

**House File 2580 - Introduced**

HOUSE FILE 2580  
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HF 2209)

**A BILL FOR**

1 An Act relating to legal representation for children who are  
2 placed in, or may be placed in, foster care.

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

1 Section 1. Section 232.89, subsection 2, Code 2024, is  
2 amended by striking the subsection and inserting in lieu  
3 thereof the following:

4 2. *a.* Upon the filing of a petition, the court shall:

5 (1) Appoint counsel for a child identified in the petition  
6 as a party to the proceedings if the child is ten years of age  
7 or older.

8 (2) Appoint a guardian ad litem for a child identified in  
9 the petition as a party to the proceedings if the child is  
10 younger than ten years of age.

11 *b.* If counsel has previously been appointed for the child  
12 pursuant to section 232.11, 232.113, or 232.126, or a guardian  
13 ad litem has previously been appointed for the child in a  
14 proceeding under subchapter II or a proceeding in which the  
15 court has waived jurisdiction under section 232.45, the court  
16 shall appoint the same counsel or guardian ad litem upon the  
17 filing of the petition under this part.

18 *c.* Counsel shall be appointed for a child subject to the  
19 following:

20 (1) If the child is represented by counsel and the court  
21 determines there is a conflict of interest between the child  
22 and the child's parent, guardian, putative father, or custodian  
23 and that the retained counsel cannot properly represent the  
24 child as a result of the conflict, the court shall appoint  
25 other counsel to represent the child and that counsel shall  
26 be compensated pursuant to section 232.141, subsection 2,  
27 paragraph "b".

28 (2) If the child is not represented by counsel, the court  
29 shall either order the parent, guardian, or custodian to retain  
30 counsel for the child, or the court shall appoint counsel for  
31 the child, and the counsel shall be compensated pursuant to  
32 section 232.141, subsection 2, paragraph "b".

33 Sec. 2. Section 232.89, subsection 4, Code 2024, is amended  
34 by striking the subsection and inserting in lieu thereof the  
35 following:

1 4. If a child attains ten years of age while represented by  
2 a guardian ad litem pursuant to this section, the court shall  
3 enter an order discharging the guardian ad litem and appoint  
4 counsel for the child pursuant to the provisions of this  
5 section. A court may appoint a guardian ad litem discharged  
6 pursuant to this subsection as counsel for the child if the  
7 person can properly represent the legal interests of the child.

8 Sec. 3. Section 232.89, Code 2024, is amended by adding the  
9 following new subsection:

10 NEW SUBSECTION. 5. The right to representation pursuant  
11 to this section shall continue until a child is no longer  
12 receiving foster care.

13 Sec. 4. Section 232.113, subsection 2, Code 2024, is amended  
14 by striking the subsection and inserting in lieu thereof the  
15 following:

16 2. *a.* Upon the filing of a petition, the court shall:

17 (1) Appoint counsel for a child identified in the petition  
18 as a party to the proceedings if the child is ten years of age  
19 or older.

20 (2) Appoint a guardian ad litem for a child identified in  
21 the petition as a party to the proceedings if the child is  
22 younger than ten years of age.

23 *b.* If counsel has previously been appointed for the child  
24 pursuant to section 232.11, 232.89, or 232.126, or a guardian  
25 ad litem has previously been appointed for the child in a  
26 proceeding under subchapter II or a proceeding in which the  
27 court has waived jurisdiction under section 232.45, the court  
28 shall appoint the same counsel or guardian ad litem upon the  
29 filing of the petition under this part.

30 *c.* Counsel shall be appointed for a child subject to the  
31 following:

32 (1) If the child is represented by counsel and the court  
33 determines there is a conflict of interest between the child  
34 and the child's parent, guardian, putative father, or custodian  
35 and that the retained counsel cannot properly represent the

1 child as a result of the conflict, the court shall appoint  
2 other counsel to represent the child and that counsel shall  
3 be compensated pursuant to section 232.141, subsection 2,  
4 paragraph "b".

