

CHAPTER 14
CLAIMS FOR ATTORNEY FEES IN 600A TERMINATIONS

493—14.1(13B,600A,815) Scope. This chapter sets forth specific rules for submission, review and payment of claims for attorney fees in proceedings under Iowa Code chapter 600A. Unless modified in this chapter, the provisions of 493—Chapters 7, 11 and 12 apply to such claims.

493—14.2(13B,600A,815) Definitions. The following definitions apply only to this chapter.

“Indigent” means the person has an income level at or below 100 percent of the United States poverty level as defined by the most recently revised poverty income guidelines published by the U.S. Department of Health and Human Services, unless the court determines that the person is able to pay for the cost of an attorney in the pending case. In making the determination of a person’s ability to pay for the cost of an attorney, the court shall consider not only the person’s income, but also the availability of any assets subject to execution, including but not limited to cash, stocks, bonds, and any other property which may be applied to the satisfaction of judgments, and the nature and complexity of the case.

“Timely claim” means a claim submitted to the state public defender for payment within 45 days of the date of service in a case to which the attorney was appointed. For termination of parental rights cases under Iowa Code chapter 600A with a date of appointment after May 11, 2004, and a date of service before May 5, 2005, a claim is timely if submitted to the state public defender for payment before June 20, 2005.

493—14.3(13B,600A,815) Hourly rate and fee limitations. Unless the attorney has a contract with the state public defender that provides for a different rate or manner of payment, claims for attorney fees in a termination of parental rights case under Iowa Code chapter 600A to which the attorney was appointed after March 11, 2004, and before July 1, 2006, shall be paid at the rate of \$50 per hour, with a fee limitation of \$500 for the trial court proceedings and \$500 for appellate proceedings. Claims for attorney fees in a termination of parental rights case under Iowa Code chapter 600A to which the attorney was appointed after June 30, 2006, and before July 1, 2007, shall be paid at the rate of \$55 per hour, with a fee limitation of \$550 for the trial court proceedings and \$550 for appellate proceedings. Claims for attorney fees in a termination of parental rights case under Iowa Code chapter 600A to which the attorney was appointed after June 30, 2007, shall be paid at the rate of \$60 per hour, with a fee limitation of \$600 for the trial court proceedings and \$600 for appellate proceedings. Claims shall not be approved for an amount in excess of these fee limitations.

493—14.4(13B,600A,815) Limitations on other charges and expenses. For appeals, the state public defender shall approve claims for the actual cost of a transcript and printing of necessary briefs. The state public defender shall not approve claims for travel time, paralegal time, or other out-of-pocket expenses at the trial or appellate level.

493—14.5(13B,600A,815) Claims for attorney fees. Claims for attorney fees shall be submitted on Juvenile claim forms. Except as provided in this rule, claims for attorney fees for representing the respondent in proceedings for termination of parental rights cases under Iowa Code chapter 600A shall be reviewed by the state public defender in the same manner as provided in 493—Chapter 12.

14.5(1) For cases to which the attorney was appointed on or after May 5, 2005, the order of appointment must contain the following additional findings:

- a. The respondent requests appointment of counsel;

b. Both the petitioner, or the person on whose behalf the petition is filed, and the respondent are indigent, unless the petitioner is a private child-placing agency as defined in Iowa Code section 238.2, in which case the petitioner need not be indigent;

c. The respondent, because of lack of skill or education, would have difficulty in presenting the respondent's version of a disputed set of facts, particularly when presentation requires the examining or cross-examining of witnesses or the offering or dissecting of complex documentary evidence; and

d. The respondent has a colorable defense to the termination of parental rights, or there are substantial reasons that make termination of parental rights inappropriate.

14.5(2) For cases to which the attorney was appointed on or after May 5, 2005, in addition to the other requirements provided in 493—Chapter 12, a copy of both the petitioner's and respondent's financial affidavit must accompany the claim.

14.5(3) The provisions for review of the state public defender's action provided in 493—Chapter 12 shall apply to claims submitted under this chapter.

493—14.6(13B,600A,815) Report to judicial branch. The state public defender shall submit quarterly to the state court administrator a report detailing all approved and paid attorney fee claims for termination of parental rights cases under Iowa Code chapter 600A.

These rules are intended to implement Iowa Code chapters 13B, 600A, 815 and 908 as amended by 2005 Iowa Acts, House File 683.

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