

3/20/02 Rereferred To: Judiciary

FEB 20 2002  
Place On Calendar

HOUSE FILE 2466  
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HF 302)

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

**A BILL FOR**

1 An Act relating to the award of joint physical care of a child.  
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 2466

1 Section 1. Section 598.41, subsection 3, paragraph d, Code  
2 2001, is amended to read as follows:

3 d. Whether The extent to which both parents have actively  
4 cared for the child before and since the separation and which  
5 custody arrangement would best preserve the relationship,  
6 which existed prior to the separation, between each parent and  
7 the child.

8 Sec. 2. Section 598.41, subsection 5, Code 2001, is  
9 amended to read as follows:

10 5. a. Joint physical care may be in the best interest of  
11 the child, but joint legal custody does not require joint  
12 physical care.

13 b. On the application of either parent, the court shall  
14 consider granting joint physical care in cases where the  
15 parents do not agree to joint physical care.

16 c. When the court determines such action would be in the  
17 best interest of the child and would preserve the relationship  
18 between each parent and the child, joint physical care may be  
19 awarded to both joint custodial parents or physical care may  
20 be awarded to one joint custodial parent. In determining  
21 which physical care arrangement is in the best interest of the  
22 minor child, the court shall consider the factors in  
23 subsection 3 and shall also consider which physical care  
24 arrangement would best preserve the relationship, which  
25 existed prior to the separation between each parent and the  
26 child.

27 d. If the court does not award joint physical care, the  
28 court shall cite evidence, pursuant to the factors in  
29 subsection 3 and in paragraph "c" of this subsection, that  
30 joint physical care is not in the best interest of the child  
31 as demonstrated by a preponderance of the evidence.

32 e. If one joint custodial parent is awarded physical care,  
33 the parent responsible for providing physical care shall  
34 support the other parent's relationship with the child.  
35 Physical care awarded to one parent does not affect the other

1 parent's rights and responsibilities as a joint legal  
2 custodian of the child. Rights and responsibilities as joint  
3 legal custodian of the child include, but are not limited to,  
4 equal participation in decisions affecting the child's legal  
5 status, medical care, education, extracurricular activities,  
6 and religious instruction.

7 EXPLANATION

8 This bill relates to the awarding of joint physical care of  
9 a child. The bill provides that on application of either  
10 parent, the court is to consider the awarding of joint  
11 physical care in cases where the parents do not agree to joint  
12 physical care. The bill directs the court to consider the  
13 factors currently used by the court in the awarding of legal  
14 custody and, in addition, to consider which physical care  
15 arrangement would best preserve the relationship, which  
16 existed prior to the separation, between each parent and the  
17 child. The bill provides that if the court does not award  
18 joint physical care, the court is to cite evidence, based on  
19 the factors used in its determination, that joint physical  
20 care is not in the best interest of the child as demonstrated  
21 by a preponderance of the evidence.

22 The bill also amends the subsection relating to the factors  
23 to be considered in an award of legal custody to provide that  
24 the court is to consider not only the extent to which both  
25 parents have actively cared for the child before, during, and  
26 since the separation, but also the court is to consider which  
27 custody arrangement would best preserve the relationship which  
28 existed prior to the separation between each parent and the  
29 child.

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