

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1036 Session of 2024

INTRODUCED BY BROOKS, SCHWANK, COLLETT, KANE, BARTOLOTTA,
HAYWOOD, HUGHES, PENNYCUICK, COSTA, BOSCOLA, COMMITTA,
BREWSTER, TARTAGLIONE, DILLON, KEARNEY, STREET, CAPPELLETTI
AND SANTARSIERO, JANUARY 8, 2024

REFERRED TO HEALTH AND HUMAN SERVICES, JANUARY 8, 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," providing for Office of
4 Child Advocate, the Coalition of Trauma Prevention and
5 Intervention and the Statewide Children's Mental Health
6 Ombudsman; and imposing duties on the Department of Human
7 Services.

8 The General Assembly of the Commonwealth of Pennsylvania
9 hereby enacts as follows:

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

13 ARTICLE VII-A

14 OFFICE OF CHILD ADVOCATE

15 Section 701-A. Definitions.

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

19 "Child Advocate." The Child Advocate appointed under section

1 702-A.

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

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

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

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

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

17 (5) Provide early intervention under the act of December
18 19, 1990 (P.L.1372, No.212), known as the Early Intervention
19 Services System Act.

20 (6) Perform child fatality and near fatality review
21 under 23 Pa.C.S. Ch. 63.

22 "Coalition." The Coalition of Trauma Prevention and
23 Intervention established under section 704-A.

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

29 "Executive agency." As defined in section 102 of the act of
30 October 15, 1980 (P.L.950, No.164), known as the Commonwealth

1 Attorneys Act.

2 "Executive Board." The Executive Board of the Commonwealth
3 under section 204 of the act of April 9, 1929 (P.L.177, No.175),
4 known as The Administrative Code of 1929.

5 "Facility." A residential facility for children licensed by
6 the department.

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

12 "Office." The Office of Child Advocate established under
13 section 702-A.

14 "Statewide Children's Mental Health Ombudsman." An
15 individual appointed by the office who has the authority to
16 advocate on behalf of a child under 21 years of age in need of
17 mental health services.

18 Section 702-A. Office of Child Advocate.

19 (a) Establishment.--The Office of Child Advocate is
20 established within the department.

21 (b) Appointment and qualifications.--

22 (1) The Child Advocate shall be appointed by the
23 Governor, by and with the advice and consent of a majority of
24 all of the members of the Senate, and shall hold office for a
25 term of six years, and until a successor is duly appointed
26 and qualified, but in no event more than 90 days beyond the
27 expiration of the appointed term.

28 (2) A vacancy occurring by expiration of term, death,
29 resignation, removal or for any other reasons shall be filled
30 in the manner provided by section 8 of Article IV of the

1 Constitution of Pennsylvania for the remainder of the term.

2 (3) When the term of the Child Advocate expires, the
3 position shall be immediately deemed a vacancy and the
4 Governor shall nominate a person to fill that position within
5 90 days of the date of expiration, even if the Child Advocate
6 continues in office.

7 (4) The Child Advocate may be reappointed for additional
8 terms.

9 (5) The Child Advocate shall be an individual who, by
10 reason of training and experience, is qualified to represent
11 the interests of children.

12 (6) To be eligible to be appointed by the Governor as
13 Child Advocate, an individual shall have at least six years
14 of professional experience in child advocacy, social work or
15 related areas, including one year in a supervisory or
16 administrative capacity, and a bachelor's degree. Any
17 equivalent combination of experience and training shall be
18 acceptable.

19 (c) Compensation.--Compensation for the Child Advocate shall
20 be set by the Executive Board.

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

24 (e) Service and employees.--The Child Advocate shall operate
25 from the central office of the department with the Statewide
26 Children's Mental Health Ombudsman and clerical and professional
27 staff as may be available within the budget of the Executive
28 Board. The compensation of employees of the office shall be set
29 by the Executive Board.

30 (f) Powers and duties.--The Child Advocate shall:

1 (1) Serve as a resource to and advocate for children by
2 supporting and enhancing child health, safety and well-being.

3 (2) Conduct visits to a facility upon receiving a
4 complaint. During a visit, the Child Advocate or the
5 advocate's authorized designee may interview staff and
6 residents of the facility. The Child Advocate shall provide
7 written notification to the department of their findings
8 within 24 hours after the visit.

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

15 (4) Coordinate educational, informational and other
16 programs for public awareness and education concerning child
17 maltreatment and the role of the community in strengthening
18 families and keeping children safe.

19 (5) Work with executive agencies to establish
20 coordinated and consistent trauma-informed training and
21 practices in State-operated and State-funded programs to make
22 the Commonwealth a trauma-informed State via the coalition
23 and the Trauma Informed Pennsylvania Plan under section 703-
24 A.

