

Senate Study Bill 3074 - Introduced

SENATE FILE _____
BY (PROPOSED COMMITTEE
ON JUDICIARY BILL BY
CHAIRPERSON HOGG)

A BILL FOR

1 An Act relating to the fees and expenses of a court appointed
2 attorney or guardian ad litem representing an indigent
3 person in a guardianship, conservatorship, or dissolution
4 proceeding.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 633.561, subsections 3 and 6, Code 2014,
2 are amended to read as follows:

3 3. If the proposed ward is entitled to representation and is
4 indigent or incapable of requesting ~~counsel~~ an attorney, the
5 court shall appoint an attorney to represent the proposed ward.
6 The cost of a court appointed ~~counsel~~ attorney for indigents
7 an indigent shall be assessed against the county in which the
8 proceedings are pending. If the cost for the court appointed
9 attorney is assessed against the county, the fees and expenses
10 of the attorney shall be assessed at the same rates established
11 by the state public defender for an attorney appointed to
12 represent an indigent party in juvenile court under section
13 13B.4. For the purposes of this subsection, the court shall
14 find a person is indigent if the person's income and resources
15 do not exceed one hundred fifty percent of the federal poverty
16 level or the person would be unable to pay such costs without
17 prejudicing the person's financial ability to provide economic
18 necessities for the person or the person's dependents.

19 6. If the court determines that it would be in the ward's
20 best interest to have legal representation with respect to
21 any proceedings in a guardianship, the court may appoint an
22 attorney to represent the ward at the expense of the ward or
23 the ward's estate, or if the ward is indigent the cost of the
24 court appointed attorney shall be assessed against the county
25 in which the proceedings are pending. If the cost for the
26 court appointed attorney is assessed against the county, the
27 fees and expenses of the attorney shall be assessed at the same
28 rates established by the state public defender for an attorney
29 appointed to represent an indigent party in juvenile court
30 under section 13B.4.

31 Sec. 2. Section 633.575, subsections 3 and 6, Code 2014, are
32 amended to read as follows:

33 3. If the proposed ward is entitled to representation and is
34 indigent or incapable of requesting ~~counsel~~ an attorney, the
35 court shall appoint an attorney to represent the proposed ward.

1 The cost of court appointed ~~counsel~~ an attorney for ~~indigents~~
2 an indigent shall be assessed against the county in which the
3 proceedings are pending. If the cost for the court appointed
4 attorney is assessed against the county, the fees and expenses
5 of the attorney shall be assessed at the same rates established
6 by the state public defender for an attorney appointed to
7 represent an indigent party in juvenile court under section
8 13B.4. For the purposes of this subsection, the court may find
9 a person is indigent if the person's income and resources do
10 not exceed one hundred fifty percent of the federal poverty
11 level or the person would be unable to pay such costs without
12 prejudicing the person's financial ability to provide economic
13 necessities for the person or the person's dependents.

14 6. If the court determines that it would be in the ward's
15 best interest to have legal representation with respect to any
16 proceedings in a conservatorship, the court may appoint an
17 attorney to represent the ward at the expense of the ward or
18 the ward's estate, or if the ward is indigent the cost of the
19 court appointed attorney shall be assessed against the county
20 in which the proceedings are pending. If the cost for the
21 court appointed attorney is assessed against the county, the
22 fees and expenses of the attorney shall be assessed at the same
23 rates established by the state public defender for an attorney
24 appointed to represent an indigent party in juvenile court
25 under section 13B.4.

26 Sec. 3. Section 598.12, subsection 5, Code 2014, is amended
27 to read as follows:

28 5. The court shall enter an order in favor of the attorney,
29 the guardian ad litem, or an appropriate agency for fees and
30 disbursements, and the amount shall be charged against the
31 party responsible for court costs unless the court determines
32 that the party responsible for court costs is indigent, in
33 which event the fees and disbursements shall be borne by the
34 county. If the cost for the court appointed attorney or
35 guardian ad litem who is an attorney is borne by the county,

1 the fees and expenses of the attorney or guardian ad litem
2 shall be assessed at the same rates established by the state
3 public defender for an attorney appointed to represent an
4 indigent party in juvenile court under section 13B.4.

5

EXPLANATION

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The inclusion of this explanation does not constitute agreement with
7 the explanation's substance by the members of the general assembly.

7

8 This bill relates to the fees and expenses of a court
9 appointed attorney or guardian ad litem representing an
10 indigent person in a guardianship, conservatorship, or
11 dissolution proceeding.

12 The bill specifies that if the cost for the court appointed
13 attorney is assessed against the county in both a guardianship
14 or conservatorship proceeding, the fees and expenses of the
15 attorney shall be assessed at the same rates established by the
16 state public defender for an attorney appointed to represent an
17 indigent party in juvenile court under Code section 13B.4.

18 Current law requires that the cost of a court appointed
19 attorney representing an indigent ward in a guardianship or
20 conservatorship proceeding be assessed against the county in
21 which the proceedings are pending but does not specify the rate
22 of compensation of the court appointed attorney.

23 The bill also specifies that if the cost for the court
24 appointed attorney or guardian ad litem who is an attorney is
25 borne by the county for representing the child of an indigent
26 person in a dissolution proceeding, the fees and expenses of
27 the attorney and guardian ad litem shall be assessed at the
28 same rates established by the state public defender for an
29 attorney appointed to represent an indigent party in juvenile
30 court under Code section 13B.4.

31 Current law requires that the cost of a court appointed
32 attorney or guardian ad litem representing a child of an
33 indigent party in a dissolution of marriage proceeding be
34 assessed against the county in which the proceedings are
35 pending but does not specify the rate of compensation of the

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1 court appointed attorney or guardian ad litem.