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H.215

Introduced by Representatives Noyes of Wolcott and Pugh of South

Burlington

Referred to Committee on

Date:

Subject: Human services; child welfare; Office of the Child Advocate

Statement of purpose of bill as introduced: This bill proposes to establish the  
Office of the Child Advocate.

An act relating to the Office of the Child Advocate

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. 33 V.S.A. chapter 32 is added to read:

CHAPTER 32. OFFICE OF THE CHILD ADVOCATE

§ 3201. DEFINITIONS

As used in this chapter:

(1) “Agency” means the Agency of Human Services.

(2) “Child Advocate” means an appointed individual who intervenes on  
behalf of a child or family to resolve complaints pursuant to this chapter.

(3) “Office” means the Office of the Child Advocate.

(4) “State agency” means any office, department, board, bureau,  
division, agency, or instrumentality of the State.

1     § 3202. OFFICE OF THE CHILD ADVOCATE

2           (a) The Agency of Administration shall establish the Office of the Child  
3     Advocate by contract with any nonprofit organization for the purpose of  
4     protecting and advancing the interests of Vermont's children and families.  
5     Notwithstanding administrative support from the Agency of Administration,  
6     the Office shall act independently of any State agency in the performance of its  
7     duties.

8           (b) The Office shall be directed by the Child Advocate, an individual with a  
9     professional degree in law, social work, public health, or a related field, and  
10    shall be qualified by reason of education, expertise, and experience. The Child  
11    Advocate shall serve on a full-time basis and shall be exempt from classified  
12    service.

13          (c)(1) The Vermont Citizen's Advisory Board (VCAB) shall recommend  
14    qualified applicants for the position of Child Advocate to the Governor for  
15    consideration. Subject to confirmation by the Senate, the Governor shall  
16    appoint a Child Advocate from among those applicants recommended by  
17    VCAB for a term of four years. The appointment for Child Advocate shall be  
18    made without regard to political affiliation and on the basis of integrity and  
19    demonstrated ability. The Child Advocate shall hold his or her office until  
20    reappointed or until his or her successor is appointed.

1           (2) The Governor, upon a majority vote of VCAB, may remove the  
2           Child Advocate for cause, which includes only neglect of duty, gross  
3           misconduct, conviction of a crime, or inability to perform the responsibilities  
4           of the office. The Governor's reason for removing the Child Advocate shall be  
5           published electronically on the website of the Office of the Child Advocate and  
6           the Speaker of the House and President Pro Tempore shall simultaneously  
7           receive notification. Any vacancy shall be filled by the appointment process  
8           set forth in subdivision (1) of this subsection for the remainder of the  
9           unexpired term.

10           (d) The Child Advocate shall appoint a Deputy Child Advocate, whose  
11           duties shall be performed at the direction of the Child Advocate.

12           (e) Upon any vacancy in the position of the Child Advocate, and until such  
13           time as a replacement is appointed and confirmed, the Deputy Child Advocate  
14           shall serve as the acting Child Advocate. The acting Child Advocate shall  
15           have the full responsibilities of the Child Advocate and entitled to the same  
16           compensation as the outgoing Child Advocate.

17           § 3203. RESPONSIBILITIES OF THE OFFICE

18           The Office shall:

19           (1) identify, investigate, and resolve complaints on behalf of children  
20           and families receiving services from the Agency and assist service recipients  
21           with the filing and pursuit of complaints and appeals;

1           (2) develop and implement a uniform reporting system to collect and  
2           analyze complaints relating to services the Agency provided to children and  
3           families as well as complaints relating to conditions and placements in  
4           facilities serving children;

5           (3) support recipients of children's and family services by providing  
6           assistance with obtaining services and information about recipients' related  
7           rights and responsibilities;

8           (4) analyze and monitor the development and implementation of federal,  
9           State, and local laws, regulations, and policies relating to child welfare and  
10          providers of child and family services and recommend changes when  
11          appropriate;

12          (5) provide information concerning child welfare to the public, State  
13          agencies, legislators, and others, as necessary;

14          (6) establish by rule procedures for protecting the confidentiality of  
15          clients;

16          (7) establish by rule qualifications and training for employees of the  
17          Office and monitor their performance;

