**A** **BILL**

TO AMEND CHAPTER 11, TITLE 63 OF THE 1976 CODE, RELATING TO CHILDREN’S SERVICES AGENCIES, BY ADDING ARTICLE 22, TO CREATE THE DEPARTMENT OF CHILDREN’S ADVOCACY, TO PROVIDE THAT THE DEPARTMENT SHALL BE HEADED BY THE STATE CHILD ADVOCATE, TO PROVIDE THAT THE DEPARTMENT SHALL BE COMPRISED OF DEPUTY CHILD ADVOCATES, INVESTIGATORS, AND OTHER STAFF TO BE EMPLOYED AS NECESSARY BY THE STATE CHILD ADVOCATE, TO PROVIDE THAT THE STATE CHILD ADVOCATE IS RESPONSIBLE FOR ENSURING THAT CHILDREN RECEIVE ADEQUATE PROTECTION AND CARE FROM SERVICES OR PROGRAMS OFFERED BY THE DEPARTMENT OF SOCIAL SERVICES, THE DEPARTMENT OF MENTAL HEALTH, THE DEPARTMENT OF HEALTH AND HUMAN SERVICES, THE DEPARTMENT OF JUVENILE JUSTICE, THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL, THE DEPARTMENT OF DISABILITIES AND SPECIAL NEEDS, THE JOHN DE LA HOWE SCHOOL, THE WIL LOU GRAY OPPORTUNITY SCHOOL, AND THE SCHOOL FOR THE DEAF AND BLIND, TO PROVIDE THAT RECORDS ACQUIRED BY THE DEPARTMENT ARE CONFIDENTIAL, TO PROVIDE FOR THE DUTIES AND RESPONSIBILITIES OF THE DEPARTMENT, TO PROVIDE THAT THE STATE CHILD ADVOCATE MAY PERFORM AN INDEPENDENT INVESTIGATION OF A CRITICAL INCIDENT OR REVIEW A COMPLETED CRITICAL INCIDENT INVESTIGATION PERFORMED BY A STATE AGENCY, TO PROVIDE FOR THE PARAMETERS OF AN INVESTIGATION, TO PROVIDE THAT THE DEPARTMENT OF CHILDREN’S ADVOCACY SHALL ESTABLISH A SINGLE, STATEWIDE, TOLL-FREE CHILD ABUSE HOTLINE TO RECEIVE ALL REPORTS OF SUSPECTED CHILD ABUSE OR NEGLECT, AND TO PROVIDE FOR FURTHER PURPOSES AND PUBLICATION OF THE HOTLINE; TO AMEND SECTION 1-3-240(C)(1) OF THE 1976 CODE, RELATING TO THE REMOVAL OF OFFICERS BY THE GOVERNOR, TO ADD THE STATE CHILD ADVOCATE AS A PERSON APPOINTED THAT MAY BE REMOVED BY THE GOVERNOR FOR MALFEASANCE, MISFEASANCE, INCOMPETENCY, ABSENTEEISM, CONFLICTS OF INTEREST, MISCONDUCT, PERSISTENT NEGLECT OF DUTY IN OFFICE, OR INCAPACITY; TO AMEND SECTION 63-7-360 OF THE 1976 CODE, RELATING TO MANDATORY REPORTING TO THE CORONER, TO PROVIDE THAT THE MEDICAL EXAMINER OR CORONER