

1 AN ACT
2 RELATING TO CHILD WELFARE; ENACTING THE FAMILY REPRESENTATION
3 AND ADVOCACY ACT; CREATING THE OFFICE OF FAMILY
4 REPRESENTATION AND ADVOCACY; ESTABLISHING DUTIES OF THE
5 DIRECTOR; CREATING THE FAMILY REPRESENTATION AND ADVOCACY
6 COMMISSION.

7
8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

9 SECTION 1. SHORT TITLE.--This act may be cited as the
10 "Family Representation and Advocacy Act".

11 SECTION 2. DEFINITIONS.--As used in the Family
12 Representation and Advocacy Act:

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

18 B. "client" means:

19 (1) an eligible adult pursuant to the
20 Fostering Connections Act;

21 (2) a child who is, or is at risk of, being
22 placed in the legal custody of the children, youth and
23 families department; or

24 (3) a parent, custodian or guardian of a
25 child who is, or is at risk of, being placed in the legal

1 custody of the children, youth and families department;

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

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

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

9 SECTION 3. OFFICE CREATED--DUTIES.--

10 A. The "office of family representation and
11 advocacy" is created as an adjunct agency pursuant to Section
12 9-1-6 NMSA 1978 and shall be overseen by the commission.

13 B. The office shall:

14 (1) work closely with the children, youth
15 and families department to leverage federal funding pursuant
16 to Title IV-E of the federal Social Security Act; and

17 (2) appoint, compensate, evaluate and retain
18 attorneys and other staff to provide legal representation for
19 eligible adults under the Fostering Connections Act and for
20 children and parents, custodians or guardians whose children
21 are, or are at risk of being placed, in the legal custody of
22 the children, youth and families department.

23 SECTION 4. DUTY OF DIRECTOR TO ESTABLISH APPELLATE
24 DIVISION--DUTY OF APPELLATE DIVISION.--

25 A. The director shall establish an appellate

1 division within the office. The appellate division shall be
2 led by a chief appellate attorney.

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

8 SECTION 5. DUTY OF DIRECTOR TO ESTABLISH REGIONAL
9 OFFICES--APPOINTMENT OF REGIONAL MANAGERS.--

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

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

23 SECTION 6. FAMILY REPRESENTATION AND ADVOCACY
24 COMMISSION--MEMBERSHIP--TERMS--REMOVAL.--

25 A. The "family representation and advocacy

1 commission" is created.

2 B. The commission consists of thirteen members,
3 including:

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

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

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

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

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

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

23 (b) three members, including: 1) a
24 youth with lived experience in the legal custody of the
25 children, youth and families department; 2) a parent with

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

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

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

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

21 D. Subsequent terms for appointed members shall be
22 for four years. Appointed commission members shall not serve
23 more than two consecutive terms. An appointed commission
24 member shall serve until the member's successor has been
25 appointed and qualified. The commission shall fill a vacancy

1 for the remainder of the unexpired term pursuant to
2 Subsection B of this section.

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

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

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

13 SECTION 7. FAMILY REPRESENTATION AND ADVOCACY
14 COMMISSION--MEMBER QUALIFICATIONS.--

15 A. A member of the commission shall:

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

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

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

25 B. The following persons shall not be appointed to

1 serve on the commission:

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

4 (2) current employees of the office;

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

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

9 SECTION 8. FAMILY REPRESENTATION AND ADVOCACY

10 COMMISSION--ORGANIZATION--MEETINGS.--

11 A. The commission shall hold its first meeting no
12 later than thirty days after it has completed the appointment
13 process and shall elect a chair at that meeting. Thereafter,
14 the commission shall meet at least four times a year, as
15 determined by a majority of commission members. Meetings
16 shall be held at the call of the chair or director or at the
17 request of four commission members.

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

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

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

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

3 **SECTION 9. FAMILY REPRESENTATION AND ADVOCACY**
4 **COMMISSION--POWERS AND DUTIES--RESTRICTION ON INDIVIDUAL**
5 **MEMBERS.--**

6 A. The commission shall exercise independent
7 oversight of the office of family representation and advocacy
8 to review and approve standards and provide guidance and
9 support to the director.

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

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

23 **SECTION 10. OFFICE OF FAMILY REPRESENTATION AND**
24 **ADVOCACY--ADMINISTRATION--FINANCE.--**

25 A. The headquarters of the office shall be located

1 in the Bernalillo county metropolitan region.

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

8 SECTION 11. OFFICE OF FAMILY REPRESENTATION AND

9 ADVOCACY--GIFTS, GRANTS AND DONATIONS.--On behalf of the
10 state, the office may receive gifts, grants, donations or
11 bequests from any source to be used in carrying out the
12 purposes of the Family Representation and Advocacy Act.

13 Gifts, grants, donations or bequests from a person who has
14 any matter currently being handled by the office, or from a
15 person within three degrees of consanguinity with a person
16 who has any matter currently being handled by the office,
17 shall not be accepted.

18 SECTION 12. DIRECTOR--APPOINTMENT--QUALIFICATIONS--
19 REMOVAL.--

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

1 B. The commission shall appoint as director an
2 attorney with the following qualifications:

3 (1) licensed to practice law in this state
4 or will be licensed within one year of appointment;

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

10 (3) clearly demonstrated management or
11 executive experience.

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

16 **SECTION 13. DIRECTOR--GENERAL DUTIES AND POWERS.--**

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

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

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

24 (3) oversee funding, including federal
25 funding;

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

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

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

8 (1) set standards relating to:

9 (a) the minimum experience, training
10 and qualifications for contract and staff attorneys for child
11 welfare cases;

12 (b) monitoring and evaluating contract
13 and staff attorneys and other contract and office staff,
14 including attorneys appointed to cases to resolve conflicts
15 of interest;

16 (c) managing caseloads and workloads,
17 including load monitoring protocols for staff attorneys,
18 contract attorneys, office staff and contract staff; and

19 (d) the competent and efficient
20 representation of clients whose cases present conflicts of
21 interest;

22 (2) exercise general supervisory authority
23 over all employees of the office;

24 (3) delegate authority to subordinates as
25 the director deems necessary and appropriate;

1 (4) employ and fix the compensation of
2 persons necessary to discharge the director's duties and
3 enter into contracts with private attorneys and law firms as
4 necessary to carry out the provisions of the Family
5 Representation and Advocacy Act;

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

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

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

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

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

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

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

25 (b) maintain client confidentiality of

1 information;

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

4 (d) inform and guide continuous quality
5 improvement;

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

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

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

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

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

22 (16) perform other duties as set forth by
23 the commission. _____

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