

House File 2214 - Introduced

HOUSE FILE _____
BY SANDS

A BILL FOR

1 An Act relating to relocation of a custodial parent and
2 modification of child custody.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
4 TLSB 5382YH (3) 86
5 pf/nh

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1 1 Section 1. Section 598.21D, Code 2016, is amended to read
1 2 as follows:
1 3 598.21D Relocation of parent ~~as grounds to modify~~ == notice
1 4 == hearing == modification of order of child custody.
1 5 1. If a parent awarded joint legal custody and physical care
1 6 or sole legal custody is relocating the residence of the minor
1 7 child to a location which is one hundred fifty miles or more
1 8 from the residence of the minor child at the time that custody
1 9 was awarded, the relocating parent shall provide sixty=days'
1 10 advance written notice of the intended relocation to the court
1 11 and to the other parent. The court may consider the relocation
1 12 a substantial change in circumstances.
1 13 2. The court shall, upon motion of any party or upon the
1 14 court's own motion, schedule a hearing to review the notice
1 15 of relocation to determine if the relocation is a substantial
1 16 change in circumstances and if the relocation is in the best
1 17 interest of the child. The burden of proving that relocation
1 18 of the residence of the minor child is in the child's best
1 19 interest is on the relocating parent. In determining if the
1 20 relocation is in the best interest of the child, in addition
1 21 to the factors specified in section 598.41, subsection 3, the
1 22 court shall consider all of the following:
1 23 a. The reason for the parent's relocation.
1 24 b. The additional costs or difficulty to both parents in
1 25 exercising visitation.
1 26 c. The economic resources of both parents.
1 27 d. Whether the relocation is being made or opposed in
1 28 good faith and not to interfere with or to frustrate the
1 29 relationship between the minor child and the other parent or
1 30 the other parent's right of access to the minor child.
1 31 e. The prospective advantage of the relocation for improving
1 32 the general quality of life for the relocating parent or for
1 33 the minor child.
1 34 f. The likelihood that the relocating parent will comply
1 35 with the custody order.
2 1 g. Whether the relocation will allow a realistic opportunity
2 2 for shared parenting time.
2 3 h. The extent to which relocating or not relocating will

2 4 affect the emotional, physical, or developmental well-being and
2 5 stability of the minor child.

2 6 i. Other factors the court considers necessary and relevant.

2 7 3. If the court determines that the relocation is a
2 8 substantial change in circumstances and is in the best interest
2 9 of the child, the court shall modify the custody order to,

2 10 at a minimum, preserve, as nearly as possible, the existing
2 11 relationship between the minor child and the nonrelocating
2 12 parent. If modified, the order may include a provision for
2 13 extended visitation during summer vacations and school breaks
2 14 and scheduled telephone contact between the nonrelocating
2 15 parent and the minor child. The modification may include a
2 16 provision assigning the responsibility for transportation of
2 17 the minor child for visitation purposes to either or both
2 18 parents.

2 19 4. If the court determines that the relocation is a
2 20 substantial change in circumstances, but is not in the best
2 21 interest of the child, the court shall do one of the following:

2 22 a. If the nonrelocating parent has joint legal custody, the
2 23 court shall modify the custody order to award physical care
2 24 to the nonrelocating parent and to provide visitation to the
2 25 relocating parent to, at a minimum, preserve, as nearly as
2 26 possible, the existing relationship between the minor child and
2 27 the relocating parent.

2 28 b. If the relocating parent has sole legal custody, the
2 29 court shall modify the custody order to provide increased
2 30 visitation to the nonrelocating parent in addition to that
2 31 provided under the existing custody order and may include a
2 32 provision assigning the responsibility for transportation of
2 33 the minor child for visitation purposes to the relocating
2 34 parent.

2 35 5. If the court makes a finding of past interference by
3 1 the parent awarded joint legal custody and physical care or
3 2 sole legal custody with the minor child's access to the other
3 3 parent, the court may order the posting of a cash bond to
3 4 assure future compliance with the visitation provisions of the
3 5 ~~decree~~ order. The supreme court shall prescribe guidelines
3 6 for the forfeiting of the bond and restoration of the bond
3 7 following forfeiting of the bond.

3 8 EXPLANATION

3 9 The inclusion of this explanation does not constitute agreement with
3 10 the explanation's substance by the members of the general assembly.

3 11 This bill relates to the relocation of a parent with joint
3 12 legal custody and physical care or sole legal custody of a
3 13 child.

3 14 Current law provides that if a parent awarded joint legal
3 15 custody and physical care or sole legal custody is relocating
3 16 the residence of the minor child to a location which is 150
3 17 miles or more from the residence of the minor child at the time
3 18 that custody was awarded, the court may consider the relocation
3 19 a substantial change in circumstances. If the court determines
3 20 that the relocation is a substantial change in circumstances,
3 21 the court is required to modify the custody order to, at
3 22 a minimum, preserve, as nearly as possible, the existing
3 23 relationship between the minor child and the nonrelocating
3 24 parent. The modification may include a provision for extended
3 25 visitation during summer vacations and school breaks and
3 26 scheduled telephone contact between the nonrelocating parent
3 27 and the minor child, as well as assigning the responsibility
3 28 for transportation of the minor child to either or both

3 29 parents.

3 30 Under the bill, if a parent awarded joint legal custody and
3 31 physical care or sole legal custody is relocating the residence
3 32 of the minor child to a location which is 150 miles or more
3 33 from the residence of the minor child at the time that custody
3 34 was awarded, the relocating parent is required to provide
3 35 60=days' advance written notice of the intended relocation to
4 1 the court and to the other parent. Upon motion of any party
4 2 or upon the court's own motion, the court shall schedule a
4 3 hearing to review the notice of relocation to determine if the
4 4 relocation is a substantial change in circumstances and if the
4 5 relocation is in the best interest of the child. The burden
4 6 of proving that relocation is in the child's best interest is
4 7 on the relocating parent. In determining if the relocation is
4 8 in the best interest of the child, in addition to the factors
4 9 currently specified for the awarding of custody, the bill
4 10 specifies other factors relating to the relocation that the
4 11 court shall consider.

4 12 If the court determines that the relocation is a substantial
4 13 change in circumstances and is in the best interest of the
4 14 child, the court shall modify the custody order to, as is
4 15 currently the law, at a minimum, preserve, as nearly as
4 16 possible, the existing relationship between the minor child and
4 17 the nonrelocating parent. If modified, the order may include
4 18 a provision for extended visitation during summer vacations
4 19 and school breaks and scheduled telephone contact between the
4 20 nonrelocating parent and the minor child. The modification
4 21 may include a provision assigning the responsibility for
4 22 transportation of the minor child for visitation purposes to
4 23 either or both parents.

4 24 If the court determines that the relocation is a substantial
4 25 change in circumstances, but is not in the best interest of
4 26 the child, the court shall do one of the following: (1) if
4 27 the nonrelocating parent has joint legal custody, the court
4 28 shall modify the custody order to award physical care to
4 29 the nonrelocating parent and to provide visitation to the
4 30 relocating parent to, at a minimum, preserve, as nearly as
4 31 possible, the existing relationship between the minor child
4 32 and the relocating parent; or (2) if the relocating parent has
4 33 sole legal custody, the court shall modify the custody order
4 34 to provide increased visitation to the nonrelocating parent
4 35 in addition to that provided under the existing custody order
5 1 and may include a provision assigning the responsibility for
5 2 transportation of the minor child for visitation purposes to
5 3 the relocating parent.

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