

STATE OF WEST VIRGINIA

At a Regular Term of the Supreme Court of Appeals continued and held at Charleston, Kanawha County, on the 21st day of June, 2001, the following order was made and entered:

IN RE: AMENDMENTS TO RULE 40 OF THE RULES OF PRACTICE  
AND PROCEDURE FOR FAMILY COURT

This day came the Court and proceeded to consider proposed amendments to Rule 40 of the Rules of Practice and Procedure for Family Court. Following consideration thereof, the Court is of opinion to and doth hereby adopt provisionally the proposed amendments, effective immediately, and doth hereby approve a period for public comment on the amendments, said public comments to be filed on or before the 21st day of July, 2001, with the Clerk of the Supreme Court of Appeals of West Virginia. The amendments follow with deletions indicated by strike-throughs and additions indicated by underscoring:

**"RULES OF PRACTICE AND PROCEDURE FOR FAMILY COURT**

**SPECIAL PROCEEDINGS AND PROCEDURES**

**Rule 40. Appointments of guardians ad litem and attorneys for children.**

As provided by chapter 48, article 11, section 302 [48-11-302] of the Code, the court may appoint a guardian ad

litem to represent a child's best interest, or and an attorney for to represent a child. Such The appointments shall be made independently of any nomination by of the parties. The court shall specify the terms of the appointment, including the guardian's or attorney's roles, duties, scope of authority, and method of payment, if any.

Appointed guardians may (a) serve on a voluntary basis without compensation, (b) be paid by a litigant-parent of the child for whom the appointment is made who has the ability to pay, or (c) in some circumstances, be paid by the Supreme Court of Appeals. The court may appoint any attorney to serve as a guardian ad litem.

Eligibility for Supreme Court payment for court-appointed guardians ad litem or attorneys shall be determined by the family court using guidelines established by the Administrative Director of the Courts. Payment shall be made from court funds appropriated for that purpose, or from grant funds designated for that purpose, at the rates established for compensation of attorneys pursuant to W. Va. Code, 29-21-1 to 22. The total compensation paid to guardians or attorneys from court or grant funds shall not exceed five hundred dollars (\$500.00) per appointment. Requests for payment shall be made on forms provided by the Administrative Director of the Courts. Requests for payment shall be reviewed and approved by order of the court prior to submission to the Administrative Director of the Courts for payment.

As circumstances may warrant, at any time during the proceedings, the family court or the circuit court, in its discretion, may tax the costs of the appointment of a guardian ad litem or an attorney to either of the parties and require that any compensation previously paid from court funds or grant funds be refunded to the Administrative Director of the Courts.

The Administrative Director of the Courts shall have the authority to approve and pay compensation in excess of the five hundred dollars (\$500.00) per appointment in exceptional cases and for good cause shown."

A True Copy

Attest: \_\_\_\_\_  
Clerk, Supreme Court of Appeals