

By OAKLEY
(Shaw)

Failed to
Passed House, Date 4-2-75 (843) Passed Senate, Date _____
Vote: Ayes 29 Nays 61 Vote: Ayes _____ Nays _____
Approved 5-20-76

Motion to reconsider filed 4-2 (844) prevailed 4-16 (1141)
Passed House 4-16-75 (1141)
71-22

A BILL FOR

- 1 An Act relating to dissolution of marriage.
- 2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
- 3

H-3305

- 1 Amend House File 352, page 2, by striking lines
- 2 16 through 29 in section 6, and inserting in lieu
- 3 thereof the following:
- 4 " The court shall require the parties to parti-
- 5 cipate in conciliation efforts for a period of thirty
- 6 days from the issuance of an order setting forth the
- 7 conciliation procedure and listing the conciliator
- 8 if such application is made by the petitioner in the
- 9 petition, by the respondent in the responsive plead-
- 10 ing thereto or by an attorney appointed under section
- 11 five hundred ninety-eight point twelve (598.12) of
- 12 the Code if made within twenty days of their appoint-
- 13 ment.
- 14 The court may on its own motion or upon applica-
- 15 tion of a party require the parties to participate
- 16 in conciliation efforts for a period of up to sixty
- 17 days from the issuance of such an order.
- 18 Every order for conciliation shall require the
- 19 conciliator to fill a written report by a date cer-
- 20 tain which shall state the conciliation procedures
- 21 undertaken and such other matters as may have been
- 22 required by the court. The report shall be a part
- 23 of the record unless otherwise ordered by the court.
- 24 Such conciliation procedure may include, but is not
- 25 limited to, referrals to the domestic relations
- 26 division of the court, if established, public or
- 27 private marriage counselors, family service agencies,
- 28 community health centers, physicians and clergymen.

1 Section 1. Section five hundred ninety-eight point five
2 (598.5), Code 1975, is amended by adding the following new
3 subsection:

4 NEW SUBSECTION. State whether the appointment of a con-
5 ciliator pursuant to section five hundred ninety-eight point
6 sixteen (598.16) of the Code may preserve the marriage.

7 Sec. 2. Section five hundred ninety-eight point six
8 (598.6), Code 1975, is amended to read as follows:

9 598.6 ADDITIONAL CONTENTS. Except where the respondent
10 is ~~a-resident-of~~ domiciled in this state and is served by
11 personal service, the petition for dissolution of marriage,
12 in addition to setting forth the information required by
13 section 598.5, must state that the petitioner ~~has-been-for~~
14 ~~the-last-year-a-resident-of-the~~ is domiciled in this state,
15 specifying the county ~~in-which-the-petitioner-has-resided,~~
16 ~~and-the-length-of-such-residence-therein-after-deducting-all~~
17 ~~absences-from-the-state,~~ of domicile and that the maintenance
18 of the residence domicile has been in good faith and not for
19 the purpose of obtaining a marriage dissolution only.

20 Sec. 3. Section five hundred ninety-eight point nine
21 (598.9), Code 1975, is amended to read as follows:

22 598.9 RESIDENCE--FAILURE OF PROOF. If the averments as
23 to residence domicile are not fully proved, the hearing shall
24 proceed no further, and the action be dismissed by the court.

25 Sec. 4. Section five hundred ninety-eight point eleven
26 (598.11), unnumbered paragraph one (1), Code 1975, is amended
27 to read as follows:

28 The court may order either party to pay the clerk a sum
29 of money for the separate support and maintenance of the other
30 party and the children and to enable such party to prosecute
31 or defend the action. The court may on its own motion and
32 shall upon application of either party or an attorney appointed
33 under section five hundred ninety-eight point twelve (598.12)
34 of the Code determine the custody of any minor child whose
35 welfare may be affected by the filing of the petition for

1 dissolution.

2 Sec. 5. Section five hundred ninety-eight point thirteen
3 (598.13), unnumbered paragraph one (1), Code 1975, is amended
4 to read as follows:

5 All applications for temporary or permanent support of
6 a party or minor children shall be accompanied by the financial
7 statement of the applicant on a form prescribed by the supreme
8 court and furnished without charge by the clerk of the district
9 court. The respondent shall file a financial statement
10 whenever the respondent desires to resist any application
11 for support by the petitioner, or when the court so orders.

