

THE STATE OF NEW HAMPSHIRE
SUPREME COURT OF NEW HAMPSHIRE

ORDER

Pursuant to Part II, Article 73-a of the New Hampshire Constitution and Supreme Court Rule 51, the Supreme Court of New Hampshire adopts the following amendments to court rules.

I. Supreme Court Rule 47. Counsel Fees and Expenses—Indigent Criminal Cases

(The amendments apply to preparation for and proceedings in all courts in which assigned counsel is appointed to represent indigent criminal defendants. They increase the maximum compensation and expense reimbursement that may be approved by the court.)

1. Amend Supreme Court Rule 47 as set forth in Appendix A.

II. Supreme Court Rule 48. Counsel Fees and Expenses—Other Indigent Cases and Parental Notification Cases

(The amendments increase the maximum compensation and expense reimbursement that may be approved by the court in cases in which counsel is appointed to represent indigent persons, other than criminal defendants, indigent witnesses in appropriate circumstances, and minors (whether or not indigent) in parental notification cases under RSA 132:34. This rule refers to, but is not limited to, juvenile cases in the circuit court, guardianships under RSA chapter 464-A, termination of parental rights cases under RSA chapter 170-C, and involuntary admissions under RSA chapter 135-C.

1. Amend Supreme Court Rule 48 as set forth in Appendix B.

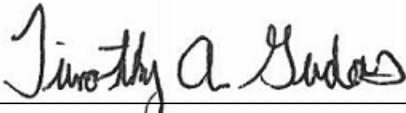
III. Supreme Court Rule 48-A. Guardians Ad Litem Fees—Indigent Cases and Parental Notification Cases

(The amendments increase the maximum compensation that may be approved by the court in cases within the original jurisdiction of the circuit court in which guardians ad litem are appointed and the party responsible for payment is indigent, and also parental notification cases under RSA 132:34.

Effective Dates

The amendments to Supreme Court Rules 47, 48, and 48-A shall take effect on October 1, 2022, including as to cases that are pending on October 1, 2022.

Date: September 30, 2022

ATTEST: 

Timothy A. Gudas, Clerk
Supreme Court of New Hampshire

APPENDIX A

ADDITIONS SHOWN IN **[BOLD]**
DELETIONS IN ~~STRIKETHROUGH~~

RULE 47. COUNSEL FEES AND EXPENSES—INDIGENT CRIMINAL CASES

The provisions of this rule shall apply only to preparation for and proceedings in all courts in which assigned counsel is appointed to represent indigent criminal defendants.

(1) Itemization of Bills. All bills related to fees and expenses must be itemized as to the time spent and expenses incurred on each case, and there shall be no separate charge for overhead. A copy of the Notice of Appointment of Counsel order on appointment or other supporting document must be attached to the bill with each submission.

(2) Fees. Maximum compensation is limited as follows:

(a) Time properly chargeable to case: ~~\$100~~ **[125]** per hour for major crime cases (capital murder, homicide, aggravated felonious sexual assault, felonious sexual assault ~~and first degree assault~~), **class A felony robbery, and felony arson**; **\$125 per hour for Supreme Court appeals**; and ~~\$60~~ **[90]** per hour for all other cases. The paralegal hourly rate shall not exceed ~~\$[40]35.00~~ and shall be included with fees of counsel for the purposes of determining the maximum fee on any case. ~~Travel time to and from meetings with an incarcerated defendant shall be compensable; otherwise, travel time is not a compensable event unless expressly authorized by the court in advance for exceptional circumstances.~~

(b) Maximum fee for misdemeanors: ~~\$1,400~~ **[2,000]**.

(c) Maximum fee for aggravated felonious sexual assault, felonious sexual assault and first degree assault: ~~\$8,000~~ **[12,500]**, and for all other felonies: ~~\$4,100~~ **[5,500]**.

(d) Maximum fee (per co-counsel) for homicides under RSA 630:1-2: \$20,000.

(e) Maximum fee for Supreme Court appeal: ~~\$2,000~~ **[10,000]**.

[(3) Travel time to and from court hearings and to and from meetings with an incarcerated defendant shall be compensable; otherwise, travel time is not a compensable event unless expressly

authorized by the court. Travel time shall not count toward the maximum fees set forth above.]

Only upon an express, written finding of good cause and exceptional circumstances by the court will the maximum fees be exceeded or will additional fees be authorized. All petitions to exceed the maximum fee guidelines must be approved prior to the guidelines being exceeded; provided, however, that the court may waive the requirement for prior approval when justice so requires.

