

House File 126 - Introduced

HOUSE FILE 126

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A BILL FOR

1 An Act requiring a court to consider the statement of a
2 child, who is the subject of a child custody determination,
3 regarding the custody arrangement.

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

1 Section 1. Section 598.41, subsection 2, paragraph d, Code
2 2017, is amended to read as follows:

3 d. Before ruling upon the joint custody petition in these
4 cases, unless the court determines that a history of domestic
5 abuse exists as specified in subsection 3, paragraph "j",
6 or unless the court determines that direct physical harm or
7 significant emotional harm to the child, other children, or a
8 parent is likely to result, the court may require the parties
9 to participate in custody mediation to determine whether
10 joint custody is in the best interest of the child. The
11 court shall consider the statement of the child, who is the
12 subject of the child custody mediation, regarding the custody
13 arrangement. The child's statement may be provided orally,
14 during an in-camera hearing, or submitted in writing by the
15 mediator. The court may require the child's participation
16 in the mediation insofar as the court determines the child's
17 participation is advisable.

18 Sec. 2. Section 598.41, subsection 3, paragraph f, Code
19 2017, is amended to read as follows:

20 f. Whether the custody arrangement is in accord with the
21 child's wishes or whether the child has strong opposition,
22 taking into consideration the child's age and maturity. In
23 determining the child's wishes or strong opposition regarding
24 the custody arrangement, the court shall consider the child's
25 statement regarding the child's wishes or strong opposition.
26 The child's statement may be provided to the court orally, in
27 open court or in-camera, or submitted to the court in writing.

28 Sec. 3. Section 598.41, subsection 8, Code 2017, is amended
29 to read as follows:

30 8. If an application for modification of a decree or
31 a petition for modification of an order is filed, based
32 upon differences between the parents regarding the custody
33 arrangement established under the decree or order, unless the
34 court determines that a history of domestic abuse exists as
35 specified in subsection 3, paragraph "j", or unless the court

1 determines that direct physical harm or significant emotional
2 harm to the child, other children, or a parent is likely to
3 result, the court may require the parents to participate in
4 mediation to attempt to resolve the differences between the
5 parents. The court shall consider the statement of a child,
6 who is the subject of the child custody mediation, regarding
7 the custody arrangement. The child's statement may be provided
8 orally, during an in-camera hearing, or submitted in writing by
9 the mediator.

10

EXPLANATION

11

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

12

13 This bill requires the court to consider the statement of a
14 child, who is the subject of a custody determination, regarding
15 the child custody arrangement.

16

The bill requires that before ruling on a joint custody
17 petition in cases in which a parent applies for joint custody
18 but the parents do not agree to joint custody and the parents
19 are required to participate in custody mediation, the court
20 is to consider the statement of the child who is the subject
21 of the child custody mediation. The child's statement may be
22 provided orally, during an in-camera hearing, or submitted in
23 writing by the mediator.

24

The bill also requires that in determining the custody
25 arrangement that is in the best interest of the child in cases
26 in which a parent applies for joint custody but the parents do
27 not agree to joint custody, in considering whether the custody
28 arrangement is in accord with the child's wishes or whether
29 the child has strong opposition, the court shall consider the
30 child's statement. The statement may be provided to the court
31 orally, in open court or in-camera, or submitted to the court
32 in writing.

33

The bill provides that if an application for modification
34 of a decree or a petition for modification of an order is
35 filed, based upon differences between the parents regarding

1 the custody arrangement established under the decree or order,
2 and if the parents are required to participate in mediation to
3 attempt to resolve the differences between the parents, the
4 court shall consider the statement of the child, who is the
5 subject of the child custody mediation, regarding the custody
6 arrangement. The statement may be provided orally, during an
7 in-camera hearing, or submitted in writing by the mediator.