

IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE

FILED

05/21/2021

Clerk of the
Appellate Courts

**IN RE: PETITION TO MODIFY TENNESSEE SUPREME COURT RULE
13, SECTION 5(a)(1) and (5)(d)(1)**

No. ADM2021-00237

ORDER

On March 2, 2021, Choosing Justice Initiative, Tennessee Association of Criminal Defense Lawyers, and Tennessee Post-Conviction Defender Organization (collectively the “Petitioners”) filed a petition asking the Court to modify Tennessee Supreme Court Rule 13, sections 5(a)(1) and 5(d)(1). On March 22, 2021, the Court filed an order asking Petitioners to submit a supplemental filing setting forth the specific suggested modifications to the language of Rule 13 that it urged this Court to adopt. The Petitioners filed a supplemental filing on May 18, 2021. The Petitioners’ proposed amendments are set out in the attached Appendix to this Order.

The Court hereby publishes the proposed amendments for public comment and solicits written comments from the bench, the bar, and the public. The deadline for submitting written comments is Thursday, August 19, 2021. Written comments may either be submitted by email to appellatecourtclerk@tncourts.gov or by mail addressed to:

James Hivner, Clerk
Re: Tenn. Sup. Ct. R. 13, 5(a)(1) and 5(d)(1)
100 Supreme Court Building
401 Seventh Avenue North
Nashville, TN 37219-1407

and should reference the docket number set out above.

The Clerk shall provide a copy of this Order to LexisNexis and to Thomson Reuters. In addition, this Order shall be posted to the Tennessee Supreme Court’s website.

IT IS SO ORDERED.

PER CURIAM

APPENDIX

**Choosing Justice Initiative, Tennessee Association of Criminal Defense Lawyers, and
Tennessee Post-Conviction Defender Organization’s
Proposed Amendments to Tenn. Sup. Ct. R. 13, 5(a)(1) and 5(d)(1)**

(proposed amended text is indicated by underline
proposed deleted text is indicated by ~~striketrough~~)

(NOTE: provisions of the existing rule that are omitted below
will be retained in their current form)

1 **Section 5. Experts, investigators, and other support services.**

2 (a)(1) In ~~the trial and direct appeal of all criminal cases~~ all critical stages of a criminal
3 prosecution that occur after initiation of adversarial proceedings and prior to a final
4 judgment of conviction in which the defendant is entitled to appointed counsel, in the trial
5 and direct appeal of termination of parental rights, juvenile delinquency, and juvenile
6 transfer hearings, and in the trial and appeals of post-conviction proceedings in capital
7 cases involved indigent petitioners, the presiding court, in an *ex parte* hearing, may in its
8 discretion determine that investigative or expert services or other similar services are
9 necessary to ensure that the constitutional rights of the ~~defendant~~ relevant party are
10 properly protected. If such determination is made, the court may grant prior authorization
11 for these necessary services in a reasonable amount to be determined by the court. The
12 authorization shall be evidenced by a signed order of the court. The order shall provide for
13 the payment or reimbursement of reasonable and necessary expenses by the director. *See*
14 *Tenn. Code Ann. § 40-14-207(b); State v. Barnett*, 909 S.W.2d 423 (Tenn. 1995); *Owens*
15 *v. State*, 908 S.W.2d 923 (Tenn. 1995).

16 (d)(1) The director and/or the chief justice shall maintain uniformity as to the rates paid
17 individuals or entities for services provided to indigent parties. Appointed counsel shall
18 make every effort to obtain individuals or entities who are willing to provide services at an
19 hourly rate less than the maximum. Although not an exclusive listing, compensation for
20 individuals or entities providing the following services shall not exceed the following
21 maximum hourly rates, unless in its sound discretion the presiding court determines that
22 extraordinary circumstances exist that have been proven by clear and convincing evidence:

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(A) Accident Reconstruction	\$ 115.00
(B) Medical Services/Doctors	\$ 250.00
(C) Psychiatrists	\$ 250.00
(D) Psychologists	\$ 150.00
(E) Investigators (Guilt/Sentencing)	\$ 50.00
(F) Mitigation Specialist	\$ 65.00
(G) DNA Expert	\$ 200.00
(H) Forensic Anthropologist	\$ 125.00
(I) Ballistics Expert	\$ 75.00
(J) Fingerprint Expert	\$ 75.00
(K) Handwriting Expert	\$ 75.00

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[end of Appendix]