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Referred To: Judiciary

FEB 15 2001
HUMAN RESOURCES

HOUSE FILE 289
BY BODDICKER

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to custody and visitation, including the required
2 posting of a cash bond to assure compliance with an order.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Section 598.5, Code 2001, is amended by adding
2 the following new subsection:

3 NEW SUBSECTION. 11. State whether a history of
4 differences exists between the parties regarding custody or
5 visitation of any child of the parties.

6 Sec. 2. Section 598.7A, Code 2001, is amended by adding
7 the following new subsection:

8 NEW SUBSECTION. 1A. If the petition for dissolution of
9 marriage or the answer filed by the respondent includes a
10 statement that a history of differences exists between the
11 parties regarding custody or visitation of any child of the
12 parties, unless participation in mediation is otherwise
13 disallowed pursuant to subsection 1, the court shall order the
14 parties to participate in mediation to resolve the
15 differences. If the parties are unable to resolve the
16 differences through mediation, the court may order the posting
17 of a cash bond to assure compliance with any temporary order
18 for custody and visitation.

19 Sec. 3. Section 598.11, Code 2001, is amended by adding
20 the following new unnumbered paragraph:

21 NEW UNNUMBERED PARAGRAPH. Prior to the completion of
22 participation in mediation pursuant to section 598.7A, in
23 awarding temporary custody and visitation, if the court is
24 satisfied from the evidence presented that a parent may not
25 comply with the visitation provisions of the order, the court
26 may order the posting of a cash bond to assure compliance with
27 the order. The court may also order the parties to provide
28 contact with the child through a neutral party or a neutral
29 site or center. Following completion of participation in
30 mediation, if the parties are unable to resolve their
31 differences relating to custody and visitation in awarding
32 temporary custody and visitation, the court shall order the
33 posting of a cost bond to assure compliance with the order.
34 The court may also order the parties to provide contact with
35 the child through a neutral party or a neutral site or center.

1 The supreme court shall prescribe guidelines for forfeiture of
2 the bond and restoration of the bond following forfeiture of
3 the bond.

4 Sec. 4. Section 598.23, Code 2001, is amended by adding
5 the following new subsection:

6 NEW SUBSECTION. 3. If a person against whom a final
7 decree has been entered willfully disobeys the custody order
8 and fails to comply with the visitation provisions of the
9 order two or more times, the person shall be cited, and as an
10 alternative to punishment for contempt shall be required to
11 post a cash bond to assure compliance with the custody order
12 including the visitation provisions of the order. The supreme
13 court shall prescribe guidelines for forfeiture of the bond
14 and restoration of the bond following forfeiture of the bond.

15 Sec. 5. Section 598.41, Code 2001, is amended by adding
16 the following new subsections:

17 NEW SUBSECTION. 5A. In awarding custody and visitation,
18 if the court is satisfied, from the evidence presented
19 including a history of noncompliance with a temporary custody
20 and visitation order and the results of participation in
21 mediation by the parties ordered pursuant to section 598.7A,
22 that a parent may not comply with the visitation provisions of
23 the order, the court shall order the posting of a cash bond to
24 assure compliance with the order. The supreme court shall
25 prescribe guidelines for forfeiture of the bond and
26 restoration of the bond following forfeiture of the bond.

27 NEW SUBSECTION. 9. In order to assure the child the
28 opportunity for the maximum continuing physical and emotional
29 contact with both parents, the supreme court shall prescribe a
30 model minimum visitation schedule to be used in establishing
31 the visitation provisions of the temporary or final custody
32 award. The model schedule shall provide the flexibility
33 necessary to preserve, to the maximum extent possible, the
34 relationship between each parent and the child prior to the
35 separation. The model schedule shall also permit the

1 adjustment necessary to reflect the geographic proximity of
2 the residences of the parents and the travel time necessary
3 for visitation purposes. The court shall use the model
4 minimum visitation schedule, and shall not order a lesser
5 amount of days or hours of visitation as provided in the model
6 schedule, unless the court determines that the schedule is
7 unjust or inappropriate based upon the individual
8 circumstances of the case.

9 EXPLANATION

10 This bill provides for the posting of a cash bond to assure
11 that parties involved in a domestic relations action in which
12 custody and visitation are at issue will comply with the order
13 of the court at various stages of the action. The bill
14 provides that a petition for dissolution of marriage shall
15 state whether a history of differences exists between the
16 parties regarding custody and visitation, and if the petition
17 or the answer to the petition so states, the court is to order
18 mediation, unless otherwise disallowed, to resolve the
19 differences. If the parties are unable to resolve the
20 differences through mediation, the court may order the posting
21 of a cash bond to assure compliance. If the court awards
22 temporary custody and visitation prior to completion of
23 mediation, the court may order the posting of a cash bond if
24 there is evidence that a parent may not comply. Following
25 completion of mediation, as indicted above, if the differences
26 are not resolved, the court is required to order the posting
27 of a cash bond to assure compliance. The court may also order
28 the parties to provide contact with the child through a
29 neutral party or a neutral site or center.

30 In entering a final decree, the court is to require the
31 posting of a cash bond to assure compliance with a custody and
32 visitation order if certain evidence exists, including
33 noncompliance with a temporary order or failure to resolve
34 differences regarding custody and visitation through
35 mediation.

1 Following the entry of a final decree, if a party willfully
2 disobeys the visitation provisions of the custody order two or
3 more times, the court is required to order the posting of a
4 cash bond to assure compliance with the order.

5 The bill also directs the supreme court to prescribe a
6 minimum model visitation schedule to be used in establishing
7 visitation. The bill requires that the schedule provide for
8 flexibility and adjustment and provide that a schedule is to
9 be used unless the court determines that the schedule is
10 unjust or inappropriate based upon the individual
11 circumstances of the case.

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