

SB 76 - AS INTRODUCED

2025 SESSION

25-1018

11/05

SENATE BILL **76**

AN ACT relative to the office of the child advocate.

SPONSORS: Sen. Long, Dist 20; Sen. Altschiller, Dist 24; Rep. Petrigno, Hills. 43

COMMITTEE: Children and Family Law

ANALYSIS

This bill makes several modifications to laws regarding the office of the child advocate.

The bill is a request of the office of the child advocate.

Explanation: Matter added to current law appears in ***bold italics***.
 Matter removed from current law appears ~~[in brackets and struckthrough]~~
 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Five

AN ACT relative to the office of the child advocate.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 Office of the Child Advocate; Definitions. Amend RSA 21-V:1, IV-X to read as follows:

2 IV. "Child" or "youth" means a person ~~[under the age of]~~ **through age 21** who is in the
3 custody of or receiving services from the ~~[division]~~ **agency**, or who was in the custody of or received
4 services from the ~~[division]~~ **agency** within the past 3 years, or whose siblings, parents, or other
5 caretakers have been the subject of a report to the division within the past 3 years, or who is
6 receiving ~~[services from any executive agency]~~, **has received, or should have received services**
7 **from any agency.**

8 V. "Division" means the department of health and human services, division for children,
9 youth and families.

10 VI. "Executive agency" means a state agency within the executive branch ~~[that provides~~
11 ~~services to children]~~ **related to the care of, or that provides services to, children.**

12 VII. "Office" means the office of the child advocate.

13 VIII. "Oversight" means review, monitoring, and evaluation of any executive agency, and all
14 contracted programs, providers, services, and activities of those executive agencies as well as
15 executive agencies' policies, procedures, and practices and implementation and amendment of such
16 policies, procedures, and practices related to the care of, or services to, children.

17 IX. "Oversight commission" means the oversight commission on children's services
18 established under RSA 21-V:10.

19 X. "Record" means all records, documents, books, papers, files, photographs, microfilms,
20 ~~[sound]~~ **audio and/or video** recordings, magnetic storage media, drafts, computer data, court
21 documents, reports, electronic databases, emails and any other form of communication, and all other
22 materials, regardless of physical form or characteristics, created, generated, recorded, received,
23 possessed, or controlled by or on behalf of executive agencies.

24 2 Office of Child Advocate; Office Established. Amend RSA 21-V:2, II-VII to read as follows:

25 II. Provide independent oversight of executive agencies to:

26 (a) Ensure that children involved with an agency~~[- and in particular, children served by~~
27 ~~the child welfare or juvenile justice systems,]~~ receive timely, safe, and effective services and that
28 their best interests are being protected.

29 (b) Strengthen the state by working in collaboration with agencies and other necessary
30 parties on cases under review.

(c) Ensure that children placed ~~[in the care of]~~ **by** the state ***in any state-owned, public, or private facility*** or receiving services under the supervision of an agency ~~[in any public or private facility,]~~ receive humane and dignified treatment at all times, with full respect for the child's personal dignity, right to privacy, and right to adequate and appropriate healthcare ***and education*** in accordance with state and federal law.

(d) Examine, on a system-wide basis, the care and services that agencies provide children, and provide recommendations to improve the quality of those services in order to provide each child the opportunity to live a full and productive life.

(e) Advise the public, governor, commissioners, speaker of the house of representatives, senate president, and oversight commission about how the state may improve its services to and for children and their families.

(f) Periodically review and investigate any aspect of an agency's policies, procedures, and practices and work collaboratively with the agency to improve policies, procedures, practices, and programs affecting children.

III. Upon its own initiative or upon receipt of a complaint, review and if deemed necessary:

(a) Investigate the actions of any agency and make appropriate referrals; provided that ***the office inquires whether the claimant has contacted the*** department of health and human services ~~[specific complaints shall be handled by the]~~ ombudsman pursuant to RSA 126-A:4, III.

(b) Investigate those complaints in which the child advocate determines that a child or family may be in need of assistance from the office or a systemic issue in the state's provision of services is raised by the complaint.

