

1 **SENATE FLOOR VERSION**

2 April 4, 2023

3 COMMITTEE SUBSTITUTE
4 FOR ENGROSSED
5 HOUSE BILL NO. 1017

By: Lawson, Munson, and Ranson
of the House

and

Rosino of the Senate

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9 [children - Family Representation and Advocacy Act -
10 Family Representation and Advocacy Program -
11 Administrative Office of the Courts - executive
12 director - training for contractors - Family
Representation and Advocacy Program Revolving Fund -
annual audit - annual report - codification -
effective date]

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15 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

16 SECTION 1. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 801 of Title 10, unless there is
18 created a duplication in numbering, reads as follows:

19 A. This act shall be known and may be cited as the "Family
20 Representation and Advocacy Act".

21 B. As used in this act, "eligible organization" means an entity
22 that:

23 1. Is organized as a not-for-profit corporation that is tax
24 exempt pursuant to the provisions of paragraph (3) of subsection (c)

1 of Section 501 of the United States Internal Revenue Code of 1986,
2 as amended;

3 2. Has as its primary purpose the furnishing of legal
4 assistance to eligible clients in civil matters;

5 3. Renders legal services to eligible clients in pre- and post-
6 petition deprived child proceedings; and

7 4. Is incorporated pursuant to any applicable laws in this
8 state.

9 C. There is hereby created within the Administrative Office of
10 the Courts the Family Representation and Advocacy Program. The
11 purpose of the Family Representation and Advocacy Program shall be
12 to ensure uniform and high quality legal representation for children
13 and indigent parents, legal guardians, and Indian custodians in
14 deprived child actions brought by the state pursuant to the
15 provisions of Section 1-1-101 et seq. of Title 10A of the Oklahoma
16 Statutes.

17 D. From funds appropriated or otherwise available for the
18 purpose of implementing the Family Representation and Advocacy Act,
19 the Administrative Office of the Court shall issue a request for
20 proposals and contract with an eligible organization to administer
21 the Family Representation and Advocacy Program through the
22 establishment of a central office for the state. The contract shall
23 be the result of the request for proposals issued by the
24 Administrative Office of the Courts and submission of competitive

1 bids by eligible organizations pursuant to the Oklahoma Central
2 Purchasing Act.

3 E. Through the activities of the central office, the Family
4 Representation and Advocacy Program shall work cooperatively
5 statewide with judicial districts and attorneys by contracting with,
6 training, compensating, and supporting legal counsel for the
7 children, indigent parents, legal guardians, and Indian custodians
8 appointed by the court pursuant to Section 1-4-306 of Title 10A of
9 the Oklahoma Statutes. The Family Representation and Advocacy
10 Program shall have the responsibility to ensure that all parents,
11 legal guardians, and Indian custodians who are entitled to court-
12 appointed counsel and all children are appointed counsel who have
13 the training, support, and access to resources to provide uniform
14 and high quality legal representation. The central office shall not
15 provide direct legal representation to clients except in selected
16 appeals. Nothing in this subsection shall preclude the appointment
17 of a guardian ad litem pursuant to Section 1-8-108 of Title 10A of
18 the Oklahoma Statutes.

19 F. An executive director for the Family Representation and
20 Advocacy Program shall be employed by the eligible organization and
21 approved by the Administrative Office of the Courts or any board
22 established pursuant to subsection K of this section. The executive
23 director shall have at least ten (10) years of experience as a
24 licensed attorney prior to appointment, be licensed to practice law

1 in this state at the time of appointment and be familiar with the
2 unique demands of representing children, parents, legal guardians,
3 Indian custodians in deprived child cases in this state. The
4 executive director shall serve full time and shall not engage in
5 private practice of law outside of the Program. The executive
6 director shall hire all staff including employees of the central
7 office, contract attorneys or other legal providers eligible for
8 appointment pursuant to Section 1-4-306 of Title 10A of the Oklahoma
9 Statutes, and interdisciplinary contractors required to implement
10 the Family Representation and Advocacy Act. The executive director
11 shall submit budget requests and shall report quarterly to the
12 Administrative Office of the Courts or any board established
13 pursuant to subsection K of this section.

14 G. The Family Representation and Advocacy Program shall have
15 authority to contract with any type of legal entity including but
16 not limited to law firms, legal services programs, Office of Public
17 Defender, law school clinics, and individual attorneys as needed.
18 The Program shall have authority to contract with and compensate
19 social workers, parent and youth advocates, and peer mentors to
20 provide interdisciplinary assistance to the attorneys representing
21 children, indigent parents, legal guardians, Indian custodians in
22 the deprived child proceedings. The existing Offices of Public
23 Defender shall continue to provide representation for children in
24 deprived child proceedings and continue to be funded as set forth in

1 Section 138.4 of Title 19 of the Oklahoma Statutes. The Offices of
2 the Public Defender may elect to contract with the Family
3 Representation and Advocacy Program for additional funds to provide
4 additional staff and resources in the representation of the
5 children.

