

INTERIM STUDY PROPOSAL 2013-133

1
2 State of Arkansas
3 89th General Assembly
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As Engrossed: S3/14/13

A Bill

SENATE BILL 1008

5
6 By: Senator J. Hutchinson

7 Filed with: Interim Senate Committee on Judiciary
8 pursuant to A.C.A. §10-3-217.

9 **For An Act To Be Entitled**

10 AN ACT CONCERNING PARENT AND CHILD REPRESENTATION IN
11 JUVENILE COURT PROCEEDINGS; AND FOR OTHER PURPOSES.

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13
14 **Subtitle**

15 CONCERNING PARENT AND CHILD
16 REPRESENTATION IN JUVENILE COURT
17 PROCEEDINGS.

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19
20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

21
22 *SECTION 1. Arkansas Code § 9-27-401 is amended to read as follows:*

23 *9-27-401. Creation – ~~Representation~~ Dependency-neglect representation*
24 *for ~~children and~~ parents.*

25 *(a) There is ~~hereby~~ created a Division of Dependency-Neglect Parent*
26 *Representation within the ~~Administrative Office of the Courts~~ Arkansas Public*
27 *Defender Commission that ~~will~~ shall be staffed by a ~~court-appointed special~~*
28 *~~advocate coordinator and~~ an attorney coordinator.*

29 *(b)(1) ~~The Director of the Administrative Office of the Court is~~*
30 *~~authorized to~~ Arkansas Public Defender Commission may employ or enter into*
31 *professional service contracts with private individuals or businesses or*
32 *public agencies to represent ~~all children~~ parents in dependency-neglect*
33 *proceedings.*

34 *(2)(A) ~~Before employing or entering into a contract or~~*
35 *~~contracts, the office shall consult with the judge or judges of the circuit~~*
36 *~~court designated to hear dependency neglect cases in their district plan~~*

1 ~~under Supreme Court Administrative Order Number 14, originally issued April~~
 2 ~~6, 2001, in each judicial district in accordance with the provisions of § 19-~~
 3 ~~11-1001 et seq.~~

4 ~~(B) Those obtaining employment or contracts through the~~
 5 ~~office as described in subdivision (b)(3) of this section will be designated~~
 6 ~~as the providers for representation of children in dependency neglect cases~~
 7 ~~in each judicial district The Arkansas Public Defender Commission shall~~
 8 ~~establish guidelines to provide a maximum amount of expenses and fees per~~
 9 ~~hour and per case that shall be paid under this section.~~

10 ~~(3) A person who is employed by or contracts with the Arkansas~~
 11 ~~Public Defender Commission shall be designated as a provider for the~~
 12 ~~representation of parents in dependency-neglect cases in the judicial~~
 13 ~~district in which the provider is assigned.~~

14 ~~(4)(A) The ~~office~~ Arkansas Public Defender Commission shall~~
 15 ~~advertise employment and contract opportunities.~~

16 ~~(B) The distribution of funds among the judicial districts~~
 17 ~~shall be based on a formula developed by the office and approved by the~~
 18 ~~Juvenile Judges Committee of the Arkansas Judicial Council.~~

19 ~~(4) The Supreme Court shall adopt standards of practice and~~
 20 ~~qualifications for service for all attorneys who seek employment or contracts~~
 21 ~~to provide legal representation to children in dependency neglect cases.~~

22 ~~(5)(A)(i) In the transition to a state funded system of~~
 23 ~~dependency neglect representation, it is the intent of the General Assembly~~
 24 ~~to provide an appropriate and adequate level of representation to all~~
 25 ~~children in dependency neglect proceedings as required under federal and~~
 26 ~~state law pursuant to § 9-27-316 Funding currently appropriated to the~~
 27 ~~Administrative Office of the Courts for the representation of parents and~~
 28 ~~children in dependency-neglect cases shall be redistributed to the Arkansas~~
 29 ~~Public Defender Commission for the representation of parents in dependency-~~
 30 ~~neglect cases and to the Arkansas Child Abuse/Rape/Domestic Violence~~
 31 ~~Commission for the representation of juveniles in dependency-neglect cases.~~

32 ~~(ii)(a) It is recognized by the General Assembly~~
 33 ~~that in many areas of the state, resources have not been available to support~~
 34 ~~the requirement of representation for children at the necessary level.~~

1 ~~(b) It is also recognized, however, that in~~
2 ~~other areas a system has been developed that is appropriately and~~
3 ~~successfully serving children and the courts.~~

4 ~~(iii) With the transition to state funding, it is~~
5 ~~not the intent of the General Assembly to adversely affect these systems that~~
6 ~~are working well or to put into place a system that is too inflexible to~~
7 ~~respond to local needs or restrictions.~~

8 ~~(B)(c) In its administration of the system, therefore, the~~
9 ~~office The Arkansas Public Defender Commission is charged with the authority~~
10 ~~and responsibility to shall establish and maintain a system division of~~
11 ~~dependency-neglect parent representation that:~~

- 12 ~~(i)(1) Equitably serves all areas of the state;~~
- 13 ~~(ii)(2) Provides quality representation;~~
- 14 ~~(iii)(3) Makes prudent use of state resources; and~~
- 15 ~~(iv)(4) Works with those systems now in place to~~
16 ~~provide an appropriate level of representation of children and courts parents~~
17 ~~in dependency-neglect cases.~~

