

Court Rules

Rule 21 - Attorneys

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

APPOINTMENT:

FAMILY COURT - JUVENILE

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 in a Family Court matter 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, (1), (2), or (3) as defined in Supreme Court Rule 6.01(j) and by Administrative Order.

CRIMINAL COURT – DEFENDANT

5. Private attorneys may be appointed to represent indigent defendants in criminal and post-conviction proceedings. In every case, before appointment of the Public Defender or Court-appointed attorney, the Court may require an affidavit of indigence to be filed by the defendant.

6. All counsel appointed to represent a defendant in a criminal case pursuant to this rule, other than those from the Office of the Public Defender, shall be appointed from a current alphabetical list of attorneys registered with the Missouri Supreme Court who are in Category (1), (2), or (3), 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.

QUALIFICATION FOR APPOINTMENT

7. An attorney shall not be allowed to withdraw from appointment because:

a. The attorney lacks familiarity with or experience in Juvenile Court or criminal proceedings;

b. The attorney is employed by or serves as house counsel or corporate counsel;

c. The attorney is employed by or serves a unit of city, county, state or federal government or any subdivision thereof except as provided in 9(h) below; or

8. The Court may allow the appointed attorney to provide, at the attorney's expense, an acceptable alternate attorney to handle the appointment.

9. 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 (1), (2), or (3) 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. The attorney has elected "inactive" status on the Missouri Minimum Continuing Legal Education-Attorney Annual Report of Compliance. Verification that the attorney is not authorized to practice law in the State of Missouri by the Supreme Court is required.

h. The attorney is a sitting judge, commissioner, full-time prosecutor or assistant prosecutor, or is an attorney employed by the Court, Legal Aid, the Public Defender's Office, or the CASA Project of Jackson County, Missouri; or

i. The attorney is otherwise prohibited by law from serving as appointed counsel.

TERMINATION OF APPOINTMENT

Termination of the appointment shall occur only by court order, by operation of a court rule or statute, or by administrative order. See also, Local Rule 21.4

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 10/22/10
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