Bill No.: A00644 Search

☒ Summary ☒ Actions ☒ Votes ☒ Memo ☒ Text (*Printer friendly text*)

A00644 Summary:

BILL NO A00644D

SAME AS Same as S 7678

SPONSOR Clark (MS)

COSPNSR Scarborough, Titus, Paulin, Jacobs, Heastie, Benedetto, Peoples-Stokes, Rivera N, Colton, Canestrari, Galef, Perry, Boyland, Robinson, Arroyo, Jaffee, Cook, Barron, Gibson, Kavanagh, Rivera P, Rosenthal, Castro, Ortiz, Meng, Abinanti, Gabryszak, Linares, Roberts, Weprin

MLTSPNSR Cahill, Camara, Crouch, Farrell, Finch, Gantt, Goodell, Gottfried, Hikind, Latimer, Lifton, Lupardo, McEneny, McKevitt, McLaughlin, Miller J, Millman, Montesano, Murray, Reilly, Sayward, Stevenson, Sweeney, Weisenberg, Wright

Rpld Art 19-G Title 3 Subtitle B, 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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A00644 Actions:

BILL NO A00644D

01/05/2011 referred to children and families
06/06/2011 reported referred to codes
06/13/2011 reported referred to ways and means
06/14/2011 amend and recommit to ways and means
06/14/2011 print number 644a
06/20/2011 reported referred to rules
06/20/2011 reported
06/20/2011 rules report cal.514
06/20/2011 ordered to third reading rules cal.514
06/20/2011 passed assembly
06/20/2011 delivered to senate
06/20/2011 REFERRED TO RULES
01/04/2012 DIED IN SENATE
01/04/2012 RETURNED TO ASSEMBLY
01/04/2012 ordered to third reading cal.40
01/18/2012 amended on third reading 644b
05/09/2012 amended on third reading 644c
05/21/2012 amended on third reading 644d
06/04/2012 passed assembly
06/04/2012 delivered to senate
06/04/2012 REFERRED TO SOCIAL SERVICES

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A00644 Votes:

BILL: A00644A DATE: 06/20/2011 MOTION: YEA/NAY: 119/23

Abbate	Y	Castell	Y	Galef	Y	Katz	NO	McKevit	Y	Rabbitt	NO	Stevens	Y
Abinant	Y	Castro	Y	Gantt	ER	Kavanag	Y	McLaugh	NO	Raia	Y	Sweeney	Y
Amedore	Y	Ceretto	Y	Gibson	Y	Kellner	Y	Meng	Y	Ramos	Y	Tedisco	Y
Arroyo	ER	Clark	Y	Giglio	Y	Kirwan	ER	Mill D	Y	Reilich	NO	Tenney	NO
Aubry	Y	Colton	Y	Glick	Y	Kolb	Y	Mill JM	Y	Reilly	Y	Thiele	Y
Barclay	NO	Conte	Y	Goodell	NO	Lancman	Y	Mill MG	Y	Rive J	ER	Titone	Y
Barron	Y	Cook	Y	Gottfri	Y	Latimer	Y	Millman	Y	Rive N	Y	Titus	Y
Benedet	Y	Corwin	NO	Graf	Y	Lavine	Y	Molinar	Y	Rive PM	Y	Tobacco	Y
Bing	Y	Crespo	Y	Gunther	Y	Lentol	Y	Montesa	Y	Roberts	Y	Weinste	Y
Blanken	NO	Crouch	Y	Hanna	NO	Lifton	Y	Morelle	Y	Robinso	Y	Weisenb	Y
Boyland	Y	Curran	Y	Hawley	NO	Linares	Y	Moya	Y	Rodrigu	Y	Weprin	Y
Boyle	Y	Cusick	Y	Hayes	NO	Lope PD	NO	Murray	NO	Rosenth	Y	Wright	Y
Braunst	Y	Cymbrow	Y	Heastie	Y	Lope VJ	Y	Nolan	Y	Russell	Y	Zebrows	Y

