

# Senate Study Bill 164

## Bill Text

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1 1 Section 1. Section 598.1, Code 1997, is amended to read as  
1 2 follows:

1 3 598.1 DEFINITIONS.

1 4 As used in this chapter:

1 5 1. "Best interest of the child" includes, but is not  
1 6 limited to, the opportunity for the maximum possible  
1 7 continuous physical and emotional

~~contact possible with~~

~~access~~

1 8 by the child to both parents, unless direct physical or  
1 9 significant emotional harm to the child may result from this  
1 10

~~contact~~

~~access.~~ Refusal by one parent to provide

~~this~~

1 11

~~opportunity~~

~~access by the child to the other parent~~ without

1 12 just cause shall be considered harmful to the best interest of  
1 13 the child.

1 14 2. "Dissolution of marriage" means a termination of the  
1 15 marriage relationship and shall be synonymous with the term  
1 16 "divorce".

1 17 3. "Joint custody" or "joint legal custody" means an award  
1 18 of legal custody of a minor child to both parents jointly  
1 19 under which both parents have legal custodial rights and  
1 20 responsibilities toward the child and under which neither  
1 21 parent has legal custodial rights superior to those of the  
1 22 other parent.

~~The court may award physical care to one parent~~

1 23

~~only.~~

~~Rights and responsibilities of joint legal custody~~

1 24 include, but are not limited to, equal participation in  
1 25 decisions affecting the child's legal status, medical care,  
1 26 education, extracurricular activities, third-party child care,  
1 27 and religious instruction.

1 28 3A. "Joint physical care" means an award of physical care  
1 29 of a minor child to both joint legal custodial parents under  
1 30 which both parents have rights and responsibilities toward the  
1 31 child including, but not limited to, shared parenting time  
1 32 with the child, maintaining homes for the child, providing  
1 33 routine care for the child and under which neither parent has  
1 34 physical care rights superior to those of the other parent.

1 35 3B. "Legal custody" or "custody" means an award of the  
2 1 rights of legal custody of a minor child to a parent under  
2 2 which a parent has legal custodial rights and responsibilities  
2 3 toward the child. Rights and responsibilities of legal

2 4 custody include, but are not limited to, decision making  
2 5 affecting the child's legal status, medical care, education,  
2 6 extracurricular activities, third-party child care, and  
2 7 religious instruction.  
2 8 4. "Minor child" means any person under legal age.  
2 9 5. "Physical care" means the right and responsibility to  
2 10 maintain

~~the principal~~  
- a home

~~of~~

- for the minor child and

2 11 provide for the routine care of the child.  
2 12 6. "Support" or "support payments" means an amount which  
2 13 the court may require either of the parties to pay under a  
2 14 temporary order or a final judgment or decree, and may include  
2 15 alimony, child support, maintenance, and any other term used  
2 16 to describe these obligations. For orders entered on or after  
2 17 July 1, 1990, unless the court specifically orders otherwise,  
2 18 medical support is not included in the monetary amount of  
2 19 child support. The obligations may include support for a  
2 20 child who is between the ages of eighteen and twenty-two years  
2 21 who is regularly attending an accredited school in pursuance  
2 22 of a course of study leading to a high school diploma or its  
2 23 equivalent, or regularly attending a course of vocational-  
2 24 technical training either as a part of a regular school  
2 25 program or under special arrangements adapted to the  
2 26 individual person's needs; or is, in good faith, a full-time  
2 27 student in a college, university, or community college; or has  
2 28 been accepted for admission to a college, university, or  
2 29 community college and the next regular term has not yet begun;  
2 30 or a child of any age who is dependent on the parties to the  
2 31 dissolution proceedings because of physical or mental  
2 32 disability.

