

52:17D-1

LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 2003 **CHAPTER:** 187

NJSA: 52:17D-1 (Establishes Office of Child Advocate)

BILL NO: A3772/1729/1090 (Substituted for S184/675/1184)

SPONSOR(S): Previte and others

DATE INTRODUCED: June 9, 2003

COMMITTEE: **ASSEMBLY:** Family, Women and Children's Services; Budget

SENATE: ----

AMENDED DURING PASSAGE: Yes

DATE OF PASSAGE: **ASSEMBLY:** June 30, 2003

SENATE: June 30, 2003

DATE OF APPROVAL: September 26, 2003

FOLLOWING ARE ATTACHED IF AVAILABLE:

[FINAL TEXT OF BILL](#) (Assembly Committee Substitute (1st reprint) enacted)
(Amendments during passage denoted by superscript numbers)

A3772/1729/1090

[SPONSORS STATEMENT \(A3772\)](#): (Begins on page 6 of original bill) [Yes](#)

[SPONSORS STATEMENT \(A1729\)](#): (Begins on page 8 of original bill) [Yes](#)

[SPONSORS STATEMENT \(A1090\)](#): (Begins on page 3 of original bill) [Yes](#)

COMMITTEE STATEMENT: **ASSEMBLY:** Yes [6-19-2003 \(Budget\)](#)
[6-19-2003 \(Family\)](#)

SENATE: No

[FLOOR AMENDMENT STATEMENT:](#) [Yes](#)

[LEGISLATIVE FISCAL ESTIMATE:](#) [Yes](#)

S184/675/1184

[SPONSORS STATEMENT \(S184\)](#): (Begins on page 8 of original bill) [Yes](#)
Bill and Sponsors Statement identical to A1729

[SPONSORS STATEMENT \(S675\)](#): (Begins on page 6 of original bill) [Yes](#)

[SPONSORS STATEMENT \(S1184\)](#): (Begins on page 3 of original bill) [Yes](#)
Bill and Sponsors Statement identical to A1090

COMMITTEE STATEMENT: **ASSEMBLY:** No

SENATE: [Yes](#)

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: No

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: Yes

FOLLOWING WERE PRINTED:

To check for circulating copies, contact New Jersey State Government Publications at the State Library (609) 278-2640 ext. 103 or <mailto:refdesk@njstatelib.org>.

REPORTS: No

HEARINGS: No

NEWSPAPER ARTICLES: Yes

"Governor names child welfare advocate", 9-27-2003 Asbury Park Press, pA3.

"State creates Child Advocate post", 9-27-2003 Star-Ledger,p12.

"New Jersey creates independent child advocate office", 9-27-2003 New York Times, p.B6

"Advocate for childrens plans...", 9-27-2003 Bergen Record, p.A5

"McGreevey creates child-welfare office", 9-26-2003 Home News Tribune p.A3

Title 52.
Chapter 17D. (New)
Office of Child
Advocate
§§1-11 -
C.52:17D-1
to 52:17D-11

P.L. 2003, CHAPTER 187, *approved September 26, 2003*
Assembly Committee Substitute (*First Reprint*) for
Assembly, Nos. 3772, 1729 and 1090

1 **AN ACT** establishing the Office of the Child Advocate ¹[.] and¹
2 supplementing Title 52 of the Revised Statutes ¹[and making an
3 appropriation]¹.
4

5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:
7

8 1. There is established the Office of the Child Advocate in the
9 Executive Branch of the State Government. For purposes of
10 complying with Article V, Section IV, paragraph 1 of the New Jersey
11 Constitution, the office is allocated within the Department of Law and
12 Public Safety, but notwithstanding the allocation, the office shall be
13 independent of any supervision or control by the department or board
14 or officer thereof in the performance of its duties.
15

16 2. The administrator and chief executive officer of the office shall
17 be the Child Advocate, who shall be an attorney admitted to practice
18 law in New Jersey and be qualified by training and experience to
19 perform the duties of the office.

20 The child advocate shall be appointed by the Governor and shall
21 serve for a term of five years and until the appointment and
22 qualification of his successor. The Governor shall have the power to
23 remove the child advocate for cause. The child advocate shall devote
24 his entire professional time to the duties of this position and receive
25 such salary as shall be provided by law. A vacancy occurring in the
26 position of child advocate shall be filled in the same manner as the
27 original appointment, except that if the child advocate dies, resigns,
28 becomes ineligible to serve for any reason or is removed from office,
29 the Governor shall appoint an acting child advocate who shall serve
30 until the appointment and qualification of the child advocate's
31 successor.
32

33 3. a. The child advocate shall:

34 (1) administer the work of the Office of the Child Advocate;

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly floor amendments adopted June 23, 2003.

1 (2) appoint and remove such officers, investigators, stenographic
2 and clerical assistants and other personnel, in the career or unclassified
3 service, as may be required for the conduct of the office, subject to the
4 provisions of Title 11A of the New Jersey Statutes (Civil Service), and
5 other applicable statutes, except as provided otherwise herein;

6 (3) formulate and adopt rules and regulations for the efficient
7 conduct of the work and general administration of the office, its
8 officers and employees, in accordance with the "Administrative
9 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.); and

10 (4) institute or cause to be instituted such legal proceedings or
11 processes consistent with the Rules Governing the Courts of New
12 Jersey as may be necessary to properly enforce and give effect to any
13 of the child advocate's power or duties.

14 b. Consistent with the provisions of law, the child advocate shall
15 have access to, including the right to inspect and copy, any records
16 necessary to carry out his responsibilities under this act.

17 c. The child advocate may issue subpoenas to compel the
18 attendance and testimony of witnesses or the production of books,
19 papers and other documents, and administer oaths to witnesses in any
20 matter under the investigation of the office.

21 If any person to whom such subpoena is issued fails to appear or,
22 having appeared, refuses to give testimony, or fails to produce the
23 books, papers or other documents required, the child advocate may
24 apply to the Superior Court, which may order the person to appear
25 and give testimony or produce the books, papers or other documents,
26 as applicable.

27 d. The child advocate shall disseminate information to the public
28 on the objectives of the office, the services the office provides and the
29 methods by which the office may be contacted.

30 ¹e. The child advocate shall aid the Governor in proposing
31 methods of achieving increased coordination and collaboration among
32 State agencies to ensure maximum effectiveness and efficiency in the
33 provision of services to children.¹

34
35 4. a. The child advocate shall seek to ensure the provision of
36 effective, appropriate and timely services for children at risk of abuse
37 and neglect in the State, and that children under State supervision due
38 to abuse or neglect are served adequately and ¹[appropriately]
39 appropriately¹ by the State.

40 b. The Office of the Child Advocate shall be deemed a child
41 protective agency for the purposes of section 1 of P.L.1977, c.102
42 (C.9:6-8.10a).

43
44 5. The child advocate may:

45 a. Investigate, review, monitor or evaluate any State agency
46 response to, or disposition of, an allegation of child abuse or neglect

1 in this State;

2 b. Inspect and review the operations, policies and procedures of:

3 (1) juvenile detention centers operated by the counties or the
4 Juvenile Justice Commission;

5 (2) foster homes, group homes, residential treatment facilities,
6 shelters for the care of abused or neglected children, shelters for the
7 care of juveniles considered as juvenile-family crisis cases, shelters for
8 the care of homeless youth, or independent living arrangements
9 operated by or approved for payment by the Department of Human
10 Services; and

11 (3) any other public or private residential setting in which a child
12 has been placed by a State or county agency or department.

13 c. Review, evaluate, report on and make recommendations
14 concerning the procedures established by any State agency providing
15 services to children who are at risk of abuse or neglect, children in
16 State or institutional custody, or children who receive child protective
17 or permanency services;

18 d. Review, monitor and report on the performance of State-funded
19 private entities charged with the care and supervision of children due
20 to abuse or neglect by conducting research audits or other studies of
21 case records, policies, procedures and protocols, as deemed necessary
22 by the child advocate to assess the performance of the entities;

23 e. Receive, investigate and make referrals to other agencies or
24 take other appropriate actions with respect to a complaint received by
25 the office regarding the actions of a State, county or municipal agency
26 or a State-funded private entity providing services to children who are
27 at risk of abuse or neglect;

28 f. Hold a public hearing on the subject of an investigation or study
29 underway by the office, and receive testimony from agency and
30 program representatives, the public and other interested parties, as the
31 child advocate deems appropriate; and

32 g. Establish and maintain a 24 hour toll-free telephone hotline to
33 receive and respond to calls from citizens referring problems to the
34 child advocate, both individual and systemic, in how the State, through
35 its agencies or contract services, protects children.

36

37 6. If the child advocate ¹[indentifies] identifies¹ a systemic
38 problem in how the State, through its agencies or contract services,
39 protects children, the child advocate shall provide its findings and
40 recommendations to the agency affected by the findings and
41 recommendations, and, except as provided in subsections b. and c. of
42 section 11 of this act, make those findings and recommendations
43 available to the public.

44 The agency shall have 30 days from the receipt of the findings and
45 recommendations to develop a corrective action plan and submit the
46 plan to the Department of Human Services for implementation. The

1 child advocate shall monitor the department's implementation of the
2 plan, and if the department fails to promptly implement the plan, the
3 child advocate shall take such action as the child advocate deems
4 necessary.

5
6 7. a. In addition to the powers granted in section 5 of this act, the
7 child advocate may:

8 (1) intervene in or institute litigation, or

9 (2) intervene in or institute administrative proceedings before any
10 department, commission, agency or State board, to assert the broad
11 public interest of the State in the welfare of children and to protect and
12 promote the rights of children.

13 In taking such actions, the child advocate shall consider whether
14 a child or family may be in need of assistance from the child advocate
15 or whether there is a systemic issue in the State's provision of services
16 to children that should be addressed. The child advocate shall make
17 a good faith effort to resolve issues or problems, and shall have the
18 authority to commence negotiations, mediation or alternative dispute
19 resolution in its advocacy efforts prior to, or in lieu of, the initiation
20 of any action brought pursuant to this section.

21 b. The child advocate shall have discretion to decide whether to
22 intervene in any particular matter or to represent or refrain from
23 representing the public interest in a proceeding. The child advocate
24 shall consider, in exercising his discretion, the resources available, the
25 importance and extent of the public interest involved, and whether that
26 interest would be adequately represented without the action of the
27 office.

28
29 8. a. The child advocate shall seek the approval of a parent or
30 guardian or obtain the approval of a court of competent jurisdiction so
31 as to communicate directly with a child who is the subject of a
32 complaint or allegation of child abuse or neglect, if necessary to
33 conduct an investigation authorized under the provisions of this act.
34 The communications with the child shall be conducted under such
35 terms and conditions that protect the best interests of the child.

36 b. If court approval is sought, the court, in reviewing an
37 application for approval, shall consider: (1) the best interests of the
38 child, so as to minimize any detrimental effects on the child that may
39 occur as a result of the communication; and (2) the investigative needs
40 of the child advocate and law enforcement authorities, when
41 applicable. Upon consideration of the factors in this subsection, the
42 court may order any alternative methods for obtaining the required
43 information.

44
45 9. The child advocate shall seek to ensure the protection of
46 children who are in an institution or foster care by reviewing,

1 evaluating and monitoring the operation and activities of the
2 Institutional Abuse Investigation Unit in the Department of Human
3 Services.

4 a. In order to enable the child advocate to carry out its
5 responsibilities under this section, the Institutional Abuse Investigation
6 Unit shall:

7 (1) promptly notify the child advocate of any allegations of abuse
8 or neglect made against an institution or foster home serving children
9 in this State;

10 (2) promptly provide the child advocate with a copy of the unit's
11 response to the complaint and the actions taken by the unit to address
12 the complaint;

13 (3) provide the child advocate with monthly updates of the status
14 of actions proposed by the unit regarding an existing complaint that
15 has not been resolved; and

16 (4) provide the child advocate with such other information as the
17 child advocate may deem necessary to carry out his responsibilities to
18 review, evaluate and monitor the operation and activities of the unit.

19 b. As used in this section, "institution" means a public or private
20 facility, in this State or out-of-State, that provides children with out-
21 of-home care, supervision or maintenance. Institution includes, but is
22 not limited to: a correctional facility, detention facility, treatment
23 facility, child care center, group home, residential school, shelter,
24 psychiatric hospital and developmental center.

25
26 10. The child advocate shall report annually to the Governor,
27 Commissioner of Human Services and Legislature on: the activities of
28 the office; priorities for children's services that have been identified by
29 the child advocate; and recommendations for improvement or needed
30 changes concerning the provision of services to children who are at
31 risk of abuse or neglect, and are in State or institutional custody or
32 receive child protective or permanency services by State agencies and
33 State-funded private entities.

34 The annual report shall be made available to the public.

35
36 11. a. The child advocate shall make public its findings of any
37 investigation reports or other studies undertaken by the office,
38 including its investigatory findings to complaints received pursuant to
39 section 5 of this act, and shall forward the findings to the Governor,
40 the Commissioner of Human Services and the Governor's Cabinet for
41 Children.

42 b. The child advocate shall not disclose to the public:

43 (1) any information that would likely endanger the life, safety, or
44 physical or emotional well-being of a child or the life or safety of a
45 person who filed a complaint or which may compromise the integrity
46 of a State or county department or agency investigation, civil or

1 criminal investigation or judicial or administrative proceeding; and
2 (2) the name or any other information identifying the person who
3 filed a complaint with the office.

4 The information subject to the provisions of this ¹[subsubsection]
5 subsection¹ shall not be considered a public record pursuant to the
6 provisions of P.L.1963, c.73 (C.47:1A-1 et seq.) and P.L.2001, c.404
7 (C.47:1A-5 et al.).

8 c. The child advocate shall not disclose any information that may
9 be deemed confidential by federal or State law, except when necessary
10 to allow the Department of Human Services, Attorney General,
11 Juvenile Justice Commission and other State or county department or
12 agency to perform its duties and obligations under the law.

13

14 ¹[12. There is appropriated \$2,000,000 from the General Fund to
15 the Department of Law and Public Safety for the Office of the Child
16 Advocate to effectuate the purposes of this act.]¹

17

18 ¹[13.] 12.¹ This act shall take effect immediately.