Brennan	Y	DenDekk	Y	Hevesi	Y	Losquad	NO	Oaks	NO	Saladin	Y	Mr Spkr	Y
Bronson	Y	Dinowit	Y	Hikind	Y	Lupardo	Y	O'Donne	Y	Sayward	Y		
Brook K	Y	Duprey	Y	Hooper	Y	Magee	Y	Ortiz	Y	Scarbor	Y		
Burling	NO	Englebr	Y	Hoyt	Y	Magnare	Y	Palmesa	NO	Schimel	Y		
Butler	Y	Farrell	Y	Jacobs	Y	Maisel	Y	Paulin	Y	Schimmi	NO		
Cahill	Y	Finch	Y	Jaffee	Y	Malliot	NO	Peoples	Y	Schroed	Y		
Calhoun	Y	Fitzpat	NO	Jeffrie	Y	Markey	Y	Perry	Y	Simotas	Y		
Camara	Y	Friend	NO	Johns	Y	McDonou	Y	Pretlow	Y	Smardz	Y		
Canestr	Y	Gabrysz	Y	Jordan	NO	McEneny	Y	Ra	Y	Spano	Y		

BILL: A00644D DATE: 06/04/2012 MOTION: YEA/NAY: 118/24

Abbate	Y	Canestr	Y	Friend	Y	Jordan	Y	McDonou	NO	Quart	Y	Simotas	Y
Abinant	Y	Castell	Y	Gabrysz	Y	Katz	NO	McEneny	Y	Ra	Y	Skartad	Y
Amedore	Y	Castro	Y	Galef	Y	Kavanag	Y	McKevit	Y	Rabbitt	NO	Smardz	Y
Arroyo	Y	Ceretto	Y	Gantt	Y	Kearns	Y	McLaugh	Y	Raia	Y	Stevens	Y
Aubry	Y	Clark	Y	Gibson	ER	Kellner	Y	Meng	ER	Ramos	Y	Sweeney	Y
Barclay	NO	Colton	Y	Giglio	Y	Kolb	NO	Mill D	Y	Reilich	NO	Tedisco	Y
Barrett	Y	Conte	ER	Glick	Y	Lancman	ER	Mill JM	Y	Reilly	Y	Tenney	NO
Barron	ER	Cook	Y	Goldfed	Y	Latimer	Y	Mill MG	Y	Rive J	Y	Thiele	Y
Benedet	Y	Corwin	NO	Goodell	Y	Lavine	Y	Millman	Y	Rive N	Y	Titone	Y
Blanken	NO	Crespo	Y	Gottfri	Y	Lentol	Y	Montesa	NO	Rive PM	Y	Titus	Y
Boyland	ER	Crouch	Y	Graf	Y	Lifton	Y	Morelle	Y	Roberts	Y	Tobacco	Y
Boyle	Y	Curran	Y	Gunther	Y	Linares	Y	Moya	Y	Robinso	Y	Walter	NO
Braunst	Y	Cusick	Y	Hanna	NO	Lope PD	NO	Murray	NO	Rodrigu	Y	Weinste	Y
Brennan	Y	Cymbrow	Y	Hawley	NO	Lope VJ	Y	Nolan	Y	Rosenth	Y	Weisenb	Y
Brindis	Y	DenDekk	Y	Heastie	Y	Losquad	NO	Oaks	NO	Russell	ER	Weprin	Y
Bronson	Y	Dinowit	Y	Hevesi	Y	Lupardo	Y	O'Donne	Y	Ryan	Y	Wright	Y
Brook K	Y	Duprey	Y	Hikind	Y	Magee	Y	Ortiz	Y	Saladin	NO	Zebrows	Y
Burling	NO	Englebr	Y	Hooper	Y	Magnare	Y	Palmesa	NO	Sayward	Y	Mr Spkr	Y
Butler	NO	Espinal	Y	Jacobs	Y	Maisel	Y	Paulin	Y	Scarbor	Y		
Cahill	Y	Farrell	Y	Jaffee	Y	Malliot	NO	Peoples	Y	Schimel	Y		
Calhoun	Y	Finch	Y	Jeffrie	ER	Markey	Y	Perry	Y	Schimmi	NO		
Camara	Y	Fitzpat	NO	Johns	Y	Mayer	Y	Pretlow	Y	Simanow	Y		

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A00644 Memo:

BILL NUMBER:A644D

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. 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 wellbeing 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,6234/S.687, 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
1/6/10 A.3233-A, died in Senate
2/9/10 - A.3233B/S.6877 (Parker), Passed Assembly, delivered to Senate, referred to Senate Children and Families Committee
6/24/10 - A.3233B/S.6877 (Parker), passed Senate, returned to Assembly
9/20/10 - A.3233B/S.6877 (Parker), delivered to Governor
10/1/10 A.3233B/S.6877 (Parker), vetoed, memo 6619

FISCAL IMPLICATIONS FOR STATE AND LOCAL GOVERNMENTS: To be determined.

