

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

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

4 HOUSE BILL 1017

 By: Lawson and **Munson**

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6
7 AS INTRODUCED

8 An Act relating to children; enacting the Family
9 Representation and Advocacy Act; creating the Family
10 Representation and Advocacy Program; providing
11 purpose of program; directing the Administrative
12 Office of the Courts to expend funds for certain
13 purposes; directing the Family Representation and
14 Advocacy Program to work with certain entities and
15 individuals for certain purposes; providing duties
16 and responsibilities; providing exception; directing
17 employment and approval of executive director;
18 providing qualification requirements; providing
19 duties of the executive director; granting authority
20 to contract with certain entities for certain
21 purposes; requiring the Family Representation and
22 Advocacy Program to provide training to contractors;
23 creating the Family Representation and Advocacy
24 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:

1 SECTION 1. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 702 of Title 10, unless there is
3 created a duplication in numbering, reads as follows:

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

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

9 A. 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
13 children, indigent parents, legal guardians, and Indian custodians
14 in 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 B. From funds appropriated or otherwise available for the
18 purpose of implementing the Family Representation and Advocacy Act,
19 the Administrative Office of the Courts 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 Family
23 Representation and Advocacy Program through the activities of the
24 central office shall work statewide cooperatively with judicial

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

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

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

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

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

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

21 F. 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 those judicial districts
24 where attorneys are unavailable for court appointments or are

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

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

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

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

- 1 1. One member appointed, initially for a one-year term, by the
2 President Pro Tempore of the Oklahoma State Senate;
- 3 2. One member appointed, initially for a one-year term, by the
4 Speaker of the Oklahoma House of Representatives;
- 5 3. Three members appointed by the Chief Justice of the Oklahoma
6 Supreme Court, one each initially to be appointed for one-, two-,
7 and three-year terms, one of whom shall be a retired district or
8 associate district court judge who served in the juvenile division
9 of any Oklahoma district court;
- 10 4. Three members appointed by the president of the Oklahoma Bar
11 Association, one each initially to be appointed for one-, two-, and
12 three-year terms who shall be attorneys with at least five (5) years
13 of experience in representing parents and children in deprived child
14 proceedings;
- 15 5. One member of the Juvenile Justice Oversight and Advisory
16 Committee to be appointed by the Committee, initially for a two-year
17 term;
- 18 6. The project director for the State of Oklahoma Children's
19 Court Improvement Program, or a designee, to be appointed initially
20 for a two-year term;
- 21 7. One member appointed by the Department of Mental Health and
22 Substance Abuse Services who shall be a parent with lived experience
23 with the child welfare system, to be appointed initially for a
24 three-year term; and

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

5 Members shall serve three-year staggered terms, and each member
6 shall serve until a qualified successor is appointed. A vacancy
7 shall be filled for the remainder of the term in the same manner as
8 a regular appointment. Members may be reappointed to successive
9 terms. 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 B. 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. Review proposals by eligible organizations received by the
19 Administrative Office of the Courts pursuant to Section 703 of Title
20 10 of the Oklahoma Statutes and recommend an eligible organization
21 to the Administrative Office of the Courts to administer the Family
22 Representation and Advocacy Program;

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

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

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

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

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

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

3 C. As used in this section, "eligible organization" means an
4 entity that:

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

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

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

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

15 SECTION 4. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 705 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, 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 said fund are hereby
5 appropriated and may be budgeted and expended by the Administrative
6 Office of the Courts pursuant to the recommendations of the Family
7 Representation and Advocacy Program Board for the purpose of
8 administering the Family Representation and Advocacy Program and for
9 the provision of legal and interdisciplinary services to indigent
10 parents and children by and through the Family Representation and
11 Advocacy Program. By January 31, 2024, and by January 31 of each
12 year thereafter, the Administrative Office of the Courts shall
13 disperse funds from the Family Representation and Advocacy Program
14 Revolving Fund to the contracted eligible organization.

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

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

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

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

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

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

3 SECTION 5. This act shall become effective November 1, 2023.
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5 COMMITTEE REPORT BY: COMMITTEE ON CHILDREN, YOUTH AND FAMILY
6 SERVICES, dated 02/14/2023 - DO PASS, As Coauthored.
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