

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Human Services to which was referred House Bill  
3 No. 265 entitled “An act relating to the Office of the Child Advocate”  
4 respectfully reports that it has considered the same and recommends that the  
5 bill be amended by striking out all after the enacting clause and inserting in  
6 lieu thereof the following:

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

8 CHAPTER 32. OFFICE OF THE CHILD, YOUTH, AND FAMILY  
9 ADVOCATE

10 § 3212. OVERSIGHT COMMISSION ON CHILDREN, YOUTHS, AND  
11 FAMILIES

12 (a) Creation. There is created the Oversight Commission on Children,  
13 Youths, and Families to provide guidance and recommendations to the Office  
14 of the Child, Youth, and Family Advocate.

15 (b) Membership. The Commission shall be composed of the following  
16 members who shall not have a conflict of interest with the Department for  
17 Children and Families:

18 (1) one current member of the House of Representatives who serves on  
19 the House Committee on Human Services, who shall be appointed by the  
20 Speaker of the House;

1           (2) one current member of the Senate who serves on the Senate  
2           Committee on Health and Welfare, who shall be appointed by the Committee  
3           on Committees;

4           (3) a member with professional expertise in childhood trauma, adverse  
5           childhood experiences, or child welfare, who shall be appointed by the  
6           Governor;

7           (4) the Executive Director of Racial Equity established pursuant to  
8           3 V.S.A. § 5001 or designee;

9           (5) one member of a child advocacy group, board or commission, who  
10          shall be appointed by the Speaker;

11          (6) one member of a child advocacy group, board or commission, who  
12          shall be appointed by the Committee on Committees;

13          (7) one member of a child advocacy group, board or commission, who  
14          shall be appointed by the Governor;

15          (8) an adult who was in the custody of the Department for Children and  
16          Families within the past five years, who shall be appointed by the Vermont  
17          Foster and Adoptive Family Association; and

18          (9) the relative caregiver of a child or youth involved in the child  
19          protection system, who shall be appointed by Vermont Kin as Parents.

20          (c) Powers and duties. The Commission shall:

1           (1) recommend qualified applicants for the position of Child, Youth, and  
2           Family Advocate to the Governor for consideration pursuant to section 3202 of  
3           this section; and

4           (2) provide oversight of the Office in its efforts to support an equitable,  
5           comprehensive, and coordinated system of services and programs for children,  
6           youths, and families.

7           (d) Assistance. The Commission shall have the administrative, technical,  
8           and legal assistance of the Agency of Administration.

9           (e) Meetings.

10           (1) The member representing the House Committee on Human Services  
11           shall call the first meeting of the Commission to occur on or before August 1,  
12           2021.

13           (2) The Commission shall select a chair from among its members at the  
14           first meeting.

15           (3) A majority of the membership shall constitute a quorum.

16           (f) Compensation and reimbursement.

17           (1) For attendance at meetings during adjournment of the General  
18           Assembly, a legislative member of the Commission serving in the member's  
19           capacity as a legislator shall be entitled to per diem compensation and  
20           reimbursement of expenses pursuant to 2 V.S.A. § 23 for not more than

1 four meetings annually. These payments shall be made from monies  
2 appropriated to the Office of Legislative Operations.

3 (2) Other members of the Commission shall be entitled to per diem  
4 compensation and reimbursement of expenses as permitted under 32 V.S.A.  
5 § 1010 for not more than four meetings annually. These payments shall be  
6 made from monies appropriated to the Agency of Administration.

7 Sec. 2. 33 V.S.A. chapter 32 is amended to read:

8 CHAPTER 32. OFFICE OF THE CHILD, YOUTH, AND FAMILY  
9 ADVOCATE

10 § 3201. DEFINITIONS

11 As used in this chapter:

12 (1) “Child, Youth, and Family Advocate” or “Advocate” means an  
13 appointed individual who intervenes on behalf of a child, youth, or family to  
14 resolve complaints and monitor the welfare of children, youths, and families  
15 pursuant to this chapter.

16 (2) “Department” means the Department for Children and Families.

17 (3) “Office” means the Office of the Child, Youth, and Family  
18 Advocate.