12 Sec. 6. Section five hundred ninety-eight point sixteen
13 (598.16), unnumbered paragraph two (2), Code 1975, is amended
14 by striking the paragraph and inserting in lieu thereof the
15 following:

16 The court may on its own motion and shall upon application
17 of either party or an attorney appointed under section five
18 hundred ninety-eight point twelve (598.12) of the Code require
19 the parties to participate in conciliation efforts for a
20 period of thirty days from the issuance of an order setting
21 forth the conciliation procedure and listing the conciliator.
22 Such conciliation procedure may include, but is not limited
23 to, referrals to the domestic relations division of the court,
24 if established, public or private marriage counselors, family
25 service agencies, community health centers, physicians and
26 clergymen. The conciliator shall file a written report of
27 the conciliation procedures with the court within forty-five
28 days of the entry of the order and the report shall be part
29 of the record.

30 Sec. 7. Sections five hundred ninety-eight point ten
31 (598.10) and five hundred ninety-eight point twenty-seven
32 (598.27), Code 1975, are repealed.

33 EXPLANATION

34 This bill provides that the petition for dissolution of
35 marriage shall contain a statement as to whether conciliation

1 may preserve the marriage. In addition this bill strikes
2 the one-year residency requirement for obtaining a dissolution
3 and inserts a domicile requirement. This bill also provides
4 that the court may on its own motion determine the temporary
5 custody of a minor child and shall determine such custody
6 upon application of either party or the attorney for any minor
7 child. In addition this bill requires that the financial
8 statement of the applicant for temporary or permanent support
9 be on a form prescribed by the Supreme Court. This bill also
10 reduces the period of conciliation from ninety days to thirty
11 days and requires conciliation on the request of either party
12 or the attorney for any minor child. In addition this bill
13 repeals the section which requires that the petitioner's
14 testimony be corroborated and the section which prohibits
15 remarriage by either party within one year of the filing of
16 the decree, unless permission is granted by the court.

House File 352

H-3346

1 Amend House File 352, page 2, line 20, by
2 striking the word "thirty" and inserting in
3 lieu thereof the word "sixty".

H-3346 FILED - *Ruled out of order with* BY BRANDT of Black Hawk
MARCH 26, 1975 *adoption of 3305 4/2* (843)

H-3392

1 Amend the Committee on Judiciary and Law
2 Enforcement amendment H-3305, to House File 352,
3 as follows:
4 1. Line 5, by striking the word "thirty" and
5 inserting in lieu thereof the word "sixty".

H-3392 FILED, ADOPTED (840) BY BRANDT of Black Hawk
APRIL 2, 1975

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LSB 272
be/jw/5

H-3347

Amend House File 352 as follows:

1. Page 1, by inserting before line 1, the following:

"Section 1. Section five hundred ninety-eight point three (598.3), Code 1975, is amended to read as follows:

598.3 KIND OF ACTION--JOINDER. An action for dissolution of marriage shall be by equitable proceedings, and no cause of action, save for alimony, shall be joined therewith. Such actions shall not be subject to counterclaim or cross petition by the respondent. After the appearance of the respondent, no dismissal of the cause of action shall be allowed unless both the petitioner and the respondent sign the dismissal."

2. Page 2, line 16, by striking the word "shall" and inserting in lieu thereof the word "may".

*B. Withdrawn H2
843*

3. Page 2, by inserting after line 29, the following:

"Sec. ____ . Section five hundred ninety-eight point sixteen (598.16), unnumbered paragraph three (3), Code 1975, is amended to read as follows:

The costs of any such conciliation procedures shall be paid in full or in part by the parties and taxed as court costs; however, if the court determines that such parties will be unable to pay the costs without prejudicing their financial ability to provide themselves and any minor children with economic necessities, such costs may be paid in full or in part from the court expense fund.

