

AN ACT

Amending the act of April 9, 1929 (P.L. 177, No. 175), entitled "An act providing for and reorganizing the conduct of the executive and administrative work of the Commonwealth by the Executive Department thereof and the administrative departments, boards, commissions, and officers thereof, including the boards of trustees of State Normal Schools, or Teachers Colleges; abolishing, creating, reorganizing or authorizing the reorganization of certain administrative departments, boards, and commissions; defining the powers and duties of the Governor and other executive and administrative officers, and of the several administrative departments, boards, commissions, and officers; fixing the salaries of the Governor, Lieutenant Governor, and certain other executive and administrative officers; providing for the appointment of certain administrative officers, and of all deputies and other assistants and employes in certain departments, boards, and commissions; providing for judicial administration; and prescribing the manner in which the number and compensation of the deputies and all other assistants and employes of certain departments, boards and commissions shall be determined," providing for the Office of Child Advocate.

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

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

ARTICLE V-C.

OFFICE OF CHILD ADVOCATE

Section 501-C. Definitions.

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

"Child health, safety and welfare programs." The term includes services and programs designed to:

- (i) Prevent neglect, abuse and exploitation of children and encourage reporting of suspected child abuse under 23 Pa.C.S. Ch. 63 (relating to child protective services).
- (ii) Provide temporary, substitute care in foster family homes or residential child care facilities for a child in need of the care under Article VII of the act of June 13, 1967 (P.L. 31, No.

21), known as the Human Services Code and 67 Pa.C.S. Ch. 21 and 31 (relating to adoption opportunities; and family finding and kinship care).

(iii) Provide court-ordered care or supervision to alleged or adjudicated dependent or delinquent children under 42 Pa.C.S. §§ 6301—6365 (relating to juvenile matters).

(iv) Provide mental health services, substance use disorder services, and childhood trauma and trauma-informed services.

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

(vi) Perform child fatality and near fatality review under 23 Pa.C.S. Ch. 63 (relating to child protective services).

“County agency.” The county children and youth social service agency exercising the power and duties provided for in section 405 of the act of June 24, 1937 (P.L.2017, No.396), known as the County Institution District Law, or its successor, and supervised by the Department of Human Services under Article IX of the act of June 13, 1967 (P.L.31, No.21), known as the Human Services Code.

“Department.” The Department of Health.

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

“Executive Board.” The Executive Board of the Commonwealth established under section 204 of the act of April 9, 1929 (P. L. 177, No. 175), known as The Administrative Code of 1929.

“Local government.” —A county, county institution district, city, borough, incorporated town, township, or any similar, general or limited purpose unit of local government or any unit created by joint action of two or more local government units which is authorized to be created by law.

"Office." The Office of Child Advocate.

Section 502-C. Office of Child Advocate.

(a) Establishment. – There is established in the department a departmental administrative office known as the “Office of Child Advocate.” Except as otherwise provided in this article, the Office shall be subject to The Administrative Code of 1929.

(b) Appointment. – Within 90 days of the effective date of this section, the Governor shall appoint a Child Advocate. The Child Advocate shall be selected on the basis of integrity, capability for strong leadership and demonstrated ability in public administration, child advocacy and public policy issues impacting children. The Child Advocate shall serve a term of six years and until a successor is appointed. The Child Advocate may be reappointed for additional terms.

(c) Compensation. – Compensation for the Child Advocate shall be set by the Executive Board.

(d) Limitation. – The Child Advocate may not seek election nor accept appointment to any political office during tenure as the Child Advocate and for one year thereafter.

Section 503-C. Powers and duties.

(a) The Child Advocate shall have the power and duty to:

(1) Serve as a dedicated advocate for children by supporting and enhancing child health, safety and welfare programs. The Child Advocate, or the advocate’s authorized designee, may conduct unannounced and announced visits to licensed residential facilities for children. During these visits, the Child Advocate or the advocate’s authorized designee is authorized to interview staff and residents of the licensed residential facility. The Child Advocate shall provide written notification to the Department of Human Services of the unannounced and announced visit within 24 hours after the visit.

