

Reprinted 3/28

MAR 17 1980

Place On Calendar

HOUSE FILE 2562

By COMMITTEE ON JUDICIARY
AND LAW ENFORCEMENT

(Formerly Study Bill 740)

Passed House, Date 5-26-90 (p. 1177) Passed Senate, Date _____

Vote: Ayes 81 Nays 15 Vote: Ayes _____ Nays _____

Approved May 19, 1980

A BILL FOR

1 An Act relating to dissolution of marriage, annulment and
2 separate maintenance actions and providing a penalty.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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2562

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

4 598.13 FINANCIAL STATEMENTS FILED. Both parties shall
5 disclose their financial status. A showing of special circum-
6 stances shall not be required before the disclosure is ordered.
7 A statement of net worth set forth by affidavit on a form
8 prescribed by the supreme court and furnished without charge
9 by the clerk of the district court shall be filed by each
10 party prior to the dissolution hearing.

11 Failure to comply with the requirements of this section
12 constitutes failure to make discovery as provided in rule
13 of civil procedure one hundred thirty-four (134) of the Code.

14 Sec. 2. Section five hundred ninety-eight point seventeen
15 (598.17), unnumbered paragraph three (3), Code 1979, is amended
16 by striking the unnumbered paragraph.

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

20 598.21 ORDERS FOR DISPOSITION AND SUPPORT.

21 1. Upon every judgment of annulment, dissolution or
22 separate maintenance the court shall divide the property of
23 the parties and transfer the title of the property accordingly.
24 The court may protect and promote the best interests of
25 children of the parties by setting aside a portion of the
26 property of the parties in a separate fund or trust for the
27 support, maintenance, education and general welfare of the
28 minor children. Property inherited by either party prior
29 to or during the course of the marriage shall remain the prop-
30 erty of that party and shall not be subjected to a property
31 division under this section except upon a finding that refusal
32 to divide such property will create a hardship on the other
33 party or on the children of the marriage. The court shall
34 presume that all property except inherited property is to
35 be divided equally between the parties but may alter this

1 distribution without regard to marital misconduct after con-
2 sidering all of the following:

3 a. The length of the marriage.

4 b. The property brought to the marriage by each party.

5 c. The contribution of each party to the marriage, giving
6 appropriate economic value to each party's contribution in
7 homemaking and child care services.

8 d. The age and physical and emotional health of the
9 parties.

10 e. The contribution by one party to the education, training
11 or increased earning power of the other.

12 f. The earning capacity of each party, including educa-
13 tional background, training, employment skills, work experi-
14 ence, length of absence from the job market, custodial re-
15 sponsibilities for children and the time and expense neces-
16 sary to acquire sufficient education or training to enable
17 the party to become self-supporting at a standard of living
18 reasonably comparable to that enjoyed during the marriage.

19 g. The desirability of awarding the family home or the
20 right to live in the family home for a reasonable period to
21 the party having custody of any children.

22 h. The amount and duration of an order granting support
23 payments to either party pursuant to subsection two (2) of
24 this section and whether the property division should be in
25 lieu of such payments.

26 i. Other economic circumstances of each party, including
27 pension benefits, vested or unvested, and future interests.

28 j. The tax consequences to each party.

29 k. Any written agreement made by the parties before or
30 during the marriage concerning property distribution.

31 l. Other factors the court may determine to be relevant
32 in an individual case.

33 2. Upon every judgment of annulment, dissolution or
34 separate maintenance, the court may grant an order requiring
35 support payments to either party for a limited or indefinite

1 length of time after considering all of the following:

2 a. The length of the marriage.

3 b. The age and physical and emotional health of the
4 parties.

5 c. The distribution of property made pursuant to subsec-
6 tion one (1) of this section.

7 d. The educational level of each party at the time of
8 marriage and at the time the action is commenced.

9 e. The earning capacity of the party seeking maintenance,
10 including educational background, training, employment skills,
11 work experience, length of absence from the job market,
12 custodial responsibilities for children and the time and
13 expense necessary to acquire sufficient education or training
14 to enable the party to find appropriate employment.

15 f. The feasibility of the party seeking maintenance be-
16 coming self-supporting at a standard of living reasonably
17 comparable to that enjoyed during the marriage, and the length
18 of time necessary to achieve this goal.

