



New York State ASSEMBLY

Sheldon Silver - Speaker

Thursday, September 30, 2010

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Bill No.:

A03233

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A03233 Summary:

BILL NO A03233B

SAME AS Same as S 6877

SPONSOR Clark (MS)

COSPNSR Scarborough, Titus, Paulin, Jacobs, Heastie, Benjamin, Benedetto,
Peoples-Stokes, Rivera N, Colton, John, Canestrari, Galef,
Pheffer,
Fields, Perry, Mayersohn, Boyland, Alfano, Butler, Robinson,
Arroyo,
Jaffee, Cook, Spano, Barron, Gibson, Espaillat, Skartados,
Kavanagh

MLTSPNSR Barra, Cahill, Calhoun, Camara, Christensen, Crouch, Errigo,
Farrell,
Finch, Gantt, Gottfried, Hikind, Hyer-Spencer, Latimer, Lifton,
Lupardo, McEneny, McKeivitt, Meng, Miller J, Millman, Molinaro,
Nolan,
Reilly, Sayward, Sweeney, Towns, Townsend, Weisenberg, Wright

add Art 19-I SS533 - 539, amd S501, Exec L

Establishes the independent office of child advocate to ensure the
protection
and promotion of legal rights for youth in juvenile justice facilities;
repeals
certain provisions relating to the office of the ombudsman.

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A03233 Actions:

BILL NO A03233B

01/23/2009 referred to children and families
04/06/2009 reported referred to codes
04/21/2009 reported referred to ways and means
05/14/2009 amend and recommit to ways and means
05/14/2009 print number 3233a
06/08/2009 reported referred to rules
06/22/2009 reported
06/22/2009 rules report cal.636
06/22/2009 ordered to third reading rules cal.636
06/22/2009 passed assembly
06/22/2009 delivered to senate
06/22/2009 REFERRED TO RULES
01/06/2010 DIED IN SENATE
01/06/2010 RETURNED TO ASSEMBLY
01/06/2010 ordered to third reading cal.254
01/12/2010 amended on third reading (t) 3233b
02/09/2010 passed assembly
02/09/2010 delivered to senate
02/09/2010 REFERRED TO CHILDREN AND FAMILIES
06/14/2010 SUBSTITUTED FOR S6877
06/14/2010 3RD READING CAL.787
06/24/2010 PASSED SENATE
06/24/2010 RETURNED TO ASSEMBLY
09/20/2010 delivered to governor

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A03233 Votes:

BILL: A03233B DATE: 02/09/2010 MOTION:
122/008

YEA/NAY:

Abbate	Y	Calhoun	ER	Espail	Y	Hyer-Sp	Y	Mayerso	Y	Pretlow	Y	Stirpe	Y
Alessi	Y	Camara	Y	Farrell	Y	Jacobs	Y	McDonou	Y	Quinn	ER	Sweeney	Y
Alfano	Y	Canestr	Y	Fields	ER	Jaffee	Y	McEneny	Y	Rabbitt	Y	Tedisco	Y
Amedore	Y	Carrozz	ER	Finch	Y	Jeffrie	Y	McKevit	Y	Raia	Y	Thiele	ER
Arroyo	Y	Castro	Y	Fitzpat	Y	John	Y	Meng	Y	Ramos	Y	Titone	Y
Aubry	Y	Christe	Y	Gabrysz	Y	Jordan	NO	Mill JM	Y	Reilich	Y	Titus	ER
Bacalle	ER	Clark	Y	Galef	Y	Kavanag	Y	Mill M	Y	Reilly	Y	Tobacco	ER
Ball	Y	Colton	Y	Gantt	Y	Kellner	Y	Millman	Y	Rive J	Y	Towns	ER
Barclay	NO	Conte	Y	Gianari	Y	Kolb	Y	Molinar	Y	Rive N	Y	Townsen	Y
Barra	Y	Cook	Y	Gibson	Y	Koon	Y	Morelle	Y	Rive PM	Y	Weinste	Y
Barron	Y	Corwin	NO	Giglio	Y	Lancman	Y	Nolan	ER	Robinso	Y	Weisenb	Y
Benedet	Y	Crespo	Y	Glick	Y	Latimer	Y	Oaks	NO	Rosenth	Y	Wright	Y
Benjami	Y	Crouch	Y	Gordon	Y	Lavine	Y	O'Donne	Y	Russell	Y	Zebrows	Y
Bing	Y	Cusick	Y	Gottfri	Y	Lentol	Y	O'Mara	NO	Saladin	Y	Mr Spkr	Y
Boyland	Y	Cymbrow	ER	Gunther	Y	Lifton	Y	Ortiz	Y	Sayward	Y		