- (2) Serve as a resource to connect children and families with child health, safety and welfare programs.
- (3) Represent the health, safety and welfare interest of children before the General Assembly.
- (4) Receive and review complaints from the public, including receiving complaints from a minor child, relating to child health, safety and welfare program processes or procedures and, in the Child Advocate's discretion, make recommendations, referrals, or both, to the appropriate executive agency concerning the complaints.
- (5) Review and evaluate the effectiveness and efficiency of existing child health, safety and welfare programs complaint processes and to make recommendations for the improvement of these processes.
- (6) Notwithstanding any other provision of law, participate as a member of a child fatality or near fatality review team under 23 Pa.C.S. § 6365 (relating to services for prevention, investigation and treatment of child abuse). The Child Advocate may authorize a designee to participate in a child fatality or near fatality review team.
- (7) Coordinate educational, informational and other programs for public awareness and education concerning child maltreatment and the role of the community in strengthening families and keeping children safe.
- (8) Promote best practices and effective programs relating to child health, safety and welfare programs and to work collaboratively with executive agencies and county agencies, when appropriate, regarding improvement of child health, safety and welfare programs.
- (9) Consult with executive agencies and make recommendations on regulations, licensure, financing or any other responsibilities of the agencies to improve the safety of and promote

better outcomes for children and families receiving services in child health, safety and welfare programs in the Commonwealth.

(10) Request, access, and review information, records, or documents necessary for carrying out the duties and responsibility under this article from an executive agency or local government under Section 505-C (relating to access to information).

(b) The powers and duties of the Child Advocate under subsection (a) do not supplant, supersede or otherwise affect the powers, duties and responsibilities of the Department of Human Services or a county agency.

(c) Nothing in this article shall prohibit the Department of Human Services, a county agency or the Child Advocate from working in collaboration with each other.

Section 504-C. Organization of office.

(a) The Child Advocate shall employ staff as may be necessary to carry out the purposes of this act. Positions of the Office shall be placed under the unclassified service provisions of 71 Pa.C.S. Part III (relating to civil service).

(b) Upon request of the Child Advocate, the department shall make available facilities, administrative support and other assistance to the office.

(c) 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 505-C. Access to information.

(a) *Access.* Notwithstanding any other provision of law, upon request of the Child Advocate, an executive agency or local government shall furnish information, records, or documents under a

child health, safety and welfare program to the Child Advocate, or an authorized designee as follows:

(1) Information, records and documents generally. An executive agency or local government shall furnish existing information, records or documents in its possession, custody or control within 10 days of the request. Nothing in this article shall be construed to require an executive agency or local government to create a record that does not currently exist.

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

(b) Immunity. Notwithstanding any other provision of law, no person providing requested materials under this section shall be held by reason of having provided such materials to have violated any criminal law, or to be civilly liable under any law, unless such materials are false and the person providing such materials knew or had reason to believe that such materials were false and was motivated by malice toward any person directly affected by such action.

Section 506-C. Confidentiality.

(a) Confidential, privileged or protected information, records or documents provided to the office under section 505-C (relating to access to information) shall remain confidential, privileged and protected and shall neither be discoverable or admissible as evidence in any action or proceeding nor subject to the act of February 14, 2008 (P.L. 6, No. 3), known as the Right-to-Know Law.

(b) Any information, records or documents that would otherwise be available from original sources may not be construed as immune from discovery or use in any action or proceeding merely because they were presented to the office.

Section 507-C. Annual report.

Beginning June 30, 2023, and each June 30 thereafter, the office shall issue an annual report to the General Assembly. The annual report shall be posted on the office's publicly accessible website and include, at a minimum, the following:

- (1) A summary regarding the type of matters handled by the office during the year.
- (2) Any recommendations concerning legislative amendments to improve the safety of and promote better outcomes for children and families receiving services in child health, safety and welfare programs in the Commonwealth.

Section 2. This act shall take effect immediately.