19

20

21

22

23 Establishes Office of the Child Advocate.

ASSEMBLY, No. 3772

STATE OF NEW JERSEY 210th LEGISLATURE

INTRODUCED JUNE 9, 2003

Sponsored by:

Assemblywoman MARY T. PREVITE

District 6 (Camden)

Assemblywoman NELLIE POU

District 35 (Bergen and Passaic)

Assemblyman HERBERT CONAWAY, JR.

District 7 (Burlington and Camden)

Assemblywoman LINDA R. GREENSTEIN

District 14 (Mercer and Middlesex)

SYNOPSIS

Establishes Office of the Child Advocate.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT establishing the Office of the Child Advocate and
2 supplementing Title 52 of the Revised Statutes.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. There is established the Office of the Child Advocate in the
8 Executive Branch of the State Government. For purposes of
9 complying with Article V, Section IV, paragraph 1 of the New Jersey
10 Constitution, the office is allocated within the Department of Law and
11 Public Safety, but notwithstanding the allocation, the office shall be
12 independent of any supervision or control by the department or board
13 or officer thereof in the performance of its duties.

14

15 2. The administrator and chief executive officer of the office shall
16 be the Child Advocate, who shall be an attorney admitted to practice
17 law in New Jersey and be qualified by training and experience to
18 perform the duties of the office.

19 The child advocate shall be appointed by the Governor and shall
20 serve for a term of five years and until the appointment and
21 qualification of his successor. The Governor shall have the power to
22 remove the child advocate for cause. The child advocate shall devote
23 his entire professional time to the duties of this position and receive
24 such salary as shall be provided by law. A vacancy occurring in the
25 position of child advocate shall be filled in the same manner as the
26 original appointment, except that if the child advocate dies, resigns,
27 becomes ineligible to serve for any reason or is removed from office,
28 the Governor shall appoint an acting child advocate who shall serve
29 until the appointment and qualification of the child advocate's
30 successor.

31

32 3. a. The child advocate shall:

33 (1) administer the work of the Office of the Child Advocate;

34 (2) appoint and remove such officers, investigators, stenographic
35 and clerical assistants and other personnel, in the career or unclassified
36 service, as may be required for the conduct of the office, subject to the
37 provisions of Title 11A of the New Jersey Statutes (Civil Service), and
38 other applicable statutes, except as provided otherwise herein;

39 (3) formulate and adopt rules and regulations for the efficient
40 conduct of the work and general administration of the office, its
41 officers and employees, in accordance with the "Administrative
42 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.); and

43 (4) institute or cause to be instituted such legal proceedings or
44 processes consistent with the Rules Governing the Courts of New
45 Jersey as may be necessary to properly enforce and give effect to any
46 of the child advocate's power or duties.

1 b. Consistent with the provisions of law, the child advocate shall
2 have access to, including the right to inspect and copy, any records
3 necessary to carry out his responsibilities under this act.

4 c. The child advocate may issue subpoenas to compel the
5 attendance and testimony of witnesses or the production of books,
6 papers and other documents, and administer oaths to witnesses in any
7 matter under the investigation of the office.

8 If any person to whom such subpoena is issued fails to appear or,
9 having appeared, refuses to give testimony, or fails to produce the
10 books, papers or other documents required, the child advocate may
11 apply to the Superior Court, which may order the person to appear
12 and give testimony or produce the books, papers or other documents,
13 as applicable.

14 d. The child advocate may apply for and accept grants, gifts and
15 bequests of money from other states, federal and interstate agencies,
16 independent authorities and private firms, individuals and foundations,
17 for the purpose of carrying out the responsibilities of the office. Any
18 monies received pursuant to this subsection shall be deposited in the
19 Office of the Child Advocate Special Funds account established
20 pursuant to section 11 of this act.

21 e. The child advocate may enter into contracts with individuals,
22 organizations and agencies necessary for the performance of the duties
23 of the office pursuant to this act.

24 f. The child advocate shall disseminate information to the public on
25 the objectives of the office, the services the office provides and the
26 methods by which the office may be contacted.

27
28 4. a. The child advocate shall seek to ensure the provision of
29 effective, appropriate and timely services for children at risk of abuse
30 and neglect in the State.

31 b. The Office of the Child Advocate shall be deemed a child
32 protective agency for the purposes of section 1 of P.L.1977, c.102
33 (C.9:6-8.10a).

34
35 5. The child advocate may:

36 a. Investigate, review, monitor or evaluate any State agency
37 response to, or disposition of, an allegation of child abuse or neglect
38 in this State;

39 b. Inspect and review the operations, policies and procedures of:
40 (1) juvenile detention centers operated by the counties or the
41 Juvenile Justice Commission;

42 (2) foster homes, group homes, residential treatment facilities,
43 shelters for the care of abused or neglected children, shelters for the
44 care of juveniles considered as juvenile-family crisis cases, shelters for
45 the care of homeless youth, or independent living arrangements
46 operated by or approved for payment by the Department of Human

1 Services; and

2 (3) any other public or private residential setting in which a child
3 has been placed by a State or county agency or department.

4 c. Review, evaluate, report on and make recommendations
5 concerning the procedures established by any State agency providing
6 services to children who are at risk of abuse or neglect, children in
7 State or institutional custody, or children who receive child protective
8 or permanency services;

9 d. Review, monitor and report on the performance of State-funded
10 private entities charged with the care and supervision of children at
11 risk of abuse or neglect by conducting research audits or other studies
12 of case records, policies, procedures and protocols, as deemed
13 necessary by the child advocate to assess the performance of the
14 entities;

15 e. Receive, investigate and make referrals to other agencies or take
16 other appropriate actions with respect to a complaint received by the
17 office regarding the actions of a State, county or municipal agency or
18 a State-funded private entity providing services to children who are at
19 risk of abuse or neglect; and

20 f. Hold a public hearing on the subject of an investigation or study
21 underway by the office, and receive testimony from agency and
22 program representatives, the public and other interested parties, as the
23 child advocate deems appropriate.

24

25 6. a. In addition to the powers granted in section 5 of this act, the
26 child advocate may:

27 (1) intervene in or institute litigation, or

28 (2) intervene in or institute administrative proceedings before any
29 department, commission, agency or State board,

30 to assert the broad public interest of the State in the welfare of
31 children and to protect and promote the rights of children.

32 In taking such actions, the child advocate shall consider whether a
33 child or family may be in need of assistance from the child advocate or
34 whether there is a systemic issue in the State's provision of services to
35 children that should be addressed. The child advocate shall make a
36 good faith effort to resolve issues or problems, and shall have the
37 authority to commence negotiations, mediation or alternative dispute
38 resolution in its advocacy efforts prior to, or in lieu of, the initiation
39 of any action brought pursuant to this section.

40 b. The child advocate shall have discretion to decide whether to
41 intervene in any particular matter or to represent or refrain from
42 representing the public interest in a proceeding. The child advocate
43 shall consider, in exercising his discretion, the resources available, the
44 importance and extent of the public interest involved, and whether that
45 interest would be adequately represented without the action of the
46 office.

1 7. a. The child advocate shall seek the approval of a parent or
2 guardian or obtain the approval of a court of competent jurisdiction so
3 as to communicate directly with a child who is the subject of a
4 complaint or allegation of child abuse or neglect, if necessary to
5 conduct an investigation authorized under the provisions of this act.
6 The communications with the child shall be conducted under such
7 terms and conditions that protect the best interests of the child.

8 b. If court approval is sought, the court, in reviewing an
9 application for approval, shall consider: (1) the best interests of the
10 child, so as to minimize any detrimental effects on the child that may
11 occur as a result of the communication; and (2) the investigative needs
12 of the child advocate and law enforcement authorities, when
13 applicable. Upon consideration of the factors in this subsection, the
14 court may order any alternative methods for obtaining the required
15 information.

16
17 8. The child advocate shall seek to ensure the protection of children
18 who are in an institution or foster care by reviewing, evaluating and
19 monitoring the operation and activities of the Institutional Abuse
20 Investigation Unit in the Department of Human Services.

21 a. In order to enable the child advocate to carry out its
22 responsibilities under this section, the Institutional Abuse Investigation
23 Unit shall:

24 (1) promptly notify the child advocate of any allegations of abuse
25 or neglect made against an institution or foster home serving children
26 in this State;

27 (2) promptly provide the child advocate with a copy of the unit's
28 response to the complaint and the actions taken by the unit to address
29 the complaint;

30 (3) provide the child advocate with monthly updates of the status
31 of actions proposed by the unit regarding an existing complaint that
32 has not been resolved; and

33 (4) provide the child advocate with such other information as the
34 child advocate may deem necessary to carry out his responsibilities to
35 review, evaluate and monitor the operation and activities of the unit.

36 b. As used in this section, "institution" means a public or private
37 facility, in this State or out-of-State, that provides children with out-
38 of-home care, supervision or maintenance. Institution includes, but is
39 not limited to: a correctional facility, detention facility, treatment
40 facility, child care center, group home, residential school, shelter,
41 psychiatric hospital and developmental center.

42
43 9. The child advocate shall report annually to the Governor,
44 Commissioner of Human Services and Legislature on: the activities of
45 the office; priorities for children's services that have been identified by
46 the child advocate; and recommendations for improvement or needed

1 changes concerning the provision of services to children who are at
2 risk of abuse or neglect, and are in State or institutional custody or
3 receive child protective or permanency services by State agencies and
4 State-funded private entities.

5
6 10. a. The child advocate shall make public its findings of any
7 investigation reports or other studies undertaken by the office,
8 including its investigatory findings to complaints received pursuant to
9 section 5 of this act, and shall forward the findings to the Governor,
10 the Commissioner of Human Services and the Governor's Cabinet for
11 Children.

12 b. The child advocate shall not disclose to the public:

13 (1) any information that would likely endanger the life, safety, or
14 physical or emotional well-being of a child or the life or safety of a
15 person who filed a complaint or which may compromise the integrity
16 of a State or county department or agency investigation, civil or
17 criminal investigation or judicial or administrative proceeding; and

18 (2) the name or any other information identifying the person who
19 filed a complaint with the office.

20 The information subject to the provisions of this subsection shall
21 not be considered a public record pursuant to the provisions of
22 P.L.1963, c.73 (C.47:1A-1 et seq.) and P.L.2001, c.404 (C.47:1A-5
23 et al.).

24 c. The child advocate shall not disclose any information that may
25 be deemed confidential by federal or State law, except when necessary
26 to allow the Department of Human Services, Attorney General,
27 Juvenile Justice Commission and other State or county department or
28 agency to perform its duties and obligations under the law.

29
30 11. There is established within the Department of the Treasury an
31 Office of the Child Advocate Special Funds account that shall be a
32 nonlapsing account dedicated for use by the Office of the Child
33 Advocate. Any funds received pursuant to subsection d. of section 3
34 of this act shall be deposited in the account and may be used by the
35 child advocate to perform duties provided under this act.

36
37 12. This act shall take effect immediately.
38
39

40 STATEMENT
41

42 This bill establishes the Office of the Child Advocate in, but not of,
43 the Department of Law and Public Safety. The bill provides that the
44 child advocate shall seek to ensure the provision of effective,
45 appropriate and timely services for children at risk of abuse and
46 neglect in the State. The Office of the Child Advocate shall be deemed

- 1 a child protective agency for the purposes of N.J.S.A.9:6-8.10a.
- 2 The bill provides that the child advocate may:
- 3 C Investigate, review, monitor or evaluate any State agency response
4 to, or disposition of, an allegation of child abuse or neglect in this
5 State;
- 6 C Inspect and review the operations, policies and procedures of:
7 -- juvenile detention centers operated by the counties or the
8 Juvenile Justice Commission;
9 -- foster homes, group homes, residential treatment facilities,
10 shelters for the care of abused or neglected children, shelters for the
11 care of juveniles considered as juvenile-family crisis cases, shelters
12 for the care of homeless youth, or independent living arrangements
13 operated by or approved for payment by the Department of Human
14 Services; and
15 -- any other public or private residential setting in which a child has
16 been placed by a State or county agency or department.
- 17 C Review, evaluate, report on and make recommendations concerning
18 the procedures established by any State agency providing services
19 to children who are at risk of abuse or neglect, children in State or
20 institutional custody, or children who receive child protective or
21 permanency services;
- 22 C Review, monitor and report on the performance of State-funded
23 private entities charged with the care and supervision of children at
24 risk of abuse or neglect by conducting research audits or other
25 studies of case records, policies, procedures and protocols, as
26 deemed necessary by the child advocate to assess the performance
27 of the entities;
- 28 C Receive, investigate and make referrals to other agencies or take
29 other appropriate actions with respect to a complaint received by
30 the office regarding the actions of a State, county or municipal
31 agency or a State-funded private entity providing services to
32 children who are at risk of abuse or neglect;
- 33 C Hold a public hearing on the subject of an investigation or study
34 underway by the office, and receive testimony from agency and
35 program representatives, the public and other interested parties, as
36 the child advocate deems appropriate; and
- 37 C Intervene in or institute litigation, or intervene in or institute
38 administrative proceedings before any department, commission,
39 agency or State board, to assert the broad public interest of the
40 State in the welfare of children and to protect and promote the
41 rights of children. In taking such actions, the child advocate shall
42 consider whether a child or family may be in need of assistance
43 from the child advocate or whether there is a systemic issue in the
44 State's provision of services to children that should be addressed.
45 The child advocate shall make a good faith effort to resolve issues
46 or problems, and shall have the authority to commence

1 negotiations, mediation or alternative dispute resolution in its
2 advocacy efforts prior to, or in lieu of, the initiation of any action
3 brought pursuant to this section.

4 Further, the bill provides that the child advocate shall seek to
5 ensure the protection of children who are in an institution or foster
6 care by reviewing, evaluating and monitoring the operation and
7 activities of the Institutional Abuse Investigation Unit in the
8 Department of Human Services. The bill defines "institution" to mean
9 a public or private facility, in this State or out-of-State, that provides
10 children with out-of-home care, supervision or maintenance.
11 Institution includes, but is not limited to: a correctional facility,
12 detention facility, treatment facility, child care center, group home,
13 residential school, shelter, psychiatric hospital and developmental
14 center.

