AN ACT
RELATING TO CHILD WELFARE; ENACTING THE FAMILY REPRESENTATION
AND ADVOCACY ACT; CREATING THE OFFICE OF FAMILY REPRESENTATION
AND ADVOCACY; ESTABLISHING DUTIES OF THE DIRECTOR; CREATING THE
FAMILY REPRESENTATION AND ADVOCACY COMMISSION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. [NEW MATERIAL] SHORT TITLE.--This act may be
cited as the "Family Representation and Advocacy Act".

SECTION 2. [NEW MATERIAL] DEFINITIONS.--As used in the
Family Representation and Advocacy Act:

A. "at risk of being placed" means conditions
within a child's family may require the child be removed from
the custody of a parent, custodian or guardian and placed in
the legal custody of the children, youth and families
department;
B. "client" means:

   (1) an eligible adult pursuant to the Fostering Connections Act;
   (2) a child who is, or is at risk of, being placed in the legal custody of the children, youth and families department; or
   (3) a parent, custodian or guardian of a child who is, or is at risk of, being placed in the legal custody of the children, youth and families department;

C. "commission" means the family representation and advocacy commission that provides oversight of the office of family representation and advocacy;

D. "director" means the director of the office of family representation and advocacy; and

E. "office" means the office of family representation and advocacy.

SECTION 3. [NEW MATERIAL] OFFICE CREATED--DUTIES.--

A. The "office of family representation and advocacy" is created as an adjunct agency pursuant to Section 9-1-5 NMSA 1978 and shall be overseen by the commission.

B. The office shall:

   (1) work closely with the children, youth and families department to leverage federal funding pursuant to Title IV-E of the federal Social Security Act;
   (2) appoint, compensate, evaluate and retain
attorneys and other staff in a manner that provides for the
highest quality of legal representation for eligible adults
under the Fostering Connections Act and for children and
parents, custodians or guardians whose children are, or are at
risk of being placed, in the legal custody of the children,
youth and families department;

(3) develop and continuously approve practice
models and standards based on child welfare best practices;

(4) provide zealous representation of all
clients; and

(5) ensure that clients are provided with due
process and procedural fairness.

SECTION 4. [NEW MATERIAL] DUTY OF DIRECTOR TO ESTABLISH
APPELLATE DIVISION--DUTY OF APPELLATE DIVISION. --

A. The director shall establish an appellate
division within the office. The appellate division shall be
led by a chief appellate attorney.

B. The appellate division shall assist the director
by providing representation before the court of appeals and the
supreme court in appellate proceedings involving persons
represented pursuant to the Family Representation and Advocacy
Act.

SECTION 5. [NEW MATERIAL] DUTY OF DIRECTOR TO ESTABLISH
REGIONAL OFFICES--APPOINTMENT OF REGIONAL MANAGERS.--

A. The director shall establish at least five
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regional offices that align with the five regional offices of
the children, youth and families department to accommodate all
judicial districts that exist within the five regions. One
regional office shall be located each in the northwest,
northeast, southwest, southeast and the Bernalillo county
metropolitan area.

B. The director shall appoint a regional manager in
each region. The regional manager shall administer the
operation of the region and shall serve at the pleasure of the
director. Each regional manager shall reside in this state and
shall be an attorney licensed to practice law in the highest
courts of the state.

SECTION 6. [NEW MATERIAL] FAMILY REPRESENTATION AND
ADVOCACY COMMISSION--MEMBERSHIP--TERMS--REMOVAL.--

A. The "family representation and advocacy
commission" is created.

B. The commission consists of thirteen members,
including:

(1) the director of the university of New
Mexico school of law's Corinne Wolfe center for child and
family justice, or the director's designee;

(2) the director of the administrative office
of the courts' court improvement project, or the director's
designee;

(3) the dean of the New Mexico state
university school of social work or the dean of New Mexico highlands university school of social work, or the dean's designee, in alternating terms;

(4) three members appointed by the governor who demonstrate a commitment to high-quality legal representation or to working with and advocating for the population served by the office;

(5) five members appointed by the chief justice of the supreme court, including:

(a) two members who either served as former children's court judges or attorneys in the child welfare system; and

(b) three members, including: 1) a youth with lived experience in the legal custody of the children, youth and families department; 2) a parent with lived experience having one or more children in the legal custody of the children, youth and families department; and 3) a member with lived experience with the children, youth and families department or another child welfare agency as a youth, a parent or both;

(6) one member appointed by the speaker of the house of representatives; and

(7) one member appointed by the president pro tempore of the senate.

