

Senate File 2130 - Introduced

SENATE FILE 2130

BY GUTH

A BILL FOR

1 An Act relating to the consideration of fraudulent concealment
2 of sexual orientation in a marriage application form and
3 license to marry in the awarding of child custody.

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

1 Section 1. NEW SECTION. 595.3B Application form and license
2 — sexual orientation disclosure.

3 In addition to any other information contained in an
4 application form for a marriage license and a marriage license,
5 the application form and license shall contain the following
6 information about the applicant's sexual orientation as
7 disclosed on the application form by each applicant. The
8 application form shall include boxes for the applicant to check
9 and choices in substantially the following form:

10 Sexual Orientation (choose all that apply):

- 11 Bisexual
- 12 Heterosexual
- 13 Homosexual
- 14 Questioning or unsure
- 15 An identity not listed: please specify.....

16 A marriage license shall not be granted unless the required
17 sexual orientation information is provided in this application
18 form.

19 Nondisclosure or misrepresentation of sexual orientation on
20 the application form for a marriage license and on a license to
21 marry constitutes fraudulent concealment of sexual orientation
22 which shall be a factor in determining the custody arrangement
23 that is in the best interest of a minor child pursuant to
24 section 598.41 of the Iowa Code.

25 Sec. 2. Section 598.41, subsection 1, Code 2020, is amended
26 by adding the following new paragraph:

27 NEW PARAGRAPH. *0c.* Notwithstanding paragraph "a", if the
28 court finds in a dissolution action that fraudulent concealment
29 of sexual orientation exists, as specified in subsection 3,
30 paragraph "1", a rebuttable presumption against the awarding
31 of joint custody exists.

32 Sec. 3. Section 598.41, subsection 2, paragraphs c and d,
33 Code 2020, are amended to read as follows:

34 *c.* A finding by the court that a history of domestic abuse
35 exists, as specified in subsection 3, paragraph "j", or a

1 finding by the court in a dissolution action that fraudulent
2 concealment of sexual orientation exists, as specified in
3 subsection 3, paragraph "l", which is not rebutted, shall
4 outweigh consideration of any other factor specified in
5 subsection 3 in the determination of the awarding of custody
6 under [this subsection](#).

7 *d.* Before ruling upon the joint custody petition in these
8 cases, unless the court determines that a history of domestic
9 abuse exists as specified in [subsection 3, paragraph "j", unless](#)
10 the court determines in a dissolution action that fraudulent
11 concealment of sexual orientation exists as specified in
12 subsection 3, paragraph "l", or unless the court determines
13 that direct physical harm or significant emotional harm to
14 the child, other children, or a parent is likely to result,
15 the court may require the parties to participate in custody
16 mediation to determine whether joint custody is in the best
17 interest of the child. The court may require the child's
18 participation in the mediation insofar as the court determines
19 the child's participation is advisable.

20 Sec. 4. Section 598.41, subsection 3, Code 2020, is amended
21 by adding the following new paragraph:

22 NEW PARAGRAPH. 1. In a dissolution action, whether
23 fraudulent concealment of sexual orientation exists.
24 Fraudulent concealment of sexual orientation is evidenced
25 by nondisclosure or misrepresentation of a party's sexual
26 orientation at the time of the marriage to the other party on
27 the party's application form for a marriage license and on the
28 party's license to marry.

29 EXPLANATION

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

32 This bill provides for the existence of fraudulent
33 concealment of sexual orientation at the time of a marriage as
34 a factor, in a dissolution action, in determining the custody
35 arrangement that is in the best interest of a child of the

1 parties. Fraudulent concealment of sexual orientation is
2 evidenced by nondisclosure or misrepresentation of a party's
3 sexual orientation, at the time of the marriage to the other
4 party, on the party's application form for a marriage license
5 and on the party's license to marry.

6 The bill provides that in addition to any other information
7 contained in an application form for a marriage license and
8 a marriage license, the application form and license shall
9 contain information about the applicant's sexual orientation
10 as disclosed on the application form by each applicant. The
11 application form is to include boxes for the applicant to
12 check to indicate the applicant's sexual orientation, a
13 statement that a marriage license shall not be granted if
14 such information is not provided, and an explanation that
15 nondisclosure or misrepresentation of sexual orientation on
16 the form and license constitutes fraudulent concealment of
17 sexual orientation and is a factor in determining the custody
18 arrangement that is in the best interest of a minor child.

19 The bill provides that in the determination of custody of
20 a child of the parties in a dissolution action, if the court
21 finds that fraudulent concealment of sexual orientation exists,
22 a rebuttable presumption against the awarding of joint custody
23 exists. Additionally, the bill provides that a finding by
24 the court in a dissolution action that fraudulent concealment
25 of sexual orientation exists, which is not rebutted, shall
26 outweigh consideration of any other factor in the determination
27 of the awarding of joint custody. The bill provides that if
28 the court determines in a dissolution action that fraudulent
29 concealment of sexual orientation exists, the court may
30 forego the requirement that the parties participate in custody
31 mediation to determine whether joint custody is in the best
32 interest of the child.

33 The bill provides that fraudulent concealment of sexual
34 orientation is a factor, in a dissolution action, for a court
35 to consider in determining the custody arrangement that is in

1 the best interest of the child, and provides that fraudulent
2 concealment of sexual orientation is evidenced by nondisclosure
3 or misrepresentation of a party's sexual orientation at
4 the time of the marriage to the other party on the party's
5 application form for a marriage license and the party's license
6 to marry.