

HOUSE BILL No. 2316

By Committee on Judiciary

2-13

1 AN ACT concerning the revised Kansas code for care of children; relating
2 to court-appointed special advocates; creating the court-appointed
3 special advocate program fund; amending K.S.A. 2012 Supp. 38-2206
4 and 38-2215 and repealing the existing sections.
5

6 *Be it enacted by the Legislature of the State of Kansas:*

7 Section 1. K.S.A. 2012 Supp. 38-2206 is hereby amended to read as
8 follows: 38-2206. (a) The court at any stage of a proceeding pursuant to
9 this code may appoint a special advocate for the child who shall serve until
10 discharged by the court and whose primary duties shall be to advocate the
11 best interests of the child and assist the child in obtaining a permanent,
12 safe and homelike placement. The court-appointed special advocate shall
13 have such qualifications and perform such specific duties and
14 responsibilities as prescribed by rule of the supreme court.

15 (b) Any person participating in a judicial proceeding as a court-
16 appointed special advocate shall be presumed prima facie to be acting in
17 good faith and in so doing shall be immune from any civil liability that
18 otherwise might be incurred or imposed.

19 (c) *A court-appointed special advocate may be allowed a reasonable*
20 *fee for services, which may be assessed as an expense in the proceedings*
21 *as provided in subsection (b)(2) of K.S.A. 38-2215, and amendments*
22 *thereto.*

23 Sec. 2. K.S.A. 2012 Supp. 38-2215 is hereby amended to read as
24 follows: 38-2215. (a) *Docket fee.* The docket fee for proceedings under
25 this code, if one is assessed as provided in this section, shall be \$34. Only
26 one docket fee shall be assessed in each case. Except as provided further,
27 the docket fee established in this section shall be the only fee collected or
28 moneys in the nature of a fee collected for the docket fee. Such fee shall
29 only be established by an act of the legislature and no other authority is
30 established by law or otherwise to collect a fee. On and after the effective
31 date of this act through June 30, 2013, the supreme court may impose an
32 additional charge, not to exceed \$22 per docket fee, to fund the costs of
33 non-judicial personnel.

34 (b) *Expenses.* (1) *Except as provided by subsection (b)(2), the*
35 *expenses for proceedings under this code, including fees and mileage*
36 *allowed witnesses and fees and expenses approved by the court for*

1 appointed attorneys, shall be paid by the board of county commissioners
2 from the general fund of the county.

3 (2) *The expenses for services provided by a court-appointed special*
4 *advocate appointed by the court pursuant to K.S.A. 2012 Supp. 38-2206,*
5 *and amendments thereto, may be assessed or waived by the court at any*
6 *stage of a proceeding under this code, and such expenses may be assessed*
7 *against the parent of the child that is the subject of the proceeding. Any*
8 *expenses for services provided by a court-appointed special advocate*
9 *assessed under this subsection shall be remitted to the state treasurer, in*
10 *accordance with the provisions of K.S.A. 75-4215, and amendments*
11 *thereto, who shall deposit the entire amount in the state treasury and*
12 *credit it to the court-appointed special advocate program fund created by*
13 *section 3, and amendments thereto.*

14 (c) *Assessment of docket fee and expenses.* (1) *Docket fee.* The docket
15 fee may be assessed or waived by the court conducting the initial
16 dispositional hearing and the docket fee may be assessed against the
17 complaining witness or person initiating the proceedings or a party or
18 interested party other than the state, a political subdivision of the state, an
19 agency of the state or of a political subdivision of the state, or a person
20 acting in the capacity of an employee of the state or of a political
21 subdivision of the state. Any docket fee received shall be remitted to the
22 state treasurer pursuant to K.S.A. 20-362, and amendments thereto.

23 (2) *Expenses.* Expenses may be assessed against the complaining
24 witness, a person initiating the proceedings, a party or an interested party,
25 other than the state, a political subdivision of the state, an agency of the
26 state or of a political subdivision of the state or a person acting in the
27 capacity of an employee of the state or of a political subdivision of the
28 state. When expenses are recovered from a person against whom they have
29 been assessed the general fund of the county shall be reimbursed in the
30 amount of the recovery. If it appears to the court in any proceedings under
31 this code that expenses were unreasonably incurred at the request of any
32 party the court may assess that portion of the expenses against the party.

33 (d) *Cases in which venue is transferred.* If venue is transferred from
34 one county to another, the court from which the case is transferred shall
35 send to the receiving court a statement of expenses paid from the general
36 fund of the sending county. If the receiving court collects any of the
37 expenses owed in the case, the receiving court shall pay to the sending
38 court an amount proportional to the sending court's share of the total
39 expenses owed to both counties. The expenses of the sending county shall
40 not be an obligation of the receiving county except to the extent that the
41 sending county's proportion of the expenses is collected by the receiving
42 court. All amounts collected shall first be applied toward payment of the
43 docket fee.

1 New Sec. 3. (a) There is hereby established in the state treasury the
2 court-appointed special advocate program fund. All moneys credited to
3 such fund shall be used to pay for court-appointed special advocate
4 programs. All expenditures from such fund shall be made in accordance
5 with appropriation acts, upon warrants of the director of accounts and
6 reports issued pursuant to vouchers approved by the secretary for children
7 and families or the secretary's designee.

8 (b) This section shall be part of and supplemental to article 22 of
9 chapter 38 of the Kansas Statutes Annotated, and amendments thereto.

10 Sec. 4. K.S.A. 2012 Supp. 38-2206 and 38-2215 are hereby repealed.

11 Sec. 5. This act shall take effect and be in force from and after its
12 publication in the statute book.