

## **5. REQUEST TO ADD LANGUAGE TO SCLJuCR 2.3(a)(2).**

**ISSUE:** At times the Attorney General's Office assigns family defense attorneys outside of the provisional appointment calendar. They make this appointment when a client was previously represented by an attorney. The Attorney General's Office obtains a court order of provisional appointment without confirming that the family defense attorneys is available.

**PROPOSED ADDITIONAL LANGUAGE TO THE LOCAL RULE:** A petitioner or petitioner's attorney shall follow SCLJuCR 2.3 to assign provisional appointments for shelter cares. If an attorney previously represented a parent or legal guardian, the petitioner or petitioner's attorney shall contact the family defense attorney to ensure the attorney is available for the hearing and prior to seeking a court order of provisional appointment outside the shelter care assignment list.

**REASON:** On two occasions in the past 14 months, the Attorney General's Office obtained a court order provisionally appointing me as the provisional attorney for a shelter care that did not follow the provisional appointment calendar. They did this because I previously represented the parent. They continue to assign me cases outside the provisional appointment calendar before contacting me to see if I'm available for that court hearing. I do think it is helpful for attorneys to represent a parent they previously represented, but there has to be communication with attorney before the Attorney General's Office obtains a court order for the provisional appointment.

**Instance 1:** In 2024, just after 5pm, the night before a special set shelter care hearing, the AG's Office emailed me notice of a special set and a court order appointing me as provisional attorney for the special set. I have a dependency calendar on Thursdays in another jurisdiction and did not see the email until Friday morning. The AG's office did not ask me for my availability prior to obtaining a court order assigning me to the case and they sent me the request after hours the night before the hearing. I did not know about the hearing, so I missed the shelter care hearing. Family defense attorneys are contractually required to appear at shelter cares. When we don't appear at a shelter care, we are in violation of our contract. This also could jeopardize parent's Constitutional right to counsel.

**Instance 2:** In 2025 I provided a Notice of Conflict dates to the AG's Office for many cases set for trial. On a day that I indicated I was on leave, the Attorney General's Office assigned me a case and did not follow the provisional appointment calendar and did not contact me to see if I was available to cover

that hearing. They explained that they did this because I previously represented the parent. I left my vacation and drove to court to appear at the hearing. They claimed they did not know they had to confirm my availability prior to seeking a court order.