C. Initial appointments to the commission shall be
made no later than September 30, 2022. The director of the
university of New Mexico school of law's Corinne Wolfe center
for child and family justice and the director of the
administrative office of the courts' court improvement project
shall serve as permanent members. Initial terms of members
appointed by the speaker of the house of representatives and
the president pro tempore of the senate shall be for two years.
Initial terms of members appointed by the governor, the chief
justice of the supreme court and the dean of a school of social
work shall be for three years.

D. Subsequent terms for appointed members shall be
for four years. Appointed commission members shall not serve
more than two consecutive terms. An appointed commission
member shall serve until the member's successor has been
appointed and qualified. The commission shall fill a vacancy
for the remainder of the unexpired term pursuant to Subsection
B of this section.

E. A member may be removed by the commission for
malfeasance, misfeasance or neglect of duty.

F. If a member's professional status changes in a
way that renders the member ineligible pursuant to the
provisions of the Family Representation and Advocacy Act, the
member shall resign immediately.

G. Members of the commission shall be entitled to
compensation pursuant to the provisions of the Per Diem and
Mileage Act and shall receive no other perquisite, compensation or allowance.

SECTION 7. [NEW MATERIAL] FAMILY REPRESENTATION AND ADVOCACY COMMISSION--MEMBER QUALIFICATIONS.--

A. A member of the commission shall:

(1) possess significant experience in the representation of children, youth, parents, custodians or guardians in abuse and neglect proceedings;

(2) possess significant experience with the child welfare system as a parent, custodian, guardian or former foster youth; or

(3) demonstrate a commitment to high-quality legal representation or to working with and advocating for the population served by the office.

B. The following persons shall not be appointed to serve on the commission:

(1) current employees of the children, youth and families department;

(2) current employees of the office;

(3) current judges, judicial officials or their employees; and

(4) persons who currently contract with or receive funding from the office or their employees.

SECTION 8. [NEW MATERIAL] FAMILY REPRESENTATION AND ADVOCACY COMMISSION--ORGANIZATION--MEETINGS.--
A. The commission shall hold its first meeting no later than thirty days after it has completed the appointment process and shall elect a chair at that meeting. Thereafter, the commission shall meet at least four times a year, as determined by a majority of commission members. Meetings shall be held at the call of the chair or director or at the request of four commission members.

B. The commission shall appoint a director no later than December 31, 2022.

C. A majority of commission members constitutes a quorum for the transaction of business, and an action by the commission shall not be valid unless seven or more members concur.

D. The commission may adopt rules and shall keep a record of its proceedings.

E. A commission member may select a designee to serve in the member's place no more than once per year.

SECTION 9. [NEW MATERIAL] FAMILY REPRESENTATION AND ADVOCACY COMMISSION--POWERS AND DUTIES--RESTRICTION ON INDIVIDUAL MEMBERS.--

A. The commission shall exercise independent oversight of the office of family representation and advocacy to review and approve standards and provide guidance and support to the director that:

   (1) promote positive outcomes for families;
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(2) affirm, respect and support the diversity
of families in this state;

(3) promote due process and procedural
fairness;

(4) are consistent with performance standards
and legal ethics; and

(5) comply with state and federal law.

B. The commission shall review and approve fair and
consistent policies for the operation of the office of family
representation and advocacy and the provision of services to
eligible adults under the Fostering Connections Act and to
children and parents, custodians or guardians whose children
are, or are at risk of being placed, in the legal custody of
the children, youth and families department.

C. A member of the commission shall not interfere
with the discretion, professional judgment or advocacy of an
appointed attorney, contract attorney, staff attorney, contract
employee or office employee in the representation and advocacy
of a client pursuant to the Family Representation and Advocacy
Act.

SECTION 10. [NEW MATERIAL] OFFICE OF FAMILY
REPRESENTATION AND ADVOCACY--ADMINISTRATION--FINANCE.--

A. The headquarters of the office shall be located
in the Bernalillo county metropolitan region.

B. All salaries and other expenses of the office
shall be paid upon warrants drawn by the secretary of finance and administration, supported by vouchers signed by the
director or the director's authorized representative and in accordance with budgets approved by the state budget division of the department of finance and administration.

