

## **THE OFFICE OF FAMILY REPRESENTATION AND ADVOCACY FACTS FOR THE CURRENT ATTORNEY WORKFORCE**

The Office of Family Representation and Advocacy will not be fully operational until the outset of SFY 27 (July 1, 2026), at the earliest. The best-case scenario is as follows, with a lot riding on legislative appropriations.

- From July 1, 2021 to June 30, 2022 (SFY22), an Interim Director will be retained under contract to develop policies and a range of infrastructure components. All contracts and operations will remain as is in the AOC.
- During SFY23 (July 1, 2022 – June 30, 2023), the Constitutional Amendment will go to the voters, funding and operations of the Court Appointed Attorney program will be transferred to the new Office. The Oversight Commission will be appointed; a Permanent Director will be hired; and a Central Office will be established. Contracts will continue under the auspices of the Office of Family Representation and Advocacy.
- During the period covered by SFY24 through SFY26 (July 1, 2023 – June 30, 2026), five regional offices will be established and an attorney workforce will be built on a hybrid model of both staff and contracted attorneys. The criteria to determine the relative numbers of staff and contracted attorneys will be based on regional caseload as well as considerations related to conflict of interest.

Some of the many benefits for attorneys are as follows.

- Salaries and benefits for staff attorneys will be comparable to those in place for CYFD Children's Court Attorneys.
- The compensation plan for contract attorneys will include comparable compensation.
- Travel reimbursement for staff attorneys will be aligned with current State employee practice and caps.
- Mileage and per diem reimbursement will be provided for contract attorneys.
- Caseload averages will be maintained between 60 and 70 cases per full-time attorney (employed and contracted), with attorneys in rural areas requiring extensive travel being at the lower end and those in urban areas at the higher end. It is anticipated that a caseload weighting system will be considered and developed as appropriate.
- There will be an appellate division with two staff attorneys and one contracted appellate attorney in the event of possible conflict.
- Pre-service and in-service training will be provided under the auspices of a Director of Training to be hired when budget permits.
- The practice model will include interdisciplinary legal services teams. Teams will include social workers/case managers/care coordinators, peer specialists with lived experience or expertise, and other advocates with relevant experience.
- Support services will include mentors, paralegals and investigators in the central office who can be deployed to regional offices as well as administrative and clerical staff.
- An expert witness fund will be available as will a contracted pool of experts.

Management and operational systems will include:

- Case management, caseload weighting, time and tracking, and outcome measurement
- A performance evaluation program for staff and contracted attorneys and other staff
- A quality assurance/quality improvement program
- A complaint and grievance system
- Online legal research access for both staff and contracted attorneys
- Development and maintenance of motions bank; maintenance of case law updates

## **THE OFFICE OF FAMILY REPRESENTATION AND ADVOCACY**

### **A SHORT HISTORY**

Currently, representation of children and families in abuse and neglected cases is provided by approximately 110 attorneys under contract with the Administrative Office of the Courts (AOC). At any point in time, these attorneys will be engaged in about 1500 cases that involve approximately 2400 children and 2100 parents, guardians or custodians. Many of these attorneys provide diligent representation and advocacy but others do not. The AOC has neither the staff nor other resources to monitor these contracts. Over the last 20 years, a number of efforts have been launched to improve performance, primarily through the Children's Court Improvement Commission.

The most recent effort to address this issue began with an in-depth assessment of the quality of representation for families in child abuse and neglect cases. The study, conducted by the NM Supreme Court Children's Court Improvement Commission, found lack of caseload management, inadequate compensation, insufficient supports for attorneys, and lack of monitoring and oversight that contribute to inadequate representation, delays in permanency, and hindrances to other positive outcomes for families.

In response, lawmakers passed Senate Joint Memorial 10 (2019) creating the Family Representation Task Force tasked with recommending new structural and practice models for providing high quality legal representation. The Task Force completed its work, recommending the creation of the Office of Family Representation and Advocacy, an autonomous entity that would allow for independent decision-making and oversight.

The Family Representation and Advocacy Act, and the accompanying Constitutional Amendment, were then drafted, modeled after the Law Office of the Public Defender legislation. The Act creates the Office of Family Representation and Advocacy in the Judiciary as well as an Oversight Commission. The Constitutional Amendment creates a concrete plan and time frame for complete independence of the Office.

The Office of Family Representation and Advocacy would reside in the Administrative Office of the Courts until the Constitutional Amendment is passed by the voters in November 2022. An Interim Director would be contracted by the AOC to comprehensively restructure the current Court Appointed Attorney program in preparation for moving the program out of the AOC.

The Office of Family Representation and Advocacy will develop interdisciplinary legal team services. The model draws on best practices for providing high quality legal representation for participants in child abuse and neglect proceedings and includes social workers, case managers, and peer advocates. New Mexico is in the forefront on this and our efforts are being closely watched and modeled in other states.

No appropriation is being requested at this time. In developing the Office of Family Representation and Advocacy, extensive cost-benefit analyses were conducted. When fully operational, it is expected to cost about \$17 million with about \$7 million in new funding eventually required. Annual benefits are estimated to range from \$5 million to almost \$12 million primarily derived from shorter lengths of stay in state custody.

These benefits will at minimum substantially offset costs and could result in net savings for the state over time. Additional cost savings, not monetized in the analysis, will result from reduced court, attorney and other legal costs as well as savings in Medicaid and other public programs. Equally, if not more important, the services to be provided by the Office of Family Representation and Advocacy will result in better outcomes for children, young people and families in the areas of safety, permanency, and well-being.