15 The bill requires that in order to enable the child advocate to carry
16 out these institutional review responsibilities, the Institutional Abuse
17 Investigation Unit shall:

- 18 (1) promptly notify the child advocate of any allegations of abuse
19 or neglect made against an institution or foster home serving
20 children in this State;
- 21 (2) promptly provide the child advocate with a copy of the unit's
22 response to the complaint and the actions taken by the unit to
23 address the complaint;
- 24 (3) provide the child advocate with monthly updates of the status
25 of actions proposed by the unit regarding an existing complaint that
26 has not been resolved; and
- 27 (4) provide the child advocate with such other information as the
28 child advocate may deem necessary to carry out his responsibilities
29 to review, evaluate and monitor the operation and activities of the
30 unit.

31 The bill provides that the child advocate shall report annually to the
32 Governor, Commissioner of Human Services and Legislature on: the
33 activities of the office; priorities for children's services that have been
34 identified by the child advocate; and recommendations for
35 improvement or needed changes concerning the provision of services
36 to children who are at risk of abuse or neglect, and are in State or
37 institutional custody or receive child protective or permanency
38 services by State agencies and State-funded private entities.

39 Further, the child advocate shall make public the findings of any
40 investigation reports or other studies undertaken by the office and
41 shall forward the findings to the Governor, the Commissioner of
42 Human Services and the Governor's Cabinet for Children. However,
43 the child advocate shall not disclose to the public:

- 44 (1) any information that would likely endanger the life, safety, or
45 physical or emotional well-being of a child or the life or safety of a
46 person who filed a complaint or which may compromise the integrity

1 of a State or county department or agency investigation, civil or
2 criminal investigation or judicial or administrative proceeding; and

3 (2) the name or any other information identifying the person who
4 filed a complaint with the office.

5 Also, the child advocate shall not disclose any information that may
6 be deemed confidential by federal or State law, except when necessary
7 to allow the Department of Human Services, Attorney General,
8 Juvenile Justice Commission and other State or county department or
9 agency to perform its duties and obligations under the law.

ASSEMBLY, No. 1729

STATE OF NEW JERSEY
210th LEGISLATURE

INTRODUCED FEBRUARY 4, 2002

Sponsored by:

Assemblyman GORDON M. JOHNSON

District 37 (Bergen)

Co-Sponsored by:

Assemblyman Hackett

SYNOPSIS

Establishes Office of the Child Advocate.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/14/2002)

1 AN ACT establishing the Office of the Child Advocate, supplementing
2 Title 52 of the Revised Statutes and amending P.L.1977, c. 102.

3
4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6
7 1. (New section) There is established the Office of the Child
8 Advocate in the Executive Branch of the State Government. For
9 purposes of complying with Article V, Section IV, paragraph 1 of the
10 New Jersey Constitution, the office is allocated within the Department
11 of Human Services, but notwithstanding the allocation, the office shall
12 be independent of any supervision or control by the department or any
13 board or officer thereof.

14
15 2. (New section) The administrator and chief executive officer of
16 the office shall be the child advocate, who shall be an attorney
17 admitted to practice law in New Jersey and qualified by training and
18 experience to perform the duties of the office. The child advocate
19 shall be appointed by the Governor, with the advice and consent of the
20 Senate, and shall serve for a term of five years and until the
21 appointment and qualification of his successor. The child advocate
22 shall devote his entire time to the duties of his position and shall
23 receive such salary as shall be provided by law. A vacancy occurring
24 in the position of child advocate shall be filled in the same manner as
25 the original appointment, except that if the child advocate dies,
26 resigns, becomes ineligible to serve for any reason or is removed from
27 office, the Governor shall appoint an acting child advocate who shall
28 serve until the appointment and qualification of the child advocate's
29 successor.

30
31 3. (New section) The child advocate may employ professional staff
32 as he may deem necessary to assist in the performance of the duties of
33 the Office of the Child Advocate. The professional staff shall
34 administer the work of the office under the advice and direction of the
35 child advocate.

36
37 4. (New section) The child advocate shall:

38 a. Serve as a representative of the interests of children under the
39 supervision of the Division of Youth and Family Services in the
40 Department of Human Services;

41 b. Protect the rights of children under the supervision of the
42 Division of Youth and Family Services and insure that children,
43 parents, guardians or relatives are apprised of those rights;

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

- 1 c. Institute litigation on behalf of any child under the supervision
2 of the Division of Youth and Family Services as the child advocate
3 deems appropriate and necessary to further the State's ability to
4 protect and promote the rights of children under the division's care;
- 5 d. Examine records of child abuse and neglect reports and all
6 information obtained by the Division of Youth and Family Services
7 during a child abuse or neglect investigation, pursuant to section 1 of
8 P.L.1977, c.102 (C.9:6-8.10a), as well as school records, private
9 medical and hospital records, mental health records, law enforcement
10 records, court documents, and child welfare information as defined in
11 N.J.A.C.10:133-1.3, for the purpose of reviewing the division's ability
12 to protect the rights of children under its care;
- 13 e. Review the policies, procedures and operations of the Division
14 of Youth and Family Services in order to develop recommendations
15 regarding the most effective methods of improving the division's ability
16 to provide services to children in the child protective services system;
- 17 f. Receive and investigate complaints against the Division of Youth
18 and Family Services made by children, parents, guardians, relatives,
19 interested citizens, public officials or government agencies;
- 20 g. Conduct on-site inspections and review the operations of foster
21 homes, group homes, residential treatment facilities, shelters for the
22 care of abused or neglected children or juveniles considered as
23 juvenile-family crisis cases, or independent living arrangements
24 operated by or approved for payment by the Division of Youth and
25 Family Services, in which care and temporary out-of-home services
26 are provided to children under the division's supervision;
- 27 h. Review, in consultation with the Child Fatality and Near Fatality
28 Review Board, the death of any child under the supervision of the
29 Division of Youth and Family Services, for the purpose of evaluating
30 the division's ability to respond to and protect children in families who
31 may be at risk of injury or death;
- 32 i. Provide legal, legislative advocacy and public education services
33 to children, parents, guardians, relatives, interested citizens, public
34 officials, or government agencies in order to ensure the civil and legal
35 rights of children under the supervision of the Division of Youth and
36 Family Services;
- 37 j. Provide training and technical assistance to the law guardians
38 appointed by the Superior Court, Chancery Division, Family Part
39 pursuant to section 3 of P.L.1974, c.119 (C.9:6-8.23) to represent
40 children in legal proceedings before the court; and
- 41 k. Disseminate information to the public on the objectives of the
42 Office of the Child Advocate, the services the office provides and the
43 methods by which the office may be contacted.

1 5. (New section) The Office of the Child Advocate is authorized
2 to:

3 a. Subpoena any records concerning children under the supervision
4 of the Division of Youth and Family Services which the office
5 reasonably believes may relate to a matter under investigation pursuant
6 to subsection f. of section 4 of this act;

7 b. Apply for and accept any grant of money from the federal
8 government, private foundations or other sources, which may be
9 available for programs related to children; and

10 c. Enter into contracts with individuals, organizations and
11 institutions necessary for the performance of its duties under this act.

12

13 6. (New section) The Office of the Child Advocate is entitled to
14 call to its assistance, and avail itself of, the services of employees of
15 any State, county or municipal department, board, bureau, commission
16 or agency as it may require and as may be available to it for its
17 purposes. All departments, agencies and divisions are authorized and
18 directed, to the extent not inconsistent with law, to cooperate with the
19 office.

20

21 7. (New section) a. The records of the Office of the Child
22 Advocate, including all investigatory findings, complaints and
23 responses of the office to complaints received pursuant to subsection
24 f. of section 4 of this act, shall be kept confidential. Information
25 contained in the records may be disclosed to a requesting party only
26 upon application to the Superior Court, Chancery Division, Family
27 Part, except that there shall be no disclosure of the identity or the
28 means for discovering the identity of particular persons.

29 b. The office shall disclose its records to any appropriate State
30 legislative committee or other governmental entity acting in the course
31 of its official functions, except that no names or other identifying
32 information shall be made available to the legislative committee or
33 governmental entity unless it is absolutely essential to its purposes.

34

35 8. (New section) The child advocate or any person employed by
36 the Office of the Child Advocate shall not be held liable for any civil
37 damages as a result of any action taken or omitted in the performance
38 of his duties pursuant to this act.

39

40 9. (New section) The Office of the Child Advocate shall report
41 annually to the Governor, the Legislature and the New Jersey Task
42 Force on Child Abuse and Neglect on the activities of the office and
43 make recommendations for improvements or needed changes
44 concerning the provision of services to children under the supervision
45 of the Division of Youth and Family Services.

46

1 10. (New section) The Office of the Child Advocate shall adopt
2 rules and regulations pursuant to the "Administrative Procedure Act,"
3 P.L.1968, c.410 (C.52:14B-1 et seq.) concerning the operation of the
4 office, procedures for investigating complaints against the Division of
5 Youth and Family Services pursuant to subsection f. of section 4 of
6 this act, and other matters necessary to effectuate the purposes of this
7 act.

8
9 11. Section 1 of P.L.1977, c.102 (C.9:6-8.10a) is amended to read
10 as follows:

11 1. a. All records of child abuse reports made pursuant to section
12 3 of P.L.1971, c.437 (C.9:6-8.10), all information obtained by the
13 Division of Youth and Family Services in investigating such reports
14 including reports received pursuant to section 20 of P.L.1974, c.119
15 (C.9:6-8.40), and all reports of findings forwarded to the central
16 registry pursuant to section 4 of P.L.1971, c.437 (C.9:6-8.11) shall be
17 kept confidential and may be disclosed only under the circumstances
18 expressly authorized under subsections b., c., d. , e. and f. herein. The
19 division shall disclose information only as authorized under
20 subsections b., c., d.,e. and f. of this section that is relevant to the
21 purpose for which the information is required, provided, however, that
22 nothing may be disclosed which would likely endanger the life, safety,
23 or physical or emotional well-being of a child or the life or safety of
24 any other person or which may compromise the integrity of a division
25 investigation or a civil or criminal investigation or judicial proceeding.
26 If the division denies access to specific information on this basis, the
27 requesting entity may seek disclosure through the Chancery Division
28 of the Superior Court. This section shall not be construed to prohibit
29 disclosure pursuant to paragraphs (2) and (7) of subsection b. of this
30 section.

31 Nothing in this act shall be construed to permit the disclosure of
32 any information deemed confidential by federal or State law.

33 b. The division may and upon written request, shall release the
34 records and reports referred to in subsection a., or parts thereof,
35 consistent with the provisions of P.L.1997, c.175 (C.9:6-8.83 et al.)
36 to:

37 (1) A public or private child protective agency authorized to
38 investigate a report of child abuse or neglect;

39 (2) A police or other law enforcement agency investigating a report
40 of child abuse or neglect;

41 (3) A physician who has before him a child whom he reasonably
42 suspects may be abused or neglected or an authorized member of the
43 staff of a duly designated regional child abuse diagnostic and treatment
44 center which is involved with a particular child who is the subject of
45 the request;

1 (4) A physician, a hospital director or his designate, a police officer
2 or other person authorized to place a child in protective custody when
3 such person has before him a child whom he reasonably suspects may
4 be abused or neglected and requires the information in order to
5 determine whether to place the child in protective custody;

6 (5) An agency, whether public or private, including any other
7 division or unit in the Department of Human Services, authorized to
8 care for, treat, or supervise a child who is the subject of a child abuse
9 report, or a parent, guardian or other person who is responsible for the
10 child's welfare, or both, when the information is needed in connection
11 with the provision of care, treatment, or supervision to such child or
12 such parent, guardian or other person;

13 (6) A court or the Office of Administrative Law, upon its finding
14 that access to such records may be necessary for determination of an
15 issue before it, and such records may be disclosed by the court or the
16 Office of Administrative Law in whole or in part to the law guardian,
17 attorney or other appropriate person upon a finding that such further
18 disclosure is necessary for determination of an issue before the court
19 or the Office of Administrative Law;

20 (7) A grand jury upon its determination that access to such records
21 is necessary in the conduct of its official business;

22 (8) Any appropriate State legislative committee acting in the
23 course of its official functions, provided, however, that no names or
24 other information identifying persons named in the report shall be
25 made available to the legislative committee unless it is absolutely
26 essential to the legislative purpose;

27 (9) (Deleted by amendment, P.L.1997, c.175).

28 (10) A family day care sponsoring organization for the purpose of
29 providing information on child abuse or neglect allegations involving
30 prospective or current providers or household members pursuant to
31 P.L.1993, c.350 (C.30:5B-25.1 et seq.) and as necessary, for use in
32 administrative appeals related to information obtained through a
33 central registry search;

34 (11) The Victims of Crime Compensation Board, for the purpose
35 of providing services available pursuant to the "Criminal Injuries
36 Compensation Act of 1971," P.L.1971, c.317 (C.52:4B-1 et seq.) to
37 a child victim who is the subject of such report;

38 (12) Any person appealing a division service or status action or a
39 substantiated finding of child abuse or neglect and his attorney or
40 authorized lay representative upon a determination by the division or
41 the presiding Administrative Law Judge that such disclosure is
42 necessary for a determination of the issue on appeal;

43 (13) Any person or entity mandated by statute to consider child
44 abuse or neglect information when conducting a background check or
45 employment-related screening of an individual employed by or seeking
46 employment with an agency or organization providing services to

1 children;

2 (14) Any person or entity conducting a disciplinary, administrative
3 or judicial proceeding to determine terms of employment or continued
4 employment of an officer, employee, or volunteer with an agency or
5 organization providing services for children. The information may be
6 disclosed in whole or in part to the appellant or other appropriate
7 person only upon a determination by the person or entity conducting
8 the proceeding that the disclosure is necessary to make a
9 determination;

10 (15) The members of a county multi-disciplinary team, established
11 in accordance with State guidelines, for the purpose of coordinating
12 the activities of agencies handling alleged cases of child abuse and
13 neglect;

14 (16) A person being evaluated by the division or the court as a
15 potential care-giver to determine whether that person is willing and
16 able to provide the care and support required by the child;

17 (17) The legal counsel of a child, parent or guardian, whether
18 court-appointed or retained, when information is needed to discuss the
19 case with the division in order to make decisions relating to or
20 concerning the child;

21 (18) A person who has filed a report of suspected child abuse or
22 neglect for the purpose of providing that person with only the
23 disposition of the investigation;

24 (19) A parent or legal guardian when the information is needed in
25 a division matter in which that parent or guardian is directly involved.
26 The information may be released only to the extent necessary for the
27 requesting parent or guardian to discuss services or the basis for the
28 division's involvement or to develop, discuss, or implement a case plan
29 for the child;

30 (20) A federal, State or local government entity, to the extent
31 necessary for such entity to carry out its responsibilities under law to
32 protect children from abuse and neglect;

33 (21) Citizen review panels designated by the State in compliance
34 with the federal "Child Abuse Prevention and Treatment Act
35 Amendments of 1996," Pub.L.104-235;

36 (22) The Child Fatality and Near Fatality Review Board established
37 pursuant to P.L.1997, c.175 (C.9:6-8.83 et al.);

38 (23) The Office of the Child Advocate established pursuant to
39 P.L. , c. (C.) (pending before the Legislature as this bill).

