

**514F.1 UTILIZATION AND COST CONTROL REVIEW COMMITTEES.**

The boards of examiners under chapters 148, 149, 150, 150A, 151, 152, and 153 shall establish utilization and cost control review committees of licensees under the respective chapters, selected from licensees who have practiced in Iowa for at least the previous five years, or shall accredit and designate other utilization and cost control organizations as utilization and cost control committees under this section, for the purposes of utilization review of the appropriateness of levels of treatment and of giving opinions as to the reasonableness of charges for diagnostic or treatment services of licensees. Persons governed by the various chapters of Title XX of the Code and self-insurers for health care benefits to employees may utilize the services of the utilization and cost control review committees upon the payment of a reasonable fee for the services, to be determined by the respective boards of examiners. The respective boards of examiners under chapters 148, 149, 150, 150A, 151, 152, and 153 shall adopt rules necessary and proper for the implementation of this section pursuant to chapter 17A. It is the intent of this general assembly that conduct of the utilization and cost control review committees authorized under this section shall be exempt from challenge under federal or state antitrust laws or other similar laws in regulation of trade or commerce.

Approved May 15, 1989

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**CHAPTER 165****CHILD CUSTODY AND VISITATION MEDIATION**

*H.F. 20*

**AN ACT** relating to dissolution of marriage and related proceedings by providing for a pilot program of mandatory mediation of contested issues of child custody and visitation.

*Be It Enacted by the General Assembly of the State of Iowa:*

Section 1. **LEGISLATIVE FINDINGS.** The general assembly finds that the determination of child custody and visitation arrangements in a dissolution of a marriage is an issue of great importance to the social and emotional welfare of the children and parents involved; that mediation has proven to be an effective means of decision-making regarding child custody and visitation in a dissolution case; and that mediation has proven to be a cost-effective means of settling disputes while ensuring that the essential rights of the persons involved are protected. The general assembly determines that a pilot program of mandatory mediation relating to the issues of child custody and visitation in dissolution cases should be established under the supervision of the supreme court.

**Sec. 2. PILOT PROGRAM FOR MEDIATION OF CHILD CUSTODY AND VISITATION ISSUES IN DISSOLUTION CASES — CONFIDENTIALITY.**

1. The supreme court shall implement a pilot program for mandatory mediation of child custody and visitation issues in dissolution cases as described in this Act. The pilot program shall be established in a district court for which the appropriate judicial officers have agreed that the district court will serve as the pilot program site for a period of two years beginning January 1, 1990, and ending December 31, 1991. The supreme court shall cause a preliminary report to be submitted to the general assembly in January 1991, with a final report to be submitted in January 1992. The final report shall contain recommendations regarding the adoption of mediation of child custody and visitation issues in dissolution cases in courts throughout the state. The final report shall include, but not be limited to, all of the following:

a. The average length of time for cases to proceed from commencement to final settlement in the mediation process.

- b. The degree of party compliance with the terms of a settlement.
  - c. The frequency of modifications of mediated settlements.
  - d. The satisfaction of the parties with respect to access to mediation, participation in mediation, and fairness of the mediation process.
  - e. The amount of time and money saved by the parties and court as a result of proceeding through mediation rather than litigation.
2. For the purposes of this Act, unless the context otherwise requires:
    - a. "Administrator" means the state court administrator or the administrator's designee.
    - b. "Court" means the district court in which the pilot program for the mandatory mediation of child custody and visitation issues is located.
    - c. "Order" means a court order or modification of a court order for the dissolution of a marriage, a child custody award, a visitation order, or a mediation order.
    - d. "Program" means the pilot program for the mandatory mediation of child custody and visitation issues in dissolution cases established by this Act.
  3. The memoranda, work products, and case files of the mediator and all other confidential communications in the possession of the mediator in a mediation proceeding conducted pursuant to this Act shall be kept confidential, unless otherwise ordered by the court, the lawful custodian of the records, or by another person duly authorized to release the records.

Sec. 3. MEDIATION OF CONTESTED ISSUES IN DISSOLUTION CASES. For the purposes of the program:

1. In a proceeding on a petition, or other application for an order, or modification of an order for the dissolution of a marriage where the custody of or visitation with a child is contested, the court shall order mediation and the procedures to be followed by the parties in mediation.

