General Assembly **Amendment**

February Session, 2010 LCO No. **4205**

SB0028804205SR0

Offered by:
SEN. MCKINNEY, 28th Dist.
SEN. FASANO, 34th Dist.
SEN. RORABACK, 30th Dist.

To: Senate Bill No. **288** File No. 91 Cal. No. 89

"AN ACT CONCERNING THE LEGISLATIVE COMMISSIONERS' RECOMMENDATIONS FOR TECHNICAL CORRECTIONS TO THE GENERAL GOVERNMENT ADMINISTRATION AND ELECTIONS STATUTES."

After the last section, add the following and renumber sections and internal references accordingly:

"Sec. 501. Section 46a-13k of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2010*):

[(a)**]** There is established **[**an Office of the**]** a Child Advocate within the Office of the Attorney General. The Governor, with the approval of the General Assembly, shall appoint a person with knowledge of the child welfare system and the legal system **[**to fill the Office of**]** as the Child Advocate. **[**Such person shall be qualified by training and experience to perform the duties of the office as set forth in section 46a-13*l*. The appointment shall be made from a list of at least three persons

prepared and submitted by the advisory committee established pursuant to section 46a-13q. Upon any vacancy in the position of Child Advocate, the advisory committee shall meet to consider and interview successor candidates and shall submit to the Governor a list of no less than five and no more than seven of the most outstanding candidates, not later than sixty days after the occurrence of said vacancy. Such list shall rank the candidates in the order of committee preference. Upon receipt of the list of candidates from the advisory committee, the Governor shall designate a candidate for Child Advocate from among the choices within eight weeks of receipt of such list. If at any time any of the candidates withdraw from consideration prior to confirmation by the General Assembly, the designation shall be made from the remaining candidates on the list submitted to the Governor. If a candidate has not been designated by the Governor within the eight-week time period, the candidate ranked first shall receive the designation and be referred to the General Assembly for confirmation.**]** If the General Assembly is not in session, the designated candidate shall serve as acting Child Advocate and be entitled to the compensation, privileges and powers of the Child Advocate until the General Assembly meets to take action on said appointment. The person appointed Child Advocate shall serve for a term of **[**four**]** <u>two</u> years and may be reappointed or shall continue to hold office until such person's successor is appointed and qualified. **[**Upon any vacancy in the position of Child Advocate and until such time as a candidate has been confirmed by the General Assembly or, if the General Assembly is not in session, has been designated by the Governor, the Associate Child Advocate shall serve as the acting Child Advocate and be entitled to the compensation, privileges and powers of the Child Advocate.**]**

[(b) The Office of the Child Advocate shall be in the Department of Administrative Services for administrative purposes only.

(c) Notwithstanding any other provision of the general statutes, the Child Advocate shall act independently of any state department in the performance of his duties.

46 (d) The Child Advocate may, within available funds, appoint such
47 staff as may be deemed necessary provided, for the fiscal years ending
48 June 30, 1996, and June 30, 1997, such staff shall not exceed one and
49 one-half full-time positions or the equivalent thereof. The duties of the
50 staff may include the duties and powers of the Child Advocate if
51 performed under the direction of the Child Advocate.

52 (e) The General Assembly shall annually appropriate such sums as
53 necessary for the payment of the salaries of the staff and for the
54 payment of office expenses and other actual expenses incurred by the
55 Child Advocate in the performance of his duties. Any legal or court
56 fees obtained by the state in actions brought by the Child Advocate
57 shall be deposited in the General Fund.

