



**ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 1995 ASSEMBLY BILL 703**

February 29, 1996 – Offered by COMMITTEE ON CHILDREN AND FAMILIES.

1 **AN ACT to amend** 48.27 (8), 48.275 (2) (a), 48.275 (2) (c), 48.275 (2) (d), 48.275 (3),
2 938.235 (8), 938.27 (8), 938.275 (2) (a), 938.275 (2) (c) and 938.275 (2) (d); and
3 **to repeal and recreate** 48.235 (8) of the statutes; **relating to:** the
4 responsibility of parents and guardians for guardian ad litem compensation
5 proceedings involving children.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

6 **SECTION 1.** 48.235 (8) of the statutes, as affected by 1995 Wisconsin Act 27, is
7 repealed and recreated to read:

8 48.235 (8) COMPENSATION. (a) A guardian ad litem appointed under this
9 chapter shall be allowed reasonable compensation, and, except as provided in par.
10 (b) or in s. 48.275 (2) (a), the county of venue shall pay that compensation. If the court
11 orders a county to pay the compensation of a guardian ad litem, the amount ordered
12 may not exceed the compensation paid to private attorneys under s. 977.08 (4m) (b).

13 (b) The compensation of a guardian ad litem appointed under this chapter shall
14 be paid by the proposed adoptive parents in uncontested termination proceedings

1 and uncontested adoption cases under ss. 48.835 and 48.837 and by the agency in
2 uncontested termination proceedings and uncontested adoptions under s. 48.833. If
3 the proposed adoptive parents are unable to pay, the court may direct that the county
4 of venue pay the compensation, in whole or in part, and may direct that the proposed
5 adoptive parents reimburse the county, in whole or in part, for the payment. At any
6 time before the final order for adoption, the court may order that payments be placed
7 in an escrow account in an amount estimated to be sufficient to pay the compensation
8 of the guardian ad litem.

9 **SECTION 2.** 48.27 (8) of the statutes, as affected by 1995 Wisconsin Act 77, is
10 amended to read:

11 48.27 (8) When a petition is filed under s. 48.13, the court shall notify, in
12 writing, the child's parents or guardian that they may be ordered to reimburse this
13 state or the county for the costs of legal counsel or guardian ad litem provided for the
14 child, as provided under s. 48.275 (2).

15 **SECTION 3.** 48.275 (2) (a) of the statutes, as affected by 1995 Wisconsin Act 77,
16 is amended to read:

17 48.275 (2) (a) If this state or a county provides legal counsel to or a guardian
18 ad litem for a child subject to a proceeding under s. 48.13, the court shall order the
19 child's parent to reimburse the state or county in accordance with par. (b) or (c). The
20 court may not order reimbursement if a parent is the complaining or petitioning
21 party or if the court finds that the interests of the parent and the interests of the child
22 in the proceeding are substantially and directly adverse and that reimbursement
23 would be unfair to the parent. The court may not order reimbursement until the
24 completion of the proceeding or until the state or county is no longer providing the
25 child with legal counsel or a guardian ad litem in the proceeding.

1 **SECTION 4.** 48.275 (2) (c) of the statutes is amended to read:

2 48.275 (2) (c) If the county provides the child with legal counsel or with a
3 guardian ad litem and the court orders reimbursement under par. (a), the court shall
4 either make a determination of indigency or shall appoint the county department to
5 make the determination. If the court or the county department finds that the parent
6 is not indigent or is indigent in part, the court shall establish the amount of
7 reimbursement and shall order the parent to pay it.

8 **SECTION 5.** 48.275 (2) (d) of the statutes, as affected by 1995 Wisconsin Act 27,
9 is amended to read:

10 48.275 (2) (d) Reimbursement payments shall be made to the clerk of courts
11 of the county where the proceedings took place. Each payment shall be transmitted
12 to the county treasurer, who shall deposit 25% of the amount paid for state-provided
13 counsel in the county treasury and transmit the remainder to the state treasurer.
14 Payments transmitted to the state treasurer shall be deposited in the general fund
15 and credited to the appropriation account under s. 20.550 (1) (L). The county
16 treasurer shall deposit 100% of the amount paid for county-provided counsel or
17 county-provided guardian ad litem in the county treasury.

18 **SECTION 6.** 48.275 (3) of the statutes, as affected by 1995 Wisconsin Act 77, is
19 amended to read:

20 48.275 (3) This section does not apply to any proceeding under s. 48.235 (8) (b)
21 or 48.375 (7).

22 **SECTION 7.** 938.235 (8) of the statutes, as created by 1995 Wisconsin Act 77, is
23 amended to read:

24 938.235 (8) COMPENSATION. On order of the court, the guardian ad litem
25 appointed under this chapter shall be allowed reasonable compensation to be paid

1 by the county of venue, except as provided in s. 938.275 (2) (a) or unless the court
2 orders otherwise. If the court orders a county to pay the compensation of the
3 guardian ad litem, the amount ordered may not exceed the compensation paid to
4 private attorneys under s. 977.08 (4m) (b).

5 **SECTION 8.** 938.27 (8) of the statutes, as created by 1995 Wisconsin Act 77, is
6 amended to read:

7 938.27 (8) When a petition is filed under s. 938.12 or 938.13, the court shall
8 notify, in writing, the juvenile's parents or guardian that they may be ordered to
9 reimburse this state or the county for the costs of legal counsel or guardian ad litem
10 provided for the juvenile, as provided under s. 938.275 (2).

11 **SECTION 9.** 938.275 (2) (a) of the statutes, as created by 1995 Wisconsin Act 77,
12 is amended to read:

13 938.275 (2) (a) If this state or a county provides legal counsel or a guardian ad
14 litem to a juvenile subject to a proceeding under s. 938.12 or 938.13, the court shall
15 order the juvenile's parent to reimburse the state or county in accordance with par.
16 (b) or (c). The court may not order reimbursement if a parent is the complaining or
17 petitioning party or if the court finds that the interests of the parent and the interests
18 of the juvenile in the proceeding are substantially and directly adverse and that
19 reimbursement would be unfair to the parent. The court may not order
20 reimbursement until the completion of the proceeding or until the state or county is
21 no longer providing the juvenile with legal counsel or a guardian ad litem in the
22 proceeding.

23 **SECTION 10.** 938.275 (2) (c) of the statutes, as created by 1995 Wisconsin Act
24 77, is amended to read:

