

- (c) The appointing judge will appoint the lawyer whose name appears next in order on the public appointment list unless:
 - (1) the child requesting appointed counsel does not understand English, in which case the person making the appointment may appoint the lawyer who both appears next in order on the list and can communicate with the child in the child's language;
 - (2) the person making the appointment exercises discretionary authority to appoint one of the attorneys whose name is among the next five names in order on the appropriate list;
 - (3) the child requesting appointed counsel is subject to a motion to modify, in which case the judge making the appointment may appoint the lawyer that represented the child on the original case; or
 - (4) in unusual circumstances, the person making the appointment enters a written finding of good cause on the record for appointing any qualified, willing attorney regardless of whether the attorney's name is among the first five names on the appointment list.
- (d) Whenever a lawyer is appointed out of order under Rule 4.04(c), the lawyer who is appointed out of order will move to the last place in order on the list, and any lawyer who was not appointed will remain at the top of the list until appointed or removed from the list.
- (e) Each attorney appointed under this Rule is appointed to represent the child until the case is terminated, the family retains an attorney, or a new attorney is appointed by the court.

Rule 5. Attorney Fee Schedule and Compensation of Appointed Attorneys

5.01 *Fee Schedule.* Each county will pay appointed counsel for all time reasonably necessary for adequate representation of the child, as approved by a judge, according to the following fee schedule adopted as provided under Article 26.05(b) of the Code of Criminal Procedure:

- (a) Appointed attorneys shall be paid not less than \$60 per hour nor more than \$90 per hour for all documented out-of-court and in-court time that is actually spent on the case that reasonable professionals would agree was objectively necessary for a qualified criminal defense attorney in the community to represent the client; and
- (b) For good cause or exceptional circumstances, an appointed attorney may request payment at a rate above the rates specified in subsection (a) of this Rule, subject to review and approval by the judge presiding over the case as specified in Rule 5.02.

5.02 *Judicial Determination of Attorney Compensation.* The judge presiding over the case for

which the appointed attorney seeks compensation will use the following procedures to review and approve the appropriate compensation:

- (a) The appointed counsel must submit to the presiding judge a form approved by the judges for itemizing the services performed.
- (b) The presiding judge will enter an order for the amount of payment that the judge approves.
- (c) An attorney may appeal the amount approved by filing a motion with the presiding judge of the administrative judicial region, as provided under Article 26.05(c) of the Code of Criminal Procedure.
- (d) No payment shall be made under this Rule 5.02 until the form for itemizing the services performed is submitted to the judge presiding over the proceedings and the judge approves the payment.

5.03 *Judicial Approval of Expenses.* The judge presiding over the case for which an appointed attorney seeks reimbursement for necessary expenses shall review and approve reasonable expenses as follows:

- (a) Expenses incurred with prior court approval shall be reimbursed in the same manner provided for capital cases by Articles 26.052(f) and (g) of the Code of Criminal Procedure.
- (b) Expenses incurred without prior court approval shall be reimbursed in the manner provided for capital cases by Article 26.052 (h) of the Code of Criminal Procedure.
- (c) Expenses approved for purposes of investigation or expert testimony may be paid directly to a private investigator licensed under Chapter 1702, Occupations Code, or to an expert witness in the manner designated by appointed counsel and approved by the judge presiding over the case.