18 ~~(e) The director is authorized to:~~

- 19 ~~(1) Establish a statewide court-appointed special advocate~~
20 ~~program;~~
- 21 ~~(2) Provide grants or contracts to local court-appointed special~~
22 ~~advocate programs; and~~
- 23 ~~(3) Work with judicial districts to establish local programs by~~
24 ~~which circuit courts may appoint trained volunteers to provide valuable~~
25 ~~information to the courts concerning the best interests of children in~~
26 ~~dependency-neglect proceedings.~~

27 ~~(d)(1) The ~~director~~ Arkansas Public Defender Commission is authorized~~
28 ~~to establish a program to represent indigent parents or legal custodians in~~
29 ~~dependency-neglect cases.~~

30 ~~(2) The court shall appoint counsel in compliance with federal~~
31 ~~law, § 9-27-316(h), and Supreme Court Administrative Order Number 15.~~

32 ~~(3)(A) Funding for contracts shall be administered from the~~
33 ~~state, or funds shall be provided to the judicial district for the county to~~
34 ~~administer the contracts.~~

35 ~~(B) All contracts shall be paid from funds appropriated~~
36 ~~for the purpose of this section.~~

1 (4) *When a court orders payment of funds for parent counsel on*
2 *behalf of an indigent parent or custodian from a state contract, the court*
3 *shall make written findings in the appointment order in compliance with § 9-*
4 *27-316(h).*

5 (5) *The court may also require the parties to pay all or a*
6 *portion of the expenses, depending on the ability of the parties to pay.*

7 ~~(6) *The office shall establish guidelines to provide a maximum*~~
8 ~~*amount of expenses and fees per hour and per case that will be paid under*~~
9 ~~*this section.*~~

10 ~~(7)~~(6) *In order to ensure that each judicial district will have*
11 *an appropriate amount of funds to utilize for indigent parent or custodian*
12 *representation in dependency-neglect cases, the funds appropriated shall be*
13 *apportioned based upon a formula developed by the office Arkansas Public*
14 *Defender Commission and approved by the committee Juvenile Judges Committee*
15 *of the Arkansas Judicial Council.*

16 ~~(8)~~(7) *The office Arkansas Public Defender Commission shall not*
17 *be liable directly to any attorney or indirectly to the Arkansas State Claims*
18 *Commission for the payment of attorney's fees or expenses except to the*
19 *extent specific funding is appropriated and available for the purpose of*
20 *providing indigent parent counsel in dependency-neglect cases.*

21
22 SECTION 2. *Arkansas Code Title 9, Chapter 27, Subchapter 4, is amended*
23 *to add additional sections to read as follows:*

24 9-27-403. Creation – Adlitem representation for juveniles in
25 *dependency-neglect proceedings.*

26 (a) *There is created a the Division of AdLitem Representation within*
27 *the Arkansas Child Abuse/Rape/Domestic Violence Commission that shall be*
28 *staffed by an attorney coordinator.*

29 (b)(1) *The Arkansas Child Abuse/Rape/Domestic Violence Commission may*
30 *employ or enter into professional service contracts with private individuals*
31 *or businesses or public agencies to represent juveniles in dependency-neglect*
32 *proceedings.*

33 (2) *The Arkansas Child Abuse/Rape/Domestic Violence Commission*
34 *shall establish guidelines to provide a maximum amount of expenses and fees*
35 *per hour per case that shall be paid under this section.*

1 (3) A person who is employed by or contracts with the Arkansas
2 Child Abuse/Rape/Domestic Violence Commission shall be designated as a
3 provider for the adlitem representation of juveniles in dependency-neglect
4 cases in the judicial district in which they are assigned.

5 (4) The Arkansas Child Abuse/Rape/Domestic Violence Commission
6 shall advertise employment and contract opportunities.

7 (5) Funding currently appropriated to the Administrative Office
8 of the Courts for the representation of parents and children in dependency-
9 neglect cases shall be redistributed to the Arkansas Public Defender
10 Commission for the representation of parents in dependency-neglect cases and
11 to the Arkansas Child Abuse/Rape/Domestic Violence Commission for the adlitem
12 representation of juveniles in dependency-neglect cases.

13 (c) The Arkansas Child Abuse/Rape/Domestic Violence Commission shall
14 establish and maintain a division adlitem representation for juveniles that:

15 (1) Equitably serves all areas of the state;

16 (2) Provides quality representation;

17 (3) Makes prudent use of state resources; and

18 (4) Works to provide an appropriate level of representation of
19 juveniles in dependency-neglect cases.

20 (d)(1) The Arkansas Child Abuse/Rape/Domestic Violence Commission may
21 establish a program to represent children in dependency-neglect cases.

22 (2)(A) The Arkansas Child Abuse/Rape/Domestic Violence
23 Commission shall submit the proposed standards of practice and qualification
24 for service for all attorneys who seek employment or contracts to provide
25 legal representation to children in dependency-neglect cases to the Supreme
26 Court.

27 (B) The Supreme Court shall adopt the final standards of
28 practice and qualification for service for attorneys who represent children
29 in dependency-neglect cases.

30
31 9-27-404. Creation – Court-appointed special advocate division.

32 (a)(1) There is created the Court-Appointed Special Advocate Division
33 of the Administrative Office of the Courts that shall be staffed by a court-
34 appointed special advocate coordinator.

