

Making the Virginia Office for Protection and Advocacy Fully Independent HB 1230

SUMMARY

House Bill 1230 directs the Virginia Office for Protection and Advocacy to establish a private nonprofit entity capable of carrying out the duties assigned to it under federal and state law. The new entity is to be created by December 31, 2013 and the Governor is required to redesignate the new entity as of January 1, 2014.

The bill, as amended, anticipates that the new entity will employ most if not all of the current staff. The amendment in the nature of a substitute clarifies that employees will transition to the new entity and includes provision for the continued participation by VOPA employees in the state retirement system and in state health benefits.

The bill also instructs the Director of the Virginia Office for Protection and Advocacy to develop a plan for the transition by December 1, 2012.

The bill is supported by the Governing Board for the Virginia Office for Protection and Advocacy.

BACKGROUND

The Virginia Office for Protection and Advocacy is part of a nationwide network of protection and advocacy systems. These Protection and Advocacy Systems were established beginning in the mid-70s with the passage of the federal Developmental Disabilities and Bill of Rights Act. The purpose of the Protection and Advocacy systems is to address abuse and neglect of people with disabilities and to undertake advocacy and legal action to protect their rights under state and federal law.

The Virginia Office for Protection and Advocacy was established as an independent state agency by the General Assembly in 2002. Prior to that year, the agency was in the executive branch first under the Secretary of Health and Human Resources, then under the Secretary of Administration.

Federal law requires that the protection and advocacy system be independent of any agency that provides services to people with disabilities.

Although federal law allows the protection and advocacy system to be either a private nonprofit organization or a state agency, nearly every state's protection and advocacy system is a private, nonprofit organization.

VOPA is entirely federally funded. The Office received state general funds for many years, but those funds were eliminated in the 2010 state budget.