

**Subject** Establishing the Statewide Office of Appellate Counsel and Training

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**Date** March 14, 2023

## 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 took effect on January 1, 2023. This bill establishes the Statewide Office of Appellate Counsel and Training to provide representation to eligible parents in appeals in juvenile protection matters. The bill directs the office to retain or contract with attorneys to provide appellate services.

## Summary

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| 1 | <p><b>Statewide Office of Appellate Counsel and Training.</b></p> <p><b>Subd. 1. Definitions.</b> Defines terms including “juvenile protection matter.”</p> <p><b>Subd. 2. Statewide Office of Appellate Counsel and Training; establishment.</b> Establishes the Statewide Office of Appellate Counsel and Training to establish and maintain a system for providing appellate counsel for parents in juvenile protection matters, provide training to parent attorneys, and collaborate with the Department of Human Services to coordinate federal funds. Provides that the office must be governed by a board.</p> <p><b>Subd. 3. State Board of Appellate Counsel and Training; structure; membership.</b> Establishes the State Board of Appellate Counsel and Training. Establishes that the board consists of seven members including four public members appointed by the governor and three 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</p> |
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members reflect geographic and other diversity and have familiarity with the relevant laws.

**Subd. 4. 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 that person from the general practice of law. Directs the board to establish compensation for the person. Directs the head appellate counsel to employ or hire a managing attorney, two staff attorneys, one director of training, a program administrator, and an office administrator. 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. 5. 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. 6. Limitation.** Prohibits the board from interfering with the manner in which individual attorneys represent clients.

**Subd. 7. Budget; county and Tribe mandatory use.** Provides that the office and its employees or contractors must be funded by the state. Permits counties and Tribes to utilize the program instead of providing counsel from the county's budget.

**Subd. 8. 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.

2 **Appellate counsel for parents; support for establishment.**

Directs the Department of Administration to provide support for establishment of the Statewide Office of Appellate Counsel and Training.



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