

1 State of Arkansas  
2 91st General Assembly  
3 Regular Session, 2017  
4

# A Bill

SENATE BILL 132

5 By: Senator J. Hutchinson  
6

## For An Act To Be Entitled

8 AN ACT CREATING THE COMMISSION FOR PARENT COUNSEL;  
9 CONCERNING DEPENDENCY-NEGLECT REPRESENTATION FOR THE  
10 PARENT OF A MINOR CHILD; CONCERNING REPRESENTATION IN  
11 THE JUVENILE DIVISION OF CIRCUIT COURT; AND FOR OTHER  
12 PURPOSES.  
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## Subtitle

15 CREATING THE COMMISSION FOR PARENT  
16 COUNSEL; CONCERNING DEPENDENCY-NEGLECT  
17 REPRESENTATION FOR THE PARENT OF A MINOR  
18 CHILD; AND CONCERNING REPRESENTATION IN  
19 THE JUVENILE DIVISION OF CIRCUIT COURT.  
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23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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25 SECTION 1. Arkansas Code § 9-27-316(h), concerning a parent's or  
26 custodian's right to counsel in a dependency-neglect proceeding, is amended  
27 to add an additional subdivision to read as follows:

28 (8)(A) In all cases where a court has determined that appointed  
29 counsel for an indigent parent or guardian is necessary under this  
30 subsection, the court shall appoint counsel in compliance with federal law  
31 and Supreme Court Administrative Order Number 15.

32 (B) An appointment of counsel under this subdivision (8)  
33 shall be directed to the Commission for Parent Counsel, which shall provide  
34 the parent or custodian with counsel as required under § 9-27-701 et seq.

35 (C) When a court orders payment of funds for parent counsel  
36 on behalf of an indigent parent or custodian from a state contract, the court



1 shall make written findings in the appointment order in compliance with this  
 2 section.

3 (D) The court may also require a party-appointed counsel  
 4 under this section to pay all or a portion of the expenses, depending on the  
 5 ability of the party to pay.

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 7 SECTION 2. Arkansas Code § 9-27-401(d), concerning the establishment  
 8 of a program to represent indigent parents or legal custodians in dependency-  
 9 neglect cases, is repealed.

10 ~~(d)(1) The director is authorized to establish a program to represent~~  
 11 ~~indigent parents or legal custodians in dependency neglect cases.~~

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

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

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

19 ~~(4) When a court orders payment of funds for parent counsel on~~  
 20 ~~behalf of an indigent parent or custodian from a state contract, the court~~  
 21 ~~shall make written findings in the appointment order in compliance with § 9-~~  
 22 ~~27-316(h).~~

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

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

28 ~~(7) In order to ensure that each judicial district will have an~~  
 29 ~~appropriate amount of funds to utilize for indigent parent or custodian~~  
 30 ~~representation in dependency neglect cases, the funds appropriated shall be~~  
 31 ~~apportioned based upon a formula developed by the office and approved by the~~  
 32 ~~committee.~~

33 ~~(8) The office shall not be liable directly to any attorney or~~  
 34 ~~indirectly to the Arkansas State Claims Commission for the payment of~~  
 35 ~~attorney's fees or expenses except to the extent specific funding is~~  
 36 ~~appropriated and available for the purpose of providing indigent parent~~

~~counsel in dependency neglect cases.~~

SECTION 3. Arkansas Code Title 9, Chapter 27, is amended to add an additional subchapter to read as follows:

Subchapter 7 – Commission for Parent Counsel

9-27-701. Legislative intent.

It is the intent of the General Assembly to provide for representation for parents of a minor who is the subject of a dependency-neglect case in the juvenile division of circuit court, or in other juvenile court cases, as the circuit court requires.

9-27-702. Definitions.

As used in this subchapter, "parent" means the same as under § 9-27-303(40), and "parent" also includes a guardian as defined under § 9-27-303(28) and a custodian as defined under § 9-27-303(14).

9-27-703. Commission for Parent Counsel.

(a)(1) There is created a Commission for Parent Counsel consisting of seven (7) members appointed to serve six-year staggered terms, each of whom shall serve until a successor is appointed and qualified.

(2) The membership of the commission shall be appointed in the following manner:

(A) Four (4) members appointed by the Governor;

(B) One (1) member appointed by the President Pro Tempore of the Senate;

(C) One (1) member appointed by the Speaker of the House of Representatives; and

(D) One (1) member appointed by the Chief Justice of the Supreme Court.

(3) A vacancy shall be filled in the same manner as a regular appointment.

(4) A member of the commission may be reappointed to a successive term or terms or to fill another vacancy on the commission.

(b) Each year the commission shall elect a chair from its membership.

(c) Members of the commission shall not receive pay for their

1 services, but each member may receive expense reimbursement in accordance  
2 with § 25-16-901 et seq.

3 (d) A minimum of four (4) members of the commission is necessary for a  
4 quorum.

