

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 813 Session of 2023

INTRODUCED BY SAPPEY, MADDEN, KINSEY, T. DAVIS, SAMUELSON, KHAN, HANBIDGE, KENYATTA, GUENST, KAZEEM, PARKER, SANCHEZ, ROZZI, HILL-EVANS, HOHENSTEIN, CIRESI, OTTEN, SHUSTERMAN, DELLOSO, FLEMING, CEPEDA-FREYTIZ AND ABNEY, APRIL 3, 2023

REFERRED TO COMMITTEE ON CHILDREN AND YOUTH, APRIL 3, 2023

AN ACT

1 Amending the act of April 9, 1929 (P.L.177, No.175), entitled
 2 "An act providing for and reorganizing the conduct of the
 3 executive and administrative work of the Commonwealth by the
 4 Executive Department thereof and the administrative
 5 departments, boards, commissions, and officers thereof,
 6 including the boards of trustees of State Normal Schools, or
 7 Teachers Colleges; abolishing, creating, reorganizing or
 8 authorizing the reorganization of certain administrative
 9 departments, boards, and commissions; defining the powers and
 10 duties of the Governor and other executive and administrative
 11 officers, and of the several administrative departments,
 12 boards, commissions, and officers; fixing the salaries of the
 13 Governor, Lieutenant Governor, and certain other executive
 14 and administrative officers; providing for the appointment of
 15 certain administrative officers, and of all deputies and
 16 other assistants and employes in certain departments, boards,
 17 and commissions; providing for judicial administration; and
 18 prescribing the manner in which the number and compensation
 19 of the deputies and all other assistants and employes of
 20 certain departments, boards and commissions shall be
 21 determined," authorizing the appointment of the Child
 22 Advocate; and establishing the Office of Child Advocate and
 23 the HEAL PA Coalition.

24 The General Assembly of the Commonwealth of Pennsylvania

25 hereby enacts as follows:

26 Section 1. The act of April 9, 1929 (P.L.177, No.175), known
 27 as The Administrative Code of 1929, is amended by adding an

1 article to read:

2 ARTICLE V-C

3 OFFICE OF CHILD ADVOCATE

4 Section 501-C. Definitions.

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

8 "Child Advocate." The Child Advocate appointed under section
9 502-C(a).

10 "Child health, safety and well-being programs." The term
11 includes services and programs set forth in Federal or State law
12 designed to:

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

16 (2) Provide temporary, substitute care in foster family
17 homes or residential child care facilities for a child in
18 need of the care under Article VII of the act of June 13,
19 1967 (P.L.31, No.21), known as the Human Services Code, and
20 67 Pa.C.S. Chs. 75 (relating to family finding and kinship
21 care) and 77 (relating to adoption opportunities).

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

25 (4) Provide mental health treatment and recovery
26 services, substance use disorder treatment and recovery
27 services and childhood trauma and trauma-informed care.

28 (5) Provide early intervention under the act of December
29 19, 1990 (P.L.1372, No.212), known as the Early Intervention
30 Services System Act.

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

3 "Coalition." The Coalition of Trauma Prevention and
4 Intervention (HEAL PA) established under section 503-C(d)(1).

5 "County agency." The county children and youth social
6 service agency exercising the powers and duties provided for in
7 section 405 of the act of June 24, 1937 (P.L.2017, No.396),
8 known as the County Institution District Law, and supervised by
9 the Department of Human Services under Article IX of the Human
10 Services Code.

11 "Department." The Department of Health of the Commonwealth.

12 "Educational programs." Educational programs and services
13 provided within a department-licensed facility.

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

17 "Executive Board." The Executive Board of the Commonwealth
18 established under section 204.

19 "Facility." A residential facility for children licensed by
20 the department.

21 "Local government." A county, county institution district,
22 city, borough, incorporated town, township or any similar,
23 general or limited purpose unit of local government or unit
24 created by joint action of two or more local government units
25 authorized to be created by law.

26 "Office." The Office of the Child Advocate established under
27 section 503-C(a).

28 "Ombudsperson." The individuals appointed under section 503-
29 C(c) as a Youth and Well-Being Ombudsperson.

30 "Vulnerable populations." Individuals who have poor access

1 to health care, receive poor-quality health care and experience
2 poor health care outcomes, often resulting from societal
3 injustices related to race, ethnicity, poverty, gender, sexual
4 orientation, age, first language or physical or mental health
5 condition.

6 Section 502-C. Child Advocate.

7 (a) Appointment.--The Governor shall submit to the Senate a
8 nominee to be confirmed as the Child Advocate. The Child
9 Advocate shall be selected on the basis of integrity, capability
10 for strong leadership and demonstrated ability in public
11 administration, child advocacy and public policy issues
12 impacting children.

