HOUSE FILE 636

BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HF 438)

## A BILL FOR

1 An Act relating to consideration of the educational setting of
2     a minor child in a child custody proceeding.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 598.1, Code 2023, is amended by adding
2 the following new subsection:
3 NEW SUBSECTION. 2A. *"Educational setting"* means a public
4 school, an accredited nonpublic school, competent private
5 instruction in accordance with the provisions of chapter 299A,
6 or any other method of educational instruction that satisfies
7 the compulsory education requirements of chapter 299.
8 Sec. 2. Section 598.10, subsection 1, Code 2023, is amended
9 by adding the following new paragraph:
10 NEW PARAGRAPH. *c.* If the parents are in disagreement over a
11 minor child's educational setting, the court shall consider the
12 educational setting of the minor child in making a temporary
13 order for custody. There is a rebuttable presumption that
14 it is in the best interest of the minor child to remain in
15 the educational setting in which the minor child was enrolled
16 during the immediately preceding school year.
17 Sec. 3. Section 598.41, Code 2023, is amended by adding the
18 following new subsections:
19 NEW SUBSECTION. 4A. If joint legal custody is awarded
20 to both parents, but the parents are in disagreement over a
21 minor child's educational setting, the court shall consider,
22 and include a provision in the custody order regarding, the
23 educational setting of the minor child. There is a rebuttable
24 presumption that it is in the best interest of the minor child
25 to remain in the educational setting in which the minor child
26 was enrolled during the immediately preceding school year.
27 NEW SUBSECTION. 10. All orders relating to custody of a
28 child shall specify the rights and responsibilities of each
29 parent relative to the minor child's educational setting.
30 The order shall, at a minimum, specify a parent's rights
31 and responsibilities regarding physical access to the child
32 during the school day; access to records involving the health,
33 education, and welfare of the child; decision-making authority
34 including instances when parental consent or authorization is
35 required; and the removal of the child from the premises of the

1 educational setting during school hours. Any parent with legal
2 custody of the child shall provide a copy of the order to the
3 educational setting and to the school district of the child to
4 whom the order applies.

5                              EXPLANATION

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

8     This bill provides that in determining temporary custody
9 orders or the award of joint legal custody for a minor child,
10 if the parents are in disagreement over the minor child's
11 educational setting, the court is to consider the educational
12 setting of the minor child. In the case of awarding joint
13 legal custody, the court is also to include a provision in
14 the order regarding the educational setting of the minor
15 child. There is a rebuttable presumption that it is in the
16 best interest of the minor child to remain in the educational
17 setting in which the minor child was enrolled during the
18 immediately preceding school year. The bill also defines
19 "educational setting".
20     The bill directs that all orders relating to the custody
21 of a child shall specify the rights and responsibilities of
22 each parent relative to the minor child's educational setting
23 and specifies the minimum rights and responsibilities to be
24 addressed in the order. The bill requires that any parent with
25 legal custody of the child is to provide a copy of the order to
26 the educational setting and to the school district of the child
27 to whom the order applies.