



March 26, 2019

SUMMARY OF ORIGINAL BILL: Requires guardian ad litem fees in a pending adoption proceeding be divided equally between the parties, excluding the person being adopted. Requires the guardian ad litem to bill an indigent party's fees to the Administrative Office of the Courts' (AOC) claims and payment system, and bill the remaining parties at the same rate. Limits guardian ad litem's hourly rate to \$200 per hour when an indigent party is not involved.

FISCAL IMPACT OF ORIGINAL BILL:

Increase State Expenditures – \$3,700/Recurring/Indigent Defense Fund

SUMMARY OF AMENDMENT (006508): Deletes and replaces language in the bill to establish a rebuttable presumption that the guardian ad litem fees in a pending adoption proceeding be divided equally between the parties, excluding the person being adopted. Removes the limit on a guardian ad litem's hourly rate when an indigent party is not involved.

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:

Unchanged from the original fiscal note.

Assumptions for the bill as amended:

- Based on information provided by the AOC, termination of parental rights cases often precede or are filed in conjunction with an adoption petition.
- If a termination of parental rights case is being contested, a guardian ad litem is assumed to have already been appointed.
- The AOC's Annual Statistical Report for the Trial and Appellate Courts lists 3,532 dispositions for adoptions and termination of parental rights cases in FY17-18.
- Of those 3,532 cases, the AOC processed 603 claims for a guardian ad litem in termination of parental rights cases.
- The remaining 2,929 cases (3,532 – 603), are assumed to be uncontested termination of parental rights cases or surrenders.
- It is estimated that a guardian ad litem would be appointed in five percent or 146 (2,929 x 5.0%) of uncontested cases.

- Of those 146 cases, it is estimated that 50 percent or 73 (146 x 50.0%) cases would include at least one indigent party.
- It is estimated a guardian ad litem spends an average of two hours working on a case.
- Pursuant to Tennessee Supreme Court Rule 13, the set hourly rate for a guardian ad litem for a non-capital case is \$50 per hour for out-of-court time.
- It is assumed the Supreme Court will amend Rule 13 to set a comparable rate for a guardian ad litem in an adoption proceeding.
- The total cost per case for a guardian ad litem in an adoption proceeding is estimated to be \$100 (2 hours x \$50).
- The total cost for appointed guardian ad litem fees in adopting preceding cases where at least one party is indigent is estimated to be \$7,300 (73 cases x \$100).
- Any payment of guardian ad litem fees applicable to indigent individuals will be paid from the Indigent Defense Fund.
- The recurring increase in state expenditures from the Indigent Defense Fund for fees owed by an indigent party is estimated to be \$3,650 (\$7,300 / 2 parties).

CERTIFICATION:

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



Krista Lee Carsner, Executive Director

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