

House File 2145 - Introduced

HOUSE FILE 2145
BY CHAMBERS

A BILL FOR

1 An Act relating to assignment of visitation to the grandparent
2 of a child when a parent is serving active duty in the
3 military service of the United States.

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

1 Section 1. NEW SECTION. 598.41D Assignment of visitation —
2 parent serving active duty — grandparent.

3 1. Notwithstanding any provision to the contrary, a parent
4 who has been granted court-ordered visitation with the parent's
5 minor child may file an application for modification of a
6 decree or a petition for modification of an order regarding
7 child visitation, prior to or during the time the parent is
8 serving active duty in the military service of the United
9 States, to temporarily assign that parent's visitation rights
10 to a grandparent of the minor child, as specified by the
11 parent. The application or petition shall be accompanied by
12 an affidavit from the grandparent indicating the grandparent's
13 knowledge of the application or petition and willingness to
14 exercise the parent's visitation rights during the parent's
15 absence.

16 2. a. If the active duty of a parent affects the parent's
17 ability or anticipated ability to appear at a regularly
18 scheduled hearing, the court shall provide for an expedited
19 hearing in matters instituted under this section.

20 b. If the active duty or anticipated active duty of a parent
21 prevents the parent from appearing in person at a hearing, the
22 court shall provide, upon reasonable advance notice, for the
23 parent to present testimony and evidence by electronic means
24 in matters instituted under this section. For the purposes of
25 this paragraph, "*electronic means*" includes communication by
26 telephone, video teleconference, or the internet.

27 3. The court may grant the parent's request for temporary
28 assignment of visitation if the court finds that such
29 visitation is in the best interest of the child.

30 4. An order granting assignment of visitation rights under
31 this section does not create separate rights to visitation for
32 a person other than the parent.

33 5. An order granting temporary assignment of visitation
34 rights pursuant to this section shall terminate upon
35 notification of the court by the parent or automatically upon

1 the parent's completion of active duty, whichever occurs first.
2 6. After a parent completes active duty, if an application
3 for modification of a decree or a petition for modification
4 of an order is filed, the parent's absence due to active duty
5 or the assignment of visitation rights does not constitute a
6 substantial change in circumstances, and the court shall not
7 consider a parent's absence due to that active duty or the
8 assignment of visitation rights in making a determination
9 regarding the best interest of the child relative to such an
10 application or petition filed after a parent completes active
11 duty.

12 7. As used in this section, "*active duty*" means active
13 military duty pursuant to orders issued under Title X of the
14 United States Code. However, this section shall not apply to
15 active guard and reserve duty or similar full-time military
16 duty performed by a parent when the child remains in actual
17 custody of the parent.

18 EXPLANATION

19 This bill relates to the assignment of visitation of a
20 parent serving active duty to a grandparent of the child. The
21 bill provides that a parent who has been granted court-ordered
22 visitation with the parent's minor child may file an
23 application for modification of a decree or a petition for
24 modification of an order regarding child visitation, prior
25 to or during the time the parent is serving active duty,
26 to temporarily assign that parent's visitation rights to a
27 grandparent of the minor child, as specified by the parent.
28 The application or petition must be accompanied by an affidavit
29 from the grandparent indicating the grandparent's knowledge of
30 the application or petition and willingness to exercise the
31 parent's visitation rights during the parent's absence.

32 The bill also provides for an expedited hearing on the
33 application or petition if the active duty or anticipated
34 active duty of the parent affects the parent's ability to
35 appear at a regularly scheduled hearing and for presentation

1 of testimony and evidence by electronic means if the parent
2 is prevented from appearing in person due to the active duty
3 or anticipated active duty, upon reasonable advance notice.
4 "Electronic means" includes communication by telephone, video
5 teleconference, or the internet.

6 The court may grant the parent's request for temporary
7 assignment of visitation if the court finds that such
8 visitation is in the best interest of the child. However, the
9 assignment of visitation rights does not create separate rights
10 to visitation for a person other than the parent. The order
11 granting temporary assignment of visitation terminates upon
12 notification of the court by the parent or automatically upon
13 the parent's completion of active duty, whichever occurs first.

14 The bill provides that after a parent completes active duty,
15 if an application for modification of a decree or a petition
16 for modification of an order is filed, the parent's absence
17 due to active duty or the assignment of visitation does not
18 constitute a substantial change in circumstances, and the
19 court shall not consider a parent's absence due to that active
20 duty or the assignment of visitation in making a determination
21 regarding the best interest of the child relative to such an
22 application or petition filed after a parent completes active
23 duty.

24 "Active duty" is defined as active military duty pursuant
25 to orders issued under Title X of the United States Code.
26 However, the bill does not apply to active guard and reserve
27 duty or similar full-time military duty performed by a parent
28 when the child remains in actual custody of the parent.