SHALL ACCEPT REPORTS FROM PERSONS REQUIRED TO REPORT SUSPECTED CHILD ABUSE OR NEGLECT AND REPORT HIS FINDINGS TO THE DEPARTMENT OF CHILDREN’S ADVOCACY; TO AMEND SECTION 63‑7‑370 OF THE 1976 CODE, RELATING TO DOMESTIC VIOLENCE REPORTING, TO PROVIDE THAT A LAW ENFORCEMENT OFFICER UPON RECEIPT OF A REPORT OF DOMESTIC VIOLENCE SHALL REPORT THE INFORMATION TO THE DEPARTMENT OF SOCIAL SERVICES AND TO THE DEPARTMENT OF CHILDREN’S ADVOCACY’S SINGLE, STATEWIDE, TOLL-FREE CHILD ABUSE HOTLINE IF THE PEOPLE INVOLVED IN THE REPORTED DOMESTIC VIOLENCE ARE RESPONSIBLE FOR THE WELFARE OF A CHILD; TO AMEND SECTION 63-11-500(A) AND SECTION 63-11-540 OF THE 1976 CODE, BOTH RELATING TO THE CASS ELIAS MCCARTER GUARDIAN AD LITEM PROGRAM, TO PROVIDE THAT THE PROGRAM MUST BE ADMINISTERED BY THE DEPARTMENT OF CHILDREN’S ADVOCACY; TO AMEND SECTION 63-11-700(A) AND SECTION 63-11-730(A) OF THE 1976 CODE, BOTH RELATING TO THE DIVISION FOR REVIEW OF THE FOSTER CARE OF CHILDREN, TO PROVIDE THAT THE DIVISION FOR REVIEW IS WITHIN THE DEPARTMENT OF CHILDREN’S ADVOCACY OF THE FOSTER CARE OF CHILDREN; TO AMEND SECTIONS 63-11-1310, 63-11-1340, 63-11-1360, AND 63-11-1510 OF THE 1976 CODE, ALL RELATING TO THE CONTINUUM OF CARE FOR EMOTIONALLY DISTURBED CHILDREN, TO PROVIDE THAT THE CONTINUUM OF CARE IS WITHIN THE DEPARTMENT OF CHILDREN’S ADVOCACY; TO AMEND SECTION 63-11-1930(A) OF THE 1976 CODE, RELATING TO THE STATE CHILD FATALITY ADVISORY COMMITTEE, TO ADD THE STATE CHILD ADVOCATE AS A COMMITTEE MEMBER; TO AMEND SECTION 59-36-20 OF THE 1976 CODE, RELATING TO THE COMPREHENSIVE SYSTEM OF SPECIAL EDUCATION AND SERVICES, TO DELETE ANY REFERENCE TO THE CHILDREN’S CASE RESOLUTION SYSTEM; TO REPEAL ARTICLE 11, CHAPTER 11, TITLE 63 OF THE 1976 CODE, RELATING TO THE CHILDREN’S CASE RESOLUTION SYSTEM; TO DELETE SECTION 1-11-10(A)(8) OF THE 1976 CODE, RELATING TO THE CHILDREN’S CASE RESOLUTION SYSTEM; AND TO DEFINE NECESSARY TERMS.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Chapter 11, Title 63 of the 1976 Code is amended by adding:

“ARTICLE 22

Department of Children’s Advocacy

Section 63-11-2210. There is created the Department of Children’s Advocacy. The department shall be headed by the State Child Advocate, who is the director of the department, and who shall be appointed by the Governor upon the advice and consent of the Senate. The State Child Advocate is subject to removal by the Governor pursuant to the provisions of Section 1-3-240(C).

Section 63-11-2220. The department shall be comprised of deputy child advocates, investigators, and other staff to be employed as necessary by the State Child Advocate to carry out the duties of the department as authorized by law. The deputy child advocates serve at will and may be removed by the State Child Advocate. The State Child Advocate shall fix the salaries of all staff subject to the funds authorized in the annual general appropriation act.

Section 63-11-2230. For purposes of this article:

(1) ‘Critical incident’ means a fatality, near fatality, or serious bodily or emotional injury of a child who is in the custody of or receiving services from a state agency, or circumstances that result in a reasonable belief that a state agency failed in its duty to protect a child, resulting in the imminent risk or suffering of serious bodily or emotional injury, or death, of a child.

(2) ‘State agency’ means an agency as provided in Section 63-11-2240(A).

Section 63-11-2240. (A) The State Child Advocate is responsible for ensuring that children receive adequate protection and care from services or programs offered by the Department of Social Services, the Department of Mental Health, the Department of Health and Human Services, the Department of Juvenile Justice, the Department of Health and Environmental Control, the Department of Disabilities and Special Needs, the John de la Howe School, the Wil Lou Gray Opportunity School, and the School for the Deaf and Blind.

(B) The Governor shall appoint the State Child Advocate with the advice and consent of the Senate for a term of six years. A Governor may reappoint the State Child Advocate for additional terms. The State Child Advocate's compensation must not be reduced during the State Child Advocate's uninterrupted, continued tenure in office.

(C) The State Child Advocate must not have been a director or deputy director of a state agency for a period of four years preceding his appointment.

(D) The State Child Advocate must be selected without regard to political affiliation and on the basis of integrity and a capability for strong leadership and must possess the following minimum qualifications:

(a) a baccalaureate degree from an accredited college or university; and

(b) at least ten years of experience in family or children’s law, children’s social work, or children’s health and welfare.

Section 63-11-2250. Any and all information and records acquired by the Department of Children’s Advocacy in the exercise of the office's purpose and duties under this chapter shall be confidential and exempt from public disclosure under Chapter 4, Title 30.

Section 63-11-2260. The State Child Advocate shall receive an annual salary as may be provided by the General Assembly.

Section 63-11-2270. The Department of Children’s Advocacy shall:

(1) ensure that childrenunder the care of a state agency, particularly children served by the child welfare or juvenile justice systems, receive timely, safe, and effective services and shall safeguard the health, safety, and well-being of all children receiving services;

(2) examine, on a system-wide basis, the care and services that state agencies provide children and shall provide recommendations to improve the quality of those services in order to give each child the opportunity to live a full and productive life;

(3) receive and investigate complaints related to the provision of services to children by a state agency, shall review and monitor the complaints that reasonably cause the department to believe that a child may be in need of assistance, and shall ensure that the complaints are resolved. If a complaint is not resolved by the relevant state agency within a reasonable period of time in light of the circumstances, if the resolution is determined to be unsatisfactory to the State Child Advocate, or if the complaint reasonably causes the State Child Advocate to believe that a child may be in need of immediate assistance, then the State Child Advocate may conduct an investigation of the complaint;

(4) receive and investigate complaints from children in the care of the State, shall assist such children in resolving problems and concerns associated with their placement and plans for lifelong adult connections and independent living, shall ensure that relevant state agencies have been alerted to the complaints, and shall facilitate intra-agency cooperation, if appropriate;

(5) undertake activities designed to educate the public regarding the services of the department and the mission of state agencies in providing services to children and families;

(6) annually submit a report to the Governor, President Pro Tempore of the Senate, and Speaker of the House of Representatives detailing the State Child Advocate's activities; and

(7) have access at any and all reasonable times to any facility, residence, program, or portion thereof that is operated, licensed, or funded by a state agency and shall have unrestricted access to all electronic information systems records, reports, materials, and employees in order to better understand the needs of children in the custody of the State or who are receiving services from a state agency. The Department of Children’s Advocacy shall also have access to relevant records held by the clerks of the family courts and the clerks of the probate courts, including the right to inspect and copy such records, without cost.

Section 63-11-2280. (A) A state agency shall inform the Department of Children’s Advocacy within twenty-four hours of a critical incident.

(B)(1) The State Child Advocate may perform an independent investigation of a critical incident, or the State Child Advocate may review a completed critical incident investigation performed by a state agency. If the State Child Advocate conducts his own investigation, then he shall investigate:

(a) the factual circumstances surrounding the critical incident;

(b) whether an agency's activities or services provided to a child and his family were adequate and appropriate and in accordance with agency policies and state and federal law; and

(c) whether the agency's policies, regulations, training or delivery of services or state law can be improved.

