
**E-92-5 Corporation counsel representation in
child support cases**

Question

Notwithstanding the section 767.075(2)(a) of the Wisconsin Statutes disclaimer of an attorney-client relationship by a corporation counsel with any person except the state in child support enforcement actions, what are a corporation counsel's professional responsibilities to parties other than the state?

Opinion

Section 767.075(2) reads:

“(a) Except as provided in par. (b), in any action affecting the family under a child support enforcement program, an attorney acting under s. 46.25 or 59.07(97), including any district attorney or corporation counsel, represents only the state. Child support services provided by an attorney as specified in sub. (1) do not create an attorney-client relationship with any other party.

“(b) Paragraph (a) does not apply to an attorney employed by the department of health and social services under s. 46.25 or a county under s. 5907(97), including district attorneys and corporation counsels, who acts as the guardian ad litem of the minor child for the purpose of establishing paternity.”

Corporation counsel, district attorneys and other attorneys appointed to provide representation in child support actions in which section 767.075(2)(a) is implicated must clearly disclose to any persons for whom child support services are provided that:

- 1) The attorney represents *only* the interests of the state of Wisconsin;
- 2) The interests of the state, the child for whom support is sought, and the child's parents are not necessarily the same and may be in conflict;
- 3) If any person involved in a child support action wants legal advice or representation regarding the enforcement action or related matters, he or she must obtain such advice or representation from an independent attorney; and

4) Any information disclosed by the child or parent, whether or not it relates to the support action, is not confidential and may be used by the state or other persons in any other matter. *See generally*, SCR 20:1.6, “Confidentiality of Information,” and SCR 20:4.3, “Dealing with Unrepresented Person.”

We further recommend that corporation counsel and other attorneys in these circumstances inform persons for whom support services are provided of any significant divergence of interest between that person and the state and how that would affect the representation. Although absence of an attorney-client relationship with such persons would not require such disclosures, we believe that they not only would enhance the public’s confidence in the legal system but also would better ensure compliance with SCR 20:4.3 requirements regarding making reasonable efforts not to mislead an unrepresented person about the lawyer’s role in the matter.