SECTION 11. [NEW MATERIAL] OFFICE OF FAMILY REPRESENTATION AND ADVOCACY--GIFTS, GRANTS AND DONATIONS.--On behalf of the state, the office may receive gifts, grants, donations or bequests from any source to be used in carrying out the purposes of the Family Representation and Advocacy Act. Gifts, grants, donations or bequests from a person who has any matter currently being handled by the office, or from a person within three degrees of consanguinity with a person who has any matter currently being handled by the office, shall not be accepted.

SECTION 12. [NEW MATERIAL] DIRECTOR--APPOINTMENT--QUALIFICATIONS--REMOVAL.--

A. The director is the administrative head of the office. The commission shall appoint a director for a term of four years upon approval of two-thirds of its members. The commission may reappoint a director for subsequent terms. A vacancy in the office of director shall be filled by appointment of the commission.

B. The commission shall appoint as director an attorney with the following qualifications:
(1) licensed to practice law in this state or will be licensed within one year of appointment;

(2) at least five years of experience in the field of representation of children or adults in abuse and neglect cases in a practicing attorney, management, supervisory or policymaking position or equivalent experience as determined by the commission; and

(3) clearly demonstrated management or executive experience.

C. The director may be removed by the commission upon approval of two-thirds of commission members; provided that no removal shall occur without notice and an opportunity for a hearing.

SECTION 13. [NEW MATERIAL] DIRECTOR--GENERAL DUTIES AND POWERS.--

A. The director is responsible to the commission for the operation of the office. The director shall manage all operations of the office and shall:

(1) administer and carry out the provisions of the Family Representation and Advocacy Act;

(2) exercise authority over and provide general supervision of employees;

(3) oversee funding, including federal funding;

(4) administer and supervise contracts for
attorneys and other employees; and

(5) represent and advocate for the office and
its clients.

B. The director is granted every power express and
implied that is necessary for the fulfillment of the director's
duties, including authority to:

(1) set standards relating to:
   (a) the minimum experience, training and
   qualifications for contract and staff attorneys for child
   welfare cases;
   (b) monitoring and evaluating contract
   and staff attorneys and other contract and office staff,
   including attorneys appointed to cases to resolve conflicts of
   interest;
   (c) ethically responsible caseloads and
   workloads, including load monitoring protocols for staff
   attorneys, contract attorneys, office staff and contract staff;
   and
   (d) the competent and efficient
   representation of clients whose cases present conflicts of
   interest;
   (2) exercise general supervisory authority
   over all employees of the office;
   (3) delegate authority to subordinates as the
director deems necessary and appropriate;
(4) employ and fix the compensation of persons necessary to discharge the director's duties and enter into contracts with private attorneys and law firms as necessary to carry out the provisions of the Family Representation and Advocacy Act;

(5) organize the office into units as the director deems necessary and appropriate to carry out the director's duties;

(6) develop and annually update a strategic plan with measurable goals and metrics;

(7) conduct research and studies that will improve the operation of the office and the administration of the Family Representation and Advocacy Act;

(8) provide courses of instruction and practical training for employees of the office that will improve the operation of the office and the administration of the Family Representation and Advocacy Act;

(9) purchase or lease property and lease real property for use of the office;

(10) maintain records and statistical data that reflect the operation and administration of the office, including a system that allows the office to:

(a) collect and analyze data on outcomes for children and families;

(b) maintain client confidentiality of
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information;

(c) evaluate the effectiveness of the office's programs and practices; and

(d) inform and guide continuous quality improvement;

(11) submit an annual report and budget for the operation of the office;

(12) formulate a fee schedule for attorneys or law firms who are not employees of the office but who serve as contracted counsel pursuant to the Family Representation and Advocacy Act;

(13) formulate a fee schedule for other contract staff who are not employees of the office but who serve clients pursuant to the Family Representation and Advocacy Act;

(14) establish a grievance procedure for clients represented by a staff attorney or contract attorney or served by office or contract staff;

(15) certify contracts and expenditures for litigation expenses, including contracts and expenditures for experts, investigators, witnesses and attorney contracts; and

(16) perform other duties as set forth by the commission and consistent with federal and state law.