

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2913 Session of 2022

INTRODUCED BY DeLISSIO, KINSEY, BOBACK, HANBIDGE, MADDEN, HILL-
EVANS, GUENST, T. DAVIS, HOWARD, SANCHEZ, SAPPEY, CIRESI,
HOHENSTEIN AND DELLOSO, NOVEMBER 2, 2022

REFERRED TO COMMITTEE ON CHILDREN AND YOUTH, NOVEMBER 2, 2022

AN ACT

1 Amending the act of April 9, 1929 (P.L.177, No.175), entitled
2 "An act providing for and reorganizing the conduct of the
3 executive and administrative work of the Commonwealth by the
4 Executive Department thereof and the administrative
5 departments, boards, commissions, and officers thereof,
6 including the boards of trustees of State Normal Schools, or
7 Teachers Colleges; abolishing, creating, reorganizing or
8 authorizing the reorganization of certain administrative
9 departments, boards, and commissions; defining the powers and
10 duties of the Governor and other executive and administrative
11 officers, and of the several administrative departments,
12 boards, commissions, and officers; fixing the salaries of the
13 Governor, Lieutenant Governor, and certain other executive
14 and administrative officers; providing for the appointment of
15 certain administrative officers, and of all deputies and
16 other assistants and employes in certain departments, boards,
17 and commissions; providing for judicial administration; and
18 prescribing the manner in which the number and compensation
19 of the deputies and all other assistants and employes of
20 certain departments, boards and commissions shall be
21 determined," establishing the Office of Child Advocate within
22 the Department of Health; appointing the Child Advocate; and
23 providing for their powers and duties.

24 The General Assembly of the Commonwealth of Pennsylvania
25 hereby enacts as follows:

26 Section 1. The act of April 9, 1929 (P.L.177, No.175), known
27 as The Administrative Code of 1929, is amended by adding an
28 article to read:

1 ARTICLE V-C

2 OFFICE OF CHILD ADVOCATE

3 Section 501-C. Definitions.

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

7 "Child Advocate." The Child Advocate appointed in accordance
8 with this article.

9 "Child health, safety and welfare programs." The term
10 includes services and programs designed to:

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

14 (2) Provide temporary, substitute care in foster family
15 homes or residential child care facilities for a child in
16 need of the care under Article VII of the act of June 13,
17 1967 (P.L.31, No.21), known as the Human Services Code, and
18 67 Pa.C.S. Chs. 21 (relating to adoption opportunities) and
19 31 (relating to family finding and kinship care).

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

23 (4) Provide mental health care, substance use disorder
24 care and childhood trauma and trauma-informed care.

25 (5) Provide early intervention under the act of December
26 19, 1990 (P.L.1372, No.212), known as the Early Intervention
27 Services System Act.

28 (6) Perform child fatality and near fatality review
29 under 23 Pa.C.S. Ch. 63 (relating to child protective
30 services).

1 "County agency." The county children and youth social
2 service agency exercising the powers and duties provided for in
3 section 405 of the act of June 24, 1937 (P.L.2017, No.396),
4 known as the County Institution District Law, and supervised by
5 the Department of Human Services under Article IX of the Human
6 Services Code.

7 "Department." The Department of Health of the Commonwealth.

8 "Executive agency." As defined in section 102 of the act of
9 October 15, 1980 (P.L.950, No.164), known as the Commonwealth
10 Attorneys Act.

11 "Executive Board." The Executive Board of the Commonwealth
12 established under section 204.

13 "Facility." A residential facility for children licensed by
14 the department.

15 "Local government." A county, county institution district,
16 city, borough, incorporated town, township or any similar,
17 general or limited purpose unit of local government or unit
18 created by joint action of two or more local government units
19 authorized to be created by law.

20 "Office." The Office of Child Advocate established by this
21 article.

22 Section 502-C. Office of Child Advocate.

23 (a) Establishment.--The Office of Child Advocate is
24 established within the department. Except as otherwise provided
25 in this article, the office shall be subject to this act.

26 (b) Appointment.--Within 90 days of the effective date of
27 this section, the Governor shall appoint a Child Advocate. The
28 Child Advocate shall be selected on the basis of integrity,
29 capability for strong leadership and demonstrated ability in
30 public administration, child advocacy and public policy issues

1 impacting children. The Child Advocate shall serve a term of six
2 years and until a successor is appointed. The Child Advocate may
3 be reappointed for additional terms.

4 (c) Compensation.--The Executive Board shall set the
5 compensation for the Child Advocate.

6 (d) Limitation.--The Child Advocate may not seek election
7 nor accept appointment to a political office during tenure as
8 the Child Advocate and for one year thereafter.

9 Section 503-C. Powers and duties.

10 (a) Specific duties.--The Child Advocate shall:

11 (1) Serve as a dedicated advocate for children by
12 supporting and enhancing child health, safety and welfare
13 programs. The Child Advocate, or the advocate's authorized
14 designee, may conduct unannounced and announced visits to a
15 facility. During the visits, the Child Advocate or the
16 advocate's authorized designee may interview staff and
17 residents of the facility. The Child Advocate shall provide
18 written notification to the Department of Human Services of
19 the unannounced and announced visit within 24 hours after the
20 visit.

