

KANSAS OFFICE *of*  
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*Legislative Attorneys transforming ideas into legislation.*

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300 SW TENTH AVENUE ■ SUITE 24-E ■ TOPEKA, KS 66612 ■ (785) 296-2321

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**MEMORANDUM**

To: Senate Committee on Judiciary  
From: Office of Revisor of Statutes  
Date: February 16, 2023  
Subject: Senate Bill 232

SB 232 establishes the office of the child advocate as an independent state agency.

Section 1 provides the name of the act as the child advocate act and defines the terms "child" as a child in the custody of the secretary or receiving child welfare services and "office" as the Office of the Child Advocate.

Section 2 establishes the office of the child advocate as an independent state agency. The head of the office would be the child advocate, who would be appointed by the governor and subject to senate confirmation. The child advocate's term would expire on January 15 of each year when the whole senate is sworn in for a new term. The child advocate would be an unclassified employee and paid a salary equal to the annual salary of a state district court judge and would serve at the pleasure of the governor. Subsection (b) would give the child advocate general managerial control over the office to establish organization structure, budgeting, personnel and related administrative functions. The child advocate would be allowed to hire employees subject to limits of appropriations.

Section 3 set out the child advocate's duties and purpose, which is to resolve complaints from legislators and persons involved with the child welfare system alleging inadequate protection or care of children by the department of children and families and its contracting agencies. Subsection (b) sets out the child advocate's duties, which would include:

- (1) Establishing procedures for receiving complaints;

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**REVISOR of STATUTES**  
LEGISLATURE of THE STATE of KANSAS

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- (2) providing DCF with a notice of availability that describes the office and procedures to contact the office;
- (3) maintaining a publicly available website;
- (4) publicizing and notifying individuals of the office's services, purpose and contact information.

In subsection (d), the office would be required to independently investigate complaints received if the office believes the complaint's allegations could be independently verified. To investigate, the office would have access to: The names and locations of all children in protective services or DCF or DOC programs, written reports of child abuse and neglect, records of agencies with custody of children under court order, and current records required to be maintained under the revised Kansas code for care of children and juvenile justice code. The office would be allowed to communicate and work with relevant persons and have access to certain law enforcement records. To resolve complaints, in subsection (e), the child advocate would review the subject of the complaint and make recommendations and submit findings to a department or contracting agency and can make referrals to appropriate law enforcement agencies.

In subsection (h), the child advocate would be required to prepare and present an annual budget to the joint committee on child welfare oversight and then to the division of budget. Employees of agencies and their contractors who work with children in custody of the secretary of DCF or DOC shall cooperate and work with the office of the child advocate to assist the office in its duties.

Section 4 relates to duties of confidentiality. It would establish that information obtained from another agency would be subject to the same confidentiality requirements as child in need of care cases or any applicable federal restrictions placed on that agency. The files in the office of the child advocate would be confidential with certain exceptions. An employee or representative of the office who knowingly discloses confidential information would be guilty of a class A nonperson misdemeanor. The exemption to the open records act established in this section would expire in 2028, unless the Legislature reviews and reenacts such provisions.

Section 5 would shield the child advocate or any employees of the office from suit or liability for the good faith performance of their duties. Also, reprisal or retaliatory action against

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any recipient of child welfare services or an employee of departments and offices in compliance with the office of the child advocate would be guilty of a class A nonperson misdemeanor. Reprisal or retaliatory action may be, but is not limited to, letters of reprimand, demotions, transfers, denial of promotions, dismissals or denial of employment.

Sections 6 through 10 would amend K.S.A. 38-2211, 38-2212, 38-2213, 38-2309 and 38-2310 to give the office of the child advocate access to files and court records related to a child.