's screening decisions related to mandated reporters. We support this as well.*

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*professionals. The same recommendations keep re-appearing in child fatality reviews because the recommendations are not being fully or adequately implemented.*

<sup>3</sup> Established by the legislature in 2005.

<sup>4</sup> Language marked in **bold italics** is new language added to this provision by 2SSB 2606.

- ***We have concerns, however, with the mechanics of this provision and whether as drafted it achieves its goal. Our concerns are:***
  - ***The scale of this undertaking.*** Based on data provided to OFCO by DSHS, in 2006 and 2007, there were 101, 737 referrals made by mandated reporters to the agency. We appreciate that the date for our reporting has been extended to the more realistic time frame of June 30, 2009.
  - ***The current on-line case and management information system (CAMIS) (or GUI) has limitations which make it difficult for OFCO to fulfill some of the reporting requirements (especially those in elements 1 and 3).*** Specifically, the system does not currently have the capacity to categorize the type of referral from a mandated reporter (i.e. the specific type of child abuse or neglect allegation);<sup>5</sup> it is also not clear how to determine if certain referrals resulted in the filing of a dependency action.<sup>6</sup>
  - ***OFCC needs to have discretion in how best to review referrals from mandated reporters to support the intent of this provision.*** We would seek professional expertise, currently not available in our office, to set up a protocol for reviewing a random sampling of such referrals and to select enough referrals to create a data base that would be statistically valid from which to draw conclusions, rather than reviewing all the referrals.

2SSB 6206 (section 8 (18)) incorporates a provision that was originally in SB 6207, also introduced by Senator Zarelli, **that would require DSHS to inform guardian ad litem (GALs) and court-appointed special advocates (CASAs) when a report of alleged child abuse or neglect is received by the agency concerning a child whom they are representing.**

- *We support the bill's intent to strengthen the role of GALs and CASAs. They serve a unique and special role in representing a child's best interest in dependency cases. To carry out this role in a meaningful way they must be well informed about the child for whom they are advocating. This means having access to the most current available information that bears on the child's emotional and physical well being.*
- *We believe this bill, if it does not already do so, should **expand notification to include any referrals received on the home in which the child is placed (and the subsequent investigative finding on the referral), not just those concerning the child for whom the CASA/GAL has been appointed.** This ensures another degree of vigilance on the part of the CASA/GAL and may affect recommendations that the CASA/GAL makes to the court. Additionally, this provision may provide the child with enhanced emotional support from the CASA/GAL while the referral is being investigated and resolved.*

Thank you for this opportunity to comment on Substitute Senate Bill 6206.

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<sup>5</sup> As currently devised, it would require OFCO to go into each referral to read narrative text and establish a categorization system.

<sup>6</sup> We can determine from the data base whether a dependency has been filed, but cannot say with certainty that a specific referral led to the filing.