(C) As part of an investigation, the State Child Advocate may:

(1) administer oaths;

(2) examine witnesses under oath;

(3) issue subpoenas and subpoenas duces tecum;

(4) examine the records, reports, audits, reviews, papers, books, recommendations, contracts, correspondence, or any other documents maintained by an agency.

(D) The State Child Advocate may apply to a circuit court for an order holding an individual in contempt of court if the individual refuses to give sworn testimony under a subpoena issued by the State Child Advocate or otherwise disobeys a subpoena or subpoena duces tecum issued by the State Child Advocate.

(E) In addition to the reporting requirements in subsection (A), if the State Child Advocate has reasonable cause to believe that a crime has occurred or is occurring, he shall immediately report the matter to the appropriate state or federal law enforcement agencies and prosecuting authorities with jurisdiction over the matter.

Section 63-11-2290. (A) The Department of Children’s Advocacy shall establish a single, statewide, toll-free child abuse hotline to receive all reports of suspected child abuse or neglect. All reports received regarding suspicions of child abuse or neglect, whether initially received by a county department of social services, by a law enforcement agency, or by another organization, must be immediately transferred to the single, statewide, toll-free child abuse hotline for intake assessment and possible investigation. This single, statewide, toll-free child abuse hotline is available to persons for the referral of family-related problems, including:

(1) the reporting of known or suspected cases of child abuse or neglect; and

(2) other problems of a nature that may affect the stability of family life.

(B) The single, statewide, toll-free child abuse hotline must operate twenty-four hours a day, seven days a week. Upon receipt of a call involving suspected abuse or neglect, the department shall, using evidence based safety and risk assessment tools:

(1) immediately request information to determine the level of risk and imminent threat to the safety of the child and his siblings who are suspected victims of abuse or neglect;

(2) immediately identify previous reports made regarding the same child or the same subject of a report pursuant to Section 63-7-340;

(3) transmit, within an hour of receiving a report, the full content of all reports meeting the definition of child abuse or neglect as defined in Section 63-7-20:

(a) to the appropriate county department of social services’ office for initiation of an investigation, in the case of reports received in which the reporter believes that the act or omission was committed by the parent, guardian, or other person responsible for the child’s welfare; or

(b) to the appropriate law enforcement agency, in the case of reports in which the reporter believes that the act or omission was committed by a person other than the parent, guardian, or other person responsible for the child’s welfare;

(4) transfer reports pursuant to this section to the multicounty service if a county or contiguous counties have established multicounty department of social services; and

(5) transmit the full contents of reports not meeting the criteria for child abuse or neglect as defined in Section 63-7-20 but containing identified risk factors potentially affecting the stability of family life to the appropriate county department of social services office or multicounty department of social services for:

(a) determination of appropriate assistance and service programs for the family; and

(b) referral to agencies contracting with the department for the delivery of services that support and strengthen families and address risk factors.

(C) The following agencies must post the single, statewide, toll-free child abuse hotline number prominently in clear view of all employees and the public and in a conspicuous location on the agency's website:

(1) Department of Social Services;

(2) Department of Mental Health;

(3) Department of Juvenile Justice;

(4) Department of Health and Environmental Control;

(5) Department of Health and Human Services;

(6) Department of Disabilities and Special Needs

(7) John de la Howe School;

(8) School for the Deaf and Blind; and

(9) Wil Lou Gray Opportunity School.

(D) The department, in addition to safety assessment and intake functions, must:

(1) ensure high quality and consistent implementation of evidence-based safety and risk assessment tools and implement periodic quality reviews to evaluate the effectiveness of these tools and compliance by intake assessment workers;

(2) maintain and produce statistical reports and other information to monitor and evaluate the effectiveness of the single, statewide, toll-free child abuse hotline; the outcome of intake decisions; and the accuracy in determining the level of risk for the child or children; and

(3) provide extensive training to all child abuse hotline intake assessment workers and supervisors relating to child abuse and neglect, interviewing and customer service skills, and other training needed. The department is authorized to contract with third parties to train child abuse hotline intake assessment workers and supervisors.”

