

JAN 15 2003  
HUMAN RESOURCES

HOUSE FILE 22  
BY BODDICKER

Passed House, Date \_\_\_\_\_ Passed Senate, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

**A BILL FOR**

1 An Act relating to the awarding of joint physical care of a  
2 child.

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

4 **HOUSE FILE 22**

5 **H-1098**

6 1 Amend House File 22 as follows:  
7 2 1. Page 1, line 14, by inserting after the word  
8 3 "child." the following: "If joint physical care is  
9 4 awarded to both parents, the child shall reside  
10 5 continuously in a family home and each parent shall  
11 6 reside in the home with the child on an alternate  
12 7 basis in accordance with a schedule established by the  
13 8 court."

By JOCHUM of Dubuque

12 **H-1098** FILED MARCH 19, 2003

14 **HOUSE FILE 22**

15 **H-1099**

16 1 Amend House File 22 as follows:  
17 2 1. Page 1, by striking lines 3 through 14 and  
18 3 inserting the following:  
19 4 "5. a. Joint physical care may be in the best  
20 5 interest of the child, but joint legal custody does  
21 6 not require joint physical care. When the court  
22 7 determines such action would be in the best interest  
23 8 of the child and would preserve the relationship  
24 9 between each parent and the child, joint physical care  
25 10 may be awarded to both joint custodial parents or  
11 11 physical care may be awarded to one joint custodial  
12 12 parent. If joint physical care is awarded to both  
13 13 parents, the child shall reside continuously in a  
14 14 family home and each parent shall reside in the home  
15 15 with the child on an alternate basis in accordance  
16 16 with a schedule established by the court."

By JOCHUM of Dubuque

**H-1099** FILED MARCH 19, 2003

HF 22

1 Section 1. Section 598.41, subsection 5, Code 2003, is  
2 amended to read as follows:

3 5. a. Joint If joint legal custody is awarded to both  
4 parents, joint physical care may be in the best interest of  
5 the child, but joint legal custody does not require joint  
6 physical care.--When the court determines such action would be  
7 in the best interest of the child and would preserve the  
8 relationship between each parent and the child, joint physical  
9 care may shall be awarded to both joint-custodial parents or  
10 physical care may be awarded to one joint-custodial parent,  
11 unless a parent objects to the awarding of joint physical care  
12 to the other parent and the parent objecting provides clear  
13 and convincing evidence that joint physical care is  
14 unreasonable and not in the best interest of the child.

15 b. If joint physical care is not awarded under paragraph  
16 "a", and only one joint custodial parent is awarded physical  
17 care, the parent responsible for providing physical care shall  
18 support the other parent's relationship with the child.  
19 Physical care awarded to one parent does not affect the other  
20 parent's rights and responsibilities as a joint legal  
21 custodian of the child. Rights and responsibilities as joint  
22 legal custodian of the child include, but are not limited to,  
23 equal participation in decisions affecting the child's legal  
24 status, medical care, education, extracurricular activities,  
25 and religious instruction.

26 EXPLANATION

27 This bill relates to the awarding of joint physical care of  
28 a child. The bill provides that if parents are awarded joint  
29 legal custody of a child, the court shall award joint physical  
30 care to both parents, unless a parent objects to the awarding  
31 of joint physical care to the other parent and the parent  
32 objecting provides clear and convincing evidence that joint  
33 physical care is unreasonable and not in the best interest of  
34 the child.

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(As Amended and Passed by the House March 17, 2004)

Passed House, Date 3/17/04 Passed Senate, Date 4/5/04  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved 5/19/04

**A BILL FOR**

1 An Act relating to the awarding of joint physical care of a  
2 child.

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

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House Amendments \_\_\_\_\_

**HOUSE FILE 22**

**H-8154**

1 Amend House File 22 as follows:  
2 1. Page 1, by striking lines 3 through 14, and  
3 inserting the following:  
4 "5. a. ~~Joint physical care may be in the best~~  
5 ~~interest of the child, but If joint legal custody does~~  
6 ~~not require is awarded to both parents, the court may~~  
7 ~~award joint physical care. When the court determines~~  
8 ~~such action would be in the best interest of the child~~  
9 ~~and would preserve the relationship between each~~  
10 ~~parent and the child, joint physical care may be~~  
11 ~~awarded to both joint custodial parents or physical~~  
12 ~~care may be awarded to one joint custodial parent upon~~  
13 ~~the request of either parent. If the court denies the~~  
14 ~~request for joint physical care, the determination~~  
15 ~~shall be accompanied by specific findings of fact and~~  
16 ~~conclusions of law that the awarding of joint physical~~  
17 ~~care is not in the best interest of the child."~~

By COMMITTEE ON HUMAN RESOURCES,  
BODDICKER of Cedar, CHAIRPERSON

H-8154 FILED MARCH 3, 2004

1 Section 1. Section 598.41, subsection 5, Code 2003, is  
2 amended to read as follows:

3 5. a. ~~Joint-physical-care-may-be-in-the-best-interest-of~~  
4 ~~the-child, but If joint legal custody does-not-require is~~  
5 ~~awarded to both parents, the court may award joint physical~~  
6 ~~care.--When-the-court-determines-such-action-would-be-in-the~~  
7 ~~best-interest-of-the-child-and-would-preserve-the-relationship~~  
8 ~~between-each-parent-and-the-child, joint-physical-care-may-be~~  
9 ~~awarded to both joint custodial parents or-physical-care-may~~  
10 ~~be-awarded-to-one-joint-custodial-parent upon the request of~~  
11 ~~either parent. If the court denies the request for joint~~  
12 ~~physical care, the determination shall be accompanied by~~  
13 ~~specific findings of fact and conclusions of law that the~~  
14 ~~awarding of joint physical care is not in the best interest of~~  
15 ~~the child.~~

16 b. If joint physical care is not awarded under paragraph  
17 "a", and only one joint custodial parent is awarded physical  
18 care, the parent responsible for providing physical care shall  
19 support the other parent's relationship with the child.  
20 Physical care awarded to one parent does not affect the other  
21 parent's rights and responsibilities as a joint legal  
22 custodian of the child. Rights and responsibilities as joint  
23 legal custodian of the child include, but are not limited to,  
24 equal participation in decisions affecting the child's legal  
25 status, medical care, education, extracurricular activities,  
26 and religious instruction.

