

DOMESTIC RELATIONS/PROBATE ATTORNEYS AD LITEM
GUIDELINES FOR AUTHORIZATION AND PAYMENT OF FEES
PURSUANT TO ACT 708 OF 1999

ARK. CODE ANN. § 9-13-101(e) & § 9-13-106(g)

Act 708 of 1999, with pertinent provisions codified at ARK. CODE ANN. § 9-13-101(e) & § 9-13-106, authorized the Administrative Office of the Courts to establish an attorney ad litem program in then-chancery court cases (now Domestic Relations Division of Circuit Court) and guardianship cases in probate court (now Probate Division of Circuit Court) where custody is an issue. In furtherance of the Act, the General Assembly appropriated \$50,000.00 in FY 99-00 and \$100,000.00 in FY 00-01 with which to reimburse attorneys. Pursuant to the Act, the Administrative Office of the Courts (“AOC”) prepared a funding formula for apportionment of the funds to ensure that each judicial circuit had access to the funds. The formula was approved by the Arkansas Judicial Council and by the Rules and Regulations Subcommittee of the Arkansas Legislative Council, in conformity with Act 708.

The amount of funding has increased over the years and the funding formula has changed, but the current formula is the same as it was the first year. The funds are allocated pro rata to judicial circuits based upon the number of divorce, custody, guardianship, adoption, and paternity filings for a previous calendar year. The Administrative Judge for a circuit decides how the funds allocated to his or her circuit will be distributed to the judges in the circuit or whether the funds will be used by all the judges in the circuit first-come, first-served. The circuit judge then notifies the Administrative Office of the Courts how the funds will be used. The current appropriation for the state is \$356,750.00 a year.

The following guidelines for the authorization and payment of fees to be paid from the appropriation are adopted pursuant to Ark. Code Ann. § 9-13-101 (e)(6). The maximums for fees (number 4 below) apply when any portion of the costs of the attorneys ad litem is ordered to be paid from state funds.

1. When a circuit judge determines that an appointment of an attorney ad litem would facilitate a domestic relations or probate case in which custody is an issue and would further protect the rights of the child, the judge may appoint a private attorney to represent the child.
2. To be considered for appointment, an attorney must meet the prescribed standards of practice and qualifications adopted by the Arkansas Supreme Court and set out in Administrative Order Number 15. In extraordinary cases, the trial court may appoint an attorney ad litem who does not meet the required standards and qualifications. The attorney may not be appointed in subsequent cases, however, until he or she has made efforts to meet the standards and qualifications. Attorneys who serve as an attorney ad

litem shall file with the trial court a fee petition for services rendered and any out-of-pocket expenses.

3. The judge shall review and approve the fee which shall be contained in an order of the court. The judge or the attorney shall then transmit a copy of the order to the AOC, which is authorized to pay the attorney. This action shall not limit the ability of the court to require the parties to pay all or a portion of the expenses, depending upon the ability of the parties to pay.
4. If a circuit judge appoints an attorney ad litem and determines that the parties can afford to pay the attorney ad litem's fee without state assistance, the judge can approve any fee the judge finds reasonable. However, if the judge authorizes part or all of the attorney ad litem fee to be paid by the state the judge shall not approve an hourly rate in excess of \$90.00 per hour for either the portion to be paid by the state or the portion to be paid by the litigants. In addition, the judge may award out-of-pocket expenses including long-distance telephone calls, mileage at the approved state rate, witness fees, and other incidental costs. The total award to be paid from the appropriation in any single case shall not exceed \$1,250.00. If a case is completed and then reopens, the case is eligible for additional payment, up to \$1,250.00 for each reopening.
5. An attorney who receives payment from state funds shall be required to complete a statistical survey prepared by the AOC which will include information about the amount of time expended on the case and the type of services provided.
6. Orders for payment shall be received by June 1 of each fiscal year, or by a date set by the AOC. The AOC shall pay each of the ordered amounts from the appropriation for that fiscal year, in the order they are received. Once the funds appropriated for this purpose have been expended, the Administrative Office of the Courts shall have no further obligation to pay for attorney ad litem services in that fiscal year.
7. The AOC shall maintain and distribute to the circuit judges, on a monthly basis, the status of the funds available. The AOC also shall prepare an accounting on a quarterly basis of all funds distributed for review by the Arkansas Supreme Court.