SECTION 2. Section 1-3-240(C)(1) of the 1976 Code is amended by adding an appropriately lettered subitem to read:

“( ) State Child Advocate of the Department of Children’s Advocacy;”

SECTION 3. Section 63-7-360 of the 1976 Code is amended to read:

“Section 63-7-360. A person required under Section 63‑7‑310 to report cases of suspected child abuse or neglect, including workers of the department, who has reason to believe a child has died as the result of child abuse or neglect, shall report this information to the appropriate medical examiner or coroner. Any other person who has reason to believe that a child has died as a result of child abuse or neglect may report this information to the appropriate medical examiner or coroner. The medical examiner or coroner shall accept the report for investigation and shall report his findings to the appropriate law enforcement agency, the circuit solicitor's office, the county department of social services, the Department of Children’s Advocacy, and, if the institution making a report is a hospital, ~~to~~ the hospital.”

SECTION 4. Section 63‑7‑370 of the 1976 Code is amended to read:

“Section 63‑7‑370. The law enforcement officer upon receipt of a report of domestic violence ~~may~~ shall report this information to the Department of Social Services and to the Department of Children’s Advocacy’s single, statewide, toll‑free child abuse hotline if the people involved in the reported domestic violence are responsible for the welfare of a child, regardless of whether or not the child was present for the reported domestic violence. The ~~department may~~ Department of Children’s Advocacy shall treat the case as a suspected report of abuse and ~~may~~ shall investigate the case as in other allegations of abuse in order to determine if the child has been harmed.”

SECTION 5. Section 63-11-500(A) of the 1976 Code is amended to read:

“Section 63-11-500. (A) There is created the Cass Elias McCarter Guardian ad Litem Program in South Carolina. The program shall serve as a statewide system to provide training and supervision to volunteers who serve as court‑appointed special advocates for children in abuse and neglect proceedings within the family court, pursuant to Section 63‑7‑1620. This program must be administered by the ~~Department of Administration~~ Department of Children’s Advocacy.”

SECTION 6. Section 63-11-540 of the 1976 Code is amended to read:

“Section 63-11-540. All reports made and information collected as described in Section 63‑7‑1990(A) must be made available to the guardian ad litem by the ~~Department of Social Services~~ Department of Children’s Advocacy. Upon proof of appointment as guardian ad litem and upon the guardian ad litem request, access to information must be made available to the guardian ad litem by the appropriate medical and dental authorities, psychologists, social workers, counselors, schools, and any agency providing services to the child.”

SECTION 7. Section 63-11-700(A) of the 1976 Code is amended to read:

“Section 63-11-700. (A) There is created, within the ~~Department of Administration~~ Department of Children’s Advocacy, the Division for Review of the Foster Care of Children. The division must be supported by a board consisting of eight members, all of whom must be past or present members of local review boards. There must be one member from each congressional district, all appointed by the Governor with the advice and consent of the Senate.”

SECTION 8. Section 63-11-730(A) of the 1976 Code is amended to read:

“Section 63-11-730. (A) No person may be employed by the Division for Review of the Foster Care of Children, within the ~~Department of Administration~~ Department of Children’s Advocacy, or may serve on the state or a local foster care review board if the person:

(1) is the subject of an indicated report or affirmative determination of abuse or neglect as maintained by the Department of Social Services in the Central Registry of Child Abuse and Neglect pursuant to Subarticle 13, Article 3, Chapter 7;

(2) has been convicted of or pled guilty or nolo contendere to:

(a) an ‘offense against the person’ as provided for in Title 16, Chapter 3;

(b) an ‘offense against morality or decency’ as provided for in Title 16, Chapter 15; or

(c) contributing to the delinquency of a minor, as provided for in Section 16-17-490.”

