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3 HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR HB129  
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8 SYNOPSIS: Existing law provides that a petitioner or  
9 respondent in a juvenile dependency case may  
10 receive the services of court-appointed counsel if  
11 the court makes a finding of indigency.

12 This bill would establish requirements for a  
13 finding of indigency in juvenile dependency cases  
14 and would provide that to be awarded  
15 court-appointed counsel, a petitioner for whom  
16 custody of a child has been transferred to another  
17 party must be justified in filing the petition and  
18 must establish good cause for the court to believe  
19 that the standard for modification of the prior  
20 custody judgment can be met.

21  
22 A BILL  
23 TO BE ENTITLED  
24 AN ACT  
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26 Relating to juvenile dependency proceedings; to  
27 amend Section 12-15-305, Code of Alabama 1975, to establish

1 requirements for a finding of indigency in juvenile dependency  
2 cases, and to provide that to be awarded court-appointed  
3 counsel, a petitioner for whom custody of a child has been  
4 transferred to another party must be justified in filing the  
5 petition and must establish good cause for the court to  
6 believe that the standard for modification of the prior  
7 custody judgment can be met.

8 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

9 Section 1. Section 12-15-305, Code of Alabama 1975,  
10 is amended to read as follows:

11 "§12-15-305.

12 "(a) Upon request and a finding of indigency, the  
13 juvenile court may appoint an attorney to represent the  
14 petitioner and may order recoupment of the fees of the  
15 attorney to be paid to the State of Alabama.

16 "(b) In dependency and termination of parental  
17 rights cases, the respondent parent, legal guardian, or legal  
18 custodian shall be informed of his or her right to be  
19 represented by counsel and, if the juvenile court determines  
20 that he or she is indigent, counsel shall be appointed where  
21 the respondent parent, legal guardian, or legal custodian is  
22 unable for financial reasons to retain his or her own counsel.

23 "(c) (1) If a parent, former legal guardian, or  
24 former legal custodian files a petition to modify a dependency  
25 judgment entered by the juvenile court that transferred legal  
26 custody of a child from the parent, former legal guardian, or  
27 former legal custodian, the juvenile court shall not appoint

1 an attorney to represent the petitioner if either of the  
2 following is true:

3 "a. The petition is filed without substantial  
4 justification as that term is defined in Section 12-19-271.

5 "b. The juvenile court determines that the  
6 petitioner has not established good cause for the court to  
7 believe that the standard for modification of the judgment can  
8 be met. For the purposes of this subsection, "good cause"  
9 means that facts have been alleged that would lead a  
10 reasonable and intelligent person to believe that there is a  
11 substantial ground for the petition and that the petition has  
12 been filed in good faith.

13 "(2) The juvenile court may conduct a hearing to  
14 determine whether the petition is filed without substantial  
15 justification or whether the petitioner has established good  
16 cause pursuant to this subsection.

17 "(d) Notwithstanding any other law to the contrary,  
18 a petitioner or respondent making a claim of indigency must  
19 execute an affidavit of substantial hardship on a form  
20 approved by the court. The affidavit must include the total  
21 value of all cash, financial assets, real property, and  
22 personal property owned by the applicant. To make a finding of  
23 indigency, the court must find that a petitioner or respondent  
24 is financially unable to pay for his or her representation  
25 based on both of the following:

26 "(1) The petitioner or respondent has an income  
27 level at or below 125 percent of the United States poverty

1 level as defined by the most recent revised poverty income  
2 guidelines published by the United States Department of Health  
3 and Human Services.

4 "(2) Except for a homestead and one vehicle having  
5 an equity value of five thousand dollars (\$5,000) or less, the  
6 petitioner or respondent does not own or have equity in any  
7 cash, financial assets, real property, or personal property  
8 with a total equity value of two thousand five hundred dollars  
9 (\$2,500) or more."

10 Section 2. This act shall become effective on the  
11 first day of the third month following its passage and  
12 approval by the Governor, or its otherwise becoming law.