

House File 2014 - Introduced

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BY GEARHART

A BILL FOR

1 An Act relating to child preference for physical care of the
2 child and parental visitation rights, and including effective
3 date provisions.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

unofficial

1 Section 1. Section 598.21C, subsection 1, Code 2026, is
2 amended by adding the following new paragraph:

3 NEW PARAGRAPH. 0l. Changes in the physical care or
4 visitation ordered by the court pursuant to section 598.41,
5 subsection 8A.

6 Sec. 2. Section 598.41, Code 2026, is amended by adding the
7 following new subsection:

8 NEW SUBSECTION. 8A. a. Notwithstanding any other provision
9 of this section to the contrary, a child who is sixteen years
10 of age or older shall have the right to request a hearing to
11 modify an order issued by a court establishing physical care of
12 the child, visitation rights, or both, to the child.

13 b. At a hearing under paragraph "a", a court shall modify
14 the order establishing physical care of the child, visitation
15 rights, or both as appropriate to grant the child's preference
16 for physical care of the child, visitation rights, or both,
17 unless the court finds by clear and convincing evidence that any
18 of the following circumstances exist:

19 (1) The child's preference is a result of coercion.

20 (2) The child would be in imminent danger if the court grants
21 the child's preference.

22 (3) Either of the child's parents would be effectively
23 prohibited from exercising the parent's right to raise the
24 child. When determining whether the parent would be effectively
25 prohibited from exercising the parent's right to raise the child,
26 the court shall consider all of the following:

27 (a) How often each parent would be able to visit the child if
28 the court granted the child's preference.

29 (b) How often each parent has violated any existing orders
30 establishing physical care of the child and visitation rights.

31 (c) Each parent's ability to make decisions affecting the
32 child's education, health care, and other significant life
33 choices as compared to the other parent.

34 (d) Each parent's ability to spend time with the child
35 without significantly disrupting the child's established routine.

1 (e) Other factors the court deems relevant.

2 c. Nothing in this subsection shall be construed to limit
3 a court's authority to enter protective orders or other orders
4 necessary to protect the welfare of a child.

5 Sec. 3. EFFECTIVE DATE. This Act, being deemed of immediate
6 importance, takes effect upon enactment.

7 EXPLANATION

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

10 This bill relates to child preference for physical care of the
11 child and visitation rights.

12 The bill permits a child who is 16 years of age or older
13 to request a hearing to modify an order issued by a court
14 establishing custody rights, visitation rights, or both to the
15 child.

16 The bill requires a court to modify an order establishing
17 physical care of the child, visitation rights, or both, to grant
18 the child's preference for physical care and visitation rights
19 unless the court finds by clear and convincing evidence that
20 the child's preference is a result of coercion, the child would
21 be harmed if the court issued an order granting the child's
22 preference, or either of the child's parents would be effectively
23 prohibited from exercising the parent's right to raise the
24 child. The bill lists several factors a court must consider when
25 determining whether a parent would be effectively prohibited from
26 exercising the parent's right to raise the child.

27 The bill shall not be construed to limit a court's authority
28 to enter protective orders or other orders necessary to protect
29 the welfare of a child.

30 The bill makes a conforming change to Code section 598.21C,
31 subsection 1.

32 The bill takes effect upon enactment.