Boyle	Y	DelMont	Y	Hawley	NO	Lope	PD	NO	Parment	Y	Scarbor	ER
Brennan	Y	DenDekk	Y	Hayes	Y	Lope	VJ	ER	Paulin	Y	Schimel	Y
Brodsky	Y	Destito	Y	Heastie	Y	Lupardo	Y		Peoples	ER	Schimmi	Y
Brook-K	ER	Dinowit	Y	Hevesi	Y	Magee	Y		Peralta	Y	Schroed	Y
Burling	Y	Duprey	NO	Hikind	ER	Magnare	Y		Perry	Y	Scozzaf	Y
Butler	Y	Englebr	Y	Hooper	Y	Maisel	Y		Pheffer	Y	Skartad	Y
Cahill	Y	Errigo	Y	Hoyt	Y	Markey	Y		Powell	Y	Spano	Y

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A03233 Memo:

BILL NUMBER:A3233B

TITLE OF BILL: An act to amend the executive law, in relation to the establishment of the independent office of the child advocate; and repealing certain provisions of such law relating to the office of the ombudsman

PURPOSE OR GENERAL IDEA OF BILL: This bill would establish an Independent Office of the Child Advocate, vested with the authority to examine issues in state-funded programs in order to advocate for the rights, *safety, and well-being of children in the State's care.

SUMMARY OF SPECIFIC PROVISIONS: Section 1 establishes the Independent Office of the Child Advocate within state government, headed by the Child Advocate appointed by the Governor for a five-year term.

The Child Advocate shall examine, evaluate, and report to the Governor and the legislature on issues in publicly funded programs and multi-systemic issues that children in the State's care and their families experience; advocate for statutory, regulatory or policy changes aimed at improving outcomes and services for children and families in New York; monitor the implementation of policies and regulations that may be applicable to the legal rights of children in the State's care; recommend changes in State policies that may have an impact on certain publicly funded programs; recommend changes in State policies that service children and families; and take appropriate actions aimed at promoting the rights, safety, well-being and best interests of children in New York,

The Child Advocate shall also take actions, such as public education programs and proposals for reform, in order to secure and ensure children's legal and civil, rights; make the availability of the Child Advocate known; and create informational materials for children regarding their rights while in the state's cure.

EFFECTS OF PRESENT LAW THIS BILL WOULD ALTER: Current law does not provide for any office that performs the functions that would be performed by the Independent Office of the Child Advocate/

JUSTIFICATION: This bill would establish an Independent Office of the Child Advocate, similar to offices that currently exist in numerous other states including New Jersey, Massachusetts, Connecticut, Delaware, and Rhode island, among others.

This bill is a response to recent reports from the Governor's Task Force on Transforming Juvenile Justice and the United States Department of Justice, Civil Rights Division that found egregious, system-wide civil rights violations and serious problems in our state's juvenile justice system. This bill incorporates some of the suggestions outlined in the reports.

One of the most important duties of the state is to protect children in its care. The mission of the Independent Office of the Child Advocate is to ensure the safety and well-being of children. The Office is authorized to accomplish this by addressing concerns within state and local programs that serve children, making recommendations

to improve systems that serve children, and working with, agencies and entities to ensure the best possible outcomes for children.

PRIOR LEGISLATIVE HISTORY:

6/17/04 reported from Assembly Children and Families Committee to Codes Committee

6/20/05 - A.6334/S.6877, passed Assembly, delivered to Senate

1/4/06 Died in Senate, returned to Assembly

3/2/06 - referred to Senate Social Services, Children and Families Committee

6/21/06 - Passed Assembly, delivered to Senate, referred to Senate Rules Committee

1/17/07 A.304, reported from Assembly Children and Families Committee to Codes Committee

1/23/07 - A.304, reported to Assembly Ways and Means Committee

6/22/09 - A.304, Passed Assembly, delivered to Senate, referred to Senate Rules Committee

6/22/09 - A.3233-A, Passed Assembly, delivered to Senate, referred to Senate Rules Committee

FISCAL IMPLICATIONS: To be determined.