Sec. ____ . Section five hundred ninety-eight point seventeen (598.17), Code 1975, is amended to read as follows:

598.17 DISSOLUTION OF MARRIAGE-EVIDENCE.

A decree dissolving the marriage may be entered when the court is satisfied from the evidence presented that there has been a breakdown of the marriage relationship to the extent that the legitimate objects of matrimony have been destroyed and there remains no reasonable likelihood that the marriage can be preserved. The decree shall state that the dissolution is granted to the parties, and shall not state that it is granted to only one party.

If at the time of trial petitioner fails to present satisfactory evidence that there has been a breakdown of the marriage relationship to the extent that the reasonable likelihood that the marriage can be preserved, the respondent may then proceed to present such evidence as though the respondent had filed the original petition.

1 The court shall, based upon competent and relevant
 2 evidence, in such decree provide for the division
 3 of the assets of the parties and reasonable support
 4 or maintenance of any dependent children or either
 5 spouse.

6 No marriage dissolution granted due to the mental
 7 illness of one of the spouses shall relieve the other
 8 spouse of any obligation imposed by law as a result
 9 of the marriage for the support of the mentally ill
 10 spouse, ~~and the~~. The court may make an order for
 11 such support or may waive the support obligation when
 12 satisfied from the evidence that it would create an
 13 undue hardship on the obliged spouse or his other
 14 dependents.

15 Sec. _____. Section five hundred ninety-eight point
 16 nineteen (598.19), Code 1975, is amended to read as
 17 follows:

18 598.19 WAITING PERIOD BEFORE DECREE. No decree
 19 dissolving a marriage shall be granted in any
 20 proceeding before ninety days shall have elapsed from
 21 the day the original notice is served, or from the
 22 last day of publication of notice, or from the date
 23 that waiver or acceptance of original notice is filed
 24 or until after conciliation is completed, whichever
 25 period shall be longer. However, the court may in
 26 its discretion, on written motion supported by
 27 affidavit setting forth grounds of emergency or
 28 necessity and facts which satisfy the court that
 29 immediate action is warranted or required to protect
 30 the substantive rights or interests of any party or
 31 person who might be affected by the decree, hold a
 32 hearing and grant a decree dissolving the marriage
 33 prior to the expiration of the applicable period,
 34 provided that requirements of notice have been complied
 35 with. In such case the grounds of emergency or
 36 necessity and the facts with respect thereto shall
 37 be recited in the decree unless otherwise ordered
 38 by the court. The court may enter an order finding
 39 the respondent in default and waiving conciliation
 40 when the respondent has failed to file an appearance
 41 within the time set forth in the original notice.

42 Sec. _____. Section five hundred ninety-eight point
 43 twenty-five (598.25), subsections one (1) and two
 44 (2), Code 1975, are amended to read as follows:

45 1. The party initiating such proceedings must
 46 present to the court the names and addresses of the
 47 parties to the dissolution decree if known, as well
 48 as the name and place of the court which granted the
 49 dissolution decree and the date of the decree.

50 2. The court in which the proceedings are initiated

1 shall, if possible, cause notice of such proceedings
 2 to be served upon the parties to the original action
 3 unless either or both parties are deceased."

4 4. Page 2, line 32, by inserting before the word
 5 "Code" the words and figures "five hundred ninety-eight
 6 point thirty-three (598.33)".

7 5. By renumbering the sections to accord with
 8 this amendment.

House File 352

H-3393

- 1 Amend the Committee on Judiciary and Law
- 2 Enforcement amendment H-3305, to House File 352,
- 3 line 19, by striking the word "fill" and inserting
- 4 in lieu thereof the word "file".

H-3393 FILED, ADOPTED (840)
APRIL 2, 1975

BY OAKLEY of Clinton

House File 352

H-3576

- 1 Amend House File 352 as follows:
- 2 1. Page 1, by striking all of lines 7 through
- 3 24.
- 4 2. Page 1, line 34, by inserting after the
- 5 second word "the" the word "temporary".
- 6 3. Page 2, by striking all of lines 30 through
- 7 32 and inserting in lieu thereof the following:
- 8 "Sec. 7. Section five hundred ninety-eight
- 9 point thirty-three (598.33), Code 1975, is repealed."