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

1     § 3202. OFFICE OF THE CHILD, YOUTH, AND FAMILY ADVOCATE

2           (a) There is established the Office of the Child, Youth, and Family  
3     Advocate for the purpose of advancing the interests and welfare of all  
4     Vermont’s children and youths in a manner that addresses racial and social  
5     equity, including providing transparent and impartial oversight of the child  
6     protection and juvenile justice systems and promoting reforms necessary to  
7     better serve Vermont’s children, youths, and families. The Office shall act  
8     independently of any State agency in the performance of its duties.

9           (b) The Office shall:

10           (1) work in collaboration with other State agencies, the Judiciary, the  
11     General Assembly, and any other individuals or entities necessary in an effort  
12     to strengthen the State’s services for children, youths, and families;

13           (2) develop and implement a uniform reporting system to collect and  
14     analyze complaints related to the welfare of children, youths, and families,  
15     including the ability to disaggregate data by race, ethnicity, gender, geographic  
16     location, disability status, or any other categories that the Child, Youth, and  
17     Family Advocate deems necessary to carry out the provisions of this chapter;

18           (3) analyze and monitor the development and implementation of federal,  
19     State, and local laws, regulations, and policies relating to child, youth, and  
20     family welfare and recommend changes when appropriate;

1           (4) evaluate procedures for accessing information and protecting the  
2           confidentiality of clients;

3           (5) review complaints of persons concerning the actions of any State  
4           agency providing services to children, youths, and families and of any entity  
5           that provides services to children, youths, and families through funds provided  
6           by the State, make appropriate referrals and investigate those where the Child,  
7           Youth, and Family Advocate determines that a child, youth, or family may be  
8           in need of assistance from the Advocate or that a systemic issue in the State's  
9           provision of services to children and youth is raised by the complaint;

10           (6) support recipients of children's, youths' and families' services by  
11           providing assistance with obtaining services and information about recipients'  
12           related rights and responsibilities;

13           (7) ensure that children and youths placed in the custody of the State or  
14           who are receiving services under the supervision of the Department in any  
15           public or private facility receive humane and dignified treatment at all times  
16           with full respect for the child's or youth's personal dignity, right to privacy,  
17           and right to adequate and appropriate health care and education in accordance  
18           with State and federal law;

19           (8) provide assistance to any child, youth, or family whom the Child,  
20           Youth, and Family Advocate determines is in need of assistance;

1           (9) provide systemic information concerning child, youth, and family  
2           welfare to the public, the Governor, State agencies, legislators, and others, as  
3           necessary;

4           (10) train persons and organizations advocating for the interests of  
5           Vermont’s children, youths, and families;

6           (11) notwithstanding 2 V.S.A. § 20(d), submit to the General Assembly  
7           and the Governor on or before December 1 of each year a report addressing:

8                   (A) child, youth, and family welfare in Vermont;

9                   (B) the quality of services that the Department provides to children,  
10           youths, and families;

11                   (C) conditions of placements for children and youths in Vermont;

12                   (D) systemic shortcomings in Vermont’s assistance to and services  
13           for children, youths, and families, including within the child protection and  
14           juvenile justice systems; and

15                   (E) recommendations related to improving services for children,  
16           youths, and families; and

17           (12) perform such other activities on behalf of Vermont’s children,  
18           youths, and families as the Office deems necessary.

19           (c) The Office shall be allowed to accept philanthropic contributions for the  
20           purpose of carrying out the provisions of this chapter.

21           § 3203. CHILD, YOUTH, AND FAMILY ADVOCATE

1       (a) The Office shall be directed by the Child, Youth, and Family Advocate,  
2       an individual with a professional degree in law, social work, public health, or a  
3       related field, and shall be qualified by reason of education, expertise, and  
4       experience. The Child, Youth, and Family Advocate shall serve on a full-time  
5       basis and shall be exempt from classified service.

6       (b)(1) The Oversight Commission on Children, Youths, and Families  
7       established pursuant to section 3212 of this chapter shall recommend qualified  
8       applicants for the position of Child, Youth, and Family Advocate to the  
9       Governor for consideration. Subject to confirmation by the Senate, the  
10       Governor shall appoint an Advocate from among those applicants  
11       recommended by the Oversight Commission for a term of four years. The  
12       appointment for Advocate shall be made without regard to political affiliation  
13       and on the basis of integrity and demonstrated ability. The Advocate shall  
14       hold office until reappointed or until a successor is appointed.