19 g. The tax consequences to each party.

20 h. Any mutual agreement made by the parties before or
21 during the marriage concerning financial or service con-
22 tributions by one party with the expectation of future
23 reciprocation or compensation or other provision for financial
24 support by the other party and whether the agreement has been
25 observed by each party.

26 i. Other factors the court may determine to be relevant
27 in an individual case.

28 3. Upon every judgment of annulment, dissolution or
29 separate maintenance, the court may order either parent or
30 both parents to pay an amount reasonable and necessary for
31 support of a child. Consideration shall be given to the
32 child's need for close contact with both parents and
33 recognition of joint parental responsibility for the welfare
34 of a minor child. In any order requiring payments for support
35 of a minor child the court shall consider the following:

- 1 a. The financial resources of the child.
2 b. The financial resources of both parents.
3 c. The standard of living the child would have enjoyed
4 had there not been an annulment, dissolution or separate
5 maintenance.
6 d. The desirability that the custodian remain in the home
7 as a full-time parent.
8 e. The cost of day care if the custodian works outside
9 the home, or the value of custodial services performed by
10 the custodian if the custodian remains in the home.
11 f. The physical and emotional health needs of the child.
12 g. The child's educational needs.
13 h. The tax consequences to each party.
14 i. Other factors the court may determine to be relevant
15 in an individual case.
- 16 4. The court may protect and promote the best interests
17 of a minor child by setting aside a portion of the child
18 support which either party is ordered to pay in a separate
19 fund or trust for the support, education and welfare of the
20 child.
- 21 5. The court may provide for joint custody of the children
22 by the parties. Orders relating to custody of a child are
23 subject to the provisions of chapter five hundred ninety-eight
24 A (598A) of the Code.
- 25 6. Orders made pursuant to this section need mention only
26 those factors relevant to the particular case for which the
27 orders are made.
- 28 7. The court may subsequently modify orders made under
29 this section when there is a substantial change in
30 circumstances and may order attorneys' fees to either party
31 in a modification proceeding. Any change in child support
32 because of alleged change in circumstances shall take into
33 consideration each parent's earning capacity and total economic
34 circumstances. In an action under this subsection, a
35 substantial change in the cost of living by either party or

1 as measured by the federal bureau of labor statistics may
2 be sufficient to justify a revision of judgment. Modifications
3 of orders pertaining to child custody shall be made pursuant
4 to chapter five hundred ninety-eight A (598A) of the Code.

5 Sec. 4. Section five hundred ninety-eight point twenty-
6 two (598.22), unnumbered paragraphs one (1) and two (2), Code
7 1979, are amended to read as follows:

8 All orders or judgments providing for temporary or permanent
9 support payments shall direct the payment of such sums to
10 the clerk of the court for the use of the person for whom
11 the same payments have been awarded.

12 The court may order the person obligated for temporary
13 or permanent support to make an assignment of periodic
14 earnings, unemployment compensation or trust income to the
15 clerk of court for the use of the person for whom the
16 assignment is ordered. The assignment is binding on the
17 employer, trustee, or other payor of the funds two weeks after
18 service upon that person of notice that the assignment has
19 been made. The payor shall withhold from the earnings,
20 unemployment compensation or trust income payable to the
21 person obligated the amount specified in the assignment and
22 shall transmit the payments to the clerk. The payor may
23 deduct from each payment a sum not exceeding one dollar as
24 a reimbursement for costs.

25 PARAGRAPH DIVIDED. An order or judgment entered by the
26 court for temporary or permanent support or for an assignment
27 shall be filed with the court clerk. Such orders shall have
28 the same force and effect as judgments when entered in the
29 judgment docket and lien index and shall be a record open
30 to the public. The clerk shall disburse the payments received
31 pursuant to such orders or judgments. All moneys received
32 or disbursed under this section shall be entered in a record
33 book kept by the clerk, which shall be open to inspection
34 by the parties to the action and their attorneys.

35 If the sums ordered to be paid in a support payment order

1 are not paid to the clerk at the time provided in said the
2 order or judgment, the clerk shall certify a default to the
3 court which may, on its own motion, proceed as provided in
4 section 598.23.

