

**Senate File 2018 - Introduced**

SENATE FILE 2018

BY WHITING

**A BILL FOR**

1 An Act relating to the payment of attorney fees relative to a  
2 termination of parental rights action.

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

1 Section 1. Section 600A.6A, subsection 2, Code 2020, is  
2 amended to read as follows:

3 2. a. If The parent against whom the petition is filed  
4 shall be responsible for the payment of reasonable attorney  
5 fees for the services provided by counsel in connection with  
6 all subsequent hearings and proceedings, if the person filing  
7 the petition for termination of parental rights under this  
8 chapter prevails. If the person filing the petition for  
9 termination of parental rights does not prevail, the person  
10 filing the petition shall be responsible for payment of the  
11 reasonable attorney fees.

12 b. Notwithstanding paragraph "a", if the parent against  
13 whom the petition is filed desires but is financially unable  
14 to employ counsel, the court shall appoint counsel for the  
15 person if the person requests appointment of counsel and the  
16 court determines that the person is indigent. If counsel is  
17 appointed under this paragraph "b", payment of attorney fees  
18 shall be in accordance with section 600A.6B.

19 Sec. 2. Section 600A.6B, Code 2020, is amended to read as  
20 follows:

21 **600A.6B Payment of attorney fees for appointed counsel.**

22 1. A If a person filing against whom a petition for  
23 termination of parental rights is filed under this chapter  
24 requests appointment of counsel pursuant to section 600A.6A,  
25 the person filing the petition shall be responsible for the  
26 payment of reasonable attorney fees for services provided by  
27 counsel appointed pursuant to section 600A.6A in juvenile  
28 court or in an appellate proceeding initiated by the person  
29 filing the petition, unless the person filing the petition is  
30 a private child-placing agency licensed under chapter 238 or  
31 the court determines that the person filing the petition is  
32 indigent.

33 2. If the person filing the petition is a private  
34 child-placing agency licensed under chapter 238 or if the  
35 person filing the petition is indigent, the prospective parent

1 on whose behalf the petition is filed shall be responsible  
2 for the payment of reasonable attorney fees for services  
3 provided in juvenile court or an appellate proceeding for  
4 counsel appointed pursuant to [section 600A.6A](#), unless the court  
5 determines that the prospective parent on whose behalf the  
6 petition is filed is indigent.

7 3. If the person filing the petition is a private  
8 child-placing agency licensed under chapter 238 or if the  
9 person filing the petition is indigent, and the prospective  
10 parent on whose behalf the petition is filed is indigent, ~~and~~  
11 ~~if the person filing the petition is indigent or a private~~  
12 ~~child-placing agency licensed under [chapter 238](#),~~ the appointed  
13 counsel shall be paid reasonable attorney fees as determined  
14 by the state public defender from the indigent defense fund  
15 established in [section 815.11](#).

16 4. If the parent against whom the petition is filed appeals  
17 a termination order under [section 600A.9, subsection 1](#),  
18 paragraph "b", the person who filed the petition or the person  
19 on whose behalf the petition is filed shall not be responsible  
20 for the payment of attorney fees for services provided by  
21 counsel appointed pursuant to [section 600A.6A](#) in the appellate  
22 proceeding. Instead, the appointed attorney shall be paid  
23 reasonable attorney fees as determined by the state public  
24 defender from the indigent defense fund established pursuant  
25 to [section 815.11](#).

26 5. The state public defender shall review all the claims  
27 submitted under [subsection 3](#) or [4](#) and shall have the same  
28 authority with regard to the payment of these claims as the  
29 state public defender has with regard to claims submitted under  
30 chapters 13B and [815](#), including the authority to adopt rules  
31 concerning the review and payment of claims submitted.

32 EXPLANATION

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

35 This bill relates to the payment of attorney fees associated

1 with termination of parental rights proceedings.

2 Current law addresses payment of attorney fees when the  
3 person against whom the petition is filed is indigent, and  
4 when another party to the action is either exempt from paying  
5 reasonable attorney fees or is also indigent.

6 The bill provides for the circumstance under which the  
7 parent against whom the petition for termination of parental  
8 rights is filed is financially able to employ counsel. Under  
9 these circumstances, the person against whom the petition is  
10 filed is responsible for the payment of reasonable attorney  
11 fees for the services provided by the person's counsel in  
12 connection with all subsequent hearings and proceedings, if  
13 the person filing the petition for termination of parental  
14 rights prevails. However, if the person filing the petition  
15 for termination of parental rights does not prevail, the  
16 person filing the petition shall be responsible for payment of  
17 the reasonable attorney fees for the person against whom the  
18 petition was filed.

19 The bill retains current law to provide that if the parent  
20 against whom the petition is filed desires but is financially  
21 unable to employ counsel, the court shall appoint counsel  
22 for the person if the person requests appointment of counsel  
23 and the court determines that the person is indigent. If  
24 counsel is appointed under these circumstances, then payment  
25 of attorney fees shall be in accordance with current law that  
26 provides for payment of associated attorney fees depending  
27 upon whether another specific party is also determined to be  
28 indigent.

29 The bill retains current law to provide that if counsel  
30 is appointed for the person against whom a petition for  
31 termination of parental rights is filed, the person filing the  
32 petition shall be responsible for the payment of reasonable  
33 attorney fees for services provided by the appointed  
34 counsel, unless the person filing the petition is a private  
35 child-placing agency licensed under Code chapter 238 or

1 the court determines that the person filing the petition is  
2 indigent.

3 If the person filing the petition is a private child-placing  
4 agency licensed under Code chapter 238 or if the person filing  
5 the petition is indigent, then the prospective parent on whose  
6 behalf the petition is filed shall be responsible for the  
7 payment of reasonable attorney fees for the appointed counsel,  
8 unless the court determines that the prospective parent on  
9 whose behalf the petition is filed is also indigent.

10 If the person filing the petition is a private child-placing  
11 agency licensed under Code chapter 238 or is a person who is  
12 indigent, and the prospective parent is also indigent, the  
13 appointed counsel shall be paid reasonable attorney fees as  
14 determined by the state public defender from the indigent  
15 defense fund.