

House File 2459 - Introduced

HOUSE FILE 2459
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HF 2095)

A BILL FOR

1 An Act relating to representation by a local public defender of
2 certain parties to an adoption.

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

1 Section 1. Section 13B.9, subsection 1, Code 2024, is
2 amended to read as follows:

3 1. The local public defender shall do all of the following:

4 a. Represent an indigent person who is under arrest
5 or charged with a crime if the indigent person requests
6 representation or the court orders representation when the type
7 of case, the county, and the court have been designated for
8 such representation by the state public defender. The local
9 public defender shall counsel and defend an indigent defendant
10 at every stage of the criminal proceedings and prosecute
11 before or after conviction any appeals or other remedies which
12 the local public defender considers to be in the interest of
13 justice unless other counsel is appointed to the case.

14 b. (1) Represent an indigent party, upon order of the
15 court, in child in need of assistance, family in need of
16 assistance, delinquency, and termination of parental rights
17 proceedings pursuant to [chapter 232](#) when designated by the
18 state public defender to represent the indigent party in the
19 type of case for that county. The local public defender shall
20 counsel and represent an indigent party in all proceedings
21 pursuant to [chapter 232](#) to which the local public defender is
22 appointed and prosecute before or after judgment any appeals or
23 other remedies which the local public defender considers to be
24 in the interest of justice unless other counsel is appointed
25 to the case.

26 (2) A local public defender office or designee shall
27 represent in a subsequent adoption proceeding a party including
28 a nonindigent party who files an adoption petition pursuant
29 to [section 600.3](#) to adopt a child who was the subject of a
30 termination of parental rights proceeding pursuant to chapter
31 232 in which the local public defender office was involved
32 as provided under this paragraph. If a conflict of interest
33 arises, the representation shall be provided through referral
34 of the party to outside counsel with whom the state public
35 defender has contracted, subject to the fees for legal services

1 incorporated in the contract.

2 (3) A local public defender office or designee shall
3 represent a party in an adoption proceeding, if requested by
4 the party, including a nonindigent party whose family income
5 does not exceed three hundred percent of the federal poverty
6 level as defined by the most recently revised poverty income
7 guidelines published by the United States department of health
8 and human services, who files an adoption petition pursuant
9 to section 600.3 to adopt a child who was the subject of a
10 termination of parental rights proceeding pursuant to chapter
11 600A, whether or not the local public defender office was
12 involved in the termination of parental rights proceeding. If
13 a conflict of interest arises, the representation shall be
14 provided through referral of the party to outside counsel with
15 whom the state public defender has contracted, subject to the
16 fees for legal services incorporated in the contract.

17 c. (1) Serve as guardian ad litem for each child in all
18 cases in which the local public defender office is the state
19 public defender's designee. The local public defender shall
20 be responsible for determining who shall perform the duties of
21 the guardian ad litem as defined in section 232.2 and shall
22 be responsible for assuring the court that the duties of the
23 guardian ad litem have been fulfilled.

24 (2) A local public defender office or designee shall serve
25 as guardian ad litem for each child in a subsequent adoption
26 proceeding pursuant to section 600.3 to adopt a child who was
27 the subject of a termination of parental rights proceeding
28 pursuant to chapter 232 in which the local public defender
29 office was involved as provided under this paragraph "b",
30 subparagraph (2), or for a child in a subsequent adoption
31 proceeding pursuant to section 600.3 to adopt a child who was
32 the subject of a termination of parental rights proceeding
33 pursuant to chapter 600A, as provided under paragraph "b",
34 subparagraph (3).

35 (3) If a conflict of interest arises, the guardian ad litem

1 for the child shall be provided through retention of outside
2 counsel with whom the state public defender has contracted,
3 subject to the fees for guardian ad litem services incorporated
4 in the contract.

5

EXPLANATION

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

8 Under current Code section 13B.9(1)(b), a local public
9 defender or designee shall represent in a subsequent adoption
10 proceeding a party, including a nonindigent party, who files
11 an adoption petition to adopt a child who was the subject
12 of a termination of parental rights proceeding pursuant to
13 Code chapter 232 (juvenile justice) in which the local public
14 defender office was involved.

15 This bill provides that a local public defender office or
16 designee shall represent a party in an adoption proceeding, if
17 requested by the party, including a nonindigent party whose
18 family income does not exceed 300 percent of the federal
19 poverty level, who files an adoption petition to adopt a
20 child who was the subject of a termination of parental rights
21 proceeding pursuant to Code chapter 600A (termination of parent
22 rights), whether or not the local public defender office was
23 involved in the termination of parental rights proceeding.

24 Under current Code section 13B.9(1)(c), the local public
25 defender office or designee shall serve as guardian ad litem
26 for each child in a subsequent adoption proceeding to adopt a
27 child who was the subject of a termination of parental rights
28 proceeding pursuant to Code chapter 232 in which the local
29 public defender office was involved. The bill provides that
30 in addition, the local public defender office or designee
31 shall serve as guardian ad litem for a child in a subsequent
32 adoption proceeding who was the subject of a termination of
33 parental rights proceeding pursuant to Code chapter 600A, if
34 the adopting party meets the income threshold and requests
35 representation by the local public defender office or designee

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1 in the adoption proceeding.