2 33 Sec. 2. Section [598.21](#), subsection 4, Code 1997, is  
2 34 amended to read as follows:

2 35 4. The supreme court shall maintain uniform child support  
3 1 guidelines and criteria and review the guidelines and criteria  
3 2 at least once every four years, pursuant to the federal Family  
3 3 Support Act of 1988, Pub. L. No. 100-485. The initial review  
3 4 shall be performed within four years of October 12, 1989, and  
3 5 subsequently within the four-year period of the most recent  
3 6 review. The supreme court shall incorporate into the  
3 7 guidelines provisions for the awarding of child support in  
3 8 orders providing for joint physical care of a child. It is  
3 9 the intent of the general assembly that, to the extent  
3 10 possible within the requirements of federal law, the court and  
3 11 the child support recovery unit consider the individual facts  
3 12 of each judgment or case in the application of the guidelines  
3 13 and determine the support obligation, accordingly. It is also  
3 14 the intent of the general assembly that in the supreme court's  
3 15 review of the guidelines, the supreme court shall do both of  
3 16 the following: emphasize the ability of a court to apply the  
3 17 guidelines in a just and appropriate manner based upon the  
3 18 individual facts of a judgment or case; and in determining  
3 19 monthly child support payments, consider other children for  
3 20 whom either parent is legally responsible for support and  
3 21 other child support obligations actually paid by either party  
3 22 pursuant to a court or administrative order.

3 23 a. Upon every judgment of annulment, dissolution, or  
3 24 separate maintenance, the court may order either parent or  
3 25 both parents to pay an amount reasonable and necessary for  
3 26 supporting a child. If the court awards joint physical care,  
3 27 the court shall make specific findings and shall issue orders  
3 28 with respect to each parent for the support of the child. In  
3 29 establishing the amount of support, consideration shall be

3 30 given to the responsibility of both parents to support and  
3 31 provide for the welfare of the minor child and of a child's  
3 32 need, whenever practicable, for a close relationship with both  
3 33 parents. There shall be a rebuttable presumption that the  
3 34 amount of child support which would result from the  
3 35 application of the guidelines prescribed by the supreme court  
4 1 is the correct amount of child support to be awarded. A  
4 2 variation from the guidelines shall not be considered by a  
4 3 court without a record or written finding, based on stated  
4 4 reasons, that the guidelines would be unjust or inappropriate  
4 5 as determined under the criteria prescribed by the supreme  
4 6 court.

4 7 The court shall order as child medical support a health  
4 8 benefit plan as defined in chapter 252E if available to either  
4 9 parent at a reasonable cost. A health benefit plan is  
4 10 considered reasonable in cost if it is employment-related or  
4 11 other group health insurance, regardless of the service  
4 12 delivery mechanism. The premium cost of the health benefit  
4 13 plan may be considered by the court as a reason for varying  
4 14 from the child support guidelines. If a health benefit plan  
4 15 is not available at a reasonable cost, the court may order any  
4 16 other provisions for medical support as defined in chapter  
4 17 252E.

4 18 b. The guidelines prescribed by the supreme court shall be  
4 19 used by the department of human services in determining child  
4 20 support payments under sections 252C.2 and 252C.4. A  
4 21 variation from the guidelines shall not be considered by the  
4 22 department without a record or written finding, based on  
4 23 stated reasons, that the guidelines would be unjust or  
4 24 inappropriate as determined under criteria prescribed by the  
4 25 supreme court.

4 26 c. The guidelines prescribed by the supreme court shall  
4 27 incorporate provisions for medical support as defined in  
4 28 chapter 252E to be effective on or before January 1, 1991.

4 29 d. For purposes of calculating a support obligation under  
4 30 this section, the income of the parent from whom support is  
4 31 sought shall be used as the noncustodial parent income for  
4 32 purposes of application of the guidelines, regardless of the  
4 33 legal custody or an order for joint physical care of the  
4 34 child.

4 35 e. Unless the special circumstances of the case justify a  
5 1 deviation, the court or the child support recovery unit shall  
5 2 establish a monthly child support payment of twenty-five  
5 3 dollars for a parent who is nineteen years of age or younger,  
5 4 who has not received a high school or high school equivalency  
5 5 diploma, and to whom each of the following apply:

5 6 (1) The parent is attending a school or program described  
5 7 as follows or has been identified as one of the following:

5 8 (a) The parent is in full-time attendance at an accredited  
5 9 school and is pursuing a course of study leading to a high  
5 10 school diploma.

5 11 (b) The parent is attending an instructional program  
5 12 leading to a high school equivalency diploma.

5 13 (c) The parent is attending a vocational education program  
5 14 approved pursuant to chapter 258.

5 15 (d) The parent has been identified by the director of  
5 16 special education of the area education agency as a child  
5 17 requiring special education as defined in section 256B.2.

