

IOWA	Legal Authority
	General Duties and Activities of the Child’s Legal Representative
<p>1. <i>General Duties:</i> <i>Timely appointment, mandatory or discretionary, attorney or lay person, represent child’s interests, undertake basic obligations, address conflict situations, address special needs and disabilities, and accommodate client preferences.</i></p>	<ul style="list-style-type: none"> - “Guardian ad litem” (GAL) means a person appointed by the court to represent the interests of a child in any judicial proceeding to which the child is a party, and includes a CASA, except that a CASA shall not file motions or petitions. Iowa Code § 232.2(22)(a). - “Court appointed special advocate” means a person duly certified by the child advocacy board created in section 237.16 for participation in the court appointed special advocate program and appointed by the court to represent the interests of a child in any judicial proceeding to which the child is a party or is called as a witness or relating to any dispositional order involving the child resulting from such proceeding. Iowa Code § 232.2(9). - In every case involving child abuse which results in a child protective judicial proceeding, whether or not the proceeding arises under this chapter, a GAL shall be appointed by the court to represent the child in the proceedings. Iowa Code § 232.71C(3). - When a client’s capacity to make adequately considered decisions in connection with representation is diminished, whether because of minority...the lawyer shall, as far as reasonably possible, maintain a normal client-lawyer relationship with the client.” Iowa R. Prof. Conduct 1.14(a). - Upon the filing of a petition, the court shall appoint counsel and a GAL for the child identified in the petition as a party to the proceedings. If a GAL has previously been appointed for the child in a proceeding...the court shall appoint the same GAL upon the filing of the petition under this part. Counsel shall be appointed as follows: <ul style="list-style-type: none"> (a) If the child is represented by counsel and the court determines there is a conflict of interest between the child and the child's parent, guardian or custodian and that the retained counsel could not properly represent the child as a result of the conflict, the court shall appoint other counsel to represent the child... (b) If the child is not represented by counsel, the court shall either order the parent, guardian or custodian to retain counsel for the child or shall appoint counsel for the child. Iowa Code § 232.89(2). - The same person may serve both as the child's counsel and as GAL. However, the court may appoint a separate GAL, if the same person cannot properly represent the legal interests of the child as legal counsel and also represent the best interest of the child as GAL, or a separate GAL is required to fulfill the requirements of subsection 2. Iowa Code § 232.89(4). - The court shall appoint counsel or a GAL to represent the interests of the child at the hearing to determine whether the family is a family in need of assistance unless the child already has such counsel or guardian...The court may appoint a CASA to act as GAL. Iowa Code § 232.126. - Upon the filing of a petition [to terminate parental rights], the court shall appoint counsel for the child identified in the petition as a party to the proceedings. The same person may serve both as the child’s counsel and as GAL. Iowa Code § 232.113(2). - The court may appoint a CASA to act as GAL. Iowa Code § 232.89(5). - The attorneys and GALs of record in the district court shall be deemed the attorneys and GALs in the appellate court unless others are retained or appointed and notice is given to the parties and the clerk of the supreme court. Iowa R. App. Proc.

	<p>6.109(4).</p> <ul style="list-style-type: none"> - The same person may serve both as the child's counsel and as GAL. However, the court may appoint a separate GAL, if the same person cannot properly represent the legal interests of the child as legal counsel and also represent the best interest of the child as GAL, or a separate GAL is required to fulfill the requirements of subsection 2. Iowa Code § 232.89(4). - The CASA shall... [make] recommendations based on the best interest of the child. Iowa Code § 232.89(5). - If the child is represented by counsel and the court determines there is a conflict of interest between the child and the child's parent, guardian or custodian and that the retained counsel could not properly represent the child as a result of the conflict, the court shall appoint other counsel to represent the child, who shall be compensated pursuant to the provisions of subsection 3...If the child is not represented by counsel, the court shall either order the parent, guardian or custodian to retain counsel for the child or shall appoint counsel for the child, who shall be compensated pursuant to the provisions of subsection 3. Iowa Code § 232.89(2).
<p>2. Out of Court - Actions to be Taken: <i>Meet with child, undertake an investigation, provide advice and counseling, file pleadings, request services, address special needs, negotiate settlements</i></p>	<ul style="list-style-type: none"> - Unless otherwise enlarged or circumscribed by a court or juvenile court having jurisdiction over the child or by operation of law, the duties of a guardian ad litem with respect to a child shall include the following: <ul style="list-style-type: none"> (1) Conducting in-person interviews with the child, if the child's age is appropriate for the interview, and interviewing each parent, guardian, or other person having custody of the child, if authorized by counsel. (2) Conducting interviews with the child, if the child's age is appropriate for the interview, prior to any court-ordered hearing. (3) Visiting the home, residence, or both home and residence of the child and any prospective home or residence of the child, including each time placement is changed. (4) Interviewing any person providing medical, mental health, social, educational, or other services to the child, before any hearing referred to in subparagraph (2). (5) Obtaining firsthand knowledge, if possible, of the facts, circumstances, and parties involved in the matter in which the person is appointed guardian ad litem. Iowa Code § 232.2(b). - The order appointing the GAL shall grant authorization to the GAL to interview any relevant person and inspect and copy any records relevant to the proceedings, if not prohibited by federal law. The order shall specify that the GAL may interview any person providing medical, mental health, social, educational, or other services to the child, may attend any departmental staff meeting, case conference, or meeting with medical or mental health providers, service providers, organizations, or educational institutions regarding the child, if deemed necessary by the guardian ad litem, and may inspect and copy any records relevant to the proceedings. Iowa Code § 232.2(c).
<p>3. In Court - Active Participation in Hearings: <i>Appear in court, explain proceedings to client, present evidence, ensure child is present, expand scope of representation into other needed</i></p>	<p>Unless otherwise enlarged or circumscribed by a court or juvenile court having jurisdiction over the child or by operation of law, the duties of a guardian ad litem with respect to a child shall include the following:</p> <p>...</p> <ul style="list-style-type: none"> (6) Attending any hearings in the matter in which the person is appointed as the guardian ad litem. Iowa Code § 232.2(b). - The CASA shall receive notice of and may attend all depositions, hearings, and trial proceedings to support the child and advocate for the protection of the child...The CASA shall not be allowed to separately introduce evidence or to directly examine or cross-examine witnesses. The court appointed special advocate shall submit a written report to the court and to each of the

