

13-709.

(f) (1) The hearing on a petition for an emergency order for protective services shall be held under the following conditions:

[(1)](I) The person shall be present unless he has knowingly and voluntarily waived the right to be present or cannot be present because of physical or mental incapacity. Waiver or incapacity may not be presumed from nonappearance but shall be determined on the basis of factual information supplied to the court by counsel or a representative appointed by the court.

[(2)](II) The person has the right to counsel whether or not he is present at the hearing. [If] SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, IF the person is indigent or lacks the capacity to waive counsel, the court shall appoint counsel. Where the person is indigent, the State shall pay reasonable attorney's fees.

[(3)](III) The person may present evidence and cross-examine witnesses. This hearing shall be held no earlier than 24 hours after the notice required in subsection (e) above has been given, unless such notice has been waived by the court.

(2) IN ANY ACTION IN WHICH PAYMENT FOR THE SERVICES OF A COURT-APPOINTED ATTORNEY FOR THE PERSON IS THE RESPONSIBILITY OF THE LOCAL DEPARTMENT OF SOCIAL SERVICES, UNLESS THE COURT FINDS ~~BY CLEAR AND CONVINCING EVIDENCE~~ THAT IT WOULD NOT BE IN THE BEST INTERESTS OF THE PERSON, THE COURT SHALL:

(I) APPOINT AN ATTORNEY WHO HAS CONTRACTED WITH THE DEPARTMENT OF HUMAN RESOURCES TO PROVIDE THOSE SERVICES, IN ACCORDANCE WITH THE TERMS OF THE CONTRACT; AND

(II) IN AN ACTION IN WHICH AN ATTORNEY HAS PREVIOUSLY BEEN APPOINTED, STRIKE THE APPEARANCE OF THE ATTORNEY PREVIOUSLY APPOINTED AND APPOINT THE ATTORNEY WHO IS CURRENTLY UNDER CONTRACT WITH THE DEPARTMENT OF HUMAN RESOURCES, IN ACCORDANCE WITH THE TERMS OF THE CONTRACT.

Article - Family Law

5-323.

(a) (1) [In] SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, IN a proceeding for an adoption or guardianship, unless the public defender is required to provide representation, the court shall appoint separate counsel to represent:

[(1)](I) the individual to be adopted, if the consent of the individual to be adopted is required and the individual has a disability that renders the individual incapable of consenting and otherwise effectively participating in the proceedings;

[(2)](II) a natural parent who has a disability that renders the natural parent incapable of consenting and effectively participating in the proceedings;

[(3)](III) a minor parent; and