

A00304 Summary:
BILL NO A00304B

SAME AS No same as

SPONSOR Clark

COSPNSR Scarborough, Titus, Paulin, Jacobs, Heastie, Benjamin, Gordon D,
Benedetto, Greene, Peoples, Rivera N, Colton, John, Canestrari, Galef
Pheffer, Fields, Perry, Mayersohn, Boyland, Walker, Alfano, Butler

MLTSPNSR Arroyo, Barra, Cahill, Camara, Christensen, Crouch, Eddington, Errigo
Farrell, Gantt, Gottfried, Hikind, Hyer-Spencer, Latimer, Lifton,
McEneny, McKevitt, Miller, Millman, Molinaro, Nolan, Robinson,
Sayward, Sweeney, Towns, Townsend, Weisenberg, Wright

Add Art 19-I SS533 - 539, amd S169, Exec L; rpld Art 6 Title 1-A, amd S483, Soc
Serv L

Establishes the office of child advocate to ensure the protection and promotion
of legal rights for youth in programs and facilities under OCFS.

A00304 Actions:
BILL NO A00304B

01/03/2007 referred to children and families
01/17/2007 reported referred to codes
01/23/2007 reported referred to ways and means
06/06/2007 amend (t) and recommit to ways and means
06/06/2007 print number 304a
06/18/2007 amend (t) and recommit to ways and means
06/18/2007 print number 304b
06/20/2007 reported referred to rules

A00304 Votes:

A00304 Memo:
Bill Text - A00304

[Back](#) | [New York State Bill Search](#) | [Assembly Home](#)

[See Bill Summary](#)

STATE OF NEW YORK

304--B

2007-2008 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 3, 2007

Introduced by M. of A. CLARK, SCARBOROUGH, TITUS, PAULIN, JACOBS, HEAST-
IE, BENJAMIN, D. GORDON, BENEDETTO, GREENE, PEOPLES, N. RIVERA,
COLTON, JOHN, CANESTRARI, GALEF, PHEFFER, FIELDS, PERRY,
MAYERSOHN,

BOYLAND, WALKER, ALFANO, BUTLER -- Multi-Sponsored by -- M. of A.
ARROYO, BARRA, CAHILL, CAMARA, CHRISTENSEN, CROUCH, EDDINGTON,
ERRIGO,

FARRELL, GANTT, GOTTFRIED, HIKIND, HYER-SPENCER, LATIMER,
LIFTON,

McENENY, McKEVITT, MILLER, MILLMAN, MOLINARO, NOLAN,
ROBINSON,

SAYWARD, SWEENEY, TOWNS, TOWNSEND, WEISENBERG, WRIGHT -- read
once and

referred to the Committee on Children and Families -- reported and
referred to the Committee on Ways and Means -- committee discharged,
bill amended, ordered reprinted as amended and recommitted to said
committee -- again reported from said committee with amendments,
ordered reprinted as amended and recommitted to said committee

AN ACT to amend the executive law and the social services law, in
relation to creating the office of the child advocate; and to repeal
certain provisions of the social services law relating to the state
commission on the quality of foster care

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND
ASSEM-

BLY, DO ENACT AS FOLLOWS:

1 Section 1. The executive law is amended by adding a new article 19-I
2 to read as follows:

3 ARTICLE 19-I

4 OFFICE OF THE CHILD ADVOCATE
5 SECTION 533. APPOINTMENT, TERM AND ORGANIZATIONAL STRUCTURE.
6 534. DUTIES OF THE CHILD ADVOCATE.
7 535. RIGHTS AND POWERS OF THE CHILD ADVOCATE.
8 536. ACCESS TO THE CHILD ADVOCATE.
9 537. CONFIDENTIALITY OF INFORMATION AND PROHIBITION AGAINST
10 RETALIATION.
11 538. INDEMNIFICATION FROM LIABILITY.

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets
{ } is old law to be omitted.