When counsel represents more than one client on any particular day, the hours spent shall be allocated accordingly[, **including any travel time**]. Representation of more than one client on the same day and in the same court shall be noted on the bills submitted. All bills shall be reviewed by the judge who presided over the case, if practicable.

When assigned counsel is appointed in ~~district~~ **[circuit]** court, that counsel shall continue as counsel of record for all purposes (such as motions to reduce bail, waiver of indictments, etc.) until and unless new counsel is appointed by **[the]** superior court. The appointment of counsel shall occur in accordance with RSA 604-A:2, II. The public defender shall be appointed if that office is available. In the event that the public defender program is not available, the appointment of a contract attorney shall occur, if such an attorney is available. Lastly, in the event that neither the public defender nor a contract attorney is available, the appointment of a qualified attorney under RSA 604-A:2, I, shall occur.

The adequacy of the rates prescribed by this rule may, upon request of the supreme court, be reviewed periodically by the advisory committee on rules.

(3 **[4]**) Expenses - Reimbursable. In addition to the fees and fee caps listed in Section (2), above, investigative, expert, or other necessary services may be compensated only upon a finding of necessity and reasonableness by a justice of the appropriate court in accordance with RSA 604-A:6, made prior to said expense being incurred.

(a) Except for those services for which rates are established by the supreme court, the presiding justice may consider, but shall not be bound by, the prevailing rates or any rates established by a licensing agency or professional association in approving fees for services specified above.

(b) Rates for stenographers and deposition services shall be established by the supreme court. The cost of copies of depositions and transcripts shall be fifty cents (.50) per page.

(c) Rates for the services of interpreters for all parties and the court shall be established by the supreme court.

(d) No cost for investigative, expert, or other necessary services as initially approved may be exceeded prior to a subsequent finding of necessity by a justice of the appropriate court.

(e) All bills for investigative, expert, or other necessary services shall be reviewed by the judge who presided over the case, if practicable.

(f) Attorneys shall be reimbursed for the mileage expenses incurred in representing their client at the standard mileage reimbursement rate currently allowed by the Internal Revenue Service. Requests for reimbursement of mileage expenses shall specify the actual number of miles traveled.

(g) **[With the exception of calls from incarcerated defendants, t]** The expense of telephone calls shall not be reimbursed.

(h) In cases appealed to the supreme court, attorneys shall be reimbursed for the actual reasonable costs (not including labor) of reproducing and binding the notice of appeal or other appeal document, any appendix and briefs, whether done in-house or by an outside printer.

(i) No reimbursement will be paid for overhead expenses including photocopies (other than as provided in subdivision (3)(h) of this rule), postage, fax and secretarial services.

(4**[5]**) Deadline for Filing Bills with Court. All bills related to fees and expenses must be submitted no later than sixty days after the close of the case. The court may allow late filing for good cause shown, when justice so requires.

NOTE: Appointed counsel for witnesses is covered under Rule 48 of the Supreme Court Rules.

APPENDIX B

ADDITIONS SHOWN IN **[BOLD]**
DELETIONS IN ~~STRIKETHROUGH~~

RULE 48. COUNSEL FEES AND EXPENSES—OTHER INDIGENT CASES AND PARENTAL NOTIFICATION CASES

The provisions of this rule shall apply only to preparation for and proceedings in all courts in which counsel is appointed to represent indigent persons, other than criminal defendants, and indigent witnesses in appropriate circumstances, and minors (whether or not indigent) in parental notification cases under RSA 132:34. This rule refers to, but is not limited to, juvenile cases in the ~~district~~ **[circuit]** court, guardianships under RSA chapter 464-A, termination of parental rights (TPR) under RSA chapter 170-C, and involuntary admissions under RSA chapter 135-C in the ~~probate court and district~~ **[circuit]** court.

(1) Itemization of Bills. All bills related to fees and expenses must be itemized as to the time spent and expenses incurred on each case, and there shall be no separate charge for overhead. A copy of the Notice of Appointment of Counsel order on appointment or other supporting document must be attached to the bill with each submission.

(2) Fees. Maximum compensation is limited as follows:

(a) Time properly chargeable to case: \$60 **[90]** per hour. The paralegal hourly rate shall not exceed \$~~[40]~~35.00 and shall be included with fees of counsel for the purposes of determining the maximum fee on any case. ~~Travel time is not a compensable event unless expressly authorized by the court in advance for exceptional circumstances.~~

(b) Maximum fee for all juvenile cases pursuant to RSA chapters 169-B, C, and D: \$1,700 **[2,550]**.