5 18 (2) The parent provides proof of compliance with the  
5 19 requirements of subparagraph (1) to the child support recovery  
5 20 unit, if the unit is providing services under chapter 252B, or  
5 21 if the unit is not providing services pursuant to chapter  
5 22 252B, to the court as the court may direct.

5 23 Failure to provide proof of compliance under this  
5 24 subparagraph or proof of compliance under section 598.21A is  
5 25 grounds for modification of the support order using the  
5 26 uniform child support guidelines and imputing an income to the

5 27 parent equal to a forty-hour work week at the state minimum  
5 28 wage, unless the parent's education, experience, or actual  
5 29 earnings justify a higher income.

5 30 f. If a child receives public assistance or is receiving  
5 31 services under chapter 252B, the child support recovery unit  
5 32 may initiate proceedings to establish a support obligation or  
5 33 the amount of support for the child, without considering  
5 34 custody, visitation, joint physical care, or other issues  
5 35 unrelated to support.

6 1 Sec. 3. Section [598.21](#), Code 1997, is amended by adding  
6 2 the following new subsections:

6 3 NEW SUBSECTION. 8A. In addition to the factors to be  
6 4 considered by the court pursuant to subsection 8, in  
6 5 determining if a substantial change in circumstances exists  
6 6 for the purposes of modifying the custody provisions of an  
6 7 order made under this section, the court shall consider all of  
6 8 the following:

6 9 a. Interference with access between the child and one  
6 10 parent caused by the other parent.

6 11 b. A change in the work schedule of one parent creating a  
6 12 conflict with access by the child to the other parent.

6 13 NEW SUBSECTION. 8B. If a parent awarded joint legal  
6 14 custody and physical care or sole legal custody is relocating  
6 15 the residence of the minor child to another state, the court  
6 16 shall modify the custody order to preserve, as nearly as  
6 17 possible, the existing relationship between the minor child  
6 18 and the nonrelocating parent. If modified, the order shall,  
6 19 at a minimum, include a provision for extended visitation  
6 20 during summer vacations and school breaks and scheduled  
6 21 telephone contact between the nonrelocating parent and the  
6 22 minor child. The modification may include a provision  
6 23 assigning the responsibility for transportation of the minor  
6 24 child for visitation purposes to either or both parents. If  
6 25 the court makes a finding of past interference by the parent  
6 26 awarded joint legal custody and physical care or sole legal  
6 27 custody with the minor child's access to the other parent, the  
6 28 court may order the posting of a cash bond to assure future  
6 29 compliance with the visitation provisions of the decree. The  
6 30 supreme court shall prescribe guidelines for the forfeiting of  
6 31 the bond and restoration of the bond following forfeiting of  
6 32 the bond.

6 33 Sec. 4. Section [598.21](#), subsection 10, Code 1997, is  
6 34 amended to read as follows:

6 35 10. Notwithstanding any other provision of law to the  
7 1 contrary, if a child receives public assistance or is  
7 2 receiving services under chapter 252B, or in any other  
7 3 instance when an application for modification or adjustment of  
7 4 support is submitted by the child support recovery unit, the  
7 5 sole issues which may be considered by the court in that  
7 6 action are the application of the guidelines in establishing  
7 7 the amount of support pursuant to subsection 4, and provision  
7 8 for medical support under chapter 252E. Issues related to  
7 9 custody, visitation, joint physical care, or other provisions  
7 10 unrelated to support shall be considered only under a separate  
7 11 application for modification.

7 12 Sec. 5. Section [598.23](#), subsection 2, Code 1997, is  
7 13 amended by adding the following new paragraphs:

7 14 NEW PARAGRAPH. c. Directs the parties to provide access  
7 15 to the child through a neutral party or neutral site or  
7 16 center.

7 17 NEW PARAGRAPH. d. Imposes sanctions or specific  
7 18 requirements or orders the parties to participate in mediation  
7 19 to enforce the joint custody provisions of the decree.

7 20 Sec. 6. Section [598.23](#), Code 1997, is amended by adding  
7 21 the following new subsection:

7 22 NEW SUBSECTION. 3. In addition to the provisions for  
7 23 punishment for contempt under this section, if the court finds

7 24 a person in contempt for failing to comply with the visitation  
7 25 provisions of an order or decree without good cause, the court  
7 26 may enjoin the contemnor from engaging in the activity  
7 27 governed by a license to operate a motor vehicle through  
7 28 suspension or revocation of the license and may impose  
7 29 conditions for reinstatement of the license.