The purpose of the mediation is to reduce acrimony which may exist between the parties in order to promote a workable settlement of contested issues concerning the custody of or visitation with a child. The primary purpose of the mediation is the development of an agreement which is in the best interests of the child.

2. The court shall assign a qualified mediator as described in subsection 7. The court shall not designate a mediator who represents one of the parties, who has one of the parties as a patient or a client, or who otherwise has a conflict of interest which might affect the proceedings. The fact that the person designated as mediator was the conciliator for the parties under section 598.16 is not in itself a disqualification.

3. Upon designation or selection of the mediator, the court shall issue a mediation order setting forth the procedures to be followed and the date for filing a written mediation report. The administrator shall adopt rules for these purposes.

4. The mediator shall be in charge of the mediation proceedings subject to court supervision. The mediator shall be impartial and shall use the mediator's best efforts to effect a settlement of the contested issues. The mediator shall inform the parties of the factors the court must consider under sections 598.21 and 598.41 and chapter 598A.

5. The mediator shall not require mediation if one or more of the following conditions exist:

- a. The mediator determines there is no reasonable possibility that mediation will promote settlement of the issues in a custody dispute.

- b. The mediator determines there is a substantial allegation of direct physical or significant emotional harm to a party or to a child.

- c. The mediator determines that mediation will otherwise fail to serve the best interests of the child.

- d. The mediator determines that a verified petition alleging domestic abuse has been filed by a party pursuant to chapter 236.

6. If a mediator determines, pursuant to subsection 5, that a mediation is not required, then the mediator shall request in writing to the court that the mediation be waived.

7. The court shall develop and maintain a list of qualified mediators available to conduct mediation proceedings under this Act. Persons listed may be, but are not required to be,

members of the staff of a dispute resolution center under chapter 679, that is under contract to the court to provide mediation services pursuant to this Act.

To qualify as a mediator, a person must have twenty-five hours of training in mediation techniques and mediation procedures as they apply to the Iowa court system.

8. Mediation proceedings under this Act shall be held in private. Except for the contents of an agreement signed by the parties and the mediator, all verbal and written communications relating to the subject matter of the mediation and transmitted between any party and the mediator or any other person present during any stage of the proceeding are confidential communications. The mediator or a party or other person shall not be examined in any judicial or administrative proceeding regarding the contents of the agreement or any communications made confidential by this Act or subject to judicial or administrative process requiring the disclosure of these confidential communications without the consent of the parties. However, this Act does not prohibit the mediator's reporting of information concerning abuse if the mediator is otherwise required by law to report the information.

9. Except as otherwise provided in the mediation order issued pursuant to this Act, the mediator shall exclude counsel from participation in the mediation proceeding unless the mediator determines that including counsel is appropriate or necessary.

10. The mediator shall consider the needs and interests of the child. The mediator may interview the child and may require the child's participation in the proceeding if the mediator determines the child's participation is appropriate or necessary.

11. Any agreement reached by the parties as a result of mediation shall be reported to the court on or before the reporting date established by the court. The agreement may include supporting factual information.

12. If the parties have not reached agreement as a result of mediation, the mediator shall report that fact to the court on or before the reporting date established by the court. The report shall state the mediation procedures undertaken and other nonconfidential matters that the court requires. This report shall be a part of the record unless otherwise ordered by the court.

13. The costs of mediation procedures shall be paid by the parties unless one or both of the parties are indigent, pursuant to rules prescribed by the administrator.

Approved May 15, 1989

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## CHAPTER 166

### CHILD SUPPORT

*H.F. 403*

**AN ACT** relating to child support awards by requiring the application of uniform support guidelines by the courts and the department of human services and providing an effective date.

*Be It Enacted by the General Assembly of the State of Iowa:*

Section 1. Section 234.39, Code 1989, is amended by striking the section and inserting in lieu thereof the following:

#### 234.39 RESPONSIBILITY FOR COST OF SERVICES.

It is the intent of this chapter that an individual receiving foster care services and the individual's parents or guardians, shall have primary responsibility for paying the cost of the care and services. The support obligation established and adopted under this section shall be consistent with the limitations on legal liability established under sections 222.78 and 230.15, and by any other statute limiting legal responsibility for support which may be imposed on