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SENATE BILL NO. 146

Offered January 10, 2018

Prefiled December 28, 2017

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, relating to the Office of the Children's Ombudsman.*

Patron—Edwards

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 in Article 6 of Chapter 2 of Title 2.2 a section numbered 2.2-214.2 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 Governor may remove the Ombudsman for cause in accordance with § 2.2-108. 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 four years. 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 of the Children's Ombudsman 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 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, 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 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 the department responsible for licensing or regulating such facility;

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59 8. Report to the head of any agency any serious problem, abuse, or deficiency related to that agency,
60 or any programs or facilities operated by that agency, at such time as the problem, abuse, or deficiency
61 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 providing services to children from
91 developing and maintaining advocacy, client assistance, or ombudsman services for its clients
92 independently from the Office of the Children's Ombudsman.

93 2. That from July 1, 2018, to June 30, 2019, the Office of the Children's Ombudsman, as created
94 by this act, shall accept and investigate complaints relating to the Department of Social Services
95 and the Department of Juvenile Justice only; from July 1, 2019, to June 30, 2020, the Office of the
96 Children's Ombudsman shall accept and investigate complaints relating to the Department of
97 Social Services, the Department of Juvenile Justice, the Department of Behavioral Health and
98 Developmental Services, the Department of Education, and the Department of Correctional
99 Education; and on and after July 1, 2020, the Office of the Children's Ombudsman shall accept
100 and investigate complaints relating to any child-serving agency or any program, service, or facility
101 licensed, funded, or operated by any child-serving agency.

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