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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 404 Session of  
2021

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INTRODUCED BY GALLOWAY, HOHENSTEIN, N. NELSON, LEE, HILL-EVANS,  
SANCHEZ, CONKLIN, SCHLOSSBERG, HOWARD, CIRESI, NEILSON,  
BRADFORD, O'MARA AND SCHWEYER, FEBRUARY 4, 2021

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REFERRED TO COMMITTEE ON HUMAN SERVICES, FEBRUARY 4, 2021

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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," in children and youth,  
4 providing for Statewide children's mental health ombudsman.

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 a section to  
9 read:

10 Section 710. Statewide Children's Mental Health Ombudsman.--

11 (a) The secretary, subject to the appropriation of State funds  
12 or the receipt of Federal funds for a Statewide children's  
13 mental health ombudsman, shall establish a Statewide children's  
14 mental health ombudsman for the following purposes:

15 (1) Advocating on behalf of children with mental health  
16 disorders.

17 (2) Identifying barriers to effective mental health  
18 treatment and proposed solutions.

1 (3) Monitoring and ensuring compliance with relevant  
2 statutes, regulations, rules and policies pertaining to  
3 children's behavioral health services.

4 (4) Receiving, investigating and resolving through  
5 administrative action, as described under subsection (e),  
6 complaints filed by a child or by individuals legally authorized  
7 to act on behalf of the child, or by an individual, organization  
8 or government agency that has reason to believe that an entity  
9 regulated by the Commonwealth has engaged in activities,  
10 practices or omissions that constitute violations of applicable  
11 court orders, statutes or regulations or that may have an  
12 adverse effect upon the health, safety, welfare or rights of  
13 children.

14 (b) Within sixty days of the appropriation of State funds or  
15 receipt of Federal funds required to establish a Statewide  
16 children's mental health ombudsman, the secretary shall  
17 designate an individual to act as the ombudsman who shall be  
18 qualified by training and experience to perform the duties of  
19 the ombudsman.

20 (c) The ombudsman shall report to the secretary and the  
21 Executive Director of the Governor's Office of Advocacy and  
22 Reform or its successor.

23 (d) The ombudsman shall serve for a term of five years and  
24 shall continue to hold office until a successor is appointed.  
25 The secretary may reappoint the ombudsman for one additional  
26 term. The secretary may remove the ombudsman only for neglect of  
27 duty, misconduct or inability to perform duties.

28 (e) The secretary, in consultation with the ombudsman, the  
29 Deputy Secretary for Mental Health and Substance Abuse Services  
30 and the Executive Director of the Governor's Office of Advocacy

1 and Reform or its successor, shall establish policies and  
2 procedures to facilitate the purposes of the ombudsman. The  
3 policies and procedures shall include procedures for filing  
4 complaints, investigating complaints and taking action to  
5 implement resolutions to complaints, including the use of State  
6 agency enforcement authority to resolve complaints as  
7 recommended by the ombudsman.

8 (f) In ensuring that the goals of the ombudsman are met, the  
9 following shall apply:

10 (1) The ombudsman shall monitor the development and  
11 implementation of Federal, State and local statutes, regulations  
12 and policies regarding services and supports for children with  
13 mental health disorders, including the education of children  
14 with mental health disorders.

15 (2) The ombudsman shall maintain complete records of  
16 complaints received, the actions taken, findings, outcomes and  
17 recommendations in response to any complaints and other actions,  
18 including those taken by the Commonwealth and private agency  
19 responses to serious complaints.

20 (3) Each quarter, the ombudsman shall send a report to each  
21 government agency that was the subject of a complaint received  
22 by the ombudsman during the relevant period, listing the  
23 complaints involving that agency that were received during the  
24 past quarter. The ombudsman shall meet regularly with the  
25 secretary, the Deputy Secretary for Mental Health and Substance  
26 Abuse Services and the Executive Director of the Governor's  
27 Office of Advocacy and Reform or its successor and shall report  
28 on any Statewide problems that the ombudsman has identified and  
29 potential solutions.

30 (4) The ombudsman shall report annually, within one hundred

1 twenty days of the end of the fiscal year, on the activities of  
2 the ombudsman, including complaints that are relevant to the  
3 ombudsman and an analysis of patterns in complaints made through  
4 the ombudsman and shall make recommendations for legislation,  
5 policy or programmatic changes related to the protection of the  
6 rights of children with mental health disorders. The report  
7 shall be made available to the public and published on the  
8 department's publicly accessible Internet website and submitted  
9 to the following:

10 (i) The Governor.

11 (ii) The President pro tempore of the Senate.

12 (iii) The Speaker of the House of Representatives.

13 (iv) The chairperson and minority chairperson of the  
14 Children and Youth Committee of the Senate.

15 (v) The chairperson and minority chairperson of the Children  
16 and Youth Committee of the House of Representatives.

17 (vi) The chairperson and minority chairperson of the  
18 Education Committee of the Senate.

19 (vii) The chairperson and minority chairperson of the  
20 Education Committee of the House of Representatives.

21 (viii) The chairperson and minority chairperson of the  
22 Health and Human Services Committee of the Senate.

23 (ix) The chairperson and minority chairperson of the Health  
24 Committee of the House of Representatives.

25 (x) The chairperson and minority chairperson of the Human  
26 Services Committee of the House of Representatives.

27 (g) The department may promulgate regulations necessary for  
28 the implementation of this section.

29 Section 2. This act shall take effect in 90 days.