13 (b) Term.--The Child Advocate shall serve a term of six
14 years and until a successor is appointed. The Child Advocate may
15 be reappointed for additional terms.

16 (c) Compensation.--The Executive Board shall set the
17 compensation for the Child Advocate.

18 (d) Powers and duties.--The Child Advocate shall:

19 (1) Serve as an independent resource to and advocate for
20 children and youth by supporting and enhancing child health,
21 safety and well-being.

22 (2) Conduct unannounced and announced visits to a
23 facility. During the visits, the Child Advocate or the Child
24 Advocate's authorized designee may interview staff and
25 residents of the facility. The Child Advocate shall provide
26 written notification to the Department of Human Services of
27 the unannounced or announced visit within 24 hours after the
28 visit.

29 (3) Receive and review complaints from the public,
30 including receiving complaints from minors, relating to child

1 health, safety and well-being program processes or procedures
2 and, in the Child Advocate's discretion, make
3 recommendations, referrals or both for immediate and long-
4 term interventions to the appropriate executive agency,
5 office or program concerning the complaints.

6 (4) Directly report to the General Assembly about issues
7 related to the health, safety, well-being and educational
8 interest of children and youth while also identifying any
9 trends arising out of the design or implementation of public
10 policies, systemic practices or public investments.

11 (5) Review and evaluate the effectiveness and efficiency
12 of existing child health, safety and well-being, and
13 educational programs' complaint processes and make
14 recommendations for the improvement of the processes.

15 (6) Notwithstanding any other provision of law, serve as
16 a member of all child fatality or near fatality review teams
17 under 23 Pa.C.S. § 6365 (relating to services for prevention,
18 investigation and treatment of child abuse). The Child
19 Advocate may authorize a designee to participate in a child
20 fatality or near fatality review team.

21 (7) Coordinate educational, informational and other
22 programs for public awareness and education concerning child
23 maltreatment and the role of the community in strengthening
24 families and keeping children safe.

25 (8) Promote best practices and effective programs
26 relating to child health, safety and well-being and work
27 collaboratively with executive agencies, county agencies and
28 community-based programs, as appropriate, regarding
29 improvement of child health, safety and well-being programs.

30 (9) Consult with executive agencies and make

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

6 (10) Request, access and review information, records or
7 documents necessary for carrying out the powers and duties
8 enumerated in this article from the executive branch,
9 judicial branch or local government.

10 (11) Manage and provide organizational direction for all
11 trauma prevention and intervention operations of the
12 coalition.

13 (12) Work with the Governor's Office, Commonwealth
14 agencies and the General Assembly to review laws, policies
15 and procedures impacting childhood trauma and mental well-
16 being for Pennsylvanians.

17 (13) Work with State agencies to establish coordinated
18 and consistent trauma-informed training and practices in
19 State-operated and State-funded programs to make the
20 Commonwealth a trauma-informed state through the coalition
21 and the Trauma Informed Pennsylvania (TIPA) Plan.

22 (14) Collaborate with Commonwealth agencies to identify
23 best practices to increase healing-centered services for
24 vulnerable populations.

25 (15) Serve as a member of the Children's Trust Fund
26 Board.

27 (e) Relationship to Department of Human Services and county
28 agency powers and duties.--The powers and duties of the Child
29 Advocate under subsection (d) do not supplant, supersede or
30 otherwise affect the powers, duties and responsibilities of the

1 Department of Human Services or a county agency.

2 (f) Staff.--The Child Advocate shall employ staff as
3 necessary to carry out the purposes of this article. Positions
4 shall be placed under the unclassified service provisions of 71
5 Pa.C.S. Pt. III (relating to civil service reform) and must meet
6 minimum requirements under this section.

7 (g) Duty of department.--Upon request of the Child Advocate,
8 the department shall make available facilities, administrative
9 support and other assistance to the office.

10 (h) Access.--Notwithstanding any other provision of law,
11 upon request of the Child Advocate, an executive agency or local
12 government shall furnish information, records or documents
13 related to a child health, safety and well-being program to the
14 Child Advocate or an authorized designee as follows:

15 (1) Any agency or local government shall furnish
16 existing information, records or documents in its possession,
17 custody or control within 10 days of the request. Nothing in
18 this subsection shall be construed to require an executive
19 agency or local government to create a record that does not
20 currently exist.

21 (2) Access under this subsection includes access to
22 child protective services reports specified under 23 Pa.C.S.
23 § 6339 (relating to confidentiality of reports). An executive
24 agency or local government shall furnish a child protective
25 services report to the Child Advocate within 10 days of the
26 Child Advocate's request.

