

**House File 361 - Introduced**

HOUSE FILE 361  
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HSB 19)

(COMPANION TO SF 180 BY  
COMMITTEE ON JUDICIARY)

**A BILL FOR**

1 An Act relating to the appointment of a guardian ad litem, a  
2 child custody investigator or child and family reporter,  
3 or an attorney for certain child custody and visitation  
4 matters, and a guardian ad litem for certain child  
5 prosecution witnesses.  
6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 600B.40, Code 2021, is amended by adding  
2 the following new subsection:

3 NEW SUBSECTION. 4. The court may order the appointment of  
4 a guardian ad litem or attorney for a child, a child custody  
5 investigator, or a child and family reporter consistent with  
6 the provisions of sections 598.12, 598.12A, and 598.12B.

7 Sec. 2. Section 915.37, subsection 1, Code 2021, is amended  
8 to read as follows:

9 1. a. A prosecuting witness who is a child, ~~as defined~~  
10 ~~in section 702.5,~~ in a case involving a violation of chapter  
11 709 or 710A, or section 726.2, 726.3, 726.6, or 728.12, is  
12 entitled to have the witness's interests represented by a  
13 guardian ad litem at all stages of the proceedings arising from  
14 such violation. The guardian ad litem shall be a practicing  
15 attorney and shall be designated by the court after due  
16 consideration is given to the desires and needs of the child  
17 and the compatibility of the child and the child's interests  
18 with the prospective guardian ad litem. If a guardian ad litem  
19 has previously been appointed for the child in a proceeding  
20 under chapter 232 or a proceeding in which the juvenile court  
21 has waived jurisdiction under section 232.45, the court shall  
22 appoint the same guardian ad litem under this section. The  
23 guardian ad litem shall receive notice of and may attend  
24 all depositions, hearings, and trial proceedings to support  
25 the child and advocate for the protection of the child but  
26 shall not be allowed to separately introduce evidence or to  
27 directly examine or cross-examine witnesses. However, the  
28 guardian ad litem shall file reports to the court as required  
29 by the court. ~~If a prosecuting witness is fourteen, fifteen,~~  
30 ~~sixteen, or seventeen years of age, and would be entitled to~~  
31 ~~the appointment of a guardian ad litem if the prosecuting~~  
32 ~~witness were a child, the court may appoint a guardian ad litem~~  
33 ~~if the requirements for guardians ad litem in this section are~~  
34 ~~met, and the guardian ad litem agrees to participate without~~  
35 ~~compensation.~~

1 b. For purposes of this subsection, "child" means a person  
2 under eighteen years of age.

3 EXPLANATION

4 The inclusion of this explanation does not constitute agreement with  
5 the explanation's substance by the members of the general assembly.

6 This bill relates to the appointment of a guardian ad litem,  
7 a child custody investigator or child and family reporter,  
8 or an attorney for certain child custody and visitation  
9 matters, and a guardian ad litem for certain child prosecution  
10 witnesses.

11 The bill provides that a court may order the appointment of  
12 a guardian ad litem or attorney for a child, a child custody  
13 investigator, or a child and family reporter in certain child  
14 custody and visitation matters.

15 Under current law, in a case involving sexual abuse, human  
16 trafficking, incest, neglect or abandonment of a dependent  
17 person, child endangerment, or sexual exploitation of a minor,  
18 a prosecuting witness who is a child (under the age of 14  
19 years) is entitled to have the witness's interests represented  
20 by a guardian ad litem at all stages of the proceedings in  
21 such cases. If a prosecuting witness is 14, 15, 16, or 17  
22 years of age and would be entitled to the appointment of a  
23 guardian ad litem if the prosecuting witness was under the  
24 age of 14, a court may appoint a guardian ad litem for such a  
25 prosecuting witness if the requirements for the appointment of  
26 the guardian ad litem are met and the guardian ad litem agrees  
27 to participate without compensation. The bill strikes the  
28 latter provision and provides that a prosecuting witness who  
29 is a child under the age of 18 years in a case involving sexual  
30 abuse, human trafficking, incest, neglect or abandonment of a  
31 dependent person, child endangerment, or sexual exploitation of  
32 a minor is entitled to have the witness's interests represented  
33 by a guardian ad litem at all stages of the proceedings in such  
34 cases.