

REFERENCE TITLE: public defenders; probate court; reimbursement

State of Arizona
House of Representatives
Fiftieth Legislature
First Regular Session
2011

HB 2231

Introduced by
Representative Goodale

AN ACT

AMENDING SECTIONS 14-3722, 14-5314 AND 14-5414, ARIZONA REVISED STATUTES;
RELATING TO PROBATE COURT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 14-3722, Arizona Revised Statutes, is amended to
3 read:

4 14-3722. Compensation of appointees

5 A. If not otherwise compensated for services rendered, an
6 investigator, accountant or lawyer appointed pursuant to this article is
7 entitled to reasonable compensation from the estate of the decedent. If the
8 court compensates the provider of a service the court may charge the estate
9 for the reasonable cost of the service and shall deposit these monies in the
10 probate fund pursuant to section 14-5433.

11 B. Notwithstanding subsection A of this section, if compensation by
12 the estate is not feasible the court shall determine and pay reasonable
13 compensation for services rendered by an investigator, accountant or lawyer
14 appointed in a probate administration proceeding.

15 C. IF THE COUNTY PAYS FOR A SERVICE FROM GENERAL FUND APPROPRIATIONS
16 IT MAY CHARGE THE ESTATE FOR REASONABLE COMPENSATION. THE COUNTY TREASURER
17 SHALL DEPOSIT MONIES COLLECTED PURSUANT TO THIS SUBSECTION IN THE SAME FUND
18 FROM WHICH THE EXPENDITURE WAS MADE.

19 Sec. 2. Section 14-5314, Arizona Revised Statutes, is amended to read:

20 14-5314. Compensation of appointees; definitions

21 A. If not otherwise compensated for services rendered, an
22 investigator, accountant, lawyer, physician, registered nurse, psychologist
23 or guardian who is appointed pursuant to this article, including an
24 independent lawyer representing the alleged incapacitated person pursuant to
25 section 14-5303, subsection C, is entitled to reasonable compensation from
26 the estate of the ward if the petition is granted, or from the petitioner if
27 the petition is denied.

28 B. If the petitioner withdraws the petition or if the petition is
29 dismissed because of the petitioner's failure to prosecute, the court may
30 order that the compensation of the investigator, accountant, lawyer,
31 physician, registered nurse, psychologist or guardian appointed pursuant to
32 this article, including an independent lawyer representing the alleged
33 incapacitated person pursuant to section 14-5303, subsection C, be paid
34 either from the ward's estate or by the petitioner, depending on the facts
35 and circumstances. In making this determination, the court may consider any
36 evidence it deems appropriate.

37 C. A lawyer who is employed by the guardian to represent the guardian
38 in the guardian's appointment or duties as guardian is entitled to reasonable
39 compensation from the ward's estate if the petition is granted. If the
40 petitioner withdraws the petition or if the court dismisses the petition
41 because of the petitioner's failure to prosecute, the court may order that
42 the compensation of the proposed guardian's lawyer be paid either from the
43 ward's estate or by the petitioner, depending on the facts and circumstances.
44 In making these determinations, the court may consider any evidence it deems
45 appropriate.

1 D. A lawyer who is employed by the petitioner to represent the
2 petitioner in seeking the appointment of a guardian is entitled to reasonable
3 compensation from the ward's estate if the petition is granted.

4 E. If the court compensates the provider of a service, the court may
5 charge the estate for the reasonable cost of the service and shall deposit
6 these monies in the probate fund pursuant to section 14-5433.

7 F. If compensation by the ward or the petitioner is not feasible the
8 court shall determine and pay reasonable compensation for services rendered
9 by an investigator, accountant, lawyer, physician, registered nurse,
10 psychologist or guardian appointed in a guardianship proceeding.