7 30 Sec. 7. NEW SECTION. 598.23B UNLAWFUL INTERFERENCE WITH  
7 31 VISITATION.

7 32 1. If a party to a temporary order or final decree detains  
7 33 or conceals a child with the intent to deprive another person  
7 34 of that person's rights to visitation, the person detaining or  
7 35 concealing the child commits unlawful interference with  
8 1 visitation.

8 2 2. a. A law enforcement officer who has cause to believe  
8 3 that a person has committed or is committing unlawful  
8 4 interference with visitation shall issue a citation to the  
8 5 person. The citation shall include the name and address of  
8 6 the person, the nature of the offense, the time and place at  
8 7 which the person is to appear in court, and the penalty for  
8 8 nonappearance. Before the cited person is released, the  
8 9 person shall sign the citation as a written promise to appear  
8 10 in court at the time and place specified. A copy of the  
8 11 citation shall be given to the person.

8 12 b. The law enforcement officer issuing the citation shall  
8 13 file a complaint in the court in which the cited person is  
8 14 required to appear, as soon as practicable, charging the  
8 15 person with the crime of unlawful interference with  
8 16 visitation.

8 17 3. Upon failure of the cited person to appear in court,  
8 18 the court shall issue an arrest warrant for the person.

8 19 4. It is an affirmative defense to unlawful interference  
8 20 with visitation that any of the following conditions exist:

8 21 a. A person committed the act to protect the child from  
8 22 imminent physical harm, provided that the person had a  
8 23 reasonable belief that the physical harm was imminent and that  
8 24 the person's conduct in withholding visitation was a  
8 25 reasonable response to the physical harm reasonably believed  
8 26 to be imminent.

8 27 b. The act was committed with the mutual consent of all  
8 28 parties having a right to custody and visitation of the child.

8 29 c. The act is otherwise authorized by law.

8 30 5. A person who commits unlawful interference with  
8 31 visitation under this section commits the following violation:

8 32 a. For a first offense, the person commits a scheduled  
8 33 violation under section 805.8, subsection 13.

8 34 b. For a second or subsequent offense, the person commits  
8 35 a serious misdemeanor.

9 1 Sec. 8. NEW SECTION. 598.23C PLAINTIFFS PROCEEDING PRO  
9 2 SE - ENFORCEMENT OF VISITATION PROVISIONS.

9 3 1. A person may proceed pro se in order to seek relief  
9 4 from the willful disobedience of another person to comply with  
9 5 the visitation provisions of an order or decree under this  
9 6 chapter by filing a verified petition in the district court.  
9 7 Venue shall lie where either party resides. The petition  
9 8 shall state all of the following:

9 9 a. The name of the plaintiff and a mailing address for the  
9 10 plaintiff.

9 11 b. The name and address, if known, of the defendant.

9 12 c. The nature of the alleged disobedience of the order or  
9 13 decree.

9 14 d. The name and age of each child to whom the order or  
9 15 decree pertains.

9 16 e. The desired relief.

9 17 f. Any other information which the supreme court  
9 18 determines necessary to facilitate resolution of the matter.

9 19 2. Upon filing the petition to proceed pro se, the  
9 20 plaintiff may attach an affidavit stating that the plaintiff

9 21 does not have sufficient funds to pay the costs of filing and  
9 22 service, and the petition shall be filed and service shall be  
9 23 made without payment of the costs.

9 24 3. If a petition is filed and service is made without  
9 25 payment of costs, the court shall determine at the hearing if  
9 26 the payment of costs would prejudice the plaintiff's financial  
9 27 ability to provide economic necessities for the plaintiff. If  
9 28 the court finds that the payment of costs would not prejudice  
9 29 the plaintiff's financial ability to provide economic  
9 30 necessities for the plaintiff, the court may order the  
9 31 plaintiff to pay the costs of filing and service. However, in  
9 32 making the determination, the court shall not consider funds  
9 33 no longer available to the plaintiff as a result of the  
9 34 commencement of the action.

