

FEB 26 2003
Place On Calendar

HOUSE FILE 330
BY COMMITTEE ON HUMAN RESOURCES

(SUCCESSOR TO HF 64)

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

A BILL FOR

1 An Act relating to modification of a child custody order based on
2 exposure of the child to cohabitation of a parent and an
3 unrelated person.

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

5
6 **HOUSE FILE 330**

7 **H-1090**

8 1 Amend House File 330 as follows:
9 2 1. Page 1, line 16, by inserting after the word
10 3 "cohabiting" the following: "with an individual who
11 4 is named as an alleged perpetrator in a report of
12 5 founded child abuse pursuant to section 232.71D".

13 **H-1090 FILED MARCH 19, 2003** By SHOULTZ of Black Hawk

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17 **H-1117**

18 1 Amend House File 330 as follows:
19 2 1. Page 1, line 6, by inserting after the word
20 3 "party" the following: "who does not have substantial
21 4 parenting responsibilities".

22 **H-1117 FILED MARCH 20, 2003** By LENSING of Johnson

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25 **HOUSE FILE 330**

26 **H-1118**

27 1 Amend House File 330 as follows:
28 2 1. Page 1, line 21, by inserting after the word
29 3 "circumstances" the following: "and the court
30 4 determines that there is good cause to modify the
31 5 custody order".

32 **H-1118 FILED MARCH 20, 2003** By SMITH of Marshall

HF 330

1 Section 1. Section 598.1, Code 2003, is amended by adding
2 the following new subsection:

3 NEW SUBSECTION. 1A. "Cohabitation" or "cohabiting" means
4 circumstances evidenced by all of the following conditions:

5 a. An unrelated person of the opposite sex living or
6 residing in the dwelling of a party.

7 b. The unrelated person of the opposite sex and the party
8 living together as husband and wife.

9 c. The unrelated person of the opposite sex having
10 unrestricted access to the dwelling of the party, which would
11 ordinarily be enjoyed in a conventional husband and wife
12 relationship.

13 Sec. 2. Section 598.41, Code 2003, is amended by adding
14 the following new subsection:

15 NEW SUBSECTION. 9. If a parent awarded joint legal
16 custody or sole legal custody is cohabiting, the court may
17 consider the cohabitation a substantial change in
18 circumstances and a basis for modification of the custody
19 order. If the court determines that the exposure of any minor
20 child to the cohabitation is a substantial change in
21 circumstances, the court may modify the custody order if the
22 modification is in the best interest of the minor child.

23 EXPLANATION

24 This bill provides for modification of a custody order
25 based upon the cohabitation of a parent. The bill provides
26 that if a parent awarded joint legal custody or sole legal
27 custody cohabits with an unrelated person, the court may
28 consider the cohabitation a substantial change in
29 circumstances. If the court determines that the cohabitation
30 is a substantial change in circumstances, the court may modify
31 the custody order if modification is in the best interest of
32 the minor child. The bill defines "cohabitation" or
33 "cohabiting".

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HOUSE FILE 330

H-1119

1 Amend House File 330 as follows:
2 1. Page 1, line 6, by inserting after the word
3 "party" the following: "for a period of time that
4 indicates the existence of more than a brief
5 relationship".

By MASCHER of Johnson

H-1119 FILED MARCH 20, 2003

HOUSE FILE 330

H-1122

1 Amend House File 330 as follows:
2 1. Page 1, by striking lines 15 and 16, and
3 inserting the following:
4 "NEW SUBSECTION. 9. If a parent is cohabiting,
5 the court may".
6 2. Page 1, line 22, by inserting after the word
7 "child." the following: "The court may consider the
8 cohabitation either a positive or a negative factor in
9 making this determination."

By HOGG of Link

H-1122 FILED MARCH 20, 2003

HOUSE FILE 330

H-1127

1 Amend House File 330 as follows:
2 1. Page 1, by striking lines 19 through 22, and
3 inserting the following: "order if the custody order
4 included establishment of a parenting agreement in
5 which the parents agreed to cohabitation of a parent
6 as grounds for modification of the custody order. If
7 the court determines that such parenting agreement
8 exists and that the cohabitation is a substantial
9 change in circumstances, the court may modify the
10 custody order if the modification is in the best
11 interest of the minor child."

By GREIMANN of Story

H-1127 FILED MARCH 20, 2003

HOUSE FILE 330

H-1130

1 Amend House File 330 as follows:
2 1. Page 1, line 8, by inserting after the word
3 "wife" the following: "but not legally constituting a
4 common law marriage".

By JOCHUM of Dubuque

H-1130 FILED MARCH 20, 2003

HOUSE FILE 330

H-1128

1 Amend House File 330 as follows:

2 1. Page 1, by inserting after line 12 the
3 following:

4 "Sec. ____ . Section 598.7A, subsection 1, Code
5 2003, is amended to read as follows:

6 1. The district court may, on its own motion or on
7 the motion of any party, order the parties to
8 participate in mediation in any dissolution of
9 marriage action or other domestic relations action.

10 The district court shall order parties to participate
11 in mediation in any dissolution of marriage action or
12 other domestic relations action which involves the
13 issue of child custody or visitation. Mediation

14 performed under this section shall comply with the
15 provisions of chapter 679C. The provisions of this
16 section shall not apply if the action involves a child
17 support or medical support obligation enforced by the
18 child support recovery unit. The provisions of this
19 section shall not apply to actions which involve
20 domestic abuse pursuant to chapter 236. The
21 provisions of this section shall not affect a judicial
22 district's or court's authority to order settlement
23 conferences pursuant to rules of civil procedure. The
24 court shall, on application of a party, grant a waiver
25 from any court-ordered mediation under this section if
26 the party demonstrates that a history of domestic
27 abuse exists as specified in section 598.41,
28 subsection 3, paragraph "j".

29 2. Title page, line 1, by inserting after the
30 word "to" the following: "child custody including
31 mediation requirements and".

32 3. By renumbering as necessary.

By GREIMANN of Story

H-1128 FILED MARCH 20, 2003

HF 330 - Child Custody (LSB 1380 HV)

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Fiscal Note Version — New

Requested by Representative Mark Smith

Description

House File 330 provides that a custody order could be modified based upon the exposure of a minor child to cohabitation of a parent and an unrelated person.

Assumptions

1. In FY 2002, there were 425 modifications of child custody hearings in the Judicial Branch.
2. The average cost for one modification is \$190, which includes the time for the judge, the court reporter, and the court attendant.
3. Section 598.41(9), Code of Iowa, adds cohabitation as a basis for modification of a custody order.
4. The cohabitation provision may result in more custody modification hearings in the first year of implementation. The additional cases may result in more court time, which would result in a cost per case of approximately \$300. The number of custody modifications that will take place is unknown.

Fiscal Impact

The fiscal impact for HF 330 cannot be determined due to insufficient information. The cost for one new case after this Bill is enacted would be approximately \$300 for the first year and approximately \$190 for each year after.

Sources

Judicial Branch
Department of Human Services

/s/ Dennis C Prouty

March 3, 2003
