

5-307. APPOINTED COUNSEL.

(A) PARENT.

(1) UNLESS THE PUBLIC DEFENDER IS REQUIRED UNDER ARTICLE 27A, § 4 OF THE CODE TO PROVIDE REPRESENTATION, IN A CASE UNDER PART II OR PART III OF THIS SUBTITLE, A JUVENILE COURT SHALL APPOINT AN ATTORNEY TO REPRESENT A PARENT WHO:

(I) HAS A DISABILITY THAT MAKES THE PARENT INCAPABLE OF EFFECTIVELY PARTICIPATING IN THE CASE; OR

(II) WHEN A PETITION FOR GUARDIANSHIP OR ADOPTION IS FILED, IS A MINOR.

(2) TO DETERMINE WHETHER A DISABILITY MAKES A PARENT INCAPABLE OF EFFECTIVELY PARTICIPATING IN A CASE, A JUVENILE COURT, ON ITS OWN MOTION OR MOTION OF A PARTY, MAY ORDER EXAMINATION OF THE PARENT.

(B) CHILD.

(1) IN ACCORDANCE WITH PARAGRAPH (2) OF THIS SUBSECTION, IN A CASE UNDER THIS SUBTITLE, A JUVENILE COURT SHALL APPOINT AN ATTORNEY TO REPRESENT A CHILD.

(2) UNLESS A JUVENILE COURT FINDS THAT IT IS NOT IN A CHILD'S BEST INTERESTS, THE JUVENILE COURT:

(I) IF THE ATTORNEY WHO CURRENTLY REPRESENTS THE CHILD IN A PENDING CINA CASE OR GUARDIANSHIP CASE IS UNDER CONTRACT WITH THE DEPARTMENT TO PROVIDE SERVICES UNDER THIS SUBSECTION, SHALL APPOINT THAT ATTORNEY; AND

(II) IF THE ATTORNEY WHO CURRENTLY REPRESENTS THE CHILD IS NOT UNDER CONTRACT WITH THE DEPARTMENT, SHALL STRIKE THE APPEARANCE OF THAT ATTORNEY.

(C) DUAL REPRESENTATION.

AN ATTORNEY OR FIRM MAY REPRESENT MORE THAN ONE PARTY IN A CASE UNDER THIS SUBTITLE ONLY IF THE MARYLAND RULES OF PROFESSIONAL CONDUCT ALLOW.

(D) COMPENSATION.

AN ATTORNEY APPOINTED UNDER THIS SECTION MAY BE COMPENSATED FOR REASONABLE FEES, AS APPROVED BY A JUVENILE COURT.

COMMITTEE NOTE: Subsection (a)(1) of this section is derived from former FL §§ 5-301(h) and 5-323 (a)(1)(ii) and (iii) and revised to apply only to guardianship or adoption before termination of parental rights. Subsection (a)(1) also is broadened by omitting the former word "natural", as the parental rights of a nonbiological - i.e., adoptive - parent can be