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

8 The court may, as an alternative to punishment for contempt,
9 make an order directing the defaulting party to assign
10 unemployment compensation, trust income or a sufficient amount
11 in salary or wages due, or to become due in the future, from
12 an employer or successor employers, to the clerk of the court
13 where the order or judgment was granted for the purpose of
14 paying the sums in default as well as those to be made in
15 the future. The Where the assignment is of salary or wages
16 due, the assignment order shall be binding upon the employer
17 ~~only for these amounts that represent child support and~~ only
18 upon receipt by the employer of a copy of the order, signed
19 by the employee. For each payment deducted in compliance
20 with such request, the ~~employer shall receive one dollar to~~
21 ~~cover the expense created by the deduction, which amount shall~~
22 be deducted from the money due the employee payor may deduct
23 a sum not exceeding one dollar as a reimbursement for costs.
24 ~~Compliance by an employer a payor with the court's request~~
25 order shall operate as a discharge of his or her liability
26 to the employee payee as to the affected portion of the
27 employee's payee's wages, unemployment compensation or trust
28 income.

29 Sec. 6. Chapter five hundred ninety-eight (598), Code
30 1979, is amended by adding the following new section:

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

1 is not issued.

2 Sec. 7. This Act takes effect January first following
3 its enactment.

4 EXPLANATION

5 This bill expands the present Code section which authorizes
6 the court to make orders in relation to the children,
7 properties, parties and maintenance, and to modify such orders,
8 in cases of annulment, dissolution and separate maintenance.
9 It directs the court to consider various factors before issuing
10 the order.

11 The bill also permits the assignment of earnings,
12 unemployment compensation or trust income for support in the
13 original court order, requires cooperation by the payor in
14 withholding the assigned amount and allows the payor to deduct
15 a fee of one dollar from each payment as a reimbursement for
16 costs.

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HOUSE FILE 2562

H-5687

1 Amend House File 2562 as follows:

2 1. Page 1, by striking lines 14 through 16 and
3 inserting in lieu thereof the following:

4 "Sec. 2. Section five hundred ninety-eight point
5 seventeen (598.17), unnumbered paragraph three (3),
6 Code 1979, is amended by striking the unnumbered paragraph
7 and inserting in lieu thereof the following:

8 The court may dispense with a formal trial hearing
9 if it finds that the rights of the parties will not be
10 adversely affected."

11 2. Page 4, by inserting after line 15 the following: *B*

12 "The court may provide for periodic automatic
13 reversion of support orders under this section to
14 reflect changes in the cost of living."

H-5687 FILED

BY CONLON of Muscatine

MARCH 25, 1980

*A - Lost, B - Amended by 5707 & adopted
3/24 (ca. 1176-77)*

HOUSE FILE 2562

H-5693

1 Amend House File 2562 as follows:

2 1. Page 5, by inserting after line 4 the following
3 new subsection:

4 "8. In an order for support payments made pursuant
5 to this section the court may provide that the amount
6 awarded shall be adjusted each subsequent year on the
7 first day of the month after the anniversary of the
8 decree based upon the annual inflation factor as
9 established by the supreme court administrator pursuant
10 to this subsection.

11 On or before the first day of each month the supreme
12 court administrator shall calculate and distribute to
13 each district court an annual inflation factor for the
14 twelve month period ending on the day before the
15 first day of the previous month by using the annual
16 percentage change in the consumer price index published
17 by the bureau of labor statistics of the United States
18 department of labor."

H-5693 FILED

BY RAPP of Black Hawk

MARCH 25, 1980

CONLON of Muscatine

2-24 3/24 (ca. 1175)

BRUNER of Story

HOUSE FILE 2562

H-5704

1 Amend amendment H-5687 to House File 2562 as
2 follows:
3 1. Page 1, line 8, by inserting after the word
4 "hearing" the words ", with the consent of all
5 parties who have appeared before the court,".

H-5704 FILED
MARCH 26, 1980
ADOPTED (7/1176)

BY BRUNER of Story
CONLON of Muscatine

HOUSE FILE 2562

H-5707

1 Amend amendment H-5687 to House File 2562 as
2 follows:
3 1. Page 1, line 13, by striking the word
4 "reversion" and inserting in lieu thereof the word
5 "revision".

