

FILED
GARY L. HARRISON
CLERK SUPERIOR COURT
24 NOV 23 PM 2:55

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
S. MAY, DEPUTY CLERK
IN AND FOR THE COUNTY OF PIMA

IN THE MATTER OF THE ADMINISTRATION) ADMINISTRATIVE ORDER
OF THE EXPENDITURE OF FUNDS FROM) NO. 2021-49
THE EXPEDITED CHILD SUPPORT AND) (replaces Administrative Order
PARENTING TIME FUND) 2020-36

WHEREAS A.R.S. § 25-412 establishes an Expedited Child Support and Parenting Time Fund (hereafter called the Fund) consisting of monies received pursuant to A.R.S. § 12-284(D), and,

WHEREAS A.R.S. § 25-412(B) requires that the Presiding Judge of the Superior Court establish, maintain and enhance programs designed to expedite the processing of petitions filed pursuant to A.R.S. § 25-326 and to establish, enforce and modify court orders involving children, and,

WHEREAS funds for these purposes have been collected and deposited in the Fund and are available to fulfill the Fund's statutory purposes,

NOW, THEREFORE, IT IS ORDERED establishing the following policies, rules, limitations, and requirements pursuant to which the Judges of the Superior Court presiding over family law matters may direct the expenditure of funds from the Fund.

EXPEDITED CHILD SUPPORT AND PARENTING TIME EXPENDITURES

Under the supervision of the Presiding Judge of the Superior Court and the supervision of the Presiding Family Law Judge, judicial officers hearing family law cases may direct the expenditure of funds from the Fund to pay for the participation of families in the following Superior Court programs, subject to the rules, limitations and requirements which are hereinafter established. Until further order of the Presiding Judge, aggregate expenditures from the Fund for all programs shall be limited to \$110,000.00 in each court fiscal year. This amount does not include the funds paid to organizations providing services in the Superior Court Law Library.

I. Subsidized Supervision Services

The Court may order subsidized supervision services including: supervised exchanges for parenting time; supervised parenting time; and therapeutic supervision when necessary for the

protection of a child or children in cases where there is no suitable third party adult available or willing to provide the degree of supervision necessary under the circumstances and when the families have little or no ability to pay such fees. In such circumstances, the Court may direct the payment of monies from the Fund to subsidize the payment of supervision fees to identified community agencies and/or individuals identified to provide such services subject to the following requirements:

- A. The judicial officer hearing the case shall make a finding, based upon an evidentiary hearing or upon such other reliable information as is available, that:
 - 1. Supervised services are appropriate and necessary to protect the minor child(ren) involved in the case; and
 - 2. Continued contact with a parent, even though supervised, is in the best interests of such child(ren); and
 - 3. The parties, or either of them, are unable to share in or assume the cost of such supervised services without incurring unreasonable financial hardship; and
 - 4. To the extent either party can contribute to such cost, the Court has entered an appropriate order directing payment by such party to be paid to the service provider, and that the services shall not commence until such contribution has been paid by the party.
- B. Before ordering any subsidy under these provisions, the Court shall establish to its satisfaction that there is no appropriate adult third party (whether a relative or not) available to provide any necessary supervision on a volunteer basis.
- C. The maximum amount of supervised services subsidy provided from the Fund to any one family during any fiscal year may not exceed \$1000, unless good cause is established at a hearing. The aggregate expenditures from the Fund for any family shall not exceed the sum of \$2500, over a five year period in which supervision funds are expended unless the Presiding Family Law Judge grants permission for an evidentiary hearing and good cause is established before the trial judge that this limit may be exceeded up to a specific amount.