EFFECTIVE DATE: April 1, 2013

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A00644 Text:

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

644--D

Cal. No. 40

2011-2012 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 5, 2011

Introduced by M. of A. CLARK, SCARBOROUGH, TITUS, PAULIN, JACOBS, HEASTIE, BENEDETTO, PEOPLES-STOKES, N. RIVERA, COLTON, CANESTRARI, GALEF, PERRY, BOYLAND, BUTLER, ROBINSON, ARROYO, JAFFEE, COOK, BARRON, GIBSON, KAVANAGH, P. RIVERA, ROSENTHAL, CASTRO, ORTIZ, MENG, ABINANTI, GABRYSZAK, LINARES, ROBERTS, WEPRIN -- Multi-Sponsored by -- M. of A. CAHILL, CALHOUN, CAMARA, CROUCH, FARRELL, FINCH, GANTT, GOODELL, GOTTFRIED, HIKIND, LATIMER, LIFTON, LUPARDO, McENENY, McKEVITT, McLAUGHLIN, J. MILLER, MILLMAN, MURRAY, REILLY, SAYWARD, SWEENEY, WEISENBERG, WRIGHT -- read once and referred to the Committee on Children and Families -- reported and referred to the Committee on Codes -- reported and referred to the Committee on Ways and Means -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- advanced to a third reading, amended and ordered reprinted, retaining its place on the order of third reading -- again amended on third reading, ordered reprinted, retaining its place on the order of third reading -- again amended on third reading, 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 ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Subtitle B of title 3 of article 19-G of the executive law is REPEALED.

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

ARTICLE 19-I

INDEPENDENT OFFICE OF THE CHILD ADVOCATE

SECTION 533. INDEPENDENT OFFICE OF THE CHILD ADVOCATE; CREATION.
534. DEFINITIONS.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

LBD01331-08-2

535. THE CHILD ADVOCATE.
536. DUTIES OF THE CHILD ADVOCATE.
537. POWERS OF THE INDEPENDENT OFFICE OF THE CHILD ADVOCATE.
538. DUTY TO MAINTAIN CONFIDENTIALITY.
539. ADDITIONAL PROVISIONS.

S 533. INDEPENDENT OFFICE OF THE CHILD ADVOCATE; CREATION. THERE IS HEREBY CREATED IN THE EXECUTIVE DEPARTMENT, AN INDEPENDENT OFFICE OF THE CHILD ADVOCATE, WHICH SHALL:

1. EXAMINE, EVALUATE AND REPORT TO THE GOVERNOR AND THE LEGISLATURE ON:

(A) PARTICULAR AND SYSTEMIC ISSUES IN PUBLICLY FUNDED PROGRAMS OVERSEEN BY ANY EXECUTIVE AGENCY WITH CUSTODY OF CHILDREN; AND

(B) MULTI-SYSTEMIC ISSUES THAT CHILDREN IN THE CARE, CUSTODY OR GUARDIANSHIP OF ANY STATE AGENCY THAT HAS CUSTODY OF CHILDREN OR A LOCAL SOCIAL SERVICES DISTRICT, AND THE FAMILIES OF SUCH CHILDREN EXPERIENCE IN ACCESSING NEEDED SERVICES ACROSS SYSTEMS; AND

2. ADVOCATE FOR, AND REPORT TO THE GOVERNOR AND THE LEGISLATURE ON SUGGESTED STATUTORY, REGULATORY OR POLICY CHANGES AIMED AT IMPROVING OUTCOMES AND SERVICES FOR CHILDREN AND THEIR FAMILIES IN NEW YORK STATE.