SECTION 9. Section 63-11-1310 of the 1976 Code is amended to read:

“Section 63-11-1310. It is the purpose of this article to develop and enhance the delivery of services to severely emotionally disturbed children and youth and to ensure that the special needs of this population are met appropriately to the extent possible within this State. To achieve this objective, the Continuum of Care for Emotionally Disturbed Children Division is established as a division of the ~~Department of Administration~~ State Child Advocate. This article supplements and does not supplant existing services provided to this population.”

SECTION 10. Section 63-11-1340 of the 1976 Code is amended to read:

“Section 63-11-1340. The ~~Governor~~ State Child Advocate may appoint a Director of the Continuum of Care to serve at his pleasure ~~who is subject to removal pursuant to the provisions of Section 1‑3‑240~~. The director shall employ staff necessary to carry out the provisions of this article. The funds for the division director, staff, and other purposes of the Continuum of Care Division must be provided in the annual general appropriations act. The department, upon the recommendation of the division director, may promulgate regulations in accordance with this article and the provisions of the Administrative Procedures Act and formulate necessary policies and procedures of administration and operation to carry out effectively the objectives of this article.”

SECTION 11. Section 63-11-1360 of the 1976 Code is amended to read:

“Section 63-11-1360. The Continuum of Care Division shall submit an annual report to the ~~Department of Administration~~ Governor and General Assembly on its activities and recommendations for changes and improvements in the delivery of services by public agencies serving children.”

SECTION 12. Section 63-11-1510 of the 1976 Code is amended to read:

“Section 63-11-1510. There is established the Interagency System for Caring for Emotionally Disturbed Children, an integrated system of care to be developed by the Continuum of Care for Emotionally Disturbed Children in the ~~Department of Administration~~ Department of Children’s Advocacy, the Department of Disabilities and Special Needs, the ~~State~~ Department of Health and Human Services ~~Finance Commission~~, the Department of Mental Health, and the Department of Social Services to be implemented by November 1, 1994. The goal of the system is to implement South Carolina's Families First Policy and to support children in a manner that enables them to function in a community setting. The system shall provide assessment and evaluation procedures to insure a proper service plan and placement for each child. This system must have as a key component the clear identification of the agency accountable for monitoring on a regular basis each child's care plan and procedures to evaluate and certify the programs offered by providers.”

SECTION 13. Section 63-11-1930(A) is amended by adding an appropriately numbered item to read:

“( ) the State Child Advocate;”

SECTION 14. Section 59-36-20 of the 1976 Code is amended to read:

“Section 59-36-20. (A) The State Board of Education and the State Department of Education are responsible for establishing a comprehensive system of special education and related services and for ensuring that the requirements of the Federal Individuals with Disabilities Education Act are carried out. Other state agencies which provide services for children with disabilities are directed to cooperate in the establishment and support of the system. Agencies with responsibilities under this chapter include: the Department of Mental Retardation, the School for the Deaf and the Blind, the Commission for the Blind, the Department of Health and Environmental Control, the Department of Mental Health, the State Department of Social Services, Continuum of Care, and the State Department of Education.

(B) All public education programs for children with disabilities within the State, including all programs administered by any other state or local agency, are under the general supervision of the persons responsible for education programs for children with disabilities in the State Department of Education and must meet the standards of the State Board of Education.

(C) No provision of this section or of this chapter may be construed to limit the responsibilities of agencies other than the Department of Education from providing or paying for some or all of the cost of services to be provided the state's children with disabilities and the level of service must, at a minimum, be similar to that provided individuals with similar needs. ~~If agencies are unable to agree on responsibilities for a particular child, the issue must be decided by the Children's Case Resolution System, Article 11, Chapter 11, Title 63.~~”

SECTION 15. Article 11, Chapter 11, Title 63 of the 1976 Code is repealed.

SECTION 16. Section 1-11-10(A)(8) of the 1976 Code is deleted.

SECTION 17. This act takes effect July 1, 2019.

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