

## ISSUE BRIEF – S. 805 DEPARTMENT OF CHILDREN’S ADVOCACY

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### ROLE OF THE CHILD ADVOCATE

The Child Advocate (Advocate) serves as the Executive of the Department of Children’s Advocacy (Department). The Advocate would be chosen from a pool of three candidates nominated by the Joint Citizens and Legislative Committee on Children. The candidates are presented to the Governor who selects a candidate for consideration by the Senate. The Child Advocate cannot be removed without cause and without the approval of the Joint Citizen’s and Legislative Committee on Children. This appointment structure is to ensure the independent ‘whistleblower’ capacity of the Advocate.

The Advocate would oversee the conduct state agencies responsible for child well-being to assure that children receive adequate protection and care from state agencies. The Advocate, investigators, and deputies empowered by the Department would assist in performing investigations of critical incidents as well as serving on the state’s Child Fatality Review Committee.

The premise of the Department is to provide an outlet for children and families, as well as others working in state child welfare systems to report conflicts, violations of Civil Rights, and other key issues affecting the well-being of children.

The Advocate will provide a report and recommendation annually to the General Assembly based on the Department’s findings, reports, and referrals throughout the prior year. The legislature would receive regular reports and recommendation from the Advocate based on the findings and reports throughout the year.

The Advocate’s role will continue to develop – as has been the case in other states using this approach. There are several anticipated lines of responsibility not currently written into the legislation but which may be added to the Advocate’s role through the regulatory process. Many of the “Offices of the Child Advocate” (OCA), which currently exist in 33 states, have responsibilities and scopes of authority that are more expansive than the proposed Department of Children’s Advocacy. Please see the accompanying brief from The Children’s Trust to better understand the OCA role in other states.

### HISTORY

South Carolina has undergone two class action law suits since 2002 targeting agencies that serve children in the state. The first was against the Department of Juvenile Justice in 2002 and the second was against the Department of Social Services (DSS) in 2015.

In response to the 2015 case, the General Assembly initiated the DSS Oversight Committee to address reports of malfeasance by state agency leaders and concern for the welfare of children under the charge or care of the Department of Social Services.

The DSS Oversight Committee met for two years, receiving testimony and ultimately issuing recommendations. Agency leadership were held accountable to the Senate and received much-needed



funding in support of personnel and operations. As a result, both the provision of children’s services and the DSS’s disposition are much more transparent.

Currently, the class action lawsuit costs an estimated \$800,000 annually in monitoring fees.

Similar to the proposed Department of Children’s Advocacy, the OCAs in other states have their nexus in lawsuits over child well-being.

Georgia, Tennessee, Missouri, and Delaware have model programs with ensured measures of independence for the Advocate. South Carolina’s model is expanded in its oversight of agencies – including all state agencies – Mental Health and Health and Environmental Controls as well as two state-run schools. Additionally, the appointment process in SC legislation is more independent than the other states.

## **PURPOSE & SCOPE**

The Department of Children’s Advocacy is an effort both for government consolidation and greater accountability for child-serving state agencies. It would serve as a quasi-inspector general working independently to represent children served in state agencies.

Key functions of the Department of Children’s Advocacy would include the following:

- Investigation of critical incidents of children involved with state agencies
- State agency performance measures, data collection, and analysis
- Manage direct reports from children, families, and workforce around systemic issues
- Report to legislature on key systemic findings related to critical incident, data analysis, and individual reports

From a structural capacity, the organizations consolidated within the Department of Children’s Advocacy are as follows:

### **GUARDIAN AD LITEM PROGRAM**

Currently housed in the Department of Administration. The Guardian program recruits and trains volunteer advocates who work with abused and neglected children on a one-on-one basis. Guardians support the needs of children and remain with a child through the duration of their child welfare case – to permanency.

### **FOSTER CARE REVIEW BOARD**

Monitors the progress in achieving permanent placements for children in foster care. Allows citizens from each community to become involved in the child welfare system by participating in case reviews of all children in care longer than 4 months. Supports both a state and local review boards.



United Way Association  
of South Carolina

## CONTINUUM OF CARE FOR EMOTIONALLY DISTURBED CHILDREN

Serves children with serious emotional or behavioral health diagnoses whose families need help keeping them in their home, community, or school by providing wrap-around services to families and children.

It also eliminates the **Children's Case Resolution System** currently housed in the Office of the Governor, transferring allocated funds to cover the cost of the Child Advocate.

**By consolidating these groups into a larger entity, the Department of Children's Advocacy seeks to embolden their abilities within a systemic context and advance their capacity to work on behalf of children in areas where their recommendations have largely gone unheeded.**

## FISCAL NOTE

Because the Department of Children's Advocacy consolidates several agencies and eliminates a cost-center function currently housed in the Office of the Governor, the Department has no fiscal impact.

However, this formula does not account for the full scope of duties for the Child Advocate, and some are concerned that the zero-dollar amount may impede proper implementation. Others have concerns that any fiscal impact would stall the bill altogether. Some anticipate potential changes in the House around a FTE for Legal Counsel and a slight increase in the fiscal note.

As is the case in other states, it is highly likely that the Department of Children's Advocacy will increase in budget over time once the enabling legislation is in place.