

2023 Regular Session

SENATE BILL NO. 137

BY SENATORS BARROW, BOUDREAUX, CARTER, HENSGENS, LUNEAU,
MCMATH, FRED MILLS, MIZELL AND POPE

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

CHILDREN. Creates the Office of Child Advocacy and the state child advocate. (8/1/23)

1 AN ACT

2 To amend and reenact R.S. 44:4.1(B)(34) and to enact R.S. 36:4.1(C)(16), R.S.

3 40:2019(C)(23), and R.S. 49:210.1, relative to the Office of Child Advocacy; to

4 provide for the Office of Child Advocacy within the office of the governor; to

5 provide for the state child advocate; to provide for the duties of the office; to provide

6 for the duties of state agencies; to provide for access to certain records; to provide

7 for confidentiality of certain records and an exception to the Public Records Law; to

8 prohibit retaliation by certain parties; and to provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 36:4.1(C)(16) is hereby enacted to read as follows:

11 §4.1. Agencies transferred from the Department of Economic Development to the

12 office of the governor; agencies placed within the office of the

13 governor

14 * * *

15 C. The following agencies are hereby transferred to and shall be placed

16 within the office of the governor and shall perform and exercise their powers, duties,

17 functions, and responsibilities as provided in R.S. 36:803:

1 * * *

2 **(16) Office of Child Advocacy (R.S. 49:210.1).**

3 * * *

4 Section 2. R.S. 40:2019(C)(23) is hereby enacted to read as follows:

5 §2019. Child death investigation

6 * * *

7 C. Child Death Review Panel. There is established within the Louisiana
8 Department of Health the Louisiana State Child Death Review Panel, hereinafter
9 referred to as the "state panel", which shall be composed of ~~twenty-seven~~ **twenty-**
10 **eight** persons. Members of the panel shall include:

11 * * *

12 **(23) The state child advocate or his designee.**

13 * * *

14 Section 3. R.S. 44:4.1(B)(34) is hereby amended and reenacted to read as follows:

15 §4.1. Exceptions

16 * * *

17 B. The legislature further recognizes that there exist exceptions, exemptions,
18 and limitations to the laws pertaining to public records throughout the revised
19 statutes and codes of this state. Therefore, the following exceptions, exemptions, and
20 limitations are hereby continued in effect by incorporation into this Chapter by
21 citation:

22 * * *

23 (34) R.S. ~~49:220.25~~, **R.S. 49:210.1, 220.25**, 956, 997, 1055

24 * * *

25 Section 4. R.S. 49:210.1 is hereby enacted to read as follows:

26 **§210.1. Office of Child Advocacy; state child advocate; duties**

27 **A. The Office of Child Advocacy is hereby created, within the office of**
28 **the governor, to act as an independent ombudsman agency monitoring and**
29 **evaluating the public and private agencies involved in the protection of children,**

1 reviewing state policies and procedures to ensure they protect children's rights
2 and promote their best interest, and safeguarding the welfare of children
3 through educational advocacy, system reform, public awareness, training, and
4 legal representation of children.

5 B.(1) The chief officer of the Office of Child Advocacy shall be the state
6 child advocate. The state child advocate shall be appointed by the governor,
7 shall be submitted to the Senate for confirmation, and shall have knowledge of
8 the child welfare system and the legal system. No person shall be appointed to
9 serve as state child advocate unless that person is qualified by training and
10 experience to perform the duties of the office as provided for in this Section.

11 (2) The state child advocate shall serve at the pleasure of the governor
12 at a salary fixed by the governor, which shall not exceed the amount approved
13 for the position by the legislature while in session.

14 C. Notwithstanding any other provision of law to the contrary, the
15 Office of Child Advocacy and the state child advocate shall act independently
16 of any state department in the performance of their duties.

17 D. The state child advocate may, within available funds appropriated for
18 the Office of Child Advocacy, employ any staff deemed necessary. The duties
19 of the staff may include the duties and powers of the state child advocate if
20 performed under the direction of the state child advocate.

