

**JOINT LOCAL ADMINISTRATIVE ORDER
FOR APPOINTMENT OF COUNSEL
FOR INDIGENT PARTIES**

44th Circuit/Family Court No. 2003-11J
Livingston County Probate Court No. 2003-06J

WHEREAS, it is necessary from time to time to appoint private counsel to represent persons as required by statute, constitution, case law, or court rule;

NOW, THEREFORE, IT IS ORDERED,

A. Selection Criteria and Procedure

1. Selection: Selection of attorneys shall be by the Chief Judge:

- a. Awarding of contracts by bids and negotiations (criminal),
- b. Application to chief judge for all court-appointed attorney, lawyer-guardian ad litem and guardian ad litem appointments (FOC show cause, bench warrants, conflict criminal cases, juvenile delinquency, neglect/abuse proceedings, mental commitments, guardianships, conservatorships, personal protection orders, neglect/abuse, other).

2. Minimum Standards/Qualifications: Attorneys shall have the following minimum standards/qualifications:

- a. Be licensed to practice law in Michigan and a member in good standing of the Michigan State Bar,
- b. Maintain his/her principal office in Livingston County,
- c. Have a secretary, receptionist, answering service or regularly monitored answering machine, and have the ability to produce typed documents,
- d. Be readily available upon short notice from the court.

3. Performance Review: Performance reviews shall be conducted by the chief judge in consultation with the judges and/or referees in front of whom appointed counsel appears.

4. Removal from List: An attorney may be removed from the appointment list for the following:

- a. Conviction of or being formally charged with a felony,

- b. Failure to perform duties as outlined in statute/court rules,
- c. Repeated unavailability and/or repeated tardiness,
- d. A finding by the court that the attorney provided ineffective assistance of counsel,
- e. Dishonesty or unethical practices,
- f. Impairment due to substance abuse or mental illness,
- g. Loss of license,
- h. Good cause at the discretion of the chief judge.

5. Administration of Indigent Counsel Plan: Administration of the Plan shall be with the Court Administration Office:

B. Appointment Process

1. Criminal:

- a. Cases are assigned to the contractors according to the number of cases contracted for on a yearly basis.
- b. A list of qualified attorneys shall be maintained for cases in which all the contractors have a conflict, and the list shall be rotated beginning with the first name on the list.
- c. An attorney who is not appointed in the order in which the attorney's name appears on the list shall remain next in order on the list.
- d. The list shall be rotated in a manner that is fair, neutral and nondiscriminatory.
- e. The seriousness of the charges and availability may be considered in the appointment of an attorney in a criminal case.

2. FOC Show Cause and Guardian Ad Litem:

- a. Court Administration will provide a master court appointment list to the judges' secretaries of qualified attorneys.
- b. The list shall be rotated beginning with the first name on the list.
- c. An attorney who is not appointed in the order in which the attorney's name appears on the list shall remain next in order on the list.
- d. Availability of the attorney is considered in making the appointment.
- e. Appointments shall be allocated among qualified attorneys in a manner that is fair, neutral and nondiscriminatory.
- f. Extra consideration is given to experience in GAL appointments.

3. FOC Bench Warrant Appearance:

- a. Court Administration will provide a master court appointment list to the judges' secretaries of qualified attorneys.
- b. To the extent possible, a judge shall appoint a single attorney from the list of qualified attorneys to represent indigents scheduled to appear at a certain time (i.e., bench warrant arraignments).
- c. The list shall be rotated beginning with the first name on the list.
- d. An attorney who is not appointed in the order in which the attorney's name appears on the list shall remain next in order on the list.
- e. Availability of the attorney is considered in making the appointment.
- f. Appointments are to be allocated among qualified attorneys in a manner that is fair, neutral and nondiscriminatory.