25 (6) Monitor the development and implementation of
26 Federal, State and local statutes, regulations, policies and
27 programs regarding services and supports for children with a
28 mental health diagnosis, including the education of children
29 with a mental health diagnosis and childhood trauma, and make
30 recommendations for the improvement of the statutes,

1 regulations, policies, programs, licensure, financing or
2 other responsibilities to improve the safety of and promote
3 better outcomes for children and families receiving services
4 in child health, safety and well-being programs in this
5 Commonwealth.

6 (7) Each quarter, send a report to each facility that
7 was the subject of a complaint during the relevant period,
8 listing the complaints involving that facility that were
9 received during the past quarter. The Child Advocate shall
10 meet regularly with the secretary and the Deputy Secretary
11 for the Office of Mental Health and Substance Abuse Services
12 and shall report on any Statewide trends that the Child
13 Advocate has identified and potential solutions.

14 (8) By June 30, 2024, and June 30 each year thereafter,
15 provide an annual report summarizing the Child Advocate's
16 activities and accomplishments to the Governor, the
17 secretary, the chairperson and minority chairperson of the
18 Aging and Youth Committee of the Senate, the chairperson and
19 minority chairperson of the Health and Human Services
20 Committee of the Senate, the chairperson and minority
21 chairperson of the Children and Youth Committee of the House
22 of Representatives and the chairperson and minority
23 chairperson of the Human Services Committee of the House of
24 Representatives. The annual report shall be posted on the
25 office's publicly accessible Internet website and include, at
26 a minimum, the following:

27 (i) A summary regarding the type of matters handled
28 by the Child Advocate, the Statewide Children's Mental
29 Health Ombudsman and the coalition during the year.

30 (ii) Recommendations regarding legislation to

1 improve the safety of and promote better outcomes for
2 children and families receiving services in child health,
3 safety and well-being programs in this Commonwealth.

4 (iii) The quarterly reports of each facility that
5 was the subject of a complaint received during the
6 relevant period, listing the complaints involving that
7 facility that were received during the past quarter.

8 (iv) Any other information the office finds
9 pertinent and beneficial.

10 (g) Relationship to department and county agency powers and
11 duties.--The powers and duties of the Child Advocate under
12 subsection (f) do not supplant, supersede or otherwise affect
13 the powers, duties and responsibilities of the department or a
14 county agency. Nothing in this article shall be construed to
15 prohibit the department, a county agency or the Child Advocate
16 from working in collaboration with each other.

17 (h) Access.--Notwithstanding any other provision of law,
18 upon request of the office, an executive agency or local
19 government shall furnish information, records or documents under
20 a child health, safety and welfare program to the Child
21 Advocate, or an authorized designee, as follows:

22 (1) Information, records and documents generally. An
23 executive agency or local government shall furnish existing
24 information, records or documents in its possession, custody
25 or control within 10 days of receiving the request. Nothing
26 in this article shall be construed to require an executive
27 agency or local government to create a record that does not
28 currently exist.

29 (2) Child protective services reports. Access under this
30 section includes access to child protective services reports

1 specified under 23 Pa.C.S. § 6339 (relating to
2 confidentiality of reports). An executive agency or local
3 government shall furnish a child protective services report
4 to the Child Advocate within 10 days of receiving the Child
5 Advocate's request.

6 (i) Immunity.--Notwithstanding any other provision of law, a
7 person providing requested materials under subsection (h) may
8 not be found, by reason of having provided the materials
9 specified in subsection (h), to have violated any criminal law,
10 or to be civilly liable under any law, unless the materials are
11 false and the person providing the materials knew or had reason
12 to believe that the materials were false and was motivated by
13 malice toward a person directly affected by the action.

14 (j) Confidentiality.--

15 (1) Confidential, privileged or protected information,
16 records or documents provided to the Child Advocate under
17 subsection (h):

18 (i) Shall remain confidential, privileged and
19 protected.

20 (ii) Shall not be discoverable or admissible as
21 evidence in an action or proceeding.

22 (iii) Shall not be accessible for inspection and
23 duplication in accordance with the act of February 14,
24 2008 (P.L.6, No.3), known as the Right-to-Know Law.

25 (2) Information, records or documents that would
26 otherwise be available from original sources may not be
27 construed as immune from discovery or use in an action or
28 proceeding merely because they were presented to the Child
29 Advocate.

30 Section 703-A. Statewide Children's Mental Health Ombudsman.

1 (a) Establishment.--The Statewide Children's Mental Health
2 Ombudsman is established within the office and shall report to
3 and be under the direction of the Child Advocate.