9 35 4. The supreme court shall prescribe standard forms to be  
10 1 used by plaintiffs seeking orders to enforce visitation by  
10 2 proceeding pro se in actions under this section. The standard  
10 3 forms shall include language in fourteen-point boldface type,  
10 4 with a box which may be checked by the plaintiff, indicating  
10 5 that the plaintiff does not have sufficient funds to pay the  
10 6 cost of filing and service. Standard forms prescribed by the  
10 7 supreme court shall be the exclusive forms used by plaintiffs  
10 8 in proceeding pro se, and may be used by other plaintiffs.  
10 9 The supreme court shall distribute the forms to the clerks of  
10 10 the district courts.

10 11 5. The clerk of the district court shall furnish the  
10 12 required forms to persons seeking visitation enforcement  
10 13 orders through pro se proceedings pursuant to this section.

10 14 6. Hearings on a petition filed under this section shall  
10 15 be in accordance with section 598.8 as it applies to child  
10 16 custody hearings.

10 17 Sec. 9. Section [598.41](#), Code 1997, is amended to read as  
10 18 follows:

10 19 598.41 CUSTODY OF CHILDREN.

10 20 1. a. The court, insofar as is reasonable and in the best  
10 21 interest of the child, shall order the custody award,  
10 22 including liberal visitation rights where appropriate, which  
10 23 will assure the child the opportunity for the maximum possible  
10 24 continuing physical and emotional

~~contact with~~

~~access to both~~

10 25 parents after the parents have separated or dissolved the  
10 26 marriage, and which will encourage parents to share the rights  
10 27 and responsibilities of raising the child unless direct  
10 28 physical harm or significant emotional harm to the child,  
10 29 other children, or a parent is likely to result from such  
10 30

~~contact with~~

~~access to one parent.~~

10 31 b. Notwithstanding paragraph "a", if the court finds that  
10 32 a history of domestic abuse exists, a rebuttable presumption  
10 33 against the awarding of joint custody exists.

10 34 c. The court shall consider the denial by one parent of  
10 35 the child's

~~opportunity for~~

~~right to the maximum possible~~

11 1 continuing

~~contact with~~

~~access to the other parent, without~~

11 2 just cause, a significant factor in determining the proper  
11 3 custody arrangement. Just cause may include a determination  
11 4 by the court pursuant to subsection 3, paragraph "j", that a  
11 5 history of domestic abuse exists between the parents.

11 6 d. If a history of domestic abuse exists as determined by  
11 7 a court pursuant to subsection 3, paragraph "j", and if a  
11 8 parent who is a victim of such domestic abuse relocates or is  
11 9 absent from the home based upon the fear of or actual acts or  
11 10 threats of domestic abuse perpetrated by the other parent, the  
11 11 court shall not consider the relocation or absence of that  
11 12 parent as a factor against that parent in the awarding of  
11 13 custody or visitation.

11 14 e. Unless otherwise ordered by the court in the custody  
11 15 decree, both parents shall have legal access to information  
11 16 concerning the child, including but not limited to medical,  
11 17 educational and law enforcement records.

11 18 2. a. On the application of either parent, the court  
11 19 shall consider granting joint custody in cases where the  
11 20 parents do not agree to joint custody.

11 21 b. If the court does not grant joint custody under this  
11 22 subsection, the court shall cite clear and convincing  
11 23 evidence, pursuant to the factors in subsection 3, that joint  
11 24 custody is unreasonable and not in the best interest of the  
11 25 child to the extent that the legal custodial relationship  
11 26 between the child and a parent should be severed.

11 27 c. A finding by the court that a history of domestic abuse  
11 28 exists, as specified in subsection 3, paragraph "j", which is  
11 29 not rebutted, shall outweigh consideration of any other factor  
11 30 specified in subsection 3 in the determination of the awarding  
11 31 of custody under this subsection.

11 32 d. Before ruling upon the joint custody petition in these  
11 33 cases, unless the court determines that a history of domestic  
11 34 abuse exists as specified in subsection 3, paragraph "j", or  
11 35 unless the court determines that direct physical harm or  
12 1 significant emotional harm to the child, other children, or a  
12 2 parent is likely to result, the court may require the parties  
12 3 to participate in custody mediation to determine whether joint  
12 4 custody is in the best interest of the child. The court may  
12 5 require the child's participation in the mediation insofar as  
12 6 the court determines the child's participation is advisable.

