



**SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE
REQUEST FOR APPLICATIONS (RFA)**

**FAMILY LAW ALTERNATE DEFENSE ATTORNEY PANEL
RFA NUMBER # FL-2015**

1. INTRODUCTION

The Superior Court of California, County of Orange ("Court") has released this Request for Applications ("RFA") to establish panels of qualified private attorneys to represent minor child(ren) of parties and parents who have been found to be indigent.

All attorneys, including attorneys on the existing panel, MUST submit a complete application and CV/Resume for consideration.

Attorneys interested in being considered for placement on the Panel should review this RFA, containing the Application Form, accessible through www.BidSync.com ("BidSync").

Interested attorneys are highly encouraged to register as a vendor with BidSync, which is completely **free**, in order to have full access to the necessary online forms. There is **no cost** to register with BidSync.

Attorneys should regularly access and monitor BidSync for all information related to this application. The Court may release additional information regarding this application via BidSync only.

Applications and the CV/Resume must either be submitted electronically through BidSync or emailed to kmoncrief@occourts.org by the date specified on BidSync.

For further information or assistance, please contact Katherine Moncrief at kmoncrief@occourts.org or (949) 399-2284. Please submit all questions related to this RFA through BidSync.com.

2. SCOPE OF WORK

2.1 The Court is looking to establish a panel of attorneys to represent indigent adults in family law proceedings. The panels include: Minor's Counsel (Family Code section 3150); Paternity; Termination of Parental Rights (Family Code section 7680); and Family Law Contempt. Attorneys may apply for one or multiple panels, however this does not guarantee contract award for all of the requested panels.

2.2 In each case in which he or she is appointed by the Court, the appointed attorney will render to his/her client all professional legal services reasonably and legally required from the time of appointment to, and including, a final adjudication or disposition of such case, or until relieved as counsel by the Court, whichever occurs first. As necessary, the appointed attorney may be required to file a Notice of Appeal and other legal documents related to the Notice of Appeal.

- 2.3 Applicants are not to contact any Judge or Commissioner of the Court for the purpose of soliciting support for their application. The integrity of the selection process is important to the Court and to you as a candidate. Solicitation by or on behalf of an Applicant may be grounds for immediate disqualification.
- 2.4 Attorney responsibilities and obligations are listed on the document "Agreement – Family Law Attorney Panel."
- 2.5 The attorney must accept the Agreement without exceptions as a condition of the award.
- 2.6 Attorneys must maintain insurance as required by the Court. Insurance requirements are listed on the attached "Agreement – Family Law Attorney Panel" as "Insurance Requirements."

3. MINIMUM QUALIFICATIONS

The following qualifications apply to all applicants:

Attorneys must:

- 3.1 Have Membership in the State Bar of California for a minimum of five (5) years in good standing
- 3.2 Have Three years' experience practicing law before Orange County Family Law Court
- 3.3 Maintain insurance as required by the Agreement
- 3.4 Accept of the terms and conditions of the Agreement without exception

4. ADDITIONAL PANEL REQUIREMENTS

Attorneys appointed to the Minor's Counsel (Family Code section 3150) Panel must also meet the minimum requirements as stated in Family Code section 3150, and California Rules of Court 5.242, also attached to this RFA as Exhibit 1 and Exhibit 2.

5. SUBMISSION OF QUESTIONS

Attorneys interested in responding to this solicitation may submit questions on procedural matters related to the RFA or requests for clarification or modification of this solicitation document electronically through BidSync. If the attorney is requesting a change, the request must set forth the recommended change and the reasons for proposing the change.

Without disclosing the source of incoming questions or requests, the Court will post a copy of the questions and the Court's responses on BidSync. Within the discretion of the Court, and within the Court's desire to present information in any organized, easy to understand fashion, not every question may be specifically, individually answered.

If an attorney's question relates to a proprietary aspect and the question would expose proprietary information if disclosed, the attorney may submit the question via direct e-mail to kmoncrief@occourts.org conspicuously marking it as "CONFIDENTIAL." The attorney must also submit a statement explaining why the question is sensitive.

Questions or requests submitted after the due date will not be accepted.

6. SUBMISSION OF APPLICATIONS

Completed applications, including all attachments, must be submitted electronically at www.BidSync.com or may be emailed to kmoncrief@occourts.org. The application is included in the RFA.