LBD01166-05-7

A. 304--B 2

1 539. ANNUAL REPORT.
2 S 533. APPOINTMENT, TERM AND ORGANIZATIONAL STRUCTURE. 1.
THERE IS
3 HEREBY CREATED IN THE EXECUTIVE DEPARTMENT AN OFFICE OF THE
CHILD ADVOCATE.
4 THE GOVERNOR SHALL APPOINT, UPON THE ADVICE AND CONSENT
OF THE
5 SENATE, AN INDIVIDUAL WITH AT LEAST FIVE YEARS EXPERIENCE IN THE
GENERAL
6 SUBJECT AREA OF CHILD WELFARE, CHILD HEALTH AND SAFETY, AND
JUVENILE
7 JUSTICE AS A PRACTITIONER, ADVOCATE, ACADEMICIAN, WRITER, OR
THEORETICIAN
8 TO PERFORM THE DUTIES OF THE CHILD ADVOCATE AS DEFINED BY
SECTION
9 FIVE HUNDRED THIRTY-FOUR OF THIS ARTICLE, AS THE CHILD
ADVOCATE. THE
10 CHILD ADVOCATE SHALL BE APPOINTED FOR A TERM OF FIVE YEARS AND
SHALL
11 CONTINUE TO HOLD SUCH POSITION UNTIL HIS OR HER SUCCESSOR IS
APPOINTED,
12 PROVIDED THAT THE CHILD ADVOCATE MAY BE REMOVED FROM SUCH
POSITION ONLY
13 IF THE GOVERNOR DETERMINES THAT THE CHILD ADVOCATE HAS ABUSED
HIS OR HER
14 RIGHTS, POWERS AND DUTIES ESTABLISHED PURSUANT TO THIS ARTICLE
OR THAT
15 THE CHILD ADVOCATE HAS WILLFULLY FAILED TO CARRY OUT THE DUTIES
REQUIRED
16 BY SECTION FIVE HUNDRED THIRTY-FOUR OF THIS ARTICLE.
17 2. THE CHILD ADVOCATE MAY APPOINT ASSISTANTS AS MAY BE DEEMED

