

§ 35A-1116. Costs and fees.

(a) Costs. – Except as otherwise provided herein, costs shall be assessed as in special proceedings. Costs, including any reasonable fees and expenses of counsel, shall be taxed against any party or apportioned among the parties, in the discretion of the court. In exercising such discretion, the court shall tax costs incurred by any party against the respondent if the court finds that such costs were incurred for the benefit of the respondent, unless doing so would be inequitable. If the clerk finds that the petitioner did not have reasonable grounds to bring the proceeding, costs shall be taxed to the petitioner. In the event that the respondent is indigent, the costs shall be waived by the clerk if not taxed against a party other than the respondent as provided in this subsection or otherwise paid as provided in subsection (b) or (c) of this section.

(b) Multidisciplinary Evaluation. – The cost of a multidisciplinary evaluation order pursuant to G.S. 35A-1111 shall be assessed as follows:

- (1) If the respondent is adjudicated incompetent and is not indigent, the cost shall be assessed against the respondent;
- (2) If the respondent is adjudicated incompetent and is indigent, the cost shall be borne by the Department of Health and Human Services;
- (3) If the respondent is not adjudicated incompetent, the cost may be taxed against either party, apportioned among the parties, or borne by the Department of Health and Human Services, in the discretion of the court.

(c) Witness. – Witness fees shall be paid by:

- (1) The respondent, if the respondent is adjudicated incompetent and is not indigent;
- (2) The petitioner, if the respondent is not adjudicated incompetent and the clerk finds that there were not reasonable grounds to bring the proceeding;
- (2a) The petitioner for any of the petitioner's witnesses, and the respondent for any of the respondent's witnesses, when the clerk finds all of the following:
 - a. There were reasonable grounds to bring the proceeding.
 - b. The respondent was not adjudicated incompetent.
 - c. The respondent is not indigent.
- (3) The Administrative Office of the Courts for witness fees for the respondent, if the respondent is indigent.

(c1) Mediator. – Mediator fees and other costs associated with mediation shall be assessed in accordance with G.S. 7A-38.3B.

(c2) Guardian Ad Litem. – The fees of an appointed guardian ad litem shall be paid by:

- (1) The respondent, if:
 - a. The respondent is adjudicated incompetent; and
 - b. The respondent is not indigent.
- (2) The respondent, if:
 - a. The respondent is not adjudicated incompetent;
 - b. The clerk finds that there were reasonable grounds to bring the proceeding; and
 - c. The respondent is not indigent.
- (3) The petitioner, if:
 - a. The respondent is not adjudicated incompetent; and
 - b. The clerk finds that there were not reasonable grounds to bring the proceedings.
- (4) The Office of Indigent Defense Services in all other cases.

(d) The provisions of this section shall also apply to all parties to any proceedings under this Chapter, including a guardian who has been removed from office and the sureties on the

guardian's bond. (1987, c. 550, s. 1; 1989, c. 473, s. 15; 1995, c. 235, s. 9; 1997-443, s. 11A.118(a); 2005-67, s. 3; 2009-387, s. 1; 2023-124, s. 7.6.)