

STATE OF OKLAHOMA

1st Session of the 59th Legislature (2023)

HOUSE BILL 1017

By: Lawson

AS INTRODUCED

An Act relating to children; enacting the Family Representation and Advocacy Act; creating the Family Representation and Advocacy Program; providing purpose of program; directing the Administrative Office of the Courts to expend funds for certain purposes; directing the Family Representation and Advocacy Program to work with certain entities and individuals for certain purposes; providing duties and responsibilities; providing exception; directing employment and approval of executive director; providing qualification requirements; providing duties of the executive director; granting authority to contract with certain entities for certain purposes; requiring the Family Representation and Advocacy Program to provide training to contractors; creating the Family Representation and Advocacy Program Board; directing appointment of members; providing for terms of membership; providing duties of Board; defining term; creating the Family Representation and Advocacy Program Revolving Fund; placing the fund with the Administrative Office of the Courts; establishing fund characteristics; authorizing budgeting and expenditure of funds for certain purposes; requiring organization to maintain books and records; requiring annual audit; providing use for certain funds; requiring issuance of annual report; providing for codification; and providing an effective date.

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 702 of Title 10, unless there is created a duplication in numbering, reads as follows:

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

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 703 of Title 10, unless there is created a duplication in numbering, reads as follows:

A. 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, 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.

B. From funds appropriated or otherwise available for the purpose of implementing the Family Representation and Advocacy Act, the Administrative Office of the Courts 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 Family Representation and Advocacy Program through the activities of the central office shall work statewide cooperatively with judicial

districts and attorneys by contracting with, training, compensating, and supporting legal counsel for children, indigent parents, legal guardians, and Indian custodians appointed by the court pursuant to Section 1-4-306 of Title 10A of the Oklahoma Statutes. The Family Representation and Advocacy Program shall have the responsibility to ensure that all parents, legal guardians, and Indian custodians who are entitled to court-appointed counsel and all children are appointed counsel who have the training, support, and access to resources to provide uniform and high-quality legal representation. The central office shall not provide direct legal representation to clients except in selected appeals.

C. An executive director for the Family Representation and Advocacy Program shall be employed by the eligible organization and approved by the Family Representation and Advocacy Program Board. The executive director must have at least ten (10) years of experience as a licensed attorney prior to appointment, be licensed to practice law in Oklahoma at the time of appointment, and be familiar with the unique demands of representing children, indigent parents, legal guardians, and Indian custodians in deprived child cases in Oklahoma. The executive director shall devote himself or herself full time to the performance of his or her duties as executive director and shall not engage in private practice of law. The executive director, on behalf of the Family Representation and Advocacy Program, shall hire all staff, including employees of the

central office and contract attorneys or other legal providers eligible for appointment pursuant to Section 1-4-306 of Title 10A of the Oklahoma Statutes and interdisciplinary contractors required to implement the Family Representation and Advocacy Act. The executive director shall submit budget requests and shall report quarterly to the Family Representation and Advocacy Program Board.

D. The Family Representation and Advocacy Program shall have authority to contract with any of legal entity, including, but not limited to, law firms, legal services programs, Offices of Public Defender, law school clinics, and individual attorneys as needed. In addition, the Family Representation and Advocacy Program shall have authority to contract with and compensate social workers, parent advocates, and parent mentors to provide interdisciplinary assistance to the attorneys representing children, indigent parents, legal guardians, and Indian custodians in the deprived child proceedings.

The existing Offices of Public Defender shall continue to provide representation for children in deprived child proceedings and continue to be funded as set forth in Section 138.4 of Title 19 of the Oklahoma Statutes. The Offices of the Public Defender may elect to contract with the Family Representation and Advocacy Program for additional funds to provide additional staff and resources in the representation of the children.

E. The Family Representation and Advocacy Program shall ensure that all counsel are members of the Oklahoma Bar Association in good standing and are adequately trained. The Family Representation and Advocacy Program shall provide uniform and high-quality training in collaboration with the State of Oklahoma Children's Court Improvement Program, the Oklahoma Bar Association, local bar associations, and other relevant state and national organizations to all attorneys who are appointed to represent children, parents, legal guardians, and Indian custodians in deprived child proceedings. The Family Representation and Advocacy Program shall verify that contracted attorneys providing legal representation to children, indigent parents, legal guardians, and Indian custodians meet the standards of practice as approved by the Oklahoma Supreme Court and caseload limits as developed and recommended by the Uniform Representation of Children and Parents in Cases Involving Abuse and Neglect Oversight Committee created by the Oklahoma Supreme Court. In addition, the Family Representation and Advocacy Program shall ensure that all interdisciplinary contractors are provided with uniform and evidence-based training, resources, and support.

