

Court Rules

Rule 21 - Attorneys

Rule 21.6.1 - Appointment of Counsel in Court Proceedings - Procedure - Termination - Fees

APPOINTMENT:

1. Whenever a juvenile is indigent (or the parent or custodian is unable or unwilling to obtain counsel) and representation by counsel is required by law or Supreme Court rule, the Court will appoint an attorney to represent the juvenile. In the event that the parent or parents are not indigent the Court may assess costs against such parent(s) for attorney's fees.
2. Whenever a parent or custodian is indigent and representation is required by law or Supreme Court rule, the Court will appoint an attorney to represent the parent or custodian.
3. The Court shall, in its discretion, appoint the Public Defender for the Sixteenth Judicial Circuit to represent indigent juveniles in delinquency proceedings and may appoint other counsel to represent such juveniles. The Court, in its discretion, shall appoint the Office of Guardian ad Litem, the attorneys for the CASA Project, or other appropriate counsel as guardian ad litem for children in abuse/neglect actions.
4. All counsel appointed pursuant to this rule, other than the Office of Public Defender, the Office of Guardian ad Litem and the CASA Project, shall be appointed from a current alphabetical list of attorneys registered with the Missouri Supreme Court in Category I, II, or III as defined in Supreme Court Rule 6.01(j) and whose office is located in Jackson County, Missouri or who reside within Jackson County, Missouri.
5. An attorney shall not be relieved of appointment because:
 - a. The attorney lacks familiarity with or experience in Juvenile Court proceedings;
 - b. The attorney is employed by or serves as house counsel, corporate counsel, or a judicial law clerk;
 - c. The attorney is employed by or serves a unit of city, county, state or federal government or any subdivision thereof (except sitting judges, commissioners, full time prosecutors and assistant prosecutors, and attorneys employed by not-for-profit legal aid organizations or the CASA Project of Jackson County, Missouri).

6. The Court may allow the appointed attorney to provide, at the attorney's expense, an acceptable alternate attorney to handle the appointment.
7. The grounds for withdrawal, relief from or termination of appointment are:
 - a. The attorney has served on two or more separate cases pursuant to an appointment under this rule within the current calendar year;
 - b. The attorney is 70 years of age or older or is retired from practice and in the opinion of the court the appointment would impose an undue hardship on the attorney;
 - c. The attorney does not practice law because of ill health;
 - d. A conflict of interest exists that precludes the attorney from serving in that particular case;
 - e. The party whom the attorney was appointed to represent has ceased to be indigent;
 - f. The attorney has ceased the practice of law and has changed his/her/license status to inactive and is no longer licensed in Category I, II, or III of Supreme Court Rule 6.01(j) or the attorney is no longer authorized by the Missouri Supreme Court to practice law under Rule 6.
 - g. Electing "inactive" status on the Missouri Minimum Continuing Legal Education-Attorney Annual Report of Compliance does not establish a basis for the termination of any appointment or represent an indigent party. Verification that the attorney is not authorized to practice law in the State of Missouri by the Missouri Supreme Court is required.

TERMINATION OF APPOINTMENT – PROCEDURE – HEARING:

1. Termination of the appointment shall occur only by court order or by operation of court rule, statute or judicial decision.
2. Application for leave to withdraw or to be relieved of the appointment shall be by motion. Such motion shall be in writing, signed by the attorney and verified and shall set forth the specific grounds for the relief sought. Such motion will not be considered unless it is shown:
 - a. That the attorney has provided the party whom that attorney was appointed to represent actual notice of the application or has made diligent efforts to provide such notice;

- b. The party whom that attorney was appointed to represent has been afforded adequate time to respond to the application and to request appointment of another attorney;
- c. The court may require a hearing on the motion.
- d. If the attorney files a motion for leave to withdraw because the attorney is no longer authorized by the Missouri Supreme Court to practice law in the State of Missouri, the attorney must attach as an exhibit proof from the Missouri Supreme Court that the attorney is no longer authorized to practice law.

ATTORNEY'S FEES – EXPENSES:

At the conclusion of the proceeding, or at any other time, if appropriate, counsel may by written motion request the Court to assess a reasonable attorney's fee and any reasonable and necessary expenses as costs. In the discretion of the Court, the Court may adjudge such costs as provided by law.

Adopted 1/17/03
Effective 2/28/03