

2-20-97 Judiciary

FILED FEB 19 1997

SENATE FILE 172
BY SZYMONIAK

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the consideration by the court of a pattern of
2 domestic abuse and of the identity of the primary physical
3 aggressor in the determination of a history of domestic abuse
4 pertaining to the awarding of child custody.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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S.F. 172

1 Section 1. Section 598.41, subsection 1, paragraph b, Code
2 1997, is amended to read as follows:

3 b. Notwithstanding paragraph "a", if the court finds that
4 a history of domestic abuse exists as specified in subsection
5 3, paragraph "j", a rebuttable presumption against the
6 awarding of joint custody exists.

7 Sec. 2. Section 598.41, subsection 3, paragraph j, Code
8 1997, is amended to read as follows:

9 j. Whether a history of domestic abuse, as defined in
10 section 236.2, exists. In determining whether a history of
11 domestic abuse exists, the court's consideration shall
12 include, but is not limited to, commencement of an action
13 pursuant to section 236.3, the issuance of a protective order
14 against the parent or the issuance of a court order or consent
15 agreement pursuant to section 236.5, the issuance of an
16 emergency order pursuant to section 236.6, the holding of a
17 parent in contempt pursuant to section 236.8, the response of
18 a peace officer to the scene of alleged domestic abuse or the
19 arrest of a parent following response to a report of alleged
20 domestic abuse, or a conviction for domestic abuse assault
21 pursuant to section 708.2A. In reviewing any history of
22 domestic abuse to make a determination under this paragraph,
23 the court shall also consider any pattern of domestic abuse
24 and shall identify the primary physical aggressor, as
25 described in section 236.12, subsection 3, in any instance.

26 EXPLANATION

27 This bill provides that in awarding custody of a child,
28 when the court determines if a history of domestic abuse
29 exists, the court is also required to consider any pattern of
30 domestic abuse and is required to identify the primary
31 physical aggressor in any instance. The bill also amends the
32 paragraph relating to a rebuttable presumption against the
33 awarding of joint custody when a history of domestic abuse
34 exists to reference the paragraph relating to the
35 determination of domestic abuse by the court.