H-5707 FILED
MARCH 26, 1980
ADOPTED BY UNANIMOUS CONSENT (7/1176)

BY CONLON of Muscatine

Amended Judiciary 4/23
Amended per 5665c
To Pass 4/3 (p. 1291)

HOUSE FILE 2562

By COMMITTEE ON JUDICIARY
AND LAW ENFORCEMENT

(As Amended and Passed by the House)

Passed House, Date 4/23/80 (p. 2012) Passed Senate, Date 4/11/80 (p. 1384)

Vote: Ayes 93 Nays 2 Vote: Ayes 43 Nays 0

Approved May 17 1980

Repassed Senate 4/25/80 (p. 1753)
42-6

A BILL FOR

1 An Act relating to dissolution of marriage, annulment and
2 separate maintenance actions and providing a penalty.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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House Amendments _____

50-5
2-11-79

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

4 598.13 FINANCIAL STATEMENTS FILED. Both parties shall
5 disclose their financial status. A showing of special circum-
6 stances shall not be required before the disclosure is ordered.
7 A statement of net worth set forth by affidavit on a form
8 prescribed by the supreme court and furnished without charge
9 by the clerk of the district court shall be filed by each
10 party prior to the dissolution hearing.

11 Failure to comply with the requirements of this section
12 constitutes failure to make discovery as provided in rule
13 of civil procedure one hundred thirty-four (134) of the Code.

14 Sec. 2. Section five hundred ninety-eight point seventeen
15 (598.17), unnumbered paragraph three (3), Code 1979, is amended
16 by striking the unnumbered paragraph.

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

20 598.21 ORDERS FOR DISPOSITION AND SUPPORT.

21 1. Upon every judgment of annulment, dissolution or
22 separate maintenance the court shall divide the property of
23 the parties and transfer the title of the property accordingly.
24 The court may protect and promote the best interests of
25 children of the parties by setting aside a portion of the
26 property of the parties in a separate fund or trust for the
27 support, maintenance, education and general welfare of the
28 minor children. Property inherited by either party prior
29 to or during the course of the marriage shall remain the prop-
30 erty of that party and shall not be subjected to a property
31 division under this section except upon a finding that refusal
32 to divide such property will create a hardship on the other
33 party or on the children of the marriage. The court shall
34 presume that all property except inherited property is to
35 be divided equally between the parties but may alter this

1 distribution without regard to marital misconduct after con-
2 sidering all of the following:

3 a. The length of the marriage.

4 b. The property brought to the marriage by each party.

5 c. The contribution of each party to the marriage, giving
6 appropriate economic value to each party's contribution in
7 homemaking and child care services.

8 d. The age and physical and emotional health of the
9 parties.

10 e. The contribution by one party to the education, training
11 or increased earning power of the other.

12 f. The earning capacity of each party, including educa-
13 tional background, training, employment skills, work experi-
14 ence, length of absence from the job market, custodial re-
15 sponsibilities for children and the time and expense neces-
16 sary to acquire sufficient education or training to enable
17 the party to become self-supporting at a standard of living
18 reasonably comparable to that enjoyed during the marriage.

19 g. The desirability of awarding the family home or the
20 right to live in the family home for a reasonable period to
21 the party having custody of any children.

22 h. The amount and duration of an order granting support
23 payments to either party pursuant to subsection two (2) of
24 this section and whether the property division should be in
25 lieu of such payments.

26 i. Other economic circumstances of each party, including
27 pension benefits, vested or unvested, and future interests.

28 j. The tax consequences to each party.

29 k. Any written agreement made by the parties before or
30 during the marriage concerning property distribution.

31 1. Other factors the court may determine to be relevant
32 in an individual case.

33 2. Upon every judgment of annulment, dissolution or
34 separate maintenance, the court may grant an order requiring
35 support payments to either party for a limited or indefinite

1 length of time after considering all of the following:

2 a. The length of the marriage.

3 b. The age and physical and emotional health of the
4 parties.

5 c. The distribution of property made pursuant to subsec-
6 tion one (1) of this section.

7 d. The educational level of each party at the time of
8 marriage and at the time the action is commenced.

