

IOWA

<p>Structure, organization, and delivery of Child Representation State-by-state, county-by-county, etc.</p>	<p>Statewide: Attorneys and firms/organizations can contract with the Office of the State Public Defender to serve as court-appointed counsel in juvenile cases. However, individual counties can maintain their own lists and appoint non-contract attorneys:</p> <p>Any attorney authorized to practice law in Iowa may request a contract with the State Public Defender to represent indigents. If your contract is approved your name will be placed on a list of attorneys eligible to accept appointments in a particular county. ... Under IOWA CODE section 815.10 the court first appoints the local public defender to a case. If the local public defender has a conflict of interest or if the local public defender is unable to handle a case because of a temporary overload of cases, the local public defender returns the case to the court. The court must first appoint a contract attorney. Appointments by the court should be on a rotational or equalization basis considering the experience of the attorney and the difficulty of the case. If no contract attorney is able or available to take the case, the court may appoint a private non-contract attorney who has agreed to take the case. Each month the state public defender's office sends an updated list of contract attorneys to each county by e-mail. Contracting Process, Office of the State Public Defender.</p>
<p>Funding Child Representation</p>	<p>Costs incurred for legal representation by a court-appointed attorney under chapter 229A, 665, 822, or 908, or section 232.141, subsection 3, paragraph “d”, or section 598.23A, 600A.6B, 814.9, 814.10, 814.11, 815.4, 815.7, or 815.10 on behalf of an indigent shall be paid from moneys appropriated by the general assembly to the office of the state public defender in the department of inspections and appeals and deposited in an account to be known as the indigent defense fund. Costs incurred representing an indigent defendant in a contempt action, or representing an indigent juvenile in a juvenile court proceeding, are also payable from the fund. However, costs incurred in any administrative proceeding or in any other proceeding under this chapter or chapter 598, 600, 600A, 633, 633A, 814, or 915 or other provisions of the Code or administrative rules are not payable from the fund. IOWA CODE § 815.11.</p> <p>Under IOWA CODE section 232.141, subsections (2) and (3), counties are responsible for paying a portion of the juvenile court expenses incurred by an attorney appointed to serve as counsel to any party or to serve as a guardian ad litem for any child. These costs may include reasonable compensation for the attorney or guardian ad litem as well as the expenses for foreign language interpreters, costs of depositions and transcripts, fees and mileage of witnesses, and the expenses of officers serving notices and subpoenas incurred by the court-appointed attorney.</p> <p>Claims for all such expenses are to be submitted to the Office of the State Public Defender, which initially pays all such juvenile court expenses from the Indigent Defense Fund. The county is required to reimburse the Indigent Defense Fund for these costs incurred up to the county’s base amount each fiscal year. The county base amount formula is found in IOWA CODE section 232.141(3)(a). The Office of the State Public Defender updates the county base amounts annually and requests payment from each county by March 31 each year. County Base Information, Office of the State Public Defender.</p>
<p>1. General Duties: Timely appointment, mandatory or discretionary, attorney or lay person, represent child’s interests, undertake basic</p>	<p>“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).</p> <p>“Court appointed special advocate” means a person duly certified by the child advocacy board created in section 237.16 for</p>

<p>obligations, address conflict situations, address special needs and disabilities, and accommodate client preferences.</p>	<p>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).</p> <p>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).</p> <p>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).</p> <p>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).</p> <p>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.</p> <p>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).</p> <p>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. P. 6.109(4).</p> <p>9. “Guardian ad litem” means a person appointed by a court or juvenile court having jurisdiction over the minor child to represent that child in a legal action. A guardian ad litem appointed under this chapter [Termination of Parental Rights] shall be a practicing attorney. IOWA CODE § 600A.2.</p>
<p>2. Out of Court - Actions to be Taken: Meet with child, undertake an investigation, provide advice and counseling, file pleadings, request services, address special needs, negotiate settlements</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> <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.

	<p>(4) Interviewing any person providing medical, mental health, social, educational, or other services to the child, before any hearing referred to in subparagraph (2).</p> <p>(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).</p> <p>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> <p>1. The court may appoint an attorney to represent the legal interests of the minor child or children of the parties. The attorney shall be empowered to make independent investigations and to cause witnesses to appear and testify before the court on matters pertinent to the legal interests of the children. IOWA CODE § 598.12.</p> <p>a. 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 all of the following:</p> <p>(1) Conducting general 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 the person's legal counsel.</p> <p>(2) Conducting interviews with the child, if the child's age is appropriate for the interview, prior to any court-ordered hearing.</p> <p>(3) Visiting the home, residence, or both home and residence of the child and any prospective home or residence of the child, including visiting the home or residence or prospective home or residence each time placement is changed.</p> <p>(4) Interviewing any person providing medical, mental health, social, educational, or other services to the child, prior to any court-ordered hearing.</p> <p>(5) Obtaining firsthand knowledge, if possible, of facts, circumstances, and parties involved in the matter in which the person is appointed guardian ad litem. IOWA CODE § 598.12(2)(a)(1)-(5).</p>
<p>3. In Court – Active Participation in Hearings: Appear in court, explain proceedings to client, present evidence, ensure child is present, expand scope of representation into other needed areas, and undertake certain obligations post-disposition.</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> <p>(6) Attending any hearings in the matter in which the person is appointed as the guardian ad litem. IOWA CODE § 232.2(b).</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 court appointed special advocate shall submit a written report to the court and to each of the 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</p>