S 534. DEFINITIONS. AS USED IN THIS ARTICLE:

1. "CHILD" OR "CHILDREN" MEANS:

(A) A PERSON, OR PERSONS UNDER THE AGE OF EIGHTEEN; OR

(B) A PERSON OR PERSONS UNDER THE AGE OF TWENTY-ONE WHO HAS BEEN PLACED INTO THE CARE, CUSTODY, OR GUARDIANSHIP OF ANY STATE AGENCY THAT HAS CUSTODY OF CHILDREN OR A LOCAL SOCIAL SERVICES DISTRICT PURSUANT TO ARTICLE THREE, SEVEN OR TEN OF THE FAMILY COURT ACT OR SECTION THREE HUNDRED FIFTY-EIGHT-A, THREE HUNDRED EIGHTY-THREE-C, THREE HUNDRED EIGHTY-FOUR-A OR THREE HUNDRED EIGHTY-FOUR-B OF THE SOCIAL SERVICES LAW; OR

(C) A PERSON OR PERSONS UNDER THE AGE OF TWENTY-ONE WHO IS PLACED IN RESIDENTIAL CARE AS DEFINED IN SECTION FOUR HUNDRED TWELVE OF THE SOCIAL SERVICES LAW.

2. "CHILD ADVOCATE" MEANS THE PERSON APPOINTED PURSUANT TO SUBDIVISION ONE OF SECTION FIVE HUNDRED THIRTY-FIVE OF THIS ARTICLE TO DIRECT AND OVERSEE THE ACTIVITIES OF THE INDEPENDENT OFFICE OF THE CHILD ADVOCATE.

S 535. THE CHILD ADVOCATE. 1. THE CHILD ADVOCATE SHALL BE AN INDIVIDUAL WITH AT LEAST FIVE YEARS EXPERIENCE IN THE GENERAL SUBJECT AREA OF EITHER CHILD WELFARE, JUVENILE JUSTICE OR CHILDHOOD BEHAVIORAL HEALTH, WHO SHALL BE APPOINTED BY THE GOVERNOR.

2. THE CHILD ADVOCATE MAY HIRE OR APPOINT PERSONS AS MAY BE DEEMED NECESSARY TO CARRY OUT THE DUTIES OF THE INDEPENDENT OFFICE OF THE CHILD ADVOCATE. THE DUTIES OF PERSONS EMPLOYED OR APPOINTED BY THE CHILD ADVOCATE SHALL BE PERFORMED UNDER THE ADVICE AND SUPERVISION OF THE CHILD ADVOCATE. PERSONS EMPLOYED OR APPOINTED BY THE INDEPENDENT OFFICE OF THE CHILD ADVOCATE SHALL BE INDIVIDUALS WITH EXPERTISE IN THE AREAS OF CHILD WELFARE, JUVENILE JUSTICE, CHILDHOOD BEHAVIORAL HEALTH, FOSTER CARE, PREVENTIVE SERVICES, OR CHILD CARE, AS EVIDENCED BY EXPERTISE IN THE FIELD, PRACTICE, ADVOCACY OR BY ACADEMIC BACKGROUND, THE LEVEL AND SUFFICIENCY OF WHICH SHALL BE DETERMINED BY THE CHILD ADVOCATE. THE CHILD ADVOCATE SHALL FIX THE COMPENSATION OF PERSONS EMPLOYED OR APPOINTED BY THE INDEPENDENT OFFICE OF THE CHILD ADVOCATE WITHIN AMOUNTS APPROPRIATED THEREFOR.

S 536. DUTIES OF THE CHILD ADVOCATE. 1. THE CHILD ADVOCATE SHALL:

(A) EXAMINE, EVALUATE, INVESTIGATE AND REPORT TO THE GOVERNOR AND THE LEGISLATURE ON PARTICULAR AND SYSTEMIC ISSUES IN PUBLICLY FUNDED PROGRAMS OVERSEEN BY A STATE AGENCY THAT HAS CUSTODY OF CHILDREN AND

LOCAL SOCIAL SERVICES DISTRICTS, INCLUDING BUT NOT LIMITED TO CHILD WELFARE, JUVENILE JUSTICE, FOSTER CARE, CHILD PROTECTIVE, CHILD CARE AND PREVENTATIVE SERVICES; AND

