

*Inducing*

*Withdrawn 4/11*

**FILED JAN 24 1953**

SENATE FILE 2083

By ORR

*See 21.7. 2503*

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 providing  
2 a penalty.

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

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1 Section 1. Section five hundred ninety-eight point thirteen  
2 (598.13), Code 1979, is amended by striking the section and  
3 inserting in lieu thereof the following:

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

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

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

29 Sec. 2. Section five hundred ninety-eight point seventeen  
30 (598.17), Code 1979, is amended by striking unnumbered  
31 paragraph three (3).

32 Sec. 3. Section five hundred ninety-eight point twenty-  
33 one (598.21), Code 1979, is amended by striking the section  
34 and inserting in lieu thereof the following:

35 598.21 ORDERS FOR DISPOSITION AND SUPPORT. When a

1 dissolution of marriage is decreed, the court may make such  
2 orders in relation to the children, property, parties, and  
3 the support of the parties as are justified, subject to the  
4 following:

5 1. Division of property.

6 a. The court shall assign each party's property to that  
7 party unless such an assignment is found to be unjust.

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

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

17 d. As used in this section, "marital property" means all  
18 property acquired by either party subsequent to the marriage  
19 except:

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

21 (2) Property acquired in exchange for property acquired  
22 before the marriage or in exchange for property acquired by  
23 gift, bequest, devise, or descent.

24 (3) Property acquired by a party after a decree of legal  
25 separation.

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

27 (5) The increase in value of property acquired before  
28 the marriage.

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

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

3 The court shall divide the marital property and may order  
4 either party to pay support to the other in amounts and for  
5 periods of time as the court deems just after consideration  
6 of all relevant factors including but not limited to the  
7 following:

8 a. The age of each party at the outset of the marriage,  
9 the duration of the marriage, and the life expectancy of each  
10 party.

11 b. The present physical and mental health of the parties  
12 and the physical and mental health of the parties at the  
13 outset of the marriage.

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

19 d. The training, education, abilities, and earning capacity  
20 of each party.

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

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

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

35 a. The number of children of the marriage.

1     b. The physical and emotional condition, financial  
2 resources, and educational needs of each child.

3     c. The fair market value of the homemaking services to  
4 be provided by the custodial parent in the course of caring  
5 for the child.

6     4. The order pertaining to custody of children may include  
7 provision for joint custody of the children by the parties  
8 and shall conform to the requirements of chapter five hundred  
9 ninety-eight A (598A) of the Code.

10    5. The orders made pursuant to this section need mention  
11 only those factors relevant to the particular case for which  
12 the orders are made.

13    6. The court may subsequently modify orders made under  
14 this section when there is a substantial change in  
15 circumstances and may order attorneys' fees to either party  
16 in a modification proceeding. Modifications of orders  
17 pertaining to child custody shall be made pursuant to chapter  
18 five hundred ninety-eight A (598A) of the Code.

19    Sec. 4. Section five hundred ninety-eight point twenty-  
20 two (598.22), unnumbered paragraphs one (1) and two (2), Code  
21 1979, are amended to read as follows:

22    All orders or judgments providing for temporary or permanent  
23 support payments shall direct the payment of such sums to  
24 the clerk of the court for the use of the person for whom  
25 the same have been awarded.

26    In lieu of ordering support payments, the court may order  
27 the person obligated for temporary or permanent support to  
28 make an assignment of periodic earnings, unemployment  
29 compensation or trust income to the clerk of court for the  
30 use of the person for whom the assignment is ordered. The  
31 assignment is binding on the employer, trustee, or other payor  
32 of the funds two weeks after service upon that person of  
33 notice that it has been made. The payor shall withhold from  
34 the earnings, unemployment compensation or trust income payable  
35 to the person obligated the amount specified in the assignment

1 and shall transmit the payments to the clerk. The payor may  
2 deduct from each payment a sum not exceeding one dollar as  
3 a reimbursement for costs.

4 PARAGRAPH DIVIDED. An order or judgment entered by the  
5 court for temporary or permanent support or for an assignment  
6 shall be filed with the court clerk. Such orders shall have  
7 the same force and effect as judgments when entered in the  
8 judgment docket and lien index and shall be a record open  
9 to the public. The clerk shall disburse the payments received  
10 pursuant to such orders or judgments. All moneys received  
11 or disbursed under this section shall be entered in a record  
12 book kept by the clerk, which shall be open to inspection  
13 by the parties to the action and their attorneys.

14 If the sums ordered to be paid in a support payment order  
15 are not paid to the clerk at the time provided in said order  
16 or judgment, the clerk shall certify a default to the court  
17 which may, on its own motion, proceed as provided in section  
18 598.23.

19 Sec. 5. Section five hundred ninety-eight point twenty-  
20 three (598.23), unnumbered paragraph two (2), Code 1979, is  
21 amended to read as follows:

22 The court may, as an alternative to punishment for contempt,  
23 make an order directing the defaulting party to assign  
24 unemployment compensation, trust income or a sufficient amount  
25 in salary or wages due, or to become due in the future, from  
26 an employer or successor employers, to the clerk of the court  
27 where the order or judgment was granted for the purpose of  
28 paying the sums in default as well as those to be made in  
29 the future. The Where the assignment is of salary or wages  
30 due, the assignment order shall be binding upon the employer  
31 ~~only-for-these-amounts-that-represent-child-support-and~~ only  
32 upon receipt by the employer of a copy of the order, signed  
33 by the employee. For each payment deducted in compliance  
34 with such request, the ~~employer-shall-receive-one-dollar-to~~  
35 ~~cover-the-expense-created-by-the-deduction,-which-amount-shall~~

1 ~~be-deducted-from-the-money-due-the-employee~~ payor may deduct  
2 a sum not exceeding one dollar as a reimbursement for costs.  
3 Compliance by an-employer a payor with the court's request  
4 order shall operate as a discharge of his or her liability  
5 to the employee payee as to the affected portion of the  
6 employee's payee's wages, unemployment compensation or trust  
7 income.

8 Sec. 6. Chapter five hundred ninety-eight (598), Code  
9 1979, is amended by adding the following new section:

10 NEW SECTION. Notwithstanding section five hundred sixty-  
11 one point fifteen (561.15) of the Code, the court may order  
12 either party to vacate the homestead pending entry of a decree  
13 of dissolution upon a showing that the other party or the  
14 children are in imminent danger of physical harm if the order  
15 is not issued.

16 Sec. 7. This Act takes effect on January first following  
17 its enactment.

#### 18 EXPLANATION

19 This bill expands the present Code section which authorizes  
20 the court to make orders in relation to the children, property,  
21 parties and maintenance, and to modify such orders, in a  
22 dissolution of marriage action. It also requires complete  
23 financial disclosure by the parties, and provides a penalty  
24 for failure to disclose.

25 The bill defines "marital property" and directs the court  
26 to consider various factors, including a spouse's contribution  
27 as homemaker, in ordering a division of the marital property  
28 and the payment of support for a party or for a child of the  
29 marriage.

30 The bill also permits assignment of earnings, unemployment  
31 compensation or trust income for support in the original  
32 dissolution decree, requires employers' cooperation in  
33 deducting employees' support payments and provides that under  
34 certain circumstances the court may order one of the spouses  
35 to vacate the homestead.

1 This bill takes effect January first following its  
2 enactment.

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