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

SECTION 2. 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. OFFICE CREATED--DUTIES.--

A. The "office of family representation and advocacy" is created as an adjunct agency pursuant to Section 9-1-6 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; and

(2) appoint, compensate, evaluate and retain attorneys and other staff to provide 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.

SECTION 4. 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. DUTY OF DIRECTOR TO ESTABLISH REGIONAL
OFFICES--APPOINTMENT OF REGIONAL MANAGERS.--

A. The director shall establish at least five
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. 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. 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. 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. 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.

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. 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. 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. 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. 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) managing 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
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.