

CRIMINAL JUSTICE COMMITTEE MEETING
PUBLIC DEFENDER AGENDA
APRIL 19, 2021

COMMITTEE MEMBERS: Supervisors LEGGETT, Shepler, Strough, Diamond, and Driscoll

- I. Committee meeting called to order by Chair
- II. Approval of minutes of prior Committee Meeting
- III. Action Agenda/New Business Items:
 1. Request: To submit a Request for Proposal for the Second Update Model Family Representation Office Grant
Rationale: To utilize available funding to develop new and innovative programs for parental representation
- IV. Discussion Items:
 1. Training
 - a. CCAR Ethical Considerations for Recovery Coaches
 - i. 03/29 – 3/31 2021: Dillon Swertner (Case Manager)
 2. Mentor Services
 - a. Under Resolution 460 of 2020 the Public Defender's Office has requested Terence Kindlon, Esq. and Laurie Shanks, Esq. of Kindlon Law Firm, as well as Gregory V. Canale, Esq. to provide mentoring services to Public Defender Staff Attorney's (ILS grant funded)
- V. Referrals/ Pending Items:
 1. Committee to continue discussion regarding necessary additional office space. (STORAGE SPACE)
- VI. Privilege of the floor and public comment (please allow for 15 second delay on live stream meetings)
- VII. Motion to adjourn

Attachments: 1. Resolution Request Form No. 5 – Request to Apply for a Grant – New York State Office of Indigent Legal Services Request for Proposal – Second Upstate Model Family Representation Office Grant

RESOLUTION REQUEST FORM NO. 5

Request to Apply for a Grant Application and Grant Agreement

DEPARTMENT NAME: Warren County Public Defender

DATE: 4/19/2021

- (a) Purpose of Grant: **To develop new, innovative programs and practices to improve the delivery of indigent legal services by providing legal representation to parents in child protective proceedings under New York Family Court Act Article 10 and termination of parental rights proceedings under Family Court Act Article 6.**
- (b) Name of Grantor: **NYS Office of Indigent Legal Services**
- (c) Address of Contractor: **A.E. Smith Office Bldg., 11th Floor; 80 South Swan Street; Albany, NY 12210**
- (d) Grantor's Contact Person and Telephone Number: **Jennifer Colvin (518) 486-9713**
- (e) Has or Will the Grant Application or Grant Agreement be provided, if so, Please Attach? (www.ils.ny.gov/node/224/pending-rfps)
- (f) Effective Date of Grant: **Tentative October 2021**
- (g) Termination Date of Grant: **Tentative October 2024**
- (h) Total Dollar Amount Involved (not to exceed): **\$2,610,417 (\$870,139 per year)**
- (i) Deadline to Submit Grant Application and/or Grant Agreement: **(May 24, 2021**
- (j) Is a Budget amendment required? If yes, also complete and submit Form No. 7.
- (k) Are the funds to go into a Capital Project or Capital Reserve Project? If yes, also complete and submit Form No. 8 or Form No. 9, as applicable.
- (i) Is a Local Share Required? If Yes, Where are the Funds? List Budget Code, Object Code, Full Title* and Amount **OR** Capital Project **OR** Capital Reserve Project Number and Title and Amount:

**Sample: A.1010 470 Legislative Board – Contract \$xx.xx
Capital Project No. H289.9550 480 – Old Jail Renovations \$xx.xx**

*as listed in budget and LOGOS

New York State Office of Indigent Legal Services

Funding Announcement

Second Upstate Model Family Representation Office Grant

NYS Office of Indigent Legal Services Request for Proposals

The Office of Indigent Legal Services (Office) and nine-member Indigent Legal Services Board (Board) were created by legislation enacted in 2010, found in Executive Law Article 30, sections 832 and 833. As part of its statutory mission “to monitor, study and make efforts to improve the quality of services provided pursuant to Article 18-B of the county law,” the Office, operating under the direction and pursuant to policies established by the Board, assists county governments in the exercise of their responsibility to provide effective and meaningful representation of persons who are legally entitled to counsel but cannot afford to hire an attorney. The assistance provided by the Office and Board includes distributing state funds and targeting grants to counties in support of innovative and cost-effective solutions to enhance the quality of indigent legal services.