21 (2) Serve as a resource to connect children and families
22 with child health, safety and welfare programs.

23 (3) Represent the health, safety and welfare interest of
24 children before the General Assembly.

25 (4) Receive and review complaints from the public,
26 including receiving complaints from minors, relating to child
27 health, safety and welfare program processes or procedures
28 and, in the Child Advocate's discretion, make
29 recommendations, referrals, or both, to the appropriate
30 executive agency concerning the complaints.

1 (5) Review and evaluate the effectiveness and efficiency
2 of existing child health, safety and welfare programs
3 complaint processes and make recommendations for the
4 improvement of the processes.

5 (6) Notwithstanding any other provision of law,
6 participate as a member of a child fatality or near fatality
7 review team under 23 Pa.C.S. § 6365 (relating to services for
8 prevention, investigation and treatment of child abuse). The
9 Child Advocate may authorize a designee to participate in a
10 child fatality or near fatality review team.

11 (7) Coordinate educational, informational and other
12 programs for public awareness and education concerning child
13 maltreatment and the role of the community in strengthening
14 families and keeping children safe.

15 (8) Promote best practices and effective programs
16 relating to child health, safety and welfare programs and
17 work collaboratively with executive agencies and county
18 agencies, when appropriate, regarding improvement of child
19 health, safety and welfare programs.

20 (9) Consult with executive agencies and make
21 recommendations on regulations, licensure, financing or other
22 responsibilities of the agencies to improve the safety of and
23 promote better outcomes for children and families receiving
24 services in child health, safety and welfare programs in this
25 Commonwealth.

26 (10) Request, access and review information, records or
27 documents necessary for carrying out the powers and duties
28 enumerated in this article from an executive agency or local
29 government under section 505-C.

30 (b) Relationship to Department of Human Services and county

1 agency powers and duties.--The powers and duties of the Child
2 Advocate under subsection (a) do not supplant, supersede or
3 otherwise affect the powers, duties and responsibilities of the
4 Department of Human Services or a county agency.

5 (c) Construction.--Nothing in this article shall be
6 construed to prohibit the Department of Human Services, a county
7 agency or the Child Advocate from working in collaboration with
8 each other.

9 Section 504-C. Organization of office.

10 (a) Staff.--The Child Advocate shall employ staff as may be
11 necessary to carry out the purposes of this article. Positions
12 of the office shall be placed under the unclassified service
13 provisions of 71 Pa.C.S. Pt. III (relating to civil service
14 reform).

15 (b) Assistance from department.--Upon request of the Child
16 Advocate, the department shall make available facilities,
17 administrative support and other assistance to the office.

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

21 Section 505-C. Access to information.

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

27 (1) Information, records and documents generally. An
28 executive agency or local government shall furnish existing
29 information, records or documents in its possession, custody
30 or control within 10 days of the request. Nothing in this

1 article shall be construed to require an executive agency or
2 local government to create a record that does not currently
3 exist.

4 (2) Child protective services reports. Access under this
5 section includes access to child protective services reports
6 specified under 23 Pa.C.S. § 6339 (relating to
7 confidentiality of reports). An executive agency or local
8 government shall furnish a child protective services report
9 to the Child Advocate within 10 days of the Child Advocate's
10 request.

11 (b) Immunity.--Notwithstanding any other provision of law,
12 no person providing requested materials under this section may
13 be found, by reason of having provided the materials specified
14 in subsection (a), to have violated any criminal law, or to be
15 civilly liable under any law, unless the materials are false and
16 the person providing the materials knew or had reason to believe
17 that the materials were false and was motivated by malice toward
18 a person directly affected by the action.

19 Section 506-C. Confidentiality.

20 (a) General rule.--Confidential, privileged or protected
21 information, records or documents provided to the office under
22 section 505-C:

23 (1) Shall remain confidential, privileged and protected.

24 (2) Shall not be discoverable or admissible as evidence
25 in an action or proceeding.

26 (3) Shall not be accessible for inspection and
27 duplication in accordance with the act of February 14, 2008
28 (P.L.6, No.3), known as the Right-to-Know Law.

29 (b) Immunity not applicable.--Information, records or
30 documents that would otherwise be available from original

1 sources may not be construed as immune from discovery or use in
2 an action or proceeding merely because they were presented to
3 the office.

4 Section 507-C. Annual report.

5 Beginning June 30, 2023, and each June 30 thereafter, the
6 office shall issue an annual report to the General Assembly. The
7 annual report shall be posted on the office's publicly
8 accessible Internet website and include, at a minimum, the
9 following:

10 (1) A summary regarding the type of matters handled by
11 the office during the year.

12 (2) Recommendations concerning legislative amendments to
13 improve the safety of and promote better outcomes for
14 children and families receiving services in child health,
15 safety and welfare programs in this Commonwealth.

16 Section 2. This act shall take effect immediately.