15       (2) The Governor, upon a majority vote of Oversight Commission, may  
16       remove the Child, Youth, and Family Advocate for cause, which includes only  
17       neglect of duty, gross misconduct, conviction of a crime, or inability to  
18       perform the responsibilities of the Office. The Governor's reason for  
19       removing the Advocate shall be published electronically on the website of the  
20       Office of the Child, Youth, and Family Advocate, and the Speaker of the  
21       House and President Pro Tempore shall simultaneously receive notification.



1 Any vacancy shall be filled by the appointment process set forth in subdivision  
2 (1) of this subsection for the remainder of the unexpired term.

3 (c) The Child, Youth, and Family Advocate shall appoint a Deputy Child,  
4 Youth, and Family Advocate, whose duties shall be performed at the direction  
5 of the Advocate.

6 (d) Upon any vacancy in the position of the Child, Youth, and Family  
7 Advocate, and until such time as a replacement is appointed and confirmed, the  
8 Deputy Child, Youth, and Family Advocate shall serve as the acting Child,  
9 Youth, and Family Advocate. The acting Child, Youth, and Family Advocate  
10 shall have the full responsibilities of the Advocate and entitled to the same  
11 compensation as the outgoing Child, Youth, and Family Advocate.

12 § 3204. CHILD, YOUTH, AND FAMILY ADVISORY COUNCIL

13 (a) Purpose and membership. The Child, Youth, and Family Advocate  
14 shall convene an Advisory Council composed of stakeholders who have been  
15 impacted by child welfare services provided by the Department for Children  
16 and Families and other State agencies. The Advisory Council's membership  
17 shall reflect the growing diversity of Vermont's children and families,  
18 including individuals who are Black, Indigenous, and Persons of Color, as well  
19 as with regard to socioeconomic status, geographic location, gender, sexual  
20 identity, and disability status. Members shall provide advice and guidance to

1 the Office of the Child, Youth, and Family Advocate regarding the  
2 administration and operation of the Office.

3 (b) Confidentiality. In seeking the advice and guidance of the Advisory  
4 Council, the Child, Youth, and Family Advocate shall not disclose to the  
5 Advisory Council, or any member thereof, individually identifiable  
6 information about a child or youth unless the information is already known to  
7 the public.

8 (c) Compensation. Members of the Advisory Council shall be  
9 compensated in accordance with the policies adopted by the Office of the  
10 Child, Youth, and Family Advocate and per diems or reimbursement of  
11 expenses, or both, shall be dispersed from the Office’s budget.

12 § 3205. INCIDENTS AND FATALITIES

13 (a) The Department shall provide the Office with a copy of all reports  
14 related to actual physical injury to children or youths in the custody of the  
15 Commissioner or a significant risk of such harm, including, within 48 hours of  
16 the occurrence, reports related to the restraint and seclusion of any child or  
17 youth.

18 (b) The Department shall provide the Office with immediate telephone  
19 notice of any fatality of a child or youth in its custody. The Department shall  
20 provide the Office with a written report of any such incident within 48 hours of  
21 the occurrence.

1        § 3206. ACCESS TO INFORMATION AND FACILITIES

2            (a) Notwithstanding any other provision of law, the Child, Youth, and  
3        Family Advocate and the Deputy Advocate shall, upon request, have timely  
4        access, including the right to inspect and copy, any records necessary to carry  
5        out the provisions of this chapter, including relevant records produced and held  
6        by State entities and third parties.

7            (b) The Child, Youth, and Family Advocate and Deputy Advocate may  
8        communicate privately and visit with any child, youth, or family member who  
9        has received or is receiving services from the Department or who would  
10       benefit from services provided by the Department.

11          (c) Facilities and providers delivering services to children and youths shall  
12       permit the Child, Youth, and Family Advocate or the Deputy Advocate to  
13       access their facilities and to communicate privately with children and youths  
14       for whom they provide services.

15        § 3207. COOPERATION OF STATE AGENCIES

16          (a) All State agencies shall comply with reasonable requests of the Child,  
17       Youth, and Family Advocate and Deputy Advocate for information and  
18       assistance.

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

21        § 3208. CONFIDENTIALITY

1       (a) The Office shall maintain the confidentiality of all case records, third-  
2       party records, and court records, as well as any information gathered in the  
3       course of investigations and systems monitoring duties. These records are  
4       exempt from public inspection and copying under the Public Records Act and  
5       shall be kept confidential except as provided in subsections (b) and (c) of this  
6       section.

