

2023 Legislative Agenda: Establish a Statewide Office of Appellate Counsel and Training

Establish an Office of Appellate Counsel and Training

Minnesota must establish an Office of Appellate Counsel and Training. Beginning in 2023, Minnesota Statutes, section 260C.163, subdivision 3 mandates the appointment of counsel for parents “at all stages of the proceedings,” including on appeal. Minnesota does not currently have a consistent, statewide process for appointing appellate counsel in child protection matters in either district or tribal courts. It also lacks a central resource for training parent attorneys and managing the costs associated with securing Title IV-E reimbursements that currently fall on each individual county. Establishing an Office to appoint appellate attorneys, train parent attorneys throughout the state including tribal jurisdictions, and support counties working with the Minnesota Department of Human Services (DHS) for Title IV-E reimbursement will increase access to well-trained and qualified parent attorneys at all stages of the proceedings.

Why Should Minnesotans Care?

The right to high-quality legal representation at all stages of child protection proceedings for parents, including those experiencing indigency, is fundamental to safeguarding important interests at stake in the proceedings. Because there is currently no centralized system for appointing appellate counsel, families are unable to effectively advocate for their right to remain together when they believe the district court has erred.

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Additionally, the system as a whole, and all those involved in it, have an interest in accurate and just proceedings which are more likely to occur when an appellate system is functioning effectively and when parent attorneys around the state have access to consistent training and support. Finally, there are federal dollars available to support this work that are currently unutilized.

What does this mean for Minnesota’s most vulnerable children and families?

Families suffer when they lack access to high-quality legal counsel in child protection proceedings. Not only are most families in the child protection system experiencing poverty, but American Indian, Black, Hispanic, and children with two or more races in Minnesota are statistically more likely to enter out-of-home care and have their parents’ rights terminated and are less likely than their white peers to be adopted. As such, the lack of access to a qualified attorney at all stages of the proceedings creates grave disparities for families in the system.

What can Minnesota do?

The Office of Appellate Counsel and Training would be an independent, statewide office governed by a seven-member board. The Office would be responsible for administering the appellate program, providing training for all parent attorneys in the state, and coordinating Title IV-E support for counties and tribes in collaboration with DHS.



¹ See Minnesota Department of Human Services, *Minnesota’s Out-of-Home Care and Permanency Report, 2019* (December 2020), <https://edocs.dhs.mn.us/lfserver/Public/DHS-540BLA-ENG>.