

## **State of Connecticut Child Death Review Legislation**

Connecticut Statute § 46A-131 (1995)

Link: <http://www.ct.gov/oca/cwp/view.asp?a=1554&q=271488&ocaNav=%7C>

### **Sec. 46a-13k. Office of the Child Advocate established.**

(a) There is established an Office of the Child Advocate. 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 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-13l. 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, on or before sixty days 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 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 Freedom of Information Commission 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.

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

(e) The General Assembly shall annually appropriate such sums as necessary for the payment of

the salaries of the staff and for the payment of office expenses and other actual expenses incurred by the Child Advocate in the performance of his duties. Any legal or court fees obtained by the state in actions brought by the Child Advocate shall be deposited in the General Fund.

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

**(P.A. 95-242, S. 1-6; P.A. 96-155, S. 2; P.A. 97-319, S. 1, 2, 6, 22; P.A. 00-49, S. 4, 7.)**

**History:**

P.A. 96-155 amended Subsection (a) by adding a procedure for filling a vacancy in the position of Child Advocate; P.A. 97-319 amended Subsec. (b) to transfer the Office of the Child Advocate from the Office of Protection and Advocacy for Persons with Disabilities to the Freedom of Information Commission, effective July 1, 1997, amended Subsec. (d) by specifying that staff appointments be within available funds and amended Subsec. (e) to replace provision requiring dedication to the Office of the Child Advocate of fees obtained by the state in actions brought by the Child Advocate with provision requiring deposit in the General Fund; P.A. 00-49 amended Subsec. (a) by adding provision that Associate Child Advocate shall serve as acting Child Advocate until successor has been confirmed by the General Assembly, or designated by the Governor to fill vacancy in position of Child Advocate and made technical change for purposes of gender neutrality, effective May 16, 2000.

**Sec. 46a-13l. Child Advocate's duties. Child fatality review panel. Reports to the Governor and the General Assembly. Investigations.**

(a) The Child Advocate shall:

- (1) Evaluate the delivery of services to children by state agencies and those entities that provide services to children through funds provided by the state;
- (2) Review periodically the procedures established by any state agency providing services to children to carry out the provisions of sections 46a-13k to 46a-13q, inclusive, with a view toward the rights of the children and recommend revisions to such procedures;
- (3) Review complaints of persons concerning the actions of any state or municipal agency providing services to children and of any entity that provides services to children through funds provided by the state, make appropriate referrals and investigate those where the Child Advocate determines that a child or family may be in need of assistance from the Child Advocate or that a systemic issue in the state's provision of services to children is raised by the complaint;
- (4) Pursuant to an investigation, provide assistance to a child or family who the Child Advocate determines is in need of such assistance including, but not limited to, advocating with an agency, provider or others on behalf of the best interests of the child;
- (5) Periodically review the facilities and procedures of any and all institutions or residences, public or private, where a juvenile has been placed by any agency or department;
- (6) Recommend changes in state policies concerning children including changes in the system of providing juvenile justice, child care, foster care and treatment;
- (7) Take all possible action including, but not limited to, conducting programs of public education, undertaking legislative advocacy and making proposals for systemic reform

and formal legal action, in order to secure and ensure the legal, civil and special rights of children who reside in this state;

(8) Provide training and technical assistance to attorneys representing children and guardians ad litem appointed by the Superior Court;

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

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

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

(b) There is established a child fatality review panel composed of seven permanent members as follows: A pediatrician, appointed by the Governor; a representative of law enforcement, appointed by the president pro tempore of the Senate; the Child Advocate, or a designee; a public child welfare practitioner, appointed by the minority leader of the Senate; a representative of a community service group appointed by the speaker of the House of Representatives; a medical examiner, appointed by the minority leader of the House of Representatives; and the Chief State's Attorney, or a designee. A majority of the panel may select not more than two additional temporary members with particular expertise or interest to serve on the review of a specific fatality. Such temporary members shall have the same duties and powers as the permanent members of the panel. The chairperson shall be elected from among the panel's permanent members. The panel shall, to the greatest extent possible, reflect the ethnic, cultural and geographic diversity of the state.

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

(d) On or before January 1, 2000, and annually thereafter, the panel shall issue an annual report which shall include its findings and recommendations to the Governor and the General Assembly on its review of child fatalities for the preceding year.

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

(f) The Chief Medical Examiner shall provide timely notice to the Child Advocate and to the chairperson of the child fatality review panel of the death of any child that is to be investigated pursuant to section 19a-406.

(g) Any agency having responsibility for the custody or care of children shall provide timely notice to the Child Advocate and the chairperson of the child fatality review panel of the death of a child or a critical incident involving a child in its custody or care.

(P.A. 95-242, S. 7; P.A. 97-319, S. 3; June Sp. Sess. P.A. 99-2, S. 8; P.A. 00-49, S. 5, 7.)

**History:**

P.A. 97-319 deleted former Subdiv. (3) re-adoption of regulations, renumbering the remaining Subdivs., added Subdiv. (10) re information to the public about the Office of the Child Advocate and made technical changes in Subsecs. (a) and (b); June Sp. Sess. P.A. 99-2 amended Subsec. (a)(2) by adding "and recommend revisions to such procedures", amended Subsec. (a)(3) by adding "make appropriate referrals", replacing "it appears" with "the Child Advocate determines" and adding provision re systematic issues, amended Subsec. (a)(4) by replacing reference to Family Division of the Superior Court and Department of Children and Families with "by any agency or department", amended Subsec. (b) by adding provision allowing for selection of temporary members, amended Subsec. (c) by replacing reference to a child who has received services from the state with reference to a child placed in out-of-home care or whose death was due to unexpected or unexplained causes and adding requirement that the panel develop prevention strategies, added Subsec. (d) re annual reports, added Subsec. (e) re in-depth investigation, review and report and made technical changes; P.A. 00-49 amended Subsec. (a) by adding Subdiv. (4) re assistance to child or family during an investigation by Child Advocate, and renumbered existing Subdivs. (4) to (10), inclusive, as Subdivs. (5) to (11), inclusive, and added Subsecs. (f) and (g) re timely notice by Chief Medical Examiner and agency having custody or care of children to Child Advocate and chairperson of child fatality review panel of death of child, effective July 1, 2000.

**Sec. 46a-13m. Access to information.**

(a) Notwithstanding any provision of the general statutes concerning the confidentiality of records and information, the Child Advocate shall have access to, including the right to inspect and copy, any records necessary to carry out the responsibilities of the Child Advocate as provided in subsection (a) of section 46a-13l. If the Child Advocate is denied access to any records necessary to carry out said responsibilities, he may issue a subpoena for the production of such records as provided in subsection (c) of this section.

(b) In the performance of his responsibilities under subsection (a) of section 46a-13l the Child Advocate may communicate privately with any child or person who has received, is receiving or should have received services from the state. Such communications shall be confidential and not be subject to disclosure except as provided in subsection (a) of section 46a-13n.

(c) The Child Advocate may issue subpoenas to compel the attendance and testimony of witnesses or the production of books, papers and other documents and to administer oaths to witnesses in any matter under his investigation. If any person to whom such subpoena is issued fails to appear or, having appeared, refuses to give testimony or fails to produce the evidence required, the Child Advocate may apply to the superior court for the judicial district of Hartford which shall have jurisdiction to order such person to appear and give testimony or to produce such evidence, as the case may be.

(d) The Child Advocate may apply for and accept grants, gifts and bequests of funds from other states, federal and interstate agencies and independent authorities and private firms, individuals and foundations, for the purpose of carrying out his responsibilities. There is established within the General Fund a child advocate account which shall be a separate nonlapsing account. Any funds received under this subsection shall, upon deposit in the General Fund, be credited to said account and may be used by the Child Advocate in the performance of his duties.

