

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1305 Session of
2025

INTRODUCED BY SAPPEY, MIHALEK, HILL-EVANS, T. DAVIS, SANCHEZ,
OTTEN, PIELLI, FREEMAN, GUENST, HADDOCK, KENYATTA, HOWARD,
NEILSON, DAVIDSON, CIRESI, DEASY, CERRATO, CURRY, M. BROWN,
STEELE, SCHLOSSBERG AND O'MARA, APRIL 28, 2025

REFERRED TO COMMITTEE ON CHILDREN AND YOUTH, APRIL 28, 2025

AN ACT

1 Amending the act of June 13, 1967 (P.L.31, No.21), entitled "An
2 act to consolidate, editorially revise, and codify the public
3 welfare laws of the Commonwealth," establishing the Office of
4 Child Advocate; and imposing penalties.

5 The General Assembly of the Commonwealth of Pennsylvania
6 hereby enacts as follows:

7 Section 1. The act of June 13, 1967 (P.L.31, No.21), known
8 as the Human Services Code, is amended by adding an article to
9 read:

10 ARTICLE VII-A

11 OFFICE OF CHILD ADVOCATE

12 Section 701-A. Definitions.

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

16 "Child Advocate." The Child Advocate appointed under section
17 702-A.

18 "Child health, safety and well-being program." A service or

1 program designed to:

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

5 (2) Provide temporary, substitute care in foster family
6 homes or residential child care facilities for a child in
7 need of the care under Article VII and 67 Pa.C.S. Chs. 75
8 (relating to family finding and kinship care) and 77
9 (relating to adoption opportunities).

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

13 (4) Provide early intervention under the act of December
14 19, 1990 (P.L.1372, No.212), known as the Early Intervention
15 Services System Act.

16 (5) Provide education for alleged or adjudicated
17 dependent or delinquent children under 42 Pa.C.S. Ch. 63 who
18 are placed in or are transitioning from residential settings.
19 "County agency." The county children and youth social
20 service agency exercising the powers and duties provided for
21 under section 405 of the act of June 24, 1937 (P.L.2017,
22 No.396), known as the County Institution District Law, and
23 supervised by the department under Article IX.

24 "Executive agency." The term shall mean the same as defined
25 under section 102 of the act of October 15, 1980 (P.L.950,
26 No.164), known as the Commonwealth Attorneys Act.

27 "Executive board." The Executive Board of the Commonwealth
28 established under section 204 of the act of April 9, 1929
29 (P.L.177, No.175), known as The Administrative Code of 1929.

30 "Facility." A residential facility for children operated or

1 licensed by the department under Articles IX and X.

2 "Local government." A county, county institution district,
3 city, borough, incorporated town, township or any similar,
4 general or limited purpose unit of local government or unit
5 created by joint action of two or more local government units
6 authorized to be created by law.

7 "Office." The Office of Child Advocate established under
8 section 702-A.

9 Section 702-A. Office of Child Advocate.

10 (a) Establishment.--The Office of Child Advocate is
11 established within the department to independently and
12 impartially advocate for and advance the interests of children.
13 The office shall operate under the direction of the Child
14 Advocate. The office shall function independently of the
15 department regarding the office's decision-making functions,
16 including the powers and duties specified under this article.

17 (b) Appointment and qualifications.--

18 (1) The Child Advocate shall be appointed by the
19 Governor, with the advice and consent of the Senate, and
20 shall hold office for a term of four years and until a
21 successor is duly appointed, but may not serve more than 90
22 days beyond the expiration of the appointed term.

23 (2) A vacancy occurring by expiration of term, death,
24 resignation, removal or for any other reasons shall be filled
25 in the manner provided by section 8(b) of Article IV of the
26 Constitution of Pennsylvania for the remainder of the term.
27 The Child Advocate may only be removed from office for good
28 cause shown.

29 (3) When the term of the Child Advocate expires, the
30 position shall be immediately deemed a vacancy and the

1 Governor shall nominate a person to fill that position within
2 90 days of the date of expiration, even if the Child Advocate
3 continues in office.