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

minimally compensated. The Family Representation and Advocacy Program shall determine where additional attorneys are needed within the state's judicial districts and shall develop additional resources.

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

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 704 of Title 10, unless there is created a duplication in numbering, reads as follows:

A. For the purpose of establishing and providing oversight for the Family Representation and Advocacy Program, there is hereby created the Family Representation and Advocacy Program Board within the Administrative Office of the Courts. The Board shall consist of twelve (12) members as follows:

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

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

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

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

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

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

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

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

Members shall serve three-year staggered terms, and each member shall serve until a qualified successor is appointed. A vacancy shall be filled for the remainder of the term in the same manner as a regular appointment. Members may be reappointed to successive terms. Members of the Board shall receive no compensation for their services on the Board but may be reimbursed pursuant to the State Travel Reimbursement Act.

B. The Family Representation and Advocacy Program Board shall:

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

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

3. Review proposals by eligible organizations received by the Administrative Office of the Courts pursuant to Section 703 of Title 10 of the Oklahoma Statutes and recommend an eligible organization to the Administrative Office of the Courts to administer the Family Representation and Advocacy Program;

4. Exercise oversight on behalf of the Administrative Office of the Courts over the selected eligible organization and may take such



action as deemed necessary to ensure proper administration of the Family Representation and Advocacy Program;

5. Work cooperatively with the eligible organization to provide governance to the Family Representation and Advocacy Program, to provide fiscal oversight of the general operating budget of the program's central office, to participate in funding decisions relating to the provision and expansion of parent counsel and the interdisciplinary contractors within the state, based on annual appropriations and funds received, and to assist with the duties of the Program's central office concerning parent counsel training, as needed;

6. Prepare the rules, standards, training requirements for attorneys and interdisciplinary contractors, and guidelines necessary to carry out the responsibilities of the Family Representation and Advocacy Program for the approval of and promulgation by the Administrative Office of the Courts; and

7. Prepare annually and distribute to the Administrative Office of the Courts budget requests and a report detailing expenditures of funds for the operating expenses of the Family Representation and Advocacy Program, activity data, and performance measures from implementation of the program within the selected judicial districts. The Administrative Office of the Courts shall distribute the proposed budget and the report to the Speaker of the House of Representatives and the President Pro Tempore of the Senate, who

shall distribute the proposed budget and the report to the appropriate committee chairs of the respective chambers.

C. As used in this section, "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.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 705 of Title 10, unless there is created a duplication in numbering, reads as follows:

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

representation services to be provided by the Family Representation and Advocacy Program. The revolving fund shall include funds appropriated to the fund, federal funds, gifts, donations, and grants. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the Administrative Office of the Courts pursuant to the recommendations of the Family Representation and Advocacy Program Board for the purpose of administering the Family Representation and Advocacy Program and for the provision of legal and interdisciplinary services to indigent parents and children by and through the Family Representation and Advocacy Program. By January 31, 2024, and by January 31 of each year thereafter, the Administrative Office of the Courts shall disperse funds from the Family Representation and Advocacy Program Revolving Fund to the contracted eligible organization.

B. The Administrative Office of the Courts shall allocate and expend funds from the Family Representation and Advocacy Program Revolving Fund as recommended by the Family Representation and Advocacy Program Board to provide for the necessary operating costs of the Family Representation and Advocacy Program, including court-appointed legal and interdisciplinary representation to children, indigent parents, legal guardians, or Indian custodians in proceedings governed by the Oklahoma Children's Code, to the extent that funds are available from the Family Representation and Advocacy Program Revolving Fund. The Administrative Office of the Courts

shall allocate and expend these funds pursuant to the contract with the eligible organization. The Administrative Office of the Courts may charge an administrative fee as provided in subsection D of this section for administering the contract.

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

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

E. An annual report issued by the Administrative Office of the Courts to the Oklahoma Legislature outlining performance measures for the Family Representation and Advocacy Program and

recommendations for ongoing appropriations shall be transmitted to the Oklahoma Legislature no later than December 31 of each year.

SECTION 5. This act shall become effective November 1, 2023.

59-1-5231 CMA 12/06/22