

House File 2417 - Introduced

HOUSE FILE 2417
BY COMMITTEE ON VETERANS
AFFAIRS

(SUCCESSOR TO HSB 633)

A BILL FOR

1 An Act relating to assignment of visitation of a child to
2 a family member when a parent is serving active duty in
3 the military service of the United States and including
4 effective date provisions.

5 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 — family member.

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 family member of the minor child, as specified by the
11 parent. The application or petition shall be accompanied by an
12 affidavit from the family member indicating the family member'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. The parent shall provide a copy of the order granting
31 assignment of visitation to the school and school district of
32 the child to whom the order applies.

33 5. An order granting assignment of visitation rights under
34 this section does not create separate rights to visitation for
35 a person other than the parent.

1 6. An order granting temporary assignment of visitation
2 rights pursuant to this section shall terminate upon
3 notification of the court by the parent or automatically upon
4 the parent's completion of active duty, whichever occurs first.

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

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

21 Sec. 2. EFFECTIVE UPON ENACTMENT. This Act, being deemed of
22 immediate importance, takes effect upon enactment.

23 EXPLANATION

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

1 parent's visitation rights during the parent's absence.

2 The bill also provides for an expedited hearing on the
3 application or petition if the active duty or anticipated
4 active duty of the parent affects the parent's ability to
5 appear at a regularly scheduled hearing and for presentation
6 of testimony and evidence by electronic means if the parent
7 is prevented from appearing in person due to the active duty
8 or anticipated active duty, upon reasonable advance notice.
9 "Electronic means" includes communication by telephone, video
10 teleconference, or the internet.

11 The court may grant the parent's request for temporary
12 assignment of visitation if the court finds that such
13 visitation is in the best interest of the child. However, the
14 assignment of visitation rights does not create separate rights
15 to visitation for a person other than the parent. The parent
16 must provide a copy of the order to the school and school
17 district of the child. The order granting temporary assignment
18 of visitation terminates upon notification of the court by the
19 parent or automatically upon the parent's completion of active
20 duty, whichever occurs first.

21 The bill provides that after a parent completes active duty,
22 if an application for modification of a decree or a petition
23 for modification of an order is filed, the parent's absence
24 due to active duty or the assignment of visitation does not
25 constitute a substantial change in circumstances, and the
26 court shall not consider a parent's absence due to that active
27 duty or the assignment of visitation in making a determination
28 regarding the best interest of the child relative to such an
29 application or petition filed after a parent completes active
30 duty.

31 "Active duty" is defined as active military duty pursuant to
32 orders issued under Tit. X of the United States Code. However,
33 the bill does not apply to active guard and reserve duty or
34 similar full-time military duty performed by a parent when the
35 child remains in actual custody of the parent.

1 The bill takes effect upon enactment.