

House File 373 - Introduced

HOUSE FILE 373
BY LOHSE

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:

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1 Section 1. Section 232.89, subsection 2, Code 2025, is
2 amended by striking the subsection and inserting in lieu thereof
3 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 as
6 a party to the proceedings if the child is ten years of age or
7 older.

8 (2) Appoint counsel and a guardian ad litem for a child
9 identified in the petition as a party to the proceedings if the
10 child is 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 ad
13 litem has previously been appointed for the child in a proceeding
14 under subchapter II or a proceeding in which the court has waived
15 jurisdiction under section 232.45, the court shall appoint the
16 same counsel or guardian ad litem upon the filing of the petition
17 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 and
22 the child's parent, guardian, putative father, or custodian and
23 that the retained counsel cannot properly represent the child as
24 a result of the conflict, the court shall appoint other counsel
25 to represent the child and that counsel shall be compensated
26 pursuant to section 232.141, subsection 2, paragraph "b".

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

32 Sec. 2. Section 232.89, subsection 4, Code 2025, is amended
33 by striking the subsection and inserting in lieu thereof the
34 following:

35 4. a. If a child is under the age of ten, the same person

1 may serve as the child's counsel and the child's guardian ad
2 litem. A court may appoint a separate guardian ad litem if
3 the court finds that the same person cannot adequately represent
4 the child as the child's counsel while advocating for the best
5 interests of the child as guardian ad litem in accordance with
6 section 232.2, subsection 25, paragraph "e". If a child's
7 guardian ad litem is also acting as the child's counsel, each
8 report submitted to a court by the guardian ad litem shall
9 contain a statement indicating whether a separate guardian ad
10 litem is required based on the child's age or the guardian ad
11 litem's interviews and investigations conducted up to the time
12 the report is submitted to the court.

13 b. If a child attains ten years of age while represented by a
14 guardian ad litem pursuant to this section, the court shall enter
15 an order discharging the guardian ad litem and appoint counsel
16 for the child pursuant to the provisions of this section. A
17 court may appoint a guardian ad litem discharged pursuant to this
18 subsection as counsel for the child if the person can properly
19 represent the legal interests of the child.

20 c. An attorney representing multiple children as the
21 children's counsel, guardian ad litem, or both, may continue
22 to act in the capacities to which the attorney was appointed,
23 unless an appointment to represent a child in a specific capacity
24 presents a conflict of interest between the attorney and a
25 child the attorney represents or between children the attorney
26 represents.

27 Sec. 3. Section 232.89, Code 2025, is amended by adding the
28 following new subsections:

29 NEW SUBSECTION. 5. If a child remains in foster care after
30 the circumstances which caused the child to be placed in foster
31 care has resolved, the right to representation pursuant to this
32 section shall continue until a child is no longer receiving
33 foster care.

34 NEW SUBSECTION. 6. a. An attorney appointed under this
35 section as counsel for a child shall perform the duties of a

1 guardian ad litem as described in section 232.2, subsection 25,
2 paragraph "b", subparagraphs (1), (2), (3), (4), (6), (7), and
3 (9).

4 b. An attorney appointed under this section as counsel for
5 a child shall not be required to submit written reports to the
6 court as described in section 232.2, subsection 25, paragraph
7 "b", subparagraph (8).

8 c. An attorney appointed under this section as counsel for a
9 child, to the extent not prohibited by state or federal law, is
10 authorized to do all of the following:

11 (1) Interview persons relevant to the matter, including but
12 not limited to persons providing medical, social, mental health,
13 educational, or other services to the child.

14 (2) Inspect and copy records relevant to the matter,
15 including but not limited to health, mental health, education,
16 and court records.

17 (3) Attend department meetings, case conferences, and
18 meetings with medical professionals, mental health professionals,
19 education providers, or persons providing other services to the
20 child.

21 Sec. 4. Section 232.113, subsection 2, Code 2025, is amended
22 by striking the subsection and inserting in lieu thereof the
23 following:

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

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

28 (2) Appoint counsel and a guardian ad litem for a child
29 identified in the petition as a party to the proceedings if the
30 child is younger than ten years of age.

31 b. If counsel has previously been appointed for the child
32 pursuant to section 232.11, 232.89, or 232.126, or a guardian ad
33 litem has previously been appointed for the child in a proceeding
34 under subchapter II or a proceeding in which the court has waived
35 jurisdiction under section 232.45, the court shall appoint the

1 same counsel or guardian ad litem upon the filing of the petition
2 under this part.

