Circuit Court for Montgomery County, Maryland

Child Counsel Appointment Policies & Procedures

The following policies and procedures have been adopted by the Circuit Court for Montgomery County in order to be in full compliance with Md. Rule 9-205.1, Appointment of Child Counsel and the Maryland Guidelines for Practice for Court-Appointed Lawyers Representing Children in Cases Involving Child Custody or Child Access ("Guidelines"), as well as to ensure that the child counsel appointments are made appropriately and on an equitable basis.

I. Roster of Court-Approved Child Counsel

The Court will keep a Roster of Court-Approved Child Counsel for appointment in domestic cases through a shared file maintained by the Family Division Coordinator.

A. Attorney Qualifications. In compliance with the Guidelines 4 and 5, the Court requires that attorneys on the Court-Approved Roster meet the following criteria:

1. Successfully complete **six-hours of training** as detailed in Guideline 4;
2. Have at least three (3) years of family law experience or other relevant experience[1];
3. Maintain professional liability insurance, at the Attorney's sole expense[2]; and
4. Be willing to take at least one (1) *pro bono* appointment as child counsel per year.

B. Child Counsel Application Review

1. The Family Division Coordinator will review requests from attorneys to ensure that those added to the Roster of Court Approved Child Counsel meet the criteria listed above. The Judge In Charge of the Family Division will ultimately determine which attorneys will be added to the roster.

2. Attorneys wishing to be on the Roster of Court-Approved Child Counsel shall submit a request, including a copy of their resume and proof that they have completed the training required (Paragraph A, above), to the Family Division Coordinator. If necessary, the designated Family Division Coordinator will contact the attorney to obtain supplemental information regarding qualifications. The Family Division Coordinator will send the request and resume to Judge in Charge of the Family Division, who will review the applications to

[1] In evaluating "relevant experience," the court may consider the attorney's experience in social work, education, child development, mental health, healthcare, or related fields. (See Maryland Guidelines for Practice for Court-Appointed Lawyers Representing Children in Cases Involving Child Custody or Child Access, § 5 (b)).

[2] This includes malpractice insurance provided by the Attorney's employer, partnership or corporation.

determine whether the attorney has the necessary qualifications and decide whether the attorney should be placed on the Roster.

C. Periodic Announcement to the Bar. The Court will place an announcement in the Montgomery County Bar Newsletter and send an e-mail via the Bar Association's Family Law ListServ to inform attorneys of the qualifications criteria for the Roster of Court-Approved Child Counsel ("Court-Approved Roster"), the application process, and how requests for appointment of Child Counsel will be processed (see below for the Motion Review and Approval Process).

D. Request, Review and Approval Process. The following process will be used to review and approve requests for Appointment of Child Counsel in domestic cases:

1. All requests for the appointment of a child counsel pursuant to the Guidelines shall be referred by the Clerk's Office to the Family Division Magistrate's Office.

2. A Family Division Magistrate shall only recommend the Appointment of Child Counsel from the Court-Approved Roster.

3. A copy of the signed Order will be sent to the designated Family Division Coordinator, who will maintain a record of the appointments from the Court's Roster.

4. The Court will attempt to provide attorneys on the Roster with an equitable share of appointments, while also ensuring that the needs of the case are the primary factor in appointing counsel, especially in the more difficult and complex cases.

5. If the motion is granted, the appointment shall be made from the court-approved Roster of Child Counsel Attorneys for each case, unless the parties and their attorneys agree to appointment of a qualified attorney who is not on the Court's Roster.

6. The standard Order Appointing Counsel for Child shall be used in all cases.

7. The hourly rate for Court-appointed child counsel shall be $250, subject to change by Court Order for good cause, or agreement of the parties AND the Court-appointed child counsel.

E. Review of Fee Petition

1. Uncontested: The Special Magistrate will review all uncontested motions for BIA fees.

2. Contested: The Administrative Judge will preside over hearings on any such motion which is contested as to fees. This hearing may not exceed 3 hours.

F. Court-Appointed Attorney Authority

The court - appointed attorney shall be permitted to reasonably delegate tasks to appropriate personnel, including but not limited to associate attorneys, paralegals, and clerical staff, provided however that the court-appointed attorney shall supervise delegated tasks and must appear at substantive child-related court proceedings.

II. Court Funded Child Counsel

A. Appointment of Child Counsel for Indigent Parents. Where the Court determines that the parties are unable to bear the expense of child counsel, the Court may direct the Family Law Fund to pay some or all of the costs. Under those circumstances, the Court will pay $1,500, for the fees and/or expenses of a BIA or CAA appointed pursuant to these Policies and Procedures. A CPA appointed pursuant to these Policies and Procedures may be paid $375. ***As the Family Law Fund is limited, such compensation may not be available at all times, nor in every case.***

B. Affidavit of Indigency. In order for the Court to determine whether parties are unable to bear the expense of child counsel, an Affidavit of Indigency must be attached to a Motion for Appointment of Counsel for a Child. This Affidavit shall state: the amount of money in each parent's checking and savings accounts; each parent's employment status, occupation, and annual income; other sources of income for each parent, including rentals, disability income, spousal support, and any other source of funds; and the identity, ownership and value of real or personal property (for example, a home, motor home, vehicle, or boat). The Court shall develop a form Affidavit.