

Maddox
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SSB-1092
Judiciary

SENATE/HOUSE FILE SF/HF 193
BY (PROPOSED JUDICIAL
BRANCH BILL)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the duties of a guardian ad litem appointed to
2 represent a child in juvenile court proceedings.

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

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SECTION 232.2

1 Section 232.2, subsection 22, Code 1999, is
2 amended to read as follows:

3 22. a. "Guardian ad litem" means a person appointed by
4 the court to represent the interests of a child in any
5 judicial proceeding to which the child is a party, and
6 includes a court appointed special advocate, except that a
7 court appointed special advocate shall not file motions or
8 petitions pursuant to section 232.54, subsections 1 and 4,
9 section 232.103, subsection 2, paragraph "c", and section
10 232.111.

11 b. Unless otherwise enlarged or circumscribed by a court
12 or juvenile court having jurisdiction over the child or by
13 operation of law, the duties of a guardian ad litem with
14 respect to a child shall include the following:

15 a- (1) Conducting in-person interviews with the child, if
16 the child's age is appropriate for the interview, and
17 interviewing each parent, guardian, or other person having
18 custody of the child, if authorized by counsel.

19 b- (2) Conducting interviews with the child, if the
20 child's age is appropriate for the interview, prior to any
21 court-ordered hearing.

22 (3) Visiting the home, residence, or both home and
23 residence of the child and any prospective home or residence
24 of the child, including each time placement is changed.

25 c- (4) Interviewing any person providing medical, mental
26 health, social, educational, or other services to the child,
27 before any hearing referred to in subparagraph (2).

28 d- (5) Obtaining first-hand knowledge, if possible, of the
29 facts, circumstances, and parties involved in the matter in
30 which the person is appointed guardian ad litem.

31 e- (6) Attending any hearings in the matter in which the
32 person is appointed as the guardian ad litem.

33 (7) Attending, if necessary, any departmental staff
34 meeting or case conference regarding the child, and if
35 necessary, any meeting with medical or mental health

1 providers, service providers, organizations, or educational
2 institutions.

3 c. The order appointing the guardian ad litem shall
4 specify the duties of and grant authorization to the guardian
5 ad litem to interview any relevant person and inspect and copy
6 any records relevant to the proceedings, if not prohibited by
7 federal law. The order shall specify that the guardian ad
8 litem may interview any person providing medical, mental
9 health, social, educational, or other services to the child,
10 and may inspect and copy any records relevant to the
11 proceedings.

12 EXPLANATION

13 This bill makes changes in the duties applicable to a
14 guardian ad litem appointed to represent a child's interest in
15 juvenile court.

16 The bill includes within the duties of a guardian ad litem
17 interviewing the child's parents, if the interview is
18 authorized by the parents' counsel. Existing law does not
19 require the guardian ad litem to first obtain authorization
20 from the parents' counsel to conduct the interview.

21 Under the bill, the guardian ad litem is not required to
22 interview the child, if it is determined that the child is not
23 of an age appropriate for the interview. Current law requires
24 the guardian ad litem to interview the child with out regard
25 to age.

26 If a child is placed outside the home, the bill includes
27 within the duties of the guardian ad litem visitation of each
28 new placement ordered by the court.

29 In addition, the bill includes within the duties of the
30 guardian ad litem attendance at any meeting held by the
31 department of human services, educational institutions,
32 service providers, or health care providers which are
33 important to the child's case.

34 Under the bill, the court is required to list the guardian
35 ad litem's duties in the order appointing the guardian ad

1 litem. The bill further provides that the order appointing
2 the guardian ad litem shall also direct that the guardian ad
3 litem is to have access to any relevant information in the
4 child's case.

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MEMORANDUM

TO: MEMBERS OF THE GENERAL ASSEMBLY
FROM: IOWA JUDICIAL BRANCH
DATE: FEBRUARY 3, 1999
RE: TLSB 1283DP

This bill is offered by the Judicial Branch on behalf of the Supreme Court Select Committee to Review State Court Practices in Child Welfare matters. Established in 1995, this committee is charged with assessing court performance in abuse, neglect, and foster care litigation; developing a plan to improve the administration of justice in foster care cases; and implementing a plan for improvement. As part of its review, the committee found practice standards for guardians ad litem vary substantially from jurisdiction to jurisdiction around the state. The purpose of this proposed legislation is to provide more specificity and uniformity in the duties of a guardian ad litem. This legislation will be helpful both to the guardian ad litem as well as the children whom they represent.

If you have questions, please contact David Boyd at 281-5241.

Substitutes for HF 515

H. 3/1/99 Judiciary

4/5/99

(P. 1028)

FILED FEB 22 1999

SENATE FILE 193
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 1092)

Passed Senate, ^(P. 393) Date 2/24/99 Passed House, ^(P. 1028) Date 4/5/99
Vote: Ayes 48 Nays 0 Vote: Ayes 99 Nays 0
Approved May 24, 1999

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SF 193

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2 amended to read as follows:

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4 the court to represent the interests of a child in any
5 judicial proceeding to which the child is a party, and
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8 petitions pursuant to section 232.54, subsections 1 and 4,
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12 or juvenile court having jurisdiction over the child or by
13 operation of law, the duties of a guardian ad litem with
14 respect to a child shall include the following:

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17 interviewing each parent, guardian, or other person having
18 custody of the child, if authorized by counsel.

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20 child's age is appropriate for the interview, prior to any
21 court-ordered hearing.

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23 residence of the child and any prospective home or residence
24 of the child, including each time placement is changed.

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26 health, social, educational, or other services to the child,
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28 d- (5) Obtaining first-hand knowledge, if possible, of the
29 facts, circumstances, and parties involved in the matter in
30 which the person is appointed guardian ad litem.

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33 (7) Attending, if necessary, any departmental staff
34 meeting or case conference regarding the child, and if
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3 c. The order appointing the guardian ad litem shall
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AN ACT

RELATING TO THE DUTIES OF A GUARDIAN AD LITEM APPOINTED TO REPRESENT A CHILD IN JUVENILE COURT PROCEEDINGS.

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

Section 1. Section 232.2, subsection 22, Code 1999, is amended to read as follows:

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section 232.103, subsection 2, paragraph "c", and section 232.111.

b. Unless otherwise enlarged or circumscribed by a court or juvenile court having jurisdiction over the child or by operation of law, the duties of a guardian ad litem with respect to a child shall include the following:

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b- (2) Conducting interviews with the child, if the child's age is appropriate for the interview, prior to any court-ordered hearing.

(3) Visiting the home, residence, or both home and residence of the child and any prospective home or residence of the child, including each time placement is changed.

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d- (5) Obtaining first-hand knowledge, if possible, of the facts, circumstances, and parties involved in the matter in which the person is appointed guardian ad litem.

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(7) Attending, if necessary, any departmental staff meeting or case conference regarding the child, and if necessary, any meeting with medical or mental health providers, service providers, organizations, or educational institutions.

c. The order appointing the guardian ad litem shall specify the duties of and grant authorization to the guardian ad litem to interview any relevant person and inspect and copy any records relevant to the proceedings, if not prohibited by federal law. The order shall specify that the guardian ad

Senate File 193, p. 3

litem may interview any person providing medical, mental health, social, educational, or other services to the child, and may inspect and copy any records relevant to the proceedings.

MARY E. KRAMER
President of the Senate

RON J. CORBETT
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 193, Seventy-eighth General Assembly.

MICHAEL E. MARSHALL
Secretary of the Senate

Approved May 24, 1999

THOMAS J. VILSACK
Governor