

House File 264 - Introduced

HOUSE FILE 264

BY HEARTSILL, HOLT, WATTS,
DOLECHECK, and SALMON

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. Section 598.10, Code 2015, is amended by adding
2 the following new subsection:

3 NEW SUBSECTION. 1A. Notwithstanding subsection 1, the
4 court shall not award visitation or temporary custody to a
5 party who is the biological parent of a child if the other
6 biological parent of the child has filed a termination of
7 parental rights petition based on the grounds specified in
8 section 600A.8, subsection 11, during the pendency of the
9 action.

10 Sec. 2. NEW SECTION. **598.41E Custody and visitation —**
11 **sexual abuse — pendency of termination of parental rights**
12 **action.**

13 Notwithstanding section 598.41, custody and visitation shall
14 not be awarded to a party who is the biological parent of a
15 child if the other biological parent of the child has filed a
16 termination of parental rights petition based on the grounds
17 specified in section 600A.8, subsection 11, during the pendency
18 of the action.

19 Sec. 3. Section 600A.5, subsection 3, paragraph c, Code
20 2015, is amended to read as follows:

21 c. A plain statement of the facts and grounds in section
22 600A.8 which indicate that the parent-child relationship should
23 be terminated. If the grounds stated are those specified
24 in section 600A.8, subsection 11, relating to sexual abuse
25 perpetrated by the biological parent of the child, the
26 petitioner may also petition the court for a temporary order
27 and an injunction prohibiting the individual for whom the
28 petitioner is seeking termination of parental rights from
29 visiting or contacting the child alleging facts sufficient to
30 demonstrate that such prohibition is in the best interest of
31 the child.

32 Sec. 4. Section 600A.6, subsection 1, Code 2015, is amended
33 to read as follows:

34 1. a. A termination of parental rights under this chapter
35 shall, unless provided otherwise in this section, be ordered

1 only after notice has been served on all necessary parties and
2 these parties have been given an opportunity to be heard before
3 the juvenile court except that notice need not be served on the
4 petitioner or on any necessary party who is the spouse of the
5 petitioner.

6 b. (1) "Necessary party" means any person whose name,
7 residence, and domicile are required to be included on the
8 petition under section 600A.5, subsection 3, paragraphs "a"
9 and "b", and any putative father who files a declaration of
10 paternity in accordance with section 144.12A, or any unknown
11 putative father, if any, ~~except a biological parent who has~~
12 ~~been convicted of having sexually abused the other biological~~
13 ~~parent while not cohabiting with that parent as husband and~~
14 ~~wife, thereby producing the birth of the child who is the~~
15 ~~subject of the termination proceedings.~~

16 (2) "Necessary party" does not include an individual
17 who may be the biological parent of a child conceived as a
18 result of sexual abuse perpetrated by the individual, if the
19 other biological parent of the child attaches an affidavit
20 to the petition filed under section 600A.5 attesting that
21 such individual has been convicted of sexual abuse or that
22 other clear and convincing evidence exists that the sexual
23 abuse occurred, or attesting that including the individual
24 as a necessary party would threaten the safety of the other
25 biological parent or the child.

26 Sec. 5. Section 600A.7, Code 2015, is amended by adding the
27 following new subsection:

28 NEW SUBSECTION. 4. The grounds specified in section
29 600A.8, subsection 11, relating to conception of the child
30 as the result of sexual abuse may be proven by evidence of
31 a conviction of sexual abuse or other clear and convincing
32 evidence that the individual who is the biological parent of
33 the child committed, during the possible time of conception,
34 sexual abuse against the other biological parent of the child.

35 Sec. 6. Section 600A.8, Code 2015, is amended by adding the

1 following new subsection:

2 NEW SUBSECTION. 11. A biological parent of the child who is
3 the subject of the termination of parental rights perpetrated
4 sexual abuse against the other biological parent of the child
5 and the child was conceived as a result of the sexual abuse.

6 EXPLANATION

7 The inclusion of this explanation does not constitute agreement with
8 the explanation's substance by the members of the general assembly.

9 This bill relates to the termination of parental rights of
10 and the awarding of visitation and custody to a biological
11 parent whose parentage is the result of the biological parent's
12 perpetration of sexual abuse on the other biological parent,
13 resulting in the conception of the child.

14 Under Code chapter 598, the bill provides that the court
15 shall not award either temporary or permanent visitation or
16 custody to a party who is the biological parent of a child
17 if the other biological parent of the child has filed a
18 termination of parental rights petition based on the grounds
19 that the conception of the child is the result of sexual abuse
20 perpetrated by the biological parent against the biological
21 parent filing the petition, during the pendency of the
22 termination of parental rights action.

23 Under Code chapter 600A, the bill provides that in a
24 termination of parental rights action, one of the grounds for
25 termination is that a biological parent of the child who is
26 the subject of the termination of parental rights perpetrated
27 sexual abuse against the other biological parent of the
28 child and the child was conceived as a result of the sexual
29 abuse. Under the bill, in the petition for termination of
30 an individual's parental rights based on sexual abuse that
31 resulted in the conception of a child, the petitioner may
32 request a temporary order and injunction prohibiting that
33 individual from visiting or contacting the child.

34 The bill also provides that a "necessary party" who is
35 required to be served notice of a termination of parental

1 rights proceeding does not include an individual who may be the
2 biological parent of a child conceived as a result of sexual
3 abuse perpetrated by the individual, if the other biological
4 parent of the child attaches an affidavit to the petition
5 filed under Code section 600A.5 attesting that such individual
6 has been convicted of sexual abuse or that other clear and
7 convincing evidence exists that the sexual abuse occurred, or
8 attesting that including the individual as a necessary party
9 would threaten the safety of the other biological parent or the
10 child.

11 The bill provides that in the hearing on termination of
12 parental rights, the grounds relating to conception of the
13 child as the result of sexual abuse may be proven by evidence
14 of a conviction of sexual abuse or other clear and convincing
15 evidence that the individual who is the biological parent of
16 the child committed, during the possible time of conception,
17 sexual abuse against the other biological parent of the child.