

House Study Bill 606

HOUSE FILE _____
BY (PROPOSED COMMITTEE ON
JUDICIARY BILL BY
CHAIRPERSON PAULSEN)

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

A BILL FOR

1 An Act relating to joint physical care of children in dissolution
2 cases.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
4 TLSB 6133YC 81
5 pf/cf/24

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1 1 Section 1. Section 598.41, subsection 5, paragraph a, Code
1 2 Supplement 2005, is amended to read as follows:
1 3 a. If joint legal custody is awarded to both parents, the
1 4 court may award joint physical care to both joint custodial
1 5 parents upon the request of either parent during the
1 6 proceedings on the initial dissolution petition or during the
1 7 proceedings on a modification of the original custody order.
1 8 A rebuttable presumption exists that a request for joint
1 9 physical care by either parent is in the best interest of the
1 10 child and the burden of proof to rebut the presumption rests
1 11 on the party denying that joint physical care is in the best
1 12 interest of the child. Prior to ruling on the request for the
1 13 award of joint physical care, the court may require the
1 14 parents to submit, either individually or jointly, a proposed
1 15 joint physical care parenting plan. A proposed joint physical
1 16 care parenting plan shall address how the parents will make
1 17 decisions affecting the child, how the parents will provide a
1 18 home for the child, how the child's time will be divided
1 19 between the parents and how each parent will facilitate the
1 20 child's time with the other parent, arrangements in addition
1 21 to court-ordered child support for the child's expenses, how
1 22 the parents will resolve major changes or disagreements
1 23 affecting the child including changes that arise due to the
1 24 child's age and developmental needs, and any other issues the
1 25 court may require. If the court denies the request for joint
1 26 physical care, the determination shall be accompanied by
1 27 specific findings of fact and conclusions of law that the
1 28 awarding of joint physical care is not in the best interest of
1 29 the child. In determining the best interest of the child
1 30 relative to the denial of a request for joint physical care,
1 31 the court shall consider that the best interest of the child
1 32 includes the opportunity for maximum continuous physical and
1 33 emotional contact possible with both parents, unless direct
1 34 physical or significant emotional harm to the child may result
1 35 from this contact.

EXPLANATION

2 1 This bill provides that in awarding joint physical care to
2 2 parents under the dissolution of marriage chapter, joint
2 3 physical care may be awarded to both parents based upon a
2 4 request by either parent either during the proceedings on the
2 5 initial dissolution petition or during the proceedings on a
2 6 modification of the original custody order. The bill creates
2 7 a rebuttable presumption that a request for joint physical
2 8 care by either parent is in the best interest of the child and
2 9 places the burden of proof to rebut the presumption on the
2 10 party denying that joint physical care is in the best interest
2 11 of the child. In determining the best interest of the child
2 12 relative to the denial of a request for joint physical care,
2 13 the court is to consider that best interest of the child
2 14 includes the opportunity for maximum continuous physical and
2 15 emotional contact possible with both parents, unless direct
2 16 physical or significant emotional harm to the child may result
2 17 from this contact.
2 18

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