40 Any individual, agency, board, court, grand jury, legislative
41 committee, or other entity which receives from the division the records
42 and reports referred to in subsection a., shall keep such records and
43 reports, or parts thereof, confidential and shall not disclose such
44 records and reports or parts thereof except as authorized by law.

1 c. The division may share information with a child who is the
2 subject of a child abuse or neglect report, as appropriate to the child's
3 age or condition, to enable the child to understand the basis for the
4 division's involvement and to participate in the development,
5 discussion, or implementation of a case plan for the child.

6 d. The division may release the records and reports referred to in
7 subsection a. of this section to any person engaged in a bona fide
8 research purpose, provided, however, that no names or other
9 information identifying persons named in the report shall be made
10 available to the researcher unless it is absolutely essential to the
11 research purpose and provided further that the approval of the
12 Director of the Division of Youth and Family Services shall first have
13 been obtained.

14 e. For incidents determined by the division to be substantiated, the
15 division shall forward to the police or law enforcement agency in
16 whose jurisdiction the child named in the report resides, the identity
17 of persons alleged to have committed child abuse or neglect and of
18 victims of child abuse or neglect, their addresses, the nature of the
19 allegations, and other relevant information, including, but not limited
20 to, prior reports of abuse or neglect and names of siblings obtained by
21 the division during its investigation of a report of child abuse or
22 neglect. The police or law enforcement agency shall keep such
23 information confidential.

24 f. The division may disclose to the public the findings or
25 information about a case of child abuse or neglect which has resulted
26 in a child fatality or near fatality. Nothing may be disclosed which
27 would likely endanger the life, safety, or physical or emotional
28 well-being of a child or the life or safety of any other person or which
29 may compromise the integrity of a division investigation or a civil or
30 criminal investigation or judicial proceeding. If the division denies
31 access to specific information on this basis, the requesting entity may
32 seek disclosure of the information through the Chancery Division of
33 the Superior Court. No information may be disclosed which is deemed
34 confidential by federal or State law. The name or any other
35 information identifying the person or entity who referred the child to
36 the division shall not be released to the public.

37 (cf: P.L.1997, c.175, s.16)

38
39 12. This act shall take effect immediately.

40
41
42 STATEMENT

43
44 This bill establishes the Office of the Child Advocate in, but not of,
45 the Department of Human Services.

46 The child advocate shall:

- 1 ! Act as a representative of the interests of the children under the
- 2 supervision of the Division of Youth and Family Services
- 3 (DYFS);
- 4 ! Protect the rights of children under DYFS' supervision and
- 5 insure that children, parents, guardians or relatives are apprised
- 6 of those rights;
- 7 ! Institute litigation on behalf of any child under DYFS'
- 8 supervision in order to further the State's ability to protect and
- 9 promote the rights of children under DYFS' care;
- 10 ! Examine records of child abuse and neglect reports and all
- 11 information obtained by DYFS during an abuse or neglect
- 12 investigation, as well as educational, medical, mental health,
- 13 law enforcement, court and social services records, for the
- 14 purpose of reviewing DYFS' ability to protect the rights of
- 15 children under its care;
- 16 ! Review the policies, procedures and operations of DYFS in
- 17 order to develop recommendations regarding the most effective
- 18 methods of improving DYFS' ability to provide services to
- 19 children in the child protective services system;
- 20 ! Receive and investigate complaints against DYFS made by
- 21 children, parents, guardians, relatives, interested citizens,
- 22 public officials or government agencies;
- 23 ! Conduct on-site inspections and review the operations of foster
- 24 homes, group homes, residential treatment facilities, shelters
- 25 for abused or neglected children or juveniles, or alternative
- 26 living arrangements, in which care and temporary out-of-home
- 27 services are provided to children under DYFS' supervision;
- 28 ! Review, in consultation with the Child Fatality and Near
- 29 Fatality Review Board, the death of any child under DYFS'
- 30 supervision, for the purpose of evaluating DYFS' ability to
- 31 respond to and protect children in families who may be at risk
- 32 of injury or death;
- 33 ! Provide legal, legislative advocacy and public education
- 34 services to children, parents, guardians, relatives, interested
- 35 citizens, public officials or government agencies in order to
- 36 ensure the civil and legal rights of children under DYFS' care;
- 37 ! Provide training and technical assistance to the law guardians
- 38 appointed by the family court pursuant to N.J.S.A.9:6-8.23 to
- 39 represent children in legal proceedings; and
- 40 ! Disseminate information to the public on the objectives of the
- 41 office, the services the office provides and the methods by
- 42 which the office may be contacted.
- 43 The bill provides that the office is authorized to: subpoena any
- 44 records concerning children under DYFS' supervision which may relate
- 45 to a matter under investigation pursuant to the provisions of the bill;
- 46 apply for and accept any grant of money from the federal government,

1 private foundations or other sources, which may be available for
2 programs related to children; and enter into contracts with individuals,
3 organizations and institutions necessary for the performance of its
4 duties under the bill.

5 The bill also provides that:

6 ! the records of the office shall be kept confidential and may only
7 be disclosed to a requesting party upon application to the
8 family court, or to a State legislative committee or other
9 governmental entity in the performance of its official duties;
10 and

11 ! the child advocate or any employee of the office shall not be
12 held liable for any civil damages as a result of any action taken
13 or omitted in the performance of his duties.

14 The bill directs the office to report annually to the Governor, the
15 Legislature, and the New Jersey Task Force on Child Abuse and
16 Neglect on the activities of the office and make recommendations for
17 improvements or needed changes concerning the provision of services
18 to children under DYFS' supervision.

19 Finally, the bill amends N.J.S.A.9:6-8.10a to permit DYFS to
20 release records of child abuse and neglect reports and all information
21 obtained by DYFS during a child abuse investigation to the Office of
22 the Child Advocate.

ASSEMBLY, No. 1090

STATE OF NEW JERSEY 210th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2002 SESSION

Sponsored by:

Assemblywoman CLARE M. FARRAGHER

District 12 (Mercer and Monmouth)

Assemblyman ERIC MUNOZ

District 21 (Essex, Morris, Somerset and Union)

Co-Sponsored by:

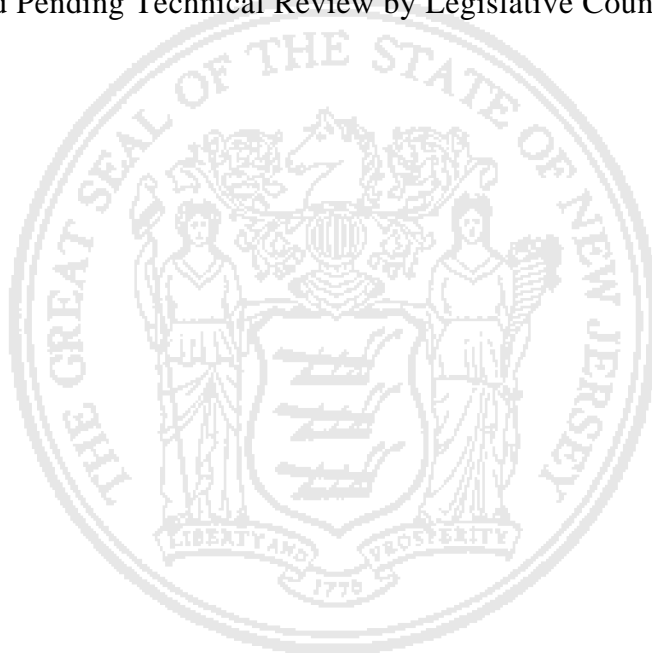
Assemblymen Azzolina, Thompson and Arnone

SYNOPSIS

Establishes an Office of Child Advocacy.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 AN ACT concerning children and supplementing Title 52 of the
2 Revised Statutes.

3
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6
7 1. The Legislature finds and declares that:

8 a. The ability of the United States to continue its role as a world
9 economic power depends, to a great extent, upon New Jersey and the
10 rest of the country's ability to produce confident and caring adults,
11 possessing both the job and social skills required for leadership in the
12 21st century.

13 b. New Jersey's educational and social service systems must both
14 stimulate young minds and provide our children with the proper
15 environment to ensure that they grow up healthy and are willing to
16 learn.

17 c. Education and social services often have the same goals but are
18 not coordinated in a way that address the complex problems facing the
19 State's children.

20 d. There is, therefore, a need to establish an Office of Child
21 Advocacy to foster interagency coordination, facilitate communication
22 and encourage the establishment of cooperative agreements among
23 children's services providers, as well as encourage the physical,
24 emotional, social and intellectual development of the children of this
25 State.

26
27 2. There is established the Office of Child Advocacy in the
28 Executive Branch of the State Government. For purposes of
29 complying with Article V, Section IV, paragraph 1 of the New Jersey
30 Constitution, the office is allocated within the Department of the
31 Treasury, but notwithstanding the allocation, the office shall be
32 independent of any supervision or control by the department or any
33 board or officer thereof.

34
35 3. The office shall:

36 a. Serve as the Governor's chief advocate for child development
37 and education;

38 b. Assist the Governor in identifying child development and
39 education funding priorities, including preventive services for children
40 and youth;

41 c. Aid the Governor in proposing methods of achieving increased
42 coordination and collaboration among State agencies to ensure
43 maximum effectiveness and efficiency in the provision of services to
44 children and youth; and

45 d. Report to the Governor and the Legislature on recommendations
46 that will further the State's ability to secure, preserve and promote the

1 health, safety and welfare of New Jersey's children and youth.

2

3 4. The office is authorized to:

4 a. Adopt rules and regulations pursuant to the "Administrative
5 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), concerning the
6 operation of the office and other matters that may be necessary to
7 effectuate the purposes of this act;

8 b. Maintain offices in such places within the State as it may
9 designate;

10 c. Employ an executive director and other personnel as are
11 necessary to protect the rights of children. The executive director
12 shall be appointed by the Governor with the advice and consent of the
13 Senate. All professional employees of the office except the executive
14 director shall be in the State unclassified service and all stenographic,
15 clerical and other secretarial assistants shall be in the career service
16 pursuant to Title 11A of the New Jersey Statutes;

17 d. Apply for and accept any grants of money from the federal
18 government, private foundations or other sources, which may be
19 available for programs related to child development and education; and

20 e. Enter into contracts with individuals, organizations and
21 institutions necessary for the performance of its duties under this act.

22

23 5. The office is entitled to call to its assistance and avail itself of
24 the services of employees of any State, county or municipal
25 department, board, bureau, commission or agency as it may require
26 and as may be available to it for its purposes. All departments,
27 agencies and divisions are authorized and directed, to the extent not
28 inconsistent with law, to cooperate with the Office of Child Advocacy.

29

30 6. This act shall take effect on the 60th day of enactment.

31

32

33

STATEMENT

34

35 This bill establishes the Office of Child Advocacy in, but not of, the
36 Department of the Treasury. The office would:

37 (1) Serve as the Governor's chief advocate for child development
38 and education;

39 (2) Assist the Governor in identifying child development and
40 education funding priorities, including preventive services for children
41 and youth;

42 (3) Aid the Governor in proposing methods of achieving increased
43 coordination and collaboration among State agencies to ensure

A1090 FARRAGHER, MUNOZ

4

1 maximum effectiveness and efficiency in the provision of services to
2 children and youth; and
3 (4) Report to the Governor and the Legislature on
4 recommendations that will further the State's ability to secure,
5 preserve and promote the health, safety and welfare of New Jersey's
6 children and youth.

ASSEMBLY BUDGET COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR **ASSEMBLY, No. 3772, 1729 and 1090**

STATE OF NEW JERSEY

DATED: JUNE 19, 2003

The Assembly Budget Committee reports favorably an Assembly Committee Substitute for Assembly Bill Nos. 3772, 1729 and 1090.

The Assembly Committee Substitute for Assembly Bill Nos. 3772, 1729 and 1090 establishes the Office of the Child Advocate in, but not of, the Department of Law and Public Safety. The substitute provides that the child advocate shall seek to ensure the provision of effective, appropriate and timely services for children at risk of abuse and neglect in the State, and that children under State supervision due to abuse or neglect are served adequately and appropriately by the State. The Office of the Child Advocate shall be deemed a child protective agency for the purposes of N.J.S.A.9:6-8.10a.