4 (4) The Child Advocate may be reappointed for additional
5 terms.

6 (5) The Child Advocate shall be an individual who, by
7 reason of training and experience, is qualified to advocate
8 for and advance the interests of children.

9 (6) To be eligible to be appointed by the Governor as
10 Child Advocate, an individual shall have no known conflict of
11 interest with the department or a county agency and at least
12 six years of professional experience in child advocacy,
13 social work, direct care service to children or related
14 areas, including one year in a supervisory or administrative
15 capacity, and a bachelor's degree. Any equivalent combination
16 of experience and training shall be acceptable.

17 (c) Compensation.--Compensation for the Child Advocate shall
18 be set by the executive board.

19 (d) Training.--Within six months of appointment, the Child
20 Advocate and employees of the office shall complete training, at
21 a minimum, in the following areas:

22 (1) Crisis intervention and behavior management.

23 (2) Trauma-informed care.

24 (3) Sensitive and confidential information.

25 (4) Mandated reporter training.

26 (5) Compliance with the provisions of the Health
27 Insurance Portability and Accountability Act of 1996 (Public
28 Law 104-191, 110 Stat. 1936).

29 (e) Mandated reporter.--The Child Advocate and the staff of
30 the office are mandated reporters under 23 Pa.C.S. Ch. 63

(relating to child protective services) and shall make a report of suspected child abuse in accordance with 23 Pa.C.S. § 6311 (relating to persons required to report suspected child abuse).

(f) Clearance.--The Child Advocate and the staff of the office shall obtain clearance certifications in accordance with 23 Pa.C.S. § 6344 (relating to employees having contact with children; adoptive and foster parents) as a person responsible for the child's welfare or having direct contact with children. The clearance certifications shall be submitted to the department as follows:

(1) By the Child Advocate prior to taking office.

(2) By staff of the office prior to commencement of employment.

(g) Restricted activities.--The Child Advocate may not seek election nor accept appointment to a political office during tenure as the Child Advocate and for one year thereafter.

(h) Facilities and staff.--

(1) Upon request of the Child Advocate, the department shall make available facilities, administrative support and other clerical, technical and professional staff as may be available within the budget of the department. Positions of the office shall be placed under the unclassified service provisions of 71 Pa.C.S. Pt. III (relating to civil service reform).

(2) Legal counsel for the office shall be appointed in accordance with the act of October 15, 1980 (P.L.950, No.164), known as the Commonwealth Attorneys Act.

Section 703-A. Powers and duties.

The powers and duties of the office shall be as follows:

(1) Advocate for and advance the interests of children

1 by supporting and enhancing child health, safety and well-
2 being programs.

3 (2) Serve as a resource to connect children and families
4 with child health, safety and well-being programs.

5 (3) Perform outreach to youth advocates and professional
6 organizations involved with facility placements and access.

7 (3.1) Consult with executive agencies, county agencies
8 and individuals with lived experience on child health, safety
9 and well-being programs.

10 (4) Conduct visits to a facility as follows:

11 (i) During a visit, the Child Advocate or the Child
12 Advocate's authorized designee may conduct voluntary
13 interviews of staff and residents of the facility.

14 (ii) The office shall provide reasonable advance
15 written notification to the department of a visit under
16 this section.

17 (iii) The Child Advocate shall provide written
18 notification to the department of findings within 30
19 business days after the visit.

20 (iv) The Child Advocate or authorized designee may
21 not interview the following:

22 (A) A resident or staff involved in a pending
23 criminal investigation, prosecution and related
24 appeal or an administrative licensure action and
25 related appeal. This clause shall not apply to the
26 Child Advocate's or authorized designee's support of
27 a subject child under paragraph (11).

28 (B) A resident or staff who are the subject of a
29 report under 23 Pa.C.S. Ch. 63 (relating to child
30 protective services) during a child abuse

1 investigation and related appeal. This clause shall
2 not apply to the Child Advocate's or authorized
3 designee's support of a subject child under paragraph
4 (11).

