

Senate Study Bill 3005 - Introduced

SENATE/HOUSE FILE _____
BY (PROPOSED STATE PUBLIC
DEFENDER BILL)

A BILL FOR

1 An Act relating to responsibility for payment of fees relating
2 to termination of parental rights proceedings.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 600A.2, subsection 12, Code 2024, is
2 amended to read as follows:

3 12. a. "*Indigent*" means a any of the following:

4 (1) A person has an income level at or below one hundred
5 twenty-five percent of the United States poverty level as
6 defined by the most recently revised poverty income guidelines
7 published by the United States department of health and human
8 services, unless the court determines that the person is able
9 to pay for the cost of an attorney in the pending case.

10 (2) A person has an income level greater than one hundred
11 twenty-five percent but at or below two hundred percent of the
12 United States poverty level as defined by the most recently
13 revised poverty income guidelines published by the United
14 States department of health and human services, and the court
15 makes a written finding that not appointing an attorney would
16 create a substantial hardship.

17 b. In making the determination of a person's ability to pay
18 for the cost of an attorney or a guardian ad litem, the court
19 shall consider the person's income and the availability of any
20 assets subject to execution, including but not limited to cash,
21 stocks, bonds, and any other property which may be applied to
22 the satisfaction of judgments, and the nature and complexity
23 of the case.

24 Sec. 2. Section 600A.5, subsection 3, Code 2024, is amended
25 by adding the following new paragraph:

26 NEW PARAGRAPH. f. An affidavit of financial status of
27 the petitioner. The affidavit of financial status shall be
28 signed under penalty of perjury and shall contain sufficient
29 information to determine whether the petitioner is indigent.

30 Sec. 3. NEW SECTION. **600A.11 Payment of services of**
31 **guardian ad litem.**

32 1. A person filing a petition for termination of parental
33 rights under this chapter shall be responsible for the payment
34 of reasonable fees for services provided by a guardian ad litem
35 appointed pursuant to section 600A.6 in juvenile court or in

1 an appellate proceeding initiated by the person filing the
2 petition unless the person filing the petition is a private
3 child-placing agency licensed under chapter 238 or the court
4 determines that the person filing the petition is indigent.

5 2. If the person filing the petition is a private
6 child-placing agency licensed under chapter 238 or if the
7 person filing the petition is indigent, the prospective parent
8 on whose behalf the petition is filed shall be responsible
9 for the payment of reasonable fees for services provided in
10 juvenile court or an appellate proceeding for a guardian ad
11 litem appointed pursuant to section 600A.6 unless the court
12 determines that the prospective parent on whose behalf the
13 petition is filed is indigent.

14 3. If the prospective parent on whose behalf the petition
15 is filed is indigent, and if the person filing the petition
16 is indigent or a private child-placing agency licensed under
17 chapter 238, the appointed guardian ad litem shall be paid
18 reasonable fees as determined by the state public defender from
19 the indigent defense fund established in section 815.11.

20 4. The state public defender shall review all the claims
21 submitted under subsection 2 or 3 and shall have the same
22 authority with regard to the payment of these claims as the
23 state public defender has with regard to claims submitted under
24 chapters 13B and 815, including the authority to adopt rules
25 concerning the review and payment of claims submitted.

26 Sec. 4. Section 815.11, subsection 1, Code 2024, is amended
27 to read as follows:

28 1. Costs incurred for legal representation by a
29 court-appointed attorney under [chapter 229A, 665, 822, or 908,](#)
30 or [section 232.141, subsection 3,](#) paragraph "d", or section
31 [598.23A, 600A.6B, 814.9, 814.10, 814.11, 815.4, 815.7, or](#)
32 [815.10,](#) or for payment of the services of a court-appointed
33 guardian ad litem under section 600A.11, subsection 3, on
34 behalf of an indigent shall be paid from moneys appropriated
35 by the general assembly to the office of the state public

1 defender in the department of inspections, appeals, and
2 licensing and deposited in an account to be known as the
3 indigent defense fund, except as provided in subsection 2.
4 Costs incurred representing an indigent defendant in a contempt
5 action, representing an indigent juvenile in a juvenile court
6 proceeding, or representing a person pursuant to section 13B.13
7 are also payable from the fund. However, costs incurred in any
8 administrative proceeding or in any other proceeding under this
9 chapter or chapter 598, 600, 600A, 633, 633A, 814, or 915 or
10 other provisions of the Code or administrative rules are not
11 payable from the fund.