The substitute provides that the child advocate may:

- C Investigate, review, monitor or evaluate any State agency response to, or disposition of, an allegation of child abuse or neglect in this State;
- C Inspect and review the operations, policies and procedures of:
 - juvenile detention centers operated by the counties or the Juvenile Justice Commission;
 - foster homes, group homes, residential treatment facilities, shelters for the care of abused or neglected children, shelters for the care of juveniles considered as juvenile-family crisis cases, shelters for the care of homeless youth, or independent living arrangements operated by or approved for payment by the Department of Human Services; and
 - any other public or private residential setting in which a child has been placed by a State or county agency or department.
- C Review, evaluate, report on and make recommendations concerning the procedures established by any State agency providing services to children who are at risk of abuse or neglect, children in State or institutional custody, or children who receive child protective or permanency services;
- C Review, monitor and report on the performance of State-funded private entities charged with the care and supervision of children at risk of abuse or neglect by conducting research audits or other studies of case records, policies, procedures and protocols, as

deemed necessary by the child advocate to assess the performance of the entities;

- C Receive, investigate and make referrals to other agencies or take other appropriate actions with respect to a complaint received by the office regarding the actions of a State, county or municipal agency or a State-funded private entity providing services to children who are at risk of abuse or neglect;
- C Hold a public hearing on the subject of an investigation or study underway by the office, and receive testimony from agency and program representatives, the public and other interested parties, as the child advocate deems appropriate;
- C Establish and maintain a 24 hour toll-free telephone hotline to receive and respond to calls from citizens referring problems to the child advocate, both individual and systemic, in how the State, through its agencies and contract services, protect children. If the child advocate identifies a problem in how the State protects children, the child advocate shall provide its findings and recommendations to the affected agency and make those findings and recommendations available to the public (subject to certain confidentiality provisions in the substitute). The agency shall have 30 days from the receipt of the findings and recommendations to develop a corrective action plan and submit the plan to the department for implementation. The child advocate shall monitor the department's implementation of the plan, and if the department fails to promptly implement the plan, the child advocate shall take such action as deemed necessary; and
- C Intervene in or institute litigation, or intervene in or institute administrative proceedings before any department, commission, agency or State board, to assert the broad public interest of the State in the welfare of children and to protect and promote the rights of children. In taking such actions, the child advocate shall consider whether a child or family may be in need of assistance from the child advocate or whether there is a systemic issue in the State's provision of services to children that should be addressed.

Further, the substitute provides that the child advocate shall seek to ensure the protection of children who are in an institution or foster care by reviewing, evaluating and monitoring the operation and activities of the Institutional Abuse Investigation Unit in the Department of Human Services.

The substitute provides that the child advocate shall report annually to the Governor, Commissioner of Human Services and Legislature on: the activities of the office; priorities for children's services that have been identified by the child advocate; and recommendations for improvement or needed changes concerning the provision of services to children who are at risk of abuse or neglect, and are in State or institutional custody or receive child protective or permanency services by State agencies and State-funded private

entities, and make the annual report available to the public.

FISCAL IMPACT:

The substitute appropriates \$2,000,000 from the General Fund to the Office of the Child Advocate to effectuate the purposes of the substitute.

ASSEMBLY FAMILY, WOMEN AND CHILDREN'S SERVICES
COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, Nos. 3772, 1729 and 1090

STATE OF NEW JERSEY

DATED: JUNE 19, 2003

The Assembly Family, Women and Children's Services Committee reports favorably the Assembly Committee Substitute for Assembly Bill Nos. 3772, 1729 and 1090.

This substitute establishes the Office of the Child Advocate in, but not of, the Department of Law and Public Safety. The substitute provides that the child advocate shall seek to ensure that effective, appropriate and timely services are provided to children at risk of abuse and neglect in the State, and that children under State supervision due to abuse or neglect are served adequately and appropriately by the State. The Office of the Child Advocate shall be deemed a child protective agency for the purposes of N.J.S.A.9:6-8.10a.

The substitute provides that the child advocate may:

- C investigate, review, monitor or evaluate any State agency response to, or disposition of, an allegation of child abuse or neglect in this State;
- C inspect and review the operations, policies and procedures of:
 - juvenile detention centers operated by the counties or the Juvenile Justice Commission;
 - foster homes, group homes, residential treatment facilities, shelters for the care of abused or neglected children, shelters for the care of juveniles considered as juvenile-family crisis cases, shelters for the care of homeless youth, or independent living arrangements operated by or approved for payment by the Department of Human Services; and
 - any other public or private residential setting in which a child has been placed by a State or county agency or department.
- C review, evaluate, report on and make recommendations concerning the procedures established by any State agency providing services to children who are at risk of abuse or neglect, children in State or institutional custody, or children who receive child protective or permanency services;
- C review, monitor and report on the performance of State-funded private entities charged with the care and supervision of children

at risk of abuse or neglect by conducting research audits or other studies of case records, policies, procedures and protocols, as deemed necessary by the child advocate to assess the performance of the entities;

- C receive, investigate and make referrals to other agencies or take other appropriate actions with respect to a complaint received by the office regarding the actions of a State, county or municipal agency or a State-funded private entity providing services to children who are at risk of abuse or neglect;
- C hold a public hearing on the subject of an investigation or study underway by the office, and receive testimony from agency and program representatives, the public and other interested parties, as the child advocate deems appropriate; and
- C establish and maintain a 24 hour toll-free telephone hotline to receive and respond to calls from citizens referring problems to the child advocate, both individual and systemic, in how the State, through its agencies and contract services, protect children.

If the child advocate identifies a problem in how the State protects children, the child advocate shall provide its findings and recommendations to the affected agency and make those findings and recommendations available to the public (subject to certain confidentiality provisions in the substitute). The agency shall have 30 days from the receipt of the findings and recommendations to develop a corrective action plan and submit the plan to the department for implementation. The child advocate shall monitor the department's implementation of the plan, and if the department fails to promptly implement the plan, the child advocate shall take such action as deemed necessary.

The child advocate may intervene in or institute litigation, or intervene in or institute administrative proceedings before any department, commission, agency or State board, to assert the broad public interest of the State in the welfare of children and to protect and promote the rights of children. In taking such actions, the child advocate shall consider whether a child or family may be in need of assistance from the child advocate or whether there is a systemic issue in the State's provision of services to children that should be addressed. The child advocate shall make a good faith effort to resolve issues or problems, and shall have the authority to commence negotiations, mediation or alternative dispute resolution in its advocacy efforts prior to, or in lieu of, the initiation of any action brought pursuant to this section.

Further, the substitute provides that the child advocate shall seek to ensure the protection of children who are in an institution or foster care by reviewing, evaluating and monitoring the operation and activities of the Institutional Abuse Investigation Unit in the Department of Human Services. The substitute defines "institution" to mean a public or private facility, in this State or out-of-State, that provides children with out-of-home care, supervision or maintenance. Institution includes, but is not limited to: a correctional facility,

detention facility, treatment facility, child care center, group home, residential school, shelter, psychiatric hospital and developmental center.

The substitute requires that in order to enable the child advocate to carry out these institutional review responsibilities, the Institutional Abuse Investigation Unit shall:

- (1) promptly notify the child advocate of any allegations of abuse or neglect made against an institution or foster home serving children in this State;
- (2) promptly provide the child advocate with a copy of the unit's response to the complaint and the actions taken by the unit to address the complaint;
- (3) provide the child advocate with monthly updates of the status of actions proposed by the unit regarding an existing complaint that has not been resolved; and
- (4) provide the child advocate with such other information as the child advocate deems necessary to carry out his responsibilities to review, evaluate and monitor the operation and activities of the unit.

The substitute provides that the child advocate shall report annually to the Governor, Commissioner of Human Services and Legislature on: the activities of the office; priorities for children's services that have been identified by the child advocate; and recommendations for improvement or needed changes concerning the provision of services to children who are at risk of abuse or neglect, and are in State or institutional custody or receive child protective or permanency services by State agencies and State-funded private entities. The annual report shall be made available to the public.

Further, the child advocate shall make public the findings of any investigative reports or other studies undertaken by the office and shall forward the findings to the Governor, the Commissioner of Human Services and the Governor's Cabinet for Children. However, the child advocate shall not disclose to the public:

- (1) any information that would likely endanger the life, safety, or physical or emotional well-being of a child or the life or safety of a person who filed a complaint or which may compromise the integrity of a State or county department or agency investigation, civil or criminal investigation or judicial or administrative proceeding; and
- (2) the name or any other information identifying the person who filed a complaint with the office.

Also, the child advocate shall not disclose any information that may be deemed confidential by federal or State law, except when necessary to allow the Department of Human Services, Attorney General, Juvenile Justice Commission or other State or county department or agency to perform its duties and obligations under the law.

Finally the substitute appropriates \$2,000,000 from the General Fund to the Office of the Child Advocate to effectuate the purposes of the substitute.

STATEMENT TO
ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY Nos. 3772, 1729 and 1090

with Assembly Floor Amendments
(Proposed By Assemblywoman PREVITE)

ADOPTED: JUNE 23, 2003

These amendments provide that the child advocate shall also aid the Governor in proposing methods of achieving increased coordination and collaboration among State agencies to ensure maximum effectiveness and efficiency in the provision of services to children.

The amendments also delete the \$2,000,000 appropriation for the Office of the Child Advocate since this amount is already appropriated to the Department of Law and Public Safety in the FY 2004 budget.

Other amendments are technical in nature.

LEGISLATIVE FISCAL ESTIMATE
ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, Nos. 3772, 1729 and 1090
STATE OF NEW JERSEY
210th LEGISLATURE

DATED: JULY 8, 2003

SUMMARY

Synopsis: Establishes Office of the Child Advocate.
Type of Impact: Revenue Expenditure. General Revenue Fund.
Agencies Affected: Department of Law and Public Safety, Juvenile Justice Commission, Department of Human Services.

Office of Legislative Services Estimate

Fiscal Impact	<u>FY 03</u>	<u>FY 04</u>	<u>FY 05</u>
State Cost	\$2,000,000	\$2,000,000	\$2,000,000

- ! Establishes the Office of the Child Advocate in, but not of, the Department of Law and Public Safety.
- ! Provides that the child advocate shall seek to ensure the provision of effective, appropriate and timely services for children at risk of abuse and neglect in the State.
- ! Establishes a 24-hour toll-free telephone hotline to receive and respond to calls from citizens referring problems to the child advocate.
- ! Appropriates \$2 million from the General Fund to the Department of Law and Public Safety.

BILL DESCRIPTION

Assembly Committee Substitute for Assembly Bill Nos. 3772, 1729 and 1090 of 2003 establishes the Office of the Child Advocate and appropriates \$2 million from the General Fund to the Department of Law and Public Safety. This bill establishes the Office of the Child Advocate in, but not of, the Department of Law and Public Safety and provides that the child advocate shall seek to ensure the provision of effective, appropriate and timely services for children at risk of abuse and neglect in the State.

The substitute provides that the child advocate may: investigate, review, monitor or evaluate any State agency response to an allegation of child abuse or neglect in this State; inspect and review the operations, policies and procedures of juvenile detention centers, foster homes, group



homes, residential treatment facilities, shelters for the care of abused or neglected children, shelters for the care of juveniles considered as juvenile-family crisis cases, shelters for the care of homeless youth, or independent living arrangements and any other public or private residential setting in which a child has been placed by a State or county agency or department; and review, evaluate, report on and make recommendations concerning the procedures established by any State agency providing services to children who are at risk of abuse or neglect, children in State or institutional custody, or children who receive child protective or permanency services.

Further, the substitute provides that the child advocate shall seek to ensure the protection of children who are in an institution or foster care by reviewing, evaluating and monitoring the operation and activities of the Institutional Abuse Investigation Unit in the Department of Human Services. The child advocate shall report annually to the Governor, Commissioner of Human Services and Legislature and shall make public the findings of any investigative reports or other studies undertaken by the office and shall forward the findings to the Governor, the Commissioner of Human Services and the Governor's Cabinet for Children. However, the child advocate shall not disclose to the public any information that would likely endanger the life, safety, or physical or emotional well-being of a child and the name or any other information identifying the person who filed a complaint with the office.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The Office of Legislative Services (OLS) estimates, based on information from similar bills from prior sessions, that the cost to establish and maintain an Office of the Child Advocate could approximate \$1.7 - \$2.3 million per year.

OLS further notes that the actual costs of this program will vary according to such factors as the size of the Child Advocate's staff, caseload referrals, the degree to which other agencies will make resources available and whether office space would be made available.

This bill appropriates \$2 million from the General Fund to the Department of Law and Public Safety for the first year.

Section: *Law and Public Safety*

Analyst: *Kristin A. Brunner,
Assistant Fiscal Analyst*

Approved: *Alan R. Kooney
Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67.

SENATE, No. 184

STATE OF NEW JERSEY
210th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2002 SESSION

Sponsored by:

Senator BYRON M. BAER

District 37 (Bergen)

Senator PAUL SARLO

District 36 (Bergen, Essex and Passaic)

SYNOPSIS

Establishes Office of the Child Advocate.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



(Sponsorship Updated As Of: 6/10/2003)

1 AN ACT establishing the Office of the Child Advocate, supplementing
2 Title 52 of the Revised Statutes and amending P.L.1977, c. 102.

3
4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6
7 1. (New section) There is established the Office of the Child
8 Advocate in the Executive Branch of the State Government. For
9 purposes of complying with Article V, Section IV, paragraph 1 of the
10 New Jersey Constitution, the office is allocated within the Department
11 of Human Services, but notwithstanding the allocation, the office shall
12 be independent of any supervision or control by the department or any
13 board or officer thereof.

14
15 2. (New section) The administrator and chief executive officer of
16 the office shall be the child advocate, who shall be an attorney
17 admitted to practice law in New Jersey and is qualified by training and
18 experience to perform the duties of the office. The child advocate
19 shall be appointed by the Governor, with the advice and consent of the
20 Senate, and shall serve for a term of five years and until the
21 appointment and qualification of his successor. The child advocate
22 shall devote his entire time to the duties of this position and shall
23 receive such salary as shall be provided by law. A vacancy occurring
24 in the position of child advocate shall be filled in the same manner as
25 the original appointment, except that if the child advocate dies,
26 resigns, becomes ineligible to serve for any reason or is removed from
27 office, the Governor shall appoint an acting child advocate who shall
28 serve until the appointment and qualification of the child advocate's
29 successor.

30
31 3. (New section) The child advocate may employ professional staff
32 as he may deem necessary to assist in the performance of the duties of
33 the Office of the Child Advocate. The professional staff shall
34 administer the work of the office under the advice and direction of the
35 child advocate.