EFFECTIVE DATE: April 1, 2011

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A03233 Text:

S T A T E O F N E W Y O R K

3233--B

Cal. No. 254

2009-2010 Regular Sessions

I N A S S E M B L Y

January 23, 2009

Introduced by M. of A. CLARK, SCARBOROUGH, TITUS, PAULIN, JACOBS,
HEAST- IE, BENJAMIN, BENEDETTO, PEOPLES-STOKES, N. RIVERA, COLTON,
JOHN, CANESTRARI, GALEF, PHEFFER, FIELDS, PERRY, MAYERSOHN, BOYLAND,
ALFANO, BUTLER, ROBINSON, ARROYO, JAFFEE, COOK, SPANO, BARRON -- Multi-
Spon- sored by -- M. of A. BARRA, CAHILL, CAMARA, CHRISTENSEN,
CROUCH, ERRIGO, FARRELL, FINCH, GANTT, GOTTFRIED, HIKIND, HYER-SPENCER,
LATIM- ER, LIFTON, McENENY, McKEVITT, J. MILLER, MILLMAN, MOLINARO,
NOLAN, REILLY, 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 -- reported from committee, advanced to a
third reading, amended and ordered reprinted, retaining its place on
the order of third reading

AN ACT to amend the executive law, in relation to the establishment
of the independent office of the child advocate; and repealing
certain provisions of such law relating to the office of the ombudsman

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND
ASSEM- BLY, DO ENACT AS FOLLOWS:

1 Section 1. Subtitle B of title 3 of article 19-G of the executive
law is REPEALED.
2
3 S 2. The executive law is amended by adding a new article 19-I to
read as follows:
4
5 ARTICLE 19-I
6 INDEPENDENT OFFICE OF THE CHILD ADVOCATE
7 SECTION 533. INDEPENDENT OFFICE OF THE CHILD ADVOCATE; CREATION.
8 534. DEFINITIONS.
9 535. THE CHILD ADVOCATE.
10 536. DUTIES OF THE CHILD ADVOCATE.
11 537. POWERS OF THE INDEPENDENT OFFICE OF THE CHILD ADVOCATE.
12 538. DUTY TO MAINTAIN CONFIDENTIALITY.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in

brackets

[] is old law to be omitted.

LBD06023-

04-0

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1 539. ADDITIONAL PROVISIONS.
2 S 533. INDEPENDENT OFFICE OF THE CHILD ADVOCATE; CREATION. THERE
IS
3 HEREBY CREATED IN THE EXECUTIVE DEPARTMENT, AN INDEPENDENT OFFICE OF
THE
4 CHILD ADVOCATE, WHICH SHALL:
5 1. EXAMINE, EVALUATE AND REPORT TO THE GOVERNOR AND THE
LEGISLATURE
6 ON:
7 (A) PARTICULAR AND SYSTEMIC ISSUES IN PUBLICLY FUNDED JUVENILE
JUSTICE
8 PROGRAMS OVERSEEN BY THE OFFICE OF CHILDREN AND FAMILY SERVICES; AND
9 (B) MULTI-SYSTEMIC ISSUES THAT CHILDREN IN THE JUVENILE JUSTICE
SYSTEM
10 EXPERIENCE IN ACCESSING NEEDED SERVICES ACROSS SYSTEMS; AND
11 2. ADVOCATE FOR, AND REPORT TO THE GOVERNOR AND THE LEGISLATURE
ON
12 SUGGESTED STATUTORY, REGULATORY OR POLICY CHANGES AIMED AT
IMPROVING
13 OUTCOMES AND SERVICES FOR CHILDREN IN THE JUVENILE JUSTICE SYSTEM
AND
14 THEIR FAMILIES IN NEW YORK STATE.
15 S 534. DEFINITIONS. AS USED IN THIS ARTICLE:
16 1. "CHILD" OR "CHILDREN" MEANS:
17 (A) A PERSON, OR PERSONS UNDER THE AGE OF EIGHTEEN; OR
18 (B) A PERSON OR PERSONS UNDER THE AGE OF TWENTY-ONE WHO HAS
BEEN
19 PLACED INTO A JUVENILE JUSTICE FACILITY IN THE CARE, CUSTODY, OR
GUARDI-
20 ANSHIP OF THE OFFICE OF CHILDREN AND FAMILY SERVICES OR A LOCAL
SOCIAL
21 SERVICES DISTRICT PURSUANT TO ARTICLE THREE OF THE FAMILY COURT ACT.
22 2. "CHILD ADVOCATE" MEANS THE PERSON APPOINTED PURSUANT TO
SUBDIVISION
23 ONE OF SECTION FIVE HUNDRED THIRTY-FIVE OF THIS ARTICLE TO DIRECT
AND
24 OVERSEE THE ACTIVITIES OF THE INDEPENDENT OFFICE OF THE CHILD
ADVOCATE.
25 S 535. THE CHILD ADVOCATE. 1. THE CHILD ADVOCATE SHALL BE AN
INDIVID-
26 UAL WITH AT LEAST FIVE YEARS EXPERIENCE IN THE GENERAL SUBJECT AREA
OF
27 EITHER CHILD WELFARE, JUVENILE JUSTICE OR CHILDHOOD BEHAVIORAL
HEALTH,
28 WHO SHALL BE APPOINTED BY THE GOVERNOR UPON THE ADVICE AND CONSENT
OF
29 THE SENATE FOR A TERM OF FIVE YEARS. THE CHILD ADVOCATE SHALL
CONTINUE
30 TO HOLD SUCH POSITION UNTIL HIS OR HER SUCCESSOR IS APPOINTED, BUT
MAY

