

HOUSE REPUBLICAN STAFF ANALYSIS

Bill:	House File 636 (Formerly HF 438)	House Committee:	PASSED on March 3 (12-8)
Committee:	Judiciary	House Floor:	
Floor Manager:	Rep. Gustoff	Senate Floor:	
Date:	March 15, 2023	Governor:	
Staff:	Amanda Wille (1-5230)		

Educational Setting of a Minor

- Creates a rebuttable presumption that a child should remain in their educational setting when divorcing parents cannot agree.
- Educational setting means the type of education, not the specific building or teacher.

Section by Section Analysis

Section 1 – Dissolution of Marriage and Domestic Relations- Definitions (598.31)

Educational setting- public, accredited non-public school, competent private instruction, or other method of educational instruction that satisfies the compulsory education requirements in code.

Section 2 – Dissolution of Marriage and Domestic Relations- Temporary Orders (598.10)

If parents disagree about the child's educational setting, the court shall consider the current educational setting of the minor. There is a rebuttable presumption that it is in the best interest of the child to remain in their current educational setting.

Section 3- Dissolution of Marriage and Domestic Relations- Custody of Children (598.41)

If joint legal custody is awarded but the parent disagrees over the child's educational setting, the court shall consider the current educational setting of the minor. There is a rebuttable presumption that it is in the best interest of the child to remain in their current educational setting.

All orders relating to custody of a child shall specify the rights and responsibilities of each parent as it relates to access to the child during the school day, access to records involving health and education of the child, welfare of the child. Any parent with legal custody of the child shall provide a copy of the order to the educational setting and to the school district of the child to who the order applies

Amendment Analysis

H- 1124- Gustoff

Adds independent private instruction to the list of educational settings.

Clarifies that the presumption is rebuttable only by a preponderance of the evidence that the educational setting is not in the best interest of the child.

Prohibits a parent from having physical access to a child during the school day or removing them from the educational setting during school hours if the child is being provided competent private instruction or independent private instruction.