

STATE OF OKLAHOMA

1st Session of the 59th Legislature (2023)

SENATE BILL 907

By: Rosino

AS INTRODUCED

An Act relating to legal representation for children and parents; creating the Family Representation and Advocacy Act; providing short title; establishing the Family Representation and Advocacy Program within the Administrative Office of the Courts; stating purpose of Program; requiring certain request for proposals; requiring submission of bids pursuant to the Oklahoma Central Purchasing Act; establishing duties and responsibilities of Program; requiring employment of executive director; establishing qualifications for executive director; establishing duties of executive director; providing authority for Program to enter into certain contracts; establishing qualifications for counsel providing services to the Program; requiring equitable service through judicial districts; requiring adequate compensation for counsel and interdisciplinary contractors; authorizing certain annual review; creating the Family Representation and Advocacy Program Board; stating purpose of Board; directing membership of Board; establishing terms of Board members; providing for filling of certain vacancy; authorizing reappointment to Board; prohibiting compensation for Board members; authorizing travel reimbursement; establishing duties of Board; defining term; creating the Family Representation and Advocacy Program Revolving Fund; stating purpose of Fund; directing disbursement of funds; authorizing certain administrative fee; requiring maintenance of certain books and records; authorizing certain annual audits; authorizing use of percentage of funds for staff and operations; requiring certain annual report; providing for codification; and providing an effective date.

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

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

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

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

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

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

3 D. 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.

17 E. An executive director for the Family Representation and
18 Advocacy Program shall be employed by the eligible organization and
19 approved by the Family Representation and Advocacy Program Board.
20 The executive director shall have at least ten (10) years of
21 experience as a licensed attorney prior to appointment, be licensed
22 to practice law in this state at the time of appointment and be
23 familiar with the unique demands of representing children, parents,
24 legal guardians, Indian custodians in deprived child cases in this

1 state. The executive director shall serve full time and shall not
2 engage in private practice of law outside of the Program. The
3 executive director shall hire all staff including employees of the
4 central office, contract attorneys or other legal providers eligible
5 for appointment pursuant to Section 1-4-306 of Title 10A of the
6 Oklahoma Statutes, and interdisciplinary contractors required to
7 implement the Family Representation and Advocacy Act. The executive
8 director shall submit budget requests and shall report quarterly to
9 the Family Representation and Advocacy Program Board.

10 F. The Family Representation and Advocacy Program shall have
11 authority to contract with any type of legal entity including but
12 not limited to law firms, legal services programs, Office of Public
13 Defender, law school clinics, and individual attorneys as needed.
14 The Program shall have authority to contract with and compensate
15 social workers, parent and youth advocates, and peer mentors to
16 provide interdisciplinary assistance to the attorneys representing
17 children, indigent parents, legal guardians, Indian custodians in
18 the deprived child proceedings. The existing Offices of Public
19 Defender shall continue to provide representation for children in
20 deprived child proceedings and continue to be funded as set forth in
21 Section 138.4 of Title 19 of the Oklahoma Statutes. The Offices of
22 the Public Defender may elect to contract with the Family
23 Representation and Advocacy Program for additional funds to provide
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1 additional staff and resources in the representation of the
2 children.

3 G. The Family Representation and Advocacy Program shall ensure
4 that all counsel are members of the Oklahoma Bar Association in good
5 standing and are adequately trained. The Program shall provide
6 uniform and high quality training in collaboration with the State of
7 Oklahoma Children's Court Improvement Program, the Oklahoma Bar
8 Association, local bar associations, and other relevant state and
9 national organizations to all attorneys who are appointed to
10 represent children, parents, legal guardians, and Indian custodians
11 in deprived child proceedings. The Program shall verify that
12 contracted attorneys providing legal representation to children,
13 indigent parents, legal guardians, and Indian custodians meet the
14 Standards of Practice as approved by the Oklahoma Supreme Court and
15 caseload limits as developed and recommended by the Uniform
16 Representation of Children and Parents in Cases Involving Abuse and
17 Neglect Oversight Committee created by the Oklahoma Supreme Court.
18 The Family Representation and Advocacy Program shall ensure that all
19 interdisciplinary contractors are provided with uniform and
20 evidence-based training, resources, and support.

21 H. The Family Representation and Advocacy Program shall ensure
22 that all areas of the state are equitably served and, based on the
23 appropriations available, shall prioritize judicial districts where
24 attorneys are unavailable for court appointments or are minimally

1 compensated. The Program shall determine where additional attorneys
2 are needed within the state's judicial districts and shall develop
3 additional resources.