7       (b) In the course of carrying out the provisions of this chapter, if the Child,  
8       Youth, and Family Advocate or Deputy Advocate reasonably believes that the  
9       health, safety, or welfare of a child or youth is at imminent risk, the Advocate  
10       or Deputy Advocate may disclose relevant documents or information to any of  
11       the individuals or entities listed in subdivision 4921(e)(1) of this title.  
12       Determinations of relevancy shall be made by the Advocate.

13       (c) Notwithstanding subsection (a) of this section, the Child, Youth, and  
14       Family Advocate or Deputy Advocate may publicly disclose any patterns of  
15       conduct or repeated incidents identified by the Advocate or Deputy Advocate  
16       in carrying out the provisions of this chapter if the Advocate or Deputy  
17       Advocate reasonably believes that public disclosure is likely to mitigate a risk  
18       posed to the health, safety, and welfare of a child or youth, except the  
19       Advocate or Deputy Advocate shall not publicly disclose either of the  
20       following:

1           (1) individually identifiable information about a child or youth unless  
2           the information is already known to the public; and

3           (2) investigation findings where there is a pending law enforcement  
4           investigation or prosecution.

5           § 3209. IMMUNITY

6           No civil liability shall attach to the Child, Youth and Family Advocate or  
7           Deputy Advocate for good faith performance of the duties imposed by this  
8           chapter.

9           § 3210. AUTHORITY TO ISSUE SUBPEONA

10           The Office shall have the authority to subpoena witnesses, records,  
11           documents, reports, reviews, recommendations, correspondence, data, and  
12           other evidence that the Child, Youth, and Family Advocate deems necessary to  
13           fulfil the Office’s duties under this chapter.

14           § 3211. CONFLICT OF INTEREST

15           The Child, Youth, and Family Advocate and the Advocate’s employees and  
16           contractors shall not have any conflict of interest relating to the performance of  
17           their responsibilities under this chapter. For the purposes of this section, a  
18           conflict of interest exists whenever the Child, Youth, and Family Advocate or  
19           the Advocate’s employees or contractors:

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



1 § 5117. RECORDS OF JUVENILE JUDICIAL PROCEEDINGS

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3 (b)(1) Notwithstanding the foregoing, inspection of such records and files  
4 by the following is not prohibited:

5 \* \* \*

6 (H) the Office of the Child, Youth, Family Advocate for the purpose  
7 of carrying out the provisions in chapter 32 for of this title.

8 \* \* \*

9 Sec. 5. OFFICE OF THE CHILD, YOUTH, AND FAMILY ADVOCATE;

10 DUTIES; TEMPORARY LIMITATION

11 Notwithstanding 33 V.S.A. § 3202(b), the Office of the Child, Youth, and  
12 Family Advocate shall only assume responsibility for the duties listed in  
13 subdivisions (1) through (4) of subsection (b) through June 30, 2022. The  
14 Office of the Child Youth and Family Advocate shall assume full  
15 responsibility of all duties listed in 33 V.S.A. § 3202(b) beginning on July 1,  
16 2022.

17 Sec. 6. APPROPRIATION

18 The sum of \$ X.00 is appropriated to the Agency of Administration from  
19 the General Fund in fiscal year 2022 for carrying out the purposes of this act.

20 Sec. 7. REPEAL; JOINT LEGISLATIVE CHILD PROTECTION

21 OVERSIGHT COMMITTEE

1        2015 Acts and Resolves No. 60, § 23 as amended by 2018 Acts and  
2        Resolves No. 207, § 2 is repealed.

3        Sec. 8. EFFECTIVE DATE

4        This act shall take effect on July 1, 2021, except that Secs. 2 (Office of the  
5        Child, Youth, and Family Advocate), 3 (Department’s records of abuse and  
6        neglect), 4 (records of juvenile judicial proceedings), 5 (Office of the Child,  
7        Youth, and Family Advocate; duties; temporary limitation), and  
8        6 (appropriation) shall take effect on January 1, 2022.

9        and that after passage the title of the bill be amended to read: “An act  
10       relating to the Office of the Child, Youth, and Family Advocate”

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15       (Committee vote: \_\_\_\_\_)

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\_\_\_\_\_

17

Representative \_\_\_\_\_

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FOR THE COMMITTEE