# HB244 ENROLLED



- 1 LEHXYA-2
- 2 By Representatives Crawford, Robbins, Wadsworth, Ingram, Hill,
- 3 Mooney, Standridge, Kiel, Woods, Lomax, Reynolds, Whitt,
- 4 Paramore, Shaver, Oliver, Paschal
- 5 RFD: Ways and Means General Fund
- 6 First Read: 04-Apr-23
- 7 2023 Regular Session



1 Enrolled, An Act,

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- 4 Relating to guardians ad litem; to amend Section
- 5 15-12-21, Code of Alabama 1975; to increase the compensation
- 6 for an attorney appointed to serve as a quardian ad litem in
- 7 certain juvenile cases.
- 8 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:
- 9 Section 1. Section 15-12-21, Code of Alabama 1975, is
- 10 amended to read as follows:
- 11 "\$15-12-21
- 12 (a) If it appears to the trial court that an indigent
- 13 defendant is entitled to counsel, that the indigent defendant
- 14 does not expressly waive the right to assistance of counsel,
- and that the indigent defendant is not able financially or
- 16 otherwise to obtain the assistance of counsel through another
- 17 indigent defense system for the circuit, the court shall
- 18 appoint counsel to represent and assist the defendant. It
- 19 shall be the duty of the appointed counsel, as an officer of
- 20 the court and as a member of the bar, to represent and assist
- 21 the indigent defendant to the best of his or her ability.
- 22 (b) If it appears to the trial court in a delinquency
- 23 case, need of supervision case, or other judicial proceeding
- 24 in which a juvenile is a party, that the juvenile is entitled
- 25 to counsel and that the juvenile is not able financially or
- 26 otherwise to obtain the assistance of counsel or that
- 27 appointed counsel is otherwise required by law, the court
- 28 shall appoint counsel to represent and assist the juvenile or



act in the capacity of guardian ad litem for the juvenile. It 30 shall be the duty of the appointed counsel, as an officer of 31 the court and as a member of the bar, to represent and assist 32 the juvenile to the best of his or her ability.

- (c) If it appears to the trial court that the parents, guardian, or custodian of a juvenile who is a party in a judicial proceeding, are entitled to counsel and the parties are unable to afford counsel, upon request, the court shall appoint counsel to represent and assist the parents, guardian, or custodian. It shall be the duty of the appointed counsel, as an officer of the court and as a member of the bar, to represent and assist the parties to the best of his or her ability.
  - (d) If the appropriate method for providing indigent defense services is by appointed counsel in a case described in subsections (a), (b), and (c), including cases tried de novo in circuit court on appeal from a juvenile proceeding, appointed counsel shall be entitled to receive for their services a fee to be approved by the trial court. The amount of the fee shall be based on the number of hours spent by the attorney in working on the case. The amount of the fee shall be based on the number of hours spent by the attorney in working on the case and shall be computed at the rate of seventy dollars (\$70) per hour for time reasonably expended on the case. The total fees paid to any one attorney in any one case, from the time of appointment through the trial of the case, including motions for new trial, shall not exceed the following:



57 (1) In cases where the original charge is a capital 58 offense or a charge which carries a possible sentence of life 59 without parole, there shall be no limit on the total fee.

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- (2) Except for cases covered by subdivision (1), in cases where the original charge is a Class A felony, the total fee shall not exceed four thousand dollars (\$4,000).
- 63 (3) In cases where the original charge is a Class B
  64 felony, the total fee shall not exceed three thousand dollars
  65 (\$3,000).
- 66 (4) In cases where the original charge is a Class C or 67 Class D felony, the total fee shall not exceed two thousand 68 dollars (\$2,000).
  - (5) <u>a.</u> In juvenile cases, the total fee shall not exceed two thousand five hundred dollars (\$2,500), except as provided in subdivision b.
    - b. In juvenile dependency cases, the total fee for guardians ad litem shall not exceed five thousand dollars (\$5,000), provided that a guardian ad litem shall receive no more than two thousand five hundred dollars (\$2,500) during the first 18 months after his or her appointment to a case, and no more than one thousand dollars (\$1,000) during each 12 months thereafter. If a guardian ad litem does not receive the full fee during the initial 18-month or subsequent 12-month period, any remaining fees may be carried over until the final disposition, his or her appointment as guardian ad litem ends, or his or her total fee for the case reaches five thousand dollars (\$5,000), whichever occurs first.
      - (6) In all other cases, the total fee shall not exceed



one thousand five hundred dollars (\$1,500).

(e) Counsel shall also be entitled to be reimbursed for any nonoverhead expenses reasonably incurred in the representation of his or her client, with any expense in excess of three hundred dollars (\$300) subject to advance approval by the trial court as necessary for the indigent defense services and as a reasonable cost or expense.

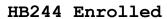
Reimbursable expenses shall not include overhead expenses.

Fees and expenses of all experts, investigators, and others rendering indigent defense services to be used by counsel for an indigent defendant shall be approved in advance by the trial court as necessary for the indigent defense services and as a reasonable cost or expense. Retrials of any case shall be considered a new case for billing purposes. Upon review, the director may authorize interim payment of the attorney fees or expenses, or both.

(e) (f) Within a reasonable time after the conclusion of the trial—or, ruling on a motion for a new trial, or after an acquittal or other judgment disposing of the case, not to exceed 90 days, counsel shall submit a bill for services rendered to the office. The bill shall be accompanied by a certification by the trial court that counsel provided representation to the indigent defendant, that the matter has been concluded, and that to the best of his or her knowledge the bill is reasonable based on the defense provided. The trial court need not approve the items included on the bill or the amount of the bill, but may provide any information requested by the office or the indigent defense advisory board



113	relating to the representation. The bill for compensation of			
114	appointed counsel shall be submitted to the office. After			
115	review and approval, the office shall recommend to the			
116	Comptroller that the bill be paid. The office may forward the			
117	bill to the indigent defense advisory board for review and			
118	comment prior to approval. The Comptroller shall remit payment			
119	in a timely manner not to exceed 90 days from submission. In			
120	the event that payment is not made within 90 days of			
121	submission, counsel shall be entitled to receive interest at a			
122	rate of six percent until <pre>such the</pre> payment is issued."			
123	Section 2. This act shall become effective on the first			
124	day of the third month following its passage and approval by			
125	the Governor, or its otherwise becoming law.			





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134	Speaker of the House of Representatives				
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139		President and Presiding Officer of	f the Senate		
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142		House of Representatives			
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144		I hereby certify that the within Act originated in and			
145	was pas	sed by the House 27-Apr-23.			
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147		John Treadwell			
148		Clerk			
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156	Senate _	24-May-23	Passed		
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159	House	25-May-23	Concurred in		
160			Senate Amendment		