4 (b) Designation.--The office shall designate an individual
5 to serve as the Statewide Children's Mental Health Ombudsman for
6 the following purposes:

7 (1) To advocate on behalf of children with a mental
8 health diagnosis.

9 (2) To identify barriers to effective mental health
10 treatment and proposed solutions.

11 (3) To monitor and ensure compliance with relevant
12 statutes, regulations, rules and policies pertaining to
13 children's behavioral health services.

14 (c) Term.--The Statewide Children's Mental Health Ombudsman
15 shall serve for a term of four years and shall continue to hold
16 office until a successor is appointed. The office may reappoint
17 the Statewide Children's Mental Health Ombudsman for one
18 additional term. The office may remove the Statewide Children's
19 Mental Health Ombudsman only for neglect of duty, misconduct or
20 inability to perform duties.

21 (d) Policies and procedures.--The office, in consultation
22 with the Statewide Children's Mental Health Ombudsman and the
23 Deputy Secretary for the Office of Mental Health and Substance
24 Abuse Services, shall establish policies and procedures to
25 facilitate the purposes of the Statewide Children's Mental
26 Health Ombudsman. The policies and procedures shall include
27 procedures for filing complaints, investigating complaints and
28 taking action to implement resolutions to complaints, including
29 the use of State agency enforcement authority to resolve
30 complaints as recommended by the Statewide Children's Mental

1 Health Ombudsman.

2 Section 704-A. Coalition of Trauma Prevention and Intervention.

3 (a) Establishment.--The Coalition of Trauma Prevention and
4 Intervention is established within the office and shall be under
5 the direction of the Child Advocate. Except as otherwise
6 provided in this article, the coalition shall be subject to this
7 article.

8 (b) Purpose.--The purpose of the coalition is to advance the
9 Trauma Informed Pennsylvania Plan to prevent and respond to
10 mental health crisis by promoting trauma-informed policies and
11 practices across all Commonwealth systems.

12 (c) Operation.--

13 (1) The coalition shall operate as a multisectoral and
14 multidisciplinary collaborative sponsored by the office.

15 (2) The coalition shall consist of the following:

16 (i) A minimum of one representative from each of the
17 following:

18 (A) The Department of Corrections.

19 (B) The Department of Drug and Alcohol Programs.

20 (C) The Department of Education.

21 (D) The Department of Health.

22 (E) The Pennsylvania Commission on Crime and
23 Delinquency.

24 (F) The Pennsylvania Parole Board.

25 (G) The Pennsylvania State Police.

26 (ii) Two members of the Senate, one member from the
27 majority party and one member from the minority party,
28 and two members of the House of Representatives, one
29 member from the majority party and one member from the
30 minority party.

1 (iii) The director from each of the department's
2 Regional Children, Youth and Families Offices.

3 (iv) One trauma survivor and one community
4 stakeholder from each of the following regions of the
5 Commonwealth:

6 (A) The northwest region, composed of Cameron,
7 Clarion, Clearfield, Crawford, Elk, Erie, Forest,
8 Jefferson, Lawrence, McKean, Mercer, Venango and
9 Warren Counties.

10 (B) The southwest region, composed of Allegheny,
11 Armstrong, Beaver, Butler, Cambria, Fayette, Greene,
12 Indiana, Somerset, Washington and Westmoreland
13 Counties.

14 (C) The northcentral region, composed of
15 Bradford, Centre, Clinton, Columbia, Lycoming,
16 Montour, Northumberland, Potter, Snyder, Sullivan,
17 Tioga and Union Counties.

18 (D) The southcentral region, composed of Adams,
19 Bedford, Blair, Cumberland, Dauphin, Franklin,
20 Fulton, Huntingdon, Juniata, Lebanon, Mifflin, Perry
21 and York Counties.

22 (E) The northeast region, composed of Carbon,
23 Lackawanna, Lehigh, Luzerne, Monroe, Northampton,
24 Pike, Susquehanna, Wayne and Wyoming Counties.

25 (F) The southeast region, composed of Bucks,
26 Berks, Chester, Delaware, Lancaster, Montgomery,
27 Philadelphia and Schuylkill Counties.

28 (d) Meetings.--The coalition shall meet on a regular basis
29 at such times and places as it may designate, but no less than
30 six times per year, and report their meeting minutes to the

1 secretary, the Child Advocate, the Statewide Children's Mental
2 Health Ombudsman, the chairperson and minority chairperson of
3 the Aging and Youth Committee of the Senate, the chairperson and
4 minority chairperson of the Health and Human Services Committee
5 of the Senate, the chairperson and minority chairperson of the
6 Children and Youth Committee of the House of Representatives and
7 the chairperson and minority chairperson of the Human Services
8 Committee of the House of Representatives.

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