(B) EXAMINE, EVALUATE, INVESTIGATE AND REPORT TO THE GOVERNOR AND THE LEGISLATURE ON MULTI-SYSTEMIC ISSUES THAT CHILDREN IN THE CARE, CUSTODY OR GUARDIANSHIP OF A STATE AGENCY THAT HAS CUSTODY OF CHILDREN OR A LOCAL SOCIAL SERVICES DISTRICT, AND THE FAMILIES OF SUCH CHILDREN, EXPERIENCE IN ACCESSING NEEDED SERVICES ACROSS SYSTEMS; AND

(C) MONITOR THE IMPLEMENTATION OF THE POLICIES, REGULATIONS AND STATUTES OF STATE AGENCIES WHICH MAY BE APPLICABLE TO THE LEGAL RIGHTS OF CHILDREN IN THE CARE, CUSTODY OR GUARDIANSHIP OF A STATE AGENCY THAT HAS CUSTODY OF CHILDREN OR A LOCAL SOCIAL SERVICES DISTRICT, OR THE FAMILIES OF SUCH CHILDREN; AND

(D) MONITOR THE IMPLEMENTATION OF POLICIES, REGULATIONS AND STATUTES WHICH MAY HAVE AN IMPACT ON PUBLICLY FUNDED PROGRAMS OVERSEEN BY THE OFFICE OF CHILDREN AND FAMILY SERVICES, INCLUDING BUT NOT LIMITED TO CHILD WELFARE, JUVENILE JUSTICE, FOSTER CARE, CHILD PROTECTIVE, CHILD CARE AND PREVENTATIVE SERVICES; AND

(E) RECOMMEND CHANGES IN STATE POLICIES, STATUTES AND REGULATIONS CONCERNING CHILDREN IN THE CARE, CUSTODY OR GUARDIANSHIP OF A STATE AGENCY THAT HAS CUSTODY OF CHILDREN OR A LOCAL SOCIAL SERVICES DISTRICT, AND THE FAMILIES OF SUCH CHILDREN; AND

(F) RECOMMEND CHANGES IN STATE POLICIES, STATUTES, AND REGULATIONS CONCERNING PUBLICLY FUNDED PROGRAMS THAT SERVICE CHILDREN AND FAMILIES, INCLUDING BUT NOT LIMITED TO CHILD WELFARE, JUVENILE JUSTICE, FOSTER CARE, CHILD PROTECTIVE, CHILD CARE AND PREVENTATIVE SERVICES, ADMINISTERED BY A STATE AGENCY THAT HAS CUSTODY OF CHILDREN OR LOCAL SOCIAL SERVICES DISTRICTS; AND

(G) TAKE APPROPRIATE ACTIONS AIMED AT PROMOTION OF THE RIGHTS, SAFETY, WELL-BEING, AND BEST INTERESTS OF CHILDREN IN NEW YORK STATE, INCLUDING, BUT NOT LIMITED TO, UNDERTAKING LEGISLATIVE ADVOCACY, CONDUCTING PUBLIC HEARINGS AND MAKING PROPOSALS FOR ADMINISTRATIVE OR SYSTEMIC REFORM; AND

(H) PROVIDE ADMINISTRATIVE SUPERVISION AND OVERSIGHT TO THE INDEPENDENT OFFICE OF THE CHILD ADVOCATE AND DEVOTE FULL-TIME TO THE DUTIES OF HIS OR HER OFFICE; AND

(I) CONDUCT PERIODIC INSPECTIONS, EVALUATIONS OR REVIEWS OF ANY FACILITY OPERATED BY A STATE AGENCY THAT HAS CUSTODY OF CHILDREN AT ANY TIME, WITH OR WITHOUT PRIOR NOTICE. FACILITY DIRECTORS AND STAFF SHALL COOPERATE WITH SUCH INSPECTION, EVALUATION OR REVIEW. AN ADVOCATE SHALL HAVE THE RIGHT TO INSPECT THE FACILITY, VISIT ALL AREAS AND OBSERVE ALL PARTS AND ASPECTS OF SUCH FACILITY PROGRAM; AND

