

franchisee's heir or heirs as required by this chapter within sixty days after the inventory has been received by the franchiser, the franchiser shall be civilly liable for one hundred percent of the current net price of farm implements; transportation charges which have been paid by the franchisee; eighty-five percent of the current net price of repair parts; five percent of the current net price of repair parts to cover handling, packing and loading, if applicable; and attorney fees incurred by the franchisee or the franchisee's heir or heirs.

Sec. 5. **NEW SECTION. 322D.5 DEATH OF A FRANCHISEE OR MAJORITY STOCKHOLDER.** If the franchisee is a natural person, the rights under this chapter may be exercised by the heirs of the franchisee upon the death of the franchisee. If the franchisee is a business organization, the rights may be exercised by the heirs of a majority stockholder of the franchisee upon the death of the majority stockholder.

Sec. 6. **NEW SECTION. 322D.6 SECURITY INTERESTS NOT AFFECTED.** The provisions of this chapter shall not be construed to affect, in any way, the existence or enforcement of any security interest which a supplier, any financial institution or any other person may have in the inventory of the retailer, and any repurchase of inventory which is made hereunder shall not be subject to the bulk sales provisions of chapter 554, article 6, of the uniform commercial code.

Approved April 16, 1984

CHAPTER 1088
CHILD CUSTODY
S.F. 2163

AN ACT relating to child custody.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 598.1, Code 1983, is amended by adding the following new subsection:
NEW SUBSECTION. 6. "Best interest of the child" includes, but is not limited to, the opportunity for maximum continuous physical and emotional contact possible with both parents, unless direct physical or significant emotional harm to the child may result from this contact. Refusal by one parent to provide this opportunity without just cause shall be considered harmful to the best interest of the child.

Sec. 2. Section 598.41, subsections 1 and 2, Code 1983, are amended to read as follows:
1. The court, insofar as is reasonable and in the best interest interests of the child, shall order the custody award, including liberal visitation rights where appropriate, which will assure a minor the child frequent and the opportunity for the maximum continuing physical and emotional contact with both parents after the parents have separated or dissolved the marriage, unless direct physical harm or significant emotional harm to the child is likely to result from such contact with one parent, and which will encourage parents to share the rights

and responsibilities of raising the child. The court shall consider the denial by one parent of the child's opportunity for maximum continuing contact with the other parent, without just cause, a significant factor in determining the proper custody arrangement. Unless otherwise ordered by the court in the custody decree, both parents shall have legal access to information concerning the child, including but not limited to medical, educational and law enforcement records.

2. On the application of either parent, the court shall consider granting joint custody in cases where the parents do not agree to joint custody. If the court does not grant joint custody under this subsection, the court shall state in its decision the reasons for denying joint custody cite clear and convincing evidence, pursuant to the factors in subsection 3, that joint custody is unreasonable and not in the best interest of the child to the extent that the legal custodial relationship between the child and a parent should be severed. Before ruling upon the joint custody petition in these cases, the court may require the parties to participate in custody mediation counseling to determine whether joint custody is in the best interest of the child. The court may require the child's participation in the mediation counseling insofar as the court determines the child's participation is advisable.

The costs of custody mediation counseling shall be paid in full or in part by the parties and taxed as court costs.

Sec. 3. Section 598.41, subsection 3, unnumbered paragraph 1, Code 1983, is amended to read as follows:

In considering what custody arrangement under ~~either~~ subsection 1 ~~or~~ 2 is in the best interests of the minor child, the court shall consider the following factors:

Sec. 4. Section 598.41, Code 1983, is amended by adding the following new subsection before subsection 4 and renumbering the subsequent subsections:

NEW SUBSECTION. 4. Subsection 3 shall not apply when parents agree to joint custody.

Sec. 5. Section 598.41, subsection 4, Code 1983, is amended to read as follows:

4. Joint legal custody does not require joint physical care. When the court determines such action would be in the child's best ~~interest~~ interests, physical care may be given to one joint custodial parent and not to the other. If one joint custodial parent is awarded physical care, the court shall hold that parent responsible for providing for the best interests of the child. However, physical care given to one parent does not affect the other parent's rights and responsibilities as a legal custodian of the child. Rights and responsibilities as legal custodian of the child include, but are not limited to, equal participation in decisions affecting the child's legal status, medical care, education, extracurricular activities, and religious instruction.

Sec. 6. The enactment of subsection 1 of section 598.41 constitutes a substantial change in circumstances authorizing a court to modify a child custody order pursuant to section 598.21 and chapter 598A.

Approved April 16, 1984