NECES-

18 SARY WHOSE DUTIES SHALL BE SIMILAR TO THOSE DESIGNATED TO THE CHILD

19 ADVOCATE BY LAW AND ANY OTHER STAFF AS THE CHILD ADVOCATE MAY DEEM

20 NECESSARY. THE DUTIES OF THE ASSISTANTS AND OTHER STAFF MEMBERS SHALL BE

21 PERFORMED UNDER AND AT THE ADVICE AND DIRECTION OF THE CHILD ADVOCATE.

22 S 534. DUTIES OF THE CHILD ADVOCATE. 1. THE CHILD ADVOCATE SHALL:

23 (A) EVALUATE THE DELIVERY OF SERVICES TO CHILDREN AND FAMILIES BY THE

24 OFFICE OF CHILDREN AND FAMILY SERVICES AND THOSE ENTITIES THAT ARE REGU-

25 LATED OR OVERSEEN BY, OR RECEIVE FUNDING FROM, THE OFFICE OF CHILDREN

26 AND FAMILY SERVICES;

27 (B) PERIODICALLY REVIEW THE PROCEDURES ESTABLISHED BY THE OFFICE OF

28 CHILDREN AND FAMILY SERVICES TO CARRY OUT THE PROVISIONS OF ARTICLE

29 NINETEEN-G OF THIS CHAPTER AND ARTICLE SIX OF THE SOCIAL SERVICES LAW,

30 WITH A VIEW TOWARD THE RIGHTS, SAFETY AND POSITIVE DEVELOPMENT OF CHIL-

31 DREN;

32 (C) REVIEW COMPLAINTS OF PERSONS CONCERNING THE ACTIONS OF THE OFFICE

33 OF CHILDREN AND FAMILY SERVICES; MAKE APPROPRIATE REFERRALS AND INVESTI-

34 GATE THOSE COMPLAINTS WHERE THE CHILD ADVOCATE DETERMINES THAT A CHILD

35 OR FAMILY MAY BE IN NEED OF ASSISTANCE FROM THE CHILD ADVOCATE OR THAT A

36 SYSTEMIC ISSUE IN THE STATE'S PROVISION OF SERVICES TO CHILDREN IS

37 RAISED BY THE COMPLAINT;

38 (D) PERIODICALLY REVIEW THE FACILITIES AND PROCEDURES OF ANY INSTI-

39 TUTIONS OR RESIDENCES, PUBLIC AND PRIVATE, WHERE A CHILD HAS BEEN PLACED

40 BY THE LOCAL DEPARTMENT OF SOCIAL SERVICES, THE FAMILY COURT OR THE

41 OFFICE OF CHILDREN AND FAMILY SERVICES;

42 (E) RECOMMEND CHANGES IN STATE POLICIES AND REGULATIONS CONCERNING

43 CHILDREN INCLUDING, BUT NOT LIMITED TO, CHANGES IN THE SYSTEMS THAT

44 PROVIDE FOR JUVENILE JUSTICE, CHILD PROTECTIVE SERVICES, PREVENTIVE

45 SERVICES, FOSTER CARE, AND CHILD CARE. IF THE CHILD ADVOCATE IDENTIFIES

46 A SYSTEMIC PROBLEM IN HOW THE STATE, THROUGH ITS AGENCIES OR CONTRACT

47 SERVICES, OR ANY LOCALITY, THROUGH ITS AGENCIES OR CONTRACT SERVICES,

48 PROTECTS CHILDREN, THE CHILD ADVOCATE SHALL PROVIDE ITS FINDINGS AND

49 RECOMMENDATIONS TO THE AGENCY AFFECTED BY THE FINDINGS AND RECOMMENDA-

50 TIONS. THE AGENCY SHALL HAVE SIXTY DAYS FROM THE RECEIPT OF THE FIND-

51 INGS AND RECOMMENDATIONS TO RESPOND TO THE CHILD ADVOCATE'S FINDINGS.

52 AFTER THE SIXTY DAYS, THE CHILD ADVOCATE SHALL ISSUE ITS REPORT AND THE

53 AGENCY'S RESPONSE TO THE GOVERNOR AND THE LEGISLATURE.

54 (F) TAKE ALL POSSIBLE ACTIONS INCLUDING, BUT NOT LIMITED TO, CONDUCT-

55 ING PROGRAMS OF PUBLIC EDUCATION, UNDERTAKING LEGISLATIVE ADVOCACY AND

56 MAKING PROPOSALS FOR ADMINISTRATIVE CORRECTION OR SYSTEMIC REFORM, IN

A. 304--B

3

1 ORDER TO SECURE AND ENSURE THE LEGAL, CIVIL AND SPECIAL RIGHTS OF CHIL-

2 DREN;

3 (G) ADVISE AND ASSIST YOUTH UNDER THE JURISDICTION OF THE OFFICE OF

4 CHILDREN AND FAMILY SERVICES TO OBTAIN LEGAL COUNSEL, IF THE ADVOCATE

5 SHALL DEEM IT NECESSARY OR APPROPRIATE, OR IF REQUESTED TO DO SO;

6 (H) TAKE THE APPROPRIATE STEPS TO MAKE THE EXISTENCE AND AVAILABILITY

7 OF THE CHILD ADVOCATE WIDELY KNOWN, BY APPROPRIATE AND ACTIVE MEANS, TO

8 CHILDREN AND ADULTS;

9 (I) CREATE INFORMATIONAL MATERIALS FOR CHILDREN REGARDING THE RIGHTS

10 OF CHILDREN WHEN THEY ARE IN FOSTER CARE, DETENTION CENTERS,

FACILITIES

11 OPERATED BY THE OFFICE OF CHILDREN AND FAMILY SERVICES, JAILS, OR PRIS-

12 ONS AND THE METHODS AND ASSISTANCE AVAILABLE TO ENFORCE THOSE RIGHTS;

13 AND

14 (J) ESTABLISH AND MAINTAIN A TOLL-FREE HOTLINE TO RECEIVE AND RESPOND

15 TO CALLS FROM ADULTS AND CHILDREN REFERRING PROBLEMS TO THE CHILD ADVOCATE.

16 CATE.

17 2. THE CHILD ADVOCATE MAY:

