

# Senate File 2214 - Introduced

SENATE FILE \_\_\_\_\_  
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SF 2072)

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

## A BILL FOR

1 An Act relating to modification of a child custody order during  
2 the time a parent is serving active duty.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:  
4 TLSB 5079SV 82  
5 pf/rj/5

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1 1 Section 1. NEW SECTION. 598.41C MODIFICATION OF CHILD  
1 2 CUSTODY == ACTIVE DUTY.  
1 3 1. If an application for modification of a decree or a  
1 4 petition for modification of an order regarding child custody  
1 5 is filed during the time a parent is serving active duty in  
1 6 the military service of the United States, the court may only  
1 7 enter an order temporarily modifying the existing child  
1 8 custody order if there is clear and convincing evidence that  
1 9 the modification is in the best interest of the child. Upon  
1 10 the parent's completion of active duty, the court shall  
1 11 reinstate the custody order that was in effect immediately  
1 12 preceding the period of active duty. If an application for  
1 13 modification of a decree or a petition for modification of an  
1 14 order is filed after a parent completes active duty, the  
1 15 parent's absence due to active duty does not constitute a  
1 16 substantial change in circumstances, and the court shall not  
1 17 consider a parent's absence due to that active duty in making  
1 18 a determination regarding the best interest of the child.  
1 19 2. As used in this section, "active duty" means active  
1 20 military duty pursuant to orders issued under Title 10 of the  
1 21 United States Code. However, this section shall not apply to  
1 22 active guard and reserve duty or similar full-time military  
1 23 duty performed by a parent when the child remains in actual  
1 24 custody of the parent.

### EXPLANATION

1 25 This bill relates to modification of a child custody order  
1 26 under circumstances in which a parent is serving active duty  
1 27 in the military service of the United States. The bill  
1 28 provides that if an application for modification of a decree  
1 29 or a petition for modification of an order regarding child  
1 30 custody is filed during the time a parent is serving active  
1 31 duty in the military service of the United States, the court  
1 32 may only enter an order temporarily modifying the existing  
1 33 child custody order if there is clear and convincing evidence  
1 34 that the modification is in the best interest of the child.  
2 1 Once the parent returns from active duty, the court is  
2 2 directed to reinstate the custody order that was in effect  
2 3 immediately preceding the period of active duty.  
2 4 Additionally, if an application for modification of child  
2 5 custody is filed after a parent returns from active duty, the  
2 6 bill provides that the parent's absence due to the active duty  
2 7 does not constitute a substantial change in circumstances and  
2 8 the court shall not consider a parent's absence due to that  
2 9 active duty in the determination of the best interest of the  
2 10 child. The bill also provides a definition of "active duty".  
2 11 LSB 5079SV 82  
2 12 pf/rj/5