



THE ATTORNEY GENERAL OF TEXAS

AUSTIN, TEXAS 78711

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August 1, 1974

The Honorable Raymond W. Vowell
Department of Public Welfare
John H. Reagan Building
Austin, Texas 78701

Opinion No. H- 362

Re: Authority of court
to assess as costs
the fees for social
study. Secs. 11.12,
Family Code, Title II

Dear Commissioner Vowell:

You have asked our opinion as to the authority of a court, having ordered a social study in an adoption case, to impose the cost of the study in court costs. Similar questions arise in divorce cases where custody is in dispute.

Both Section 2 of Article 46(a), V. T. C. S., the former adoption statute, and Section 11.12 (its corresponding section) in the Family Code, authorize the court, upon the filing of a petition for adoption of a minor to order an investigation or, as it is called in the Family Code, a social study. Neither makes any provision for its cost.

Section 11.12 perhaps is broader than Sec. 2 of Article 46(a) in that it applies to all suits affecting the parent-child relationship.

In Attorney General Opinion WW-1372 (1962) this office was asked whether a district judge can assess an investigator's fees as court costs under the older statute. The Opinion concluded:

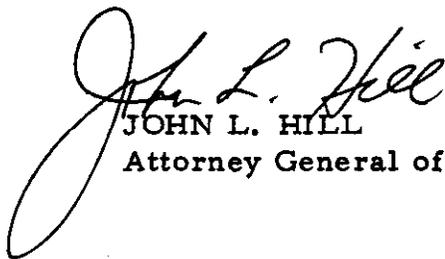
Therefore it is our opinion, . . . that a district judge who entertains an adoption petition, has the discretion to fix the amount of the compensation to be taxed as cost, to be paid to the investigator and, since there is no statute expressly authorizing an investigator's fee in this instance, the allowance of such fee arises by implication, and consequently, only reasonable fees should be allowed.

We are of the opinion that that conclusion is equally applicable to the social study called for by Section 11.12 of the Family Code.

S U M M A R Y

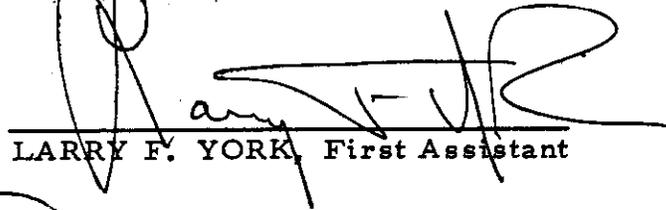
A district judge may assess as court costs reasonable investigator's fee for the social study called for by Section 11.12 of the Texas Family Code.

Very truly yours,

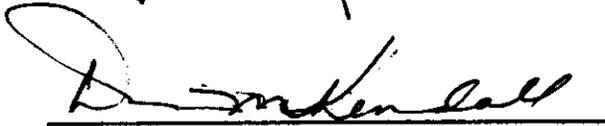


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APPROVED:



LARRY F. YORK, First Assistant



DAVID M. KENDALL, Chairman
Opinion Committee