5 (5) Notwithstanding any other provision of law,
6 participate as a member of all child fatality or near
7 fatality review teams under 23 Pa.C.S. § 6365 (relating to
8 services for prevention, investigation and treatment of child
9 abuse). The Child Advocate may authorize a designee to
10 participate in a child fatality or near fatality review team
11 on the Child Advocate's behalf.

12 (6) Coordinate educational, informational and other
13 programs for public awareness and education concerning child
14 maltreatment and the role of the community in supporting and
15 strengthening families and keeping children safe.

16 (7) Promote and advocate the health, safety and well-
17 being of children before the General Assembly.

18 (8) Receive and review complaints from the public,
19 including receiving complaints from a child, relating to the
20 processes or procedures of a child health, safety and well-
21 being program. In the Child Advocate's sole discretion, the
22 Child Advocate may make recommendations, referrals, or both,
23 to the appropriate executive agency concerning a complaint.

24 (9) Review and evaluate the effectiveness and efficiency
25 of the State and local complaint processes for child health,
26 safety and well-being programs and to make recommendations
27 for the improvement of these processes.

28 (10) Request, access and review otherwise confidential
29 information, records or documents necessary for carrying out
30 the duties and responsibility under this article from an

1 executive agency or local government in accordance with
2 section 704-A(b). Access under this paragraph does not
3 include access to criminal investigative or intelligence
4 records.

5 (11) As requested, to accompany a child who is a subject
6 child under 23 Pa.C.S. Ch. 63 to interviews and
7 administrative hearings.

8 (12) Each quarter, send a report to each facility that
9 was the subject of a complaint under paragraph (8) during the
10 relevant period, listing the complaints involving that
11 facility that were received during the past quarter.

12 (13) Meet regularly with the secretary and other
13 executive agency and county agency officials and report on
14 any Statewide trends that the Child Advocate has identified
15 with potential solutions.

16 (14) In collaboration with applicable executive
17 agencies, coordinate educational, informational and other
18 programs for public awareness and education concerning child
19 maltreatment and the role of the community in supporting and
20 strengthening families and keeping children safe.

21 (15) In collaboration with executive agencies and county
22 agencies, children and families with experience in child
23 health, safety and well-being programs and other interested
24 stakeholders, review trends and promote best practices and
25 effective child health, safety and well-being programs.

26 (16) In collaboration with executive agencies, county
27 agencies, children and families with experience in child
28 health, safety and well-being programs and other interested
29 stakeholders, provide recommendations regarding improvements
30 for child health, safety and well-being programs.

1 (17) Consult with executive agencies and provide
2 recommendations on regulations, licensure, financing or any
3 other responsibilities of the executive agencies to improve
4 the safety of and promote better outcomes for children and
5 families receiving services in child health, safety and well-
6 being programs in the Commonwealth.

7 (18) Notwithstanding any other provision of law, serve
8 as a voting member of the Children's Trust Fund Board.

9 (19) Collaborate with local government and executive
10 agencies, including the Office of Victim Advocate, regarding
11 the coordination of services to children who are victims of
12 abuse.

13 (19.1) Collaborate with local government and executive
14 agencies, including State and local education agencies,
15 regarding education issues relating to alleged or adjudicated
16 dependent or delinquent children under 42 Pa.C.S. Ch. 63
17 (relating to juvenile matters) who are placed in or are
18 transitioning from residential settings.

19 (20) By June 30, 2025, and June 30 each year thereafter,
20 provide an annual report summarizing the Child Advocate's
21 activities and accomplishments to the Governor, the
22 secretary, the chairperson and minority chairperson of the
23 Aging and Youth Committee of the Senate, the chairperson and
24 minority chairperson of the Children and Youth Committee of
25 the House of Representatives, the chairperson and minority
26 chairperson of the Health and Human Services Committee of the
27 Senate and the chairperson and minority chairperson of the
28 Human Services Committee of the House of Representatives. The
29 annual report shall be posted on the office's publicly
30 accessible Internet website and may not include confidential

1 or personally identifiable information. The report shall
2 include, at a minimum, the following:

3 (i) A summary regarding the type of matters handled
4 by the Child Advocate during the year.