27 (i) Immunity.--Notwithstanding any other provision of law,
28 an individual providing requested materials under subsection (h)
29 may not be found, by reason of having provided the materials
30 specified in subsection (h), to have violated any criminal law

1 if the individual providing the materials did not know or have
2 reason to believe that the materials were false and was
3 motivated by malice toward a person directly affected by the
4 action.

5 (j) Confidentiality.--Confidential, privileged or protected
6 information, records or documents provided to the Child Advocate
7 under subsection (h):

8 (1) Shall remain confidential, privileged and protected.

9 (2) May not be discoverable or admissible as evidence in
10 an action or proceeding.

11 (3) May not be accessible for inspection and duplication
12 in accordance with the act of February 14, 2008 (P.L.6,
13 No.3), known as the Right-to-Know Law.

14 (k) Discovery.--Information, records or documents that would
15 otherwise be available from original sources may not be
16 construed as immune from discovery or use in an action or
17 proceeding merely because they were presented to the Child
18 Advocate.

19 (l) Limitation.--The Child Advocate may not seek election or
20 accept appointment to a political office during tenure as the
21 Child Advocate and for one year thereafter.

22 Section 503-C. Office of Child Advocate.

23 (a) Establishment.--The Office of Child Advocate is
24 established as an independent agency.

25 (b) Composition.--The office shall consist of the Child
26 Advocate, a Deputy Director for Services and Outreach, a Deputy
27 Director of Systems Integration and Transformation and the
28 ombudpersons appointed under subsection (c).

29 (c) Appointment of ombudpersons.--

30 (1) The office shall appoint seven ombudpersons to

1 represent all regions of this Commonwealth. Two of the seven
2 ombudspersons shall be appointed to represent the
3 southeastern region of this Commonwealth.

4 (2) Ombudspersons shall report to the office.

5 (d) Coalition.--

6 (1) The Coalition of Trauma Prevention and Intervention
7 (HEAL PA) is established within the office.

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

12 (3) The coalition shall consist of a minimum of one
13 representative from each State agency within this
14 Commonwealth.

15 (4) The coalition shall meet on a regular basis at times
16 and places as the coalition may designate, but no less than
17 six times per year.

18 (5) The coalition shall fix the compensation of a Deputy
19 Director of Systems Integration and Transformation with
20 expertise in psychology, social work and trauma who shall
21 report directly to the Governor's Office and Cabinet Advisory
22 Council.

23 (6) The Deputy Director of Systems Integration and
24 Transformation shall appoint and fix compensation for other
25 staff or consultants as may be required for the proper
26 conduct of its work, but at minimum one Statewide behavioral
27 health representative, three regional behavioral health
28 representatives, one education representative and one first-
29 responder representative.

30 (7) The coalition shall:

1 (i) Build a network to connect and support trauma-
2 informed, healing-centered and community-based grassroots
3 movements across this Commonwealth.

4 (ii) Prioritize trauma-informed and healing-centered
5 changes at the State level to affect culture, policy and
6 practice.

7 (iii) Assist the Commonwealth in healing from the
8 trauma of a major disaster such as a public health
9 emergency or disaster proclamation.

10 (iv) Assist this Commonwealth in healing the damage
11 of racism, sexism, ableism among other communal and
12 historical traumas.

13 (v) Perform any additional duties as determined by
14 the office.

15 (8) The coalition shall provide a biannual report,
16 summarizing its activities and accomplishments to the Child
17 Advocate and the Governor no later than June 30 every other
18 year beginning with the year 2024.

19 (e) Legal counsel.--Legal counsel for the Office of Child
20 Advocate shall be appointed in accordance with the act of
21 October 15, 1980 (P.L.950, No.164), known as the Commonwealth
22 Attorneys Act.

23 (f) Cooperation required.--All State agencies, departments,
24 boards, commissions and local governments must cooperate with
25 the office and the coalition in the performance of its duties to
26 the full extent permitted by law.

27 (g) Annual report.--Beginning June 30, 2024, and each June
28 30 thereafter, the Office of Child Advocate shall issue an
29 annual report to the Governor and General Assembly. The annual
30 report shall be posted on the office's publicly accessible

1 Internet website and include, at a minimum, the following:

2 (1) A summary regarding the type of matters handled by
3 the Child Advocate, the ombudspersons and the coalition
4 during the year.

5 (2) Recommendations concerning legislative amendments to
6 improve the safety of and promote better outcomes for
7 children and families receiving services in child health,
8 safety and well-being programs in this Commonwealth.

9 Section 504-C. Construction.

10 Nothing in this article shall be construed to prohibit the
11 department, a county agency or the Child Advocate from working
12 in collaboration with each other.

13 Section 2. This act shall take effect immediately.