

PARENTAL INDIGENT DEFENSE AMENDMENTS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Todd D. Weiler

House Sponsor: Steven J. Lund

LONG TITLE

General Description:

This bill modifies provisions relating to indigent defense in parental rights actions.

Highlighted Provisions:

This bill:

- ▶ modifies the definition of appellate defense services; and
- ▶ expands the services provided by the Indigent Appellate Defense Division to include representation for appeals of certain actions relating to the termination or restoration of parental rights.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

78B-22-901, as last amended by Laws of Utah 2022, Chapters 281, 295

78B-22-903, as last amended by Laws of Utah 2022, Chapter 295

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **78B-22-901** is amended to read:

78B-22-901. Definitions.

As used in this part:

(1) (a) "Appellate defense services" means the representation of an indigent individual:

30 (i) described in Subsection 78B-22-201(1)(d) or who is party to an appeal under
31 Section 77-18a-1; [or]

32 (ii) in an action or on appeal for postconviction relief under [~~Title 78B,~~] Chapter 9,
33 Postconviction Remedies Act[:]; or

34 (iii) in an appeal of right from an action for the termination or restoration of parental
35 rights under Chapter 6, Part 1, Utah Adoption Act, Title 80, Chapter 3, Abuse, Neglect, and
36 Dependency Proceedings, or Title 80, Chapter 4, Termination and Restoration of Parental
37 Rights.

38 (b) "Appellate defense services" does not include the representation of an indigent
39 individual:

40 (i) facing an appeal in a case where the indigent individual was prosecuted for
41 aggravated murder; or

42 (ii) in an action or appeal for postconviction relief under [~~Title 78B,~~] Chapter 9,
43 Postconviction Remedies Act, if the indigent individual has been sentenced to death.

44 (2) "Division" means the Indigent Appellate Defense Division created in Section
45 78B-22-902.

46 Section 2. Section 78B-22-903 is amended to read:

47 **78B-22-903. Powers and duties of the division.**

48 (1) The division shall:

49 (a) provide appellate defense services:

50 (i) for an appeal under Section 77-18a-1, in counties of the third, fourth, fifth, and sixth
51 class; [and]

52 (ii) for an action or an appeal for postconviction relief under [~~Title 78B,~~] Chapter 9,
53 Postconviction Remedies Act, if the court appoints the division to represent the indigent
54 individual; and

55 (iii) for an appeal of right from an action for the termination or restoration of parental
56 rights under Chapter 6, Part 1, Utah Adoption Act, Title 80, Chapter 3, Abuse, Neglect, and
57 Dependency Proceedings, or Title 80, Chapter 4, Termination and Restoration of Parental

58 Rights; and

59 (b) provide appellate defense services in accordance with the core principles adopted
60 by the commission under Section 78B-22-404 and any other state and federal standards for
61 appellate defense services.

62 (2) Upon consultation with the executive director and the commission, the division
63 shall:

64 (a) adopt a budget for the division;

65 (b) adopt and publish on the commission's website:

66 (i) appellate performance standards;

67 (ii) case weighting standards; and

68 (iii) any other relevant measures or information to assist with appellate defense
69 services; and

70 (c) if requested by the commission, provide a report to the commission on:

71 (i) the provision of appellate defense services by the division;

72 (ii) the caseloads of appellate attorneys; and

73 (iii) any other information relevant to appellate defense services in the state.

74 (3) If the division provides appellate defense services to an indigent individual in an
75 indigent defense system, the division shall provide notice to the district court and the indigent
76 defense system that the division intends to be appointed as counsel for the indigent individual.

77 (4) The office shall assist with providing training and continual legal education on
78 appellate defense to indigent defense service providers in counties of the third, fourth, fifth, and
79 sixth class.