(J) REPORT TO THE GOVERNOR AND THE LEGISLATURE AS NEEDED, BUT NOT LESS THAN TWICE PER YEAR. SUCH REPORT SHALL BE MADE AVAILABLE TO THE PUBLIC, UNLESS SUCH MATERIALS ARE CONFIDENTIAL PURSUANT TO STATUTE, AND SHALL INCLUDE BUT NOT BE LIMITED TO:

(A) INFORMATION CONCERNING THE NUMBER AND TYPES OF REVIEWS, EVALUATIONS AND INVESTIGATIONS CONDUCTED BY THE INDEPENDENT OFFICE OF THE CHILD ADVOCATE; AND

(B) ANY RECOMMENDATIONS BY THE CHILD ADVOCATE FOR LEGISLATIVE, REGULATORY, OR PUBLIC POLICY CHANGES.

2. IF AFTER EXAMINATION PURSUANT TO SUBDIVISION ONE OF THIS SECTION, THE CHILD ADVOCATE IDENTIFIES A SYSTEMIC PROBLEM IN HOW SERVICES ARE PROVIDED TO CHILDREN IN THE CARE, CUSTODY, OR GUARDIANSHIP OF A STATE AGENCY THAT HAS CUSTODY OF CHILDREN OR A LOCAL SOCIAL SERVICES DISTRICT, BY A STATE AGENCY THAT HAS CUSTODY OF CHILDREN, OR A LOCAL SOCIAL SERVICES DISTRICT, OR ANY PUBLIC OR PRIVATE ENTITY WHICH CONTRACTS WITH

THE OFFICE OF CHILDREN AND FAMILY SERVICES OR A LOCAL SOCIAL SERVICES DISTRICT TO PROVIDE SERVICES TO SUCH CHILDREN, THE CHILD ADVOCATE SHALL PROVIDE SUCH OFFICE, DISTRICT, AGENCY OR ENTITY A WRITTEN REPORT OUTLINING THE FINDINGS AND RECOMMENDATIONS OF THE CHILD ADVOCATE.

(A) AN OFFICE, DISTRICT, AGENCY OR ENTITY NAMED IN A REPORT BY THE CHILD ADVOCATE AS DESCRIBED IN THIS SUBDIVISION SHALL HAVE THE OPTION TO RESPOND IN WRITING TO THE CHILD ADVOCATE'S FINDINGS, PROVIDED HOWEVER THAT SUCH WRITTEN RESPONSE MUST BE ISSUED WITHIN NINETY DAYS OF SUCH OFFICE, DISTRICT, AGENCY OR ENTITY'S RECEIPT OF THE APPLICABLE REPORT BY THE CHILD ADVOCATE.

(B) WITHIN THIRTY DAYS AFTER THE RECEIPT OF A RESPONSE FROM AN OFFICE, DISTRICT, AGENCY OR ENTITY AS DESCRIBED IN THIS SUBDIVISION, THE CHILD ADVOCATE SHALL ISSUE SUCH RESPONSE, AND THE REPORT ISSUED BY THE CHILD ADVOCATE PURSUANT TO THIS SUBDIVISION, TO THE GOVERNOR AND THE LEGISLATURE.

(C) IF A RESPONSE OR A WRITTEN REQUEST FOR AN ADDITIONAL THIRTY DAYS WITH AN EXPLANATION IS NOT RECEIVED BY THE CHILD ADVOCATE WITHIN NINETY DAYS FROM THE DATE THAT THE CHILD ADVOCATE SENT SUCH REPORT TO SUCH OFFICE, DISTRICT, AGENCY OR ENTITY, THE CHILD ADVOCATE SHALL PROVIDE SUCH REPORT TO THE GOVERNOR AND THE LEGISLATURE WITH A NOTICE STATING THAT SUCH OFFICE, DISTRICT, AGENCY OR ENTITY FAILED TO ISSUE A TIMELY WRITTEN RESPONSE TO THE REPORT BY THE CHILD ADVOCATE.