3 c. Counsel shall be appointed for a child, subject to the
4 following:

5 (1) If the child is represented by counsel and the court
6 determines there is a conflict of interest between the child and
7 the child's parent, guardian, putative father, or custodian and
8 that the retained counsel cannot properly represent the child as
9 a result of the conflict, the court shall appoint other counsel
10 to represent the child and that counsel shall be compensated
11 pursuant to section 232.141, subsection 2, paragraph "b".

12 (2) If the child is not represented by counsel, the court
13 shall either order the parent, guardian, or custodian to retain
14 counsel for the child, or the court shall appoint counsel for the
15 child, and that counsel shall be compensated pursuant to section
16 232.141, subsection 2, paragraph "b".

17 Sec. 5. Section 232.113, Code 2025, is amended by adding the
18 following new subsections:

19 NEW SUBSECTION. 3. a. If a child is under the age of ten,
20 the same person may serve as the child's counsel and the child's
21 guardian ad litem. A court may appoint a separate guardian ad
22 litem if the court finds that the same person cannot adequately
23 represent the child as the child's counsel while advocating
24 for the best interests of the child as guardian ad litem in
25 accordance with section 232.2, subsection 25, paragraph "e".
26 If a child's guardian ad litem is also acting as the child's
27 counsel, each report submitted to a court by the guardian ad
28 litem shall contain a statement indicating whether a separate
29 guardian ad litem is required based on the child's age or the
30 guardian ad litem's interviews and investigations conducted up to
31 the time the report is submitted to the court.

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

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

4 c. An attorney representing multiple children as the
5 children's counsel, guardian ad litem, or both, may continue
6 to act in the capacities to which the attorney was appointed,
7 unless an appointment to represent a child in a specific capacity
8 presents a conflict of interest between the attorney and a
9 child the attorney represents or between children the attorney
10 represents.

11 NEW SUBSECTION. 4. If a child remains in foster care after
12 the circumstances which caused the child to be placed in foster
13 care has resolved, the right to representation pursuant to this
14 section shall continue until a child is no longer receiving
15 foster care.

16 NEW SUBSECTION. 5. a. An attorney appointed under this
17 section as counsel for a child shall perform the duties of a
18 guardian ad litem as described in section 232.2, subsection 25,
19 paragraph "b", subparagraphs (1), (2), (3), (4), (6), (7), and
20 (9).

21 b. An attorney appointed under this section as counsel for
22 a child shall not be required to submit written reports to the
23 court as described in section 232.2, subsection 25, paragraph
24 "b", subparagraph (8).

25 c. An attorney appointed under this section as counsel for a
26 child, to the extent not prohibited by state or federal law, is
27 authorized to do all of the following:

28 (1) Interview persons relevant to the matter, including but
29 not limited to persons providing medical, social, mental health,
30 educational, or other services to the child.

31 (2) Inspect and copy records relevant to the matter,
32 including but not limited to health, mental health, education,
33 and court records.

34 (3) Attend department meetings, case conferences, and
35 meetings with medical professionals, mental health professionals,

1 education providers, or persons providing other services to the
2 child.

3 Sec. 6. Section 232.126, subsection 1, Code 2025, is amended
4 by striking the subsection and inserting in lieu thereof the
5 following:

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

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

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

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

20 c. Counsel shall be appointed for a child, subject to the
21 following:

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

29 (2) If the child is not represented by counsel, the court
30 shall either order the parent, guardian, or custodian to retain
31 counsel for the child, or the court shall appoint counsel for the
32 child, and that counsel shall be compensated pursuant to section
33 232.141, subsection 2, paragraph "b".

34 Sec. 7. Section 232.126, Code 2025, is amended by adding the
35 following new subsections:

1 NEW SUBSECTION. 3. a. If a child is under the age of ten,
2 the same person may serve as the child's counsel and the child's
3 guardian ad litem. A court may appoint a separate guardian ad
4 litem if the court finds that the same person cannot adequately
5 represent the child as the child's counsel while advocating
6 for the best interests of the child as guardian ad litem in
7 accordance with section 232.2, subsection 25, paragraph "e".
8 If a child's guardian ad litem is also acting as the child's
9 counsel, each report submitted to a court by the guardian ad
10 litem shall contain a statement indicating whether a separate
11 guardian ad litem is required based on the child's age or the
12 guardian ad litem's interviews and investigations conducted up to
13 the time the report is submitted to the court.