Timelines for This Request for Proposals

RFP Release Date	Tuesday, April 6, 2021
Questions Due By	Monday, April 19, 2021 5:00 p.m. EST (Q & A period closed)
Answers Posted By	Friday, April 30, 2021
Proposal Due Date	Monday, May 24, 2021 5:00 p.m. EST
Award Announcement	July 2021
Tentative Contract Start Date	October 2021

Intent of this Request for Proposals

The New York State Office of Indigent Legal Services (ILS) announces the availability of funds and solicits proposals from New York State **counties** for the establishment of a model Family Representation Office (the “Model Office”) in a county outside of New York City to provide legal representation to parents¹ in child protective proceedings under New York Family Court Act Article 10 and termination of parental rights proceedings (“state intervention cases”). **New York Counties, other than counties within New York City, are eligible to apply. Proposals**

¹ For ease of reference, in this RFP the term “parent” refers to a biological parent or other “legally responsible” person who is eligible for assigned counsel under New York Family Court Act § 262.

must be submitted by an authorized county official or designated employee of the governing body of the applicant county.²

The intent of this Request for Proposals (“RFP”) is to improve the quality of indigent legal services by establishing, in a county outside of New York City, a demonstration project which will implement standards and best practices in state intervention cases as embodied in ILS’ *Standards for Parental Representation in State Intervention Matters*.³

New York parents who cannot afford to hire a lawyer are constitutionally and statutorily entitled to publicly-funded legal representation in state intervention cases. *Matter of Ella B.*, 30 N.Y.2d 352 (1972); Family Court Act §§ 261, 262, and 1120; Surrogate’s Court Procedure Act § 407. The central goal of effective parent representation in these cases is to maintain children safely within their families and prevent unnecessary and damaging disruption of the parent-child relationship.⁴

In accordance with the *ILS Parental Representation Standards*, the defining feature of this demonstration project is implementation of client-centered, holistic, and interdisciplinary representation that addresses both the legal and social service issues confronting parents affected by the child welfare system, at all critical stages of their interaction with the system. This “family defense” model, in which attorneys, social workers, parent advocates, paralegals, investigators, and experts work as a team, is deemed a best practices approach by the Children’s Bureau of the United States Health and Human Services Department and the American Bar Association.⁵ The

² This grant may be used to benefit more than one county, with a single grantee county taking the lead position, upon the express agreement by the governing authority of the other county or counties to accept provision of the services by the grantee county as described herein.

³ *Standards for Parental Representation in State Intervention Matters*, New York State Office of Indigent Legal Services (effective December 2, 2015) (hereinafter *ILS Parental Representation Standards*), accessible at <https://www.ils.ny.gov/node/210/parental-representation-standards>

⁴ Children’s Bureau, “Strengthening families through primary prevention of child maltreatment and unnecessary parent-child separation,” IM-18-05, (U.S. Department of health and Human Services, Administration for Children and Families) (November 16, 2018), <https://www.acf.hhs.gov/cb/resource/im1805>.

⁵ The federal government's indicators of whether parties are receiving "quality, effective representation" includes whether parents’ attorneys have access to "other multi-disciplinary professionals as partners, team members or employees such as social workers, investigators, Court Appointed Special Advocates (CASAs), etc." *Indicators of Quality Legal Representation*, Program Instruction ACYF-CB-PI-12-02, *Instructions for State Courts Applying for Court Improvement Program (CIP) Funds for Fiscal Years (FYs) 2012-2016*, Attachment B (Children's Bureau, U.S. Department of Health and Human Services, Administration for Children and Families (January 11, 2012), <http://www.acf.hhs.gov/sites/default/files/cb/pi1202.pdf>. See also American Bar Association *Standards of Practice for Attorneys Representing Parents in Abuse and Neglect Cases*, Standard 26 ("Engage in case planning and advocate for appropriate social services using¹ a multidisciplinary approach to representation when available."), http://www.americanbar.org/content/dam/aba/publications/center_on_children_and_the_law/parentrepresentation/ABA-Parent-Attorney-Standards.authcheckdam.pdf, and *ABA National Project to Improve Parental Representation: An Investment That Makes Sense*, http://www.americanbar.org/content/dam/aba/administrative/child_law/ParentRep/At-a-glance%20final.authcheckdam.pdf. Most recently, in February 2019, the interdisciplinary approach was endorsed by the Family Justice Initiative, a collaboration of the ABA Center on Children and the Law, the Children’s Law Center of California (CLC), the Center for Family Representation (CFR), and Casey Family Programs (CFP), in *Attributes of High Quality Legal Representation for Children and Parents in Child Welfare Proceedings*, accessible at https://www.americanbar.org/content/dam/aba/administrative/child_law/fji-attributes-2018.pdf.

