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## HOUSE BILL NO. 2381

Offered January 9, 2019

Prefiled January 8, 2019

A *BILL to amend the Code of Virginia by adding in Article 6 of Chapter 2 of Title 2.2 a section numbered 2.2-214.2 and by adding in Article 4 of Chapter 8 of Title 18.2 a section numbered 18.2-371.5, relating to the Office of the Children's Ombudsman; Children's Advocacy Fund.*

Patrons—Hurst, Austin, Adams, D.M., Delaney, Gooditis, Kory, Levine, Mullin, Rodman and Simon;  
Senators: Boysko and Deeds

Referred to Committee on Appropriations

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding in Article 6 of Chapter 2 of Title 2.2 a section numbered 2.2-214.2 and by adding in Article 4 of Chapter 8 of Title 18.2 a section numbered 18.2-371.5 as follows:**

**§ 2.2-214.2. Office of the Children's Ombudsman created; powers and duties; report.**

A. As used in this section, "child-serving agency" means (i) a state agency that provides services to children, including the Department of Social Services, the Department of Juvenile Justice, the Department of Education, the Department of Correctional Education, the Department of Behavioral Health and Developmental Services, the Office of Comprehensive Services for At-Risk Youth and Families, and the Department of Health, and (ii) a local entity that provides services to children and that receives funding from a state agency under clause (i).

B. There is hereby created the Office of the Children's Ombudsman (the Office) to provide ombudsman services to any child served by any child-serving agency of the Commonwealth. The Office of the Children's Ombudsman shall be headed by a Children's Ombudsman (the Ombudsman), who shall be appointed by the Governor subject to confirmation by the General Assembly. The appointment shall be for a term of four years. The Governor may remove the Ombudsman for cause in accordance with § 2.2-108. Vacancies shall be filled by appointment by the Governor for the unexpired term.

C. The Ombudsman shall have the power and duty to:

1. Operate and manage the Office and to employ such personnel as may be required to carry out the provisions of this section;

2. Receive, investigate, and take all reasonable steps to mediate or resolve complaints from any person regarding the child-serving agencies. However, after an initial investigation of any complaint, the Ombudsman may decline to further investigate any complaint if the Ombudsman determines that the complaint is frivolous or not made in good faith;

3. Conduct inspections, in connection with a complaint received pursuant to this section, of any public or private facility, institution, or residence where a child has been placed by a court or a child-serving agency when such child is residing in the facility, institution, or residence. Inspections conducted pursuant to this subdivision may be unannounced;

4. Make such inquiries, and obtain such assistance, in connection with a complaint received pursuant to this section as the Ombudsman may require in the discharge of the Ombudsman's duties from any state agency, division of any state agency, or other state entity or from any agency, division of any agency, or other entity of any political subdivision of the Commonwealth;

5. Notwithstanding any provisions to the contrary, access any and all information, including confidential information, necessary for the full and complete investigation of the complaint. All information obtained shall be maintained by the Ombudsman as confidential in the same manner as is required by the agency or entity from which it was obtained. The Ombudsman shall be subject to the same penalties for disclosure of confidential information as the entity or person from whom the information was obtained;

6. Enter into an agreement with any state agency providing advocacy, client assistance, or ombudsman services to the state agency's clients to ensure the protection of children, provided that such agreements do not restrict the authority of the Ombudsman to pursue legal or administrative remedies on behalf of children;

7. Notify the law-enforcement agency and the attorney for the Commonwealth in the jurisdiction in which a secure facility, shelter care facility, or detention home, as defined in § 16.1-228, or residential public charter school is located when the Ombudsman has reason to believe that there has been a violation of state criminal law; however, when the Ombudsman has reason to believe that the criminal action has been committed in a state facility, notice shall be given to the director or commissioner of

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58 the department responsible for licensing or regulating such facility;

59 8. Report to the head of any child-serving agency any serious problem, abuse, or deficiency related  
60 to that agency, or any programs or facilities operated by that agency, at such time as the problem,  
61 abuse, or deficiency is discovered by the Ombudsman;

62 9. Promote continuous improvement in the administration of children's services, including identifying  
63 and disseminating best practices related to the administration and delivery of children's services; work  
64 with child-serving agencies to promote competency, efficiency, and justice in the administration and  
65 delivery of children's services; and recommend policy, regulatory, and legislative changes for the  
66 purpose of ensuring the well-being of children;

67 10. Serve as a source of information and referrals for children, parents, caregivers, providers, and  
68 citizens involved with child-serving agencies;

69 11. Apply for and accept grants from the United States government, agencies and instrumentalities  
70 thereof, and any other source in furtherance of the provisions of this section; and

71 12. Adopt policies and guidelines in order to carry out the provisions of this section.