14 b. If a child attains ten years of age while represented by a
15 guardian ad litem pursuant to this section, the court shall enter
16 an order discharging the guardian ad litem and appoint counsel
17 for the child pursuant to the provisions of this section. A
18 court may appoint a guardian ad litem discharged pursuant to this
19 subsection as counsel for the child if the person can properly
20 represent the legal interests of the child.

21 c. An attorney representing multiple children as the
22 children's counsel, guardian ad litem, or both, may continue
23 to act in the capacities to which the attorney was appointed,
24 unless an appointment to represent a child in a specific capacity
25 presents a conflict of interest between the attorney and a
26 child the attorney represents or between children the attorney
27 represents.

28 NEW SUBSECTION. 4. If a child remains in foster care after
29 the circumstances which caused the child to be placed in foster
30 care has resolved, the right to representation pursuant to this
31 section shall continue until a child is no longer receiving
32 foster care.

33 NEW SUBSECTION. 5. a. An attorney appointed under this
34 section as counsel for a child shall perform the duties of a
35 guardian ad litem as described in section 232.2, subsection 25,

1 paragraph "b", subparagraphs (1), (2), (3), (4), (6), (7), and
2 (9).

3 b. An attorney appointed under this section as counsel for
4 a child shall not be required to submit written reports to the
5 court as described in section 232.2, subsection 25, paragraph
6 "b", subparagraph (8).

7 c. An attorney appointed under this section as counsel for a
8 child, to the extent not prohibited by state or federal law, is
9 authorized to do all of the following:

10 (1) Interview persons relevant to the matter, including but
11 not limited to persons providing medical, social, mental health,
12 educational, or other services to the child.

13 (2) Inspect and copy records relevant to the matter,
14 including but not limited to health, mental health, education,
15 and court records.

16 (3) Attend department meetings, case conferences, and
17 meetings with medical professionals, mental health professionals,
18 education providers, or persons providing other services to the
19 child.

20 EXPLANATION

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

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

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

29 The bill requires a court to appoint counsel and a guardian ad
30 litem (GAL) for a child below 10 years of age when the child is
31 identified in a CINA petition as a party to the CINA proceedings.

32 If a child identified in a CINA petition already has
33 counsel in a juvenile delinquency matter or parental termination
34 proceeding, or a GAL has previously been appointed for the child
35 in a juvenile delinquency proceeding or a matter involving a

1 public offense in which the court has waived jurisdiction, the
2 bill requires the court to appoint the same counsel or GAL upon
3 the filing of the CINA petition.

4 The bill requires a court to appoint alternate counsel to
5 represent a child if the child is represented by counsel and
6 the court determines there is a conflict of interest between
7 the child and the child's parent, guardian, putative father, or
8 custodian and that the retained counsel cannot properly represent
9 the child as a result of the conflict.

10 When appointing counsel for a child in a CINA proceeding,
11 the bill requires a court to either order the parent, guardian,
12 or custodian to retain counsel for the child, or counsel be
13 appointed for the child.

14 The bill requires a court to discharge the GAL for a child
15 in a CINA proceeding and appoint counsel for the child upon
16 the child attaining 10 years of age. A discharged GAL may
17 be appointed counsel for a child if the person can properly
18 represent the legal interests of the child.

19 The bill allows an attorney representing multiple children
20 as the children's counsel, GAL, or both, to continue to act in
21 the capacities to which the attorney was appointed unless an
22 appointment to represent a child in a specific capacity presents
23 a conflict of interest between the attorney and a child the
24 attorney represents or between children the attorney represents.

25 The bill requires an attorney appointed as counsel for a child
26 to perform certain duties listed in the bill that are required of
27 a GAL. The attorney is specifically exempted from making reports
28 that a GAL would be required to make. The bill authorizes an
29 attorney appointed as counsel for a child to perform several
30 actions as detailed in the bill.

31 If a child remains in foster care after the circumstances
32 which caused the child to be placed in foster care has resolved,
33 the bill continues a child's right to legal representation until
34 the child is no longer in foster care.

35 The bill contains similar provisions relating to the

1 appointment of counsel or a GAL for a child in termination of
2 parental rights proceedings and in family in need of assistance
3 proceedings.

4 The bill requires the county to make reasonable compensation
5 for an attorney appointed under the bill.

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