

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 59th Legislature (2023)

4 ENGROSSED SENATE

5 BILL NO. 19x

By: Thompson (Roger) and Hall
of the Senate

6 and

7 Wallace and Martinez of the
8 House

9
10 An Act relating to legal representation for children
11 and parents; creating the Family Representation and
12 Advocacy Act; providing short title; defining term;
13 establishing the Family Representation and Advocacy
14 Program within the Administrative Office of the
15 Courts; stating purpose of Program; requiring certain
16 request for proposals; requiring submission of bids
17 pursuant to the Oklahoma Central Purchasing Act;
18 establishing duties and responsibilities of Program;
19 requiring employment of executive director;
20 establishing qualifications for executive director;
21 establishing duties of executive director; providing
22 authority for Program to enter into certain
23 contracts; establishing qualifications for counsel
24 providing services to the Program; requiring
equitable service through judicial districts;
requiring adequate compensation for counsel and
interdisciplinary contractors; authorizing certain
annual review; authorizing creation of advisory board
for certain purposes; 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. As used in this act, "eligible organization" means an entity that:

1. Is organized as a not-for-profit corporation that is tax exempt pursuant to the provisions of paragraph (3) of subsection (c) of Section 501 of the United States Internal Revenue Code of 1986, as amended;

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

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

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

C. 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

1 and indigent parents, legal guardians, and Indian custodians in
2 deprived child actions brought by the state pursuant to the
3 provisions of Section 1-1-101 et seq. of Title 10A of the Oklahoma
4 Statutes.

5 D. From funds appropriated or otherwise available for the
6 purpose of implementing the Family Representation and Advocacy Act,
7 the Administrative Office of the Court shall issue a request for
8 proposals and contract with an eligible organization to administer
9 the Family Representation and Advocacy Program through the
10 establishment of a central office for the state. The contract shall
11 be the result of the request for proposals issued by the
12 Administrative Office of the Courts and submission of competitive
13 bids by eligible organizations pursuant to the Oklahoma Central
14 Purchasing Act.

15 E. Through the activities of the central office, the Family
16 Representation and Advocacy Program shall work cooperatively
17 statewide with judicial districts and attorneys by contracting with,
18 training, compensating, and supporting legal counsel for the
19 children, indigent parents, legal guardians, and Indian custodians
20 appointed by the court pursuant to Section 1-4-306 of Title 10A of
21 the Oklahoma Statutes. The Family Representation and Advocacy
22 Program shall have the responsibility to ensure that all parents,
23 legal guardians, and Indian custodians who are entitled to court-
24 appointed counsel and all children are appointed counsel who have

1 the training, support, and access to resources to provide uniform
2 and high quality legal representation. The central office shall not
3 provide direct legal representation to clients except in selected
4 appeals. Nothing in this subsection shall preclude the appointment
5 of a guardian ad litem pursuant to Section 1-8-108 of Title 10A of
6 the Oklahoma Statutes.

7 F. An executive director for the Family Representation and
8 Advocacy Program shall be employed by the eligible organization and
9 approved by the Administrative Office of the Courts or any board
10 established pursuant to subsection K of this section. The executive
11 director shall have at least ten (10) years of experience as a
12 licensed attorney prior to appointment, be licensed to practice law
13 in this state at the time of appointment and be familiar with the
14 unique demands of representing children, parents, legal guardians,
15 Indian custodians in deprived child cases in this state. The
16 executive director shall serve full time and shall not engage in
17 private practice of law outside of the Program. The executive
18 director shall hire all staff including employees of the central
19 office, contract attorneys or other legal providers eligible for
20 appointment pursuant to Section 1-4-306 of Title 10A of the Oklahoma
21 Statutes, and interdisciplinary contractors required to implement
22 the Family Representation and Advocacy Act. The executive director
23 shall submit budget requests and shall report quarterly to the

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1 Administrative Office of the Courts or any board established
2 pursuant to subsection K of this section.

