

House File 302 - Introduced

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BY COHOON and KRESSIG

A BILL FOR

1 An Act relating to the parental rights of an individual whose
2 parentage is the result of sexual abuse.

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

1 Section 1. NEW SECTION. 598.41E Custody and visitation —
2 restrictions — sexual abuse.

3 1. Notwithstanding section 598.41, and except as otherwise
4 provided in subsection 2, custody and visitation shall not
5 be awarded to a party who is the biological parent of a
6 child if that party has been convicted of having sexually
7 abused the other biological parent or has been found by clear
8 and convincing evidence to have sexually abused the other
9 biological parent, resulting in the conception of the child.

10 2. Notwithstanding subsection 1, if a party who is the
11 biological parent of a child has been convicted of sexual abuse
12 of the other biological parent or has been found by clear
13 and convincing evidence to have sexually abused the other
14 biological parent, resulting in the conception of the child,
15 and the parties are married at the time of the conception,
16 during any subsequent dissolution proceedings, the conviction
17 or finding by clear and convincing evidence of sexual abuse
18 creates a rebuttable presumption that sole or joint custody of
19 the child or visitation by the perpetrator of the sexual abuse
20 is not in the best interest of the child. The court shall
21 provide findings that any custody or visitation arrangement
22 ordered by the court under this subsection adequately protects
23 the child and the victim of the sexual abuse.

24 Sec. 2. Section 600.7, Code 2013, is amended by adding the
25 following new subsection:

26 NEW SUBSECTION. 5. The biological parent of a child who has
27 been convicted of having sexually abused the other biological
28 parent or has been found by clear and convincing evidence to
29 have sexually abused the other biological parent, resulting in
30 the conception of the child who is the subject of the adoption
31 proceedings, shall not be required to consent to the adoption.

32 Sec. 3. Section 600.11, subsection 2, paragraph a,
33 subparagraph (1), Code 2013, is amended to read as follows:

34 (1) A guardian, guardian ad litem if appointed for the
35 adoption proceedings, and custodian of, and a person in a

1 parent-child relationship with the person to be adopted. This
2 subparagraph does not require notice to be given to a person
3 whose parental rights have been terminated with regard to the
4 person to be adopted, including a biological parent whose
5 parental rights have been terminated based on the grounds
6 specified in section 600A.8, subsection 11, relating to sexual
7 abuse of the other biological parent.

8 Sec. 4. Section 600A.5, subsection 3, paragraph c, Code
9 2013, is amended to read as follows:

10 c. A plain statement of the facts and grounds in section
11 600A.8 which indicate that the parent-child relationship should
12 be terminated. If the grounds stated are those specified
13 in section 600A.8, subsection 11, relating to sexual abuse
14 perpetrated by the biological parent of the child, the
15 petitioner may also petition the court for a temporary order
16 and an injunction prohibiting the individual for whom the
17 petitioner is seeking termination of parental rights from
18 visiting or contacting the child alleging facts sufficient to
19 demonstrate that such prohibition is in the best interest of
20 the child.

21 Sec. 5. Section 600A.6, subsection 1, Code 2013, is amended
22 to read as follows:

23 1. a. A termination of parental rights under this chapter
24 shall, unless provided otherwise in this section, be ordered
25 only after notice has been served on all necessary parties and
26 these parties have been given an opportunity to be heard before
27 the juvenile court except that notice need not be served on the
28 petitioner or on any necessary party who is the spouse of the
29 petitioner.

30 b. (1) "Necessary party" means any person whose name,
31 residence, and domicile are required to be included on the
32 petition under section 600A.5, subsection 3, paragraphs "a"
33 and "b", and any putative father who files a declaration of
34 paternity in accordance with section 144.12A, or any unknown
35 putative father, if any, ~~except a biological parent who has~~

1 resulting in the conception of the child.

2 The bill amends provisions in Code chapters 598 (dissolution
3 of marriage and domestic relations), 600 (adoption), and 600A
4 (termination of parental rights).

5 Under Code chapter 598, the bill provides that custody
6 and visitation shall not be awarded to a party who is the
7 biological parent of a child if that party has been convicted
8 of having sexually abused the other biological parent or has
9 been found by clear and convincing evidence to have sexually
10 abused the other biological parent, resulting in the conception
11 of the child. Alternatively, if the parties are married at the
12 time of the conception which is the result of sexual abuse for
13 which a biological parent has been convicted or the biological
14 parent has been found by clear and convincing evidence to have
15 sexually abused the other biological parent, during dissolution
16 proceedings, the conviction or finding by clear and convincing
17 evidence of sexual abuse creates a rebuttable presumption
18 that sole or joint custody of the child or visitation by the
19 perpetrator of the sexual abuse is not in the best interest
20 of the child. Additionally, the court is to provide findings
21 that any custody or visitation arrangement ordered by the court
22 adequately protects the child and the victim of the sexual
23 abuse.

24 Under Code chapter 600, the bill provides that a biological
25 parent of a child who has been convicted of having sexually
26 abused the other biological parent or has been found by clear
27 and convincing evidence to have sexually abused the other
28 biological parent, resulting in the conception of the child
29 who is the subject of the adoption proceedings, shall not be
30 required to consent to the adoption. If such person's parental
31 rights have been terminated, the person is also not required to
32 be provided notice of the adoption hearing.

33 Under Code chapter 600A, the bill provides that in the
34 termination of parental rights, one of the grounds for
35 termination is that a biological parent of the child who is

1 the subject of the termination of parental rights perpetrated
2 sexual abuse against the other biological parent of the
3 child and the child was conceived as a result of the sexual
4 abuse. Under the bill, in the petition for termination of
5 an individual's parental rights based on sexual abuse that
6 resulted in the conception of a child, the petitioner may
7 request a temporary order and injunction prohibiting that
8 individual from visiting or contacting the child. The bill
9 also provides that a "necessary party" who is required to be
10 served notice of a termination of parental rights proceeding
11 does not include an individual who may be the biological parent
12 of a child conceived as a result of sexual abuse perpetrated by
13 the individual while the individual was not cohabiting with the
14 other parent as husband and wife, if the individual has been
15 convicted of sexual abuse, or the sexual abuse is demonstrated
16 by other clear and convincing evidence. Such individual also
17 does not have standing to appear and contest a petition for the
18 termination of parental rights, present evidence relevant to
19 the issue of disposition, or make alternative dispositional
20 recommendations. The bill provides that in the hearing
21 on termination of parental rights, the grounds relating to
22 conception of the child as the result of sexual abuse may be
23 proven by evidence of a conviction of sexual abuse or other
24 clear and convincing evidence that the individual who is the
25 biological parent of the child committed, during the possible
26 time of conception, sexual abuse against the other biological
27 parent of the child.