family defense model was endorsed by the NYS Unified Court System’s Commission on Parental Legal Representation.⁶ The commission was established by Chief Judge Janet DiFiore in February 2018 “to examine the current state of mandated Family Court representation and determine how best to ensure the future delivery of quality, cost-effective parental representation.”⁷ A central recommendation of its February 2019 Interim Report to Judge DiFiore is the creation of a statewide network of interdisciplinary law offices “to ensure the delivery of client-centered, interdisciplinary, holistic representation throughout the State.”⁸

The DiFiore Commission’s recommendation for statewide implementation of the interdisciplinary law office approach is underscored by a study of the family defense system operated by New York City.⁹ That study found that children whose parents received interdisciplinary law office representation achieved overall permanency, reunification, and guardianship more quickly than children whose parents did not receive this type of representation.¹⁰

Implementation of this demonstration project is expected to improve the overall quality of parental representation in the grantee county, and thus, outcomes for child welfare involved children. Furthermore, consistent with the DiFiore Commission’s recommendation, this project will provide an opportunity to explore the potential benefit of expanding a formalized law office structure for delivering interdisciplinary parental representation across the state.

Section I: Background

A parent’s interest in his or her child’s care and custody is one of the oldest and most fundamental liberty interests recognized by law.¹¹ Depriving a parent of the right to raise one’s child is “often . . .the more grievous” compared to a prison sentence.¹² The United States Supreme Court has emphasized that parents’ fundamental liberty interest in associating with and raising their children “does not evaporate simply because they have not been model parents or have lost temporary custody of their child to the State. Even when blood relationships are strained, parents retain a vital interest in preventing the irretrievable destruction of their family

⁶ Commission on Parental Legal Representation, *Interim Report to the Chief Judge*, at 16-23, New York State Unified Court System (hereafter the “DiFiore Commission Interim Report”) (February 2019), *accessible at* <http://www.nycourts.gov/ip/Parental-Legal-Rep/PDFs/InterimReport-FINAL.pdf>.

⁷ Janet DiFiore, Chief Judge of the State of New York Court of Appeals, Chief Judge of the State of New York, NYS Unified Court System, *The State of Our Judiciary 2018*, (February 6, 2018), *accessible at* <http://www.nycourts.gov/ctapps/news/soj2018.pdf>.

⁸ *DiFiore Commission Interim Report*, *supra* note 6 at 44.

⁹ The New York City interdisciplinary family defense model is described herein at 6-7.

¹⁰ L.A. Gerber, Y.C. Pang, T. Ross, et al., *Effects of an interdisciplinary approach to parental representation in child welfare*, *Children and Youth Services Review*, 42-55 (May 2019), *accessible at* <https://www.sciencedirect.com/science/article/pii/S019074091930088X>.

¹¹ *Troxel v. Granville*, 530 U.S. 57, 65 (2000).

¹² *Lassister v. Department of Social Services*, 452 U.S. 18, 59 (1981) (Stevens, J., dissenting).

The grant will be issued for a period of three years. The Office reserves the right to reduce the award amount of any application based on reasons that include but are not limited to: cost effectiveness and reasonableness of proposed budget, demonstrated need, or inconsistent appropriation levels.

Section IV: Who is Eligible to Apply for this Request for Proposals

Only New York State counties, other than counties within New York City, are eligible to apply. Proposals must be submitted by an authorized county official or designated employee of the governing body of the applicant county. There is no funding match or any other cost to the county to participate in this project.

Section V: Instructions for Completing this Request for Proposals

The RFP is available online at <https://www.ils.ny.gov/node/224/pending-rfps> (hit: Ctrl + (right) Click to follow link or copy and paste link into your web browser). Requests for the RFP may be made by e-mail to Jessica.Bogran@ils.ny.gov or by telephone at (518) 935-7868.

No responses will be provided to inquiries made by telephone other than to request a copy of this RFP.

RFP Questions and Updates

Questions or requests for clarification regarding the RFP should be submitted via email, citing the RFP page and section, by Monday, April 19, 2021, by 5:00 pm Eastern Standard Time (EST) to QA@ils.ny.gov (hit: Ctrl + (right) Click to follow link in Outlook).

No responses will be provided to inquiries made by telephone other than to request a copy of this RFP.

Questions will not be accepted orally.

Questions received after 5:00 pm EST the date of the deadline will not be answered.

When corresponding by e-mail, clearly indicate the subject as: “Second Upstate Model Family Representation Office RFP”. The name of the party submitting the question will not be posted.

Questions and answers will be posted on the “*Questions Posted By*” date as stated on the cover of this RFP (Friday, April 30, 2021) at the following URL webpage address: <https://www.ils.ny.gov/node/224/pending-rfps> (hit: Ctrl + (right) Click to follow link or copy and paste link into your web browser).