58 (f) The Child Advocate shall annually submit to the Governor and
59 the General Assembly a detailed report analyzing the work of the
60 Office of the Child Advocate.**]**

61 Sec. 502. Section 46a-13*l* of the 2010 supplement to the general
62 statutes is repealed and the following is substituted in lieu thereof
63 (*Effective July 1, 2010*):

64 (a) The Child Advocate **[**shall**]** <u>may</u>:

65 (1) Evaluate the delivery of services to children by state agencies
66 and those entities that provide services to children through funds
67 provided by the state <u>and recommend changes to policies, procedures</u>
68 <u>and systems with a view toward the rights of children</u>;

69 **[**(2) Review periodically the procedures established by any state
70 agency providing services to children to carry out the provisions of
71 sections 46a-13k to 46a-13q, inclusive, with a view toward the rights of
72 the children and recommend revisions to such procedures;**]**

73 **[**(3)**]** <u>(2)</u> Review complaints of persons concerning the actions of any
74 state or municipal agency providing services to children and of any
75 entity that provides services to children through funds provided by the

76 state, make appropriate referrals and investigate those where the Child
77 Advocate determines that a child or family may be in need of
78 assistance from the Child Advocate or that a systemic issue in the
79 state's provision of services to children is raised by the complaint;

80 [(4)] (3) Pursuant to an investigation, provide assistance to a child or
81 family who the Child Advocate determines is in need of such
82 assistance including, but not limited to, advocating with an agency,
83 provider or others on behalf of the best interests of the child;

84 [(5) Periodically review the facilities and procedures of any and all
85 institutions or residences, public or private, where a juvenile has been
86 placed by any agency or department;

87 (6) Recommend changes in state policies concerning children
88 including changes in the system of providing juvenile justice, child
89 care, foster care and treatment;

90 (7) Take all possible action including, but not limited to, conducting]

91 (4) Conduct programs of public education, [undertaking] undertake
92 legislative advocacy and [making] make proposals for systemic reform
93 and formal legal action, in order to secure and ensure the legal, civil
94 and special rights of children who reside in this state; and

95 [(8)] (5) Provide training and technical assistance to attorneys
96 representing children and guardians ad litem appointed by the
97 Superior Court. [;]

98 [(9) Periodically review the number of special needs children in any
99 foster care or permanent care facility and recommend changes in the
100 policies and procedures for the placement of such children;

101 (10) Serve or designate a person to serve as a member of the child
102 fatality review panel established in subsection (b) of this section; and

103 (11) Take appropriate steps to advise the public of the services of the
104 Office of the Child Advocate, the purpose of the office and procedures

105 to contact the office.**]**

106 (b) There is established a child fatality review panel composed of
107 thirteen permanent members as follows: The Child Advocate, **[**or a
108 designee;**]** the Commissioners of Children and Families, Public Health
109 and Public Safety, or their designees; the Chief Medical Examiner, or a
110 designee; the Chief State's Attorney, or a designee; a pediatrician,
111 appointed by the Governor; a representative of law enforcement,
112 appointed by the president pro tempore of the Senate; an attorney,
113 appointed by the majority leader of the Senate; a social work
114 professional, appointed by the minority leader of the Senate; a
115 representative of a community service group appointed by the speaker
116 of the House of Representatives; a psychologist, appointed by the
117 majority leader of the House of Representatives; and an injury
118 prevention representative, appointed by the minority leader of the
119 House of Representatives. A majority of the panel may select not more
120 than three additional temporary members with particular expertise or
121 interest to serve on the panel. Such temporary members shall have the
122 same duties and powers as the permanent members of the panel. The
123 chairperson shall be elected from among the panel's permanent
124 members. The panel shall, to the greatest extent possible, reflect the
125 ethnic, cultural and geographic diversity of the state.

126 (c) The <u>child fatality review</u> panel shall review the circumstances of
127 the death of a child placed in out-of-home care or whose death was
128 due to unexpected or unexplained causes to facilitate development of
129 prevention strategies to address identified trends and patterns of risk
130 and to improve coordination of services for children and families in
131 the state. Members of the panel shall not be compensated for their
132 services, but may be reimbursed for necessary expenses incurred in the
133 performance of their duties.

134 (d) On or before January 1, **[**2000**]** <u>2011</u>, and annually thereafter, the
135 <u>child fatality review</u> panel shall issue an annual report which shall
136 include its findings and recommendations to the Governor and the
137 General Assembly on its review of child fatalities for the preceding

138 year.

