

CHAPTER 113

COUNTY ATTORNEY DUTIES AND JUVENILE COURT ACTIONS

H.F. 119

AN ACT relating to county attorney duties when representing the department of human services in juvenile court.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 232.71C, subsection 1, Code 2013, is amended to read as follows:

1. If, upon completion of an assessment performed under section 232.71B, the department determines that the best interests of the child require juvenile court action, the department shall act appropriately to initiate the action. If at any time during the assessment process the department believes court action is necessary to safeguard a child, the department shall act appropriately to initiate the action. The county attorney shall assist the department as ~~provided under section 232.90, subsection 2.~~

Sec. 2. Section 232.90, Code 2013, is amended to read as follows:

232.90 Duties of county attorney.

1. As used in this section, “state” means the general interest held by the people in the health, safety, welfare, and protection of all children living in this state.

~~1. 2.~~ The county attorney shall represent the state in proceedings arising from a petition filed under this division and shall present evidence in support of the petition. The county attorney shall be present at proceedings initiated by petition under this division filed by an intake officer or the county attorney, or if a party to the proceedings contests the proceedings, or if the court determines there is a conflict of interest between the child and the child’s parent, guardian, or custodian or if there are contested issues before the court.

~~2. 3.~~ ~~The county attorney shall represent the department in proceedings arising under this division. However, if~~ If there is disagreement between the department and the county attorney regarding the appropriate action to be taken, the department may request ~~to~~ that the state be represented by the attorney general in place of the county attorney. If the state is represented by the attorney general, the county attorney may continue to appear in the proceeding and may present the position of the county attorney regarding the appropriate action to be taken in the case.

4. The county attorney shall comply with the requirements of chapter 232B and the federal Indian Child Welfare Act, Pub. L. No. 95-608, when either chapter 232B or the federal Indian Child Welfare Act is determined to be applicable in any proceeding under this division.

Sec. 3. Section 232.114, Code 2013, is amended to read as follows:

232.114 Duties of county attorney.

1. As used in this section, “state” means the general interest held by the people in the health, safety, welfare, and protection of all children living in this state.

~~1. 2.~~ Upon the filing of a petition the county attorney shall represent the state in all adversary proceedings arising under this division and shall present evidence in support of the petition.

~~2. 3.~~ ~~The county attorney shall represent the department in proceedings arising under this division. However, if~~ If there is disagreement between the department and the county attorney regarding the appropriate action to be taken, the department may request ~~to~~ that the state be represented by the attorney general in place of the county attorney. If the state is represented by the attorney general, the county attorney may continue to appear in the proceeding and may present the position of the county attorney regarding the appropriate action to be taken in the case.

4. The county attorney shall comply with the requirements of chapter 232B and the federal Indian Child Welfare Act, Pub. L. No. 95-608, when either chapter 232B or the federal Indian Child Welfare Act is determined to be applicable in any proceeding under this division.

Approved May 24, 2013