II. Subsidized Drug Testing

The Court may order subsidized drug testing services when necessary for the protection of a child or children in cases where families have little or no ability to pay such fees. In such circumstances, the Court may direct the payment of monies from the Fund to subsidize the payment of drug testing fees to such contractor(s) as the Court may from time to time contract with for the provision of these services at the rates contractually established for these services by the Court and subject to the following requirements:

- A. The judicial officer hearing the case shall make a finding, based upon an evidentiary hearing or upon such other reliable information as is available, that:
 1. Drug testing is necessary to assist the court in gathering information to help the court determine a legal decision making and/or parenting time plan that will be in the best interest of the children.
 2. The parties, or either of them, are unable to share in or assume the costs of drug testing services without incurring unreasonable financial hardship; and
 3. To the extent either party can contribute to such cost, the Court has entered an appropriate order directing payment by such party to be paid to the service provider, and that the services shall not commence until such contribution has been paid by the party.
- B. The maximum amount of subsidy provided from the Fund to any one family during any fiscal year may not exceed \$500, unless good cause therefore is established by clear and convincing evidence at an evidentiary hearing, and in no event shall the aggregate expenditures from the Fund for any family exceed the sum of \$1000, over a three year period over which funds are expended.

III. Subsidized Payment for Serving as Child's Attorney, Best Interest Attorney or Court Appointed Advisor

The Court may provide subsidized payment to attorneys and qualified others willing to be appointed to represent the interests of children—as Child's Attorney, Best Interest Attorney or Court Appointed Advisor—in cases where it appears to the Court that the interests of the children are not adequately represented by either parent, and where the parents' financial resources are inadequate to pay the fees for such services. The Court may direct the payment of monies from the Fund, subject to the following requirements:

- A. The judicial officer hearing the case shall make a finding, based upon an evidentiary hearing or upon such other reliable information as is available, that:
 1. The best interests of the minor child(ren) cannot be or are not being adequately protected by either of the parties to the action; and
 2. The appointment of a Child's Attorney, Best Interest Attorney, or Court Appointed Advisor will serve the best interests of such child(ren); and
 3. The parties, or either of them, are unable to share in or assume the cost of such appointment without incurring unreasonable financial hardship; and
 4. To the extent either party can contribute to the cost, the Court has entered an appropriate order directing payment by such party to be paid to the service provider,

and that the services shall not commence until such contribution has been paid by the party.

- B. An attorney appointed to serve as a Child's Attorney, Best Interest Attorney or Court-Appointed Advisor may bill the Fund for a maximum of 15 hours at the rate of \$100 per hour for a total of \$1500, unless upon application and for good cause shown the Court determines that the interest of justice are served by permitting up to an additional 15 hours for a total of an additional \$500. All payments must be approved by the Presiding Judge of the Family Law Division of the Court. Any request for payment must include an affidavit and billing records that complies with the provisions established by *Schweiger v. China Doll Rest., Inc.*, 138 Ariz. 183, 673 P.2d 927 (Ct. App. 1983). All billings must be made within 90 days of the service provided. Any billings submitted after 120 days of the service provided shall be considered waived.
- C. No attorney shall be eligible to receive such payment unless the attorney has participated in and satisfactorily completed a training course approved by the Presiding Judge of the Family Law Division of the court, unless the judicial officer hearing the case and making the appointment specifically finds that the attorney has completed substantially equivalent training or has sufficient experience in representing children in family law and/or juvenile matters so as to render such specific training unnecessary.

IV. Subsidized Payment for Serving as Attorney for a Parent's Guardian or Conservator

In a child support matter in which a guardian or conservator has been appointed for a parent, it may be necessary to appoint an attorney to represent the guardian or conservator to ensure that the parent(s)' are protected. If the parent for whom the guardian or conservator has been appointed is indigent, the Court may authorize expenditures from the fund to compensate an attorney appointed to represent that parent's guardian or conservator for child support matters.

- A. The judicial officer hearing the case shall make a finding, based upon an evidentiary hearing or upon such other reliable information as is available, that:
 - 1. A party's appointed guardian or conservator is in need of legal representation for child support matter;
 - 2. The parties, or either of them, are unable to share in or assume the cost of such appointment without incurring unreasonable financial hardship; and
 - 3. To the extent either party can contribute to the cost, the Court has entered an appropriate order directing payment by such party to be paid to the service provider, and that the services shall not commence until such contribution has been paid by the party.