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HF 22 - Joint Physical Care (LSB 1381 YH)

Analyst: Jennifer Dean (Phone: (515) 281-7846) (jennifer.dean@legis.state.ia.us)

Fiscal Note Version — New

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### **Description**

House File 22 provides that if the Judicial Branch awards joint legal custody of a child to both parents, then the Court should award joint physical care to both parents as well, unless there is clear and convincing evidence that joint physical care is not in the best interest of the child.

### **Assumptions**

1. House File 22 would increase the amount of time the courts devote to temporary and permanent custody hearings.
2. In calendar year 2002, there were approximately 10,000 dissolutions filed involving children and approximately 2,000 modifications filed involving children.
3. The average amount of time a District Court Judge, court reporter, and court attendant spend on a dissolution case is 103 minutes. This average includes parties with children and those without. The average cost for court time is \$170.
4. House File 22 may require the Child Support Guidelines to be amended to address joint physical care. The Supreme Court is scheduled to review the Guidelines in 2004.
5. The State share of child support collections depends on the amount of child support ordered, collected, and retained by the State on behalf of families on the Family Investment Program (FIP). Over time, if joint physical care is ordered more often, there may be a decrease in child support collections. The State share of child support collections is used to fund FIP assistance.

### **Fiscal Impact**

The fiscal impact for House File 22 cannot be determined. House File 22 could potentially increase the amount of time spent on temporary and permanent custody hearings, which would increase costs associated with the Court. The cost for the Judicial Branch to hear one case is \$170. House File 22 may also result in a decrease in child support collections over time.

### **Sources**

Judicial Branch  
Department of Human Services

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/s/ Dennis C Prouty

March 19, 2003

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HOUSE FILE 22

H-8240

1 Amend House File 22 as follows:  
2 1. Page 1, by inserting before line 1, the  
3 following:  
4 "Section 1. Section 232.102, Code Supplement 2003,  
5 is amended by adding the following new subsection:  
6 NEW SUBSECTION. 13. Unless prohibited by the  
7 court order transferring custody of the child for  
8 placement or other court order or the department or  
9 unless the agency that received the custody transfer  
10 finds that allowing the visitation would not be in the  
11 child's best interest, the department or agency may  
12 authorize reasonable visitation with the child by the  
13 child's grandparent, great-grandparent, or other adult  
14 relative who has established a substantial  
15 relationship with the child. The visitation shall not  
16 be authorized for a grandparent or great-grandparent  
17 whose petition for visitation under section 598.35 has  
18 been denied. If visitation with the grandparent,  
19 great-grandparent, or other relative was authorized by  
20 court order prior to removal of the child, a  
21 visitation authorization under this subsection shall  
22 comply with the court order."  
23 2. Title page, line 1, by inserting after the  
24 word "to" the following: "custody and visitation  
25 including relative visitation and".  
26 3. By renumbering as necessary.

By STEVENS of Dickinson

H-8240 FILED MARCH 15, 2004

HOUSE FILE 22

H-8264

1 Amend the amendment, H-8154, to House File 22 as  
2 follows:  
3 1. Page 1, by inserting after line 17, the  
4 following:  
5 "     . Page 1, by inserting after line 25 the  
6 following:  
7 "c. If joint physical care is awarded under  
8 paragraph "a", the court shall establish one primary  
9 residence for the child and order the parents to  
10 alternate supervision and occupation of the primary  
11 residence, accordingly."  
12 2. By renumbering as necessary.

By JOCHUM of Dubuque

H-8264 FILED MARCH 17, 2004

LOST

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.

HOUSE FILE 22

AN ACT

RELATING TO THE AWARDING OF JOINT PHYSICAL CARE OF A CHILD.

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

Section 1. Section 598.41, subsection 5, Code 2003, is amended to read as follows:

5. a. Joint physical care may be in the best interest of the child, but if joint legal custody does not require is awarded to both parents, the court may award joint physical care--When the court determines such action would be in the best interest of the child and would preserve the relationship between each parent and the child, joint physical care may be awarded to both joint custodial parents or physical care may be awarded to one joint custodial parent upon the request of either parent. If the court denies the request for joint physical care, the determination shall be accompanied by specific findings of fact and conclusions of law that the awarding of joint physical care is not in the best interest of the child.

b. If joint physical care is not awarded under paragraph "a", and only one joint custodial parent is awarded physical care, the parent responsible for providing physical care shall support the other parent's relationship with the child. Physical care awarded to one parent does not affect the other parent's rights and responsibilities as a joint legal custodian of the child. Rights and responsibilities as joint

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CHRISTOPHER C. RANTS  
Speaker of the House

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JEFFREY M. LAMBERTI  
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 22, Eightieth General Assembly.

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MARGARET THOMSON  
Chief Clerk of the House

Approved \_\_\_\_\_, 2004

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THOMAS J. VILSACK  
Governor