



State of New Hampshire

Office of the Child Advocate

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Director

**Testimony of Moira O'Neill, Director
New Hampshire Office of the Child Advocate
before the
Vermont Joint Legislative Child Protection Oversight Committee
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Chairman Pugh, Vice Chair Lyons, and esteemed members of the Joint Legislative Child Protection Oversight Committee, my name is Moira O'Neill and I am grateful for the opportunity to provide testimony on behalf of **H.215 *An act relating to the Office of the Child Advocate***. Please accept my apologies for not being available in person. I support the concept of the bill and have a few suggestions for your consideration.

I am addressing you today with two levels of authority. First, I am the Child Advocate for the State of New Hampshire and previously served 11 years as an Assistant Child Advocate for the State of Connecticut. Second, I am a scholar of state children's ombudsmen and advocates. In 2011 I completed a PhD dissertation on the concept, which included extensive legal research of all 50 U.S. states and territories. My experience, scholarship and expertise therefore, uniquely qualify me to provide guidance in the development of such an essential function in state government on behalf of children.

State child advocates or ombudsmen may currently be the fastest growing sector of government, reflecting the widespread recognition that children's rights are limited and their voices unheard. There are currently about 20 independent offices in the U.S. The rationale for establishing an Office of the Child Advocate may be founded in a sense of duty or an expectation of rights. A third motivation is grounded in advancements in brain science and our understanding of the impact of adverse childhood experiences. A developmental approach to establishing oversight of state services to children may be the best investment in a state's future. We now know definitively that adverse experiences in childhood have life-long impact, including chronic disease, poor school performance, and inconsistent employment. It behooves a state to respond to children in need to minimize such negative impact. However, we have learned that many state actions in a child's life can have equally devastating adverse effects. An Office of the Child Advocate can oversee and ensure state agency actions are effective. H.215 includes an expectation that the Vermont Child Advocate will educate the state and other stakeholders on what is best for children, including the state of the science and best practices in meeting children's needs. That expectation enhances the impact of the Child Advocate as one who ensures the highest standard of care by identifying flawed practice and promoting best practice.

I enthusiastically support the concept of **H.215 establishing an Office of the Child Advocate**. Overall I am impressed with the strength and comprehensiveness of the bill. There are some sections of the bill for which I have concerns. In the interest of time and organized testimony, I will reserve detailed complements and only offer you commentary on the sections for which I offer suggested adjustment.

Section 3202 Responsibilities of the Office, Provision (1) invests the Office with responsibility for identifying, investigating and resolving complaints about services from the Agency of Human Services. I encourage you to consider broadening the jurisdiction of the Office to all agencies serving children. While the Agency is integrated with most of the departments that serve children, there are exclusions, in particular, education. The New Hampshire Office of the Child Advocate has limited jurisdiction to child protection and juvenile justice services. While children receiving those services may be most at risk, they are impacted by other agencies as well. For example, most children enter the juvenile justice system through failures of education services. Also, we have encountered children in residential facilities who were placed by education. Having no jurisdiction over education, we have not been able to investigate or advocate on behalf of those children. That is fundamentally unfair and unsound. I encourage you to look to Connecticut, Massachusetts and Rhode Island where the Child Advocates have jurisdiction over all state provided and funded services to children.

Section 3204, Authority of the Child Advocate, Provision (3) authorizes the Child Advocate to communicate with and visit any child receiving services provided permission is obtained from a guardian or legal representative. The restriction to communicating with children only with permission fundamentally restricts a child's right to bring forth grievances and be heard. Furthermore, if the state is the guardian and the Child Advocate is investigating the state's care of the child, then requiring permission provides an opportunity to obstruct an investigation. The Child Advocate must be the voice for children, but the voice will be most effective when it is informed by direct conversations and observations of a child directly and without interference. I urge you to keep the provision empowering the Child Advocate to communicate and visit with children but strike the expectation of procuring permission. The only caveat is an expectation that the Child Advocate always respect a child's desire to communicate or not; and assess capacity to safely interact with a stranger by consulting the appropriate clinical providers in the child's life.

Section 3204, Provision (5) authorizes the Child Advocate to represent interests of the child or family before the Human Services Board. I am not entirely familiar with the Board. However, I would advise against authorizing the Child Advocate to replace legal counsel or provide any direct service that distracts from a systems-perspective. It is unlikely the Office will be allocated enough resources to have the capacity for individual representation. Receiving complaints is essential to identify broader system flaws. If all resources are invested in individual cases, however, the system as a whole will not be reformed.

Finally, Section 3206, Confidentiality, emphasizes the importance of respecting a child's privacy. Confidentiality is critical to safety and wellbeing. It is also already governed by federal and state laws that the Child Advocate should be subject to. There are circumstances, however, when it is in a child's interest to disclose a child's identity. This is largely a logistical concern. Having access to information about a child burdens the Child Advocate with knowledge that may be useful in the child's treatment or legal proceedings. In these cases, the statute should authorize the Child Advocate to disclose information about the child, including the child's identity, when it is in the child's interest or the public's interest. This aligns with federal law and ensures effective advocacy on the child's behalf.

Shortly after I first took the position directing the New Hampshire Office of the Child Advocate, there occurred a tragic child death in a murder suicide. As the Child Advocate, I had access to child protection records that told the story of a parent who repeatedly asked for help. His asking for help was assessed by child protection services as a parenting strength. However, because of his strength, he was not substantiated for abuse or neglect, and there was no means of offering him the services he needed. With the authority to disclose the child's story, I was able to inform the New Hampshire legislature of the dire need to reinstitute Voluntary Services. We now have Voluntary Services available to families

facing similar risks as that child's was. That is the essence of the role of the Child Advocate – shining the light on system weaknesses through access to information and judicious disclosure when necessary.

Finally, I want to thank you for the opportunity to express support for **H.215 An act relating to the Office of the Child Advocate** for my own interests. New Hampshire's borders are fluid. Having lived in both states I know this well. But as the Child Advocate in one, I am astonished at the movement of children back and forth each day. Some are seeking health care, education, safety, even foster placement. Some are trafficked, and some are with caregivers in one state, avoiding child welfare authorities in another.

Every day my staff and I check on New Hampshire children in Vermont or Maine or Massachusetts. In the other states, I can call the Child Advocate or Ombudsman and ask about a service or a process. I can also alert them to concerns I might have if their state's children are on my radar in New Hampshire. When families I have been assisting move across a border, I can hand them off to similar resources in those states. Recently we convened all of the New England Child Advocates and Ombudsman for a regional meeting. We discovered a great opportunity for learning but also for collaboration. We are separate states but we are a region of local migration. I believe some of the solutions for our system problems are regional solutions. I urge you to pass **H.215 An act relating to the Office of the Child Advocate** with my suggested adjustments to give Vermont children a voice and take a step toward system improvement. I look forward to working with the new Office in the near future.

My apologies for being unable to testify in person today. I am more than willing to meet with you or communicate by any other means if you have questions or I can be of further assistance.