- B. The attorney appointed to serve as the attorney for the party's guardian or conservator shall not be the attorney who served as the guardian ad litem pursuant to A.R.S. § 25-1501.
- C. An attorney appointed to serve as the attorney for the party's guardian or conservator may bill the Fund for a maximum of 5 hours at the rate of \$100 per hour for a total of \$500 unless upon application and for good cause shown the Court determines that the interest of justice are served by increasing the stipend to an amount approved by the Presiding Judge of the Family Law Division of the Court. Any request for payment must include an affidavit and billing records that complies with the provisions established by *Schweiger v. China Doll Rest., Inc.*, 138 Ariz. 183, 673 P.2d 927 (Ct. App. 1983). All billings must be made within 90 days of the service provided. Any billings submitted after 120 days of the service provided shall be considered waived.
- D. No attorney shall be eligible to receive such payment unless the judicial officer hearing the case and making the appointment specifically finds that the attorney has sufficient experience in family law matters and representing incapacitated parties.

V. Subsidies for Evaluations or Assessments Related to Legal Decision Making and/or Parenting Time

The Court may make expenditures from the Fund for the conducting of evaluations or assessments for any purpose related to legal decision-making and/or parenting time. These evaluations may include, but are not limited to: Legal Decision-Making and/or Parenting Time Evaluations or Child Focused Assessments; Psychological, Psycho-sexual or Substance Abuse Evaluations.

Individuals conducting any of the above-mentioned evaluations or assessments shall be licensed behavioral health practitioners who are approved by the Court and who meet the criteria of A.R.S. § 25-406.

Expenditures pursuant to this program would be made subject to the following guidelines and requirements:

- A. The judicial officer hearing the case shall make a finding, based upon an evidentiary hearing or upon such other reliable information as is available, that:
 - 1. The Court would be assisted in determining the best interests of the minor child(ren) involved in the case by having available an Evaluation or Assessment; and
 - 2. The parties, or either of them, are unable to share in or assume the cost of such evaluation without incurring unreasonable financial hardship; and
 - 3. To the extent either party can contribute to such cost, the Court has entered an appropriate order directing payment by such party to be paid to the service provider,

and that the services shall not commence until such contribution has been paid by the party.

- B. A person or entity appointed to prepare a legal decision-making or parenting time evaluation or assessment may bill the Fund a maximum of \$3500. A person or entity appointed to prepare a psychological or substance abuse evaluation may bill the Fund the maximum of \$1000.
- C. Neither the Court nor the Fund shall be responsible for any costs resulting from an evaluator being called as a witness by either party, and an evaluator under this program may not be compelled to appear as a witness by any party unless such party has first made satisfactory financial arrangements with such evaluator.

VI. Emergency Needs of Children in Cases Pending Before the Court

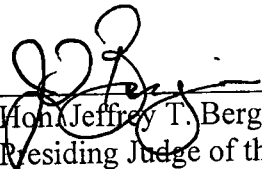
The Presiding Judge of the Family Law Division may determine that an expenditure of funds is necessary to deal with the emergency needs of children in cases before the Court that involve child support of parenting time issues requiring expedited handling and which are not covered under the foregoing Sections I through IV. Expenditures totaling no more than \$750 in a case may be made from the Fund to provide for such emergency needs. The written determination and order approving the expenditures shall include appropriate findings as to how the best interest of the child(ren) will be served by such expenditure and why the parties are unable to provide the necessary funding.

VII. Administration of Fund

The Presiding Judge of the Family Law Division shall be responsible for the administration of the Expedited Child Support and Parenting Time Fund, consistent with the foregoing rules, limitations and requirements and subject to the overall authority, supervision and control of the Presiding Judge of the Superior Court in Pima County.

The effective date of this Administrative Order is November 23, 2021.

Dated this 23rd day of November 2021.



Hon. Jeffrey T. Bergin
Residing Judge of the Superior Court

Court Administration
Hon. Greg Sakall – Family Law Presiding Judge