~~(c) De novo appeal of juvenile cases pursuant to RSA chapter 169-C: \$1,400.~~

~~(d)~~**[c]** Maximum fee for guardianships under RSA chapters 463 or 464-A:

(i) RSA chapter 463: \$1,200 **[1,800]**;

(ii) RSA chapter 464-A: \$900 **[1,350]**.

(e[d]) Maximum fee for annual review hearings for guardianships: \$300 [450].

(f [e]) Maximum fee for TPR cases pursuant to RSA chapter 170-C: \$1,700 [2,550].

(g [f]) Maximum fee for involuntary admissions under RSA chapter 135-C: \$600.

(h [g]) Appeals to the supreme court, other than parental notification cases, in all juvenile cases and any matters within the subject matter jurisdiction of the probate [circuit] court: \$2,000 [3000].

(i [h]) Maximum fee for court review hearings of juvenile cases pursuant to RSA 169-B, C and D: \$300 [450].

(j [i]) Maximum fee for parental notification cases pursuant to RSA 132:34, excluding any appeal to the supreme court: \$1,000 [1,500].

(k [j]) Maximum fee for appeals to the supreme court in parental notification cases pursuant to RSA 132:34: \$500 [750].

Only upon express, written finding for good cause and exceptional circumstances by the court will the maximum fees be exceeded or will additional fees be authorized.

~~In any case filed before July 12, 2011, any [A] petition to exceed the maximum fee guidelines must be approved prior to the guidelines being exceeded; provided, however, that the court may waive the requirement for prior approval when justice so requires.~~

~~In any case filed on or after July 12, 2011, any petition to exceed the maximum fee guidelines must be approved prior to the guidelines being exceeded.~~ In any such case, fees in excess of the maximum compensation in this rule will be paid only if the administrative judge of the circuit court or the chief justice of the superior court, as the case may be, certifies the good cause and exceptional circumstances justifying the excess fees.

[Travel time to and from court hearings and to and from meetings with an incarcerated client shall be compensable; otherwise travel is not a compensable event unless expressly authorized by the court. Travel time shall not count toward the maximum fees set forth above.]

When counsel represents more than one client on any particular day, the hours spent shall be allocated accordingly[, **including travel time**]. Representation of more than one client on the same day and in the same

court shall be noted on the bills submitted. All bills shall be reviewed by the judge who presided over the case, if practicable.

The adequacy of the rates prescribed by this rule may, upon request of the supreme court, be reviewed periodically by the advisory committee on rules.

(3) Expenses - Reimbursable. In addition to the fees and fee caps listed in Section (2), above, investigative, expert, or other necessary services may be compensated only upon a finding of necessity and reasonableness by a justice of the appropriate court, made prior to said expense being incurred.

(a) Except for those services for which rates are established by the supreme court, the presiding justice may consider, but shall not be bound by, the prevailing rates or any rates established by a licensing agency or professional association in approving fees for services specified above.

(b) Rates for stenographers and deposition services shall be established by the supreme court. The cost of copies of depositions and transcripts shall be fifty cents (.50) per page.

(c) Rates for the services of interpreters for all parties and the court shall be established by the supreme court.

(d) No cost for investigative, expert, or other necessary services as initially approved may be exceeded prior to a subsequent finding of necessity by a justice of the appropriate court.

(e) All bills for investigative, expert, or other necessary services shall be reviewed by the judge who presided over the case, if practicable.

(f) Attorneys shall be reimbursed for the mileage expenses incurred in representing their client at the standard mileage reimbursement rate currently allowed by the Internal Revenue Service. Requests for reimbursement of mileage expenses shall specify the actual number of miles traveled.

(g) The expense of telephone calls shall not be reimbursed.

(h) In cases appealed to the supreme court, attorneys shall be reimbursed for the actual reasonable costs (not including labor) of reproducing and binding the notice of appeal or other appeal document, any appendix and briefs, whether done in-house or by an outside printer.

(i) No reimbursement will be paid for overhead expenses including photocopies (other than as provided in subdivision (3)(h) of this rule), postage, fax and secretarial services.

(4) Deadline for Filing Bills with Court. All bills related to fees and expenses must be submitted no later than sixty days after the close of the case. The court may allow late filing for good cause shown, when justice so requires.

