

# STATE OF NEW YORK

8361--A

2023-2024 Regular Sessions

## IN ASSEMBLY

December 13, 2023

Introduced by M. of A. SEAWRIGHT -- read once and referred to the Committee on Judiciary -- recommitted to the Committee on Judiciary in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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:

1 Section 1. The family court act is amended by adding a new section  
2 169-a to read as follows:

3 § 169-a. Proceedings; transcript. In any proceeding or hearing  
4 commenced pursuant to the social services law in which the family court  
5 has exercised jurisdiction or pursuant to this chapter, all transcripts  
6 of such proceedings or hearings shall be provided to each party to the  
7 case within five days of such proceeding or hearing.

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

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

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

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

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

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

6 1. All counsel assigned in accordance with a plan of a bar association  
7 conforming to the requirements of section seven hundred twenty-two of  
8 this article whereby the services of private counsel are rotated and  
9 coordinated by an administrator shall at the conclusion of the represen-  
10 tation receive for representation of a person in all cases governed by  
11 this article, including all representation in an appellate court,  
12 compensation at a rate of [~~one~~] two hundred [~~fifty-eight~~] dollars per  
13 hour for time expended in court before a magistrate, judge or justice  
14 and [~~one~~] two hundred [~~fifty-eight~~] dollars per hour for time reasonably  
15 expended out of court, and shall receive reimbursement for expenses  
16 reasonably incurred. Counsels shall provide the party to whom the  
17 attorneys represent, with a copy of their itemized, nonredacted,  
18 invoices on a monthly basis within ten days following the month in which  
19 services are incurred.

20 2. Except as provided in subdivision three of this section, compen-  
21 sation for time expended in providing representation pursuant to subdivi-  
22 sion one of this section shall not exceed [~~ten~~] twenty thousand  
23 dollars.

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

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

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

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

48 § 4101-a. Determination of factual issue; family court. 1. Notwith-  
49 standing any other provision of law, any party involved in a dispute  
50 before the family court shall have the right to request a trial by jury  
51 for determination of any factual issue. Such a right shall be invoked in  
52 accordance with procedures established by the appropriate judicial  
53 authority, but in no event shall a party be denied this right if  
54 requested in a timely manner.

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

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

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

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

14 § 6. This act shall take effect on the one hundred eightieth day after  
15 it shall have become a law. Effective immediately, the addition, amend-  
16 ment and/or repeal of any rule or regulation necessary for the implemen-  
17 tation of this act on its effective date are authorized to be made and  
18 completed on or before such effective date.