

CHAPTER 1038

INDIGENT DEFENSE — DELINQUENCY AND TERMINATION OF PARENTAL RIGHTS PROCEEDINGS

H.F. 2326

AN ACT relating to payments from the indigent defense fund by the state public defender, including effective date provisions, and providing penalties.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 13B.4B, subsection 2, paragraph c, Code 2014, is amended to read as follows:

c. The state public defender may in the state public defender's sole discretion release claims and supporting documents, including any information that would otherwise be confidential in sections 232.147 through 232.150, to the auditor of state, the Iowa supreme court attorney disciplinary board, the grievance commission of the supreme court of Iowa, or to other state or local agencies to the extent necessary to investigate fraud or other criminal activity against the attorney or vendor submitting the claim.

Sec. 2. Section 232.151, Code 2014, is amended to read as follows:

232.151 Criminal penalties.

Any person who knowingly discloses, receives, or makes use or permits the use of information derived directly or indirectly from the records concerning a child referred to in sections 232.147 ~~to~~ through 232.150, except as provided by those sections or section 13B.4B, subsection 2, paragraph "c", shall be guilty of a serious misdemeanor.

Sec. 3. Section 600A.6A, subsection 2, Code 2014, is amended to read as follows:

2. If the parent against whom the petition is filed desires but is financially unable to employ counsel, the court, ~~following an in-court colloquy~~, shall appoint counsel for the person if ~~all of the following criteria are met:~~

- ~~a. The person requests appointment of counsel.~~
- ~~b. The person is indigent.~~
- ~~c. The court determines both of the following:~~

~~(1) The person, because of lack of skill or education, would have difficulty in presenting the person's version of the facts in dispute, particularly where the presentation of the facts requires the examination or cross-examination of witnesses or the presentation of complex documentary evidence.~~

~~(2) The person has a colorable defense to the termination of parental rights, or there are substantial reasons that make termination of parental rights inappropriate the person requests appointment of counsel and the court determines that the person is indigent.~~

Sec. 4. Section 600A.6B, Code 2014, is amended to read as follows:

600A.6B Payment of attorney fees.

1. A person filing a petition for termination of parental rights under this chapter ~~or the person on whose behalf the petition is filed~~ shall be responsible for the payment of reasonable attorney fees for services provided by counsel appointed pursuant to section 600A.6A in juvenile court or in an appellate proceeding initiated by the person filing the petition unless the person filing the petition is a private child-placing agency ~~as defined in section 238.1 licensed under chapter 238 or unless the court determines that the person filing the petition or the person on whose behalf the petition is filed is indigent.~~

2. If the person filing the petition is a private child-placing agency ~~as defined in section 238.1 licensed under chapter 238 or if the person filing the petition or the person on whose behalf the petition is filed is indigent~~, the appointed attorney shall be paid reasonable attorney fees prospective parent on whose behalf the petition is filed shall be responsible for the payment of reasonable attorney fees for services provided in juvenile court or an appellate proceeding as determined by the state public defender for counsel appointed

pursuant to section 600A.6A unless the court determines that the prospective parent on whose behalf the petition is filed is indigent.

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

~~3.~~ 4. If the parent against whom the petition is filed appeals a termination order under section 600A.9, subsection 1, paragraph “b”, the person who filed the petition or the person on whose behalf the petition is filed shall not be responsible for the payment of attorney fees for services provided by counsel appointed pursuant to section 600A.6A in the appellate proceeding. Instead, the appointed attorney shall be paid reasonable attorney fees as determined by the state public defender from the indigent defense fund established pursuant to section 815.11.

~~4.~~ 5. The state public defender shall review all the claims submitted under ~~this section subsection 3 or 4~~ and shall have the same authority with regard to the payment of these claims as the state public defender has with regard to claims submitted under chapters 13B and 815, including the authority to adopt rules concerning the review and payment of claims submitted.

Sec. 5. EFFECTIVE UPON ENACTMENT. The following provision or provisions of this Act, being deemed of immediate importance, take effect upon enactment:

1. The section of this Act amending section 600A.6A, subsection 2.

Approved March 26, 2014