APPENDIX C

ADDITIONS SHOWN IN **[BOLD]**
DELETIONS IN ~~STRIKETHROUGH~~

RULE 48-A GUARDIANS AD LITEM FEES—INDIGENT CASES AND PARENTAL NOTIFICATION CASES

(1) Itemization of Bills. All bills related to fees and expenses must be itemized as to the time spent and expenses incurred on each case, and there shall be no separate charge for overhead. A copy of the Notice of Appointment order on appointment or other supporting document must be attached to the bill with each submission.

(2) Fees. The provisions of this rule shall only apply to proceedings within the original jurisdiction of the ~~district and probate~~ **[circuit]** courts, in which guardians ad litem are appointed, and the party responsible for payment is indigent, and parental notification cases under RSA 132:34.

Maximum guardian ad litem compensation as authorized by the administrative justice shall be limited as follows:

(a) Time properly chargeable to case: \$~~60~~ **[90]** per hour. Travel time **[to and from court hearings and to or from meetings with a juvenile or an incapacitated person]** ~~is not~~ **[shall be]** a compensable event ~~unless expressly authorized by the court in advance for exceptional circumstances.~~

(b) Maximum fee for abuse and neglect cases through conclusion of dispositional hearing pursuant to RSA 169-C:19: \$~~1,400~~ **[2,100]**.

(c) Maximum fee for CHINS cases (169-D) or delinquency cases (169-B) through conclusion: \$~~900~~ **[1,350]**.

(d) Maximum fee for court review hearings in guardianship of minor or adult cases or abuse and neglect case: \$~~300~~ **[450]**.

(e) Maximum fee for TPR case (170-C): \$~~1,400~~ **[2,100]**.

(f) Maximum fee for appeals to the superior court: \$~~900~~ **[1,350]**.

(g) Maximum fee for guardianship cases pursuant to RSA chapters 463 or 464-A: \$~~1,400~~ **[2,100]**.

(h) Maximum fee for parental notification cases pursuant to RSA 132:34, excluding any appeal to the supreme court: \$~~1,000~~ **[1,500]**.

(i) Maximum fee for appeals to the supreme court in parental notification cases pursuant to RSA 132:34: \$500 **[750]**.

Only upon express, written finding for good cause and exceptional circumstances by the court will the maximum fees be exceeded or will additional fees be authorized.

~~In any case filed before July 12, 2011, any petition to exceed the maximum fee guidelines must be approved prior to the guidelines being exceeded; provided, however, that the court may waive the requirement for prior approval when justice so requires.~~

~~In any case filed on or after July 12, 2011, any **[A]** petition to exceed the maximum fee guidelines must be approved prior to the guidelines being exceeded. In any such case, fees in excess of the maximum compensation in this rule will be paid only if the administrative judge of the circuit court or the chief justice of the superior court, as the case may be, certifies the good cause and exceptional circumstances justifying the excess fees.~~

When a guardian ad litem represents more than one client on any particular day, the hours spent shall be allocated accordingly, **including travel time**. Representation of more than one client on the same day and in the same court shall be noted on the bills submitted. All bills shall be reviewed by the judge who presided over the case, if practicable.

The adequacy of the rates prescribed by this rule may, upon request of the supreme court, be reviewed periodically by the advisory committee on rules [and shall be reviewed at least every four years. The rates shall reflect inflation increases and other costs since the prior rate change.].

(3) Expenses - Reimbursable. In addition to the fees and fee caps listed in Section (2), above, investigative, expert, **travel** or other necessary services may be compensated only upon a finding of necessity and reasonableness by a justice of the appropriate court, made prior to said expense being incurred **and shall not count toward the maximum fees set forth above.**

(a) Except for those services for which rates are established by the supreme court, the presiding justice may consider, but shall not be bound by, the prevailing rates or any rates established by a licensing agency or professional association in approving fees for services specified above.

(b) Rates for the services of interpreters for all parties and the court shall be established by the supreme court.

(c) No cost for investigative, expert, or other necessary services as initially approved may be exceeded prior to a subsequent finding of necessity by a justice of the appropriate court.

(d) All bills for investigative, expert, or other necessary services shall be reviewed by the judge who presided over the case, if practicable.

(e) Guardians ad litem shall be reimbursed for the mileage expenses incurred in representing their client at the standard mileage reimbursement rate currently allowed by the Internal Revenue Service. Requests for reimbursement of mileage expenses shall specify the actual number of miles traveled.

(f) The expense of telephone calls shall not be reimbursed.

(4) **Deadline for Filing Bills with Court.** All bills related to fees and expenses must be submitted no later than sixty days after the close of the case. The court may allow late filing for good cause shown, when justice so requires.