

Subject Establishing the State Board of Appellate Counsel for Parents

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Overview

In the Health and Human Services omnibus bill that passed in the 2021 first special session, the legislature amended section 260C.163 to require that a court appoint counsel to represent parents in all child protection proceedings where a child risks removal from the parent, guardian, or custodian if the parent is eligible under the indigency standards that apply to the appointment of a public defender. That provision takes effect on January 1, 2023. This bill establishes the State Board of Appellate Counsel for Parents to provide representation to eligible parents in appeals in juvenile protection matters. The bill directs the board to establish an office to retain or contract with attorneys to provide appellate services.

Summary

Section	Description
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1	State Board of Appellate Counsel for Parents
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Subd. 1. Structure; membership. Establishes the State Board of Appellate Counsel for Parents in the judicial branch. Provides that the board is not under the control of the judiciary. Establishes that the board consists of seven members including three public members appointed by the governor and four members appointed by the supreme court, at least one of whom has experience representing parents in juvenile court and at least one of whom is a public member. Prohibits appointment of certain members including judges, guardians ad litem, attorneys currently providing representation for parents, or current city or county attorneys. Requires that the members reflect geographic and other diversity and have familiarity with the relevant laws.

Subd. 2. Head appellate counsel for parents; assistant and contracted attorneys. Requires the board to appoint a head appellate counsel for parents to be in charge of appellate services. Provides that the head appellate counsel for parents serves a four-year term and may only be removed for cause. Requires the head appellate counsel for parents to be a licensed attorney and prohibits

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that person from the general practice of law. Directs the board to establish compensation for the person. Permits the head appellate counsel for parents to employ assistants or hire independent contractors to provide counsel for parents. Requires assistant or contracted attorneys to be licensed to practice law and, if practicing in Tribal court, licensed to practice in Tribal court. Permits the general practice of law if the assistants or contracted attorneys are not hired or contracted to provide full-time services.

Subd. 3. Program administrator. Directs the board to hire a program administrator to keep the board advised of the board’s finances and other relevant information. Provides that the program administrator is not required to be licensed to practice law.

Subd. 4. Duties and responsibilities. Establishes the duties of the board and requires the board to create and administer a statewide, independent appellate counsel program to represent indigent parents on appeal in juvenile protection matters. Specific duties include approving a budget, establishing program standards, and establishing employee or contractor standards. Permits the board to propose statutory changes to the legislature.

Subd. 5. Limitation. Prohibits the board from interfering with the manner in which individual attorneys represent clients.

Subd. 6. Budget; county opt-in. Provides that the board and its employees or contractors must be funded by the state. Permits counties to opt-in to the program instead of providing counsel from the county’s budget.

Subd. 7. Collection of costs; appropriation. Provides that, if the costs of providing counsel are assessed and collected or otherwise reimbursed from any source, that money is credited to the board and available until spent.



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