11 G. IF THE COUNTY PAYS FOR A SERVICE FROM GENERAL FUND APPROPRIATIONS
12 IT MAY CHARGE THE ESTATE FOR REASONABLE COMPENSATION. THE COUNTY TREASURER
13 SHALL DEPOSIT MONIES COLLECTED PURSUANT TO THIS SUBSECTION IN THE SAME FUND
14 FROM WHICH THE EXPENDITURE WAS MADE.

15 ~~G.~~ H. For the purposes of this section:

16 1. "Guardian" includes both a guardian and a temporary guardian.

17 2. "Petition" means a petition filed pursuant to section 14-5303,
18 subsection A or section 14-5310, subsection A.

19 3. "Ward" includes an alleged incapacitated person.

20 Sec. 3. Section 14-5414, Arizona Revised Statutes, is amended to read:

21 14-5414. Compensation and expenses; definitions

22 A. If not otherwise compensated for services rendered, any
23 investigator, accountant, lawyer, physician, registered nurse, psychologist
24 or conservator who is appointed in a protective proceeding, including a
25 lawyer of the person alleged to be in need of protection pursuant to section
26 14-5407, subsection B, is entitled to reasonable compensation from the estate
27 of the protected person if the petition is granted or from the petitioner if
28 the petition is denied.

29 B. If the petitioner withdraws the petition or if the court dismisses
30 the petition because of the petitioner's failure to prosecute, the court may
31 order that the compensation of the investigator, accountant, lawyer,
32 physician, registered nurse, psychologist or conservator who is appointed
33 pursuant to this article, including a lawyer of the person alleged to be in
34 need of protection pursuant to section 14-5407, subsection B, be paid either
35 from the protected person's estate or by the petitioner, depending on the
36 facts and circumstances. In making these determinations, the court may
37 consider any evidence it deems appropriate.

38 C. A lawyer who is employed by the conservator to represent the
39 conservator in the conservator's appointment or duties as conservator is
40 entitled to reasonable compensation from the estate if the petition is
41 granted. If the petitioner withdraws the petition or if the petition is
42 dismissed because of the petitioner's failure to prosecute, the court may
43 order that the compensation of the proposed conservator's lawyer be paid
44 either from the protected person's estate or by the petitioner, depending on

1 the facts and circumstances. In determining which party shall pay, the court
2 may consider any evidence it deems appropriate.

3 D. A lawyer who is employed by the petitioner to represent the
4 petitioner in seeking the appointment of a conservator is entitled to
5 reasonable compensation from the protected person's estate if the petition is
6 granted.

7 E. If the court pays for any of these services it may charge the
8 estate for reasonable compensation. The clerk shall deposit monies it
9 collects in the probate fund pursuant to section 14-5433.

10 F. Compensation payable to the department of veterans' services, when
11 acting as a conservator of the estate of a veteran or a veteran's surviving
12 spouse or minor child or the incapacitated spouse of a protected veteran,
13 shall not be more than five per cent of the amount of monies received during
14 the period covered by the conservatorship. A copy of the petition and notice
15 of hearing shall be given to the proper officer of the veterans
16 administration in the manner provided in the case of any hearing on a
17 guardian's account or any other pleading. A commission or compensation is
18 not allowed on the monies or other assets received from a prior conservator
19 or on the amount received from liquidation of loans or other investments.

20 G. IF THE COUNTY PAYS FOR A SERVICE FROM GENERAL FUND APPROPRIATIONS
21 IT MAY CHARGE THE ESTATE FOR REASONABLE COMPENSATION. THE COUNTY TREASURER
22 SHALL DEPOSIT MONIES COLLECTED PURSUANT TO THIS SUBSECTION IN THE SAME FUND
23 FROM WHICH THE EXPENDITURE WAS MADE.

24 ~~G.~~ H. For the purposes of this section:

25 1. "Conservator" includes a conservator, temporary conservator or
26 special conservator.

27 2. "Petition" means a petition filed pursuant to section 14-5401.01,
28 subsection A or section 14-5404, subsection A.

29 3. "Protected person" includes a person who is alleged to be in need
30 of protection.