H-3576 FILED, ADOPTED (1141)
APRIL 16, 1975

BY OAKLEY of Clinton
BRANDT of Black Hawk

4/28, Pass per 4078 6/6

HOUSE FILE 352

Revised Sen. Judiciary 1/12/76, recommends Senate
insert Pass 2/27

By OAKLEY
(Shaw)

(As Amended and Passed by the House)

Passed House, Date 4-28-76 (2283) Passed Senate, Date 6-14-75 (2130)

Vote: Ayes 67 Nays 27 Vote: Ayes 43 Nays 1

Approved _____

A BILL FOR

1 An Act relating to dissolution of marriage.

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

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Conference Committee

3/9 Senate: Doderer, Hill, Coleman, Shaw, Miller of Des Moines
4/12 House: Doyle, Brandt, Newhard, Oakley, Daggett (1860)

Passed House per Conference Committee Report 4-28-76 (page 2283)
67-27

Passed Senate per Conference Committee Report 4-30-76 (p. 1656)
37-0

House Amendments _____

1 Section 1. Section five hundred ninety-eight point three
2 (598.3), Code 1975, is amended to read as follows:
3 598.3 KIND OF ACTION--JOINDER. An action for dissolution
4 of marriage shall be by equitable proceedings, and no cause
5 of action, save for alimony, shall be joined therewith.
6 Such actions shall not be subject to counterclaim or cross
7 petition by the respondent. After the appearance of the
8 respondent, no dismissal of the cause of action shall be
9 allowed unless both the petitioner and the respondent sign
10 the dismissal.

11 Sec. 2. Section five hundred ninety-eight point five
12 (598.5), Code 1975, is amended by adding the following new
13 subsection:

14 NEW SUBSECTION. State whether the appointment of a con-
15 ciliator pursuant to section five hundred ninety-eight point
16 sixteen (598.16) of the Code may preserve the marriage.

17 Sec. 3. Section five hundred ninety-eight point eleven
18 (598.11), unnumbered paragraph one (1), Code 1975, is amended
19 to read as follows:

20 The court may order either party to pay the clerk a sum
21 of money for the separate support and maintenance of the other
22 party and the children and to enable such party to prosecute
23 or defend the action. The court may on its own motion and
24 shall upon application of either party or an attorney appointed
25 under section five hundred ninety-eight point twelve (598.12)
26 of the Code determine the temporary custody of any minor child whose
27 welfare may be affected by the filing of the petition for
28 dissolution.

29 Sec. 4. Section five hundred ninety-eight point thirteen
30 (598.13), unnumbered paragraph one (1), Code 1975, is amended
31 to read as follows:

32 All applications for temporary or permanent support of
33 a party or minor children shall be accompanied by the financial
34 statement of the applicant on a form prescribed by the supreme
35 court and furnished without charge by the clerk of the district

1 court. The respondent shall file a financial statement
2 whenever the respondent desires to resist any application
3 for support by the petitioner, or when the court so orders.

4 Sec. 5. Section five hundred ninety-eight point sixteen
5 (598.16), unnumbered paragraph two (2), Code 1975, is amended
6 by striking the paragraph and inserting in lieu thereof the
7 following:

8 The court shall require the parties to participate in
9 conciliation efforts for a period of sixty days from the
10 issuance of an order setting forth the conciliation
11 procedure and listing the conciliator if such application
12 is made by the petitioner in the petition, by the
13 respondent in the responsive pleading thereto or by an
14 attorney appointed under section five hundred ninety-
15 eight point twelve (598.12) of the Code if made within
16 twenty days of their appointment.

17 The court may on its own motion or upon application of
18 a party require the parties to participate in conciliation
19 efforts for a period of up to sixty days from the issuance
20 of such an order.

