

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 AND CIRESI, APRIL 3, 2024

REFERRED TO COMMITTEE ON CHILDREN AND YOUTH, APRIL 3, 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.

18 "Child health, safety and well-being program." A service or

1 program designed to:

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

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

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

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

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

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

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

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

29 "Local government." A county, county institution district,
30 city, borough, incorporated town, township or any similar,

1 general or limited purpose unit of local government or unit
2 created by joint action of two or more local government units
3 authorized to be created by law.

4 "Office." The Office of Child Advocate established under
5 section 702-A.

6 Section 702-A. Office of Child Advocate.

7 (a) Establishment.--The Office of Child Advocate is
8 established within the department to advocate and advance the
9 interests of children. The office shall operate under the
10 direction of the Child Advocate. The office shall function
11 independently of the department regarding the office's decision-
12 making functions, including the powers and duties specified
13 under this article.

14 (b) Appointment and qualifications.--

15 (1) The Child Advocate shall be appointed by the
16 Governor and shall hold office for a term of four years and
17 until a successor is duly appointed, but may not serve more
18 than 90 days beyond the expiration of the appointed term.

19 (2) A vacancy occurring by expiration of term, death,
20 resignation, removal or for any other reasons shall be filled
21 in the manner provided by section 8(b) of Article IV of the
22 Constitution of Pennsylvania for the remainder of the term.

23 (3) When the term of the Child Advocate expires, the
24 position shall be immediately deemed a vacancy and the
25 Governor shall nominate a person to fill that position within
26 90 days of the date of expiration, even if the Child Advocate
27 continues in office.

28 (4) The Child Advocate may be reappointed for additional
29 terms.

30 (5) The Child Advocate shall be an individual who, by

1 reason of training and experience, is qualified to represent
2 the interests of children.

3 (6) To be eligible to be appointed by the Governor as
4 Child Advocate, an individual shall have at least six years
5 of professional experience in child advocacy, social work,
6 direct care service to children or related areas, including
7 one year in a supervisory or administrative capacity
8 regarding the development, implementation or evaluation of a
9 human services program, and a bachelor's degree. Any
10 equivalent combination of experience and training shall be
11 acceptable.

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

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

17 (1) Crisis intervention and behavior management.

18 (2) Trauma-informed care.

19 (3) Sensitive and confidential information.

20 (4) Mandated reporter training.

21 (5) Compliance with the provisions of the Health
22 Insurance Portability and Accountability Act of 1996 (Public
23 Law 104-191, 110 Stat. 1936).

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

29 (f) Clearance.--The Child Advocate and the staff of the
30 office shall obtain clearance certifications in accordance with

1 23 Pa.C.S. § 6344 (relating to employees having contact with
2 children; adoptive and foster parents) as a person responsible
3 for the child's welfare or having direct contact with children.
4 The clearance certifications shall be submitted to the
5 department as follows:

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

7 (2) By staff of the office prior to commencement of
8 employment.

9 (g) Limitation.--The Child Advocate may not seek election
10 nor accept appointment to a political office during tenure as
11 the Child Advocate and for one year thereafter.

12 (h) Facilities and staff.--

13 (1) Upon request of the Child Advocate, the department
14 shall make available facilities, administrative support and
15 other clerical, technical and professional staff as may be
16 available within the budget of the department. Positions of
17 the office shall be placed under the unclassified service
18 provisions of 71 Pa.C.S. Pt. III (relating to civil service
19 reform).

20 (2) Legal counsel for the office shall be appointed in
21 accordance with the act of October 15, 1980 (P.L.950,
22 No.164), known as the Commonwealth Attorneys Act.

23 Section 703-A. Powers and duties.

24 The powers and duties of the Child Advocate shall be as
25 follows:

26 (1) Advocate for children by supporting and enhancing
27 child health, safety and well-being programs.

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

30 (3) Perform outreach to youth advocates and professional

1 organizations involved with facility placements and access.

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

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

6 (ii) The office shall provide reasonable advance
7 written notification to the department of a visit under
8 this section.

9 (iii) The Child Advocate shall provide written
10 notification to the department of findings within 24
11 hours after the visit.

12 (iv) The Child Advocate or authorized designee may
13 not interview staff or a resident involved in a pending
14 court proceeding, a criminal investigation or appeal or
15 an administrative investigation or appeal.

