



[HF 2474](#) – Guardians Ad Litem (LSB5926HV.1)
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Fiscal Note Version – As amended and passed by the House

Description

[House File 2474](#) provides the following:

- A local public defender office or designee is to represent in a subsequent adoption proceeding any party, instead of only an indigent party, who files a petition to adopt a child who was the subject of a termination of parental rights (TPR) proceeding in which the local public defender office was involved.
- In adoption proceedings to adopt a child who was the subject of a TPR proceeding in which the local public defender office was involved, a local public defender office or designee is to serve as the guardian ad litem for the child.
- The Department of Human Services (DHS) is to provide a certified copy of a birth certificate to the person adopting a child when the DHS is the guardian of the child.
- For an adoption hearing of an adult, the adoption petitioner is to provide a copy of the petition and its attachments and a notice of the adoption hearing to the person who is to be adopted and to any other person who is required to consent to the adoption.

Background

Under current law, a local public defender office represents in a subsequent adoption proceeding an indigent party who files an adoption petition to adopt a child who was the subject of a TPR proceeding in which the local public defender was involved. If a conflict of interest arises, the representation is to be provided through referral of the indigent party to outside counsel with whom the State Public Defender has contracted.

Under current law, a local public defender office serves as the guardian ad litem for each child in all cases in which a local public defender office is the State Public Defender’s designee. The local public defender is responsible for determining who will serve as guardian ad litem and for ensuring that the duties are fulfilled.

Iowa Code section [600.11](#) currently provides that for an adoption hearing, regardless of the age of the person to be adopted, the adoption petitioner is to provide a copy of the petition and its attachments and a notice of the adoption hearing to the following:

- A guardian, guardian ad litem if appointed, and custodian of, and a person in a parent-child relationship with the person to be adopted.
- The person to be adopted who is an adult.
- Any person who is designated to make an investigation and report under Iowa Code section [600.8](#).
- Any other person who is required to consent to the adoption.
- A person who has been granted visitation rights with the child to be adopted.
- A person who is ordered to pay support or a postsecondary education subsidy for a person 18 years of age or older who is being adopted by a stepparent in certain circumstances.

The Office of the State Public Defender receives federal IV-E reimbursement for providing legal representation to children and parents in foster care legal proceedings. The total estimated IV-E reimbursement to the State Public Defender for FY 2022 is \$3.7 million.

Assumptions

- All proceedings under this Bill requiring a local public defender office to represent a party will be assigned to court-appointed attorneys.
- There are approximately 1,200 TPR proceedings each year.
- Approximately 50.0% of TPR proceedings will result in an adoption.
- The State Public Defender will provide representation in approximately 600 adoption proceedings each year to adopt a child who was the subject of a TPR proceeding.
- The State Public Defender will provide an attorney for the petitioners and another attorney as the guardian ad litem for the child.
- The total number of attorney hours per proceeding in an adoption will range between 5 and 10 hours.
- Each adoption case will be billed by contract attorneys at an hourly rate of \$66.
- The DHS reports that this Bill could result in savings under the Iowa State Adoption Assistance Program due to not reimbursing legal fees for petitioners who choose the Office of the State Public Defender for legal representation instead of private legal representation.
- The DHS reimburses adoptive parents of special needs children for up to \$500 per adoption case for attorney fees, adoption fees, and court costs.

Fiscal Impact

As shown in **Table 1** below, the annual estimated fiscal impact of this Bill to the Office of the State Public Defender is between \$198,000 and \$396,000. This includes attorneys both to represent the petitioner and to serve as the guardian ad litem for the child for all adoptions resulting from a TPR proceeding in which a local public defender office was involved. The fiscal impact will be to the Indigent Defense Fund, which is funded through the General Fund.

Table 1 — Estimated Annual Cost to Indigent Defense Fund

| Number of TPR Proceedings Resulting in an Adoption | Number of Attorney Hours Per Case | Attorney Hourly Rate | Total Cost Per Year |
|---|--|-----------------------------|----------------------------|
| 600 | 5 to 10 | \$66 | \$198,000 to \$396,000 |

Additionally, the DHS reports that this Bill could result in savings of up to \$500 per adoption case for special needs children in which the petitioner chooses to be represented by the Office of the State Public Defender rather than by private legal representation. The average annual spending on legal fees within the Adoption Assistance appropriation is \$550,000, of which \$275,000 of this total is the State share. The amount of potential savings to the DHS is unknown.

Sources

Office of the State Public Defender
 Department of Human Services
 Legislative Services Agency

/s/ Holly M. Lyons

April 5, 2022

The fiscal note for this Bill was prepared pursuant to [Joint Rule 17](#) and the Iowa Code. Data used in developing this fiscal note is available from the Fiscal Services Division of the Legislative Services Agency upon request.

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