S 537. POWERS OF THE INDEPENDENT OFFICE OF THE CHILD ADVOCATE. NOTWITHSTANDING ANY PROVISION OF LAW OR REGULATION TO THE CONTRARY, THE INDEPENDENT OFFICE OF THE CHILD ADVOCATE SHALL HAVE ACCESS TO, INCLUDING THE RIGHT TO INSPECT AND COPY, ANY RECORDS NECESSARY TO CARRY OUT ITS RIGHTS, POWERS AND DUTIES PURSUANT TO THIS ARTICLE, INCLUDING BUT NOT LIMITED TO, PERSONNEL RECORDS THAT BEAR ON ANY ISSUE BEING REVIEWED, EVALUATED, OR INVESTIGATED AND RECORDS OF CHILDREN UNDER THE CARE OF A STATE AGENCY THAT HAS CUSTODY OF CHILDREN OR A LOCAL SOCIAL SERVICES DISTRICT THAT BEAR ON ANY ISSUE BEING REVIEWED, EVALUATED, OR INVESTIGATED. THE INDEPENDENT OFFICE OF THE CHILD ADVOCATE SHALL ALSO HAVE THE AUTHORITY TO SUBPOENA RECORDS AND WITNESSES, AND TO CONDUCT INTERVIEWS WITH ANY PERSON NECESSARY TO CARRY OUT ITS RIGHTS, POWERS AND DUTIES PURSUANT TO THIS ARTICLE, INCLUDING BUT NOT LIMITED TO STAFF AND CHILDREN UNDER CARE OF THE OFFICE OF CHILDREN AND FAMILY SERVICES OR A LOCAL SOCIAL SERVICES DISTRICT.

S 538. DUTY TO MAINTAIN CONFIDENTIALITY. ALL RECORDS OF THE INDEPENDENT OFFICE OF THE CHILD ADVOCATE PERTAINING TO THE FULFILLMENT OF THE CHILD ADVOCATE'S RIGHTS, POWERS AND DUTIES PURSUANT TO THIS ARTICLE, AND

41 ALL RECORDS OBTAINED BY THE CHILD ADVOCATE SHALL BE KEPT CONFIDENTIAL,
42 PROVIDED HOWEVER, THAT LIMITED INFORMATION CONTAINED IN SUCH RECORDS MAY
43 BE RELEASED BY THE CHILD ADVOCATE, IF APPROPRIATE, AND UPON APPROVAL OF
44 THE CHILD ADVOCATE, SO LONG AS THE INFORMATION TO BE RELEASED WOULD NOT
45 IDENTIFY THE CHILD OR CHILDREN THE CHILD ADVOCATE WAS SERVING OR THE
46 NAMES OF THE PARENTS OR SIBLINGS OF SUCH CHILD OR CHILDREN.
47 S 539. ADDITIONAL PROVISIONS. 1. THE STATE SHALL PROTECT AND HOLD
48 HARMLESS ANY PERSON EMPLOYED OR APPOINTED BY THE CHILD ADVOCATE, FROM
49 FINANCIAL LOSS AND EXPENSE, INCLUDING LEGAL FEES AND COSTS, IF ANY,
50 ARISING OUT OF ANY CLAIM, DEMAND OR SUIT FOR DAMAGES RESULTING FROM ACTS
51 OR OMISSIONS COMMITTED IN THE DISCHARGE OF HIS OR HER RIGHTS, POWERS AND
52 DUTIES WITHIN THE SCOPE OF HIS OR HER EMPLOYMENT OR APPOINTMENT WHICH
53 MAY CONSTITUTE NEGLIGENCE BUT WHICH ACTS ARE NOT WANTON, MALICIOUS OR
54 GROSSLY NEGLIGENT AS DETERMINED BY A COURT OF COMPETENT JURISDICTION.
55 2. NO STATE OR LOCAL AGENCY, DEPARTMENT, OFFICE, OR ENTITY SHALL
56 DISCHARGE, OR IN ANY MANNER DISCRIMINATE OR RETALIATE AGAINST, ANY