21 Every order for conciliation shall require the con-
22 ciliator to file a written report by a date certain which
23 shall state the conciliation procedures undertaken and
24 such other matters as may have been required by the court.
25 The report shall be a part of the record unless otherwise
26 ordered by the court. Such conciliation procedure may
27 include, but is not limited to, referrals to the domestic
28 relations division of the court, if established, public
29 or private marriage counselors, family service agencies,
30 community health centers, physicians and clergymen.

31 Sec. 6. Section five hundred ninety-eight point sixteen
32 (598.16), unnumbered paragraph three (3), Code 1975, is
33 amended to read as follows:

34 The costs of any such conciliation procedures shall
35 be paid in full or in part by the parties and taxed as

1 court costs; however, if the court determines that such
2 parties will be unable to pay the costs without prejudicing
3 their financial ability to provide themselves and any
4 minor children with economic necessities, such costs may
5 be paid in full or in part from the court expense fund.

6 Sec. 7. Section five hundred ninety-eight point
7 seventeen (598.17), Code 1975, is amended to read as
8 follows:

9 598.17 DISSOLUTION OF MARRIAGE-EVIDENCE.

10 A decree dissolving the marriage may be entered when
11 the court is satisfied from the evidence presented that
12 there has been a breakdown of the marriage relationship
13 to the extent that the legitimate objects of matrimony
14 have been destroyed and there remains no reasonable likeli-
15 hood that the marriage can be preserved. The decree shall
16 state that the dissolution is granted to the parties, and
17 shall not state that it is granted to only one party.

18 If at the time of trial petitioner fails to present
19 satisfactory evidence that there has been a breakdown of
20 the marriage relationship to the extent that the reasonable
21 likelihood that the marriage can be preserved, the
22 respondent may then proceed to present such evidence as
23 though the respondent had filed the original petition.

24 The court shall, based upon competent and relevant
25 evidence, in such decree provide for the division of the
26 assets of the parties and reasonable support or maintenance
27 of any dependent children or either spouse.

28 No marriage dissolution granted due to the mental illness
29 of one of the spouses shall relieve the other spouse of any
30 obligation imposed by law as a result of the marriage for
31 the support of the mentally ill spouse, ~~and the~~. The court
32 may make an order for such support or may waive the support
33 obligation when satisfied from the evidence that it would
34 create an undue hardship on the obliged spouse or his other
35 dependents.

1 Sec. 8. Section five hundred ninety-eight point nineteen
2 (598.19), Code 1975, is amended to read as follows:

3 598.19 WAITING PERIOD BEFORE DECREE. No decree dissolving
4 a marriage shall be granted in any proceeding before ninety
5 days shall have elapsed from the day the original notice is
6 served, or from the last day of publication of notice,
7 or from the date that waiver or acceptance of original notice
8 is filed or until after conciliation is completed, whichever
9 period shall be longer. However, the court may in its
10 discretion, on written motion supported by affidavit setting
11 forth grounds of emergency or necessity and facts which
12 satisfy the court that immediate action is warranted or
13 required to protect the substantive rights or interests of
14 any party or person who might be affected by the decree, hold
15 a hearing and grant a decree dissolving the marriage prior
16 to the expiration of the applicable period, provided that
17 requirements of notice have been complied with. In such case
18 the grounds of emergency or necessity and the facts with
19 respect thereto shall be recited in the decree unless otherwise
20 ordered by the court. The court may enter an order finding the
21 respondent in default and waiving conciliation when the
22 respondent has failed to file an appearance within the time
23 set forth in the original notice.

24 Sec. 9. Section five hundred ninety-eight point twenty-
25 five (598.25), subsections one (1) and two (2), Code 1975,
26 are amended to read as follows:

27 1. The party initiating such proceedings must present to
28 the court the names and addresses of the parties to the
29 dissolution decree if known, as well as the name and place of
30 the court which granted the dissolution decree and the date
31 of the decree.

32 2. The court in which the proceedings are initiated
33 shall, ~~if possible,~~ cause notice of such proceedings to
34 be served upon the parties to the original action unless
35 either or both parties are deceased.

