

BARRON COUNTY RESOLUTION NO. 2016 - 25

Resolution to Transfer Representation of Interest of the Public in prosecution of Children in Need of Protection and Services and Termination of Parental Rights Cases from the District Attorney's Office to the Office of Corporation Counsel

TO THE BARRON COUNTY BOARD OF SUPERVISORS:

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2 **WHEREAS**, since 1990 the District Attorney's Office has represented the
3 interest of the public in Children in Need of Protection and Services (CHIPS) under
4 Section 48.13 to 48.16, Wis. Stats.; and Termination of Parental Rights (TPR) under
5 Section 48.40 to 48.435, Wis. Stats; and
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7 **WHEREAS**, pursuant to Section 48.09, Wis. Stats., the County Board of
8 Supervisors may transfer this authority to or from the District Attorney if the action is
9 effective September 1 of an odd-numbered year and the board notifies the department of
10 administration of that change by January 1 of that odd-numbered year; and
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12 **WHEREAS**, since January 2004 the Termination of Parental Rights cases have
13 been prosecuted by a special prosecutor appointed by the District Attorney. The
14 contracted outside legal counsel serving as special prosecutor has been funded through a
15 grant awarded to the Department of Health and Human Services; and
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17 **WHEREAS**, in January 2016 the Department of Health and Human Services
18 contracted with the same outside legal counsel to prosecute both Children in Need of
19 Protection and Services cases as well as Termination of Parental Rights cases and is
20 assigned as special prosecutor by the District Attorney; and
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22 **WHEREAS**, the number of Children in Need of Protection and Services
23 petitions filed with the court has increased 95.8% from 2008 to 2015 with 48 petitions in
24 2008 to 94 in 2015; and
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26 **WHEREAS**, contracting with outside legal counsel to prosecute both Children in
27 Need of Protection and Services cases and Termination of Parental Rights cases has been
28 an extremely successful partnership with the Department of Health and Human Services
29 and has worked well to assist the District Attorney's Office in handling the criminal
30 caseload; and
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32 **WHEREAS**, the federal government maintains a program under Title IV-E of
33 the Social Security Administration Act for counties to receive reimbursement of the cost
34 of legal services incurred in child welfare cases, which include cases involving Children
35 in Need of Protection and Services and Termination of Parental Rights; and
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37 **WHEREAS**, the Department of Health and Human Services has a year to year
38 contract for outside legal counsel to prosecute these cases and is negotiating a long-term
39 contract to provide services to prosecute both Children in Need of Protection and
40 Services and Termination of Parental Rights; and

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WHEREAS, while under this resolution the responsibility for representing the public interest in both Children in Need of Protection and Services and Termination of Parental Rights would be transferred to the Office of Corporation Counsel the proposal intends to continue to contract such services with outside legal counsel because the Corporation Counsel's Office has neither the legal staff nor support staff to internally prosecute such cases and it can be done more cost effectively by contracting with outside legal counsel than to add county staff to perform such duties; and

WHEREAS, it is the recommendation of the Executive Committee that the authority to represent Barron County in prosecuting Children in Need of Protection and Services under Sections 48.13 to 48.16, and Termination of Parental Rights under Sections 48.40 to 48.435 from the District Attorney's Office to the Office of Corporation Counsel to be effective September 1, 2017;

WHEREAS, it is the further recommendation of the Executive Committee that the Department of Health and Human Services and Office of Corporation Counsel be authorized to contract with outside legal counsel to prosecute both Children in Need of Protection and Services and Termination of Parental Rights and be further authorized to contract with additional outside legal counsel to provide back up in the event that the primary contracted attorney has a conflict or is otherwise unavailable to perform such services; and

WHEREAS, this resolution was approved and is by the Executive Committee on October 5, 2016, on a vote of 9, with Dale Heinecke, Louie Okey, Don Horstman, Karolyn Bartlett, Jerry McRoberts, Dana Heller, Russ Rindsig and Gary Nelson voting in favor and 0 against.

NOW, THEREFORE, BE IT RESOLVED, that pursuant to Section 48.09 Wis. Stats. the Barron County Board of Supervisors authorizes the transfer of the authority to represent the public interest in prosecuting Children in Need of Protection and Services under 48.13 to 48.16, and Termination of Parental Rights under 48.40 to 48.435 from the District Attorney's Office to the Office of Corporation Counsel to be effective September 1, 2017; and

BE IT FURTHER RESOLVED, that the Department of Health and Human Service and Office of Corporation Counsel be authorized to contract with outside legal counsel to prosecute Children in Need of Protection and Services under 48.13 to 48.16, and Termination of Parental Rights under 48.40 to 48.435 and be further authorized to contract with additional outside legal counsel to provide back up in the event that the primary contracted attorney has a conflict or is otherwise unavailable to perform such services.

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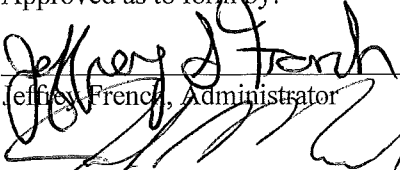
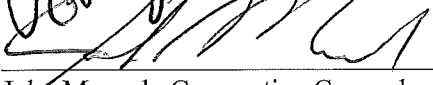
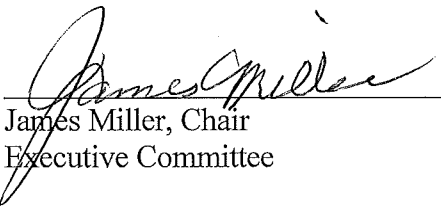
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82 BE IT FURTHER RESOLVED, that the Department of Health and Human
83 Services shall enter into and administer the contract and be responsible for grant
84 application and budgeting for such contracts, and the Office of Corporation Counsel shall
85 appoint the contracted attorney to perform the duties listed in the contract and be
86 responsible to insure that the provision of legal services fulfills the contract requirements.

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88 BE IT FURTHER RESOLVED, that a certified copy of this Resolution shall be
89 filed with the Wisconsin Department of Administration no later than December 31, 2016.

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91 BE IT FURTHER RESOLVED, that publication of this resolution may occur
92 through posting in accordance with Section 985.02 of the Wisconsin Statutes.
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OFFERED THIS 17th day of October, 2016.

<p>Number of readings required: One (X) Two ()</p> <p>Vote required for passage: Majority (X) 2/3 Entire Board (20) ()</p> <p>Source of funding: Budgeted (X) General Fund () Grant (X) Contingency () Other () Details: <u>Grant total \$19,500.00</u></p> <p>Fiscal impact: - Current year total amount: \$90,000.00 - Future years total amount: \$90,000.00 - Effect on tax levy – current year - \$70,500.00 - Effect on tax levy – future years - \$70,500.00</p> <p>Fiscal impact reviewed by County Finance Department</p> <p> _____ Jodi Busch, Finance Director</p> <p>Approved as to form by:  _____ Jeffrey French, Administrator</p> <p> _____ John Muench, Corporation Counsel</p>	<p> _____ James Miller, Chair Executive Committee</p> <p>(The Committee Chair signature verifies the action taken by the Committee.)</p> <p>Board Action: Adopted (X) Failed () Tabled ()</p> <p>District Attorney Beranek and Corporation Counsel Muench gave an explanation of the resolution and reason for the transfer of oversight from one department to another. Motion: (Okey/Jost) to approve. Carried.</p>
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