18 (A) INVESTIGATE, REVIEW, MONITOR OR EVALUATE ANY STATE OR LOCAL AGENCY

19 RESPONSE TO, OR DISPOSITION OF, AN ALLEGATION OF CHILD ABUSE OR NEGLECT

20 UPON A DETERMINATION BY THE CHILD ADVOCATE THAT ANY INVESTIGATION OR

21 REVIEW OF SUCH RESPONSE OR DISPOSITION BY THE OFFICE OF CHILDREN AND

22 FAMILY SERVICES HAS BEEN INSUFFICIENT OR THAT THE OFFICE OF CHILDREN AND

23 FAMILY SERVICES HAS NOT ENGAGED IN ANY SUCH INVESTIGATION OR REVIEW;

24 (B) INSPECT AND REVIEW THE OPERATIONS, POLICIES AND PROCEDURES OF

25 JUVENILE DETENTION FACILITIES, FOSTER HOMES, GROUP HOMES, RESIDENTIAL

26 TREATMENT FACILITIES, FACILITIES OPERATED BY THE OFFICE OF CHILDREN AND

27 FAMILY SERVICES, SHELTERS FOR THE CARE OF ABUSED OR NEGLECTED CHILDREN,

28 SHELTERS FOR THE CARE OF PERSONS IN NEED OF SUPERVISION, SHELTERS FOR

29 THE CARE OF HOMELESS YOUTH, OR INDEPENDENT LIVING ARRANGEMENTS OPERATED

30 BY OR APPROVED FOR PAYMENT BY THE OFFICE OF CHILDREN AND FAMILY

31 SERVICES, AND ANY OTHER PUBLIC OR PRIVATE RESIDENTIAL SETTING IN WHICH A

32 CHILD HAS BEEN PLACED BY A STATE OR LOCAL DEPARTMENT OR OFFICE;

33 (C) REVIEW, MONITOR, AND REPORT ON THE PERFORMANCE OF STATE-FUNDED

34 PRIVATE ENTITIES CHARGED WITH THE CARE AND SUPERVISION OF CHILDREN BY

35 CONDUCTING RESEARCH AUDITS OR OTHER STUDIES OF CASE RECORDS,

POLICIES,

36 PROCEDURES AND PROTOCOLS, AND CONDUCTING INTERVIEWS WITH
STAFF AND CHILD

37 RESIDENTS AS DEEMED NECESSARY BY THE CHILD ADVOCATE TO
ASSESS THE

38 PERFORMANCE OF THE ENTITIES. PROVIDED, HOWEVER, THAT SUCH
REVIEWS MAY

39 ONLY BE CONDUCTED IN RESPONSE TO SPECIFIC COMPLAINTS MADE TO
THE CHILD

40 ADVOCATE AND AFTER A DETERMINATION BY THE CHILD ADVOCATE THAT
THE OFFICE

41 OF CHILDREN AND FAMILY SERVICES HAS FAILED TO ADEQUATELY
ADDRESS SUCH

42 COMPLAINT OR IN RESPONSE TO AN INVESTIGATION BY THE CHILD
ADVOCATE INTO

43 SYSTEMIC ISSUES;

44 (D) HOLD PUBLIC HEARINGS ON THE SUBJECT OF AN INVESTIGATION OR
STUDY

45 UNDERWAY BY THE OFFICE, AND RECEIVE TESTIMONY FROM AGENCY
AND PROGRAM

46 REPRESENTATIVES, THE PUBLIC AND OTHER INTERESTED PARTIES, AS THE
CHILD

47 ADVOCATE DEEMS APPROPRIATE; AND

48 (E) ENTER INTO CONTRACTS WITH ANY PERSON, FIRM, CORPORATION, OR
EDUCA-

49 TIONAL INSTITUTION IN ORDER TO INVITE EXPERT RESEARCH TO ASSIST
THE

50 CHILD ADVOCATE IN ASSESSING, EVALUATING, REVIEWING AND
IMPROVING THE

51 DELIVERY OF SERVICES TO CHILDREN AND FAMILIES IN NEW YORK.

52 S 535. RIGHTS AND POWERS OF THE CHILD ADVOCATE. 1.
NOTWITHSTANDING

53 ANY OTHER PROVISION OF LAW, THE CHILD ADVOCATE SHALL HAVE
ACCESS TO,

54 INCLUDING THE RIGHT TO INSPECT AND COPY, ANY RECORDS NECESSARY
TO CARRY

55 OUT THE RIGHTS, POWERS AND DUTIES OF THE CHILD ADVOCATE
PURSUANT TO THIS

56 ARTICLE. SUCH ACCESS SHALL INCLUDE, BUT NOT BE LIMITED TO,
ACCESS TO

A. 304--B

4

1 RECORDS MAINTAINED BY THE STATEWIDE CENTRAL REGISTRY OF CHILD
ABUSE AND