1 Sec. 11. Section five hundred ninety-eight point
2 thirty-three (598.33), Code 1975, is repealed.

3 EXPLANATION

4 This bill provides that the petition for dissolution of
5 marriage shall contain a statement as to whether conciliation
6 may preserve the marriage. In addition this bill strikes
7 the one-year residency requirement for obtaining a dissolution
8 and inserts a domicile requirement. This bill also provides
9 that the court may on its own motion determine the temporary
10 custody of a minor child and shall determine such custody
11 upon application of either party or the attorney for any minor
12 child. In addition this bill requires that the financial
13 statement of the applicant for temporary or permanent support
14 be on a form prescribed by the Supreme Court. This bill also
15 reduces the period of conciliation from ninety days to thirty
16 days and requires conciliation on the request of either party
17 or the attorney for any minor child. In addition this bill
18 repeals the section which requires that the petitioner's
19 testimony be corroborated and the section which prohibits
20 remarriage by either party within one year of the filing of
21 the decree, unless permission is granted by the court.

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S-4078

1 Amend House File 352 as amended, passed and
2 reprinted by the House as follows:

3 1. Page 2, by striking lines 8 through 20 and
4 inserting in lieu thereof the following:

5 "Upon the application of the petitioner in the
6 petition or by the respondent in the responsive
7 pleading thereto or of an attorney appointed under
8 section five hundred ninety-eight point twelve (598.12)
9 of the Code, within twenty days of appointment the
10 court shall require the parties to participate in
11 conciliation efforts for a period of sixty days from
12 the issuance of an order setting forth the conciliation
13 procedure and the conciliator.

14 At any time upon its own motion or upon the appli-
15 cation of a party the court may require the parties to
16 participate in conciliation efforts for sixty days or
17 less following the issuance of such an order."

18 2. Page 4, by striking lines 20 through 23 and
19 inserting in lieu thereof the words "ordered by the
20 court."

21 3. Page 5, by striking lines 1 and 2 and inserting
22 in lieu thereof the following:

23 "Sec. 11. Sections five hundred ninety-eight point
24 ten (598.10), five hundred ninety-eight point
25 twenty-seven (598.27) and five hundred ninety-eight point
26 thirty-three (598.33), Code 1975, are repealed."

S-4078 FILED - *Adopted as amended*
JUNE 6, 1975 *by 4213 6/14* (2120) BY COMMITTEE ON JUDICIARY
GENE W. GLENN

S-4213

1 Amend the Judiciary Committee amendment S-4078
2 to House File 352 as follows:

3 1. Line 7, by inserting after the word "or"
4 the words ", within twenty days of appointment".

5 2. Line 9, by striking the words "within twenty
days of appointment".

S-4213 FILED - *Adopted 6/14 (2119)* BY ELIZABETH SHAW
JUNE 13, 1975

Senate Amendment to House File 352

H-4312

1 Amend House File 352 as amended, passed and
2 reprinted by the House as follows:

3 1. Page 2, by striking lines 8 through 20 and
4 inserting in lieu thereof the following:

5 "Upon the application of the petitioner in the
6 petition or by the respondent in the responsive
7 pleading thereto or, within twenty days of appointment,
8 of an attorney appointed under section five hundred
9 ninety-eight point twelve (598.12) of the Code, the
10 court shall require the parties to participate in
11 conciliation efforts for a period of sixty days from
12 the issuance of an order setting forth the conciliation
13 procedure and the conciliator.

14 At any time upon its own motion or upon the appli-
15 cation of a party the court may require the parties to
16 participate in conciliation efforts for sixty days or
17 less following the issuance of such an order."

18 2. Page 4, by striking lines 20 through 23 and
19 inserting in lieu thereof the words "ordered by the
20 court."

21 3. Page 5, by striking lines 1 and 2 and inserting
22 in lieu thereof the following:

23 "Sec. 11. Sections five hundred ninety-eight point
24 ten (598.10), five hundred ninety-eight point
25 twenty-seven (598.27) and five hundred ninety-eight point
26 thirty-three (598.33), Code 1975, are repealed."

