STATE OF NEW YORK

8361

2023-2024 Regular Sessions

IN ASSEMBLY

December 13, 2023

Introduced by M. of A. SEAWRIGHT -- read once and referred to the Committee on Judiciary

AN ACT to amend the family court act, in relation to the timing of proceedings; to amend the county law and the judiciary law, in relation to the compensation of assigned counsel; and to amend the civil practice law and rules, in relation to authorizing a trial by jury in family court for trying matters of fact

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The family court act is amended by adding a new section 169-a to read as follows:

§ 169-a. Proceedings; transcript. In any proceeding or hearing commenced pursuant to the social services law in which the family court has exercised jurisdiction or pursuant to this chapter, all transcripts of such proceedings or hearings shall be provided within five days of such proceeding or hearing.

§ 2. Section 249-b of the family court act is amended by adding a new subdivision (c) to read as follows:

(c) 1. On or before the tenth day of the month next succeeding the month in which any activities or communications occurred, all attorneys for children shall submit un-redacted copies of invoices submitted for pay to the parties of the respective cases and to the court. Failure to submit such invoices shall result in nonpayment of such expenses.

2. Attorneys for children shall meet monthly with both parents or guardians and submit a report, including, but not limited to each meeting, the non-confidential, substantive portion of any meetings and any communications with the parties and the child or children.

3. The attorney general shall establish a procedure for any party to file a complaint for any violation by an attorney for children.

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

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§ 3. Subdivisions 1 and 2 of section 722-b of the county law, as amended by section 1 of part GG of chapter 56 of the laws of 2023, are amended to read as follows:

1. All counsel assigned in accordance with a plan of a bar association conforming to the requirements of section seven hundred twenty-two of this article whereby the services of private counsel are rotated and coordinated by an administrator shall at the conclusion of the representation receive for representation of a person in all cases governed by this article, including all representation in an appellate court, compensation at a rate of [~~one~~] two hundred [~~fifty-eight~~] dollars per hour for time expended in court before a magistrate, judge or justice and [~~one~~] two hundred [~~fifty-eight~~] dollars per hour for time reasonably expended out of court, and shall receive reimbursement for expenses reasonably incurred.

2. Except as provided in subdivision three of this section, compensation for time expended in providing representation pursuant to subdivision one of this section shall not exceed [~~ten~~] twenty thousand dollars.

§ 4. Subdivision 3 of section 35 of the judiciary law, as amended by section 3 of part GG of chapter 56 of the laws of 2023, is amended to read as follows:

3. a. No counsel assigned pursuant to this section shall seek or accept any fee for representing the person for whom he or she is assigned without approval of the court as herein provided. Whenever it appears that such person is financially able to obtain counsel or make partial payment for the representation, counsel may report this fact to the court and the court may terminate the assignment or authorize payment, as the interests of justice may dictate, to such counsel. Counsel assigned hereunder shall at the conclusion of the representation receive compensation at a rate of [~~one~~] two hundred [~~fifty-eight~~] dollars per hour for time expended in court, and [~~one~~] two hundred [~~fifty-eight~~] dollars per hour for time reasonably expended out of court, and shall receive reimbursement for expenses reasonably incurred.

b. For representation upon a hearing, compensation and reimbursement shall be fixed by the court wherein the hearing was held and such compensation shall not exceed [~~ten~~] twenty thousand dollars. For representation in an appellate court, compensation and reimbursement shall be fixed by such court and such compensation shall not exceed [~~ten~~] twenty thousand dollars. In extraordinary circumstances the court may provide for compensation in excess of the foregoing limits.

§ 5. The civil practice law and rules is amended by adding a new section 4101-a to read as follows:

§ 4101-a. Determination of factual issue; family court. 1. Notwithstanding any other provision of law, any party involved in a dispute before the family court shall have the right to request a trial by jury for determination of any factual issue. Such a right shall be invoked in accordance with procedures established by the appropriate judicial authority, but in no event shall a party be denied this right if requested in a timely manner.

2. The selection and composition of the jury for family court cases shall be consistent with the processes pursuant to this article.

3. In cases where a trial by jury is requested, the jury's role shall be limited to making factual determinations. Legal conclusions, and the application of those facts to the relevant laws and standards, shall remain within the discretion of the presiding judge.

4. The presiding judge shall provide the jury with clear instructions concerning the factual issues they are to decide, ensuring that any determination aligns with the best interests of any involved minors or other relevant legal standards.

5. The office of court administration, in consultation with stakeholders including, but not limited to, family law practitioners, child welfare experts, and other relevant parties, shall develop and implement guidelines and procedures for ensuring the right to a trial by jury in family court proceedings.

§ 6. This act shall take effect on the one hundred eightieth day after it shall have become a law. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such effective date.