

JAN 25 2000
JUDICIARY

HOUSE FILE
BY KREIMAN

2071

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the payment of court-appointed counsel in
2 guardianship and conservator proceedings.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 2071

1 Section 1. Section 633.561, subsections 3 and 6, Code
2 1999, are amended to read as follows:

3 3. a. If the proposed ward is entitled to representation
4 and is indigent ~~or~~, incapable of requesting counsel, or the
5 court determines that it would be in the best interest of the
6 ward to have legal representation with respect to any
7 proceedings in the guardianship, the court shall appoint an
8 attorney to represent the proposed ward.

9 b. The cost of ~~court-appointed~~ court-appointed counsel for
10 indigents shall be assessed as follows:

11 (1) If the proposed ward is a minor and has an estate, or
12 is not a minor, the costs of counsel may be assessed to the
13 ward at the expense of the ward or the ward's estate.

14 (2) If the proposed ward is a minor and has no estate, the
15 cost of court-appointed counsel shall be assessed to the
16 parents or guardian.

17 (3) If the parents or guardian is determined to be
18 indigent according to the standard set forth in paragraph "c",
19 the cost of court-appointed counsel shall be assessed against
20 the county in which the proceedings are pending.

21 c. For the purposes of this subsection, the court shall
22 find a person is indigent if the person's income and resources
23 do not exceed one hundred fifty percent of the federal poverty
24 level or the person would be unable to pay such costs without
25 prejudicing the person's financial ability to provide economic
26 necessities for the person or the person's dependents.

27 ~~6.--If the court determines that it would be in the ward's~~
28 ~~best interest to have legal representation with respect to any~~
29 ~~proceedings in a guardianship, the court may appoint an~~
30 ~~attorney to represent the ward at the expense of the ward or~~
31 ~~the ward's estate, or if the ward is indigent the cost of the~~
32 ~~court-appointed attorney shall be assessed against the county~~
33 ~~in which the proceedings are pending.~~

34 Sec. 2. Section 633.575, subsections 3 and 6, Code 1999,
35 are amended to read as follows:

1 3. a. If the proposed ward is entitled to representation
2 and is indigent ~~or~~, incapable of requesting counsel, or the
3 court determines that it would be in the best interest of the
4 ward to have legal representation with respect to any
5 proceedings in the conservatorship, the court shall appoint an
6 attorney to represent the proposed ward.

7 b. The cost of ~~court-appointed~~ court-appointed counsel for
8 indigents shall be assessed as follows:

9 (1) If the proposed ward is a minor and has an estate, or
10 is not a minor, the costs of counsel may be assessed to the
11 ward at the expense of the ward or the ward's estate.

12 (2) If the proposed ward is a minor and has no estate, the
13 cost of court-appointed counsel shall be assessed to the
14 parents or guardian.

15 (3) If the parents or guardian is determined to be
16 indigent according to the standard set forth in paragraph "c",
17 the cost of court-appointed counsel shall be assessed against
18 the county in which the proceedings are pending.

19 c. For the purposes of this subsection, the court may find
20 a person is indigent if the person's income and resources do
21 not exceed one hundred fifty percent of the federal poverty
22 level or the person would be unable to pay such costs without
23 prejudicing the person's financial ability to provide economic
24 necessities for the person or the person's dependents.

25 ~~6.---If the court determines that it would be in the ward's~~
26 ~~best interest to have legal representation with respect to any~~
27 ~~proceedings in a conservatorship, the court may appoint an~~
28 ~~attorney to represent the ward at the expense of the ward or~~
29 ~~the ward's estate, or if the ward is indigent the cost of the~~
30 ~~court-appointed attorney shall be assessed against the county~~
31 ~~in which the proceedings are pending.~~

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EXPLANATION

33 This bill makes the same amendment to two Code sections
34 pertaining to payment of counsel when counsel is court
35 appointed in a guardianship or conservatorship proceeding.

1 The statutes currently have two subsections dealing with
2 appointment of counsel, and essentially provide that the
3 county will pay for all court-appointed counsel. The bill
4 combines and harmonizes the subsections on appointment of
5 counsel, and specifies that court-appointed counsel in such
6 proceedings shall be paid for by the ward or ward's estate if
7 able, or by the parents or guardian if there is no estate, or
8 shall be paid for by the county if the parent or guardian is
9 determined to be indigent.

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