72 D. The Ombudsman shall, not later than November 30 of each year, submit an annual report  
73 summarizing the activities of the Office to the Governor, the General Assembly, and the Commission on  
74 Youth. Such report shall include:

75 1. Information concerning the number of complaints received and the types of investigations  
76 completed by the Office during the reporting period;

77 2. Information on the response of any child-serving agency investigated pursuant to a complaint  
78 received by the Office, including any failure to respond to Office recommendations or any barriers to  
79 adoption of any Office recommendations;

80 3. A summary of any matters referred to any attorney for the Commonwealth, law-enforcement  
81 agency, or agency head during the reporting period and any actions taken by such persons;

82 4. A description of any significant problems, abuses, and deficiencies related to the administration of  
83 the programs and services of child-serving agencies identified during the reporting period;

84 5. A description of any recommendations for corrective actions made by the Office during the  
85 reporting period with respect to significant problems, abuses, or deficiencies identified;

86 6. An identification of each significant corrective recommendation, described in previous reports, on  
87 which corrective action has not been completed; and

88 7. Recommendations for system-wide changes concerning the provision of services to children by  
89 child-serving agencies in the Commonwealth, including any legislative or regulatory changes.

90 E. Nothing in this section shall prevent any child-serving agency from developing and maintaining  
91 advocacy, client assistance, or ombudsman services for its clients independently from the Office of the  
92 Children's Ombudsman.

93 F. The operation and administration of the Office of the Children's Ombudsman shall be funded by  
94 the Children's Advocacy Fund established pursuant to § 18.2-371.5.

95 **§ 18.2-371.5. Offenses involving children; fee paid into Children's Advocacy Fund.**

96 A. The court shall order any person convicted of a violation of § 18.2-346, 18.2-370, 18.2-370.1,  
97 18.2-370.2, 18.2-370.4 through 18.2-371.4, 18.2-374.1 through 18.2-374.4, or 18.2-391 involving a child  
98 to pay a fee of \$250 to the Children's Advocacy Fund established in subsection B for the purpose of  
99 supporting the Office of the Children's Ombudsman.

100 B. There is hereby created in the state treasury a special nonreverting fund to be known as the  
101 Children's Advocacy Fund, referred to in this section as "the Fund." The Fund shall be established on  
102 the books of the Comptroller. All funds appropriated for such purpose, all fees assessed pursuant to  
103 subsection A, and any gifts, donations, grants, bequests, and other funds received on its behalf shall be  
104 paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall  
105 remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon,  
106 at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys  
107 in the Fund shall be used solely for the purposes of supporting the Office of the Children's Ombudsman  
108 pursuant to § 2.2-214.2 and for carrying out the purposes of Article 6 (§ 2.2-212 et seq.) of Chapter 2  
109 of Title 2.2. Expenditures and disbursements from the Fund shall be made by the State Treasurer on  
110 warrants issued by the Comptroller upon written request signed by the Children's Ombudsman.

111 2. That notwithstanding the provisions of subsection B of § 2.2-214.2 of the Code of Virginia, as  
112 created by this act, the term of the Ombudsman first appointed under the provisions of this Act  
113 shall expire on January 15, 2023.

114 3. That beginning July 1, 2019, the Office of the Children's Ombudsman, as created by this act,  
115 shall accept and investigate complaints relating to the Department of Social Services or the  
116 Department of Juvenile Justice; that beginning July 1, 2020, the Office of the Children's  
117 Ombudsman shall accept and investigate complaints relating to the Department of Social Services,  
118 the Department of Juvenile Justice, the Department of Behavioral Health and Developmental  
119 Services, the Department of Education, or the Department of Correctional Education; and that

120 beginning July 1, 2021, the Office of the Children's Ombudsman shall accept and investigate  
121 complaints relating to any child-serving agency or any program, service, or facility licensed,  
122 funded, or operated by any child-serving agency of the Commonwealth.  
123 3. That the Office of the Governor shall conduct a needs assessment of resources and work with  
124 the Department of General Services to provide for the office space needs of the Office of the  
125 Children's Ombudsman.

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