	<p>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>
<p>4. Post-Hearing: Review courts order, communicate order to child, and monitor implementation of orders</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>(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>
<p>5. Appellate Advocacy: Decision to appeal, withdrawal, participation in appeal, conclusion by appeal.</p>	<p>6.109(4) <i>Attorneys and guardians ad litem</i>. The attorneys and guardians ad litem of record in the district court shall be deemed the attorneys and guardians ad litem in the appellate court unless others are retained or appointed and notice is given to the parties and the clerk of the supreme court. However, the representation of an attorney appointed for a minor child or children pursuant to IOWA CODE section 598.12 ends when an appeal is taken unless the district court appoints the attorney, or a successor, for the appeal. IOWA R. APP. P. 6.109.</p>
<p>6. Cessation of Representation: Contacts post representation, if any</p>	<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>
<p>7. General Representation Rules: Administrative structure is clear for appointment, support and accountability of the CR. The child's representative is independent from the court</p>	<p>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:</p> <p>(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...</p> <p>(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).</p> <p>Upon the filing of a petition, the court shall appoint a guardian ad litem to represent the best interests of the child unless the court determines that the child already has a guardian ad litem who represents the child's best interests. If the child's parent, guardian, or custodian desires counsel but cannot pay the counsel's expenses, the court may appoint counsel. IOWA CODE § 232.179.</p> <p>The same person may serve both as the child's counsel and as GAL. However, the court may appoint a separate GAL, if the</p>

	<p>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).</p> <p>The court may appoint a CASA to act as GAL. IOWA CODE § 232.89(5).</p>
<p>8. Lawyer Training: Child representative trained, on-going training provided, new attorneys provided senior lawyer mentorship.</p>	<p><i>No explicit legal authority or requirement.</i></p>
<p>9. Lawyer Compensation: Adequate and timely compensation, reimbursement provided for expenses.</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>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>5. The court shall enter an order in favor of the attorney, the guardian ad litem, or an appropriate agency for fees and disbursements, and the amount shall be charged against the party responsible for court costs unless the court determines that the party responsible for costs is indigent, in which event the fees shall be borne by the county. IOWA CODE § 598.12(5).</p> <p>1. Except as otherwise provided by law, the court shall inquire into the ability of the child or the child's parent to pay expenses incurred pursuant to subsections 2, 4, and 8. After giving the parent a reasonable opportunity to be heard, the court may order the parent to pay all or part of the costs of the child's care, examination, treatment, legal expenses, or other expenses. An order entered under this section does not obligate a parent paying child support under a custody decree, except that part of the monthly support payment may be used to satisfy the obligations imposed by the order entered pursuant to this section. If a parent fails to pay as ordered, without good reason, the court may proceed against the parent for contempt and may inform the county attorney who shall proceed against the parent to collect the unpaid amount. Any payment ordered by the court shall be a judgment against each of the child's parents and a lien as provided in section 624.23. If all or</p>

	<p>part of the amount that the parents are ordered to pay is subsequently paid by the county or state, the judgment and lien shall thereafter be against each of the parents in favor of the county to the extent of the county's payments and in favor of the state to the extent of the state's payments.</p> <p>2. All of the following juvenile court expenses are a charge upon the county in which the proceedings are held, to the extent provided in subsection 3:</p> <p>a. Juvenile court expenses incurred by an attorney appointed by the court to serve as counsel to any party or to serve as a guardian ad litem for any child, including fees and expenses for foreign language interpreters, costs of depositions and transcripts, fees and mileage of witnesses, and the expenses of officers serving notices and subpoenas.</p> <p>b. Reasonable compensation for an attorney appointed by the court to serve as counsel to any party or as guardian ad litem for any child in juvenile court.</p> <p>...</p> <p>d. Costs incurred under subsection 2 shall be paid by the state from the appropriations to the indigent defense fund under section 815.11 in accordance with this chapter, chapter 815, and the rules adopted by the state public defender. The county shall be required to reimburse the indigent defense fund for costs incurred by the state up to the county's base in this subsection. IOWA CODE § 232.141.</p>
<p>10. Caseload Levels: Caseloads are of a manageable size.</p>	<p><i>No explicit legal authority or requirement.</i></p>