139 [(e) Upon request of two-thirds of the members of the panel and
140 within available appropriations, the Governor, the General Assembly
141 or at the Child Advocate's discretion, the Child Advocate shall conduct
142 an in-depth investigation and review and issue a report with
143 recommendations on the death or critical incident of a child. The
144 report shall be submitted to the Governor, the General Assembly and
145 the commissioner of any state agency cited in the report and shall be
146 made available to the general public.

147 (f) Any state agency cited in a report issued by the Office of the
148 Child Advocate, pursuant to the Child Advocate's responsibilities
149 under this section, shall submit a written response to the report and
150 recommendations made in the report to the Governor and the General
151 Assembly not later than ninety days after receipt of such report and
152 recommendations. The General Assembly shall submit a copy of such
153 response to the Office of the Child Advocate immediately upon
154 receipt.]

155 [(g)] (e) The Chief Medical Examiner shall provide timely notice to
156 [the Child Advocate and to] the chairperson of the child fatality review
157 panel of the death of any child that is to be investigated pursuant to
158 section 19a-406.

159 [(h)] (f) Any agency having responsibility for the custody or care of
160 children shall provide timely notice to [the Child Advocate and] the
161 chairperson of the child fatality review panel of the death of a child or
162 a critical incident involving a child in its custody or care.

163 Sec. 503. Section 46a-13n of the general statutes is repealed and the
164 following is substituted in lieu thereof (*Effective July 1, 2010*):

165 (a) The name, address and other personally identifiable information
166 of a person who makes a complaint to the Child Advocate as provided
167 in section 46a-13*l*, as amended by this act, all information obtained or
168 generated by the office in the course of an investigation and all

169 confidential records obtained by the Child Advocate or a designee
170 shall be confidential and shall not be subject to disclosure under the
171 Freedom of Information Act or otherwise, except that such information
172 and records, other than confidential information concerning a pending
173 law enforcement investigation or a pending prosecution, may be
174 disclosed if the Child Advocate determines that disclosure is (1) in the
175 general public interest, or (2) necessary to enable the Child Advocate
176 to perform his responsibilities under subsection (a) of section 46a-13*l*,
177 as amended by this act. If the Child Advocate determines that
178 disclosure of confidential information is not in the public interest but is
179 necessary to enable the Child Advocate to perform responsibilities
180 under subsection (a) of section 46a-13*l*, as amended by this act, or to
181 identify, prevent or treat the abuse or neglect of a child, the Child
182 Advocate may disclose such information to the appropriate agency
183 responsible for the welfare of such child.

184 (b) No state or municipal agency shall discharge, or in any manner
185 discriminate or retaliate against, any employee who in good faith
186 makes a complaint to the Child Advocate or cooperates with **[**the
187 Office of**]** the Child Advocate in an investigation.

188 Sec. 504. Section 46a-13o of the general statutes is repealed and the
189 following is substituted in lieu thereof (*Effective July 1, 2010*):

190 (a) In addition to the powers set forth in section 46a-13m, and
191 notwithstanding section 3-125, the Child Advocate, **[**or his designee,**]**
192 may represent, appear, intervene in or bring an action on behalf of any
193 child in any proceeding before any court, agency, board or commission
194 in this state in which matters related to sections 46a-13k to 46a-13q,
195 inclusive, as amended by this act, are in issue. Prior to the institution of
196 any action brought pursuant to this subsection, the Child Advocate
197 shall make a good faith effort to resolve issues or problems through
198 mediation.

199 (b) Any judgment for compensation or order for settlement of the
200 claim for compensation entered by the court pursuant to the

201 provisions of subsection (a) of this section shall be considered as the
202 estate of the child for whose benefit the judgment or order is entered,
203 to be held by **[**the Office of**]** the Child Advocate as guardian of such
204 compensation, and shall be deposited into a trust account established
205 by the office for the purposes of distributing such funds to such child
206 in accordance with the plan adopted by the Family Division of the
207 Superior Court.

