

As you may know, the Tennessee Supreme Court recently amended its Rule 13, which establishes the process for appointing and compensating counsel for parties who are indigent and constitutionally or statutorily entitled to representation. The amendment places an annual cap on the number of hours for which an attorney may bill and be compensated for in a calendar year. The annual maximum is 2000 hours, and the amendment is effective January 1 for calendar year 2013 and thereafter. The cap is intended: 1) to enhance the quality of representation to clients; 2) to achieve a more equitable distribution of assignments among attorneys; and 3) as an additional guard against over-billing.

According to AOC records, very few of the thousands of attorneys who take court-appointed cases will be affected by this change. Those that could potentially exceed the annual limit will need to decline representation in new cases when doing so could lead to that result. If an existing caseload requires billing over 2000 hours this year, the amendment to the Rule provides an exception to disallowing payment when, in the Administrative Director's opinion, an attorney has made a good faith effort to comply.

Only those hours for work actually performed in the calendar year will count against the annual limit; hours worked in previous years, but not billed until 2013 DO NOT count against the 2013 limit. Likewise, hours worked in 2013 but not billed until 2014 or later DO count against the 2013 cap. Any hours that are disallowed during the review processes DO NOT count against the cap.

A determination of hours worked so far this year, as well as an assessment of your current court-appointed caseload, should give you a general indication of your ability to accept new cases, and with what frequency you should do so. The average times billed on various types of cases statewide are as follows:

Adult A Felony - 18.3 hours

Adult Misdemeanor – 5 hours

Adult B Felony – 13.8 hours

Juvenile Felony – 7 hours

Adult C, D or E felony – 9 hours

Juvenile Misdemeanor - 4.6 hours

Adult Murder – 54 hours

Child Support Contempt – 3 hours

GAL Dependency & Neglect – 12 hours

Parent's Attorney D&N – 11.3 hours

GAL Termination of Parental Rights – 15 hours

Parent's Attorney TPR – 16.6 hours

How cases are handled and the time needed to handle them vary from place to place, so if you would like more specific data about averages in your area, please contact David Haines at the AOC and he will be happy to provide that information. No two cases are the same, of course, so periodic monitoring of your particular cases will be necessary. Some states that impose an annual cap prohibit attorneys from accepting new cases when they are within, say, 200 hours of the cap. Tennessee's Rule does not contain such a restriction, so it is up to each attorney to stay alert.