21 E. The Office of Child Advocacy shall have all of the following duties
22 and responsibilities:

23 (1) Evaluate the delivery of services to children by state agencies and
24 those entities that provide services to children through funds provided by the
25 state.

26 (2) Review periodically the procedures established by any state agency
27 providing services to children, with a view toward the rights of the children and
28 recommend revisions to the procedures.

29 (3) Review complaints of persons concerning the actions of any state

1 agency providing services to children and of any entity that provides services
2 to children through funds provided by the state, make appropriate referrals,
3 and investigate when the state child advocate determines that a child or family
4 may be in need of assistance from the Office of Child Advocacy or that a
5 systemic issue in the state's provision of services to children is raised by the
6 complaint.

7 (4) Provide support to a child or family, including but not limited to
8 advocating with an agency, provider, or others on behalf of the best interests of
9 the child.

10 (5) Periodically review the facilities and procedures of any institutions
11 or residences, public or private, where a juvenile has been placed by any state
12 agency or department.

13 (6) Recommend changes in state policies concerning children including
14 changes in the system of providing juvenile justice, child care, foster care, and
15 access to physical and mental health treatment.

16 (7) Take all possible action, including but not limited to conducting
17 programs of public education, undertaking legislative advocacy, and making
18 proposals for systemic reform in order to ensure the rights of children who
19 reside in this state.

20 (8) Periodically review the number of special needs children in any foster
21 care or permanent care facility and recommend changes in the policies and
22 procedures for the placement of special needs children.

23 (9) Serve or designate a person to serve as a member of the child death
24 review panel.

25 (10) Take appropriate steps to advise the public of the services of the
26 Office of Child Advocacy, the purpose of the office, and procedures to contact
27 the office.

28 (11) Prepare a biennial, in-depth report on conditions of confinement
29 regarding children twenty-one years of age or younger who are held in secure

1 detention or correctional confinement in any facility operated by a state agency.

2 (12) Present to the legislature an annual report on the goals of and
3 projects undertaken by the Office of Child Advocacy, within available
4 appropriations, that are consistent with the duties and responsibilities provided
5 for in this Section.

6 F.(1) Any state agency cited in a report issued by the Office of Child
7 Advocacy, pursuant to the duties and responsibilities provided for in this
8 Section, shall submit a written response to the report and recommendations
9 made in the report to the state child advocate, the governor, and the legislature
10 not later than ninety days after receipt of the report and recommendations.

11 (2) Any state agency having responsibility for the custody or care of
12 children shall provide timely notice to the state child advocate of the death of
13 a child or a critical incident involving a child in its custody or care.

14 G.(1) Notwithstanding any provision of law to the contrary, the state
15 child advocate may request and shall have access to, including the right to
16 promptly inspect and copy, any records necessary to carry out the duties and
17 responsibilities of the Office of Child Advocacy as provided for in this Section.
18 The records shall be provided to the state child advocate not later than fourteen
19 days from the date of the request. If the state child advocate is denied access to
20 any records necessary to carry out the duties and responsibilities provided for
21 in this Section, the state child advocate may seek a subpoena for the production
22 of the records.

23 (2) In the performance of his duties and responsibilities provided for in
24 this Section, the state child advocate may communicate privately with any child
25 or person who has received, is receiving, or should have received services from
26 the state. The communications shall be confidential and not subject to
27 disclosure, except as provided in Subsection I of this Section.

28 H. The state child advocate may apply for and accept grants, gifts, and
29 bequests of funds from other states, federal and interstate agencies, independent

1 authorities, private firms, individuals, and foundations for the purpose of
 2 carrying out the duties and responsibilities of the Office of Child Advocacy
 3 pursuant to this Section.

