



STATE OF RHODE ISLAND
Department of Children, Youth and Families
Director's Office
101 Friendship St.
Providence, RI 02903

March 6, 2025

The Honorable Evan P. Shanley, Chairman
House Committee on State Government and Elections
State House, Room 101
Providence, Rhode Island 02903

RE: 2025 H-5377 – Relating to State Affairs and Government – Child Advocate Office

Dear Chairman Shanley:

I am writing on behalf of the Department of Children, Youth and Families (DCYF or “the Department”) to express concerns about this legislation, which will be heard in the Committee on State Government and Elections.

This bill would require DCYF to comply with all recommendations of the Rhode Island Office of the Child Advocate’s Child Fatality Review Panel Report within six (6) months. Additionally, DCYF must provide a report detailing the specific measures taken to implement each recommendation within three (3) months of any measure being taken.

The Department’s three concerns are as follows:

1. DCYF “shall implement whatever measures are necessary to comply with recommendations” of the Child Fatality Review Report.

This provision conflicts with existing Rhode Island laws:

- (a) It requires DCYF to implement all recommendations of this report, without discretion or discussion, which contradicts § 42-72-4 – Qualifications and duties of the director.**

Rhode Island statute requires that the person in charge of the state’s child welfare department holds an advanced degree in a child welfare-related field and has experience working in child welfare, specifically related to managing programs for children.¹ While the duties of the DCYF director include “receiv[ing] advice” from child advocacy groups,² nothing requires him or her to implement said advice without review. Such a requirement would give those groups de facto control over the Department. This is not the legislature’s intent, as it is the DCYF director who “administ[ers] and direct[s]...the operation of the department,”³ not child advocacy groups.

Even where one agrees that child advocacy groups have the best interests of children in mind, there is no assurance that members of these groups have the requisite knowledge and experience to dictate how the Department should function. Since the legislature has determined that the person best suited to operate DCYF must have certain child welfare-related education and experiences, this leads to the second way this bill conflicts with current law.

¹ § 42-72-4(a)

² § 42-72-4(b)(7)

³ § 42-72-4(b)(1)

(b) It illegally expands the duties of the Child Advocate beyond those which are provided in § 42-73.

To be the state's Child Advocate, the individual must be a member of the Rhode Island bar, admitted to practice for at least three (3) years, and have the training and experience necessary to perform the duties of the office.⁴ There is no requirement that the Child Advocate have any education or experience in child welfare; and notably, the duties of the office⁵ say nothing about possessing any of the child welfare-related skills that the DCYF director must have, such as "administering programs for children,"⁶ assessing children's "programs, services, and plans...for the purpose of identifying...unmet needs,"⁷ or developing any treatment or prevention program of any kind for children.⁸

On the contrary, the Child Advocate's duties center largely on the legal rights of children in state care: securing their rights,⁹ informing them/other interested parties of their rights,¹⁰ and reviewing/recommending changes to various procedures to ensure that those rights are protected.¹¹ Nothing permits the Child Advocate to *implement* any of the changes they recommend, but that is effectively what this bill would require.

Understanding legal issues concerning the rights of children in state care is a vital aspect of a properly functioning child welfare system, but it is not the only aspect. Indeed, if knowledge of the law was enough, the statute would allow an attorney to be the director of DCYF, but it does not.

Another duty of the Child Advocate is to work with a Child Fatality Review Panel to produce a Child Fatality Review Report, which includes recommendations for changes to laws, policies, and practices.¹² Members of a Child Fatality Review Panel may be anyone identified by the Child Advocate. While the members may vary from one case to the next,¹³ statute does not provide any eligibility qualifications to serve on such a panel. For example, individuals are not required to have experience in children's behavioral health, the law, or anything else related to child welfare.

While the opinions of individuals outside of DCYF, such as the Child Advocate and members of a Child Fatality Review Panel, are valuable and necessary, requiring that all their recommendations be *implemented* goes beyond the scope of their authority. Rhode Island has decided that the DCYF director is the person most qualified to make decisions about the Department due to their education and experience, and neither the Child Advocate nor members of a Child Fatality Review Panel are required to have the same credentials.

This bill allows individuals to make real changes at a department that they aren't qualified to run. Enacting it would conflict with existing law, constitute illegal overreach into the operations of DCYF, and contradict the state's long-held position established in statute that experienced child welfare professionals with relevant credentials – not attorneys or other advocates – are best suited to make decisions about what is in the best interests of children in state care.

2. DCYF shall implement measures necessary to comply with recommendations of the Child Fatality Review Report "within six (6) months of the recommendation."

⁴ § 42-73-2

⁵ § 42-73-7

⁶ § 42-72-4(a)(2)

⁷ § 42-72-4(b)(2)

⁸ § 42-72-4(b)(17)

⁹ § 42-73-7(6)

¹⁰ § 42-73-7(1)

¹¹ § 42-73-7(2), (4), and (5)

¹² § 42-73-2.3(b) and (c)

¹³ § 42-73-2.3(b)

The 6-month time frame is too short and fails to take certain financial and contractual realities into consideration. Implementing recommendations within six months could require the Department to fund initiatives that were not in its budget. This would mean that the Department would either have to reduce funding that was already appropriated for other programs, which would violate the state's appropriations law, or fail to meet the requirements of this proposed law.

Further, should any initiatives or measures involve employees who enjoy the protections of a union contract, the Department would face the same double-edged sword: force changes in violation of collective bargaining agreements, or fail to meet the requirements of this proposed law. It would be inappropriate to force the Department into either of these legally precarious situations.

3. "The director of DCYF shall provide a report...within three (3) months of the date of any measure implemented by DCYF in response to [the] recommendations."

This would require DCYF to submit dozens of reports during a 9-month period, which is impractical and detracts focus from the important work being done. If DCYF is required to report on "any measure implemented" to comply with the recommendations, it is logical to conclude that DCYF would be expected to prepare at least one report for each recommendation.

The last time a Child Fatality Review Panel was convened was in 2019. They reviewed one child fatality and provided 21 recommendations. If this law had been in place, DCYF would have had to prepare at least 21 separate reports.

Notably, however, at least two of those recommendations either did not apply to DCYF¹⁴ or required DCYF to change the policies of another state agency¹⁵. Making DCYF responsible for implementing all recommendations regardless of to whom they apply opens the door to claims of illegal overreach, and potentially, an unconstitutional separation of powers issue.

The Department appreciates and wholeheartedly agrees with the desire for accountability, especially when it comes to our most vulnerable population, but DCYF respectfully submits that there are more efficient ways to achieve it.

Thank you for allowing the Department to express its concerns regarding this legislation.

Sincerely,



Ashley Deckert, MSW, MA
Director

cc: Honorable Members of the House Committee on State Government and Elections
The Honorable Julie A. Casimiro
Nicole McCarty, Esquire, Chief Legal Counsel to the Speaker of the House
Lynne Urbani, Director of House Policy

¹⁴ Recommendation "12. Pursuant to statutory authority, the Office of the Child Advocate is to develop a training for attorneys serving as Guardian *ad litem* to children involved with the Department. The Office of the Child Advocate will collaborate with the RI Family Court."

¹⁵ Recommendation "11. Pursue legislative and policy change providing strict regulation of the homeschooling of children with an IEP and heightened oversight by the Department of Education."