

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1087 Session of 2018

INTRODUCED BY BAKER, SCHWANK, RAFFERTY, VOGEL, WARD, FARNESE, MENSCH, COSTA, VULAKOVICH, BROWNE, YUDICHAK, BARTOLOTTA AND WAGNER, MARCH 15, 2018

AS AMENDED ON THIRD CONSIDERATION, JUNE 12, 2018

AN ACT

1 Establishing a joint legislative, executive and judicial
2 commission on the child-welfare system.

3 The General Assembly of the Commonwealth of Pennsylvania
4 hereby enacts as follows:

5 Section 1. Short title.

6 This act shall be known and may be cited as the Interbranch
7 Commission on the Child-Welfare System Act.

8 Section 2. Declaration of policy.

9 The General Assembly finds and declares as follows:

10 (1) Recent events, including those surrounding the
11 abusive treatment and ultimate death of a child who was
12 adopted after having been placed in foster care through the
13 Commonwealth's child-welfare system, require a noncriminal
14 investigation and review of the operations of the child-
15 welfare system in this Commonwealth.

16 (2) These events have eroded the trust and confidence in
17 the Commonwealth's child-welfare system.

1 (3) The Auditor General identified numerous deficiencies
2 in the child-welfare system in a special report entitled
3 "State of the Child," dated September 2017. In that report,
4 the Auditor General stated that the "child-welfare system is
5 broken" and listed a total of seven report observations on
6 the state of the system.

7 (4) It is not clear what progress has been made
8 regarding addressing these observations or whether additional
9 or different steps should be taken.

10 (5) It is not clear that the funding of child-welfare
11 services in this Commonwealth is consistent with the purpose
12 and mission of the child-welfare system.

13 (6) Therefore, the legislative, judicial and executive
14 branches of State government should undertake a joint
15 ~~noncriminal investigation and review to ascertain whether the~~ <--
16 ~~child welfare system is failing to protect children in this~~
17 ~~Commonwealth. The review should:~~

18 ~~(i) ascertain how the child welfare system failed in~~
19 ~~recent cases of death or near death of children in the~~
20 ~~child welfare system;~~

21 NONCRIMINAL INVESTIGATION AND REVIEW OF THE CHILD-WELFARE <--
22 SYSTEM. THE REVIEW SHOULD:

23 (I) FOCUS ON THE STRENGTHS AND CHALLENGES OF THE
24 CHILD-WELFARE SYSTEM;

25 (ii) restore public confidence in the protection of
26 children who have been ~~referred to, are under the care of~~ <--
27 PLACED IN FOSTER CARE or have been adopted after having <--
28 been under the care of the child-welfare system; and

29 (iii) ensure that children in this Commonwealth's
30 child-welfare system are adequately protected.

1 Section 3. Definitions.

2 The following words and phrases when used in this act shall
3 have the meanings given to them in this section unless the
4 context clearly indicates otherwise:

5 "Commission." The Interbranch Commission on the Child-
6 Welfare System established under this act.

7 "Department." The Department of Human Services of the
8 Commonwealth.

9 Section 4. Commission.

10 (a) Establishment.--The Interbranch Commission on the Child-
11 Welfare System is established.

12 (b) Membership.--The commission shall consist of the
13 following members, appointed within 25 days of the effective
14 date of this section:

15 (1) ~~Four~~ SIX members appointed by the Chief Justice of <--
16 the Supreme Court of Pennsylvania as follows:

17 (i) Two juvenile court judges.

18 (ii) One guardian ad litem with experience as such
19 over at least a five-year period.

20 (iii) One member of the Juvenile Court Procedural
21 Rules Committee.

22 (IV) TWO ATTORNEYS WHO HAVE EXPERIENCE REPRESENTING <--
23 PARENTS IN DEPENDENCY HEARINGS.

24 (2) Four members who are not members of the General
25 Assembly but who are knowledgeable and experienced in either
26 foster care or adoption or providing foster care or adoption
27 services to juveniles. One member shall be appointed by each
28 of the following:

29 (i) The President pro tempore of the Senate.

30 (ii) The Minority Leader of the Senate.

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

2 (iv) The Minority Leader of the House of
3 Representatives.

4 ~~(3) Four members appointed by the Governor. One member <--~~
5 ~~must be a foster parent. One member must be a member of a~~
6 ~~private sector organization providing foster or residential~~
7 ~~care and two members must be members of a child welfare or~~
8 ~~advocacy group.~~

9 (3) FIVE MEMBERS APPOINTED BY THE GOVERNOR AS FOLLOWS: <--

10 (I) ONE FOSTER PARENT.

11 (II) ONE MEMBER OF A PRIVATE SECTOR ORGANIZATION
12 PROVIDING FOSTER OR RESIDENTIAL CARE.

13 (III) ONE MEMBER OF A CHILD-WELFARE OR ADVOCACY
14 GROUP.

15 (IV) ONE REPRESENTATIVE OF A COUNTY CHILDREN AND
16 YOUTH AGENCY.