12 7 e. The costs of custody mediation shall be paid in full or  
12 8 in part by the parties and taxed as court costs.

12 9 3. In considering what custody arrangement under  
12 10 subsection 2 is in the best interest of the minor child, the  
12 11 court shall consider the following factors:

12 12 a. Whether each parent would be a suitable custodian for  
12 13 the child.

12 14 b. Whether the psychological and emotional needs and  
12 15 development of the child will suffer due to lack of

~~active~~

12 16

~~contact with~~

~~access to~~ and attention from both parents.

12 17 c. Whether the parents can communicate with each other  
12 18 regarding the child's needs.

12 19 d. Whether both parents have actively cared for the child  
12 20 before and since the separation.

12 21 e. Whether each parent can support the other parent's  
12 22 relationship with the child.

12 23 f. Whether the custody arrangement is in accord with the  
12 24 child's wishes or whether the child has strong opposition,  
12 25 taking into consideration the child's age and maturity.

12 26 g. Whether one or both the parents agree or are opposed to  
12 27 joint custody.

12 28 h. The geographic proximity of the parents.

12 29 i. Whether the safety of the child, other children, or the  
12 30 other parent will be jeopardized by the awarding of joint  
12 31 custody or by unsupervised or unrestricted visitation.

12 32 j. Whether a history of domestic abuse, as defined in  
12 33 section 236.2, exists. In determining whether a history of  
12 34 domestic abuse exists, the court's consideration shall  
12 35 include, but is not limited to, commencement of an action  
13 1 pursuant to section 236.3, the issuance of a protective order  
13 2 against the parent or the issuance of a court order or consent  
13 3 agreement pursuant to section 236.5, the issuance of an  
13 4 emergency order pursuant to section 236.6, the holding of a  
13 5 parent in contempt pursuant to section 236.8, the response of  
13 6 a peace officer to the scene of alleged domestic abuse or the  
13 7 arrest of a parent following response to a report of alleged  
13 8 domestic abuse, or a conviction for domestic abuse assault  
13 9 pursuant to section 708.2A.  
13 10 4. Subsection 3 shall not apply when parents agree to  
13 11 joint custody.  
13 12 5.

~~Joint legal custody does not require joint physical~~

13 13

~~care.~~

- When the court determines such action would

~~be in the~~

13 14 best

~~interest of~~

- preserve the relationship between each parent

13 15 and the child, joint physical care may be

~~given~~

- awarded to

13 16 both joint custodial parents or physical care may be awarded

13 17 to one joint custodial parent

~~and not to the other~~

- If one

13 18 joint custodial parent is awarded physical care, the

~~court~~

13 19

~~shall hold that~~

- parent responsible for providing

~~for the best~~

13 20

~~interest of~~

- physical care shall support the other parent's

13 21 relationship with the child.

~~However, physical~~

- Physical care

13 22

~~given~~

- awarded to one parent does not affect the other parent's

13 23 rights and responsibilities as a joint legal custodian of the

13 24 child. Rights and responsibilities as joint legal custodian

13 25 of the child include, but are not limited to, equal

13 26 participation in decisions affecting the child's legal status,

13 27 medical care, education, extracurricular activities, third-

13 28 party child care, and religious instruction.

13 29 6. When

~~the~~

- a parent awarded legal custody or physical

13 30 care of

~~the~~

- a child cannot act as custodian or caretaker

13 31 because the parent has died or has been judicially adjudged  
13 32 incompetent, the court shall award legal custody including  
13 33 physical care of the child to the surviving parent unless the  
13 34 court finds that such an award is not in the child's best  
13 35 interest.

14 1 7. If an application for modification of a decree or a  
14 2 petition for modification of an order is filed, based upon  
14 3 differences between the parents regarding the custody  
14 4 arrangement established under the decree or order, unless the  
14 5 court determines that a history of domestic abuse exists as  
14 6 specified in subsection 3, paragraph "j", or unless the court  
14 7 determines that direct physical harm or significant emotional  
14 8 harm to the child, other children, or a parent is likely to  
14 9 result, the court may require the parents to participate in  
14 10 mediation to attempt to resolve the differences between the  
14 11 parents.