36
37 4. (New section) The child advocate shall:

38 a. Serve as a representative of the interests of children under the
39 supervision of the Division of Youth and Family Services in the
40 Department of Human Services;

41 b. Protect the rights of children under the supervision of the
42 Division of Youth and Family Services and insure that children,
43 parents, guardians or relatives are apprised of those rights;

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

- 1 c. Institute litigation on behalf of any child under the supervision
- 2 of the Division of Youth and Family Services as the child advocate
- 3 deems appropriate and necessary to further the State's ability to
- 4 protect and promote the rights of children under the division's care;
- 5 d. Examine records of child abuse and neglect reports and all
- 6 information obtained by the Division of Youth and Family Services
- 7 during a child abuse or neglect investigation, pursuant to section 1 of
- 8 P.L.1977, c.102 (C.9:6-8.10a), as well as school records, private
- 9 medical and hospital records, mental health records, law enforcement
- 10 records, court documents, and child welfare information as defined in
- 11 N.J.A.C.10:133-1.3, for the purpose of reviewing the division's ability
- 12 to protect the rights of children under its care;
- 13 e. Review the policies, procedures and operations of the Division
- 14 of Youth and Family Services in order to develop recommendations
- 15 regarding the most effective methods of improving the division's ability
- 16 to provide services to children in the child protective services system;
- 17 f. Receive and investigate complaints against the Division of Youth
- 18 and Family Services made by children, parents, guardians, relatives,
- 19 interested citizens, public officials or government agencies;
- 20 g. Conduct on-site inspections and review the operations of foster
- 21 homes, group homes, residential treatment facilities, shelters for the
- 22 care of abused or neglected children or juveniles considered as
- 23 juvenile-family crisis cases, or independent living arrangements
- 24 operated by or approved for payment by the Division of Youth and
- 25 Family Services, in which care and temporary out-of-home services
- 26 are provided to children under the division's supervision;
- 27 h. Review, in consultation with the Child Fatality and Near Fatality
- 28 Review Board, the death of any child under the supervision of the
- 29 Division of Youth and Family Services, for the purpose of evaluating
- 30 the division's ability to respond to and protect children in families who
- 31 may be at risk of injury or death;
- 32 i. Provide legal, legislative advocacy and public education services
- 33 to children, parents, guardians, relatives, interested citizens, public
- 34 officials, or government agencies in order to ensure the civil and legal
- 35 rights of children under the supervision of the Division of Youth and
- 36 Family Services;
- 37 j. Provide training and technical assistance to the law guardians
- 38 appointed by the Superior Court, Chancery Division, Family Part
- 39 pursuant to section 3 of P.L.1974, c.119 (C.9:6-8.23) to represent
- 40 children in legal proceedings before the court; and
- 41 k. Disseminate information to the public on the objectives of the
- 42 Office of the Child Advocate, the services the office provides and the
- 43 methods by which the office may be contacted.
- 44
- 45 5. (New section) The Office of the Child Advocate is authorized
- 46 to:

1 a. Subpoena any records concerning children under the supervision
2 of the Division of Youth and Family Services which the office
3 reasonably believes may relate to a matter under investigation pursuant
4 to subsection f. of section 4 of this act;

5 b. Apply for and accept any grant of money from the federal
6 government, private foundations or other sources, which may be
7 available for programs related to children; and

8 c. Enter into contracts with individuals, organizations and
9 institutions necessary for the performance of its duties under this act.
10

11 6. (New section) The Office of the Child Advocate is entitled to
12 call to its assistance, and avail itself of, the services of employees of
13 any State, county or municipal department, board, bureau, commission
14 or agency as it may require and as may be available to it for its
15 purposes. All departments, agencies and divisions are authorized and
16 directed, to the extent not inconsistent with law, to cooperate with the
17 office.
18

19 7. (New section) a. The records of the Office of the Child
20 Advocate, including all investigatory findings, complaints and
21 responses of the office to complaints received pursuant to subsection
22 f. of section 4 of this act, shall be kept confidential. Information
23 contained in the records may be disclosed to a requesting party only
24 upon application to the Superior Court, Chancery Division, Family
25 Part, except that there shall be no disclosure of the identity or the
26 means for discovering the identity of particular persons.

27 b. The office shall disclose its records to any appropriate State
28 legislative committee or other governmental entity acting in the course
29 of its official functions, except that no names or other identifying
30 information shall be made available to the legislative committee or
31 governmental entity unless it is absolutely essential to its purposes.
32

33 8. (New section) The child advocate or any person employed by
34 the Office of the Child Advocate shall not be held liable for any civil
35 damages as a result of any action taken or omitted in the performance
36 of his duties pursuant to this act.
37

38 9. (New section) The Office of the Child Advocate shall report
39 annually to the Governor, the Legislature and the New Jersey Task
40 Force on Child Abuse and Neglect on the activities of the office and
41 make recommendations for improvements or needed changes
42 concerning the provision of services to children under the supervision
43 of the Division of Youth and Family Services.
44

45 10. (New section) The Office of the Child Advocate shall adopt
46 rules and regulations pursuant to the "Administrative Procedure Act,"

1 P.L.1968, c.410 (C.52:14B-1 et seq.) concerning the operation of the
2 office, procedures for investigating complaints against the Division of
3 Youth and Family Services pursuant to subsection f. of section 4 of
4 this act, and other matters necessary to effectuate the purposes of this
5 act.

6

7 11. Section 1 of P.L.1977, c.102 (C.9:6-8.10a) is amended to read
8 as follows:

9 1. a. All records of child abuse reports made pursuant to section
10 3 of P.L.1971, c.437 (C.9:6-8.10), all information obtained by the
11 Division of Youth and Family Services in investigating such reports
12 including reports received pursuant to section 20 of P.L.1974, c.119
13 (C.9:6-8.40), and all reports of findings forwarded to the central
14 registry pursuant to section 4 of P.L.1971, c.437 (C.9:6-8.11) shall be
15 kept confidential and may be disclosed only under the circumstances
16 expressly authorized under subsections b., c., d., e. and f. herein. The
17 division shall disclose information only as authorized under
18 subsections b., c., d., e. and f. of this section that is relevant to the
19 purpose for which the information is required, provided, however, that
20 nothing may be disclosed which would likely endanger the life, safety,
21 or physical or emotional well-being of a child or the life or safety of
22 any other person or which may compromise the integrity of a division
23 investigation or a civil or criminal investigation or judicial proceeding.
24 If the division denies access to specific information on this basis, the
25 requesting entity may seek disclosure through the Chancery Division
26 of the Superior Court. This section shall not be construed to prohibit
27 disclosure pursuant to paragraphs (2) and (7) of subsection b. of this
28 section.

29 Nothing in this act shall be construed to permit the disclosure of
30 any information deemed confidential by federal or State law.

31 b. The division may and upon written request, shall release the
32 records and reports referred to in subsection a., or parts thereof,
33 consistent with the provisions of P.L.1997, c.175 (C.9:6-8.83 et al.)
34 to:

35 (1) A public or private child protective agency authorized to
36 investigate a report of child abuse or neglect;

37 (2) A police or other law enforcement agency investigating a report
38 of child abuse or neglect;

39 (3) A physician who has before him a child whom he reasonably
40 suspects may be abused or neglected or an authorized member of the
41 staff of a duly designated regional child abuse diagnostic and treatment
42 center which is involved with a particular child who is the subject of
43 the request;

44 (4) A physician, a hospital director or his designate, a police officer
45 or other person authorized to place a child in protective custody when
46 such person has before him a child whom he reasonably suspects may

1 be abused or neglected and requires the information in order to
2 determine whether to place the child in protective custody;

3 (5) An agency, whether public or private, including any other
4 division or unit in the Department of Human Services, authorized to
5 care for, treat, or supervise a child who is the subject of a child abuse
6 report, or a parent, guardian or other person who is responsible for the
7 child's welfare, or both, when the information is needed in connection
8 with the provision of care, treatment, or supervision to such child or
9 such parent, guardian or other person;

10 (6) A court or the Office of Administrative Law, upon its finding
11 that access to such records may be necessary for determination of an
12 issue before it, and such records may be disclosed by the court or the
13 Office of Administrative Law in whole or in part to the law guardian,
14 attorney or other appropriate person upon a finding that such further
15 disclosure is necessary for determination of an issue before the court
16 or the Office of Administrative Law;

17 (7) A grand jury upon its determination that access to such records
18 is necessary in the conduct of its official business;

19 (8) Any appropriate State legislative committee acting in the
20 course of its official functions, provided, however, that no names or
21 other information identifying persons named in the report shall be
22 made available to the legislative committee unless it is absolutely
23 essential to the legislative purpose;

24 (9) (Deleted by amendment, P.L.1997, c.175).

25 (10) A family day care sponsoring organization for the purpose of
26 providing information on child abuse or neglect allegations involving
27 prospective or current providers or household members pursuant to
28 P.L.1993, c.350 (C.30:5B-25.1 et seq.) and as necessary, for use in
29 administrative appeals related to information obtained through a
30 central registry search;

31 (11) The Victims of Crime Compensation Board, for the purpose
32 of providing services available pursuant to the "Criminal Injuries
33 Compensation Act of 1971," P.L.1971, c.317 (C.52:4B-1 et seq.) to
34 a child victim who is the subject of such report;

35 (12) Any person appealing a division service or status action or a
36 substantiated finding of child abuse or neglect and his attorney or
37 authorized lay representative upon a determination by the division or
38 the presiding Administrative Law Judge that such disclosure is
39 necessary for a determination of the issue on appeal;

40 (13) Any person or entity mandated by statute to consider child
41 abuse or neglect information when conducting a background check or
42 employment-related screening of an individual employed by or seeking
43 employment with an agency or organization providing services to
44 children;

45 (14) Any person or entity conducting a disciplinary, administrative
46 or judicial proceeding to determine terms of employment or continued

1 employment of an officer, employee, or volunteer with an agency or
2 organization providing services for children. The information may be
3 disclosed in whole or in part to the appellant or other appropriate
4 person only upon a determination by the person or entity conducting
5 the proceeding that the disclosure is necessary to make a
6 determination;

7 (15) The members of a county multi-disciplinary team, established
8 in accordance with State guidelines, for the purpose of coordinating
9 the activities of agencies handling alleged cases of child abuse and
10 neglect;

11 (16) A person being evaluated by the division or the court as a
12 potential care-giver to determine whether that person is willing and
13 able to provide the care and support required by the child;

14 (17) The legal counsel of a child, parent or guardian, whether
15 court-appointed or retained, when information is needed to discuss the
16 case with the division in order to make decisions relating to or
17 concerning the child;

18 (18) A person who has filed a report of suspected child abuse or
19 neglect for the purpose of providing that person with only the
20 disposition of the investigation;

21 (19) A parent or legal guardian when the information is needed in
22 a division matter in which that parent or guardian is directly involved.
23 The information may be released only to the extent necessary for the
24 requesting parent or guardian to discuss services or the basis for the
25 division's involvement or to develop, discuss, or implement a case plan
26 for the child;

27 (20) A federal, State or local government entity, to the extent
28 necessary for such entity to carry out its responsibilities under law to
29 protect children from abuse and neglect;

30 (21) Citizen review panels designated by the State in compliance
31 with the federal "Child Abuse Prevention and Treatment Act
32 Amendments of 1996," Pub.L.104-235;

33 (22) The Child Fatality and Near Fatality Review Board established
34 pursuant to P.L.1997, c.175 (C.9:6-8.83 et al.);

35 (23) The Office of the Child Advocate established pursuant to
36 P.L. , c. (C.) (pending before the Legislature as this bill).

37 Any individual, agency, board, court, grand jury, legislative
38 committee, or other entity which receives from the division the records
39 and reports referred to in subsection a., shall keep such records and
40 reports, or parts thereof, confidential and shall not disclose such
41 records and reports or parts thereof except as authorized by law.

42 c. The division may share information with a child who is the
43 subject of a child abuse or neglect report, as appropriate to the child's
44 age or condition, to enable the child to understand the basis for the
45 division's involvement and to participate in the development,
46 discussion, or implementation of a case plan for the child.

1 d. The division may release the records and reports referred to in
2 subsection a. of this section to any person engaged in a bona fide
3 research purpose, provided, however, that no names or other
4 information identifying persons named in the report shall be made
5 available to the researcher unless it is absolutely essential to the
6 research purpose and provided further that the approval of the
7 Director of the Division of Youth and Family Services shall first have
8 been obtained.

9 e. For incidents determined by the division to be substantiated, the
10 division shall forward to the police or law enforcement agency in
11 whose jurisdiction the child named in the report resides, the identity
12 of persons alleged to have committed child abuse or neglect and of
13 victims of child abuse or neglect, their addresses, the nature of the
14 allegations, and other relevant information, including, but not limited
15 to, prior reports of abuse or neglect and names of siblings obtained by
16 the division during its investigation of a report of child abuse or
17 neglect. The police or law enforcement agency shall keep such
18 information confidential.

19 f. The division may disclose to the public the findings or
20 information about a case of child abuse or neglect which has resulted
21 in a child fatality or near fatality. Nothing may be disclosed which
22 would likely endanger the life, safety, or physical or emotional
23 well-being of a child or the life or safety of any other person or which
24 may compromise the integrity of a division investigation or a civil or
25 criminal investigation or judicial proceeding. If the division denies
26 access to specific information on this basis, the requesting entity may
27 seek disclosure of the information through the Chancery Division of
28 the Superior Court. No information may be disclosed which is deemed
29 confidential by federal or State law. The name or any other
30 information identifying the person or entity who referred the child to
31 the division shall not be released to the public.

32 (cf: P.L.1997, c.175, s.16)

33

34 12. This act shall take effect immediately.

35

36

37

STATEMENT

38

39 This bill establishes the Office of the Child Advocate in, but not of,
40 the Department of Human Services.

41 The child advocate shall:

42 ! Act as a representative of the interests of the children under the
43 supervision of the Division of Youth and Family Services
44 (DYFS);

45 ! Protect the rights of children under DYFS' supervision and
46 insure that children, parents, guardians or relatives are apprised
47 of those rights;

- 1 **!** Institute litigation on behalf of any child under DYFS'
2 supervision in order to further the State's ability to protect and
3 promote the rights of children under DYFS' care;
- 4 **!** Examine records of child abuse and neglect reports and all
5 information obtained by DYFS during an abuse or neglect
6 investigation, as well as educational, medical, mental health,
7 law enforcement, court and social services records, for the
8 purpose of reviewing DYFS' ability to protect the rights of
9 children under its care;
- 10 **!** Review the policies, procedures and operations of DYFS in
11 order to develop recommendations regarding the most effective
12 methods of improving DYFS' ability to provide services to
13 children in the child protective services system;
- 14 **!** Receive and investigate complaints against DYFS made by
15 children, parents, guardians, relatives, interested citizens,
16 public officials or government agencies;
- 17 **!** Conduct on-site inspections and review the operations of foster
18 homes, group homes, residential treatment facilities, shelters
19 for abused or neglected children or juveniles, or alternative
20 living arrangements, in which care and temporary out-of-home
21 services are provided to children under DYFS' supervision;
- 22 **!** Review, in consultation with the Child Fatality and Near
23 Fatality Review Board, the death of any child under DYFS'
24 supervision, for the purpose of evaluating DYFS' ability to
25 respond to and protect children in families who may be at risk
26 of injury or death;
- 27 **!** Provide legal, legislative advocacy and public education
28 services to children, parents, guardians, relatives, interested
29 citizens, public officials or government agencies in order to
30 ensure the civil and legal rights of children under DYFS' care;
- 31 **!** Provide training and technical assistance to the law guardians
32 appointed by the family court pursuant to N.J.S.A.9:6-8.23 to
33 represent children in legal proceedings; and
- 34 **!** Disseminate information to the public on the objectives of the
35 office, the services the office provides and the methods by
36 which the office may be contacted.

