

Amended 4/1

SENATE FILE 303
4/1

Judiciary
Roth, Christopher
Scott
Shaw

FILED MAR 31 1977

SENATE FILE 303

By DODERER

Passed Senate, Date _____ Passed House, Date _____

Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____

Approved _____

A BILL FOR

1 An Act relating to a dissolution of marriage action and
2 providing a penalty.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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S.F. 303

1 Section. 1. Section five hundred ninety-eight point
2 thirteen (598.13), Code 1977, is amended by striking the
3 section and inserting in lieu thereof the following:

4 598.13 FINANCIAL STATEMENTS FILED. There shall be
5 compulsory disclosure by both parties of their financial
6 status. No showing of special circumstances shall be required
7 before such disclosure is ordered. A statement of net worth
8 set forth by affidavit on a form prescribed by the supreme
9 court and furnished without charge by the clerk of the district
10 court shall be filed by each party, prior to the dissolution
11 hearing, in the court in which the proceeding is pending.
12 This statement shall be contained in two divisions. The first
13 division shall contain the affiant's income from salary, wages
14 or other source, personal expenses, and necessary payments
15 on debts of the other party as well as all family living
16 expenses. This information shall be calculated on either
17 a weekly or monthly basis, and shall not contain debts to
18 be paid subsequent to the anticipated pendency of the action.

19 The second division shall include all other joint or
20 separate assets of any kind and wherever situated and shall
21 include a list of all assets transferred in any manner during
22 the preceding three years. It shall also include all other
23 liabilities of the parties and all debts to be paid subsequent
24 to the anticipated pendency of the action.

25 Failure to comply with the requirements of this subsection
26 shall make the party in noncompliance subject to citation
27 and punishment for contempt of court.

28 Sec. 2. Section five hundred ninety-eight point twenty-
29 one (598.21), Code 1977, is amended by striking the section
30 and inserting in lieu thereof the following:

31 598.21 ORDERS FOR DISPOSITION AND SUPPORT. As provided
32 in section five hundred ninety-eight point seventeen (598.17)
33 of the Code, when a dissolution of marriage is decreed, the
34 court may make such orders in relation to the children,
35 property, parties, and the support of the parties as is

1 justified, subject to the following:

2 1. Division of property.

3 a. The court shall assign each party's property to that
4 party.

5 b. The court shall divide the marital property equally
6 between the parties and without regard to marital misconduct
7 unless some other proportions are found to be just after
8 consideration of all relevant factors as set out in subsection
9 two (2) of this section.

10 c. As used in this section, "property" includes real or
11 personal property and includes, but is not limited to, present
12 and future insurance benefits and pension benefits or
13 annuities.

14 d. As used in this section, "marital property" means all
15 property acquired by either party subsequent to the marriage
16 except:

17 (1) Property acquired by gift, bequest, devise, or descent.

18 (2) Property acquired in exchange for property acquired
19 before the marriage or in exchange for property acquired by
20 gift, bequest, devise, or descent.

21 (3) Property acquired by a party after a decree of legal
22 separation.

23 (4) Property excluded by valid agreement of the parties.

24 (5) The increase in value of property acquired before
25 the marriage.

26 e. All property acquired by either party after the marriage
27 and before a decree of legal separation is presumed to be
28 marital property, regardless of whether title is held
29 individually or by the parties in some form of co-ownership.
30 The presumption of marital property is overcome by a showing
31 that the property was acquired by a method listed in paragraph
32 d of this subsection.

33 2. Factors to be considered in property division and
34 support orders.

35 The court shall divide the marital property and may order

1 either party to pay support to the other in amounts and for
2 periods of time as the court deems just after consideration
3 of all relevant factors including but not limited to the
4 following:

5 a. The age of each party at the outset of the marriage,
6 the duration of the marriage, and the life expectancy of each
7 party.

8 b. The present physical and mental health of the parties
9 and the physical and mental health of the parties at the
10 outset of the marriage.

11 c. The social positions and living standards of each party
12 at the outset of the marriage and at the present time, and
13 the present financial resources of each party, balancing the
14 ability of one party to pay against the relative needs of
15 the other.

16 d. The training, education, abilities, and earning capacity
17 of each party.

18 e. The net worth of property acquired during the marriage,
19 the contributions of each party including the contribution
20 of a party as homemaker, and any sacrifices, including
21 interruption of career or educational opportunities, made
22 by each party for the inception or preservation of the
23 marriage.

24 3. Factors to be considered in ordering child support.

25 The court shall assume that both parents owe an equal duty
26 of support to children of the marriage and may order either
27 or both parents to pay an amount reasonable or necessary for
28 a child's support, without regard to marital misconduct, after
29 considering all relevant factors listed in subsection two
30 (2) of this section as well as all other relevant factors
31 including but not limited to:

32 a. The number of children of the marriage.

33 b. The physical and emotional condition, financial
34 resources, and educational needs of each child.

35 c. The fair market value of the homemaking services

1 provided by the custodial parent in the course of caring for
2 the child.

3 4. The order pertaining to custody of children may provide
4 for joint custody by the parties in appropriate cases.

5 5. The court may subsequently modify orders made under
6 this section when there is a substantial change in
7 circumstances and may order attorneys' fees to either party
8 in a modification proceeding.

9 Sec. 3. Section five hundred ninety-eight point twenty-
10 three (598.23), unnumbered paragraph two (2), Code 1977, is
11 amended to read as follows:

12 The court may, as an alternative to punishment for contempt,
13 make an order directing the defaulting party to assign a
14 sufficient amount in salary or wages due, or to become due
15 in the future, from an employer or successor employers, to
16 the clerk of the court where the order or judgment was granted
17 for the purpose of paying the sums in default as well as those
18 to be made in the future. The assignment order shall ~~not~~
19 be binding upon the employer, ~~but~~ and the court shall send
20 a copy of the order, signed by the employee, to the employer
21 and ~~request-his~~ direct the employer's co-operation in deducting
22 support payments. For each payment deducted in compliance
23 with such request, the employer shall receive one dollar to
24 cover the expense created by the deduction, which amount shall
25 be deducted from the money due the employee. Compliance by
26 an employer with the court's request shall operate as a
27 discharge of his liability to the employee as to the affected
28 portion of the employee's wages.

29 Sec. 4. Chapter five hundred ninety-eight (598), Code
30 1977, is amended by adding the following new section:

31 NEW SECTION. Notwithstanding the provisions of section
32 five hundred sixty-one point fifteen (561.15) of the Code,
33 the court may order either party to vacate the homestead
34 pending entry of a decree of dissolution upon a showing that
35 the other party or the children are in imminent danger of

1 physical harm if such order is not issued.

2 Sec. 5. This Act is effective January 1, 1978.

3 EXPLANATION

4 This bill expands the present Code section which authorizes
5 the court to make orders in relation to the children, property,
6 parties and maintenance, and to modify such orders, in a
7 dissolution of marriage action. It also requires complete
8 financial disclosure by the parties provides a penalty and
9 repeals the provision prohibiting remarriage within one year.

10 The bill defines "marital property" and directs the court
11 to consider various factors, including a spouse's contribution
12 as homemaker, in ordering a division of the marital property
13 and the payment of support for a party or for a child of the
14 marriage.

15 The bill also requires employers' cooperation in deducting
16 employees' support payments and provides that under certain
17 circumstances the court may order one of the spouses to vacate
18 the homestead.

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