

**SB148 INTRODUCED**



1 4SKLR3-1  
2 By Senator Givhan  
3 RFD: Judiciary  
4 First Read: 04-Apr-23  
5



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

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



## SB148 INTRODUCED

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.



## SB148 INTRODUCED

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



## SB148 INTRODUCED

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



## SB148 INTRODUCED

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.