

**GUARDIAN AD LITEM FEE POLICY AND
COLLECTION PROCEDURE**

Approved by CET on December 3, 2003
Implementation Effective Immediately

The Conference of Chief Judges met on June 17, 2003 and considered issues raised with respect to the guardian ad litem system management.

The Conference of Chief Judges, Assistant Chief Judges, and the State Court Administrator subsequently issued the following administrative policy (Administrative Policy No. 20) with respect to GAL Fee amounts.

Guardian Ad Litem Fee Policy (as ratified)

Reimbursement for services will be required at the following rates. The fees are reimbursable to the local program and can be used to provide program services.

- Abuse, Neglect, and TPR Cases-- \$800 total
- Truant, Runaway and Delinquency Cases -- \$400 total
- All other Juvenile Cases-- \$400 total
- Custody, Visitation and Dissolution Cases \$1200 total
- All other Family Cases-- \$600 total
- All other \$400 total
- OFPs No charge

GAL Fee Collection Procedure: Effective December 3, 2003

Clarification of CCJ Policy 20: The GAL fees are “flat-rate” assessments against the parents that can be adjusted at the discretion of the presiding judge based on ability to pay and level of work required by the GAL.

Flat Rate Fees: If only one parent is involved in the court case, they are responsible for one half of the total amount unless otherwise ordered. Thus, the actual amount assessed against each person is half the total amount unless the Court orders otherwise.

The fee schedule when broken down by parent:

- Abuse, Neglect, and TPR Cases-- \$400
- Truant, Runaway and Delinquency Cases -- \$200
- All other Juvenile Cases-- \$200
- Custody, Visitation and Dissolution Cases \$600
- All other Family Cases-- \$300
- All other \$200
- OFPs No charge

Statutory Authority for GAL Fee Collection

CHIPs (includes Truancy and Runaways when appointed) M.S. 260C.331, Subd. 6 (a)

“In proceedings in which the court appoints a guardian ad litem pursuant to section 260C.163, subdivision 5, clause (a), the court may inquire into the ability of the parents to pay for the guardian ad litem’s services and , after giving the parents a reasonable opportunity to be heard, may order the parents to pay guardian ad litem fees.”

Delinquency M.S. 260B.331, Subd. 6 (a)

“In proceedings in which the court appoints a guardian ad litem pursuant to section 260C.163, subdivision 5, clause (a), the court may inquire into the ability of the parents to pay for the guardian ad litem’s services and , after giving the parents a reasonable opportunity to be heard, may order the parents to pay guardian ad litem fees.”

Dissolution M.S. 518.165, Subd. 3 (a)

“... if a guardian ad litem is appointed on a fee basis, the court shall enter an order for costs, fees, and disbursements in favor of the child’s guardian ad litem. The order may be made against either or both parties, except that any part of the costs, fees, or disbursements which the court finds the parties are incapable of paying shall be borne by the state courts...In no event may the court order that costs, fees, or disbursements be paid by a party receiving public assistance or legal assistance or by a party whose annual income falls below the poverty line as established under United States Code, Title 42, section 9902 (2).

Custody M.S. 257.69, Subd. 2 (a)

“The court may order expert witness and guardian ad litem fees and other costs of the trial and pretrial proceedings, including appropriate tests, to be paid by the parties in proportions and at times determined by the court.”

Deposit of GAL Funds, M.S. 260B.331, Subd. 6 and M.S. 257.69, Subd. 2 (b), and M.S.518.165

“In each fiscal year, the state treasurer shall deposit guardian ad litem reimbursements in the general fund and credit them to a separate account with the trial courts. The balance of the account is appropriated to the trial courts and does not cancel but is available until expended. Expenditures by the state court administrator’s office from this account must be based on the amount of the guardian ad litem reimbursements received by the state from the courts in each judicial district.”

Legal Boundaries in Assessing Fees

- Must be based on ability to pay and provide an opportunity to have a reconsideration of the fee order issued by the court.

- Must not assess parties if they are receiving public assistance, legal assistance, or income is below the poverty line.

A. GAL Fee Assessment Procedure: “Best Practice”

- 1) The parents must submit the “Guardian ad Litem Fee Waiver Application” to the designated screener-collector (who may be a screener-collector, other court administration staff person or GAL Program screener) for review, preferably before their first court appearance or immediately following their first appearance. The designated screener will recommend to the court either an assessment or a waiver of the GAL fees.
- 2) The order appointing the GAL program on the case should state the assessed amount of the GAL fee(s) if ordered. The order should specify the total amount owed by each parent and should direct the parents to make payment arrangements with the designated screener-collector. A copy of the Order Appointing the GAL should be sent to the designated screener/collector.
- 3) If the parent(s)’ financial circumstances change during the pendency of the case, they may submit a “request for reconsideration” to the Court that can be addressed at the next scheduled hearing.
- 4) The designated screener collector will verify the fees ordered by the court and will ensure that the Court Information System (either TCIS or MNCIS) file record includes necessary and accurate information about the payees’ names and addresses and financial status on the appropriate participant screens. The screener collector will facilitate the payment on an up-front basis, and will set up a monthly payment contract to ensure payment on the balance of accrued GAL fees.
- 5) When the parent(s) submits their payment to the county Court Administrator’s Office, court personnel should receipt the money to the GAL account in the trial court information system.
- 6) At month-end, the monies received in the GAL account should be reflected on Section D of the monthly remittance report (for Districts 1, 3, 6 and 10). A check for this amount should be sent to the District Administration office.
- 7) District Administration will verify receipt of this money and forward it to the state to be deposited into the GAL account for credit to the District GAL program.
- 8) Revenue Recapture methods may be used if the payee defaults on their monthly payment and makes no arrangement to catch up on their arrearages.

- 9) The SCAO Finance Division will ensure that the District GAL program generating the fee amount is in turn credited with that amount and such amount shall be “held harmless” as strictly local revenue to be used for the District GAL program and not for any other purpose. (As per M.S. 257.69, Subd. 2 (b))

Please contact Mark Toogood, State GAL Program Manager, at (651) 215-9467 with any questions.