

Effective 5/5/2021

Part 8
Child Welfare Parental Representation Program

78B-22-801 Definitions.

As used in this part:

- (1) "Contracted parental representation attorney" means an attorney who represents an indigent individual who is a parent in a child welfare case under a contract with the office or a contributing county.
- (2) "Contributing county" means a county that complies with this part for participation in the fund described in Section 78B-22-804.
- (3) "Fund" means the Child Welfare Parental Representation Fund created in Section 78B-22-804.
- (4) "Program" means the Child Welfare Parental Representation Program created in Section 78B-22-802.

Amended by Chapter 228, 2021 General Session

Amended by Chapter 262, 2021 General Session

Amended by Chapter 262, 2021 General Session, (Coordination Clause)

78B-22-802 Child Welfare Parental Representation Program -- Creation -- Duties -- Annual report -- Budget.

(1) There is created within the office the Child Welfare Parental Representation Program.

(2)

(a) The office shall:

- (i) administer and enforce the program in accordance with this part;
- (ii) manage the operation and budget of the program;
- (iii) develop and provide educational and training programs for contracted parental representation attorneys; and
- (iv) provide information and advice to assist a contracted parental representation attorney to comply with the attorney's professional, contractual, and ethical duties.

(b) In administering the program, the office shall contract with:

- (i) a person who is qualified to perform the program duties under this section; and
- (ii) an attorney, as an independent contractor, in accordance with Section 78B-22-803.

(3)

(a) The executive director shall prepare a budget of:

- (i) the administrative expenses for the program; and
- (ii) the amount estimated to fund needed contracts and other costs.

(b) On or before October 1 of each year, the executive director shall report to the governor and the Child Welfare Legislative Oversight Panel regarding the preceding fiscal year on the operations, activities, and goals of the program.

Amended by Chapter 228, 2021 General Session

Amended by Chapter 235, 2021 General Session

78B-22-803 Child welfare parental defense contracts.

(1)

- (a) The office may enter into a contract with an attorney to provide indigent defense services for a parent who is the subject of a petition alleging abuse, neglect, or dependency, and requires indigent defense services under Section 80-3-104.
 - (b) The office shall make payment for the representation, costs, and expenses of a contracted parental representation attorney from the fund in accordance with Section 78B-22-804.
- (2)
- (a) Except as provided in Subsection (2)(b), a contracted parental representation attorney shall:
 - (i) complete a basic training course provided by the office;
 - (ii) provide parental representation services consistent with the commission's core principles described in Section 78B-22-404;
 - (iii) have experience in child welfare cases; and
 - (iv) participate each calendar year in continuing legal education courses providing no fewer than eight hours of instruction in child welfare law.
 - (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may, by rule, exempt from the requirements of Subsection (2)(a) an attorney who has equivalent training or adequate experience.

Amended by Chapter 228, 2021 General Session

Amended by Chapter 262, 2021 General Session

78B-22-804 Child Welfare Parental Representation Fund -- Contracts for coverage by the fund.

- (1) There is created an expendable special revenue fund known as the "Child Welfare Parental Representation Fund."
- (2) Subject to availability, the office may make distributions from the fund for the following purposes:
 - (a) to pay for indigent defense resources for contracted parental representation attorneys;
 - (b) for administrative costs of the program; and
 - (c) for reasonable expenses directly related to the functioning of the program, including training and travel expenses.
- (3) The fund consists of:
 - (a) federal funds received by the state as partial reimbursement for amounts expended by the Utah Indigent Defense Commission to pay for parental representation;
 - (b) appropriations made to the fund by the Legislature;
 - (c) interest and earnings from the investment of fund money;
 - (d) proceeds deposited by contributing counties under this section; and
 - (e) private contributions to the fund.
- (4) The state treasurer shall invest the money in the fund by following the procedures and requirements of Title 51, Chapter 7, State Money Management Act.
- (5)
 - (a) If the office anticipates a deficit in the fund during a fiscal year:
 - (i) the commission may request an appropriation from the Legislature; and
 - (ii) the Legislature may fund the anticipated deficit through appropriation.
 - (b) If the anticipated deficit is not funded by the Legislature under Subsection (5)(a), the office may request an interim assessment from contributing counties as described in Subsection (6) to fund the anticipated deficit.
- (6)

- (a) A county legislative body and the office may annually enter into a contract for the office to provide indigent defense services for a parent in a child welfare case in the county out of the fund.
- (b) A contract described in Subsection (6)(a) shall:
 - (i) require the contributing county described in Subsection (6)(a) to pay into the fund an amount defined by a formula established by the commission; and
 - (ii) provide for revocation of the contract for the contributing county's failure to pay the assessment described in Subsection (5) on the due date established by the commission.
- (7) After the first year of operation of the fund, a contributing county that enters into a contract under Subsection (6) to initiate or reestablish participation in the fund is required to make an equity payment in the amount determined by the commission, in addition to the assessment described in Subsection (5).
- (8) A contributing county that withdraws from participation in the fund, or whose participation in the fund is revoked as described in Subsection (6) for failure to pay the contributing county's assessment when due, shall forfeit any right to any previously paid assessment by the contributing county or coverage from the fund.

Amended by Chapter 438, 2023 General Session

78B-22-805 Interdisciplinary Parental Representation Pilot Program.

- (1) As used in this section:
 - (a) "Parental representation liaison" means an individual who has a bachelor's or graduate degree in social work, sociology, psychology, human services, or a closely related field.
 - (b) "Program" means the Interdisciplinary Parental Representation Pilot Program created in this section.
- (2)
 - (a) There is created within the commission the Interdisciplinary Parental Representation Pilot Program.
 - (b) The purpose of the program is to enhance the legal representation of a parent in a child welfare case by including a parental representation liaison as a member of the parent's interdisciplinary legal team.
- (3)
 - (a) A county may submit a proposal to the commission for a grant to develop a parental representation liaison position to provide services to parents involved in a child welfare case in the county.
 - (b) A proposal described in Subsection (3)(a) shall include details regarding:
 - (i) how the county plans to use the grant award to fulfill the purpose described in Subsection (2);
 - (ii) any plan to use funding sources in addition to a grant awarded under this section for the proposal; and
 - (iii) other information the commission determines necessary to evaluate the proposal for a grant award under this section.
 - (c) In evaluating a proposal for a grant award under this section, the commission shall consider:
 - (i) the extent to which the proposal will fulfill the purpose described in Subsection (2);
 - (ii) the cost of the proposal;
 - (iii) the extent to which other funding sources identified in the proposal are likely to benefit the proposal;
 - (iv) the sustainability of the proposal;

- (v) the need for parental representation liaison engagement in child welfare cases in the county that submitted the proposal; and
 - (vi) whether the proposal will support improvements in indigent defense services in accordance with the commission core principles described in Section 78B-22-404.
- (4) Before October 1, 2023, the commission shall provide a written report to the Health and Human Services Interim Committee regarding the program that includes information on:
- (a) the number of grants awarded under the program; and
 - (b) whether the program had any impact on child welfare case outcomes.

Amended by Chapter 438, 2023 General Session