31 BE REMOVED FROM HIS OR HER POSITION IF THE GOVERNOR SHALL DETERMINE
 THAT
 32 SUCH CHILD ADVOCATE HAS ABUSED HIS OR HER RIGHTS, POWERS, OR
 DUTIES
 33 ESTABLISHED PURSUANT TO THIS ARTICLE OR THAT HE OR SHE HAS
 WILLFULLY
 34 FAILED TO CARRY OUT THE DUTIES REQUIRED BY THIS ARTICLE. THE CHILD
 ADVO-
 35 CATE SHALL REPORT TO THE GOVERNOR, WHO SHALL FIX THE COMPENSATION OF
 THE
 36 CHILD ADVOCATE WITHIN AMOUNTS APPROPRIATED THEREFOR.
 37 2. THE CHILD ADVOCATE MAY HIRE OR APPOINT PERSONS AS MAY BE
 DEEMED
 38 NECESSARY TO CARRY OUT THE DUTIES OF THE INDEPENDENT OFFICE OF THE
 CHILD
 39 ADVOCATE. THE DUTIES OF PERSONS EMPLOYED OR APPOINTED BY THE CHILD
 ADVO-
 40 CATE SHALL BE PERFORMED UNDER THE ADVICE AND SUPERVISION OF THE
 CHILD
 41 ADVOCATE. PERSONS EMPLOYED OR APPOINTED BY THE INDEPENDENT OFFICE OF
 THE
 42 CHILD ADVOCATE SHALL BE INDIVIDUALS WITH EXPERTISE IN THE AREAS OF
 CHILD
 43 WELFARE, JUVENILE JUSTICE, CHILDHOOD BEHAVIORAL HEALTH, FOSTER
 CARE,
 44 PREVENTIVE SERVICES, OR CHILD CARE, AS EVIDENCED BY EXPERTISE IN
 THE
 45 FIELD, PRACTICE, ADVOCACY OR BY ACADEMIC BACKGROUND, THE LEVEL
 AND
 46 SUFFICIENCY OF WHICH SHALL BE DETERMINED BY THE CHILD ADVOCATE.
 THE
 47 CHILD ADVOCATE SHALL FIX THE COMPENSATION OF PERSONS EMPLOYED
 OR
 48 APPOINTED BY THE INDEPENDENT OFFICE OF THE CHILD ADVOCATE WITHIN
 AMOUNTS
 49 APPROPRIATED THEREFOR.
 50 S 536. DUTIES OF THE CHILD ADVOCATE. 1. THE CHILD ADVOCATE SHALL:
 51 (A) EXAMINE, EVALUATE, INVESTIGATE AND REPORT TO THE GOVERNOR AND
 THE
 52 LEGISLATURE ON PARTICULAR AND SYSTEMIC ISSUES IN PUBLICLY FUNDED
 JUVE-
 53 NILE JUSTICE PROGRAMS OVERSEEN BY THE OFFICE OF CHILDREN AND
 FAMILY
 54 SERVICES AND LOCAL SOCIAL SERVICES DISTRICTS; AND
 55 (B) EXAMINE, EVALUATE, INVESTIGATE AND REPORT TO THE GOVERNOR AND
 THE
 56 LEGISLATURE ON MULTI-SYSTEMIC ISSUES THAT CHILDREN IN THE
 JUVENILE