5 (e)(1) Members of the commission may meet or talk with each other,  
6 support staff and administrative staff, and attorneys who contract with the  
7 commission to provide services concerning the quality and assessment of an  
8 attorney's representation of the attorney's clients without being subject to  
9 the requirements of the Freedom of Information Act of 1967, § 25-19-101 et  
10 seq.

11 (2)(A) Otherwise, all deliberations by the commission shall be  
12 open to the public.

13 (B) A deliberation that includes a discussion in whole or  
14 in part of an attorney's representation of a specific client may be closed to  
15 the public in order to protect the client's privacy.

16 (f)(1) The Administrative Office of the Courts shall provide funding  
17 for the operations and administration of the commission.

18 (2) However, the office shall not have oversight responsibility  
19 or authority over the commission, except when the commission requests that  
20 the office facilitate any contract with an attorney who has been approved for  
21 contract by the commission.

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23 9-27-704. Powers and duties of the Commission for Parent Counsel –  
24 Funding formula – Liability.

25 (a)(1) The Commission for Parent Counsel shall enter into contracts  
26 with attorneys in order to provide counsel required by the circuit court in  
27 certain cases in the juvenile division of circuit court for a parent of a  
28 minor subject to a juvenile case.

29 (2) The Commission for Parent Counsel may contract with  
30 attorneys to represent a parent at the trial court level as well as at the  
31 appellate level.

32 (3) The Commission for Parent Counsel shall establish guidelines  
33 to provide a maximum amount of expenses and fees per hour and per case that  
34 shall be paid under this subchapter.

35 (b)(1) The Commission for Parent Counsel may hire or appoint an  
36 executive director who, subject to approval by the Commission for Parent

1 Counsel, shall hire all staff required to implement this subchapter.

2 (2) The Executive Director of the Commission for Parent Counsel  
3 shall report directly to the Commission for Parent Counsel.

4 (c) The Commission for Parent Counsel shall adopt standards of  
5 practice and qualifications for service for attorneys who seek to be  
6 contracted for appointments by a circuit court under this subchapter to  
7 provide legal representation for parents of a minor in a juvenile case.

8 (d) In order to ensure that each judicial district will have an  
9 appropriate amount of funds to utilize for indigent parent or custodian  
10 representation in dependency-neglect cases, the funds appropriated under this  
11 subchapter shall be apportioned based upon a formula developed by the  
12 Commission for Parent Counsel and approved by the Commission for Parent  
13 Counsel.

14 (e) The Commission for Parent Counsel is not liable directly to any  
15 attorney or indirectly to the Arkansas State Claims Commission for the  
16 payment of attorney's fees or expenses except to the extent specific funding  
17 is appropriated and available for the purpose of providing indigent parent  
18 counsel in dependency-neglect cases.

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20 9-27-705. Attorney appointment.

21 (a)(1) When a circuit court determines that the appointment of parent  
22 counsel would further the interests of justice and protect the rights of a  
23 parent in a juvenile case, the court shall notify the Commission for Parent  
24 Counsel, which shall then assign an attorney to represent the parent or  
25 parents of the minor.

26 (2) In the event that the circuit court determines that more  
27 than one (1) parent should be represented by separate attorneys, the court  
28 shall notify the commission that separate attorneys are required.

29 (b) An attorney appointed under this subchapter shall represent the  
30 parent in the parent's best interest.

31 (c) Each attorney appointed under this subchapter shall:

32 (1) File written motions, responses, or objections at all stages  
33 of the proceedings when necessary to protect the best interest of the parent;

34 (2) Attend all hearings, participate in all telephone  
35 conferences with the court unless excused by the court, and attend all  
36 necessary meetings outside of court; and

1           (3) Present witnesses and exhibits when necessary to protect the  
2 parent’s best interest.

3           (d) An attorney appointed under this subchapter shall be provided  
4 access to all records relevant to the juvenile’s case, including without  
5 limitation school records, medical records, all court records relating to the  
6 juvenile and his or her family, and records of the Department of Human  
7 Services relating to the juvenile and his or her family to the extent  
8 permitted by federal law, including those maintained electronically and in  
9 the Children’s Reporting and Information System.

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11           9-27-706. Rulemaking permitted.

12           The Commission for Parent Counsel may establish rules not otherwise  
13 addressed by this subchapter for its own governing for the administrative  
14 affairs of the commission and to effectuate the intent of this subchapter.

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16           SECTION 4. DO NOT CODIFY. Temporary legislation.

17           (a) The Commission for Parent Counsel shall hold its first meeting  
18 within ninety (90) days of the effective date of this act.

19           (b) At the first meeting of the commission, the members shall draw  
20 lots for terms so that two (2) members will serve for a term of four (4)  
21 years; three (3) members will serve for a term of five (5) years; and two (2)  
22 members will serve for a term of six (6) years.

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