

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2175 Session of 2024

INTRODUCED BY SAPPEY, HILL-EVANS, HANBIDGE, BOYD, PROBST, FLEMING, KINSEY, OTTEN, SANCHEZ, SHUSTERMAN, BOROWSKI, T. DAVIS, HOWARD, MADDEN, DONAHUE, VENKAT, GUENST, DELLOSO, SCHLOSSBERG, CURRY, CERRATO, DALEY, CIRESI, BELLMON, CONKLIN, MAYES AND BRENNAN, APRIL 3, 2024

AS REPORTED FROM COMMITTEE ON CHILDREN AND YOUTH, HOUSE OF REPRESENTATIVES, AS AMENDED, JUNE 11, 2024

AN ACT

1 Amending the act of June 13, 1967 (P.L.31, No.21), entitled "An
2 act to consolidate, editorially revise, and codify the public
3 welfare laws of the Commonwealth," establishing the Office of
4 Child Advocate; and imposing penalties.

5 The General Assembly of the Commonwealth of Pennsylvania
6 hereby enacts as follows:

7 Section 1. The act of June 13, 1967 (P.L.31, No.21), known
8 as the Human Services Code, is amended by adding an article to
9 read:

10 ARTICLE VII-A

11 OFFICE OF CHILD ADVOCATE

12 Section 701-A. Definitions.

13 The following words and phrases when used in this article
14 shall have the meanings given to them in this section unless the
15 context clearly indicates otherwise:

16 "Child Advocate." The Child Advocate appointed under section
17 702-A.

1 "Child health, safety and well-being program." A service or
2 program designed to:

3 (1) Prevent neglect, abuse and exploitation of children
4 and encourage reporting of suspected child abuse under 23
5 Pa.C.S. Ch. 63 (relating to child protective services).

6 (2) Provide temporary, substitute care in foster family
7 homes or residential child care facilities for a child in
8 need of the care under Article VII and 67 Pa.C.S. Chs. 75
9 (relating to family finding and kinship care) and 77
10 (relating to adoption opportunities).

11 (3) Provide court-ordered care or supervision to alleged
12 or adjudicated dependent or delinquent children under 42
13 Pa.C.S. Ch. 63 (relating to juvenile matters).

14 (4) Provide early intervention under the act of December
15 19, 1990 (P.L.1372, No.212), known as the Early Intervention
16 Services System Act.

17 (5) PROVIDE EDUCATION FOR ALLEGED OR ADJUDICATED <--
18 DEPENDENT OR DELINQUENT CHILDREN UNDER 42 PA.C.S. CH. 63 WHO
19 ARE PLACED IN OR ARE TRANSITIONING FROM RESIDENTIAL SETTINGS.

20 "County agency." The county children and youth social
21 service agency exercising the powers and duties provided for
22 under section 405 of the act of June 24, 1937 (P.L.2017,
23 No.396), known as the County Institution District Law, and
24 supervised by the department under Article IX.

25 "Executive agency." The term shall mean the same as defined
26 under section 102 of the act of October 15, 1980 (P.L.950,
27 No.164), known as the Commonwealth Attorneys Act.

28 "Executive board." The Executive Board of the Commonwealth
29 established under section 204 of the act of April 9, 1929
30 (P.L.177, No.175), known as The Administrative Code of 1929.

1 "Facility." A residential facility for children operated or
2 licensed by the department under Articles IX and X.

3 "Local government." A county, county institution district,
4 city, borough, incorporated town, township or any similar,
5 general or limited purpose unit of local government or unit
6 created by joint action of two or more local government units
7 authorized to be created by law.

8 "Office." The Office of Child Advocate established under
9 section 702-A.

10 Section 702-A. Office of Child Advocate.

11 (a) Establishment.--The Office of Child Advocate is
12 established within the department to INDEPENDENTLY AND <--
13 IMPARTIALLY advocate FOR and advance the interests of children. <--
14 The office shall operate under the direction of the Child
15 Advocate. The office shall function independently of the
16 department regarding the office's decision-making functions,
17 including the powers and duties specified under this article.

18 (b) Appointment and qualifications.--

19 (1) The Child Advocate shall be appointed by the
20 Governor, WITH THE ADVICE AND CONSENT OF THE SENATE, and <--
21 shall hold office for a term of four years and until a
22 successor is duly appointed, but may not serve more than 90
23 days beyond the expiration of the appointed term.

24 (2) A vacancy occurring by expiration of term, death,
25 resignation, removal or for any other reasons shall be filled
26 in the manner provided by section 8(b) of Article IV of the
27 Constitution of Pennsylvania for the remainder of the term.
28 THE CHILD ADVOCATE MAY ONLY BE REMOVED FROM OFFICE FOR GOOD <--
29 CAUSE SHOWN.

