

# Senate File 507 - Introduced

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

(SUCCESSOR TO SF 315)

Passed Senate, Date \_\_\_\_\_ Passed House, 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 and establishing a rebuttable presumption that a request  
3 for joint physical care is in the best interest of the child.  
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:  
5 TLSB 2608SV 82  
6 pf/cf/24

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1 1 Section 1. Section 598.41, subsection 5, paragraph a, Code  
1 2 2007, 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, the burden of proof to rebut the presumption rests on  
1 11 the party denying that joint physical care is in the best  
1 12 interest of the child, and such party shall demonstrate that  
1 13 joint physical care is not in the best interest of the child  
1 14 by clear and convincing evidence. Prior to ruling on the  
1 15 request for the award of joint physical care, the court may  
1 16 require the parents to submit, either individually or jointly,  
1 17 a proposed joint physical care parenting plan. A proposed  
1 18 joint physical care parenting plan shall address how the  
1 19 parents will make decisions affecting the child, how the  
1 20 parents will provide a home for the child, how the child's  
1 21 time will be divided between the parents and how each parent  
1 22 will facilitate the child's time with the other parent,  
1 23 arrangements in addition to court-ordered child support for  
1 24 the child's expenses, how the parents will resolve major  
1 25 changes or disagreements affecting the child including changes  
1 26 that arise due to the child's age and developmental needs, and  
1 27 any other issues the court may require. If the court finds by  
1 28 clear and convincing evidence that joint physical care is not  
1 29 in the best interest of the child and denies the request for  
1 30 joint physical care, the determination shall be accompanied by  
1 31 specific findings of fact and conclusions of law that the  
1 32 awarding of joint physical care is not in the best interest of  
1 33 the child. In determining the best interest of the child  
1 34 relative to the denial of a request for joint physical care,  
1 35 the court shall consider that the best interest of the child  
2 1 includes the opportunity for maximum continuous physical and  
2 2 emotional contact possible with both parents, unless direct  
2 3 physical or significant emotional harm to the child may result  
2 4 from this contact.

## EXPLANATION

2 5 This bill provides that in awarding joint physical care to  
2 6 parents under the dissolution of marriage chapter, joint  
2 7 physical care may be awarded to both parents based upon a  
2 8 request by either parent either during the proceedings on the  
2 9 initial dissolution petition or during the proceedings on a  
2 10 modification of the original custody order. The bill creates  
2 11 a rebuttable presumption that a request for joint physical  
2 12 care by either parent is in the best interest of the child,  
2 13 places the burden of proof to rebut the presumption on the  
2 14 party denying that joint physical care is in the best interest  
2 15 of the child, and requires such party to demonstrate that  
2 16 joint physical care is not in the best interest of the child  
2 17

2 18 by clear and convincing evidence. The bill also requires that  
2 19 if the court denies joint physical care, the court must base  
2 20 the findings on clear and convincing evidence. In determining  
2 21 the best interest of the child relative to the denial of a  
2 22 request for joint physical care, the court is required to  
2 23 consider that the best interest of the child includes the  
2 24 opportunity for maximum continuous physical and emotional  
2 25 contact possible with both parents, unless direct physical or  
2 26 significant emotional harm to the child may result from this  
2 27 contact.  
2 28 LSB 2608SV 82  
2 29 pf:rj/cf/24