208 Sec. 505. Section 46a-13p of the general statutes is repealed and the
209 following is substituted in lieu thereof (*Effective July 1, 2010*):

210 The state of Connecticut shall protect and hold harmless **[**any
211 attorney, director, investigator, social worker or other person
212 employed by the Office of**]** the Child Advocate and any volunteer
213 appointed by the Child Advocate from financial loss and expense,
214 including legal fees and costs, if any, arising out of any claim, demand
215 or suit for damages resulting from acts or omissions committed in the
216 discharge of his duties with the program within the scope of his
217 employment or appointment which may constitute negligence but
218 which acts are not wanton, malicious or grossly negligent as
219 determined by a court of competent jurisdiction.

220 Sec. 506. Subsection (b) of section 17a-101 of the 2010 supplement to
221 the general statutes is repealed and the following is substituted in lieu
222 thereof (*Effective July 1, 2010*):

223 (b) The following persons shall be mandated reporters: Any
224 physician or surgeon licensed under the provisions of chapter 370, any
225 resident physician or intern in any hospital in this state, whether or not
226 so licensed, any registered nurse, licensed practical nurse, medical
227 examiner, dentist, dental hygienist, psychologist, coach of intramural
228 or interscholastic athletics, school superintendent, school teacher,
229 school principal, school guidance counselor, school paraprofessional,
230 school coach, social worker, police officer, juvenile or adult probation
231 officer, juvenile or adult parole officer, member of the clergy,
232 pharmacist, physical therapist, optometrist, chiropractor, podiatrist,

233 mental health professional or physician assistant, any person who is a
234 licensed or certified emergency medical services provider, any person
235 who is a licensed or certified alcohol and drug counselor, any person
236 who is a licensed marital and family therapist, any person who is a
237 sexual assault counselor or a battered women's counselor as defined in
238 section 52-146k, any person who is a licensed professional counselor,
239 any person who is a licensed foster parent, any person paid to care for
240 a child in any public or private facility, child day care center, group
241 day care home or family day care home licensed by the state, any
242 employee of the Department of Children and Families, any employee
243 of the Department of Public Health who is responsible for the licensing
244 of child day care centers, group day care homes, family day care
245 homes or youth camps, and the Child Advocate. **[**and any employee of
246 the Office of the Child Advocate.**]**

247 Sec. 507. Section 46a-153 of the general statutes is repealed and the
248 following is substituted in lieu thereof (*Effective July 1, 2010*):

249 Each local or regional board of education, institution or facility that
250 provides direct care, education or supervision of persons at risk shall
251 (1) record each instance of the use of physical restraint or seclusion on
252 a person at risk and the nature of the emergency that necessitated its
253 use, and (2) include such information in an annual compilation on its
254 use of such restraint and seclusion. The commissioner of the state
255 agency that has jurisdiction or supervisory control over each
256 institution or facility shall review the annual compilation prior to
257 renewing a license for or a contract with such institution or facility.
258 The State Board of Education may review the annual compilation of
259 each local and regional board of education, institution and facility that
260 provides special education for children and may produce an annual
261 summary report identifying the frequency of use of physical restraint
262 or seclusion on such children. If the use of such restraint or seclusion
263 results in physical injury to the person, (A) the local or regional board
264 of education, institution or facility that provides special education for a
265 child may report the incident to the State Board of Education, and (B)
266 the institution or facility shall report the incident to the commissioner

267 of the state agency that has jurisdiction or supervisory control over the
268 institution or facility. The State Board of Education and the
269 commissioner receiving a report of such an incident shall report any
270 incidence of serious injury or death to the director of the Office of
271 Protection and Advocacy for Persons with Disabilities and, if
272 appropriate, to the Child Advocate. **[**of the Office of Child Advocate.**]**"