



[HF 398](#) – Adoptions, Representation and Filing Requirements (LSB1255HV)
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Fiscal Note Version – New

Description

[House File 398](#) provides the following:

- A local public defender office or designee must represent in a subsequent adoption proceeding any party, including a nonindigent party, who files a petition to adopt a child who was the subject of a termination of parental rights (TPR) proceeding in which the local public defender office was involved.
- In adoption proceedings to adopt a child who was the subject of a TPR proceeding in which the local public defender office was involved, a local public defender office or designee must serve as the guardian ad litem for the child.
- The Department of Health and Human Services (HHS) must provide a certified copy of a birth certificate or a verified birth record to the person adopting a child when HHS is the guardian of the child.
- For an adoption hearing in which the person to be adopted is an adult, the adoption petitioner is required to provide a copy of the petition and its attachments and a notice of the adoption hearing to the person who is to be adopted and to any other person who is required to consent to the adoption.

Background

Under current law, a local public defender office represents in a subsequent adoption proceeding an indigent party who files an adoption petition to adopt a child who was the subject of a TPR proceeding in which the local public defender was involved. If a conflict of interest arises, the representation is required to be provided through referral of the indigent party to outside counsel with whom the State Public Defender has contracted.

Under current law, a local public defender office serves as the guardian ad litem for each child in all cases in which a local public defender office is the State Public Defender's designee. The local public defender is responsible for determining who will serve as guardian ad litem and for ensuring that the duties are fulfilled.

Assumptions

- All proceedings requiring a local public defender office to represent a party will be assigned to the Office of the State Public Defender contract attorneys.
- There are approximately 1,200 TPR proceedings each year.
- Approximately 50.0% of TPR proceedings will result in an adoption.
- The State Public Defender will provide representation in approximately 600 adoption proceedings each year to adopt a child who was the subject of a TPR proceeding.
- The State Public Defender will provide an attorney for the petitioners and another attorney as the guardian ad litem for the child.
- The total number of attorney hours per adoption proceeding will range between 5 and 10 hours.
- Each adoption proceeding will be billed by contract attorneys at an hourly rate of \$68.

- Under the Iowa State Adoption Assistance Program, HHS reimburses adoptive parents of special needs children for up to \$500 per adoption case for attorney fees, adoption fees, and court costs.
- The Bill could reduce expenses for HHS due to not reimbursing legal fees for petitioners who choose the Office of the State Public Defender for legal representation instead of private legal representation.
- The average annual spending on legal fees within the Adoption Assistance appropriation is approximately \$500,000, of which \$250,000 is the State share.

Fiscal Impact

The annual estimated expense of HF 398 to the Office of the State Public Defender is between \$204,000 and \$408,000, as shown in **Table 1**. This includes the cost of attorneys both to represent the petitioner and to serve as the guardian ad litem for the child for all adoptions resulting from a TPR proceeding in which a local public defender office was involved. The fiscal impact will be to the Indigent Defense Fund, which is funded through the General Fund.

Table 1 — Estimated Annual Cost to the Indigent Defense Fund

Adoptions Requiring State Public Defender Representation	Number of Attorney Hours Per Case	Attorney Hourly Rate	Total Cost Per Year
600	5 to 10	\$68	\$204,000 to \$408,000

Additionally, the Bill could reduce expenses to HHS by of up to \$500 per adoption case for special needs children in which the petitioner chooses to be represented by the Office of the State Public Defender rather than by private legal representation. The total cost reduction to HHS is unknown.

Sources

Office of the State Public Defender
 Department of Health and Human Services
 Legislative Services Agency

/s/ Jennifer Acton

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The fiscal note for this Bill was prepared pursuant to [Joint Rule 17](#) and the Iowa Code. Data used in developing this fiscal note is available from the Fiscal Services Division of the Legislative Services Agency upon request.
