

House Study Bill 164 - Introduced

HOUSE FILE _____
BY (PROPOSED COMMITTEE ON
JUDICIARY BILL BY CHAIRPERSON
HOLT)

A BILL FOR

1 An Act relating to the establishment or modification of legal
2 custody of a child.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Section 598.41, subsection 2, Code 2025, is
2 amended by adding the following new paragraph:

3 NEW PARAGRAPH. *f.* If the court finds by clear and convincing
4 evidence that it is in the best interest of the child, the
5 court may award separate rights and responsibilities of joint
6 legal custody to each parent under paragraph "a". If the court
7 awards each parent separate rights and responsibilities of joint
8 custody, both parents shall retain the right to legal access to
9 information concerning the child under paragraph "e".

10 Sec. 2. NEW SECTION. **598.41E Custody dispute resolution.**

11 1. For purposes of this section, "*established custodial*
12 *environment of the child*" means an environment in which a child
13 has a stable, permanent, and significant relationship with a
14 parent or a caregiver. The environment includes the physical,
15 emotional, and psychological conditions that support the child's
16 well-being and development.

17 2. The district court shall resolve custody right disputes a
18 parent has related to the parent's child. To initiate resolution
19 of a dispute, the parent shall file an application with the court
20 and serve process on the other parent. The court shall set a
21 hearing on the matter upon receipt of the application.

22 3. The court shall conduct an evidentiary hearing to
23 determine if the resolution to the disputed custody rights
24 proposed by either parent will modify the established custodial
25 environment of the child. The court shall make the determination
26 from the child's standpoint rather than that of either parent.
27 If the resolution proposed by a parent will modify the
28 established custodial environment of the child, the parent who
29 proposed the resolution shall have the burden to establish by
30 clear and convincing evidence that the proposed resolution is
31 in the best interest of the child. If the proposed resolution
32 will not modify the established custodial environment of the
33 child, the parent who proposed the resolution shall establish by
34 a preponderance of the evidence that the proposed resolution is
35 in the best interest of the child.

1 4. The court shall consider all factors in section 598.41,
2 subsection 3, when resolving a dispute under this section.
3 If the court determines that a factor does not apply, the
4 court shall only be required to articulate the reasons that the
5 specific factor does not apply.

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 establishment or modification of
10 legal custody of a child.

11 If the district court finds by clear and convincing evidence
12 that it is in the best interest of the child, the bill allows
13 the court presiding over a dissolution of marriage case to award
14 separate rights and responsibilities of joint legal custody to
15 each parent. If each parent is awarded separate rights and
16 responsibilities of joint legal custody, both parents retain the
17 right to legal access to information concerning the child.

18 The bill defines "established custodial environment of the
19 child" as an environment in which a child has a stable,
20 permanent, and significant relationship with a parent or a
21 caregiver. The environment includes the physical, emotional, and
22 psychological conditions that support the child's well-being and
23 development.

24 The bill authorizes a district court to resolve disputes
25 related to custody rights. A parent may initiate a dispute
26 resolution by filing an application with the court and serving
27 process on the other parent. The court must set a hearing on the
28 matter upon receipt of the application.

29 The bill requires a court to determine whether a resolution
30 proposed by either parent will modify the established custodial
31 environment of the child. The court must make the determination
32 from the child's standpoint rather than that of the parents.
33 If a proposed resolution will modify the established custodial
34 environment of the child, the parent who proposed the resolution
35 has the burden to establish by clear and convincing evidence

1 that the resolution is in the best interest of the child. If a
2 resolution will not modify the established custodial environment
3 of the child, the parent who proposed the resolution must
4 establish by a preponderance of the evidence that the proposed
5 resolution is in the best interest of the child.

6 The bill requires a court, during a custodial rights dispute
7 resolution, to consider all factors the court is required
8 to consider when considering custody during a dissolution of
9 marriage proceeding. If the court determines a factor does not
10 apply, the court only need articulate the reasons that the factor
11 does not apply.

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