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3

1 JUSTICE SYSTEM EXPERIENCE IN ACCESSING NEEDED SERVICES ACROSS
 SYSTEMS;
 2 AND
 3 (C) MONITOR THE IMPLEMENTATION OF THE POLICIES, REGULATIONS AND
 STAT-
 4 UTES OF STATE AGENCIES WHICH MAY BE APPLICABLE TO THE LEGAL RIGHTS

OF
5 CHILDREN IN JUVENILE JUSTICE FACILITIES OVERSEEN BY THE OFFICE OF
CHIL-
6 DREN AND FAMILY SERVICES OR A LOCAL SOCIAL SERVICES DISTRICT, OR
THE
7 FAMILY OF SUCH CHILDREN; AND
8 (D) MONITOR THE IMPLEMENTATION OF POLICIES, REGULATIONS AND
STATUTES
9 WHICH MAY HAVE AN IMPACT ON PUBLICLY FUNDED JUVENILE JUSTICE
PROGRAMS
10 OVERSEEN BY THE OFFICE OF CHILDREN AND FAMILY SERVICES; AND
11 (E) RECOMMEND CHANGES IN STATE POLICIES, STATUTES AND
REGULATIONS
12 CONCERNING CHILDREN IN THE JUVENILE JUSTICE SYSTEM AND THE FAMILIES
OF
13 SUCH CHILDREN; AND
14 (F) RECOMMEND CHANGES IN STATE POLICIES, STATUTES, AND
REGULATIONS
15 CONCERNING PUBLICLY FUNDED JUVENILE JUSTICE PROGRAMS THAT SERVICE
CHIL-
16 DREN AND FAMILIES, ADMINISTERED BY THE OFFICE OF CHILDREN AND
FAMILY
17 SERVICES OR LOCAL SOCIAL SERVICES DISTRICTS; AND
18 (G) TAKE APPROPRIATE ACTIONS AIMED AT PROMOTION OF THE RIGHTS,
SAFETY,
19 WELL-BEING, AND BEST INTERESTS OF CHILDREN IN NEW YORK STATE,
INCLUDING,
20 BUT NOT LIMITED TO, UNDERTAKING LEGISLATIVE ADVOCACY, CONDUCTING
PUBLIC
21 HEARINGS AND MAKING PROPOSALS FOR ADMINISTRATIVE OR SYSTEMIC REFORM;
AND
22 (H) PROVIDE ADMINISTRATIVE SUPERVISION AND OVERSIGHT TO THE
INDEPEND-
23 ENT OFFICE OF THE CHILD ADVOCATE AND DEVOTE FULL-TIME TO THE DUTIES
OF
24 HIS OR HER OFFICE; AND
25 (I) CONDUCT PERIODIC INSPECTIONS, EVALUATIONS OR REVIEWS OF ANY
JUVE-
26 NILE JUSTICE FACILITY OPERATED BY THE OFFICE OF CHILDREN AND
FAMILY
27 SERVICES AT ANY TIME, WITH OR WITHOUT PRIOR NOTICE. JUVENILE
JUSTICE
28 FACILITY DIRECTORS AND STAFF SHALL COOPERATE WITH SUCH INSPECTION,
EVAL-
29 UATION OR REVIEW. AN ADVOCATE SHALL HAVE THE RIGHT TO INSPECT THE
JUVE-
30 NILE JUSTICE FACILITY, VISIT ALL AREAS AND OBSERVE ALL PARTS AND
ASPECTS
31 OF SUCH FACILITY PROGRAM; AND
32 (J) REPORT TO THE GOVERNOR AND THE LEGISLATURE AS NEEDED, BUT NOT
LESS
33 THAN TWICE PER YEAR. SUCH REPORT SHALL BE MADE AVAILABLE TO THE
PUBLIC,
34 UNLESS SUCH MATERIALS ARE CONFIDENTIAL PURSUANT TO STATUTE, AND
SHALL
35 INCLUDE BUT NOT BE LIMITED TO:

36 (A) INFORMATION CONCERNING THE NUMBER AND TYPES OF REVIEWS,
EVALU-
37 ATIONS AND INVESTIGATIONS CONDUCTED BY THE INDEPENDENT OFFICE OF
THE
38 CHILD ADVOCATE; AND
39 (B) ANY RECOMMENDATIONS BY THE CHILD ADVOCATE FOR LEGISLATIVE,
REGULA-
40 TORY, OR PUBLIC POLICY CHANGES.
41 2. IF AFTER EXAMINATION PURSUANT TO SUBDIVISION ONE OF THIS
SECTION,
42 THE CHILD ADVOCATE IDENTIFIES A SYSTEMIC PROBLEM IN HOW SERVICES
ARE
43 PROVIDED TO CHILDREN IN THE CARE, CUSTODY, OR GUARDIANSHIP OF THE
OFFICE
44 OF CHILDREN AND FAMILY SERVICES OR A LOCAL SOCIAL SERVICES DISTRICT,
BY
45 THE OFFICE OF CHILDREN AND FAMILY SERVICES, OR A LOCAL SOCIAL
SERVICES
46 DISTRICT, OR ANY PUBLIC OR PRIVATE ENTITY WHICH CONTRACTS WITH
THE
47 OFFICE OF CHILDREN AND FAMILY SERVICES OR A LOCAL SOCIAL
SERVICES
48 DISTRICT TO PROVIDE SERVICES TO SUCH CHILDREN, THE CHILD ADVOCATE
SHALL
49 PROVIDE SUCH OFFICE, DISTRICT, AGENCY OR ENTITY A WRITTEN REPORT
OUTLIN-
50 ING THE FINDINGS AND RECOMMENDATIONS OF THE CHILD ADVOCATE.
51 (A) AN OFFICE, DISTRICT, AGENCY OR ENTITY NAMED IN A REPORT BY
THE
52 CHILD ADVOCATE AS DESCRIBED IN THIS SUBDIVISION SHALL HAVE THE OPTION
TO
53 RESPOND IN WRITING TO THE CHILD ADVOCATE'S FINDINGS, PROVIDED
HOWEVER
54 THAT SUCH WRITTEN RESPONSE MUST BE ISSUED WITHIN NINETY DAYS OF
SUCH
55 OFFICE, DISTRICT, AGENCY OR ENTITY'S RECEIPT OF THE APPLICABLE REPORT
BY
56 THE CHILD ADVOCATE.
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1 (B) WITHIN THIRTY DAYS AFTER THE RECEIPT OF A RESPONSE FROM AN
OFFICE,
2 DISTRICT, AGENCY OR ENTITY AS DESCRIBED IN THIS SUBDIVISION, THE
CHILD
3 ADVOCATE SHALL ISSUE SUCH RESPONSE, AND THE REPORT ISSUED BY THE
CHILD
4 ADVOCATE PURSUANT TO THIS SUBDIVISION, TO THE GOVERNOR AND THE
LEGISLA-
5 TURE.
6 (C) IF A RESPONSE OR A WRITTEN REQUEST FOR AN ADDITIONAL THIRTY
DAYS
7 WITH AN EXPLANATION IS NOT RECEIVED BY THE CHILD ADVOCATE WITHIN
NINETY
8 DAYS FROM THE DATE THAT THE CHILD ADVOCATE SENT SUCH REPORT TO
SUCH
9 OFFICE, DISTRICT, AGENCY OR ENTITY, THE CHILD ADVOCATE SHALL

