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# State of New Hampshire

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Office of the Child Advocate



**Testimony of  
Emily Lawrence, JD  
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New Hampshire Office of the Child Advocate  
before  
The Vermont House Committee on Human Services  
March 11, 2021**

Good morning Chair Pugh, Vice Chair Wood, and esteemed members of the House Committee on Human Services. My name is Emily Lawrence and I am the Associate Child Advocate and Legal Counsel for the State of New Hampshire Office of the Child Advocate. Thank you for the opportunity to speak to you today in support of **House Bill 265, An Act relating to the Office of the Child Advocate.**

The New Hampshire Office of the Child Advocate enthusiastically supports the establishment of a Vermont Child Advocate Office as contemplated by H.265. I have been asked today to speak on particular topics regarding the operation of our office. I will address those topics in my testimony and am happy to take any questions.

Independent offices mandated to oversee state services to children are the fastest growing sector in state government. As brief background on the establishment of the New Hampshire Office of the Child Advocate, it arose out of a recommendation made in a 2016 report done of the New Hampshire child welfare system following two tragic and highly publicized child deaths. A major concern among citizens was the lack of transparency in the handling of tragic events. The office was created to oversee the child welfare and juvenile justice systems and ensure state agency actions are transparent and effective. It is often hard for child welfare administrations to be transparent due to political or bureaucratic pressures. The Child Advocate can fill that role and illuminate relevant and important information for system support and change.

The Office of the Child Advocate is an independent and impartial state agency. Independence is essential to the credibility of the Office. In order to enjoy trust with citizens it must be free from undue influence and conflict of interest or even the appearance of such. While the Office is independent from any other state entity, it is part of New Hampshire's Executive Branch. Traditional Ombudsman Offices are located in the legislative branch of government. However, placing the Child Advocate's Office in the Executive Branch ensures ease of access to case records and information about children without the concerns associated with sharing confidential information with a separate branch of government. It further assists with relationships between the Child Advocate and state agencies. These access concerns have borne out in states in which Child Advocate Offices are placed outside of state government.

I understand that in 2019 H.215 it is proposed to place the Vermont office in a nonprofit agency. This model certainly ensures independence, but there are concerns about perceptions of the non-governmental authority and sustainability were the non-profit to encounter instability. As I am sure you know the Colorado Child Protection Ombudsman was originally located in a nonprofit organization. They were often challenged by the agency and had little footing in the cabinet. As a result, they amended their statute and moved into state government, in the judiciary branch for stability and stature. The Maine Child Welfare Ombudsman is the longest lasting ombudsman located in a nonprofit organization. They are actually the non-profit themselves and work with very limited resources without the benefit of support of a host agency.

Our power and means of being effective is in access to information and privilege to review that information to better inform all of the parties involved with helping a child. Our statute provides access to all case records, all third party records, including the healthcare and education records of any child receiving services from an executive agency, and all records submitted to the courts. We have immediate access to child welfare and juvenile justice records through New Hampshire's Division for Children, Youth, and Families electronic case management system. We also have access to the children themselves, which appears to be somewhat restricted in Vermont's proposed bill by first requiring parental permission. It is essential that the Office has direct access to children because that may be at times the only means for a child to access assistance. With our access, children do not have to seek approval to have us on their call lists, for example, when placed in residential settings or incarcerated. We are always available to children.

Having access to this information comes with great responsibility. Confidentiality is critical to safety and wellbeing. Under our statute, we are required to maintain confidentiality of all records in accordance with state and federal law. The Child Advocate is empowered to share information regarding child deaths and near deaths in furtherance of the mission and responsibilities of the office. One example of this occurred shortly after the Child Advocate was appointed. There was a tragic child death in a murder suicide. The Child Advocate had access to child protection records that told the story of a parent who repeatedly asked for help, but who was not substantiated for abuse or neglect so there was no means of offering him the services he needed. The Child Advocate shared some of the child's story to inform the New Hampshire legislature of the dire need to reinstitute Voluntary Services. New Hampshire now has Voluntary Services available to families facing similar risks as that child's was.

Of further significance to confidentiality is the protection in our statute for all our investigations and oversight activities, including the identity of complainants who call our office. Having this protection creates trust with our callers. This is especially helpful for staff who call from within the system. We are hearing from an increasing number of Department staff.

Our statute also includes a mandate of education and outreach. In fulfilling this mandate, we educate the state and other stakeholders on flawed practice, and promote the latest research about children and the best practices in meeting children's needs.

We are especially relieved to see Vermont developing a peer office for us. We have established very productive relationships with the Child Advocates and Ombudsmen in the other New

England States. As we are all small agencies, networking for information about federal law, new practices and problem solving is a precious resource. We also communicate with each other when children cross borders. In fact, we recently assisted a Vermont child who was incarcerated in New Hampshire's juvenile detention and commitment center. The child was approaching the age of 18 and mandatory release. There was no plan from Vermont authorities to provide assistance at release beyond picking the child up and bringing him back to Vermont. There was a high risk of homelessness. The child reached out to us with concerns for his lack of a transition plan. We were able to intervene but it took a lot of searching for the right person and, because our role was not understood, a great deal of explaining when we had a short amount of time. Shortly, we will release a summary report of our 2020 system learning reviews of four critical incidents. One of the cases we reviewed was a cross border case we conducted with our colleague from Maine and both state agencies. Through that process we learned a great deal about differing state practices and barriers to communication.

Perhaps the biggest challenge of the Office is prioritizing and managing the workload given such a small office. All of the work is important and impacts lives. The people we deal with are frustrated and not trusting of the State. We have to both resolve their problem and repair that relationship. If people do not trust the State, they will not seek assistance when needed. This is not good for children. It is an important role and a difficult balance to maintain. However, the ultimate goal is for the system to work and people to get help for their children when they need it.

The problem of workload was elevated this last September when we adjusted the enabling statute and expanded our jurisdiction to all children's services provided or arranged for by the State. It will be difficult for a time, especially with limited budget for more staff (we started with just three classified full-time staff and are currently about to be five classified full time and one unclassified full time positions). Despite our small size, we were able to assist children and conduct two large system reviews in the just under two years of having an office of three. Further, despite the greater challenge, we believe strongly that children should not wait to be abused, neglected or adjudicated before they receive assistance. Nearly every child we receive calls about is involved in multiple state systems. We were helping children placed by child protection in residential settings but we could not help their roommates who were placed by education. More broadly, we need children's voice at the table for early childhood intervention and other prevention services to improve children's chances of growing up healthy. It is a privilege and a pleasure to do such meaningful work. I will stop here and take your questions if you have them. I urge your support of **House Bill 265, An Act relating to the Office of the Child Advocate.**

Thank you very much