1 PERSON WHO IN GOOD FAITH MAKES A COMPLAINT TO, OR COOPERATES WITH, THE
2 CHILD ADVOCATE IN A REVIEW OR EVALUATION CONDUCTED BY THE CHILD ADVO-
3 CATE. NO EMPLOYEE OF ANY STATE OR LOCAL DEPARTMENT OR OFFICE OR OF ANY
4 PRIVATE ENTITY SHALL RETALIATE AGAINST ANY PERSON WHO MAKES A COMPLAINT
5 TO, OR WHO COOPERATES WITH THE INDEPENDENT OFFICE OF THE CHILD ADVOCATE
6 IN A REVIEW, INVESTIGATION OR EVALUATION CONDUCTED BY THE INDEPENDENT
7 OFFICE OF THE CHILD ADVOCATE.
8 3. ALL COMMUNICATIONS TO THE INDEPENDENT OFFICE OF THE CHILD ADVOCATE
9 SHALL REMAIN CONFIDENTIAL. ANY COMPLAINT FILED BY ANY PERSON WITH THE
10 INDEPENDENT OFFICE OF THE CHILD ADVOCATE SHALL REMAIN CONFIDENTIAL.
11 4. ALL YOUTH RESIDING IN A JUVENILE JUSTICE FACILITY SHALL BE PERMIT-
12 TED REASONABLE ACCESS TO A TELEPHONE TO MAKE A TOLL FREE CALL OR SHALL
13 BE SUPPLIED WRITING MATERIALS IN ORDER TO WRITE LETTERS TO THE INDEPEND-
14 ENT OFFICE OF THE CHILD ADVOCATE UPON THE YOUTH'S REQUEST. ANY COMMUNI-
15 CATIONS BETWEEN SUCH YOUTH AND THE INDEPENDENT OFFICE OF THE CHILD ADVO-
16 CATE SHALL REMAIN CONFIDENTIAL AND SHALL NOT BE MONITORED BY ANY MEMBER
17 OF THE FACILITY'S STAFF.
18 5. THE INDEPENDENT OFFICE OF THE CHILD ADVOCATE MAY APPLY FOR AND
19 ACCEPT GRANTS, GIFTS AND BEQUESTS OF FUNDS FROM PRIVATE INDIVIDUALS AND
20 FOUNDATIONS FOR THE PURPOSE OF CARRYING OUT STUDIES UNDER THIS ARTICLE.
21 THE FUNDS SHALL BE EXPENDED IN ACCORDANCE WITH THE PROVISIONS OF SUCH
22 GRANT, GIFT OR BEQUEST.
23 6. THE CHILD ADVOCATE SHALL TAKE ALL POSSIBLE ACTIONS INCLUDING, BUT
24 NOT LIMITED TO, CONDUCTING PROGRAMS OF PUBLIC EDUCATION, UNDERTAKING
25 LEGISLATIVE ADVOCACY AND MAKING PROPOSALS FOR ADMINISTRATIVE CORRECTION
26 OR REFORM AND FORMAL LEGAL ACTION, IN ORDER TO SECURE AND ENSURE THE
27 LEGAL, CIVIL AND SPECIAL RIGHTS OF CHILDREN.
28 7. THE CHILD ADVOCATE SHALL TAKE THE APPROPRIATE STEPS TO MAKE THE
29 EXISTENCE AND AVAILABILITY OF THE CHILD ADVOCATE WIDELY KNOWN, BY APPRO-
30 PRIATE AND ACTIVE MEANS, TO CHILDREN AND ADULTS.
31 S 3. Subdivision 16 of section 501 of the executive law, as renumbered
32 by chapter 170 of the laws of 1994, is renumbered subdivision 17 and a
33 new subdivision 16 is added to read as follows:
34 16. THE COMMISSIONER OF THE OFFICE OF CHILDREN AND FAMILY SERVICES
35 SHALL PROMULGATE REGULATIONS REQUIRING THAT NO SERVICES, FACILITIES,
36 ENTITIES OR PROGRAMS UNDER THE JURISDICTION OF A STATE AGENCY THAT HAS
37 CUSTODY OF CHILDREN SHALL RESTRICT OR PROHIBIT ACCESS TO FACILITIES,
38 RECORDS OR INDIVIDUALS TO THE INDEPENDENT OFFICE OF THE CHILD ADVOCATE
39 UPON REQUEST, UNLESS THE DISCLOSURE OF SUCH RECORDS ARE OTHERWISE
40 PROHIBITED BY FEDERAL LAW OR REGULATION.
41 S 4. This act shall take effect April 1, 2013; provided, however, that
42 effective immediately, the addition, amendment and/or repeal of any rule
43 or regulation necessary for the implementation of this act on its effec-
44 tive date are authorized and directed to be made and completed on or
45 before the effective date.

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