

HB244 INTRODUCED



1 LEHXYA-1

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

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SYNOPSIS:

Under existing law, counsel appointed to represent or assist an indigent client or serve as a guardian ad litem in a juvenile case may be compensated a maximum fee of \$2,500.

This bill would provide that counsel appointed to serve as a guardian ad litem for a juvenile in a dependency case may be compensated a maximum fee of \$5,000.

A BILL
TO BE ENTITLED
AN ACT

Relating to guardians ad litem; to amend Section 15-12-21, Code of Alabama 1975; to increase the compensation for an attorney appointed to serve as a guardian ad litem in certain juvenile cases.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 15-12-21, Code of Alabama 1975, is amended to read as follows:

"§15-12-21

(a) If it appears to the trial court that an indigent defendant is entitled to counsel, that the indigent defendant



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29 does not expressly waive the right to assistance of counsel,
30 and that the indigent defendant is not able financially or
31 otherwise to obtain the assistance of counsel through another
32 indigent defense system for the circuit, the court shall
33 appoint counsel to represent and assist the defendant. It
34 shall be the duty of the appointed counsel, as an officer of
35 the court and as a member of the bar, to represent and assist
36 the indigent defendant to the best of his or her ability.

37 (b) If it appears to the trial court in a delinquency
38 case, need of supervision case, or other judicial proceeding
39 in which a juvenile is a party, that the juvenile is entitled
40 to counsel and that the juvenile is not able financially or
41 otherwise to obtain the assistance of counsel or that
42 appointed counsel is otherwise required by law, the court
43 shall appoint counsel to represent and assist the juvenile or
44 act in the capacity of guardian ad litem for the juvenile. It
45 shall be the duty of the appointed counsel, as an officer of
46 the court and as a member of the bar, to represent and assist
47 the juvenile to the best of his or her ability.

48 (c) If it appears to the trial court that the parents,
49 guardian, or custodian of a juvenile who is a party in a
50 judicial proceeding, are entitled to counsel and the parties
51 are unable to afford counsel, upon request, the court shall
52 appoint counsel to represent and assist the parents, guardian,
53 or custodian. It shall be the duty of the appointed counsel,
54 as an officer of the court and as a member of the bar, to
55 represent and assist the parties to the best of his or her
56 ability.



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57 (d) If the appropriate method for providing indigent
58 defense services is by appointed counsel in a case described
59 in subsections (a), (b), and (c), including cases tried de
60 novo in circuit court on appeal from a juvenile proceeding,
61 appointed counsel shall be entitled to receive for their
62 services a fee to be approved by the trial court. The amount
63 of the fee shall be based on the number of hours spent by the
64 attorney in working on the case. The amount of the fee shall
65 be based on the number of hours spent by the attorney in
66 working on the case and shall be computed at the rate of
67 seventy dollars (\$70) per hour for time reasonably expended on
68 the case. The total fees paid to any one attorney in any one
69 case, from the time of appointment through the trial of the
70 case, including motions for new trial, shall not exceed the
71 following:

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

75 (2) Except for cases covered by subdivision (1), in
76 cases where the original charge is a Class A felony, the total
77 fee shall not exceed four thousand dollars (\$4,000).

78 (3) In cases where the original charge is a Class B
79 felony, the total fee shall not exceed three thousand dollars
80 (\$3,000).

81 (4) In cases where the original charge is a Class C or
82 Class D felony, the total fee shall not exceed two thousand
83 dollars (\$2,000).

84 (5) a. In juvenile cases, the total fee shall not exceed



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85 two thousand five hundred dollars (\$2,500), except as provided
86 in subdivision b.

87 b. In juvenile dependency cases, the total fee for
88 guardians ad litem shall not exceed five thousand dollars
89 (\$5,000).

90 (6) In all other cases, the total fee shall not exceed
91 one thousand five hundred dollars (\$1,500).

92 (e) Counsel shall also be entitled to be reimbursed for
93 any nonoverhead expenses reasonably incurred in the
94 representation of his or her client, with any expense in
95 excess of three hundred dollars (\$300) subject to advance
96 approval by the trial court as necessary for the indigent
97 defense services and as a reasonable cost or expense.
98 Reimbursable expenses shall not include overhead expenses.
99 Fees and expenses of all experts, investigators, and others
100 rendering indigent defense services to be used by counsel for
101 an indigent defendant shall be approved in advance by the
102 trial court as necessary for the indigent defense services and
103 as a reasonable cost or expense. Retrials of any case shall be
104 considered a new case for billing purposes. Upon review, the
105 director may authorize interim payment of the attorney fees or
106 expenses, or both.

107 ~~(e)~~ (f) Within a reasonable time after the conclusion of
108 the trial ~~or~~, ruling on a motion for a new trial, or after an
109 acquittal or other judgment disposing of the case, not to
110 exceed 90 days, counsel shall submit a bill for services
111 rendered to the office. The bill shall be accompanied by a
112 certification by the trial court that counsel provided



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113 representation to the indigent defendant, that the matter has
114 been concluded, and that to the best of his or her knowledge
115 the bill is reasonable based on the defense provided. The
116 trial court need not approve the items included on the bill or
117 the amount of the bill, but may provide any information
118 requested by the office or the indigent defense advisory board
119 relating to the representation. The bill for compensation of
120 appointed counsel shall be submitted to the office. After
121 review and approval, the office shall recommend to the
122 Comptroller that the bill be paid. The office may forward the
123 bill to the indigent defense advisory board for review and
124 comment prior to approval. The Comptroller shall remit payment
125 in a timely manner not to exceed 90 days from submission. In
126 the event that payment is not made within 90 days of
127 submission, counsel shall be entitled to receive interest at a
128 rate of six percent until ~~such~~ the payment is issued."

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