

## **Montana Judicial Branch Policies & Procedures**

<b>Subject: Guardian Ad litem/ Child Advocate - Judicial Branch Costs</b>	<b>Policy No.: 820</b>
<b>Chapter: 3-5-901, 3-5-902, 41-3-425, 41-5-111, MCA</b>	<b>Pages: 3</b>
<b>Section: Court</b>	<b>Revision Date: July 1, 2003; July 1, 2006; August 7, 2007; June 18, 2013; June 9, 2014</b>
<b>Effective Date: July 1, 2006</b>	

### **1.0 POLICY**

The Judicial Branch will directly pay costs related to court appointed child advocates or attorney guardians ad litem and attorneys for child advocates as required by statute.

### **2.0 YOUTH COURT PROCEEDINGS**

In proceedings held pursuant to the Montana Youth Court Act, Title 41, chapter 5, MCA, the following are state Judicial Branch costs:

- a. Expenses associated with the court appointment of an attorney guardian ad litem or child advocate for a youth; and
- b. Any other expenses placed upon the Judicial Branch by 3-5-901 and Title 41, chapter 5, MCA.

### **3.0 CHILD ABUSE AND NEGLECT PROCEEDINGS**

In child abuse and neglect proceedings held pursuant to Title 41, chapter 3, part 4 or 6, MCA, the following are state Judicial Branch costs:

- a. Expenses associated with the court appointment of an attorney guardian ad litem or child advocate for the youth and attorney for the child advocate; and
- b. Any other expenses placed upon the Judicial Branch by 3-5-901, MCA.

#### **3.1 CHILD ADVOCATE AND ATTORNEY GUARDIAN AD LITEM APPOINTMENTS AND PAYMENTS**

- a. In Judicial Districts with an established Court-Appointed Special Advocate (CASA) program, the preferred method of appointing an advocate for the child or sibling group shall be by obtaining a volunteer

child advocate provided through the established CASA program. A Judicial District with a CASA program must have a memorandum of understanding between the judge(s) or a designee) and the CASA program defining the services to be provided to the Judicial District by the CASA program. The Office of Court Administrator (OCA) shall enter into fixed costs contracts with these CASA programs to provide financial support to the programs for providing services to the Judicial Districts.

- b. In Judicial Districts where a CASA-provided child advocate is not available or at the judge's discretion, the judge may appoint a guardian ad litem who is under contract with the OCA. The OCA will enter into contracts with qualified attorneys to provide guardian ad litem services. All contracting must comply with the state procurement process and the Judicial Branch Procurement Policy #750. Payments will be made as detailed in the contracts.
- c. If a CASA volunteer or a contracted guardian ad litem is not available or at the judge's discretion, the judge may appoint an attorney guardian ad litem on an hourly basis. Compensation for an appointed attorney guardian ad litem may not exceed \$62.00 per hour. In most cases, the judge will appoint a single attorney guardian ad litem for a child or sibling group. In these cases, one hour of work is presumed to be any hour that the guardian ad litem spends on the case. (For example, a guardian ad litem who spent one hour with three children from a family would bill only one hour.)
- d. A claim for reimbursement from a contracted guardian ad litem or an appointed guardian ad litem must be submitted using the standard payment form provided by the OCA and must be accompanied by a court order appointing the guardian ad litem. CASA programs will be reimbursed as outlined in the agreement between the OCA and the individual CASA program.
- e. The OCA will pay expenses within 30 days of receipt of an approved claim. Payment may be delayed if the claim is returned for clarifications or corrections.
- f. The Judicial Branch is not responsible for the costs of counsel for any party or interested person appointed pursuant to 41-3-425(1) through (3), MCA.

### **3.2 ATTORNEY APPOINTMENTS FOR CASA VOLUNTEERS AND PAYMENTS**

- a. Except as provided for in subsection 3.2 d, when appropriate a judge may appoint an attorney on an hourly basis to represent a CASA

volunteer in a child abuse and neglect proceeding. The decision to appoint an attorney shall be by written order and must be made on a case-by-case basis taking into consideration the nature of the proceeding, the circumstances of the CASA volunteer, and other relevant factors. The written order must outline the reasons for the appointment.

- b. Compensation for an appointed attorney may not exceed \$62.00 per hour.
- c. To receive compensation, the attorney must submit an approved claim for services to the OCA using the standard payment form provided by the OCA. The initial claim must be accompanied by the court order appointing the attorney.
- d. The OCA will pay expenses within 30 days of receipt of an approved claim. Payment may be delayed if the claim is returned for clarifications or corrections.
- e. Funding for appointments of attorneys for CASA volunteers is limited to no more than \$40,000 per fiscal year. If during a fiscal year the OCA projects that total annual payments will exceed \$32,000, it shall notify the District Court Council. If the District Court Council accepts the OCA's projection, the Council shall direct judges to reduce or make no additional appointments for the remainder of the fiscal year.

#### **4.0 CLOSING**

Questions about this policy should be directed to Office of Court Administrator at:

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