

**House File 345 - Introduced**

HOUSE FILE 345

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**A BILL FOR**

1 An Act relating to joint physical care of children.

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

1 Section 1. Section 598.41, subsection 5, paragraph a, Code  
2 2011, is amended to read as follows:

3 a. (1) If joint legal custody is awarded to both parents,  
4 the court may award joint physical care to both joint  
5 custodial parents upon the request of either parent during the  
6 proceedings on the initial dissolution petition or during the  
7 proceedings on a modification of the original custody order. A  
8 rebuttable presumption exists that a request for joint physical  
9 care by either parent is in the best interest of the child. The  
10 burden of proof to rebut the presumption rests on the party  
11 denying that joint physical care is in the best interest of the  
12 child, and such party shall demonstrate that joint physical  
13 care is not in the best interest of the child by clear and  
14 convincing evidence.

15 (2) Prior to ruling on the request for the award of joint  
16 physical care, the court may require the parents to submit,  
17 either individually or jointly, a proposed joint physical care  
18 parenting plan. A proposed joint physical care parenting plan  
19 shall address how the parents will make decisions affecting the  
20 child, how the parents will provide a home for the child, how  
21 the child's time will be divided between the parents and how  
22 each parent will facilitate the child's time with the other  
23 parent, arrangements in addition to court-ordered child support  
24 for the child's expenses, how the parents will resolve major  
25 changes or disagreements affecting the child including changes  
26 that arise due to the child's age and developmental needs, and  
27 any other issues the court may require.

28 (3) If the court finds by clear and convincing evidence  
29 that joint physical care is not in the best interest of the  
30 child and denies the request for joint physical care, the  
31 determination shall be accompanied by specific findings of fact  
32 and conclusions of law that the awarding of joint physical care  
33 is not in the best interest of the child. In determining the  
34 best interest of the child relative to the denial of a request  
35 for joint physical care, the court shall consider that the best

1 interest of the child includes the opportunity for the maximum  
2 continuous physical and emotional contact possible with both  
3 parents, unless direct physical or significant emotional harm  
4 to the child may result from such contact.

5

EXPLANATION

6 This bill provides that in awarding joint physical care to  
7 parents, joint physical care may be awarded to both parents  
8 based upon a request by either parent during the proceedings  
9 on the initial dissolution petition or during the proceedings  
10 on a modification of the original custody order. The bill  
11 creates a rebuttable presumption that a request for joint  
12 physical care by either parent is in the best interest of the  
13 child, places the burden of proof to rebut the presumption  
14 on the party denying that joint physical care is in the best  
15 interest of the child, and requires such party to demonstrate  
16 that joint physical care is not in the best interest of  
17 the child by clear and convincing evidence. The bill also  
18 requires that if the court denies joint physical care, the  
19 court must base the findings on clear and convincing evidence.  
20 In determining the best interest of the child relative to  
21 the denial of a request for joint physical care, the court  
22 is required to consider that the best interest of the child  
23 includes the opportunity for the maximum continuous physical  
24 and emotional contact possible with both parents, unless direct  
25 physical or significant emotional harm to the child may result  
26 from this contact.