



March 15, 2024

SUMMARY OF BILL AS AMENDED (015762): Authorizes a court in guardianship and conservatorship proceedings to, in its discretion, charge the costs of any attorney ad litem against the petitioner if the court dismisses a conservatorship petition because of a finding of fraud, bad faith, or deception by the petitioner.

Establishes that, in a proceeding for an emergency guardianship or conservatorship, or for an expedited limited healthcare fiduciary, the cost of an attorney ad litem may, in the court's discretion, be charged against the assets of the respondent or against the petitioner. Specifies that the costs charged must not exceed \$1,500, except when a court dismisses such a proceeding due to a finding of fraud, bad faith, or deception by the petitioner, or when the court determines the proceeding involves unusually complex factual issues, in which case there is no cap on the attorney ad litem fees. Establishes that, beginning February 1, 2025, and on February 1 of each year thereafter, the maximum fee for the attorney ad litem in such cases must be adjusted annually based upon the percentage of change in the average consumer price index for the calendar year immediately preceding.

FISCAL IMPACT OF BILL AS AMENDED:

NOT SIGNIFICANT

Assumptions for the bill as amended:

- Pursuant to Tenn. Code Ann. § 34-1-125(b), the cost of the attorney ad litem must be charged against the assets of the respondent.
- The proposed legislation changes this to also allow the court, in its discretion, to charge the cost of the attorney ad litem to be charged against the petitioner if the court dismisses a conservatorship petition because of a finding of fraud, bad faith, or deception by the petitioner. It also establishes the new provisions in relation to the costs of an attorney ad litem in proceedings for an emergency guardianship or conservatorship or an expedited limited healthcare fiduciary.
- The parties in these circumstances are private parties. Any impact in regards to compensation or recovering costs among the parties will be realized by those private parties. The legislation will not impact the revenue or expenditures of any state or local court or government.
- The legislation will create any significant impact to any state or local courts.
- Any fiscal impact is therefore estimated to be not significant.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink that reads "Krista Lee Carsner". The signature is written in a cursive, flowing style.

Krista Lee Carsner, Executive Director

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