6 H. The Family Representation and Advocacy Program shall ensure
7 that all counsel are members of the Oklahoma Bar Association in good
8 standing and are adequately trained. The Program shall provide
9 uniform and high quality training in collaboration with the State of
10 Oklahoma Children's Court Improvement Program, the Oklahoma Bar
11 Association, local bar associations, and other relevant state and
12 national organizations to all attorneys who are appointed to
13 represent children, parents, legal guardians, and Indian custodians
14 in deprived child proceedings. The Program shall contractually
15 require and verify that the attorneys providing legal representation
16 to children, indigent parents, legal guardians, and Indian
17 custodians comply with the Oklahoma Standards of Practice for
18 Attorneys Representing Parents in Deprived Child Proceedings, the
19 Oklahoma Standards of Practice for Attorneys Representing Children
20 in Deprived Child Proceedings, and caseload limits as developed and
21 approved by the Uniform Representation of Children and Parents in
22 Cases Involving Abuse and Neglect Oversight Committee created by the
23 Oklahoma Supreme Court. The Family Representation and Advocacy
24 Program shall ensure that all interdisciplinary contractors are

1 provided with uniform and evidence-based training, resources, and
2 support.

3 I. The Family Representation and Advocacy Program shall ensure
4 that all areas of the state are equitably served and, based on the
5 appropriations available, shall prioritize judicial districts where
6 attorneys are unavailable for court appointments or are minimally
7 compensated. The Program shall determine where additional attorneys
8 are needed within the state's judicial districts and shall develop
9 additional resources.

10 J. The Family Representation and Advocacy Program shall ensure
11 that counsel and interdisciplinary contractors are adequately
12 compensated based on available appropriations and other funding
13 received and are provided access to resources in order to deliver
14 high quality legal representation. The Program is authorized to
15 annually review the performance of the attorneys, interdisciplinary
16 contractors, and entities with which the eligible organization
17 contracts, with the goal of helping them achieve and maintain high-
18 quality performance. The Program shall ensure that review measures
19 preserve client confidentiality and avoid conflicts of interest.

20 K. The Oklahoma Supreme Court may direct the Administrative
21 Office of the Courts to establish an advisory board to exercise
22 oversight over the Family Representation and Advocacy Program and
23 the selected eligible organization, and to make recommendations and
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1 take such actions as deemed necessary to ensure proper
2 administration of the Program.

3 SECTION 2. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 802 of Title 10, unless there is
5 created a duplication in numbering, reads as follows:

6 A. There is hereby created in the State Treasury a revolving
7 fund for the Administrative Office of the Courts to be designated
8 the "Family Representation and Advocacy Program Revolving Fund".
9 The fund shall be a continuing fund, not subject to fiscal year
10 limitations, and shall consist of all monies received by the
11 Administrative Office of the Courts for child and indigent parent,
12 legal guardian, and Indian custodian legal and interdisciplinary
13 representation services to be provided by the Family Representation
14 and Advocacy Program. The revolving fund shall include funds
15 appropriated to the fund, federal funds, gifts, donations, and
16 grants. All monies accruing to the credit of the fund are hereby
17 appropriated and may be budgeted and expended by the Administrative
18 Office of the Courts for the purpose of administering the Family
19 Representation and Advocacy Program and for the provision of legal
20 and interdisciplinary services to indigent parents and children by
21 and through the Family Representation and Advocacy Program. By
22 January 31, 2024, and by January 31 of each year thereafter, the
23 Administrative Office of the Courts shall disburse funds from the

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1 Family Representation and Advocacy Program Revolving Fund to the
2 contracted eligible organization.

3 B. The Administrative Office of the Courts shall allocate and
4 expend funds from the Family Representation and Advocacy Program
5 Revolving Fund to provide for the necessary operating costs of the
6 Family Representation and Advocacy Program including court-appointed
7 legal and interdisciplinary representation to children, indigent
8 parents, legal guardians, or Indian custodians in proceedings
9 governed by the Oklahoma Children's Code, to the extent that funds
10 are available from the Family Representation and Advocacy Program
11 Revolving Fund. The Administrative Office of the Courts shall
12 allocate and expend these funds pursuant to the contract with the
13 eligible organization. The Administrative Office of the Courts may
14 charge an administrative fee as provided in subsection D of this
15 section for administering the contract.

16 C. The eligible organization that contracts to operate and
17 manage the Family Representation and Advocacy Program to provide
18 legal and interdisciplinary services shall maintain books and
19 records in accordance with generally accepted accounting principles.
20 The books and records shall account for the receipt and expenditure
21 of all funds paid pursuant to contract. Books and records shall be
22 maintained for a period of five (5) years from the close of the
23 fiscal year of the contract period. The State Auditor and Inspector
24 may audit each organization annually. The necessary expense of each

1 audit including but not limited to the cost of typing, printing, and
2 binding shall be paid from funds of the organization.

3 D. The Administrative Office of the Courts may use up to two
4 and one-half percent (2.5%) of the funds deposited in the Family
5 Representation and Advocacy Program Revolving Fund in any given
6 fiscal year to provide financial support staff, financial data entry
7 staff and facilities, and operating assistance for the Family
8 Representation Program Advisory Board.

9 E. An annual report issued by the Administrative Office of the
10 Courts outlining performance measures for the Family Representation
11 and Advocacy Program and recommendations for ongoing appropriations
12 shall be transmitted to the Governor, the President Pro Tempore of
13 the Oklahoma Senate and the Speaker of the House of Representatives
14 no later than December 31 of each year.

15 SECTION 3. This act shall become effective November 1, 2023.

16 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY
17 April 4, 2023 - DO PASS AS AMENDED BY CS
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