

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



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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 guardian 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,
15 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



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29 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.

33 (c) If it appears to the trial court that the parents,
34 guardian, or custodian of a juvenile who is a party in a
35 judicial proceeding, are entitled to counsel and the parties
36 are unable to afford counsel, upon request, the court shall
37 appoint counsel to represent and assist the parents, guardian,
38 or custodian. It shall be the duty of the appointed counsel,
39 as an officer of the court and as a member of the bar, to
40 represent and assist the parties to the best of his or her
41 ability.

42 (d) If the appropriate method for providing indigent
43 defense services is by appointed counsel in a case described
44 in subsections (a), (b), and (c), including cases tried de
45 novo in circuit court on appeal from a juvenile proceeding,
46 appointed counsel shall be entitled to receive for their
47 services a fee to be approved by the trial court. The amount
48 of the fee shall be based on the number of hours spent by the
49 attorney in working on the case. The amount of the fee shall
50 be based on the number of hours spent by the attorney in
51 working on the case and shall be computed at the rate of
52 seventy dollars (\$70) per hour for time reasonably expended on
53 the case. The total fees paid to any one attorney in any one
54 case, from the time of appointment through the trial of the
55 case, including motions for new trial, shall not exceed the
56 following:



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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.

60 (2) Except for cases covered by subdivision (1), in
61 cases where the original charge is a Class A felony, the total
62 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).

69 (5) a. In juvenile cases, the total fee shall not exceed
70 two thousand five hundred dollars (\$2,500), except as provided
71 in subdivision b.

72 b. In juvenile dependency cases, the total fee for
73 guardians ad litem shall not exceed five thousand dollars
74 (\$5,000), provided that a guardian ad litem shall receive no
75 more than two thousand five hundred dollars (\$2,500) during
76 the first 18 months after his or her appointment to a case,
77 and no more than one thousand dollars (\$1,000) during each 12
78 months thereafter. If a guardian ad litem does not receive the
79 full fee during the initial 18-month or subsequent 12-month
80 period, any remaining fees may be carried over until the final
81 disposition, his or her appointment as guardian ad litem ends,
82 or his or her total fee for the case reaches five thousand
83 dollars (\$5,000), whichever occurs first.

84 (6) In all other cases, the total fee shall not exceed



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

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

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



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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 ~~such~~ the 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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Speaker of the House of Representatives

President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in and was passed by the House 27-Apr-23.

John Treadwell
Clerk

Senate **24-May-23**

Passed

House **25-May-23**

Concurred in
Senate Amendment