30 (3) When the term of the Child Advocate expires, the

1 position shall be immediately deemed a vacancy and the
2 Governor shall nominate a person to fill that position within
3 90 days of the date of expiration, even if the Child Advocate
4 continues in office.

5 (4) The Child Advocate may be reappointed for additional
6 terms.

7 (5) The Child Advocate shall be an individual who, by
8 reason of training and experience, is qualified to ~~represent~~ <--
9 ADVOCATE FOR AND ADVANCE the interests of children. <--

10 (6) To be eligible to be appointed by the Governor as
11 Child Advocate, an individual shall have NO KNOWN CONFLICT OF <--
12 INTEREST WITH THE DEPARTMENT OR A COUNTY AGENCY AND at least
13 six years of professional experience in child advocacy,
14 social work, direct care service to children or related
15 areas, including one year in a supervisory or administrative
16 capacity ~~regarding the development, implementation or~~ <--
17 ~~evaluation of a human services program,~~ and a bachelor's
18 degree. Any equivalent combination of experience and training
19 shall be acceptable.

20 (c) Compensation.--Compensation for the Child Advocate shall
21 be set by the executive board.

22 (d) Trainings.--Within six months of appointment, the Child
23 Advocate and employees of the office shall complete trainings,
24 at a minimum, in the following areas:

25 (1) Crisis intervention and behavior management.

26 (2) Trauma-informed care.

27 (3) Sensitive and confidential information.

28 (4) Mandated reporter training.

29 (5) Compliance with the provisions of the Health

30 Insurance Portability and Accountability Act of 1996 (Public

1 Law 104-191, 110 Stat. 1936).

2 (e) Mandated reporter.--The Child Advocate and the staff of
3 the office are mandated reporters under 23 Pa.C.S. Ch. 63
4 (relating to child protective services) and shall make a report
5 of suspected child abuse in accordance with 23 Pa.C.S. § 6311
6 (relating to persons required to report suspected child abuse).

7 (f) Clearance.--The Child Advocate and the staff of the
8 office shall obtain clearance certifications in accordance with
9 23 Pa.C.S. § 6344 (relating to employees having contact with
10 children; adoptive and foster parents) as a person responsible
11 for the child's welfare or having direct contact with children.
12 The clearance certifications shall be submitted to the
13 department as follows:

14 (1) By the Child Advocate prior to taking office.

15 (2) By staff of the office prior to commencement of
16 employment.

17 (g) ~~Limitation~~ RESTRICTED ACTIVITIES.--The Child Advocate <--
18 may not seek election nor accept appointment to a political
19 office during tenure as the Child Advocate and for one year
20 thereafter.

21 (h) Facilities and staff.--

22 (1) Upon request of the Child Advocate, the department
23 shall make available facilities, administrative support and
24 other clerical, technical and professional staff as may be
25 available within the budget of the department. Positions of
26 the office shall be placed under the unclassified service
27 provisions of 71 Pa.C.S. Pt. III (relating to civil service
28 reform).

29 (2) Legal counsel for the office shall be appointed in
30 accordance with the act of October 15, 1980 (P.L.950,

1 No.164), known as the Commonwealth Attorneys Act.

2 Section 703-A. Powers and duties.

3 The powers and duties of the ~~Child Advocate~~ OFFICE shall be <--
4 as follows:

5 (1) Advocate for AND ADVANCE THE INTERESTS OF children <--
6 by supporting and enhancing child health, safety and well-
7 being programs.

8 (2) Serve as a resource to connect children and families
9 with child health, safety and well-being programs.

10 (3) Perform outreach to youth advocates and professional
11 organizations involved with facility placements and access.

12 (3.1) CONSULT WITH EXECUTIVE AGENCIES, COUNTY AGENCIES <--
13 AND INDIVIDUALS WITH LIVED EXPERIENCE ON CHILD HEALTH, SAFETY
14 AND WELL-BEING PROGRAMS.

15 (4) Conduct visits to a facility as follows:

16 (i) During a visit, the Child Advocate or the Child
17 Advocate's authorized designee may conduct voluntary
18 interviews of staff and residents of the facility.

19 (ii) The office shall provide reasonable advance
20 written notification to the department of a visit under
21 this section.

22 (iii) The Child Advocate shall provide written
23 notification to the department of findings within 24 <--
24 hours 30 BUSINESS DAYS after the visit. <--

25 ~~(iv) The Child Advocate or authorized designee may~~ <--
26 ~~not interview staff or a resident involved in a pending~~
27 ~~court proceeding, a criminal investigation or appeal or~~
28 ~~an administrative investigation or appeal.~~

29 (IV) THE CHILD ADVOCATE OR AUTHORIZED DESIGNEE MAY <--
30 NOT INTERVIEW THE FOLLOWING:

1 (A) A RESIDENT OR STAFF INVOLVED IN A PENDING
2 CRIMINAL INVESTIGATION, PROSECUTION AND RELATED
3 APPEAL OR AN ADMINISTRATIVE LICENSURE ACTION AND
4 RELATED APPEAL. THIS CLAUSE SHALL NOT APPLY TO THE
5 CHILD ADVOCATE'S OR AUTHORIZED DESIGNEE'S SUPPORT OF
6 A SUBJECT CHILD UNDER PARAGRAPH (11).

