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SENATE BILL NO. 315

Offered January 9, 2008

Prefiled January 8, 2008

A BILL to amend the Code of Virginia by adding sections numbered 2.2-214.2, 2.2-214.3, and 2.2-214.4 in Article 6 of Chapter 2 of Title 2.2, relating to Office of the Children's Ombudsman.

Patrons—Edwards and Houck; Delegate: Brink

Referred to Committee on General Laws and Technology

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding sections numbered 2.2-214.2, 2.2-214.3, and 2.2-214.4 as follows:

§ 2.2-214.2. Office created; appointment.

There is hereby created the Office of the Children's Ombudsman to provide ombudsman services to any child served by any child-serving agency of the Commonwealth. The ombudsman shall be appointed by the Governor. The ombudsman shall initially be appointed for a term that expires one full year following the end of the Governor's term of office, and, thereafter, the term shall be for four years. Vacancies shall be filled by appointment by the Governor for the unexpired term.

§ 2.2-214.3. Powers and duties

The ombudsman shall have the following powers and duties:

1. To operate and manage the Office of the Children's Ombudsman and to employ such personnel as may be required to carry out the provisions of this section;

2. To receive, investigate and take all reasonable steps to mediate or resolve complaints 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. When investigating a complaint received pursuant to this section, to enter and inspect any public or private facility, institution or residence where a child has been placed by a court or a child-serving agency and is currently residing. Inspections conducted pursuant to this subdivision may be unannounced;

4. When investigating a complaint received pursuant to this section, to make such inquiries, and obtain such assistance as the ombudsman may require in the discharge of the ombudsman's duties from any agency, division of any 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, to 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. To enter into an agreement with any state agency providing advocacy, client assistance or ombudsman services to the 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. To 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 the department responsible for licensing or regulating such facility;

8. To report to the head of any agency any serious problem, abuse or deficiency related to that agency, or any programs or facilities operated by that agency, at such time as the problem, abuse or deficiency is discovered by the ombudsman;

9. To promote the continuous improvement in the administration of children's services, including identifying and disseminating best practices related to the administration and delivery of children's services, working with child-serving agencies to promote competency, efficiency and justice in the administration and delivery of children's services, and recommending policy, regulatory and legislative changes for the purpose of ensuring the well-being of children;

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59 10. To serve as a source of information and referrals for children, parents, caregivers, providers and
60 citizens involved with child-serving agencies;

61 11. To apply for and accept grants from the United States government, agencies and
62 instrumentalities thereof, and any other source, in furtherance of the provisions of this section;

63 12. To keep the Governor, General Assembly and Commission on Youth fully and currently informed
64 by means of reports required in § 2.2-214.4 concerning significant problems, abuses, and deficiencies
65 relating to the administration of programs and services for children, and to recommend corrective
66 actions concerning the problems, abuses and deficiencies, and to report on the progress made in
67 implementing the corrective actions identified; and

68 13. To adopt policies and guidelines in order to carry out the provisions of this section.

69 Nothing in this section shall prevent any state agency providing services to children from developing
70 and maintaining advocacy, client assistance, or ombudsman services for their clients independently from
71 the Office of the Children's Ombudsman.

72 § 2.2-214.4. Reports.

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

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

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

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

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

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

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

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

91 **2. That in the first year after the date of enactment, the Office of the Children's Ombudsman shall**
92 **accept and investigate complaints regarding the Department of Social Services and the Department**
93 **of Juvenile Justice; in the second year the Office of the Children's Ombudsman shall accept and**
94 **investigate complaints related to the Department of Social Services and the Department of Juvenile**
95 **Justice, the Department of Mental Health, Mental Retardation and Substance Abuse Services, the**
96 **Department of Education, and the Department of Correctional Education; in the third year and**
97 **thereafter the Office of the Children's Ombudsman shall accept and investigate complaints related**
98 **to any child-serving agency or any program, service or facility licensed, funded or operated by a**
99 **child-serving agency.**

100 **3. That the Office of the Governor shall conduct a needs assessment of resources and work with**
101 **the Division of General Services to provide for the office space needs of the Office of the**
102 **Children's Ombudsman.**