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

23 (6) Coordinate educational, informational and other
24 programs for public awareness and education concerning child
25 maltreatment and the role of the community in strengthening
26 families and keeping children safe.

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

29 (8) Receive and review complaints from the public,
30 including receiving complaints from a child, relating to the

1 processes or procedures of a child health, safety and well-
2 being program. In the Child Advocate's sole discretion, the
3 Child Advocate may make recommendations, referrals, or both,
4 to the appropriate executive agency concerning a complaint.

5 (9) Review and evaluate the effectiveness and efficiency
6 of the complaint processes for child health, safety and well-
7 being programs and to make recommendations for the
8 improvement of these processes.

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

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

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

23 (13) Meet regularly with the secretary and report on any
24 Statewide trends that the Child Advocate has identified with
25 potential solutions.

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

1 (15) In collaboration with executive agencies and county
2 agencies, review national trends and promote best practices
3 and effective child health, safety and well-being programs.

4 (16) In collaboration with executive agencies, county
5 agencies and children and families with experience in child
6 health, safety and well-being programs, provide
7 recommendations regarding improvements for child health,
8 safety and well-being programs.

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

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

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

21 (20) By June 30, 2024, and June 30 each year thereafter,
22 provide an annual report summarizing the Child Advocate's
23 activities and accomplishments to the Governor, the
24 secretary, the chairperson and minority chairperson of the
25 Aging and Youth Committee of the Senate, the chairperson and
26 minority chairperson of the Children and Youth Committee of
27 the House of Representatives, the chairperson and minority
28 chairperson of the Health and Human Services Committee of the
29 Senate and the chairperson and minority chairperson of the
30 Human Services Committee of the House of Representatives. The

1 annual report shall be posted on the office's publicly
2 accessible Internet website and may not include confidential
3 or personally identifiable information. The report shall
4 include, at a minimum, the following:

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

7 (ii) Recommendations regarding legislation to
8 improve the safety of and promote better outcomes for
9 children and families receiving services in child health,
10 safety and well-being programs in this Commonwealth.

11 (iii) A summary regarding quarterly reports of each
12 facility that was the subject of a complaint received
13 during the relevant period, listing the complaints
14 involving that facility that were received during the
15 past quarter.

16 (iv) Any other information the office finds
17 pertinent and beneficial.

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

19 (a) Relationship to department and county agency powers and
20 duties.--The powers and duties of the Child Advocate under
21 section 703-A do not supplant, supersede or otherwise affect the
22 powers, duties and responsibilities of the department or a
23 county agency. Nothing in this article shall be construed to
24 prohibit the department, a county agency or the Child Advocate
25 from working in collaboration with each other.

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

1 (1) An executive agency or local government shall
2 furnish existing information, records or documents in the
3 executive agency's or local government's possession, custody
4 or control within 10 days of receiving a request. Nothing in
5 this article shall be construed to require an executive
6 agency or local government to create a record that does not
7 currently exist or provide access to information, records or
8 documents in a pending investigation.

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

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

22 (c) Immunity.--Notwithstanding any other provision of law, a
23 person providing requested materials under subsection (b) may
24 not be found, by reason of having provided the materials, to
25 have violated any criminal law or to be civilly liable under any
26 law, unless the materials are false and the person providing the
27 materials knew or had reason to believe that the materials were
28 false and was motivated by malice toward a person directly
29 affected by the action.

30 (d) Confidentiality.--

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

4 (i) Shall remain confidential, privileged and
5 protected.

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

8 (iii) May not be accessible for inspection and
9 duplication in accordance with the act of February 14,
10 2008 (P.L.6, No.3), known as the Right-to-Know Law.

11 (2) Information, records or documents that would
12 otherwise be available from original sources may not be
13 construed as immune from discovery or use in an action or
14 proceeding merely because they were presented to the Child
15 Advocate.

16 (3) The home address of the Child Advocate and employees
17 of the office is not a public record under the Right-to-Know
18 Law. The office's financial records and aggregated data, as
19 defined in section 102 of the Right-to-Know Law, shall remain
20 subject to the Right-to-Know Law, provided that no record or
21 data provides personally identifiable information.

22 (e) Unauthorized access.--A person who divulges confidential
23 information, records or documents received under this article to
24 an unauthorized person commits a misdemeanor of the second
25 degree. A person who violates the provisions of this section
26 shall, in addition to other civil or criminal penalties provided
27 by law, be denied access to the information, records or
28 documents provided under this article.

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