2 MALTREATMENT AND RECORDS OF LOCAL CHILD PROTECTIVE SERVICES

MAINTAINED

3 PURSUANT TO TITLE SIX OF ARTICLE SIX OF THE SOCIAL SERVICES LAW,
RECORDS

4 OF LOCAL AND REGIONAL FATALITY REVIEW TEAMS, AND RECORDS
MAINTAINED

5 PURSUANT TO SECTIONS THREE HUNDRED SEVENTY-TWO AND FOUR
HUNDRED NINE-F

6 OF THE SOCIAL SERVICES LAW. THE CHILD ADVOCATE SHALL HAVE
ACCESS TO

7 INDIVIDUALLY IDENTIFIABLE HEALTH INFORMATION TO THE EXTENT
THAT THE

8 CHILD ADVOCATE DETERMINES NECESSARY TO FULFILL THE
REQUIREMENTS OF THIS

9 SECTION. THE OFFICE OF THE CHILD ADVOCATE SHALL BE DEEMED A
GOVERNMENTAL

10 AUTHORITY AUTHORIZED TO RECEIVE REPORTS OF CHILD ABUSE OR
NEGLECT FOR

11 THE PURPOSE OF COMPLYING WITH 45 CFR S 164.512 AND OTHER FEDERAL
RULES

12 AND REGULATIONS GOVERNING ACCESS TO INDIVIDUALLY IDENTIFIABLE
HEALTH

13 INFORMATION. IF THE CHILD ADVOCATE IS DENIED ACCESS TO ANY
RECORDS

14 NECESSARY TO CARRY OUT SUCH RESPONSIBILITIES, HE OR SHE MAY
ISSUE A

15 SUBPOENA FOR THE PRODUCTION OF SUCH RECORDS AS PROVIDED IN
SUBDIVISION

16 THREE OF THIS SECTION.

17 2. IN PERFORMANCE OF HIS OR HER RIGHTS, POWERS AND DUTIES
PURSUANT TO

18 THIS ARTICLE, THE CHILD ADVOCATE MAY COMMUNICATE PRIVATELY
WITH ANY

19 CHILD OR PERSON WHO HAS RECEIVED, IS RECEIVING OR SHOULD HAVE
RECEIVED

20 SERVICES FROM THE OFFICE OF CHILDREN AND FAMILY SERVICES OR
ANY OTHER

21 ENTITY THAT IS REGULATED OR OVERSEEN BY, OR RECEIVES FUNDING
FROM, THE

22 OFFICE OF CHILDREN AND FAMILY SERVICES.

23 3. THE CHILD ADVOCATE MAY ISSUE SUBPOENAS TO COMPEL THE
ATTENDANCE AND

24 TESTIMONY OF WITNESSES OR THE PRODUCTION OF BOOKS, PAPERS AND
OTHER

25 DOCUMENTS AND TO ADMINISTER OATHS TO WITNESSES IN ANY MANNER
UNDER HIS

26 OR HER INVESTIGATION. IF ANY PERSON TO WHOM SUCH SUBPOENA IS

ISSUED

27 FAILS TO APPEAR OR, HAVING APPEARED, REFUSES TO GIVE TESTIMONY OR FAILS

28 TO PRODUCE THE EVIDENCE REQUIRED, THE CHILD ADVOCATE MAY APPLY TO THE

29 SUPREME COURT WHICH SHALL HAVE JURISDICTION TO ORDER SUCH PERSON TO

30 APPEAR AND GIVE TESTIMONY OR TO PRODUCE SUCH EVIDENCE, AS THE CASE MAY

31 BE.

32 4. THE CHILD ADVOCATE MAY APPLY FOR AND ACCEPT GRANTS, GIFTS AND

33 BEQUESTS OF FUNDS FROM OTHER STATES, FEDERAL AND INTERSTATE AGENCIES AND

34 INDEPENDENT AUTHORITIES AND PRIVATE FIRMS, INDIVIDUALS AND FOUNDATIONS,

35 FOR THE PURPOSE OF CARRYING OUT HIS OR HER RESPONSIBILITIES. THE FUNDS

36 SHALL BE EXPENDED IN ACCORDANCE WITH THE PROVISIONS OF SUCH GRANT, GIFT

37 OR BEQUEST.

38 S 536. ACCESS TO THE CHILD ADVOCATE. 1. THE CHILD ADVOCATE SHALL

39 CREATE AND DISSEMINATE MATERIALS FOR ALL YOUTH IN FOSTER CARE AND JUVE-

40 NILE JUSTICE FACILITIES OR PROGRAMS DETAILING THE SERVICES THAT THE

41 CHILD ADVOCATE CAN OFFER SUCH YOUTH AND HOW SUCH YOUTH CAN CONTACT THE

42 OFFICE OF THE CHILD ADVOCATE.

43 2. ALL YOUTH PLACED IN FOSTER CARE OR A FACILITY OPERATED BY THE DIVI-