4. Juvenile/Neglect-Abuse/Personal Protection/Adoption matters:

- a. Court Administration will provide a master court appointment list to the Deputy Juvenile Register of qualified attorneys.
- b. Attorneys' names will be added to the court appointment list through application at Court Administration in the order in which they apply to be placed on the list.
- c. Appointments from the list will be made by rotation subject to the attorney's availability.
- d. An attorney who is not appointed in the order in which the attorney's name appears on the list shall remain next in order on the list.
- e. Availability of the attorney is considered in making the appointment.
- f. Appointments shall be allocated among qualified attorneys in a manner that is fair, neutral and nondiscriminatory.
- g. Extra consideration is given to experience in GAL/L-GAL appointments.
- h. Each appointment/attempted appointment shall be logged on the intra-web database, and must include, date, case number, case type, JID #, child's name, respondent name if the attorney is representing the respondent, appointment/attempted appointment date, judge assigned to case, appointment/attempted appointment code, attorney's P#, assignment clerk initials, court code.
- i. Exceptions - if an attorney has previously represented a party, and that party needs further representation, the court will make every effort to reappoint the same attorney; in cases requiring special skills or expertise, the Chief Judge may depart from the rotation system. Departures from the rotation system will be recorded and logged as stated above;

5. PROBATE COURT - GAL, MI, DD APPOINTMENTS

- a. Court Administration will provide a master court appointment list to the Deputy Probate Register of qualified attorneys.
- b. Attorneys' names will be added to the court appointment list through application at Court Administration in the order in which they apply to be placed on the list.

- c. Appointments from the list will be made by rotation subject to the attorney's availability.
- d. An attorney who is not appointed in the order in which the attorney's name appears on the list shall remain next in order on the list.
- e. Availability of the attorney is considered in making the appointment.
- f. Appointments shall be allocated among qualified attorneys in a manner that is fair, neutral and nondiscriminatory.
- g. A Guardian Ad Litem (GAL) is appointed in all adult guardianship and conservatorship files. We are required to appoint a GAL for these types of cases for the initial appointment, modification and termination of a guardian or conservator. We do not require a GAL to discharge a guardian because of death of the ward. The Judge can also appoint a GAL to handle issues in these types of cases as necessary, or the judge may continue the appointment in difficult cases.
- h. We appoint a GAL in a limited guardianship file where the parent is a minor. The GAL represents the minor parent.
- i. The Judge appoints GALs in minor guardianship cases when there are problems. The Judge has them work with parenting time, reunification, etc.
- j. Attorneys are appointed in Developmentally Disabled and Mentally Incapacitated files.
- k. Each appointment/attempted appointment shall be logged on the intra-web database, and must include, date, case number, case type, JID #, child's name, respondent name if the attorney is representing the respondent, appointment/attempted appointment date, judge assigned to case, appointment/attempted appointment code, attorney's P#, assignment clerk initials, court code.
- l. Exceptions - if an attorney has previously represented a party and that party needs further representation, the court will make every effort to reappoint the same attorney; in cases requiring special skills or expertise, the Chief Judge may depart from the rotation system. Departures from the rotation system will be recorded and logged as stated above.

C. Compensation

1. Attorneys are compensated as follows:

- a. Per case (contractors),
- b. Flat rate (FOC show cause, FOC bench warrant, juvenile delinquency, neglect/abuse, mentally ill, personal protection, L-GAL, GAL),
- c. Hourly rate (conflict criminal cases, pre-approved exception cases).
- d. Juvenile/Probate attorneys appointed must submit statement of service (MC221) for each appointment on a **monthly** basis to: ATTN: Ann White, Financial Officer, Livingston County Juvenile Court, 204 S. Highlander Way, Suite 3, Howell MI 48843, telephone - 517-546-1500.

- e. The courts will not reimburse for fax transmittals, postage, mileage or photocopies.
- f. If the Court will be asked to compensate an expert witness, the expert witness fees must be pre-approved by the assigned judge and the chief judge.

D. Records

1. Maintenance of Records: The following records will be maintained in the Court Administration Office and will be available for inspection upon written request without charge:

- a. Number of appointments given to each contractor/attorney by court,
- b. Number of appointments given to each contractor/attorney by each judge of the court,
- c. Total amount of public funds paid to each contractor/attorney,
- d. Total amount of funds paid to each attorney by the court,
- e. Total amount of public funds paid to each attorney for assignments by each judge of the court.

This order becomes effective January 1, 2004.

Dated: December 19, 2003



HON. SUSAN L. RECK
Chief Judge of the Circuit and Probate Courts