14 12 8. A parent who is awarded joint legal custody and  
14 13 physical care or sole legal custody of a minor child shall  
14 14 provide written notice to the other parent of the parent's  
14 15 intent to relocate the residence of the minor child outside of  
14 16 the state at least sixty days prior to the relocation.

14 17 Sec. 10. Section 805.8, Code 1997, is amended by adding  
14 18 the following new subsection:

14 19 NEW SUBSECTION. 13. UNLAWFUL INTERFERENCE WITH  
14 20 VISITATION. For a first violation under section 598.23B, the  
14 21 scheduled fine is one hundred dollars.

14 22 Sec. 11. Section 805.10, Code 1997, is amended by adding  
14 23 the following new subsection:

14 24 NEW SUBSECTION. 2A. When the violation charged is  
14 25 unlawful interference with visitation under section 598.23B.

14 26 EXPLANATION

14 27 This bill makes changes in child custody provisions of the  
14 28 Code.

14 29 The bill defines joint physical care, as distinguished from  
14 30 joint legal custody, of a minor child and also defines legal  
14 31 custody of a minor child. The bill provides for incorporation  
14 32 of provisions into the child support guidelines to reflect an  
14 33 award of joint physical care and provides other provisions in  
14 34 the awarding and modification of child support to reflect  
14 35 awards of joint physical care. The bill provides new factors  
15 1 for consideration by the court in determining if a substantial  
15 2 change in circumstances exists as a basis for modification of  
15 3 the custody provisions of an order. The new factors include  
15 4 interference by one parent with access by the other parent to  
15 5 the child and a change in the work schedule of one parent  
15 6 which creates a conflict with access by the child to the other  
15 7 parent. The bill also provides that if a party awarded joint  
15 8 legal custody and physical care or sole legal custody  
15 9 relocates the residence of the minor child and if the change  
15 10 of residence will be to a location outside of the state, the  
15 11 order is to be modified to preserve to the greatest extent  
15 12 possible the existing relationship between the minor child and  
15 13 the nonrelocating parent. The modification is to include, at  
15 14 a minimum, extended visitation during summer vacations and  
15 15 school breaks and scheduled telephone contact. The modified  
15 16 order may also assign responsibility for the transportation of  
15 17 the minor child for purposes of visitation with the  
15 18 nonrelocating parent to either or both parents. The bill

15 19 provides that if there has been prior interference by one  
15 20 parent with access to the minor child by the other parent, the  
15 21 parent awarded joint legal custody and physical care or sole  
15 22 legal custody may be required to post a cash bond to assure  
15 23 future compliance. The bill provides that as an alternative  
15 24 to punishment for contempt based upon a party willfully  
15 25 disobeying an order or decree, the court may direct the  
15 26 parties to provide access to the child through a neutral party  
15 27 or neutral site or center and provides for the imposing of  
15 28 sanctions or specific requirements or for the ordering of  
15 29 participation in mediation by the parties to enforce the joint  
15 30 custody provisions of a decree. The bill also requires a  
15 31 parent awarded joint legal custody and physical care or sole  
15 32 legal custody who is planning to relocate outside of the state  
15 33 to notify the other parent, in writing, of this intent at  
15 34 least 60 days prior to relocation. The bill also makes other  
15 35 conforming changes in the dissolution chapter to reflect the  
16 1 new terminology.

16 2 The bill provides that in addition to other punishments for  
16 3 contempt for disobeying the visitation provisions of an order  
16 4 or decree, a person may be enjoined from engaging in the  
16 5 activity governed by a license to operate a motor vehicle  
16 6 through suspension or revocation of the license.

16 7 The bill establishes the crime of unlawful interference  
16 8 with visitation, the penalty for which is a scheduled fine of  
16 9 \$100 for a first offense; and a serious misdemeanor for a  
16 10 second or subsequent offense, for which the punishment is a  
16 11 fine of at least \$250, not to exceed \$1,500, and in addition  
16 12 may include imprisonment not to exceed one year. Unlawful  
16 13 interference with visitation means detaining or concealing a  
16 14 child with the intent to deprive another person of that  
16 15 person's rights to visitation.

16 16 The bill also provides for pro se procedures for  
16 17 enforcement of visitation provisions including procedures for  
16 18 filing a petition to commence an action and providing standard  
16 19 forms for such proceedings.

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16 21 pf/sc/14.4