44 SION OF REHABILITATIVE SERVICES SHALL BE PERMITTED ACCESS TO A TELEPHONE

45 TO CALL THE TOLL FREE HOTLINE OF THE OFFICE OF THE CHILD ADVOCATE UPON

46 THE YOUTH'S REQUEST. SUCH YOUTH SHALL BE PERMITTED TO COMPLETE ANY PHONE

47 CALL TO THE TOLL FREE HOTLINE AND ANY SUBSEQUENT PHONE CALLS WITH THE

48 OFFICE OF THE CHILD ADVOCATE IN A PRIVATE SETTING IN WHICH THE YOUTH'S

49 CONVERSATIONS ARE NOT MONITORED. ANY CALLS PLACED BY A YOUTH TO THE

50 OFFICE OF THE CHILD ADVOCATE SHALL NOT COUNT AGAINST ANY LIMIT ON PHONE

51 CALLS PLACED ON THE YOUTH PURSUANT TO THE RULES OF THE FACILITY
IN WHICH

52 HE OR SHE RESIDES.

53 S 537. CONFIDENTIALITY OF INFORMATION AND PROHIBITION AGAINST
RETALI-

54 ATION. 1. ALL RECORDS OF THE CHILD ADVOCATE PERTAINING TO THE
FULFILL-

55 MENT OF THE CHILD ADVOCATE'S RIGHTS, POWERS AND DUTIES
PURSUANT TO THIS

56 ARTICLE AND ALL CONFIDENTIAL RECORDS OBTAINED BY THE CHILD
ADVOCATE

A. 304--B

5

1 SHALL BE CONFIDENTIAL. PROVIDED, HOWEVER, THAT INFORMATION
CONTAINED IN

2 THOSE RECORDS MAY BE DISCLOSED PUBLICLY IN SUCH A MANNER THAT
WOULD NOT

3 IDENTIFY THE INDIVIDUALS FROM WHOM SUCH INFORMATION WAS
OBTAINED. SUCH

4 CONFIDENTIAL RECORDS SHALL BE AVAILABLE TO PERSONS APPROVED,
UPON APPLI-

5 CATION FOR GOOD CAUSE, BY THE FAMILY COURT.

6 2. NO STATE OR LOCAL DEPARTMENT OR OFFICE OR PRIVATE ENTITY
SHALL

7 DISCHARGE, OR IN ANY MANNER DISCRIMINATE OR RETALIATE AGAINST,
ANY

8 EMPLOYEE WHO IN GOOD FAITH MAKES A COMPLAINT TO THE CHILD
ADVOCATE OR

9 COOPERATES WITH THE OFFICE OF THE CHILD ADVOCATE IN AN
INVESTIGATION. NO

10 EMPLOYEE OF ANY STATE OR LOCAL DEPARTMENT OR OFFICE OR OF ANY
PRIVATE

11 ENTITY SHALL RETALIATE AGAINST ANY CHILD WHO MAKES A
COMPLAINT TO THE

12 CHILD ADVOCATE OR WHO COOPERATES WITH THE OFFICE OF THE CHILD
ADVOCATE

13 IN AN INVESTIGATION.

14 S 538. INDEMNIFICATION FROM LIABILITY. THE STATE OF NEW YORK
SHALL

15 PROTECT AND HOLD HARMLESS ANY ATTORNEY, DIRECTOR,
INVESTIGATOR, SOCIAL

16 WORKER OR OTHER PERSON EMPLOYED BY THE OFFICE OF THE CHILD
ADVOCATE AND

17 ANY VOLUNTEER APPOINTED BY THE CHILD ADVOCATE FROM FINANCIAL
LOSS AND

18 EXPENSE, INCLUDING LEGAL FEES AND COSTS, IF ANY, ARISING OUT OF
ANY

19 CLAIM, DEMAND OR SUIT FOR DAMAGES RESULTING FROM ACTS OR
OMISSIONS

20 COMMITTED IN THE DISCHARGE OF HIS OR HER RIGHTS, POWERS AND
DUTIES WITH-

21 IN THE SCOPE OF HIS OR HER EMPLOYMENT OR APPOINTMENT WHICH
MAY CONSTI-

22 TUTE NEGLIGENCE BUT WHICH ACTS ARE NOT WANTON, MALICIOUS OR
GROSSLY

23 NEGLIGENT AS DETERMINED BY A COURT OF COMPETENT JURISDICTION.

24 S 539. ANNUAL REPORT. ON NOVEMBER FIRST, TWO THOUSAND EIGHT
AND NO

25 LATER THAN NOVEMBER FIRST ANNUALLY THEREAFTER, THE CHILD
ADVOCATE SHALL

26 REPORT TO THE GOVERNOR AND THE LEGISLATURE CONCERNING ITS
WORK UNDER

27 THIS ARTICLE DURING THE PREVIOUS YEAR. SUCH REPORT SHALL
INCLUDE, BUT

28 NOT BE LIMITED TO: NON-IDENTIFYING INFORMATION REGARDING THE