<i>areas, and undertake certain obligations post-disposition.</i>	<p>parties to the proceedings containing results of the CASA’s initial investigation of the child's case, including but not limited to recommendations regarding placement of the child and other recommendations based on the best interest of the child. The CASA shall submit subsequent reports to the court and parties, as needed, detailing the continuing situation of the child's case as long as the child remains under the jurisdiction of the court. In addition CASA shall file other reports to the court as required by the court. Iowa Code § 232.89(5).</p> <p>- The CASA shall receive notice of and may attend all depositions, hearings, and trial proceedings to support the child and advocate for the protection of the child. The CASA shall not be allowed to separately introduce evidence or to directly examine or cross-examine witnesses. The CASA shall submit reports to the court and the parties to the proceedings containing the information required in reports submitted by a CASA under section 232.89, subsection 5. In addition, the CASA shall file other reports to the court as required by the court. Iowa Code § 232.126.</p>
4. <i>Post-Hearing:</i> <i>Review courts order, communicate order to child, and monitor implementation of orders.</i>	<p>Unless otherwise enlarged or circumscribed by a court or juvenile court having jurisdiction over the child or by operation of law, the duties of a guardian ad litem with respect to a child shall include the following:</p> <p>(7) If the child is required to have a transition plan developed in accordance with the child's case permanency plan and subject to review and approval of a transition committee under section 235.7, assisting the transition committee in development of the transition plan. Iowa Code § 232.2(b).</p>
5. <i>Appellate Advocacy:</i> <i>Decision to appeal, withdrawal, participation in appeal, conclusion by appeal.</i>	<i>No explicit legal authority or requirement.</i>
6. <i>Cessation of Representation:</i> <i>Contacts post representation, if any.</i>	<p>- If authorized by the court, a guardian ad litem may continue a relationship with and provide advice to a child for a period of time beyond the child's eighteenth birthday. Iowa Code § 232.2(d).</p>
	Organizational and Administrative Supports Provided the Representative
7. <i>General Representation Rules:</i> <i>Administrative structure is clear for appointment, support and accountability of the CR. The child’s representative is independent from the court.</i>	<p>Administrative structure for CR is not clear.</p> <p><i>No explicit legal authority or requirement governs independence from the court.</i></p>

<p>8. Lawyer Training: <i>Child representative trained, on-going training provided, new attorneys provided senior lawyer mentorship.</i></p>	<p><i>No explicit legal authority or requirement.</i></p>
<p>9. Lawyer Compensation: <i>Adequate and timely compensation, reimbursement provided for expenses.</i></p>	<p>- Before a GAL is appointed, the court shall require the person responsible for the care of the child to complete under oath a detailed financial statement. If, on the basis of that financial statement, the court determines that the person responsible for the care of the child is able to bear the cost of the GAL, the court shall so order. In cases where the person responsible for the care of the child is unable to bear the cost of the GAL, the expense shall be paid out of the county treasury. Iowa Code § 232.71C(3).</p> <p>- If the child is represented by counsel and the court determines there is a conflict of interest between the child and the child's parent, guardian or custodian and that the retained counsel could not properly represent the child as a result of the conflict, the court shall appoint other counsel to represent the child, who shall be compensated pursuant to the provisions of subsection 3...If the child is not represented by counsel, the court shall either order the parent, guardian or custodian to retain counsel for the child or shall appoint counsel for the child, who shall be compensated pursuant to the provisions of subsection 3. Iowa Code § 232.89(2).</p> <p>- The court shall determine, after giving the parent, guardian, or custodian an opportunity to be heard, whether the person has the ability to pay in whole or in part for counsel appointed for the child. If the court determines that the person possesses sufficient financial ability, the court shall then consult with the department of human services, the juvenile probation office, or other authorized agency or individual regarding the likelihood of impairment of the relationship between the child and the child's parent, guardian or custodian as a result of ordering the parent, guardian, or custodian to pay for the child's counsel. If impairment is deemed unlikely, the court shall order that person to pay an amount the court finds appropriate in the manner and to whom the court directs. If the person fails to comply with the order without good reason, the court shall enter judgment against the person. If impairment is deemed likely or if the court determines that the parent, guardian, or custodian cannot pay any part of the expenses of counsel appointed to represent the child, counsel shall be reimbursed pursuant to section 232.141, subsection 2, paragraph “b”. Iowa Code § 232.89(3).</p>
<p>10. Caseload Levels: <i>Caseloads are of a manageable size.</i></p>	<p><i>No explicit legal authority or requirement.</i></p>