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H.73

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 office
12 until reappointed or until his or her successor is appointed. The Governor may
13 remove the Child Advocate only for neglect of duty, misconduct, or inability to
14 perform the responsibilities of office. Any vacancy shall be filled by a similar
15 appointment for the remainder of the unexpired term.

16 § 3203. RESPONSIBILITIES OF THE OFFICE

17 The Office shall:

18 (1) identify, investigate, and resolve complaints on behalf of children
19 and families receiving services from the Agency and assist service recipients
20 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 children's 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;

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 -serving 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;

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, 2013.