

FEB 15 2006  
HUMAN RESOURCES

HOUSE FILE 2385  
BY SANDS

Passed House, Date \_\_\_\_\_ Passed Senate, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

**A BILL FOR**

1 An Act relating to the awarding of joint physical care of  
2 children.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

HF 2385

4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24

1 Section 1. Section 598.41, subsection 5, paragraph a, Code  
2 Supplement 2005, is amended to read as follows:

3 a. If joint legal custody is awarded to both parents, the  
4 court may award joint physical care to both joint custodial  
5 parents upon the request of either parent during the  
6 proceedings on the initial dissolution petition or during the  
7 proceedings on a modification of the original custody order.  
8 A rebuttable presumption exists that a request for joint  
9 physical care by either parent is in the best interest of the  
10 child and the burden of proof to rebut the presumption rests  
11 on the party denying that joint physical care is in the best  
12 interest of the child. Prior to ruling on the request for the  
13 award of joint physical care, the court may require the  
14 parents to submit, either individually or jointly, a proposed  
15 joint physical care parenting plan. A proposed joint physical  
16 care parenting plan shall address how the parents will make  
17 decisions affecting the child, how the parents will provide a  
18 home for the child, how the child's time will be divided  
19 between the parents and how each parent will facilitate the  
20 child's time with the other parent, arrangements in addition  
21 to court-ordered child support for the child's expenses, how  
22 the parents will resolve major changes or disagreements  
23 affecting the child including changes that arise due to the  
24 child's age and developmental needs, and any other issues the  
25 court may require. If the court denies the request for joint  
26 physical care, the determination shall be accompanied by  
27 specific findings of fact and conclusions of law that the  
28 awarding of joint physical care is not in the best interest of  
29 the child. In determining the best interest of the child  
30 relative to the denial of a request for joint physical care,  
31 the court shall consider that the best interest of the child  
32 includes the opportunity for maximum continuous physical and  
33 emotional contact possible with both parents, unless direct  
34 physical or significant emotional harm to the child may result  
35 from this contact.

EXPLANATION

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35

This bill provides that in awarding joint physical care to parents under the dissolution of marriage chapter, joint physical care may be awarded to both parents based upon a request by either parent either during the proceedings on the initial dissolution petition or during the proceedings on a modification of the original custody order. The bill creates a rebuttable presumption that a request for joint physical care by either parent is in the best interest of the child and places the burden of proof to rebut the presumption on the party denying that joint physical care is in the best interest of the child. In determining the best interest of the child relative to the denial of a request for joint physical care, the court is to consider that best interest of the child includes the opportunity for maximum continuous physical and emotional contact possible with both parents, unless direct physical or significant emotional harm to the child may result from this contact.