37 The bill provides that the office is authorized to: subpoena any
38 records concerning children under DYFS' supervision which may relate
39 to a matter under investigation pursuant to the provisions of the bill;
40 apply for and accept any grant of money from the federal government,
41 private foundations or other sources, which may be available for
42 programs related to children; and enter into contracts with individuals,
43 organizations and institutions necessary for the performance of its
44 duties under the bill.

1 The bill also provides that:

2 ! the records of the office shall be kept confidential and may only
3 be disclosed to a requesting party upon application to the
4 family court, or to a State legislative committee or other
5 governmental entity in the performance of its official duties;
6 and

7 ! the child advocate or any employee of the office shall not be
8 held liable for any civil damages as a result of any action taken
9 or omitted in the performance of his duties.

10 The bill directs the office to report annually to the Governor, the
11 Legislature, and the New Jersey Task Force on Child Abuse and
12 Neglect on the activities of the office and make recommendations for
13 improvements or needed changes concerning the provision of services
14 to children under DYFS' supervision.

15 Finally, the bill amends N.J.S.A.9:6-8.10a to permit DYFS to
16 release records of child abuse and neglect reports and all information
17 obtained by DYFS during a child abuse investigation to the Office of
18 the Child Advocate.

SENATE, No. 675

STATE OF NEW JERSEY
210th LEGISLATURE

INTRODUCED JANUARY 15, 2002

Sponsored by:

Senator LEONARD T. CONNORS, JR.

District 9 (Atlantic, Burlington and Ocean)

Senator JAMES S. CAFIERO

District 1 (Cape May, Atlantic and Cumberland)

SYNOPSIS

Designated the "Ombudsman for Abused and Neglected Children Act."

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT establishing the Office of the Ombudsman for Abused and
2 Neglected Children and supplementing Title 52 of the Revised
3 Statutes.

4

5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7

8 1. This act shall be known and may be cited as the "Ombudsman
9 for Abused and Neglected Children Act."

10

11 2. The Legislature finds and declares that there is a vital public
12 need to establish as an agency of the State government the Office of
13 the Ombudsman for Abused and Neglected Children to represent the
14 interests of abused and neglected children and to serve as an
15 independent entity within the child protective services system of this
16 State.

17

18 3. There is established the Office of the Ombudsman for Abused
19 and Neglected Children in the Executive Branch of the State
20 Government. For purposes of complying with Article V, Section IV,
21 paragraph 1 of the New Jersey Constitution, the office is allocated
22 within the Department of Human Services, but notwithstanding the
23 allocation, the office shall be independent of any supervision or control
24 by the department or any board or officer thereof.

25

26 4. The administrator and chief executive officer of the office shall
27 be the ombudsman, who shall be a person qualified by training and
28 experience to perform the duties of the office. The ombudsman shall
29 be appointed by the Governor, with the advice and consent of the
30 Senate, and shall serve for a term of five years and until the
31 appointment and qualification of the ombudsman's successor. The
32 ombudsman shall devote his entire time to the duties of this position
33 and shall receive such salary as shall be provided by law. A vacancy
34 occurring in the position of ombudsman shall be filled in the same
35 manner as the original appointment, except that if the ombudsman
36 dies, resigns, becomes ineligible to serve for any reason, or is removed
37 from office, the Governor shall appoint an acting ombudsman who
38 shall serve until the appointment and qualification of the ombudsman's
39 successor, but in no event longer than six months from the occurrence
40 of the vacancy, and who shall exercise during this period all the
41 powers and duties of the ombudsman pursuant to this act.

42

43 5. The office shall:

44 a. Serve as an advocate for abused and neglected children in this
45 State which is independent of the Division of Youth and Family
46 Services of the Department of Human Services;

- 1 b. Assist the Governor and the Commissioner of Human Services
2 in identifying abused and neglected child prevention and assistance
3 priorities for development and funding;
- 4 c. Aid the Governor and the Commissioner of Human Services in
5 proposing methods of achieving increased coordination and
6 collaboration among State and local agencies to ensure maximum
7 effectiveness and efficiency in the provision of child abuse and neglect
8 prevention and assistance services;
- 9 d. Assist in any investigation relating to the death of a child under
10 the supervision of the Division of Youth and Family Services and make
11 information obtained by the office from such an investigation available
12 to the Attorney General, the Superintendent of State Police and the
13 Commissioner of Human Services;
- 14 e. Receive and investigate complaints about the Division of Youth
15 and Family Services, in accordance with the provisions of section 6 of
16 this act;
- 17 f. Disseminate information to the public about the causes and
18 means of prevention of child abuse and neglect and sources of
19 assistance for children and parents, and such related information as the
20 office deems necessary to effectuate the purposes of this act;
- 21 g. Examine records of child abuse and neglect reports and all
22 information obtained by the Division of Youth and Family Services
23 during a child abuse or neglect investigation, pursuant to section 1 of
24 P.L.1977, c.102 (C.9:6-8.10a), for the purpose of reviewing the
25 division's ability to protect the children under its care. The office may
26 request that the State Auditor, pursuant to R.S.52:24-1 et seq.,
27 conduct a fiscal audit and programmatic analysis of the operational
28 management of the division, as it may require; and
- 29 h. Report to the Governor and the Legislature at least every six
30 months on the activities of the office and present such
31 recommendations as the ombudsman deems appropriate and necessary
32 to further the State's ability to protect and promote the interests of
33 abused and neglected children.
- 34
- 35 6. a. The office shall establish and implement procedures for
36 eliciting, receiving, processing, responding to, conducting and
37 resolving complaints against the Division of Youth and Family
38 Services from children, parents, guardians, relatives or interested
39 citizens, public officials, or government agencies.
- 40 b. Upon receiving a complaint, the ombudsman shall conduct a
41 prompt and thorough investigation. Within 24 hours of receipt of the
42 report, the ombudsman shall notify the Commissioner of Human
43 Services that the report has been received.
- 44 c. When the investigation is completed, findings and recommended
45 action shall be prepared in a written report and submitted to the
46 Commissioner of Human Services.

1 d. The person who filed the complaint shall be promptly notified
2 that action is being taken.

3 e. Acting on complaint or on its own initiative, the office may
4 investigate any act, practice, policy or procedure of the Division of
5 Youth and Family Services.

6 f. The office may compel at a specific time and place, by subpoena,
7 the appearance and sworn testimony of any person whom the office
8 reasonably believes may be able to give information relating to a
9 matter under investigation; or compel any person to produce at a
10 specific time and place, by subpoena any documents, books, records,
11 papers, objects, or other evidence which the office reasonably believes
12 may relate to a matter under investigation.

13 g. The office need not investigate a complaint when it determines
14 that:

15 (1) The complaint is trivial, frivolous, vexatious or not made in
16 good faith;

17 (2) The complaint has been too long delayed to justify present
18 investigation;

19 (3) The resources available, considering the established priorities,
20 are insufficient for an adequate investigation; or

21 (4) The matter complained of is not within the investigatory
22 authority of the office.

23 h. The office shall maintain a central registry of all complaints and
24 all investigations, findings and recommended action. No information
25 received and compiled in this registry shall be construed as a public
26 record.

27 i. The office shall maintain a toll-free telephone, at least during
28 regular working hours of the office, for the filing of complaints.

29

30 7. a. Subject to the provisions of subsections d. and g. of section
31 5 of this act, the office shall maintain confidentiality with respect to all
32 matters in relation to any complaint, review or investigation together
33 with identities of the complainants, witnesses or other persons
34 involved, unless these persons authorize, in writing, the release of this
35 information, except for such disclosures as may be necessary to enable
36 the office to perform its duties and to support any opinions or
37 recommendations that may result from a complaint or investigation.
38 The investigatory files of the office, including all complaints and
39 responses of the office to complaints, shall be maintained as
40 confidential information. Release of pertinent records shall be at the
41 discretion of the ombudsman. Nothing herein contained shall preclude
42 the use by the office of material in its files, otherwise confidential, for
43 the preparation and disclosure of statistical, case study and other
44 pertinent data, provided that in any such use there shall be no
45 disclosure of the identity or the means for discovering the identity of
46 particular persons.

1 b. A person conducting or participating in an examination of a
2 complaint or an investigation who shall disclose to any person other
3 than the office, or those authorized by the ombudsman to receive it,
4 the name of any witness examined, or any information obtained or
5 given upon the examination or investigation is a disorderly person.

6 c. A statement or communication made by the office relevant to
7 a complaint received by, proceeding before, or investigative activity
8 of, the office, and a complaint or information made or provided in
9 good faith by any person, shall be absolutely privileged, and this
10 privilege shall be a complete defense in any action which alleges libel
11 or slander.

12 d. The office shall not be required to disclose its records to, or
13 testify in, a court with respect to matters held to be confidential in this
14 section except as the court may deem necessary for determination of
15 an issue before the court.

16 e. The office shall disclose its records to a grand jury upon the
17 latter's determination that access to those records is necessary to the
18 conduct of its official business.

19 f. The office shall disclose its records to any appropriate State
20 legislative committee acting in the course of its official functions,
21 except that no names or other identifying information shall be made
22 available to the legislative committee unless it is absolutely essential
23 to the legislative purpose.

24
25 8. The office is authorized to:

26 a. Adopt rules and regulations pursuant to the "Administrative
27 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), concerning the
28 operation of the office and other matters that may be necessary to
29 effectuate the purposes of this act;

30 b. Maintain offices in such places within the State as the office may
31 designate;

32 c. Employ professional employees all of whom, except for the
33 executive director, shall be in the State unclassified service and
34 stenographic, clerical and other secretarial assistants all of whom shall
35 be in the career service pursuant to Title 11A of the New Jersey
36 Statutes;

37 d. Apply for and accept any grants of money from the federal
38 government, private foundations or other sources, which may be
39 available for programs related to child abuse and neglect; and

40 e. Enter into contracts with individuals, organizations and
41 institutions necessary for the performance of the duties of the office
42 under this act.

43
44 9. The office is entitled to call to its assistance and avail itself of
45 the services of employees of any State, county or municipal
46 department, board, bureau, commission or agency as it may require

1 and as may be available to it for its purposes. All departments,
2 agencies and divisions are authorized and directed, to the extent not
3 inconsistent with law, to cooperate with the Office of the Ombudsman
4 for Abused and Neglected Children.

5
6 10. This act shall take effect on the 60th day after its enactment.

7
8
9 STATEMENT

10
11 This bill establishes the Office of the Ombudsman for Abused and
12 Neglected Children in, but not of, the Department of Human Services.
13 The office would:

14 **M** Serve as an advocate for abused and neglected children
15 independent of the Division of Youth and Family Services (DYFS);

16 **M** Assist the Governor and the Commissioner of Human Services
17 in identifying abused and neglected child prevention and assistance
18 priorities for development and funding;

19 **M** Aid the Governor and the Commissioner of Human Services in
20 proposing methods of achieving increased coordination and
21 collaboration among State and local agencies to ensure maximum
22 effectiveness and efficiency in the provision of child abuse and neglect
23 prevention and assistance services;

24 **M** Assist in any investigation relating to the death of a child under
25 DYFS supervision and make information obtained by the office from
26 such an investigation available to the Attorney General, the
27 Superintendent of State Police and the Commissioner of Human
28 Services;

29 **M** Receive and investigate complaints about DYFS;

30 **M** Disseminate information to the public about the causes and
31 means of prevention of child abuse and neglect and sources of
32 assistance for children and parents, and such related information as the
33 office deems necessary to effectuate the purposes of this act;

34 **M** Examine records of child abuse and neglect reports and all
35 information obtained by DYFS during a child abuse or neglect
36 investigation, for the purpose of reviewing the division's ability to
37 protect the children under its care. The office may also request that
38 the State Auditor conduct a fiscal audit and programmatic analysis of
39 the operational management of the division; and

40 **M** Report to the Governor and the Legislature at least every six
41 months on the activities of the office and present such
42 recommendations as the ombudsman deems appropriate and necessary
43 to further the State's ability to protect and promote the interests of
44 abused and neglected children.

SENATE, No. 1184

STATE OF NEW JERSEY
210th LEGISLATURE

INTRODUCED FEBRUARY 25, 2002

Sponsored by:

Senator DIANE ALLEN

District 7 (Burlington and Camden)

SYNOPSIS

Establishes an Office of Child Advocacy.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning children and supplementing Title 52 of the
2 Revised Statutes.

3
4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6
7 1. The Legislature finds and declares that:

8 a. The ability of the United States to continue its role as a world
9 economic power depends, to a great extent, upon New Jersey and the
10 rest of the country's ability to produce confident and caring adults,
11 possessing both the job and social skills required for leadership in the
12 21st century.

13 b. New Jersey's educational and social service systems must both
14 stimulate young minds and provide our children with the proper
15 environment to ensure that they grow up healthy and are willing to
16 learn.

17 c. Education and social services often have the same goals but are
18 not coordinated in a way that address the complex problems facing the
19 State's children.

20 d. There is, therefore, a need to establish an Office of Child
21 Advocacy to foster interagency coordination, facilitate communication
22 and encourage the establishment of cooperative agreements among
23 children's services providers, as well as encourage the physical,
24 emotional, social and intellectual development of the children of this
25 State.

26
27 2. There is established the Office of Child Advocacy in the
28 Executive Branch of the State Government. For purposes of
29 complying with Article V, Section IV, paragraph 1 of the New Jersey
30 Constitution, the office is allocated within the Department of the
31 Treasury, but notwithstanding the allocation, the office shall be
32 independent of any supervision or control by the department or any
33 board or officer thereof.