H-4312 FILED, RECEIVED FROM SENATE
JUNE 14, 1975

*House refused to concur 6/17/75
Senate insists 3/5/76*

To the Speaker of the House of Representatives and President
of the Senate:

We, the undersigned members of the conference committee
appointed to consider the differences between the House of
Representatives and the Senate on House File 352, a bill for
an Act relating to dissolution of marriage, respectfully
submit the following report:

1. That the Senate recede from its amendment, H-4312,
to House File 352, as amended, passed, and reprinted by the
House.
2. That House File 352, as amended, passed, and reprinted
by the House, be amended as follows:

1. Page 2, by striking lines 8 through 20 and insert-
ing in lieu thereof the following:

"Upon the application of the petitioner in the petition
or by the respondent in the responsive pleading thereto or,
within twenty days of appointment, of an attorney appointed
under section five hundred ninety-eight point twelve (598.12)
of the Code, the court shall require the parties to participate
in conciliation efforts for a period of sixty days from the
issuance of an order setting forth the conciliation procedure
and the conciliator.

At any time upon its own motion or upon the application
of a party the court may require the parties to participate
in conciliation efforts for sixty days or less following the
issuance of such an order."

2. Page 5, by striking lines 1 and 2 and inserting in
lieu thereof the following:

"Sec. 11. Sections five hundred ninety-eight point ten
(598.10), five hundred ninety-eight point twenty-seven

.Page 2

(598.27), and five hundred ninety-eight point thirty-three
(598.33), Code 1975, are repealed."

ON THE PART OF THE HOUSE:

Donald V. Doyle, Chair
Diane Brandt
Scott D. Newhard
Brice C. Oakley
Horace Daggett

ON THE PART OF THE SENATE:

Minnette F. Doderer, Chair
Philip B. Hill
C. Joseph Coleman
Elizabeth Shaw
Charles P. Miller

House adopted 4/28 (2283)
Senate adopted 4/30 (1656)

FILED
APRIL 15, 1976

HOUSE FILE 352

AN ACT
RELATING TO DISSOLUTION OF MARRIAGE.

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

Section 1. Section five hundred ninety-eight point three (598.3), Code 1975, is amended to read as follows:

598.3 KIND OF ACTION--JOINDER. An action for dissolution of marriage shall be by equitable proceedings, and no cause of action, save for alimony, shall be joined therewith. Such actions shall not be subject to counterclaim or cross petition by the respondent. After the appearance of the respondent, no dismissal of the cause of action shall be allowed unless both the petitioner and the respondent sign the dismissal.

Sec. 2. Section five hundred ninety-eight point five (598.5), Code 1975, is amended by adding the following new subsection:

NEW SUBSECTION. State whether the appointment of a conciliator pursuant to section five hundred ninety-eight point sixteen (598.16) of the Code may preserve the marriage.

Sec. 3. Section five hundred ninety-eight point eleven (598.11), unnumbered paragraph one (1), Code 1975, is amended to read as follows:

The court may order either party to pay the clerk a sum of money for the separate support and maintenance of the other party and the children and to enable such party to prosecute or defend the action. The court may on its own motion and shall upon application of either party or an attorney appointed under section five hundred ninety-eight point twelve (598.12) of the Code determine the temporary custody of any minor child whose welfare may be affected by the filing of the petition for dissolution.

Sec. 4. Section five hundred ninety-eight point thirteen

(598.13), unnumbered paragraph one (1), Code 1975, is amended to read as follows:

All applications for temporary or permanent support of a party or minor children shall be accompanied by the financial statement of the applicant on a form prescribed by the supreme court and furnished without charge by the clerk of the district court. The respondent shall file a financial statement whenever the respondent desires to resist any application for support by the petitioner, or when the court so orders.

Sec. 5. Section five hundred ninety-eight point sixteen (598.16), unnumbered paragraph two (2), Code 1975, is amended by striking the paragraph and inserting in lieu thereof the following:

Upon the application of the petitioner in the petition or by the respondent in the responsive pleading thereto or, within twenty days of appointment, of an attorney appointed under section five hundred ninety-eight point twelve (598.12) of the Code, the court shall require the parties to participate in conciliation efforts for a period of sixty days from the issuance of an order setting forth the conciliation procedure and the conciliator.