5 (2) If the child is not represented by counsel, the court  
6 shall either order the parent, guardian, or custodian to retain  
7 counsel for the child, or the court shall appoint counsel for  
8 the child, and that counsel shall be compensated pursuant to  
9 section 232.141, subsection 2, paragraph "b".

10 Sec. 5. Section 232.113, Code 2024, is amended by adding the  
11 following new subsections:

12 NEW SUBSECTION. 3. The court shall determine, after giving  
13 the parent, guardian, or custodian an opportunity to be heard,  
14 whether the person has the ability to pay in whole or in part  
15 for counsel appointed for the child. If the court determines  
16 that the person possesses sufficient financial ability, the  
17 court shall then consult with the department, the juvenile  
18 probation office, or other authorized agency or individual  
19 regarding the likelihood of impairment of the relationship  
20 between the child and the child's parent, guardian, or  
21 custodian as a result of ordering the parent, guardian, or  
22 custodian to pay for the child's counsel. If impairment is  
23 deemed unlikely, the court shall order that person to pay an  
24 amount the court finds appropriate in the manner and to whom  
25 the court directs. If the person fails to comply with the  
26 order without good reason, the court shall enter judgment  
27 against the person. If impairment is deemed likely or if the  
28 court determines that the parent, guardian, or custodian cannot  
29 pay any part of the expenses of counsel appointed to represent  
30 the child, counsel shall be reimbursed pursuant to section  
31 232.141, subsection 2, paragraph "b".

32 NEW SUBSECTION. 4. If a child attains ten years of age  
33 while represented by a guardian ad litem pursuant to this  
34 section, the court shall enter an order discharging the  
35 guardian ad litem and appoint counsel for the child pursuant to

1 the provisions of this section. A court may appoint a guardian  
2 ad litem discharged pursuant to this subsection as counsel  
3 for the child if the person can properly represent the legal  
4 interests of the child.

5 NEW SUBSECTION. 5. The right to representation pursuant  
6 to this section shall continue until a child is no longer  
7 receiving foster care.

8 Sec. 6. Section 232.126, subsection 1, Code 2024, is amended  
9 by striking the subsection and inserting in lieu thereof the  
10 following:

11 1. *a.* Upon the filing of a petition, the court shall:

12 (1) Appoint counsel for a child identified in the petition  
13 as a party to the proceedings if the child is ten years of age  
14 or older.

15 (2) Appoint a guardian ad litem for a child identified in  
16 the petition as a party to the proceedings if the child is  
17 younger than ten years of age.

18 *b.* If counsel has previously been appointed for the child  
19 pursuant to section 232.11, 232.89, or 232.113, or a guardian  
20 ad litem has previously been appointed for the child in a  
21 proceeding under subchapter II or a proceeding in which the  
22 court has waived jurisdiction under section 232.45, the court  
23 shall appoint the same counsel or guardian ad litem upon the  
24 filing of the petition under this part.

25 *c.* Counsel shall be appointed for a child subject to the  
26 following:

27 (1) If the child is represented by counsel and the court  
28 determines there is a conflict of interest between the child  
29 and the child's parent, guardian, putative father, or custodian  
30 and that the retained counsel cannot properly represent the  
31 child as a result of the conflict, the court shall appoint  
32 other counsel to represent the child and that counsel shall  
33 be compensated pursuant to section 232.141, subsection 2,  
34 paragraph "b".

35 (2) If the child is not represented by counsel, the court

1 shall either order the parent, guardian, or custodian to retain  
2 counsel for the child, or the court shall appoint counsel for  
3 the child, and that counsel shall be compensated pursuant to  
4 section 232.141, subsection 2, paragraph "b".