12 Sec. 5. CODE EDITOR DIRECTIVES.

13 1. The Code editor is directed to transfer section 600A.6C,
14 Code 2024, to section 600A.6D.

15 2. The Code editor is directed to transfer section 600A.11,
16 as enacted in this Act, to section 600A.6C.

17 3. The Code editor shall correct internal references in the
18 Code and in any enacted legislation as necessary due to the
19 enactment of this section.

20 EXPLANATION

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

23 This bill relates to the responsibility for payment of fees
24 relating to termination of parental rights (TPR) proceedings.

25 The bill redefines "indigent" for the purposes of
26 determining whether a person is financially able to pay for the
27 cost of an attorney or a guardian ad litem in TPR proceedings.
28 Under Code section 600A.2, "indigent" means a person who has
29 an income level at or below 100 percent of the federal poverty
30 level, unless the court determines the person is able to pay
31 for the cost of the attorney. Under the bill, "indigent" is
32 defined as a person who has an income level at or below 125
33 percent of the federal poverty level; or a person who has an
34 income level greater than 125 percent but at or below 200
35 percent of the federal poverty level, and the court makes a

1 written finding that not appointing an attorney would create a
2 substantial hardship. The bill also makes a conforming change
3 in the definition of "indigent" to apply the standard for the
4 court determining a person's ability to pay the cost of an
5 attorney to also apply to determining a person's ability to pay
6 the costs of a guardian ad litem.

7 The bill requires that a petition for TPR shall include an
8 affidavit of financial status of the petitioner. The affidavit
9 of financial status shall be signed under penalty of perjury
10 and contain sufficient information to determine whether the
11 petitioner is indigent.

12 The bill provides for payment of services of a guardian ad
13 litem in a TPR proceeding who is appointed for a minor child
14 if the child does not have a guardian or if the interests
15 of the guardian conflict with the interests of the child.
16 Under the bill, a person filing a petition for TPR shall be
17 responsible for the payment of reasonable fees for services
18 provided by an appointed guardian ad litem in juvenile court or
19 in an appellate proceeding initiated by the person filing the
20 petition unless the person filing the petition is a licensed
21 private child-placing agency or the court determines that the
22 person filing the petition is indigent. If the person filing
23 the petition is a licensed private child-placing agency or
24 is indigent, the prospective parent shall be responsible for
25 the payment of reasonable fees for services provided by an
26 appointed guardian ad litem in juvenile court or an appellate
27 proceeding unless the court determines that the prospective
28 parent on whose behalf the petition is filed is indigent. If
29 the prospective parent is indigent, and if the person filing
30 the petition is indigent or a private child-placing agency,
31 the appointed guardian ad litem shall be paid reasonable fees
32 as determined by the state public defender from the indigent
33 defense fund. The bill requires the state public defender to
34 review all claims submitted for payment of the guardian ad
35 litem fees and authorizes the state public defender to act

1 on the claims as otherwise authorized under Code chapter 13B
2 (public defenders) and Code chapter 815 (costs-compensation and
3 fees-indigent defense).

4 The bill makes a conforming change in Code section 815.11
5 (appropriations for indigent defense — fund created) to
6 include authorization to utilize the moneys in the fund to pay
7 for the services of a court-appointed guardian ad litem for
8 TPR proceedings as provided under the bill on behalf of an
9 indigent.

10 The bill provides Code editor directives to allow the new
11 Code section under the bill relating to payment of services of
12 appointed guardians ad litem for TPR proceedings to be located
13 next to the Code section relating to payment of attorney fees
14 for TPR proceedings and to make other conforming changes.