If the attorney encounters any problems in submitting its Application via BidSync, or needs any assistance, please contact www.BidSync.com online or call Customer Service toll free at 1 800 990 9339.

The Court is not responsible for and accepts no liability for any technical difficulties or failures that result from conducting business electronically.

7. EVALUATION AND SELECTION

The selection process includes an initial review and evaluation by the Court of the applications to determine eligibility. Panel assignments will be determined by the Alternate Defense Steering Committee (“Committee”), consisting of Judicial Officers, Court Staff Counsel, members from the Court’s Financial unit, and Operations managers. The Committee will make the final determination of the Panels based upon the following:

1. Completeness of application and responses
2. Qualifications and experience of the attorney
3. Needs of the Court

EXHIBIT 1 –Family Code section 3150

Family Code section 3150.

- (a) If the court determines that it would be in the best interest of the minor child, the court may appoint private counsel to represent the interests of the child in a custody or visitation proceeding, provided that the court and counsel comply with the requirements set forth in Rules 5.240, 5.241, and 5.242 of the California Rules of Court.
- (b) Upon entering an appearance on behalf of a child pursuant to this chapter, counsel shall continue to represent that child unless relieved by the court upon the substitution of other counsel by the court or for cause.

EXHIBIT 2 – 2015 California Rules of Court Rule 5.242

Rule 5.242. Qualifications, rights, and responsibilities of counsel appointed to represent a child in family law proceedings

(a) Purpose

This rule governs counsel appointed to represent the best interest of the child in a custody or visitation proceeding under Family Code section 3150.

(b) General appointment requirements

To be eligible for appointment as counsel for a child, counsel must:

- (1) Be an active member in good standing of the State Bar of California;
- (2) Have professional liability insurance or demonstrate to the court that he or she is adequately self-insured; and
- (3) Meet the education, training, and experience requirements of this rule.

(c) Education and training requirements

Effective January 1, 2009, before being appointed as counsel for a child in a family law proceeding, counsel must have completed at least 12 hours of applicable education and training which must include all the following subjects:

- (1) Statutes, rules of court, and case law relating to child custody and visitation litigation;
- (2) Representation of a child in custody and visitation proceedings;
- (3) Special issues in representing a child, including the following:
 - (A) Various stages of child development;
 - (B) Communicating with a child at various developmental stages and presenting the child's view;
 - (C) Recognizing, evaluating and understanding evidence of child abuse and neglect, family violence and substance abuse, cultural and ethnic diversity, and gender-specific issues;
 - (D) The effects of domestic violence and child abuse and neglect on children; and
 - (E) How to work effectively with multidisciplinary experts.

(d) Annual education and training requirements

Effective January 1, 2010, to remain eligible for appointment as counsel for a child, counsel must complete during each calendar year a minimum of eight hours of applicable education and training in the subjects listed in (c).

(e) Applicable education and training

- (1) Education and training that addresses the subjects listed in (c) may be applied toward the requirements of this rule if completed through:
 - (A) A professional continuing education group;
 - (B) An educational institution;
 - (C) A professional association;
 - (D) A court-connected group; or
 - (E) A public or private for-profit or not-for-profit group.
- (2) A maximum of two of the hours may be by self-study under the supervision of an education provider that provides evidence of completion.
- (3) Counsel may complete education and training courses that satisfy the requirements of this rule offered by the education providers in (1) by means of video presentations or other delivery means at remote locations. Such courses are not self-study within the meaning of this rule.
- (4) Counsel who serve as an instructor in an education and training course that satisfies the requirements of this rule may receive 1.5 hours of course participation credit for each hour of course instruction. All other counsel may claim credit for actual time he or she attended the education and training course.

(f) Experience requirements

- (1) Persons appointed as counsel for a child in a family law proceeding must have represented a party or a child in at least six proceedings involving child custody within the preceding five years as follows:
 - (A) At least two of the six proceedings must have involved contested child custody and visitation issues in family law; and
 - (B) Child custody proceedings in dependency or guardianship cases can count for no more than three of the six required for appointment.
- (2) Courts may develop local rules that impose additional experience requirements for persons appointed as counsel for a child in a family law proceeding.

