



STATE OF RHODE ISLAND  
**OFFICE OF GOVERNOR DANIEL J. MCKEE**

March 6, 2025

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

Re: *2025-H 5377, An Act Relating to State Affairs and Government – Child Advocate Office*

Dear Chairman Shanley:

I write in opposition to H 5377, An Act Relating to State Affairs and Government – Child Advocate Office (Act). The Act would require the Department of Children, Youth & Families (DCYF) to implement any necessary measures to comply with all recommendations made by the child fatality review panel, a panel convened by the Child Advocate following any fatality, or near fatality, of a child in DCYF care. The review panel is “voluntary and confidential” with members that “vary on a case-by-case basis,” as determined by the Office of the Child Advocate, an agency wholly independent from the General Assembly or the Governor. In brief, the Act elevates the panel’s recommendations from advisory to mandatory.

The Administration supports the apparent intent of the Act, to promote any measure that further protects our state’s most vulnerable children from injury and death. Nevertheless, the Act as proposed would do more harm than good, and the Administration must oppose it for several reasons.

First, the Act violates the constitutional structure of our state government by impermissibly delegating legislative and policy-making authority to unelected and politically unaccountable individuals. *See Bourque v. Dettore*, 589 A.2d 815, 817 (R.I. 1991) (reiterating the long-held constitutional principle that “unbridled delegation of legislative power by the General Assembly is unconstitutional and void”). To be sure, this Office is unaware of any state to have implemented a fatality review panel with such compulsory powers. *See, e.g., Conn. Gen. Stat. § 46a-131(b)-(f)* (authorizing “findings and

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recommendations”); Mass. Gen. Laws ch. 38, § 2A(b) (stating a purpose of “advising the governor . . . by recommending changes in law, policy and practice”); N.Y. Soc. Serv. Law § 20(5)(b) (authorizing “recommendations for local or state administrative or policy changes”).

Second, the Act creates unresolved internal inconsistencies within the statutory structure of the Office of the Child Advocate that threaten to destroy that Office’s autonomy and effectiveness as an advocate. By law, the Child Advocate must act independently of DCYF. See R.I. Gen. Laws § 42-73-5; *In re R. J. P.*, 445 A.2d 286, 288 (R.I. 1982). As an independent watchdog, the Child Advocate embodies a “strict advocacy role in protecting the legal, civil and special rights of children involved with the Department of Children, Youth and Families.” Thomas Finn & Laureen D’Ambra, *Lawyering for Children in the Care of the State*, R.I.B.J., at 7 (Mar. 1994). Under the current structure, the Child Advocate can evaluate the state’s child welfare services with a disinterested and critical lens, motivated only by its statutory duty as an advocate. The Act’s proposed structure, however, compromises the core value of the Child Advocate as an independent watchdog, creating a system in which the Child Advocate would inevitably find herself in the future compromised position of evaluating the efficacy and propriety of her own mandatory reforms.

Finally, the Act fails to anticipate or account for various constraints on DCYF that may reasonably impact the agency’s consideration of the Child Advocate’s recommendations. For example, the most recent child fatality review panel report, published in 2019, broadly recommended the hiring of additional front-line staff in *all* divisions of DCYF, without consideration of FTE position caps or other budgetary constraints. Separately, the 2019 report recommended changes to homeschooling regulations under the purview of the Department of Education and guardian *ad litem* training under the authority of the Family Court. Although these recommendations implicate a separate agency and branch of government beyond DCYF’s authority, the Act nevertheless purports to make DCYF somehow responsible for ensuring implementation and compliance.

Sincerely,



Claire Richards  
Executive Counsel

cc: Honorable Members of the House Committee on State Government & Elections  
Honorable Julie A. Casimiro  
Nicole McCarty, Esq.