

MAR 13 1987

Place On Calendar

HOUSE FILE 515

BY COMMITTEE ON JUDICIARY AND  
LAW ENFORCEMENT

*Sub. for S.F. 444*  
(Formerly House Study Bill 204)

Passed <sup>House</sup> Senate, Date 3-23-87 (p. 726) Passed <sup>Senate</sup> House, Date 4/30/87 (p. 1635)

Vote: Ayes 69 Nays 27 Vote: Ayes 43 Nays 1

Approved May 13, 1987

**A BILL FOR**

1 An Act relating to the appointment of court appointed special  
2 advocates, and providing an effective date.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 515

1 Section 1. Section 232.2, Code 1987, is amended by adding  
2 the following new subsection:

3 NEW SUBSECTION. 9A. "Court appointed special advocate"  
4 means a person duly certified by the judicial department for  
5 participation in the court appointed special advocate program  
6 and appointed by the court to represent the interests of a  
7 child in any judicial proceeding to which the child is a party  
8 or is called as a witness or relating to any dispositional  
9 order involving the child resulting from such proceeding.

10 Sec. 2. Section 232.2, subsection 20, Code 1987, is  
11 amended to read as follows:

12 20. "Guardian ad litem" means a person appointed by the  
13 court to represent the interests of the a child in any  
14 judicial proceeding to which the child is a party, and  
15 includes a court appointed special advocate, except that a  
16 court appointed special advocate shall not file motions  
17 pursuant to section 232.54, subsections 1 and 4, and section  
18 232.103, subsection 2, paragraph "c".

19 Sec. 3. Section 232.13, Code 1987, is amended by striking  
20 the section and inserting in lieu thereof the following:

21 232.13 STATE LIABILITY.

22 1. For purposes of chapter 25A, the following persons  
23 shall be considered state employees:

24 a. A child given a work assignment of value to the state  
25 or the public under this chapter.

26 b. A court appointed special advocate.

27 2. The state of Iowa is exclusively liable for and shall  
28 pay any compensation becoming due a person under section  
29 85.59.

30 Sec. 4. Section 232.89, Code 1987, is amended by adding  
31 the following new subsection:

32 NEW SUBSECTION. 5. The court may appoint a special  
33 advocate, as defined in section 232.2, subsection 9A, to act  
34 as guardian ad litem. The court appointed special advocate  
35 shall receive notice of and may attend all depositions,

1 hearings, and trial proceedings to support the child and  
2 advocate for the protection of the child. The court appointed  
3 special advocate shall not be allowed to separately introduce  
4 evidence or to directly examine or cross-examine witnesses.  
5 However, the court appointed special advocate shall file  
6 reports to the court as required by the court.

7 Sec. 5. Section 232.126, Code 1987, is amended by adding  
8 the following new unnumbered paragraph:

9 NEW UNNUMBERED PARAGRAPH. The court may appoint a special  
10 advocate, as defined in section 232.2, subsection 9A, to act  
11 as guardian ad litem. The court appointed special advocate  
12 shall receive notice of and may attend all depositions,  
13 hearings, and trial proceedings to support the child and  
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15 special advocate shall not be allowed to separately introduce  
16 evidence or to directly examine or cross-examine witnesses.  
17 However, the court appointed special advocate shall file  
18 reports to the court as required by the court.

19 Sec. 6. Section 910A.15, Code 1987, is amended to read as  
20 follows:

21 910A.15 GUARDIAN AD LITEM FOR PROSECUTING WITNESSES.

22 A prosecuting witness who is a child, as defined in section  
23 702.5, in a case involving a violation of chapter 709 or  
24 section 726.2, 726.3, 726.6, or 728.12, is entitled to have  
25 the witness' interests represented by a guardian ad litem at  
26 all stages of the proceedings arising from such violation.  
27 The guardian ad litem may but need not be a practicing  
28 attorney and shall be designated by the court after due  
29 consideration is given to the desires and needs of the child  
30 and the compatibility of the child and the child's interests  
31 with the prospective guardian ad litem. However, a person who  
32 is also a prosecuting witness in the same proceeding shall not  
33 be designated guardian ad litem. The guardian ad litem shall  
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1 protection of the child but shall not be allowed to separately  
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3 witnesses. However, the guardian ad litem shall file reports  
4 to the court as required by the court.

5 References in this section to a guardian ad litem shall be  
6 interpreted to include references to a court appointed special  
7 advocate as defined in section 232.2, subsection 9A.

8 Sec. 7. This Act, being deemed of immediate importance,  
9 takes effect ten days after the date of enactment.

10 EXPLANATION

11 This bill provides a statutory basis for the present court  
12 appointed special advocate program within the judicial  
13 department. Section 1 provides a statutory definition for a  
14 court appointed special advocate.

15 Section 2 amends the definition of a guardian ad litem to  
16 include the special advocate except for the filing of motions  
17 in CINA proceedings.

18 Section 3 provides that court appointed special advocates  
19 are considered state employees for purposes of liability.

20 Section 4 authorizes the juvenile court to appoint a court  
21 appointed special advocate to act as guardian ad litem.

22 Section 5 authorizes the same appointment in FINA proceedings.

23 Section 6 includes court appointed special advocates within  
24 the provisions of the victim and witness protection Act.

25 Section 7 provides for an effective date for the Act of ten  
26 days following the date of its enactment.

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SENATE/HOUSE FILE \_\_\_\_\_  
BY (PREFILED JUDICIAL  
DEPARTMENT BILL)

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

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**SUB COMMITTEE ASSIGNMENTS**  
CHAIR: *McKinney*  
COMMITTEE: *Judiciary*  
*3/3/87*

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HOUSE FILE 515

AN ACT

RELATING TO THE APPOINTMENT OF COURT APPOINTED SPECIAL  
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BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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DONALD D. AVENSON  
Speaker of the House

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JO ANN ZIMMERMAN  
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 515, Seventy-second General Assembly.

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JOSEPH O'HERN  
Chief Clerk of the House

Approved May 13, 1987

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TERRY E. BRANSTAD  
Governor