

SECOND REGULAR SESSION

# HOUSE BILL NO. 2101

## 99TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE BEARD.

5843H.011

D. ADAM CRUMBLISS, Chief Clerk

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### AN ACT

To repeal section 514.040, RSMo, and to enact in lieu thereof one new section relating to guardian ad litem fees.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Section 514.040, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 514.040, to read as follows:

514.040. 1. Except as provided in subsection 3 of this section, if any court shall, before or after the commencement of any suit pending before it, be satisfied that the plaintiff is a poor person, and unable to prosecute his or her suit, and pay all or any portion of the costs and expenses thereof, such court may, in its discretion, permit him or her to commence and prosecute his or her action as a poor person, and thereupon such poor person shall have all necessary process and proceedings as in other cases, without fees, tax or charge as the court determines the person cannot pay; and the court may assign to such person counsel, who, as well as all other officers of the court, shall perform their duties in such suit without fee or reward as the court may excuse; but if judgment is entered for the plaintiff, costs shall be recovered, which shall be collected for the use of the officers of the court.

2. In any civil action brought in a court of this state by any offender convicted of a crime who is confined in any state prison or correctional center, the court shall not reduce the amount required as security for costs upon filing such suit to an amount of less than ten dollars pursuant to this section. This subsection shall not apply to any action for which no sum as security for costs is required to be paid upon filing such suit.

3. Where a party is represented in a civil action by a legal aid society or a legal services or other nonprofit organization funded in whole or substantial part by moneys appropriated by

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

18 the general assembly of the state of Missouri, which has as its primary purpose the furnishing  
19 of legal services to indigent persons, by a law school clinic which has as its primary purpose  
20 educating law students through furnishing legal services to indigent persons, or by private  
21 counsel working on behalf of or under the auspices of such society, all costs and expenses,  
22 **except guardian ad litem fees as provided by this subsection**, related to the prosecution of the  
23 suit may be waived without the necessity of a motion and court approval, provided that a  
24 determination has been made by such society or organization that such party is unable to pay the  
25 costs, fees and expenses necessary to prosecute or defend the action, and that a certification that  
26 such determination has been made is filed with the clerk of the court. **In the event an action**  
27 **involving the appointment of a guardian ad litem goes to trial, an updated certification**  
28 **shall be filed prior to the trial commencing. The waiver of guardian ad litem fees for a**  
29 **party who has filed a certification may be reviewed by the court at the conclusion of the**  
30 **action upon the motion of any party requesting the court to apportion guardian ad litem**  
31 **fees.**

32       **4. Any party may present additional evidence on the financial condition of the**  
33 **parties. Based upon that evidence, if the court finds the certifying party has the present**  
34 **ability to pay, the court may enter judgment ordering the certifying party to pay a portion**  
35 **of the guardian ad litem fees.**

36       **5. Any failure to pay guardian ad litem fees shall not preclude a certifying party**  
37 **from filing future suits, including motions to modify, and shall not be used as a basis to**  
38 **limit the certifying party's prosecution or defense of the action.**

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