**(P.A. 88-230, S. 10, 12; P.A. 90-98, S. 1, 2; P.A. 93-142, S. 7, 8; P.A. 95-220, S. 4-6; P.A. 95-242, S. 8; P.A. 97-319, S. 4.)**

**History:**

P.A. 97-319 entirely replaced former section with new provisions re access to information (Revisor's note: P.A. 88-230, 90-98, 93-142 and 95-220 authorized substitution of "judicial district of Hartford" for "judicial district of Hartford-New Britain" in 1998 public and special acts, effective September 1, 1998).

**Sec. 46a-13n. Confidentiality of information.**

(a) The name, address and other personally identifiable information of a person who makes a complaint to the Child Advocate as provided in section 46a-13l, all information obtained or generated by the office in the course of an investigation and all confidential records obtained by the Child Advocate or a designee shall be confidential and shall not be subject to disclosure under the Freedom of Information Act or otherwise, except that such information and records, other than confidential information concerning a pending law enforcement investigation or a pending prosecution, may be disclosed if the Child Advocate determines that disclosure is (1) in the general public interest or (2) necessary to enable the Child Advocate to perform his responsibilities under subsection (a) of section 46a-13l. If the Child Advocate determines that disclosure of confidential information is not in the public interest but is necessary to enable the Child Advocate to perform responsibilities under subsection (a) of section 46a-13l, or to identify, prevent or treat the abuse or neglect of a child, the Child Advocate may disclose such information to the appropriate agency responsible for the welfare of such child.

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

**(P.A. 95-242, S. 9; P.A. 96-268, S. 2, 34; P.A. 97-319, S. 5; June Sp. Sess. P.A. 99-2, S. 9.)**

**History:**

P.A. 96-268 substituted Office of the Child Advocate for Child Advocate's Office, effective July 1, 1996; P.A. 97-319 entirely replaced former section with new provisions re confidentiality; June Sp. Sess. P.A. 99-2 amended Subsec. (a)(2) by deleting "provided in no event shall the name, address or other personally identifiable information of a person be disclosed without the consent of such person" and made technical changes.

**Sec. 46a-13o. Representation of child. Judgments or settlements for compensation.**

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

(b) Any judgment for compensation or order for settlement of the claim for compensation entered by the court pursuant to the provisions of subsection (a) of this section shall be considered as the estate of the child for whose benefit the judgment or order is entered, to be held by the Office of the Child Advocate as guardian of such compensation, and shall be deposited into a trust account established by the office for the purposes of distributing such funds to such child in accordance with the plan adopted by the Family Division of the Superior Court.

**(P.A. 95-242, S. 10; P.A. 97-319, S. 7.)**

**History:**

P.A. 97-319 amended Subsec. (a) to preclude participation of Attorney General in actions on behalf of child where the Child Advocate participates and to delete requirement of consent of parents or legal guardian and made a technical change in Subsec. (b).

**Sec. 46a-13p. Indemnification of employees and volunteers.**

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

**(P.A. 95-242, S. 11.)**

**Sec. 46a-13q. Advisory committee established.**

(a) There is established an advisory committee to the Office of the Child Advocate which shall meet three times a year with the Child Advocate and his staff to review and assess the following: (1) Patterns of treatment and service for children; (2) policy implications of the findings of subdivision (1) of this subsection; and (3) necessary systemic improvements. The advisory committee shall also provide for an annual evaluation of the effectiveness of said office.

(b) Said advisory committee shall consist of one pediatrician, appointed by the majority leader of the House of Representatives; one public child welfare social worker, appointed by the minority leader of the House of Representatives; one psychologist, appointed by the Connecticut Psychological Association; one attorney, appointed by the Connecticut Bar Association; one judge of the Family Division of the Superior Court, appointed by the Chief Justice of the Supreme Court; one representative of private children's agencies, appointed by the president pro

tempore of the Senate; and one representative of education, appointed by the minority leader of the Senate. Each member of the advisory committee shall serve a five-year term.

(c) Said advisory committee shall provide authorization to the Child Advocate for initiating a legal action against a state department in Superior Court.

**(P.A. 95-242, S. 12.)**