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

19 H. The Family Representation and Advocacy Program shall ensure
20 that all counsel are members of the Oklahoma Bar Association in good
21 standing and are adequately trained. The Program shall provide
22 uniform and high quality training in collaboration with the State of
23 Oklahoma Children's Court Improvement Program, the Oklahoma Bar
24 Association, local bar associations, and other relevant state and

1 national organizations to all attorneys who are appointed to
2 represent children, parents, legal guardians, and Indian custodians
3 in deprived child proceedings. The Program shall contractually
4 require and verify that the attorneys providing legal representation
5 to children, indigent parents, legal guardians, and Indian
6 custodians comply with the Oklahoma Standards of Practice for
7 Attorneys Representing Parents in Deprived Child Proceedings, the
8 Oklahoma Standards of Practice for Attorneys Representing Children
9 in Deprived Child Proceedings, and caseload limits as developed and
10 approved by the Uniform Representation of Children and Parents in
11 Cases Involving Abuse and Neglect Oversight Committee created by the
12 Oklahoma Supreme Court. The Family Representation and Advocacy
13 Program shall ensure that all interdisciplinary contractors are
14 provided with uniform and evidence-based training, resources, and
15 support.

16 I. The Family Representation and Advocacy Program shall ensure
17 that all areas of the state are equitably served and, based on the
18 appropriations available, shall prioritize judicial districts where
19 attorneys are unavailable for court appointments or are minimally
20 compensated. The Program shall determine where additional attorneys
21 are needed within the state's judicial districts and shall develop
22 additional resources.

23 J. The Family Representation and Advocacy Program shall ensure
24 that counsel and interdisciplinary contractors are adequately

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

9 K. The Oklahoma Supreme Court may direct the Administrative
10 Office of the Courts to establish an advisory board to exercise
11 oversight over the Family Representation and Advocacy Program and
12 the selected eligible organization, and to make recommendations and
13 take such actions as deemed necessary to ensure proper
14 administration of the Program.

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

18 A. There is hereby created in the State Treasury a revolving
19 fund for the Administrative Office of the Courts to be designated
20 the "Family Representation and Advocacy Program Revolving Fund".
21 The fund shall be a continuing fund, not subject to fiscal year
22 limitations, and shall consist of all monies received by the
23 Administrative Office of the Courts for child and indigent parent,
24 legal guardian, and Indian custodian legal and interdisciplinary

1 representation services to be provided by the Family Representation
2 and Advocacy Program. The revolving fund shall include funds
3 appropriated to the fund, federal funds, gifts, donations, and
4 grants. All monies accruing to the credit of the fund are hereby
5 appropriated and may be budgeted and expended by the Administrative
6 Office of the Courts for the purpose of administering the Family
7 Representation and Advocacy Program and for the provision of legal
8 and interdisciplinary services to indigent parents and children by
9 and through the Family Representation and Advocacy Program. By
10 January 31, 2024, and by January 31 of each year thereafter, the
11 Administrative Office of the Courts shall disburse funds from the
12 Family Representation and Advocacy Program Revolving Fund to the
13 contracted eligible organization.

14 B. The Administrative Office of the Courts shall allocate and
15 expend funds from the Family Representation and Advocacy Program
16 Revolving Fund to provide for the necessary operating costs of the
17 Family Representation and Advocacy Program including court-appointed
18 legal and interdisciplinary representation to children, indigent
19 parents, legal guardians, or Indian custodians in proceedings
20 governed by the Oklahoma Children's Code, to the extent that funds
21 are available from the Family Representation and Advocacy Program
22 Revolving Fund. The Administrative Office of the Courts shall
23 allocate and expend these funds pursuant to the contract with the
24 eligible organization. The Administrative Office of the Courts may

1 charge an administrative fee as provided in Subsection D of this
2 Section for administering the contract.

3 C. The eligible organization that contracts to operate and
4 manage the Family Representation and Advocacy Program to provide
5 legal and interdisciplinary services shall maintain books and
6 records in accordance with generally accepted accounting principles.
7 The books and records shall account for the receipt and expenditure
8 of all funds paid pursuant to contract. Books and records shall be
9 maintained for a period of five (5) years from the close of the
10 fiscal year of the contract period. The State Auditor and Inspector
11 may audit each organization annually. The necessary expense of each
12 audit including but not limited to the cost of typing, printing, and
13 binding shall be paid from funds of the organization.

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

20 E. An annual report issued by the Administrative Office of the
21 Courts outlining performance measures for the Family Representation
22 and Advocacy Program and recommendations for ongoing appropriations
23 shall be transmitted to the Governor, the President Pro Tempore of
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1 the Oklahoma Senate and the Speaker of the House of Representatives
2 no later than December 31 of each year.

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

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5 COMMITTEE REPORT BY: COMMITTEE ON JOINT COMMITTEE ON APPROPRIATIONS
6 AND BUDGET, dated 05/23/2023 - DO PASS, As Amended.

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