TYPES OF

29 INVESTIGATIONS COMPLETED BY THE OFFICE OF THE CHILD ADVOCATE;
THE

30 RESULTS OF SUCH INVESTIGATIONS AND ANY RECOMMENDATIONS OF
SUCH OFFICE TO

31 IMPROVE THE JUVENILE JUSTICE SYSTEM; CHILD PROTECTIVE SERVICES;
PREVEN-

32 TIVE SERVICES; FOSTER CARE; AND CHILD CARE. SUCH REPORT SHALL
ADDI-

33 TIONALLY CONTAIN STATISTICAL DATA AND INFORMATION INDICATING:

34 1. THE NUMBER AND TYPES OF COMPLAINTS, GRIEVANCES OR ISSUES
BROUGHT TO

35 THE ATTENTION OF THE OFFICE OF THE CHILD ADVOCATE;

36 2. THE NUMBER OF FACILITIES VISITED;

37 3. THE NUMBER OF INVESTIGATIONS CONDUCTED; AND

38 4. THE NUMBER OF HEARINGS IN WHICH THE OFFICE OF THE CHILD
ADVOCATE

39 WAS INVOLVED.

40 S 2. Monies made available by appropriation by the legislature to the
41 office of the child advocate shall be used to implement the duties of
42 the child advocate.

43 S 3. Subdivision 1 of section 483 of the social services law, as added
44 by section 2 of part F2 of chapter 62 of the laws of 2003, is amended to
45 read as follows:

46 1. There shall be a council on children and families established with-
47 in the office of children and family services consisting of the follow-

48 ing members: the state commissioner of children and family services, the
49 commissioner of temporary and disability assistance, the commissioner of
50 mental health, the commissioner of mental retardation and developmental
51 disabilities, the commissioner of the office of alcoholism and substance
52 abuse services, the commissioner of education, the state director of
53 probation and correctional alternatives, the commissioner of health, the
54 commissioner of the division of criminal justice services, the state
55 advocate for persons with disabilities, the director of the office for
56 the aging, the commissioner of labor, and the chair of the commission on

A. 304--B

6

1 quality of care for the mentally disabled, AND THE CHILD ADVOCATE. The
2 governor shall designate the chair of the council and the chief execu-
3 tive officer (CEO).

4 S 4. Paragraph (d) of subdivision 1 of section 169 of the executive
5 law, as amended by chapter 220 of the laws of 2005, is amended to read
6 as follows:

7 (d) director of office for the aging, commissioner of human rights,
8 commissioners of the department of public service, chairman of state
9 commission on quality of care for the mentally disabled, chairman of
10 commission on alcoholism and substance abuse prevention and education,
11 executive director of the council on the arts {and}, executive director
12 of the board of social welfare AND THE OFFICE OF THE CHILD ADVOCATE;

13 S 5. Title 1-A of article 6 of the social services law is REPEALED.

14 S 6. This act shall take effect April 1, 2008, provided however, the
15 governor may start planning for the establishment of the office of the
16 child advocate.