9 e. The earning capacity of the party seeking maintenance,
10 including educational background, training, employment skills,
11 work experience, length of absence from the job market,
12 custodial responsibilities for children and the time and
13 expense necessary to acquire sufficient education or training
14 to enable the party to find appropriate employment.

15 f. The feasibility of the party seeking maintenance be-
16 coming self-supporting at a standard of living reasonably
17 comparable to that enjoyed during the marriage, and the length
18 of time necessary to achieve this goal.

19 g. The tax consequences to each party.

20 h. Any mutual agreement made by the parties before or
21 during the marriage concerning financial or service con-
22 tributions by one party with the expectation of future
23 reciprocation or compensation or other provision for financial
24 support by the other party and whether the agreement has been
25 observed by each party.

26 i. Other factors the court may determine to be relevant
27 in an individual case.

28 3. Upon every judgment of annulment, dissolution or
29 separate maintenance, the court may order either parent or
30 both parents to pay an amount reasonable and necessary for
31 support of a child. Consideration shall be given to the
32 child's need for close contact with both parents and
33 recognition of joint parental responsibility for the welfare
34 of a minor child. In any order requiring payments for support
35 of a minor child the court shall consider the following:

- 1 a. The financial resources of the child.
2 b. The financial resources of both parents.
3 c. The standard of living the child would have enjoyed
4 had there not been an annulment, dissolution or separate
5 maintenance.
6 d. The desirability that the custodian remain in the home
7 as a full-time parent.
8 e. The cost of day care if the custodian works outside
9 the home, or the value of custodial services performed by
10 the custodian if the custodian remains in the home.
11 f. The physical and emotional health needs of the child.
12 g. The child's educational needs.
13 h. The tax consequences to each party.
14 i. Other factors the court may determine to be relevant
15 in an individual case.

16 The court may provide for periodic automatic revision of
17 support orders under this section to reflect changes in the
18 cost of living.

19 4. The court may protect and promote the best interests
20 of a minor child by setting aside a portion of the child
21 support which either party is ordered to pay in a separate
22 fund or trust for the support, education and welfare of the
23 child.

24 5. The court may provide for joint custody of the children
25 by the parties. Orders relating to custody of a child are
26 subject to the provisions of chapter five hundred ninety-eight
27 A (598A) of the Code.

28 6. Orders made pursuant to this section need mention only
29 those factors relevant to the particular case for which the
30 orders are made.

31 7. The court may subsequently modify orders made under
32 this section when there is a substantial change in
33 circumstances and may order attorneys' fees to either party
34 in a modification proceeding. Any change in child support
35 because of alleged change in circumstances shall take into

1 consideration each parent's earning capacity and total economic
2 circumstances. In an action under this subsection, a
3 substantial change in the cost of living by either party or
4 as measured by the federal bureau of labor statistics may
5 be sufficient to justify a revision of judgment. Modifications
6 of orders pertaining to child custody shall be made pursuant
7 to chapter five hundred ninety-eight A (598A) of the Code.

8 Sec. 4. Section five hundred ninety-eight point twenty-
9 two (598.22), unnumbered paragraphs one (1) and two (2), Code
10 1979, are amended to read as follows:

11 All orders or judgments providing for temporary or permanent
12 support payments shall direct the payment of such sums to
13 the clerk of the court for the use of the person for whom
14 the same payments have been awarded.

15 The court may order the person obligated for temporary
16 or permanent support to make an assignment of periodic
17 earnings, unemployment compensation or trust income to the
18 clerk of court for the use of the person for whom the
19 assignment is ordered. The assignment is binding on the
20 employer, trustee, or other payor of the funds two weeks after
21 service upon that person of notice that the assignment has
22 been made. The payor shall withhold from the earnings,
23 unemployment compensation or trust income payable to the
24 person obligated the amount specified in the assignment and
25 shall transmit the payments to the clerk. The payor may
26 deduct from each payment a sum not exceeding one dollar as
27 a reimbursement for costs.

