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MEMORANDUM

To: House Committee on Child Welfare and Foster Care
From: Office of Revisor of Statutes
Date: March 6, 2023
Subject: HB 2443: Establishing the office of the child advocate.

House bill 2443 establishes an independent state agency to be named the office of the child advocate. The proposed office of the child advocate shall be an independent state agency that receives and investigates complaints from those involved in the Kansas child welfare system.

In section 1, the bill defines “child” and “office” for use throughout the section. Section 2 establishes the office of the child advocate and identifies that the head of such office shall be the child advocate. This section also establishes the purpose of the office is to “ensure that children and families receive adequate coordination of child welfare services, child maltreatment prevention, protection and care through services.” The section also grants the child advocate the authority to receive, investigate, and attempt to resolve such complaints. The child advocate shall do so independently from service providers, state agencies and contracting entities and report directly to the child advocate advisory board.

Section 3 establishes an independent and nonpartisan child advocate advisory board. The board shall oversee the child advocate and the office of the child advocate. This section lists the duties and functions of the board’s oversight, the membership of the board and the appointing authority of such members. Appointments to the board are to be made by the governor, the chief justice, and legislative leadership from the majority and minority party. This board shall appoint the child advocate before December 1, 2023.

Section 4 lists what the child advocate shall do and may do to achieve the purpose of the office. In reviewing complaints, the section states that “No review of any complaint shall require any licensed professional to engage or not engage in conduct required or prohibited by any governing professional code of responsibility or conduct.”

Section 5 provides for the appointment of the child advocate by the child advocate advisory board and subject to confirmation by the senate. The child advocate shall be a person that holds a current and relevant license that would authorize the individual to work in the child welfare system but cannot have been employed within the past 12 months by anyone subject to the oversight of the office. The child advocate may hire employees and such employees are immune from suit and liability for good faith performance of duties.

Section 6 requires the child advocate to submit an annual report to the governor, legislative committees and the office of judicial administration. The section lists what shall be and shall not be in the report. The report shall be confidential until provided to the identified recipients.

Section 7 state that “reports, statements, witness testimony, affidavits, memoranda, proceedings, findings and other records or data submitted to, considered by or generated by the office of the child advocate, whether oral or written” are privileged and confidential. Such information is also not admissible through testimony. Subsection (c) prohibits retaliation against persons who provide information to the office and a violation results in a class A nonperson misdemeanor.

Section 8 directs the budget request process for the office. The office shall prepare and submit the budget for approval by the child advocate advisory board. Once approved by the board, the office shall submit the request as other budget requests of state agencies.

Sections 9 through 13 amend existing statutes related to confidentiality of information related to a child in need of care. The proposed changes would allow the child advocate access to these confidential records, including the official file, the social file, and agency records.