PROVIDE

10 SUCH REPORT TO THE GOVERNOR AND THE LEGISLATURE WITH A NOTICE
STATING

11 THAT SUCH OFFICE, DISTRICT, AGENCY OR ENTITY FAILED TO ISSUE A
TIMELY

12 WRITTEN RESPONSE TO THE REPORT BY THE CHILD ADVOCATE.

13 S 537. POWERS OF THE INDEPENDENT OFFICE OF THE CHILD
ADVOCATE.

14 NOTWITHSTANDING ANY PROVISION OF LAW OR REGULATION TO THE CONTRARY,
THE

15 INDEPENDENT OFFICE OF THE CHILD ADVOCATE SHALL HAVE ACCESS TO,
INCLUDING

16 THE RIGHT TO INSPECT AND COPY, ANY RECORDS NECESSARY TO CARRY OUT
ITS

17 RIGHTS, POWERS AND DUTIES PURSUANT TO THIS ARTICLE, INCLUDING BUT
NOT

18 LIMITED TO, PERSONNEL RECORDS THAT BEAR ON ANY ISSUE BEING
REVIEWED,

19 EVALUATED, OR INVESTIGATED AND RECORDS OF CHILDREN UNDER CARE OF
THE

20 JUVENILE JUSTICE SYSTEM THAT BEAR ON ANY ISSUE BEING REVIEWED,
EVALU-

21 ATED, OR INVESTIGATED. THE INDEPENDENT OFFICE OF THE CHILD
ADVOCATE

22 SHALL ALSO HAVE THE AUTHORITY TO SUBPOENA RECORDS AND WITNESSES, AND
TO

23 CONDUCT INTERVIEWS WITH ANY PERSON NECESSARY TO CARRY OUT ITS
RIGHTS,

24 POWERS AND DUTIES PURSUANT TO THIS ARTICLE, INCLUDING BUT NOT LIMITED
TO

25 STAFF AND CHILDREN UNDER CARE OF THE JUVENILE JUSTICE SYSTEM.

26 S 538. DUTY TO MAINTAIN CONFIDENTIALITY. ALL RECORDS OF THE
INDEPEND-

27 ENT OFFICE OF THE CHILD ADVOCATE PERTAINING TO THE FULFILLMENT OF
THE

28 CHILD ADVOCATE'S RIGHTS, POWERS AND DUTIES PURSUANT TO THIS ARTICLE,
AND

29 ALL RECORDS OBTAINED BY THE CHILD ADVOCATE SHALL BE KEPT
CONFIDENTIAL,

30 PROVIDED HOWEVER, THAT LIMITED INFORMATION CONTAINED IN SUCH RECORDS
MAY

31 BE RELEASED BY THE CHILD ADVOCATE, IF APPROPRIATE, AND UPON APPROVAL
OF

32 THE CHILD ADVOCATE, SO LONG AS THE INFORMATION TO BE RELEASED WOULD
NOT

33 IDENTIFY THE CHILD OR CHILDREN THE CHILD ADVOCATE WAS SERVING OR
THE

34 NAMES OF THE PARENTS OR SIBLINGS OF SUCH CHILD OR CHILDREN.

35 S 539. ADDITIONAL PROVISIONS. 1. THE STATE SHALL PROTECT AND
HOLD

36 HARMLESS ANY PERSON EMPLOYED OR APPOINTED BY THE CHILD ADVOCATE,
FROM

37 FINANCIAL LOSS AND EXPENSE, INCLUDING LEGAL FEES AND COSTS, IF
ANY,

38 ARISING OUT OF ANY CLAIM, DEMAND OR SUIT FOR DAMAGES RESULTING FROM
ACTS

39 OR OMISSIONS COMMITTED IN THE DISCHARGE OF HIS OR HER RIGHTS, POWERS
AND
40 DUTIES WITHIN THE SCOPE OF HIS OR HER EMPLOYMENT OR APPOINTMENT
WHICH
41 MAY CONSTITUTE NEGLIGENCE BUT WHICH ACTS ARE NOT WANTON, MALICIOUS
OR
42 GROSSLY NEGLIGENT AS DETERMINED BY A COURT OF COMPETENT JURISDICTION.

43 2. NO STATE OR LOCAL AGENCY, DEPARTMENT, OFFICE, OR ENTITY
SHALL
44 DISCHARGE, OR IN ANY MANNER DISCRIMINATE OR RETALIATE AGAINST,
ANY
45 PERSON WHO IN GOOD FAITH MAKES A COMPLAINT TO, OR COOPERATES WITH,
THE
46 CHILD ADVOCATE IN A REVIEW OR EVALUATION CONDUCTED BY THE CHILD
ADVO-
47 CATE. NO EMPLOYEE OF ANY STATE OR LOCAL DEPARTMENT OR OFFICE OR OF
ANY
48 PRIVATE ENTITY SHALL RETALIATE AGAINST ANY PERSON WHO MAKES A
COMPLAINT

49 TO, OR WHO COOPERATES WITH THE INDEPENDENT OFFICE OF THE CHILD
ADVOCATE
50 IN A REVIEW, INVESTIGATION OR EVALUATION CONDUCTED BY THE
INDEPENDENT
51 OFFICE OF THE CHILD ADVOCATE.