5 (ii) Recommendations regarding legislation 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 (iii) A summary regarding quarterly reports of each
10 facility that was the subject of a complaint received
11 during the relevant period, listing the complaints
12 involving that facility that were received during the
13 past quarter.

14 (iv) Any other information the office finds
15 pertinent and beneficial.

16 Section 704-A. Information, records and documents generally.

17 (a) Relationship to department and county agency powers and
18 duties.--The powers and duties of the Child Advocate under
19 section 703-A do not supplant, supersede or otherwise affect the
20 powers, duties and responsibilities of the department or a
21 county agency. Nothing in this article shall be construed to
22 prohibit the department, a county agency or the Child Advocate
23 from working in collaboration with each other.

24 (b) Access.--Notwithstanding any other provision of law,
25 upon request of the office, an executive agency or local
26 government shall furnish information, records or documents under
27 a child health, safety and welfare program to the Child Advocate
28 or an authorized designee as follows:

29 (1) An executive agency or local government shall
30 furnish existing information, records or documents in the

1 executive agency's or local government's possession, custody
2 or control within 10 days of receiving a request. Nothing in
3 this article shall be construed to require an executive
4 agency or local government to create a record that does not
5 currently exist or provide access to information, records or
6 documents in a pending investigation.

7 (2) Access to child protective services information,
8 records and documents may be made available to the Child
9 Advocate after the issuance of a final determination under 23
10 Pa.C.S. § 6368(f) (relating to investigation of reports) or
11 the expiration of related litigation and the applicable
12 pending appeal periods, whichever is later. After the
13 expiration of this time period, the requested information,
14 records or documents shall be furnished to the Child Advocate
15 within 10 days of receiving the Child Advocate's request.

16 (3) Access under this subsection does not include access
17 to the identity of the person who makes a report of suspected
18 child abuse, law enforcement records or records prohibited
19 from disclosure under Federal law or court order.

20 (c) Immunity.--Notwithstanding any other provision of law, a
21 person providing requested materials under subsection (b) may
22 not be found, by reason of having provided the materials, to
23 have violated any criminal law or to be civilly liable under any
24 law, unless the materials are false and the person providing the
25 materials knew or had reason to believe that the materials were
26 false and was motivated by malice toward a person directly
27 affected by the action.

28 (d) Confidentiality.--

29 (1) Confidential, privileged or protected information,
30 records or documents provided to the Child Advocate under

1 subsection (b):

2 (i) Shall remain confidential, privileged and
3 protected.

4 (ii) May not be discoverable or admissible as
5 evidence in an action or proceeding.

6 (iii) May not be accessible for inspection and
7 duplication in accordance with the act of February 14,
8 2008 (P.L.6, No.3), known as the Right-to-Know Law.

9 (2) Information, records or documents that would
10 otherwise be available from original sources may not be
11 construed as immune from discovery or use in an action or
12 proceeding merely because they were presented to the Child
13 Advocate.

14 (3) The home address of the Child Advocate and employees
15 of the office is not a public record under the Right-to-Know
16 Law. The office's nonexempt financial records and aggregated
17 data, as defined in section 102 of the Right-to-Know Law,
18 shall remain subject to the Right-to-Know Law, provided that
19 personally identifiable information shall be redacted.

20 (e) Unauthorized access.--A person who divulges confidential
21 information, records or documents received under this article to
22 an unauthorized person commits a misdemeanor of the second
23 degree. A person who violates the provisions of this section
24 shall, in addition to other civil or criminal penalties provided
25 by law, be denied access to the information, records or
26 documents provided under this article.

27 Section 2. This act shall take effect in 60 days.