(c) Provide assistance to a child or family whom the child advocate determines is in need of assistance, including seeking resolution of complaints, which may include, but not be limited to, referring a complaint to the appropriate agency or entity, making a recommendation to such agency or entity for action related to the complaint, and sharing information in any proceeding before any court or agency in the state in which matters related to the division's child protection and juvenile justice services are at issue.

IV. Regularly consult with ~~[executive]~~ agencies and the oversight commission.

V. Provide information and referral ~~[services]~~ to the public regarding ~~[all child-serving state]~~ services ***available to children*** ~~[, particularly child protection and juvenile justice services].~~

VI. Perform educational outreach and advocacy initiatives in furtherance of the mission and responsibilities of the office.

VII. Periodically review the facilities and procedures of any and all institutions or residences, ***state-owned***, public or private, where a child has been placed by an agency.

3 Office of the Child Advocate; Access to Information and Facilities. Amend RSA 21-V:4 to read as follows:

21-V:4 Access to Information and Facilities.

SB 76 - AS INTRODUCED
- Page 3 -

I. The office shall have access to the following information:

(a) All case records, all third party records, including the healthcare records of any child receiving services from an executive agency, and all records submitted to the courts.

(b) ~~[Executive]~~ Agencies' policies and procedures, including draft policies and procedures.

(c) ~~[Executive]~~ Agencies' records or reports, including draft records and reports.

(d) Autopsy reports from the chief medical examiner, which shall be provided in a timely manner upon the request of the child advocate.

II. The office shall be entitled to prompt electronic access to ~~[division]~~ department of health and human services' records within the scope of its mission.

III. The office, in performance of its duties under this chapter, may communicate privately with any child or person who has received, is receiving, or should have received services from ~~[the state]~~ **any agency**. Such communications shall be confidential and not be subject to disclosure except as provided in RSA 21-V:5.

4 Office of the Child Advocate; Information Confidentiality. Amend RSA 21-V:5, II-III to read as follows:

II. The office investigations and oversight activities~~[,] and the information gathered [in such investigations and oversight activities, including]~~ **therein**, the identity of any complainant **and individuals from whom information is acquired, and all office records** shall be exempt from the public disclosure provisions of RSA 91-A~~[Such investigations, oversight activities, and information]~~, **and** shall be privileged and exempt from use or disclosure in any criminal or civil matter or administrative proceeding.

III. The child advocate ~~[of the office]~~ may disclose confidential information about a child to any individual or entity responsible for, or providing services to, the child. Any disclosures of confidential information shall be the minimum necessary to ensure proper care and treatment for the child or to identify, prevent, or treat the abuse or neglect of a child.

5 Office of the Child Advocate; Annual Report. Amend RSA 21-V:8 to read as follows:

21-V:8 Annual Report. ~~[Beginning November 1, 2020, and each November 1 thereafter,]~~ the child advocate shall submit an annual report of the activities and findings of the office **by January 1 of each year**, and present his or her recommendations to the oversight commission. The report shall also be provided to the commissioner of any executive agency that is the subject of a report prepared by the office, the governor, the speaker of the house of representatives, the senate president, and the state library. The child advocate shall make the annual report available to the public on the office of the child advocate's website.

6 Office of the Child Advocate; Confidentiality and Admissibility. Amend RSA 21-V:9 to read as follows:

SB 76 - AS INTRODUCED

- Page 4 -

1 21-V:9 Confidentiality and Admissibility. No person employed or contracted by or volunteering
2 for the office shall be compelled to testify or produce evidence in any judicial or administrative
3 proceeding with respect to any matter involving exercise of his or her official duties except as may be
4 necessary to enforce this chapter. ~~[All related memoranda, work product, notes, or case files]~~ ***The***
5 ***records*** of the office are confidential and are not subject to discovery, subpoena, or other means of
6 legal compulsion, and are not admissible in evidence in a judicial or administrative proceeding. This
7 limitation shall not apply to information obtained by any employee, contractor, or volunteer of the
8 office regarding a crime or fraud, or a communication of imminent risk of serious harm, nor shall it
9 apply to communications regarding the general operation of the office and the processes employed.

10 7 Effective Date. This act shall take effect 60 days after its passage.