28 PARAGRAPH DIVIDED. An order or judgment entered by the
29 court for temporary or permanent support or for an assignment
30 shall be filed with the court clerk. Such orders shall have
31 the same force and effect as judgments when entered in the
32 judgment docket and lien index and shall be a record open
33 to the public. The clerk shall disburse the payments received
34 pursuant to such orders or judgments. All moneys received
35 or disbursed under this section shall be entered in a record

1 book kept by the clerk, which shall be open to inspection
2 by the parties to the action and their attorneys.

3 If the sums ordered to be paid in a support payment order
4 are not paid to the clerk at the time provided in ~~said~~ the
5 order or judgment, the clerk shall certify a default to the
6 court which may, on its own motion, proceed as provided in
7 section 598.23.

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

11 The court may, as an alternative to punishment for contempt,
12 make an order directing the defaulting party to assign
13 unemployment compensation, trust income or a sufficient amount
14 in salary or wages due, or to become due in the future, from
15 an employer or successor employers, to the clerk of the court
16 where the order or judgment was granted for the purpose of
17 paying the sums in default as well as those to be made in
18 the future. ~~The~~ Where the assignment is of salary or wages
19 due, the assignment order shall be binding upon the employer
20 ~~only-for-those-amounts-that-represent-child-support-and~~ only
21 upon receipt by the employer of a copy of the order, signed
22 by the employee. 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~~ payor may deduct
26 a sum not exceeding one dollar as a reimbursement for costs.
27 Compliance by ~~an employer~~ a payor with the court's ~~request~~
28 order shall operate as a discharge of his or her liability
29 to the ~~employee~~ payee as to the affected portion of the
30 ~~employee's~~ payee's wages, unemployment compensation or trust
31 income.

32 Sec. 6. Chapter five hundred ninety-eight (598), Code
33 1979, is amended by adding the following new section:

34 NEW SECTION. Notwithstanding section five hundred sixty-
35 one point fifteen (561.15) of the Code, the court may order

1 either party to vacate the homestead pending entry of a decree
2 of dissolution upon a showing that the other party or the
3 children are in imminent danger of physical harm if the order
4 is not issued.

5 Sec. 7. This Act takes effect January first following
6 its enactment.

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S-5665

1 Amend House File 2562 as amended, passed and
2 reprinted by the House as follows:
3 1. By striking everything after the enacting
4 clause and inserting in lieu thereof the following:
5 "Section 1. Section five hundred ninety-eight
6 point thirteen (598.13), Code 1979, is amended by
7 striking the section and inserting in lieu thereof
8 the following:
9 598.13 FINANCIAL STATEMENTS FILED. Both parties
10 shall disclose their financial status. A showing
11 of special circumstances shall not be required before
12 the disclosure is ordered. A statement of net worth
13 set forth by affidavit on a form prescribed by the
14 supreme court and furnished without charge by the
15 clerk of the district court shall be filed by each
16 party prior to the dissolution hearing, unless waived
17 by both parties.
18 Failure to comply with the requirements of this
19 section constitutes failure to make discovery as
20 provided in rule of civil procedure one hundred thirty-
21 four (134) of the Code.
22 Sec. 2. Section five hundred ninety-eight point
23 twenty-one (598.21), Code 1979, is amended to read
24 as follows:
25 598.21 ALIMONY--CUSTODY OF CHILDREN--CHANGES.
26 When a dissolution of marriage is decreed, the court
27 may make such order in relation to the children,
28 property, parties, and the maintenance of the parties
29 as shall be justified. The court shall consider the
30 contribution of each party to the marriage, and may
31 consider the value of each party's contribution in
32 homemaking and child care services. The order may
33 include provision for joint custody of the children
34 by the parties. Orders relating to custody of children
35 shall be subject to the provisions of chapter 598A.
36 Subsequent changes may be made by the court in
37 these respects when circumstances render them
38 expedient.
39 Sec. 3. Chapter five hundred ninety-eight (598),
40 Code 1979, is amended by adding the following new
41 section:
42 NEW SECTION. ORDER TO VACATE. Notwithstanding
43 section five hundred sixty-one point fifteen (561.15)
44 of the Code, the court may order either party to
45 vacate the homestead pending entry of a decree of
46 dissolution upon a showing that the other party or
47 the children are in imminent danger of physical harm
48 if the order is not issued."