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

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

17 A. For the purpose of establishing and providing oversight for
18 the Family Representation and Advocacy Program, there is hereby
19 created the Family Representation and Advocacy Program Board within
20 the Administrative Office of the Courts. The Board shall consist of
21 thirteen (13) members as follows:

22 1. One member appointed, initially for a one-year term, by the
23 President Pro Tempore of the Oklahoma State Senate;

1 2. One member appointed, initially for a one-year term, by the
2 Speaker of the Oklahoma House of Representatives;

3 3. Three members appointed by the Chief Justice of the Oklahoma
4 Supreme Court, one each initially to be appointed for one-, two-,
5 and three-year terms, one of whom shall be a retired district or
6 associate district court judge who served in the juvenile division
7 of any district court in this state;

8 4. Three members appointed by the president of the Oklahoma Bar
9 Association, one each initially to be appointed for one-, two-, and
10 three-year terms who shall be attorneys with at least five (5) years
11 of experience in representing parents and children in deprived child
12 proceedings;

13 5. One member of the Juvenile Justice Oversight and Advisory
14 Committee to be appointed by the Committee, initially for a two-year
15 term;

16 6. The project director for the State of Oklahoma Children's
17 Court Improvement Program, or a designee, to be appointed initially
18 for a two-year term;

19 7. One member appointed by the Department of Mental Health and
20 Substance Abuse Services who shall be a parent with lived experience
21 with the child welfare system, to be appointed initially for a
22 three-year term;

23 8. One member appointed by the Oklahoma Commission on Children
24 and Youth who shall be an individual with lived experience as a
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1 foster youth within the child welfare system, to be appointed
2 initially for a three-year term; and

3 9. One member appointed by the Department of Human Services.

4 B. Members of the Family Representation and Advocacy Program
5 Board shall serve three-year staggered terms, and each member shall
6 serve until a qualified successor is appointed. A vacancy shall be
7 filled for the remainder of the term in the same manner as a regular
8 appointment. Members may be reappointed to successive terms.

9 Members of the Board shall receive no compensation for their
10 services on the Board but may be reimbursed pursuant to the State
11 Travel Reimbursement Act.

12 C. The Family Representation and Advocacy Program Board shall:

13 1. Annually elect one member to serve as chair and one member
14 to serve as vice-chair;

15 2. Meet not less than quarterly and may meet more frequently as
16 necessary, as determined by the chair. Seven members shall
17 constitute a quorum;

18 3. Exercise oversight on behalf of the Administrative Office of
19 the Courts over the selected eligible organization and may take such
20 action as deemed necessary to ensure proper administration of the
21 Family Representation and Advocacy Program;

22 4. Work cooperatively with the eligible organization to provide
23 governance to the Family Representation and Advocacy Program, to
24 provide fiscal oversight of the general operating budget of the
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1 Program's central office, to participate in funding decisions
2 relating to the provision and expansion of attorneys and the
3 interdisciplinary contractors within the state based on annual
4 appropriations and funds received, and to assist with the duties of
5 the Program's central office concerning attorney training, as
6 needed;

7 5. Make recommendations for rules, standards, and training
8 requirements for attorneys and interdisciplinary contractors, and
9 guidelines necessary to carry out the responsibilities of the Family
10 Representation and Advocacy Program for the approval of and
11 promulgation by the Administrative Office of the Courts; and

12 6. Prepare annually and distribute to the Administrative Office
13 of the Courts recommended budget requests and a report detailing
14 expenditures of funds for the operating expenses of the Family
15 Representation and Advocacy Program, activity data, and performance
16 measures from implementation of the program within the selected
17 judicial districts. The Administrative Office of the Courts shall
18 distribute the proposed budget and the report to the Governor, the
19 President Pro Tempore of the Senate, and the Speaker of the House of
20 Representatives.

21 D. As used in this section, "eligible organization" means an
22 entity 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 SECTION 3. NEW LAW A new section of law to be codified
10 in the Oklahoma Statutes as Section 803 of Title 10, unless there is
11 created a duplication in numbering, reads as follows:

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

1 Representation and Advocacy Program and for the provision of legal
2 and interdisciplinary services to indigent parents and children by
3 and through the Family Representation and Advocacy Program. By
4 January 31, 2024, and by January 31 of each year thereafter, the
5 Administrative Office of the Courts shall disburse funds from the
6 Family Representation and Advocacy Program Revolving Fund to the
7 contracted eligible organization.

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

21 C. The eligible organization that contracts to operate and
22 manage the Family Representation and Advocacy Program to provide
23 legal and interdisciplinary services shall maintain books and
24 records in accordance with generally accepted accounting principles.

1 The books and records shall account for the receipt and expenditure
2 of all funds paid pursuant to contract. Books and records shall be
3 maintained for a period of five (5) years from the close of the
4 fiscal year of the contract period. The State Auditor and Inspector
5 may audit each organization annually. The necessary expense of each
6 audit including but not limited to the cost of typing, printing, and
7 binding shall be paid from funds of the organization.

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

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

20 SECTION 4. This act shall become effective November 1, 2023.

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