7 (B) A RESIDENT OR STAFF WHO ARE THE SUBJECT OF A
8 REPORT UNDER 23 PA.C.S. CH. 63 (RELATING TO CHILD
9 PROTECTIVE SERVICES) DURING A CHILD ABUSE
10 INVESTIGATION AND RELATED APPEAL. THIS CLAUSE SHALL
11 NOT APPLY TO THE CHILD ADVOCATE'S OR AUTHORIZED
12 DESIGNEE'S SUPPORT OF A SUBJECT CHILD UNDER PARAGRAPH
13 (11).

14 (5) Notwithstanding any other provision of law,
15 participate as a member of all child fatality or near
16 fatality review teams under 23 Pa.C.S. § 6365 (relating to
17 services for prevention, investigation and treatment of child
18 abuse). The Child Advocate may authorize a designee to
19 participate in a child fatality or near fatality review team
20 on the Child Advocate's behalf.

21 (6) Coordinate educational, informational and other
22 programs for public awareness and education concerning child
23 maltreatment and the role of the community in SUPPORTING AND <--
24 strengthening families and keeping children safe.

25 (7) Promote and advocate the health, safety and well-
26 being of children before the General Assembly.

27 (8) Receive and review complaints from the public,
28 including receiving complaints from a child, relating to the
29 processes or procedures of a child health, safety and well-
30 being program. In the Child Advocate's sole discretion, the

1 Child Advocate may make recommendations, referrals, or both,
2 to the appropriate executive agency concerning a complaint.

3 (9) Review and evaluate the effectiveness and efficiency
4 of the STATE AND LOCAL complaint processes for child health, <--
5 safety and well-being programs and to make recommendations
6 for the improvement of these processes.

7 (10) Request, access and review otherwise confidential
8 information, records or documents necessary for carrying out
9 the duties and responsibility under this article from an
10 executive agency or local government in accordance with
11 section 704-A(b). Access under this paragraph does not
12 include access to criminal investigative or intelligence
13 records.

14 (11) As requested, to accompany a child who is a subject
15 child under 23 Pa.C.S. Ch. 63 ~~(relating to child protective <--~~
16 services) to interviews and administrative hearings.

17 (12) Each quarter, send a report to each facility that
18 was the subject of a complaint under paragraph (8) during the
19 relevant period, listing the complaints involving that
20 facility that were received during the past quarter.

21 (13) Meet regularly with the secretary AND OTHER <--
22 EXECUTIVE AGENCY AND COUNTY AGENCY OFFICIALS and report on
23 any Statewide trends that the Child Advocate has identified
24 with potential solutions.

25 (14) In collaboration with applicable executive
26 agencies, coordinate educational, informational and other
27 programs for public awareness and education concerning child
28 maltreatment and the role of the community in SUPPORTING AND <--
29 strengthening families and keeping children safe.

30 (15) In collaboration with executive agencies and county

1 agencies, CHILDREN AND FAMILIES WITH EXPERIENCE IN CHILD <--
2 HEALTH, SAFETY AND WELL-BEING PROGRAMS AND OTHER INTERESTED
3 STAKEHOLDERS, review national trends and promote best <--
4 practices and effective child health, safety and well-being
5 programs.

6 (16) In collaboration with executive agencies, county
7 agencies and, children and families with experience in child <--
8 health, safety and well-being programs AND OTHER INTERESTED <--
9 STAKEHOLDERS, provide recommendations regarding improvements
10 for child health, safety and well-being programs.

11 (17) Consult with executive agencies and provide
12 recommendations on regulations, licensure, financing or any
13 other responsibilities of the executive agencies to improve
14 the safety of and promote better outcomes for children and
15 families receiving services in child health, safety and well-
16 being programs in the Commonwealth.

17 (18) Notwithstanding any other provision of law, serve
18 as a voting member of the Children's Trust Fund Board.

19 (19) Collaborate with local government and executive
20 agencies, including the Office of Victim Advocate, regarding
21 the coordination of services to children who are victims of
22 abuse.

23 (19.1) COLLABORATE WITH LOCAL GOVERNMENT AND EXECUTIVE <--
24 AGENCIES, INCLUDING STATE AND LOCAL EDUCATION AGENCIES,
25 REGARDING EDUCATION ISSUES RELATING TO ALLEGED OR ADJUDICATED
26 DEPENDENT OR DELINQUENT CHILDREN UNDER 42 PA.C.S. CH. 63
27 (RELATING TO JUVENILE MATTERS) WHO ARE PLACED IN OR ARE
28 TRANSITIONING FROM RESIDENTIAL SETTINGS.