17 (V) ONE REPRESENTATIVE WITH A BACKGROUND IN CHILD
18 WELFARE FROM A SCHOOL OF SOCIAL WORK AT AN INSTITUTION OF
19 HIGHER LEARNING.

20 (4) The Auditor General or a designee.

21 (5) The Deputy Secretary for the Office of Children,
22 Youth and Families in the department.

23 (c) Chairperson.--A majority of the members shall select the
24 chairperson of the commission.

25 (d) Quorum and voting.--

26 (1) ~~The physical presence of a~~ A majority of the members <--
27 constitutes a quorum.

28 (2) Action of the commission must be authorized or
29 ratified by majority vote of the members of the commission.

30 (e) Participation.--A member not physically present may

1 participate by teleconference or video conference.

2 (f) Meetings.--

3 (1) The commission shall meet at least once a month.
4 Additional meetings may be called by the chairperson as
5 necessary. The chairperson shall schedule a meeting upon
6 written request of four members of the commission.

7 (2) The first meeting shall be convened within 45 days
8 of the effective date of this section.

9 (3) The commission shall hold public hearings as
10 necessary to obtain the information required to conduct the
11 investigation and review under section 5.

12 (g) Expenses.--Members may not receive compensation but
13 shall be reimbursed for expenses incurred in service of the
14 commission.

15 (h) Support.--The department shall provide administrative
16 services to the commission.

17 (i) Collaboration.--The Administrative Office of
18 Pennsylvania Courts AND THE JUVENILE COURT JUDGES' COMMISSION <--
19 shall collaborate with the commission.

20 Section 5. Functions of commission.

21 (a) Powers.--The commission shall have the following powers:

22 (1) To investigate and analyze the events, practices,
23 processes, procedures and other activities surrounding the
24 ~~abusive~~ treatment of children who were in foster care, <--
25 including children who were adopted and ~~who died from the~~ <--
26 LATER DIED FROM abuse. <--

27 (2) To investigate and analyze the events, practices,
28 processes, procedures and other activities related to the
29 child-welfare system in this Commonwealth.

30 (3) To review the procedures, practices and rules

1 relating to the selection of foster parents and potential
2 adoptive parents.

3 (4) To review procedures used in responding to the
4 conduct of foster and adoptive parents and to make
5 recommendations as necessary.

6 (5) To review the oversight ~~of foster homes, potential~~ <--
7 ~~adoptive homes and other facilities for children in placement~~
8 ~~in the child welfare system.~~ AND LICENSING OF COUNTY AND <--
9 PRIVATE CHILDREN AND YOUTH AGENCIES, FOSTER CARE AGENCIES AND
10 ADOPTION AGENCIES.

11 (6) To hold public hearings for the taking of testimony
12 and the requesting of documents.

13 (7) To issue subpoenas under the hand and seal of its
14 chairperson commanding any person to appear before it and
15 answer questions concerning matters properly being inquired
16 into by the commission and to produce any books, papers,
17 records, documents, data and information produced and stored
18 by an electronic data processing system as the commission
19 deems necessary. The subpoenas may be served upon a person
20 and shall have the force and effect of subpoenas issued out
21 of the courts of this Commonwealth. A person who willfully
22 neglects or refuses to testify before the commission or to
23 produce a book, paper, record, document or data or
24 information produced and stored by an electronic data
25 processing system shall be subject to the penalties provided
26 by the laws of this Commonwealth.

27 (8) Through the chairperson of the commission, to
28 administer oaths and affirmations to witnesses appearing
29 before the commission.

30 (9) To cause the deposition of witnesses in this

1 Commonwealth to be taken in the manner prescribed by law for
2 taking depositions in civil actions.

3 (b) Duties.--The commission shall have the following duties:

4 (1) To accept and review written comments from an
5 individual or organization.

6 (2) TO KEEP ALL INDIVIDUALLY IDENTIFIABLE INFORMATION <--
7 CONFIDENTIAL.

8 ~~(2)~~ (3) To make, within 24 months of the effective date <--
9 of this section, recommendations to the Governor, the Supreme
10 Court, the Senate, the House of Representatives and the
11 department based on the investigation of issues under
12 subsection (a). This paragraph includes recommendations:

13 (i) To improve the child-welfare system, INCLUDING <--
14 EXPANDING CURRENT SUCCESSFUL PRACTICES.

15 (ii) To prevent the reoccurrence of events of abuse
16 of children in the child-welfare system.

17 (iii) To change State statutes and State and local
18 practices, rules, policies and procedures.

19 ~~(3)~~ (4) To make reports as follows: <--

20 (i) The commission may file status reports and
21 updates with the Governor, the Supreme Court, the Senate,
22 the House of Representatives and the department as the
23 commission deems appropriate.

24 (ii) The commission shall issue a final report
25 within 24 months of the effective date of this section.

26 (iii) A report under this paragraph must be adopted
27 at a public meeting.

28 (iv) A report under this paragraph shall be a public
29 record under the act of February 14, 2008 (P.L.6, No.3),
30 known as the Right-to-Know Law.

1 Section 6. Expiration.

2 This act shall expire two years from the effective date of
3 this section.

4 Section 7. Effective date.

5 This act shall take effect immediately.