

(P. 227) 2/8/94 Judiciary
(P. 481) 3/3/94 Do Pass

1 FILED FEB 8 1994
(P. 532) 3-10-94 House - Judiciary

SENATE FILE **2094**

BY ROSENBERG
(P. 901) 3/24/94 House - Amend/Do Pass
W/H - 5691
(P. 1480) 4/13/94 House - Returned to Judiciary

(P. 590)
Passed Senate, Date 3-9-94
Vote: Ayes 47 Nays 1
Approved _____

Passed House, Date _____
Vote: Ayes _____ Nays _____

A BILL FOR

1 An Act relating to the awarding of joint custody of children
2 resulting from a dissolution of marriage.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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SF 2094

1 Section 1. Section 598.1, Code 1993, is amended by adding
2 the following new subsection:

3 NEW SUBSECTION. 2A. "Joint legal custody" or "joint
4 custody" means an award of the rights of legal custody to both
5 parents jointly under which both parents have legal custodial
6 rights and responsibilities toward the child and under which
7 neither parent has legal custodial rights superior to those of
8 the other parent. Rights and responsibilities as a joint
9 legal custodial parent include, but are not limited to, equal
10 participation in decisions affecting the child's legal status,
11 medical care, education, extracurricular activities, third-
12 party child care, and religious instruction.

13 Sec. 2. Section 598.1, subsection 3, Code 1993, is amended
14 to read as follows:

15 3. "Joint custody physical care" or "~~joint-legal-custody~~"
16 means an award of eustody physical care of a minor child to
17 both joint legal custodial parents under which both parents
18 have rights and responsibilities toward the child, including
19 but not limited to shared parenting time and under which
20 neither parent has rights superior to those of the other
21 parent. ~~The court may award physical care to one parent only.~~

22 Sec. 3. Section 598.1, subsection 5, Code 1993, is amended
23 to read as follows:

24 5. "Physical care" means the right and responsibility to
25 maintain the ~~principal~~ home of the minor child and provide for
26 the routine care of the child.

27 Sec. 4. Section 598.41, subsection 5, Code 1993, is
28 amended to read as follows:

29 5. ~~Joint-legal-custody-does-not-require-joint-physical~~
30 ~~care.--When~~ If the court determines such action would be in
31 the best interest of the child, joint physical care may be
32 given to both joint legal custodial parents or physical care
33 may be given to one joint custodial parent and not to the
34 other. If one joint legal custodial parent is awarded
35 physical care, the court shall hold that parent responsible

1 for providing for the best interest of the child. However,
2 physical care given to one joint legal custodial parent does
3 not affect the other joint legal custodial parent's rights and
4 responsibilities as a legal custodian of the child. Rights
5 and responsibilities as legal custodian of the child include,
6 but are not limited to, equal participation in decisions
7 affecting the child's legal status, medical care, education,
8 extracurricular activities, third-party child care, and
9 religious instruction.

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EXPLANATION

This bill amends sections of the Code relating to the
awarding of joint custody of children in a dissolution of
marriage context and specifically in the awarding of joint
physical care. The bill redefines "joint legal custody" to
include rights and responsibilities connected to third-party
child care decisions. The bill also defines "joint physical
care" and provides that the court may award physical care to
one parent or may award joint physical care to both parents.
If parents are awarded joint physical care, neither parent has
rights superior to those of the other parent.

SENATE FILE 2094

H-5752

1 Amend Senate File 2094, as passed by the Senate, as
2 follows:

3 1. Page 1, by inserting before line 1 the
4 following:

5 "Section 1. Section 232.2, subsection 22, Code
6 Supplement 1993, is amended by adding the following
7 new unnumbered paragraph:

8 NEW UNNUMBERED PARAGRAPH. Unless otherwise
9 enlarged or circumscribed by a court or juvenile court
10 having jurisdiction over the child or by operation of
11 law, the duties of a guardian ad litem with respect to
12 a child shall include the following:

13 a. Conducting in-person interviews with the child
14 and each parent, guardian, or other person having
15 custody of the child.

16 b. Visiting the home, residence, or both home and
17 residence of the child and any prospective home or
18 residence of the child.

19 c. Interviewing any person providing medical,
20 social, educational, or other services to the child.

21 d. Obtaining first-hand knowledge, if possible, of
22 the facts, circumstances, and parties involved in the
23 matter in which the person is appointed guardian ad
24 litem.

25 e. Attending any hearings in the matter in which
26 the person is appointed as the guardian ad litem.

27 Persons who are guardians ad litem for a child
28 shall not also be the attorney for any party, other
29 than the child, in any proceeding involving or
30 regarding the child."

31 2. Title page, line 2, by inserting after the
32 word "marriage" the following: "and the duties of
33 guardians ad litem in juvenile matters".

34 3. By renumbering as necessary.

By DODERER of Johnson

H-5752 FILED MARCH 28, 1994

SENATE FILE 2094

H-5691

1 Amend Senate File 2094, as passed by the Senate, as
2 follows:

3 1. Page 1, by striking lines 1 through 26.

4 2. Page 1, by striking lines 29 through 34 and
5 inserting the following:

6 "5. Joint legal custody does not require, but may
7 include, joint physical care. When the court
8 determines such action would be in the best interest
9 of the child, physical care may be given to one joint
10 legal custodial parent and not to the other. If one
11 joint legal custodial parent is awarded".

12 3. Page 2, by striking line 8, and inserting the
13 following: "extracurricular activities, and".

By COMMITTEE ON JUDICIARY AND
LAW ENFORCEMENT

McNEAL of Hardin, Chairperson

H-5691 FILED MARCH 25, 1994

SENATE FILE 2094

H-5808

1 Amend Senate File 2094 as passed by the Senate as
2 follows:

3 1. Page 2, line 1, by inserting after the word
4 "child." the following: "If both joint legal
5 custodial parents are awarded joint physical care, the
6 parents shall establish one permanent home for the
7 child and each parent shall reside with the child, on
8 an alternating and temporary basis, in the home of the
9 child."

By DICKINSON of Jackson

H-5808 FILED MARCH 29, 1994