

House File 2325 - Introduced

HOUSE FILE 2325

BY WESSEL-KROESCHELL

A BILL FOR

1 An Act relating to child placement by requiring the
2 consideration of the stability of the home in a
3 determination concerning the removal of the child.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 232.95, subsection 2, paragraph a,
2 subparagraph (1), Code 2011, is amended to read as follows:

3 (1) If removal is ordered, the court must, in addition,
4 make a determination that continuation of the child in the
5 child's home would be contrary to the welfare of the child, and
6 that reasonable efforts, as defined in section 232.102, have
7 been made to prevent or eliminate the need for removal of the
8 child from the child's home. In determining the welfare of
9 the child, the court shall first consider the stability of the
10 child's home.

11 Sec. 2. Section 232.96, subsection 10, paragraph a, Code
12 2011, is amended to read as follows:

13 a. A determination that continuation of the child in the
14 child's home would be contrary to the welfare of the child, and
15 that reasonable efforts, as defined in section 232.102, have
16 been made to prevent or eliminate the need for removal of the
17 child from the child's home. In determining the welfare of
18 the child, the court shall first consider the stability of the
19 child's home. The court's determination regarding continuation
20 of the child in the child's home, and regarding reasonable
21 efforts, including those made to prevent removal and those
22 made to finalize any permanency plan in effect, as well as any
23 determination by the court that reasonable efforts are not
24 required, must be made on a case-by-case basis. The grounds
25 for each determination must be explicitly documented and stated
26 in the court order. However, preserving the safety of the
27 child is the paramount consideration. If imminent danger to
28 the child's life or health exists at the time of the court's
29 consideration, the determinations otherwise required under
30 this paragraph shall not be a prerequisite for an order for
31 temporary removal of the child.

32 Sec. 3. Section 232.102, subsection 5, paragraph b, Code
33 2011, is amended to read as follows:

34 b. In order to transfer custody of the child under
35 this subsection, the court must make a determination that

1 continuation of the child in the child's home would be contrary
2 to the welfare of the child, and shall identify the reasonable
3 efforts that have been made. In determining the welfare of
4 the child, the court shall first consider the stability of the
5 child's home. The court's determination regarding continuation
6 of the child in the child's home, and regarding reasonable
7 efforts, including those made to prevent removal and those
8 made to finalize any permanency plan in effect, as well as any
9 determination by the court that reasonable efforts are not
10 required, must be made on a case-by-case basis. The grounds
11 for each determination must be explicitly documented and stated
12 in the court order. However, preserving the safety of the
13 child is the paramount consideration. If imminent danger to
14 the child's life or health exists at the time of the court's
15 consideration, the determinations otherwise required under this
16 paragraph shall not be a prerequisite for an order for removal
17 of the child. If the court transfers custody of the child,
18 unless the court waives the requirement for making reasonable
19 efforts or otherwise makes a determination that reasonable
20 efforts are not required, reasonable efforts shall be made to
21 make it possible for the child to safely return to the family's
22 home.

23 EXPLANATION

24 This bill requires the court to first consider the stability
25 of the home when considering placement of the child in child
26 in need of assistance proceedings. The bill requires the
27 court to first consider the stability of the home when making a
28 determination about whether the continuation of the child in
29 the child's home would be contrary to the welfare of the child
30 during a temporary removal proceeding, during an adjudicatory
31 proceeding when the court enters an order adjudicating the
32 child to be a child in need of assistance and the court is
33 considering authorizing a temporary removal of the child
34 from the child's home, and when the court is considering
35 transferring legal custody of the child.