5 Sec. 7. Section 232.126, Code 2024, is amended by adding the  
6 following new subsections:

7 NEW SUBSECTION. 3. The court shall determine, after giving  
8 the parent, guardian, or custodian an opportunity to be heard,  
9 whether the person has the ability to pay in whole or in part  
10 for counsel appointed for the child. If the court determines  
11 that the person possesses sufficient financial ability, the  
12 court shall then consult with the department, the juvenile  
13 probation office, or other authorized agency or individual  
14 regarding the likelihood of impairment of the relationship  
15 between the child and the child's parent, guardian, or  
16 custodian as a result of ordering the parent, guardian, or  
17 custodian to pay for the child's counsel. If impairment is  
18 deemed unlikely, the court shall order that person to pay an  
19 amount the court finds appropriate in the manner and to whom  
20 the court directs. If the person fails to comply with the  
21 order without good reason, the court shall enter judgment  
22 against the person. If impairment is deemed likely or if the  
23 court determines that the parent, guardian, or custodian cannot  
24 pay any part of the expenses of counsel appointed to represent  
25 the child, counsel shall be reimbursed pursuant to section  
26 232.141, subsection 2, paragraph "b".

27 NEW SUBSECTION. 4. If a child attains ten years of age  
28 while represented by a guardian ad litem pursuant to this  
29 section, the court shall enter an order discharging the  
30 guardian ad litem and appoint counsel for the child pursuant to  
31 the provisions of this section. A court may appoint a guardian  
32 ad litem discharged pursuant to this subsection as counsel  
33 for the child if the person can properly represent the legal  
34 interests of the child.

35 NEW SUBSECTION. 5. The right to representation pursuant

1 to this section shall continue until a child is no longer  
2 receiving foster care.

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.

5

6 This bill relates to legal representation for children who  
7 are placed in, or may be placed in, foster care.

8 The bill requires a court to appoint counsel for a child 10  
9 years of age or older when the child is identified in a child  
10 in need of assistance (CINA) petition as a party to the CINA  
11 proceedings.

12 The bill requires a court to appoint a guardian ad litem for  
13 a child below 10 years of age when the child is identified in a  
14 CINA petition as a party to the CINA proceedings.

15 If a child identified in a CINA petition already has counsel  
16 in a juvenile delinquency matter or parental termination  
17 proceeding, or a guardian ad litem has previously been  
18 appointed for the child in a juvenile delinquency proceeding  
19 or a matter involving a public offense in which the court has  
20 waived jurisdiction, the bill requires the court to appoint the  
21 same counsel or guardian ad litem upon the filing of the CINA  
22 petition.

23 The bill requires a court to appoint alternate counsel to  
24 represent a child if the child is represented by counsel and  
25 the court determines there is a conflict of interest between  
26 the child and the child's parent, guardian, putative father,  
27 or custodian and that the retained counsel cannot properly  
28 represent the child as a result of the conflict.

29 When appointing counsel for a child in a CINA proceeding,  
30 the bill requires a court to either order the parent, guardian,  
31 or custodian to retain counsel for the child, or counsel be  
32 appointed for the child.

33 The bill requires a court to discharge the guardian ad litem  
34 for a child in a CINA proceeding and appoint counsel for the  
35 child upon the child attaining 10 years of age. A discharged

1 guardian ad litem may be appointed counsel for a child if the  
2 person can properly represent the legal interests of the child.

3 The bill contains similar provisions relating to the  
4 appointment of counsel or a guardian ad litem for a child in  
5 termination of parental rights proceedings and in family in  
6 need of assistance proceedings.

7 The bill requires a court in a termination of parental  
8 rights proceeding or a family in need of assistance proceeding  
9 to determine whether a child's parent, guardian, or custodian  
10 is able to compensate an attorney appointed for the child.  
11 If the court determines a parent, guardian, or custodian is  
12 able to compensate the appointed attorney, the bill requires  
13 the court to order the parent, guardian, or custodian to  
14 compensate the attorney. If the court determines a parent,  
15 guardian, or custodian cannot compensate the appointed attorney  
16 without impairment, then the bill requires the county to make  
17 reasonable compensation for the appointed attorney.