52 3. ALL COMMUNICATIONS TO THE INDEPENDENT OFFICE OF THE CHILD
ADVOCATE

53 SHALL REMAIN CONFIDENTIAL. ANY COMPLAINT FILED BY A YOUTH OR A
STAFF

54 MEMBER OF A JUVENILE JUSTICE FACILITY WITH THE INDEPENDENT OFFICE OF
THE

55 CHILD ADVOCATE SHALL REMAIN CONFIDENTIAL. ALL YOUTH RESIDING IN A
JUVE-

56 NILE JUSTICE FACILITY SHALL BE PERMITTED REASONABLE ACCESS TO A
TELE-

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5

1 PHONE TO MAKE A TOLL FREE CALL OR SHALL BE SUPPLIED WRITING MATERIALS
IN

2 ORDER TO WRITE LETTERS TO THE INDEPENDENT OFFICE OF THE CHILD
ADVOCATE

3 UPON THE YOUTH'S REQUEST. ANY COMMUNICATIONS BETWEEN SUCH YOUTH AND
THE

4 INDEPENDENT OFFICE OF THE CHILD ADVOCATE SHALL REMAIN CONFIDENTIAL
AND

5 SHALL NOT BE MONITORED BY ANY MEMBER OF THE JUVENILE JUSTICE
FACILITY'S

6 STAFF.

7 4. THE INDEPENDENT OFFICE OF THE CHILD ADVOCATE MAY APPLY FOR
AND

8 ACCEPT GRANTS, GIFTS AND BEQUESTS OF FUNDS FROM PRIVATE INDIVIDUALS
AND

9 FOUNDATIONS FOR THE PURPOSE OF CARRYING OUT STUDIES UNDER THIS
ARTICLE.

10 THE FUNDS SHALL BE EXPENDED IN ACCORDANCE WITH THE PROVISIONS OF
SUCH

11 GRANT, GIFT OR BEQUEST.

12 5. THE CHILD ADVOCATE SHALL TAKE ALL POSSIBLE ACTIONS INCLUDING,
BUT
13 NOT LIMITED TO, CONDUCTING PROGRAMS OF PUBLIC EDUCATION,
UNDERTAKING
14 LEGISLATIVE ADVOCACY AND MAKING PROPOSALS FOR ADMINISTRATIVE
CORRECTION
15 OR REFORM AND FORMAL LEGAL ACTION, IN ORDER TO SECURE AND ENSURE
THE
16 LEGAL, CIVIL AND SPECIAL RIGHTS OF CHILDREN.
17 6. THE CHILD ADVOCATE SHALL TAKE THE APPROPRIATE STEPS TO MAKE
THE
18 EXISTENCE AND AVAILABILITY OF THE CHILD ADVOCATE WIDELY KNOWN, BY
APPRO-
19 PRIATE AND ACTIVE MEANS, TO CHILDREN AND ADULTS.
20 7. THE CHILD ADVOCATE SHALL CREATE INFORMATIONAL MATERIALS FOR
CHIL-
21 DREN REGARDING THE RIGHTS OF CHILDREN WHEN THEY ARE IN
DETENTION
22 CENTERS, FACILITIES OPERATED BY THE OFFICE OF CHILDREN AND
FAMILY
23 SERVICES, JAILS, OR PRISONS AND THE METHODS AND ASSISTANCE AVAILABLE
TO
24 ENFORCE THOSE RIGHTS.
25 S 3. Subdivision 16 of section 501 of the executive law, as
renumbered
26 by chapter 170 of the laws of 1994, is renumbered subdivision 17 and
a
27 new subdivision 16 is added to read as follows:
28 16. THE COMMISSIONER OF THE OFFICE OF CHILDREN AND FAMILY
SERVICES
29 SHALL PROMULGATE REGULATIONS REQUIRING THAT NO SERVICES,
FACILITIES,
30 ENTITIES OR PROGRAMS UNDER THE JURISDICTION OF THE OFFICE OF
CHILDREN
31 AND FAMILY SERVICES SHALL RESTRICT OR PROHIBIT ACCESS TO
FACILITIES,
32 RECORDS OR INDIVIDUALS TO THE INDEPENDENT OFFICE OF THE CHILD
ADVOCATE
33 UPON REQUEST, UNLESS THE DISCLOSURE OF SUCH RECORDS ARE
OTHERWISE
34 PROHIBITED BY FEDERAL LAW OR REGULATION.
35 S 4. This act shall take effect April 1, 2011; provided, however,
that
36 effective immediately, the addition, amendment and/or repeal of any
rule
37 or regulation necessary for the implementation of this act on its
effec-
38 tive date are authorized and directed to be made and completed on
or
39 before the effective date.

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