(g) Alternative experience requirements

Counsel who does not meet the initial experience requirements in (f) may be appointed to represent a child in a family law proceeding if he or she meets one of the following alternative experience requirements. Counsel must:

- (1) Be employed by a legal services organization, a governmental agency, or a private law firm that has been approved by the presiding or supervising judge of the local family court as qualified to represent a child in family law proceedings and be directly supervised by an attorney in an organization, an agency, or a private law firm who meets the initial experience requirements in (f);
- (2) Be an attorney working in consultation with an attorney approved by the presiding or supervising judge of the local family court as qualified to represent a child in family law proceedings; or
- (3) Demonstrate substantial equivalent experience as determined by local court rule or procedure.

(h) Compliance with appointment requirements

A person appointed as counsel for a child must:

- (1) File a declaration with the court indicating compliance with the requirements of this rule no later than 10 days after being appointed and before beginning work on the case. Counsel may complete the *Declaration of Counsel for a Child Regarding Qualifications* (form FL-322) or other local court forms for this purpose; and
- (2) Notify the court within five days of any disciplinary action taken by the State Bar of California, stating the basis of the complaint, result, and notice of any reproval, probation, or suspension.

(i) Rights of counsel for a child

Counsel has rights relating to the representation of a child's best interest under Family Code sections 3111, 3151, 3151.5, 3153, and Welfare and Institutions Code section 827, which include the right to:

- (1) Reasonable access to the child;
- (2) Seek affirmative relief on behalf of the child;
- (3) Notice to any proceeding, and all phases of that proceeding, including a request for examination affecting the child;
- (4) Take any action that is available to a party to the proceeding, including filing pleadings, making evidentiary objections, and presenting evidence;
- (5) Be heard in the proceeding, which may include presenting motions and orders to show cause and participating in settlement conferences and trials, seeking writs, appeals, and arbitrations;
- (6) Access the child's medical, dental, mental health, and other health-care records, and school and educational records;
- (7) Inspect juvenile case files subject to the provisions of Welfare and Institutions Code section 827;
- (8) Interview school personnel, caretakers, health-care providers, mental health professionals, and others who have assessed the child or provided care to the child; however, the release of this information to counsel does not constitute a waiver of the confidentiality of the reports, files, and any disclosed communications;
- (9) Interview mediators, subject to the provisions of Family Code sections 3177 and 3182;
- (10) Receive reasonable advance notice of and the right to refuse any physical or psychological examination or evaluation, for purposes of the proceeding, that has not been ordered by the court;
- (11) Assert or waive any privilege on behalf of the child;
- (12) Seek independent psychological or physical examination or evaluation of the child for purposes of the proceeding on approval by the court;
- (13) Receive child custody evaluation reports;

- (14) Not be called as a witness in the proceedings;
- (15) Request the court to authorize release of relevant reports or files, concerning the child represented by the counsel, of the relevant local child protective services agency; and
- (16) Receive reasonable compensation and expenses for representing the child, the amount of which will be determined by the court.

(j) Responsibilities of counsel for a child

Counsel is charged with the representation of the child's best interest. The role of the child's counsel is to gather evidence that bears on the best interest of the child and present that admissible evidence to the court in any manner appropriate for the counsel of a party. If the child so desires, the child's counsel must present the child's wishes to the court.

- (1) Counsel's duties, unless under the circumstances it is inappropriate to exercise the duties, include those under Family Code section 3151:
 - (A) Interviewing the child;
 - (B) Reviewing the court files and all accessible relevant records available to both parties; and
 - (C) Making any further investigations that counsel considers necessary to ascertain the facts relevant to the custody or visitation hearings.
- (2) Counsel must serve notices and pleadings on all parties consistent with the requirements for parties.
- (3) Counsel may introduce and examine witnesses, present arguments to the court concerning the child's welfare, and participate further in the proceeding to the degree necessary to represent the child adequately.
- (4) In any case in which counsel is representing a child who is called to testify in the proceeding, counsel must:
 - (A) Provide information to the child in an age-appropriate manner about the limitations on confidentiality and the possibility that information provided to the court may be on the record and provided to the parties in the case;
 - (B) Allow but not require the child to state a preference regarding custody or visitation and, in an age-appropriate manner, provide information about the process by which the court will make a decision;
 - (C) Provide procedures relevant to the child's participation and, if appropriate, provide an orientation to the courtroom where the child will be testifying; and
 - (D) Inform the parties and then the court about the client's desire to provide input.