At any time upon its own motion or upon the application of a party the court may require the parties to participate in conciliation efforts for sixty days or less following the issuance of such an order.

Every order for conciliation shall require the conciliator to file a written report by a date certain which shall state the conciliation procedures undertaken and such other matters as may have been required by the court. The report shall be a part of the record unless otherwise ordered by the court. Such conciliation procedure may include, but is not limited to, referrals to the domestic relations division of the court, if established, public or private marriage counselors, family service agencies, community health centers, physicians and clergymen.

Sec. 6. Section five hundred ninety-eight point sixteen

(598.16), unnumbered paragraph three (3), Code 1975, is amended to read as follows:

The costs of any such conciliation procedures shall be paid in full or in part by the parties and taxed as court costs; however, if the court determines that such parties will be unable to pay the costs without prejudicing their financial ability to provide themselves and any minor children with economic necessities, such costs may be paid in full or in part from the court expense fund.

Sec. 7. Section five hundred ninety-eight point seven-teen (598.17), Code 1975, is amended to read as follows:

598.17 DISSOLUTION OF MARRIAGE--EVIDENCE. A decree dissolving the marriage may be entered when the court is satisfied from the evidence presented that there has been a breakdown of the marriage relationship to the extent that the legitimate objects of matrimony have been destroyed and there remains no reasonable likelihood that the marriage can be preserved. The decree shall state that the dissolution is granted to the parties, and shall not state that it is granted to only one party.

If at the time of trial petitioner fails to present satisfactory evidence that there has been a breakdown of the marriage relationship to the extent that the reasonable likelihood that the marriage can be preserved, the respondent may then proceed to present such evidence as though the respondent had filed the original petition.

The court shall, based upon competent and relevant evidence, in such decree provide for the division of the assets of the parties and reasonable support or maintenance of any dependent children or either spouse.

No marriage dissolution granted due to the mental illness of one of the spouses shall relieve the other spouse of any obligation imposed by law as a result of the marriage for the support of the mentally ill spouse, ~~and the~~. The court may make an order for such support or may waive the support obligation when satisfied from the evidence that it

would create an undue hardship on the obliged spouse or his other dependents.

Sec. 8. Section five hundred ninety-eight point nineteen (598.19), Code 1975, is amended to read as follows:

598.19 WAITING PERIOD BEFORE DECREE. No decree dissolving a marriage shall be granted in any proceeding before ninety days shall have elapsed from the day the original notice is served, or from the last day of publication of notice, or from the date that waiver or acceptance of original notice is filed or until after conciliation is completed, whichever period shall be longer. However, the court may in its discretion, on written motion supported by affidavit setting forth grounds of emergency or necessity and facts which satisfy the court that immediate action is warranted or required to protect the substantive rights or interests of any party or person who might be affected by the decree, hold a hearing and grant a decree dissolving the marriage prior to the expiration of the applicable period, provided that requirements of notice have been complied with. In such case the grounds of emergency or necessity and the facts with respect thereto shall be recited in the decree unless otherwise ordered by the court. The court may enter an order finding the respondent in default and waiving conciliation when the respondent has failed to file an appearance within the time set forth in the original notice.

Sec. 9. Section five hundred ninety-eight point twenty-five (598.25), subsections one (1) and two (2), Code 1975, are amended to read as follows:

1. The party initiating such proceedings must present to the court the names and addresses of the parties to the dissolution decree if known, as well as the name and place of the court which granted the dissolution decree and the date of the decree.

2. The court in which the proceedings are initiated shall, ~~if possible,~~ cause notice of such proceedings to be served upon the parties to the original action unless either or both

parties are deceased.

Sec. 10. Sections five hundred ninety-eight point ten (598.10), five hundred ninety-eight point twenty-seven (598.27), and five hundred ninety-eight point thirty-three (598.33), Code 1975, are repealed.

DALE M. COCHRAN
Speaker of the House

ARTHUR A. NEU
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 352, Sixty-sixth General Assembly.

DAVID L. WRAY
Chief Clerk of the House

Approved 5 | 20, 1976

ROBERT D. RAY
Governor