34
35 3. The office shall:

36 a. Serve as the Governor's chief advocate for child development
37 and education;

38 b. Assist the Governor in identifying child development and
39 education funding priorities, including preventive services for children
40 and youth;

41 c. Aid the Governor in proposing methods of achieving increased
42 coordination and collaboration among State agencies to ensure
43 maximum effectiveness and efficiency in the provision of services to
44 children and youth; and

45 d. Report to the Governor and the Legislature on recommendations
46 that will further the State's ability to secure, preserve and promote the

1 health, safety and welfare of New Jersey's children and youth.

2

3 4. The office is authorized to:

4 a. Adopt rules and regulations pursuant to the "Administrative
5 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), concerning the
6 operation of the office and other matters that may be necessary to
7 effectuate the purposes of this act;

8 b. Maintain offices in such places within the State as it may
9 designate;

10 c. Employ an executive director and other personnel as are
11 necessary to protect the rights of children. The executive director
12 shall be appointed by the Governor with the advice and consent of the
13 Senate. All professional employees of the office except the executive
14 director shall be in the State unclassified service and all stenographic,
15 clerical and other secretarial assistants shall be in the career service
16 pursuant to Title 11A of the New Jersey Statutes;

17 d. Apply for and accept any grants of money from the federal
18 government, private foundations or other sources, which may be
19 available for programs related to child development and education; and

20 e. Enter into contracts with individuals, organizations and
21 institutions necessary for the performance of its duties under this act.

22

23 5. The office is entitled to call to its assistance and avail itself of
24 the services of employees of any State, county or municipal
25 department, board, bureau, commission or agency as it may require
26 and as may be available to it for its purposes. All departments,
27 agencies and divisions are authorized and directed, to the extent not
28 inconsistent with law, to cooperate with the Office of Child Advocacy.

29

30 6. This act shall take effect on the 60th day of enactment.

31

32

33

STATEMENT

34

35 This bill establishes the Office of Child Advocacy in, but not of, the
36 Department of the Treasury. The office would:

37 (1) Serve as the Governor's chief advocate for child development
38 and education;

39 (2) Assist the Governor in identifying child development and
40 education funding priorities, including preventive services for children
41 and youth;

42 (3) Aid the Governor in proposing methods of achieving increased
43 coordination and collaboration among State agencies to ensure

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4

1 maximum effectiveness and efficiency in the provision of services to
2 children and youth; and
3 (4) Report to the Governor and the Legislature on
4 recommendations that will further the State's ability to secure,
5 preserve and promote the health, safety and welfare of New Jersey's
6 children and youth.

SENATE HEALTH, HUMAN SERVICES AND SENIOR
CITIZENS COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR
SENATE, Nos. 184, 675, 676 and 1184

STATE OF NEW JERSEY

DATED: JUNE 23, 2003

The Senate Health, Human Services and Senior Citizens Committee reports favorably a Senate Committee Substitute for Senate Bill Nos. 184, 675, 676 and 1184.

This substitute establishes the Office of the Child Advocate in, but not of, the Department of Law and Public Safety. The substitute provides that the child advocate shall seek to ensure that effective, appropriate and timely services are provided to children at risk of abuse and neglect in the State, and that children under State supervision due to abuse or neglect are served adequately and appropriately by the State. The Office of the Child Advocate shall be deemed a child protective agency for the purposes of N.J.S.A.9:6-8.10a.

The substitute provides that the child advocate may:

- C investigate, review, monitor or evaluate any State agency response to, or disposition of, an allegation of child abuse or neglect in this State;
- C inspect and review the operations, policies and procedures of:
 - juvenile detention centers operated by the counties or the Juvenile Justice Commission;
 - foster homes, group homes, residential treatment facilities, shelters for the care of abused or neglected children, shelters for the care of juveniles considered as juvenile-family crisis cases, shelters for the care of homeless youth, or independent living arrangements operated by or approved for payment by the Department of Human Services; and
 - any other public or private residential setting in which a child has been placed by a State or county agency or department;
- C review, evaluate, report on and make recommendations concerning the procedures established by any State agency providing services to children who are at risk of abuse or neglect, children in State or institutional custody, or children who receive child protective or permanency services;
- C review, monitor and report on the performance of State-funded private entities charged with the care and supervision of children

at risk of abuse or neglect by conducting research audits or other studies of case records, policies, procedures and protocols, as deemed necessary by the child advocate to assess the performance of the entities;

- C receive, investigate and make referrals to other agencies or take other appropriate actions with respect to a complaint received by the office regarding the actions of a State, county or municipal agency or a State-funded private entity providing services to children who are at risk of abuse or neglect;
- C hold a public hearing on the subject of an investigation or study underway by the office, and receive testimony from agency and program representatives, the public and other interested parties, as the child advocate deems appropriate; and
- C establish and maintain a 24 hour toll-free telephone hotline to receive and respond to calls from citizens referring problems to the child advocate, both individual and systemic, in how the State, through its agencies and contract services, protects children.

If the child advocate identifies a problem in how the State protects children, the child advocate shall provide its findings and recommendations to the affected agency and make those findings and recommendations available to the public (subject to certain confidentiality provisions in the substitute). The agency shall have 30 days from the receipt of the findings and recommendations to develop a corrective action plan and submit the plan to the department for implementation. The child advocate shall monitor the department's implementation of the plan, and if the department fails to promptly implement the plan, the child advocate shall take such action as deemed necessary.

The child advocate may intervene in or institute litigation, or intervene in or institute administrative proceedings before any department, commission, agency or State board, to assert the broad public interest of the State in the welfare of children and to protect and promote the rights of children. In taking such actions, the child advocate shall consider whether a child or family may be in need of assistance from the child advocate or whether there is a systemic issue in the State's provision of services to children that should be addressed. The child advocate shall make a good faith effort to resolve issues or problems, and shall have the authority to commence negotiations, mediation or alternative dispute resolution in its advocacy efforts prior to, or in lieu of, the initiation of any legal action.

Further, the substitute provides that the child advocate shall seek to ensure the protection of children who are in an institution or foster care by reviewing, evaluating and monitoring the operation and activities of the Institutional Abuse Investigation Unit in the Department of Human Services. The substitute defines "institution" to mean a public or private facility, in this State or out-of-State, that provides children with out-of-home care, supervision or maintenance.

Institution includes, but is not limited to: a correctional facility, detention facility, treatment facility, child care center, group home, residential school, shelter, psychiatric hospital and developmental center.

The substitute requires that in order to enable the child advocate to carry out these institutional review responsibilities, the Institutional Abuse Investigation Unit shall:

- (1) promptly notify the child advocate of any allegations of abuse or neglect made against an institution or foster home serving children in this State;
- (2) promptly provide the child advocate with a copy of the unit's response to the complaint and the actions taken by the unit to address the complaint;
- (3) provide the child advocate with monthly updates of the status of actions proposed by the unit regarding an existing complaint that has not been resolved; and
- (4) provide the child advocate with such other information as the child advocate deems necessary to carry out his responsibilities to review, evaluate and monitor the operation and activities of the unit.

The substitute provides that the child advocate shall report annually to the Governor, Commissioner of Human Services and Legislature on: the activities of the office; priorities for children's services that have been identified by the child advocate; and recommendations for improvement or needed changes concerning the provision of services to children who are at risk of abuse or neglect, and are in State or institutional custody or receive child protective or permanency services by State agencies and State-funded private entities. The annual report shall be made available to the public.

Further, the child advocate shall make public the findings of any investigative reports or other studies undertaken by the office and shall forward the findings to the Governor, the Commissioner of Human Services and the Governor's Cabinet for Children. However, the child advocate shall not disclose to the public:

- (1) any information that would likely endanger the life, safety, or physical or emotional well-being of a child or the life or safety of a person who filed a complaint or which may compromise the integrity of a State or county department or agency investigation, civil or criminal investigation or judicial or administrative proceeding; and
- (2) the name or any other information identifying the person who filed a complaint with the office.

Also, the child advocate shall not disclose any information that may be deemed confidential by federal or State law, except when necessary to allow the Department of Human Services, Attorney General, Juvenile Justice Commission or other State or county department or agency to perform its duties and obligations under the law.

This substitute is identical to the Assembly Committee Substitute for Assembly, Nos. 3772, 1729 and 1090 (Aa), which is pending before the General Assembly.

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Press Releases

PO BOX 004
TRENTON, NJ 08625

Contact: Micah Rasmussen
609-777-2600

RELEASE: September 26, 2003

[Previous Screen](#)

McGreevey Takes Groundbreaking Step for Child Protection

Creates Office of Child Advocate and Appoints Lifelong Champion of Children's Rights

(NEWARK)— Governor James E. McGreevey today took a significant step in his continuing aggressive effort to reform the state of child welfare in New Jersey and ensure all our children are protected. At Covenant House in Newark, McGreevey signed legislation creating the first-ever Office of the Child Advocate.

“There is no more fundamental obligation of state government than to protect our children,” said McGreevey. “Over the past decade, two separate reports on the state of child welfare in New Jersey called for the creation of an independent entity to protect our children and operate outside the burden of a bureaucracy. But, despite strong economic times and these desperate recommendations, nothing was done. Today we are creating the Office of the Child Advocate, a strong independent watchdog, who will answer only to the needs of the children it serves.”

The new Office of the Child Advocate, created by bill number A3772, will have the broadest scope of powers of any entity since the Public Advocate was eliminated. The Advocate will have subpoena power, the power to demand corrective action and bring litigation, and the power to report publicly. The Child Advocate will investigate, review, monitor or evaluate all State agencies and service providers, ensuring the safety of children, and respond to allegations of child abuse and neglect. They will establish and maintain a 24 hour hotline for complaints regarding the State's child protection system, and will propose methods to improve coordination and collaboration among State agencies, leading to improved child care.

Governor McGreevey appointed Kevin Ryan, a lifelong advocate for children's rights, to be the first Child Advocate. Ryan currently serves as Deputy Chief of Management and Operations in the Administration and played a key role in the settling of the Children's Rights lawsuit earlier this year. Before joining the Administration, Ryan spent many years fighting for the children of New Jersey. He was an advocate for children and youth at Covenant House for over nine years, co-authored the New Jersey Homeless Youth Act in 1999 and in 2000 wrote the law giving health insurance coverage to children aging out of foster care.

"This is an extraordinary opportunity to hold government accountable to our children," said Kevin Ryan. "I thank the Governor for his trust. I plan to get to work quickly to focus on the needs of

our most vulnerable children."

Recognizing that this Administration has an obligation to fix the broken DYFS system, and create a child welfare system that is accountable to the most vulnerable children it serves, Governor McGreevey has already taken aggressive steps this year to meet that obligation:

- Settled the Children's Rights litigation, and, backed by the Annie Casey Foundation, brought together a panel of national child welfare experts to reform DYFS top-to-bottom.
- Increased DYFS funding by \$30 million, to help obtain basic essentials like new computers.
- Conducted comprehensive safety assessments for over 7,000 children in foster care.
- Moved the Institutional Abuse Unit out of DYFS.

In addition to signing the Child Advocate Bill, Governor McGreevey today also signed two bills which will provide for additional protections for our children. S2695 requires background checks for criminal convictions and child abuse for all residential childcare facility current staff administrators and employment applicants at State residential childcare facilities. And S2655 allows for the sharing of child abuse background check information with police, hospitals, doctors and day care centers.

The Governor was joined by Child Advocate bill sponsors, Senator Byron M. Baer, Senator Paul A. Sarlo, Assemblywoman Mary Previte, Assemblywoman Nellie Pou, Assemblyman Herb Conaway, Assemblywoman Linda Greenstein, Assemblyman Gordon Johnson, and Senator Joseph Coniglio, for the bill signings.

"Children are one of society's most valuable assets, and with the signing of this bill into law today, they will have a strong voice for children's issues in Trenton," said Senator Byron M. Baer, D-Bergen, who had first proposed creating the office in a bill he introduced nearly two years ago. "If the tragedies that have recently been revealed in New Jersey's DYFS system have taught us anything, they have taught us that this is necessary to ensure that all of the State's children have a chance at a happy, safe childhood."

"The sad story of Faheem Williams earlier this year, and every report that has come out since about the failings of DYFS are proof-positive that we owe our children more," said Senator Paul A. Sarlo, D-Bergen, Essex and Passaic. "A strong child advocate in our State's capital will remind each and every person involved in government that one of our most important duties is to protect our State's youth."

"We can and must do more to protect young, vulnerable children from danger," said Assemblywoman Mary Previte (D-Camden), chairwoman of the Assembly Family, Women and Children's Services Committee. "By setting up the Office of Child Advocate, we are ensuring that abused and neglected children get the attention they need and deserve."

"It makes sense to have one central agency focus on the problem of child abuse and neglect," said Assemblywoman Nellie Pou (D-Passaic). "Despite tough budget times, there is no money better spent than on protecting young children who cannot help themselves."

"This is a major step forward in transforming our current child protection system into one that truly protects children and provides for their well-being," said Assembly Deputy Speaker Herb Conaway M.D. (D-Burlington). "The new Office of Child Advocate includes proper oversight by the Governor and Legislature, ensuring it really helps the children it's charged with protecting."

"We are delivering on our commitment to fight for better protection of our state's most precious commodity -- our children," said Assembly Assistant Majority Leader Linda Greenstein (D-Middlesex). "We must investigate abuse and neglect thoroughly and develop ways to prevent them in the future."

"The new Office of Child Advocate is a good balance between protecting children and keeping the public informed about findings and investigations," said Assemblyman Gordon Johnson (D-Bergen), an undersheriff in the Bergen County Sheriff's Office. "Precautions will be taken to ensure the office's actions do not compromise the safety of the youngsters."

"If we're ever going to improve the DYFS system, we must introduce accountability into that system," said Senator Joseph Coniglio, D-Bergen, a prime sponsor of the new law which requires criminal background checks at child care facilities. "Laws that establish an office of the child advocate and ensure that those with checkered pasts are not responsible for the welfare of our children are needed to bring real reform to this agency charged with protecting vulnerable youth and make DYFS an agency that New Jersey can be proud of."



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