House Engrossed Senate Bill

FILED

KEN BENNETT
SECRETARY OF STATE

State of Arizona
Senate
Forty-ninth Legislature
Second Regular Session
2010

CHAPTER 267

SENATE BILL 1035

AN ACT

AMENDING SECTION 8-221, ARIZONA REVISED STATUTES; RELATING TO JUVENILE COURT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 8-221, Arizona Revised Statutes, is amended to read:

8-221. Counsel right of juvenile, parent or guardian; waiver; appointment; reimbursement; guardian ad litem

A. In all proceedings involving offenses, dependency or termination of parental rights that are conducted pursuant to this title and that may result in detention, a juvenile has the right to be represented by counsel.

B. If a juvenile, parent or guardian is found to be indigent and entitled to counsel, the juvenile court shall appoint an attorney to represent the person or persons unless counsel for the juvenile is waived by both the juvenile and the parent or guardian.

C. Before any court appearance which may result in institutionalization or mental health hospitalization of a juvenile, the court shall appoint counsel for the juvenile if counsel has not been retained by or for the juvenile, unless counsel is waived by both the juvenile and a parent or guardian with whom the juvenile resides or resided prior to the filing of a petition. The juvenile, parent or guardian may withdraw the waiver of counsel at any time.

D. Waiver of counsel pursuant to this section is subject to the provisions of rule 6, subsection (c) of the Arizona rules of procedure for the juvenile court.

E. If a juvenile is entitled to counsel and there appears to be a conflict of interest between a juvenile and the juvenile's parent or guardian including a conflict of interest arising from payment of the fee for appointed counsel under subsection G of this section, the juvenile court may appoint an attorney for the juvenile in addition to the attorney appointed for the parent or guardian or employed by the parent or guardian.

F. The county board of supervisors may fix a reasonable sum to be paid by the county for the services of an appointed attorney.

G. If the court finds that the juvenile or the parent or guardian of a juvenile has sufficient financial resources to reimburse, at least in part, the costs of the services of an attorney appointed pursuant to this section, the court shall order the juvenile or the parent or guardian to pay to the appointed attorney or the county, through the clerk of the court, an amount that the parent or guardian is able to pay without incurring substantial hardship to the family. Failure to obey an order under this subsection is not grounds for contempt or grounds for withdrawal by the appointed attorney. An order under this section may be enforced in the manner of a civil judgment.

H. In a county where there is a public defender, the public defender may act as attorney in either:

1. A delinquency or incorrigibility proceeding when requested by the juvenile court.

2. Any other juvenile proceeding that is conducted pursuant to this title if the board of supervisors authorizes the appointment of the public defender.

I. In all juvenile court proceedings in which the dependency petition includes an allegation that the juvenile is abused or neglected, the court shall appoint a guardian ad litem to protect the juvenile's best interests. This guardian may be an attorney or a court appointed special advocate.

J. THE GUARDIAN AD LITEM OR ATTORNEY FOR A JUVENILE SHALL MEET WITH THE JUVENILE BEFORE THE PRELIMINARY PROTECTIVE HEARING, IF POSSIBLE, OR WITHIN FOURTEEN DAYS AFTER THE PRELIMINARY PROTECTIVE HEARING. THE GUARDIAN AD LITEM OR ATTORNEY FOR THE JUVENILE ALSO SHALL MEET WITH THE JUVENILE BEFORE ALL SUBSTANTIVE HEARINGS. UPON A SHOWING OF EXTRAORDINARY CIRCUMSTANCES, THE JUDGE MAY MODIFY THIS REQUIREMENT FOR ANY SUBSTANTIVE HEARING.

APPROVED BY THE GOVERNOR MAY 7, 2010.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 7, 2010.