(Subd (j) amended effective January 1, 2012.)

(k) Other considerations

Counsel is not required to assume the responsibilities of a social worker, probation officer, child custody evaluator, or mediator and is not expected to provide nonlegal services to the child. Subject to the terms of the court's order of appointment, counsel for a child may take the following actions to implement his or her statutory duties in representing a child in a family law proceeding:

- (1) Interview or observe the child as appropriate to the age and circumstances of the child. In doing so, counsel should consider all possible interview or observation environments and select a location most conducive to both conducting a meaningful interview of the child and investigating the issues relevant to the case at that time.
- (2) In a manner and to the extent consistent with the child's age, level of maturity, and ability to understand, and consistent with the order of appointment for the case:
 - (A) Explain to the child at their first meeting counsel's role and the nature of the attorney-client relationship (including confidentiality issues); and
 - (B) Advise the child on a continuing basis of possible courses of action and of the risks and benefits of each course of action.
- (3) Actively participate in the representation of the child at any hearings that affect custody and visitation of the child and attend and participate in any other hearings relevant to the child. In doing so, counsel may, as appropriate:
 - (A) Take positions relevant to the child on legal issues before the court;
 - (B) Seek and advocate for services for the child;
 - (C) Prepare for any hearings or trials;
 - (D) Work to settle contested issues and to define trial issues;
 - (E) Prepare witnesses, including the child if the child is to testify;

- (F) Introduce and examine witnesses on behalf of the child;
 - (G) Cross-examine other witnesses;
 - (H) Make appropriate evidentiary objections;
 - (I) Review court files and other pertinent records;
 - (J) Prepare motions to advance the child's interest, including motions to quash subpoenas for the child and other protective orders;
 - (K) Present arguments to advance the child's interest;
 - (L) Prepare trial briefs and other documents if appropriate; and
 - (M) Request appointment of separate appellate counsel.
- (4) Conduct thorough, continuing, and independent investigations and discovery to protect the child's interest, which may include:
- (A) Obtaining necessary authorizations for the release of information.
 - (B) Reviewing the child's social services, mental health, drug and alcohol, medical, law enforcement, education, and other records relevant to the case;
 - (C) Reviewing the court files of the child and his or her siblings, case-related records of the social service agency, and case-related records of other service providers;
 - (D) Contacting attorneys for the parties and nonlawyer guardians ad litem, Court Appointed Special Advocates (CASAs), and other service professionals, to the extent permitted by local rule, for background information;
 - (E) Contacting and meeting with the child's parents, legal guardians, or caretakers, with permission of their attorneys;
 - (F) Interviewing witnesses and individuals involved with the child, including school personnel, child welfare caseworkers, foster parents and other caretakers, neighbors, relatives, coaches, clergy, mental health professionals, physicians, law enforcement officers, and other potential witnesses;
 - (G) Reviewing relevant photographs, video- or audiotapes, and other evidence;
 - (H) Documenting the results of these investigations;
 - (I) Monitoring compliance with court orders as appropriate, including the provision for and effectiveness of any court-ordered services;
 - (J) Promoting the timely progression of the case through the judicial system;
 - (K) Investigating the interests of the child beyond the scope of the proceeding and reporting to the court other interests of the child that may need to be protected by the institution of other administrative or judicial proceedings; however, counsel is not responsible for instituting those proceedings or representing the child in them unless expressly appointed by the court for that purpose; and
 - (L) After learning of other existing administrative or judicial proceedings involving the child, communicating and cooperating with others to the extent necessary and appropriate to protect the child's interest.
- (5) Taking all other steps to represent the child adequately as appropriate to the case, including becoming knowledgeable in other areas affecting minors including:
- (A) The Indian Child Welfare Act;
 - (B) Information about local experts who can provide evaluation, consultation, and testimony; and
 - (C) Delinquency, dependency, probate, family law, and other proceedings.

Rule 5.242 amended effective January 1, 2012; adopted effective January 1, 2008.