
OHIO PUBLIC DEFENDER COMMISSION

- Authorizes the State Public Defender, effective July 1, 2013, to conduct a legal assistance referral service for children committed to the Department of Youth Services (DYS) relative to conditions of confinement claims.
- Requires DHS, effective July 1, 2013, to provide the State Public Defender reasonable access to any child committed to DHS, to any DHS Institution, and to any DHS record that the State Public Defender needs to provide the child access to the courts.

Representation of a child committed to DHS

(R.C. 120.06(A) and (G) to (J) and 5139.04(H); Section 812.20)

The act permits the State Public Defender to conduct a legal assistance referral service for children committed to the Department of Youth Services (DYS) relative to conditions of confinement claims. If the legal assistance referral service receives a request for assistance from a child confined in a facility operated, or contract for, by DHS and the State Public Defender determines that the child has a conditions of confinement claim that has merit, the State Public Defender may refer the child to a private attorney. If no private attorney who the child has been referred to accepts the case within a reasonable time, the State Public Defender is authorized to prepare, as appropriate, pro se pleadings in the form of a complaint regarding the conditions of confinement at the facility where the child is confined with a motion for appointment of counsel and other applicable pleadings necessary for the child to act on the child's own behalf.

"Conditions of confinement" is defined by the act to mean any issue involving a constitutional right or other civil right related to a child's incarceration, including, but not limited to, civil actions cognizable under 42 U.S.C. 1983 for the deprivation of any rights, privileges, or immunities secured by statute or the U.S. Constitution.

A child's right to representation and services that are authorized by the act is not affected by the child, or another person on behalf of the child, previously having paid for similar representation or services or having waived legal representation.

The act grants the State Public Defender the right of reasonable access to any child committed to DHS, to any DHS Institution, and to any DHS record, as needed by the State Public Defender to implement the act's provisions.



The act also requires that DYS provide the State Public Defender the reasonable access authorized by the act to any child committed to DYS, to any DYS Institution, and to any DYS record in order to fulfill the DYS's constitutional obligation to provide juveniles who have been committed to DYS's care access to the courts.

The act prohibits the State Public Defender from undertaking the representation of a child in court based on a conditions of confinement claim arising from the legal assistance referral service. The act provides that the authority granted to the State Public Defender with regard to the operation of the legal assistance referral service does not authorize the State Public Defender to represent a child committed to DYS in general civil matters arising solely out of state law.

These provisions take effect July 1, 2013.