4 I. The name, address, and other personally identifiable information of
 5 a person who makes a complaint to the Office of Child Advocacy, all
 6 information obtained or generated by the office in the course of an
 7 investigation, and all confidential records obtained by the state child advocate
 8 or a designee shall be confidential and shall not be subject to disclosure, except
 9 that the information and records, other than confidential information
 10 concerning a pending law enforcement investigation or a pending prosecution,
 11 may be disclosed if the state child advocate determines that disclosure is in the
 12 general public interest or necessary to enable the state child advocate to
 13 perform his duties and responsibilities pursuant to this Section. If the state child
 14 advocate determines that disclosure of confidential information is not in the
 15 public interest but is necessary to enable the state child advocate to perform his
 16 duties and responsibilities pursuant to this Section or to identify, prevent, or
 17 treat the abuse or neglect of a child, the state child advocate may disclose the
 18 information to the appropriate agency responsible for the welfare of the child
 19 or the legal representative for the child.

20 J. No state agency or entity providing publicly funded services shall
 21 discharge, or in any manner discriminate or retaliate against, any employee who
 22 in good faith makes a complaint to the state child advocate or cooperates with
 23 the Office of Child Advocacy in an investigation.

The original instrument and the following digest, which constitutes no part
 of the legislative instrument, were prepared by Brandi Cannon.

DIGEST

SB 137 Engrossed

2023 Regular Session

Barrow

Proposed law creates the Office of the Child Advocate (office), within the office of the governor, to act as an independent ombudsman agency monitoring and evaluating the public and private agencies involved in the protection of children, and reviewing state policies and procedures to ensure they protect children's rights and promote their best interest. Proposed law further provides for the duties of the office which have the goal of safeguarding the

welfare of children through educational advocacy, system reform, public awareness, training, and legal representation of children.

Proposed law provides for the chief officer of the Office of Child Advocacy to be the state child advocate, who shall be appointed by the governor, shall be submitted to the Senate for confirmation, and shall have knowledge of the child welfare system and the legal system. Proposed law further provides that no person shall be appointed to serve as state child advocate unless that person is qualified by training and experience to perform the duties of the office.

Proposed law provides that the Office of Child Advocacy and the state child advocate shall act independently of any state department in the performance of their duties.

Proposed law provides that the state child advocate shall serve or designate a person to serve as a member of the child death review panel.

Proposed law provides that the state health advocate shall take appropriate steps to advise the public of the services of the Office of Child Advocacy, the purpose of the office, and procedures to contact the office.

Proposed law provides that the office shall prepare the following reports:

- (1) A biennial, in-depth report on conditions of confinement regarding children 21 years of age or younger who are held in secure detention or correctional confinement in any facility operated by a state agency.
- (2) An annual report on the goals of and projects undertaken by the office, within available appropriations, that are consistent with its duties and responsibilities.

Proposed law provides for any state agency cited in a report issued by the office to submit a written response to the state child advocate, the governor, and the legislature not later than 90 days after receipt of the report and recommendations. Proposed law further provides for any state agency having responsibility for the custody or care of children to provide timely notice to the state child advocate of the death of a child or a critical incident involving a child in its custody or care.

Proposed law provides that the state child advocate shall have access to any records necessary to carry out the duties and responsibilities of the Office of Child Advocacy.

Proposed law for confidentiality for conversations between the state child advocate and any child or person who has received, is receiving, or should have received services from the state. Proposed law also provides for the confidentiality of personally identifiable information of a person who makes a complaint to the Office of Child Advocacy, all information obtained or generated by the office in the course of an investigation, and all confidential records obtained by the state child advocate or a designee. Proposed law further provides that certain confidential information may be disclosed if the state child advocate determines that disclosure is in the general public interest or necessary to enable the state child advocate to perform his duties and responsibilities.

Proposed law provides that no state agency or entity providing publicly funded services shall discharge, or in any manner discriminate or retaliate against, any employee who in good faith makes a complaint to the state child advocate or cooperates with the Office of Child Advocacy in an investigation.

Effective August 1, 2023.

(Amends R.S. 44:4.1(B)(34); adds R.S. 36:4.1(C)(16), R.S. 40:2019(C)(23), and R.S. 49:210.1)