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H.75

Introduced by Representative Pugh of South Burlington

Referred to Committee on

Date:

Subject: Human services; child welfare; advocate

Statement of purpose of bill as introduced: This bill proposes to establish the  
Office of the Child Advocate.

An act relating to the Office of the Child Advocate

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. 33 V.S.A. chapter 32 is added to read:

CHAPTER 32. OFFICE OF THE CHILD ADVOCATE

§ 3201. DEFINITIONS

As used in this chapter:

(1) “Agency” means the Agency of Human Services.

(2) “Child Advocate” means an appointed individual who intervenes on  
behalf of a child or family to resolve complaints pursuant to this chapter.

(3) “Office” means the Office of the Child Advocate.

(4) “State agency” means any office, department, board, bureau,  
division, agency, or instrumentality of the State.

1     § 3202. OFFICE OF THE CHILD ADVOCATE

2           (a) The Agency of Administration shall establish the Office of the Child  
3     Advocate by contract with any nonprofit organization for the purpose of  
4     protecting and advancing the interests of Vermont's children and families.  
5     Notwithstanding administrative support from the Agency of Administration,  
6     the Office shall act independently of any State agency in the performance of its  
7     duties.

8           (b) The Child Advocate, an individual with expertise and experience in the  
9     fields of social services, advocacy, and law, shall direct the Office.

10          (c) Subject to confirmation by the Senate, the Governor shall appoint a  
11     Child Advocate for a term of four years. The Child Advocate shall hold the  
12     office until reappointed or until his or her successor is appointed. The  
13     Governor may remove the Child Advocate only for neglect of duty,  
14     misconduct, or inability to perform the responsibilities of the office. Any  
15     vacancy shall be filled by a similar appointment for the remainder of the  
16     unexpired term.

17     § 3203. RESPONSIBILITIES OF THE OFFICE

18           The Office shall:

19           (1) identify, investigate, and resolve complaints on behalf of children  
20     and families receiving services from the Agency and assist service recipients  
21     with the filing and pursuit of complaints and appeals;

1           (2) develop and implement a uniform reporting system to collect and  
2           analyze complaints relating to services the Agency provided to children and  
3           families as well as complaints relating to conditions in facilities serving  
4           children;

5           (3) support recipients of child and family services by providing  
6           assistance with obtaining services and information about recipients' related  
7           rights and responsibilities;

8           (4) analyze and monitor the development and implementation of federal,  
9           State, and local laws, regulations, and policies relating to child welfare and  
10          providers of child and family services and recommend changes when  
11          appropriate;

12          (5) provide information concerning child welfare to the public, State  
13          agencies, legislators, and others, as necessary;

14          (6) establish by rule procedures for protecting the confidentiality of  
15          clients;

16          (7) establish by rule qualifications and training for employees of the  
17          Office and monitor their performance;

18          (8) train persons and organizations in advocating for the interests of  
19          Vermont's children and families;

20          (9) notwithstanding 2 V.S.A. § 20(d), submit to the General Assembly  
21          and the Governor on or before January 15 of each year a report addressing;

1           (A) child welfare in Vermont;

2           (B) the quality of services that the Agency provides to children and  
3 families;

4           (C) complaints relating to services provided by the Agency to  
5 children and families;

6           (D) conditions of facilities serving children in Vermont; and

7           (E) recommendations related to improving services for children and  
8 families; and

9           (10) perform such other activities on behalf of Vermont's children and  
10 families as the Office deems necessary.

11   § 3204. AUTHORITY OF THE CHILD ADVOCATE

12           In fulfilling the responsibilities of the Office, the Child Advocate may:

13           (1) Hire or contract with persons or organizations to fulfill the purposes  
14 of this chapter.

15           (2) Issue subpoenas when necessary to an investigation.

16           (3) Communicate and visit with any child or family member receiving  
17 services from the Agency, provided that the Child Advocate first obtain  
18 permission from the child's guardian or legal representative. Facilities and  
19 providers delivering services to children shall permit the Child Advocate  
20 access to their facilities and to children for whom they provide services.

1           (4) Pursue administrative, judicial, or other remedies on behalf of a child  
2           or family receiving services from the Agency, including access orders from a  
3           District or Superior Court judge when access under subdivision (3) of this  
4           section has been unreasonably denied and all other reasonable attempts to gain  
5           access have failed.

6           (5) Represent the interests of a child or family receiving services from  
7           the Agency before the Human Services Board pursuant to 3 V.S.A. §§ 3090  
8           and 3091.

9           (6) Delegate to employees any part of the Child Advocate's authority.

10          (7) Adopt rules necessary to carry out the provisions of this chapter.

11          (8) Take such further actions as are necessary in order to fulfill the  
12          purposes of this chapter.

13          § 3205. COOPERATION OF STATE AGENCIES

14          (a) All State agencies shall comply with reasonable requests of the Child  
15          Advocate for information and assistance.

16          (b) The Secretary of Human Services may adopt rules necessary to ensure  
17          the departments within the Agency cooperate with the Office.

18          § 3206. CONFIDENTIALITY

19          In the absence of a court order or the written consent of the guardian or  
20          legal representative of a child about whom a concern has been raised, the Child  
21          Advocate shall not disclose the identity of the child.

1     § 3207. IMMUNITY

2           No civil liability shall attach to the Child Advocate or his or her employees  
3     for good faith performance of the duties imposed by this chapter.

4     § 3208. INTERFERENCE AND RETALIATION

5           (a) A person who intentionally hinders a representative of the Office acting  
6     pursuant to this chapter shall be imprisoned not more than one year or fined  
7     not more than \$5,000.00, or both.

8           (b) A person who takes discriminatory, disciplinary, or retaliatory action  
9     against an employee or a volunteer of a State agency, facility, or provider  
10    servicing children for any communication made or information disclosed to aid  
11    the Office in carrying out its duties and responsibilities shall be imprisoned not  
12    more than one year or fined not more than \$5,000.00, or both. Any employee  
13    or volunteer of a State agency, facility, or provider may seek damages in  
14    Superior Court against a person who takes an action prohibited by this  
15    subsection.

16    § 3209. CONFLICT OF INTEREST

17           The Child Advocate and his or her employees and contractors shall not have  
18    any conflict of interest relating to the performance of their responsibilities  
19    under this chapter. For the purposes of this section, a conflict of interest exists  
20    whenever the Child Advocate or his or her employees or contractors:

1           (1) has direct involvement in the licensing, certification, or accreditation  
2           of a provider or facility delivering services to children and families;

3           (2) has a direct ownership interest in a provider or facility delivering  
4           services to children and families;

5           (3) is employed by or participates in the management of a provider or  
6           facility delivering services to children and families; or

7           (4) receives or has the right to receive, directly or indirectly,  
8           remuneration under a compensation arrangement with a provider or facility  
9           delivering services to children and families.

10       Sec. 2. EFFECTIVE DATE

11       This act shall take effect on July 1, 2015.