

Senate Study Bill 1008 - Introduced

SENATE FILE _____
BY (PROPOSED COMMITTEE
ON JUDICIARY BILL BY
CHAIRPERSON ZAUN)

A BILL FOR

1 An Act relating to the appointment of a guardian ad litem for
2 certain child prosecution witnesses.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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

3 1. a. A prosecuting witness who is a child, ~~as defined~~
4 ~~in section 702.5,~~ in a case involving a violation of chapter
5 709 or 710A, or section 726.2, 726.3, 726.6, or 728.12, is
6 entitled to have the witness's interests represented by a
7 guardian ad litem at all stages of the proceedings arising from
8 such violation. The guardian ad litem shall be a practicing
9 attorney and shall be designated by the court after due
10 consideration is given to the desires and needs of the child
11 and the compatibility of the child and the child's interests
12 with the prospective guardian ad litem. If a guardian ad litem
13 has previously been appointed for the child in a proceeding
14 under chapter 232 or a proceeding in which the juvenile court
15 has waived jurisdiction under section 232.45, the court shall
16 appoint the same guardian ad litem under this section. The
17 guardian ad litem shall receive notice of and may attend
18 all depositions, hearings, and trial proceedings to support
19 the child and advocate for the protection of the child but
20 shall not be allowed to separately introduce evidence or to
21 directly examine or cross-examine witnesses. However, the
22 guardian ad litem shall file reports to the court as required
23 by the court. ~~If a prosecuting witness is fourteen, fifteen,~~
24 ~~sixteen, or seventeen years of age, and would be entitled to~~
25 ~~the appointment of a guardian ad litem if the prosecuting~~
26 ~~witness were a child, the court may appoint a guardian ad litem~~
27 ~~if the requirements for guardians ad litem in this section are~~
28 ~~met, and the guardian ad litem agrees to participate without~~
29 ~~compensation.~~

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

32 EXPLANATION

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

35 Under current law, in a case involving sexual abuse, human

1 trafficking, incest, neglect or abandonment of a dependent
2 person, child endangerment, or sexual exploitation of a minor,
3 a prosecuting witness who is a child (under the age of 14
4 years) is entitled to have the witness's interests represented
5 by a guardian ad litem at all stages of the proceedings in
6 such cases. If a prosecuting witness is 14, 15, 16, or 17
7 years of age and would be entitled to the appointment of a
8 guardian ad litem if the prosecuting witness was under the
9 age of 14, a court may appoint a guardian ad litem for such a
10 prosecuting witness if the requirements for the appointment of
11 the guardian ad litem are met and the guardian ad litem agrees
12 to participate without compensation. The bill strikes the
13 latter provision and provides that a prosecuting witness who
14 is a child under the age of 18 years in a case involving sexual
15 abuse, human trafficking, incest, neglect or abandonment of a
16 dependent person, child endangerment, or sexual exploitation of
17 a minor is entitled to have the witness's interests represented
18 by a guardian ad litem at all stages of the proceedings in such
19 cases.