29 (20) By June 30, 2024, and June 30 each year thereafter,
30 provide an annual report summarizing the Child Advocate's

1 activities and accomplishments to the Governor, the
2 secretary, the chairperson and minority chairperson of the
3 Aging and Youth Committee of the Senate, the chairperson and
4 minority chairperson of the Children and Youth Committee of
5 the House of Representatives, the chairperson and minority
6 chairperson of the Health and Human Services Committee of the
7 Senate and the chairperson and minority chairperson of the
8 Human Services Committee of the House of Representatives. The
9 annual report shall be posted on the office's publicly
10 accessible Internet website and may not include confidential
11 or personally identifiable information. The report shall
12 include, at a minimum, the following:

13 (i) A summary regarding the type of matters handled
14 by the Child Advocate during the year.

15 (ii) Recommendations regarding legislation to
16 improve the safety of and promote better outcomes for
17 children and families receiving services in child health,
18 safety and well-being programs in this Commonwealth.

19 (iii) A summary regarding quarterly reports of each
20 facility that was the subject of a complaint received
21 during the relevant period, listing the complaints
22 involving that facility that were received during the
23 past quarter.

24 (iv) Any other information the office finds
25 pertinent and beneficial.

26 Section 704-A. Information, records and documents generally.

27 (a) Relationship to department and county agency powers and
28 duties.--The powers and duties of the Child Advocate under
29 section 703-A do not supplant, supersede or otherwise affect the
30 powers, duties and responsibilities of the department or a

1 county agency. Nothing in this article shall be construed to
2 prohibit the department, a county agency or the Child Advocate
3 from working in collaboration with each other.

4 (b) Access.--Notwithstanding any other provision of law,
5 upon request of the office, an executive agency or local
6 government shall furnish information, records or documents under
7 a child health, safety and welfare program to the Child Advocate
8 or an authorized designee as follows:

9 (1) An executive agency or local government shall
10 furnish existing information, records or documents in the
11 executive agency's or local government's possession, custody
12 or control within 10 days of receiving a request. Nothing in
13 this article shall be construed to require an executive
14 agency or local government to create a record that does not
15 currently exist or provide access to information, records or
16 documents in a pending investigation.

17 (2) Access to child protective services information,
18 records and documents may be made available to the Child
19 Advocate after the issuance of a final determination under 23
20 Pa.C.S. § 6368(f) (relating to investigation of reports) or
21 the expiration of related litigation and the applicable
22 pending appeal periods, whichever is later. After the
23 expiration of this time period, the requested information,
24 records or documents shall be furnished to the Child Advocate
25 within 10 days of receiving the Child Advocate's request.

26 (3) Access under this subsection does not include access
27 to the identity of the person who makes a report of suspected
28 child abuse, law enforcement records or records prohibited
29 from disclosure under Federal law or court order.

30 (c) Immunity.--Notwithstanding any other provision of law, a

1 person providing requested materials under subsection (b) may
2 not be found, by reason of having provided the materials, to
3 have violated any criminal law or to be civilly liable under any
4 law, unless the materials are false and the person providing the
5 materials knew or had reason to believe that the materials were
6 false and was motivated by malice toward a person directly
7 affected by the action.

8 (d) Confidentiality.--

9 (1) Confidential, privileged or protected information,
10 records or documents provided to the Child Advocate under
11 subsection (b):

12 (i) Shall remain confidential, privileged and
13 protected.

14 (ii) May not be discoverable or admissible as
15 evidence in an action or proceeding.

16 (iii) May not be accessible for inspection and
17 duplication in accordance with the act of February 14,
18 2008 (P.L.6, No.3), known as the Right-to-Know Law.

19 (2) Information, records or documents that would
20 otherwise be available from original sources may not be
21 construed as immune from discovery or use in an action or
22 proceeding merely because they were presented to the Child
23 Advocate.

24 (3) The home address of the Child Advocate and employees
25 of the office is not a public record under the Right-to-Know
26 Law. The office's NONEXEMPT financial records and aggregated <--
27 data, as defined in section 102 of the Right-to-Know Law,
28 shall remain subject to the Right-to-Know Law, provided that
29 no record or data provides personally identifiable <--
30 information SHALL BE REDACTED. <--

1 (e) Unauthorized access.--A person who divulges confidential
2 information, records or documents received under this article to
3 an unauthorized person commits a misdemeanor of the second
4 degree. A person who violates the provisions of this section
5 shall, in addition to other civil or criminal penalties provided
6 by law, be denied access to the information, records or
7 documents provided under this article.

8 Section 2. This act shall take effect in 60 days.