18          (8) train persons and organizations in advocating for the interests of  
19          Vermont's children and families;

20          (9) notwithstanding 2 V.S.A. § 20(d), submit to the General Assembly  
21          and the Governor on or before January 15 of each year a report addressing;

1           (A) child welfare in Vermont;

2           (B) the quality of services that the Agency provides to children and  
3 families;

4           (C) complaints relating to services provided by the Agency to  
5 children and families;

6           (D) conditions of placements for children in Vermont; and

7           (E) recommendations related to improving services for children and  
8 families; and

9           (10) perform such other activities on behalf of Vermont's children and  
10 families as the Office deems necessary.

11   § 3204. AUTHORITY OF THE CHILD ADVOCATE

12           In fulfilling the responsibilities of the Office, the Child Advocate may:

13           (1) Hire or contract with persons or organizations to fulfill the purposes  
14 of this chapter.

15           (2) Issue subpoenas when necessary to an investigation.

16           (3) Communicate and visit with any child or family member receiving  
17 services from the Agency, provided that the Child Advocate first obtain  
18 permission from the child's guardian or legal representative. Facilities and  
19 providers delivering services to children shall permit the Child Advocate  
20 access to their facilities and to children for whom they provide services.

1           (4) Pursue administrative, judicial, or other remedies on behalf of a child  
2           or family receiving services from the Agency, including access orders from a  
3           District or Superior Court judge when access under subdivision (3) of this  
4           section has been unreasonably denied and all other reasonable attempts to gain  
5           access have failed.

6           (5) Represent the interests of a child or family receiving services from  
7           the Agency before the Human Services Board pursuant to 3 V.S.A. §§ 3090  
8           and 3091.

9           (6) Delegate to employees any part of the Child Advocate's authority.

10          (7) Adopt rules necessary to carry out the provisions of this chapter.

11          (8) Take such further actions as are necessary in order to fulfill the  
12          purposes of this chapter.

13          § 3205. COOPERATION OF STATE AGENCIES

14          (a) All State agencies shall comply with reasonable requests of the Child  
15          Advocate for information and assistance.

16          (b) The Secretary of Human Services may adopt rules necessary to ensure  
17          the departments within the Agency cooperate with the Office.

18          § 3206. CONFIDENTIALITY

19          In the absence of a court order or the written consent of the guardian or  
20          legal representative of a child about whom a concern has been raised, the Child  
21          Advocate shall not disclose the identity of the child.

1     § 3207. IMMUNITY

2             No civil liability shall attach to the Child Advocate or his or her employees  
3     for good faith performance of the duties imposed by this chapter.

4     § 3208. INTERFERENCE AND RETALIATION

5             (a) A person who intentionally hinders a representative of the Office acting  
6     pursuant to this chapter shall be imprisoned not more than one year or fined  
7     not more than \$5,000.00, or both.

8             (b) A person who takes discriminatory, disciplinary, or retaliatory action  
9     against an employee or a volunteer of a State agency, facility, or provider  
10    servicing children for any communication made or information disclosed to aid  
11    the Office in carrying out its duties and responsibilities shall be imprisoned not  
12    more than one year or fined not more than \$5,000.00, or both. Any employee  
13    or volunteer of a State agency, facility, or provider may seek damages in  
14    Superior Court against a person who takes an action prohibited by this  
15    subsection.

16    § 3209. CONFLICT OF INTEREST

17             The Child Advocate and his or her employees and contractors shall not have  
18    any conflict of interest relating to the performance of their responsibilities  
19    under this chapter. For the purposes of this section, a conflict of interest exists  
20    whenever the Child Advocate or his or her employees or contractors:

1           (1) has direct involvement in the licensing, certification, or accreditation  
2           of a provider or facility delivering services to children and families;

3           (2) has a direct ownership interest in a provider or facility delivering  
4           services to children and families;

5           (3) is employed by or participates in the management of a provider or  
6           facility delivering services to children and families; or

7           (4) receives or has the right to receive, directly or indirectly,  
8           remuneration under a compensation arrangement with a provider or facility  
9           delivering services to children and families.

10       Sec. 2. EFFECTIVE DATE

11       This act shall take effect on July 1, 2019.