S-5665 FILED
APRIL 3, 1980

*Adopted as amended by 5687
4/11 (p. 1284)*

BY COMMITTEE ON JUDICIARY
LUCAS J. DeKOSTER, CHAIRPERSON

HOUSE FILE 2562

S-5687

1 Amend amendment S-5665 to House File 2562 as
2 follows:
3 1. Page 1, by inserting after line 48 the following
4 new section:
5 "Sec. ____ . This Act takes effect January 1, 1981,
6 and applies to actions filed on or after that date."

S-5687 FILED
APRIL 9, 1980

BY A. R. BUD KUDART

Adopted 4/11 (p. 1334)

SENATE AMENDMENT TO
HOUSE FILE 2562

9

1 Amend House File 2562 as amended, passed and
2 reprinted by the House as follows:

3 1. By striking everything after the enacting
4 clause and inserting in lieu thereof the following:

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

9 598.13 FINANCIAL STATEMENTS FILED. Both parties
10 shall disclose their financial status. A showing
11 of special circumstances shall not be required before
12 the disclosure is ordered. A statement of net worth
13 set forth by affidavit on a form prescribed by the
14 supreme court and furnished without charge by the
15 clerk of the district court shall be filed by each
16 party prior to the dissolution hearing, unless waived
17 by both parties.

18 Failure to comply with the requirements of this
19 section constitutes failure to make discovery as
20 provided in rule of civil procedure one hundred thirty-
21 four (134) of the Code.

22 Sec. 2. Section five hundred ninety-eight point
23 twenty-one (598.21), Code 1979, is amended to read
as follows:

24 598.21 ALIMONY--CUSTODY OF CHILDREN--CHANGES.
25 When a dissolution of marriage is decreed, the court
26 may make such order in relation to the children,
27 property, parties, and the maintenance of the parties
28 as shall be justified. The court shall consider the
29 contribution of each party to the marriage, and may
30 consider the value of each party's contribution in
31 homemaking and child care services. The order may
32 include provision for joint custody of the children
33 by the parties. Orders relating to custody of children
34 shall be subject to the provisions of chapter 598A.

35 Subsequent changes may be made by the court in
36 these respects when circumstances render them
37 expedient.

38 Sec. 3. Chapter five hundred ninety-eight (598),
39 Code 1979, is amended by adding the following new
40 section:

41 NEW SECTION. ORDER TO VACATE. Notwithstanding
42 section five hundred sixty-one point fifteen (561.15)
43 of the Code, the court may order either party to
44 vacate the homestead pending entry of a decree of
45 dissolution upon a showing that the other party or
46 the children are in imminent danger of physical harm
47 if the order is not issued.

48 Sec. 4. This Act takes effect January 1, 1981,
and applies to actions filed on or after that date."

HOUSE FILE 2562

H-6100

- 1 Amend the Senate amendment, H-6079, to House File
- 2 2562, as amended, passed and reprinted by the House as
- 3 follows:
- 4 1. Page 1, by striking lines 40 and 50.

H-6100 FILED APRIL 16, 1980 BY TOFTE of Winneshiek

Adopted 4/22 (p. 2013)

HOUSE FILE 2562

235

1 Amend the Senate amendment H-6079 to House File
2 2562 as follows:

3 1. By striking lines 22 through 38 and inserting
4 in lieu thereof the following:

5 "Sec. 2. Section five hundred ninety-eight point
6 seventeen (598.17), unnumbered paragraph three (3),
7 Code 1979, is amended by striking the unnumbered
8 paragraph.

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

13 598.21 ORDERS FOR DISPOSITION AND SUPPORT.

14 1. Upon every judgment of annulment, dissolution
15 or separate maintenance the court shall divide the
16 property of the parties and transfer the title of
17 the property accordingly. The court may protect and
18 promote the best interests of children of the parties
19 by setting aside a portion of the property of the
20 parties in a separate fund or conservatorship for
21 the support, maintenance, education and general welfare
22 of the minor children. The court shall divide all
23 property, except inherited property or gifts received
24 by one party, equitably between the parties after
25 considering all of the following:

26 a. The length of the marriage.

27 b. The property brought to the marriage by each
28 party.

29 c. The contribution of each party to the marriage,
30 giving appropriate economic value to each party's
31 contribution in homemaking and child care services.

32 d. The age and physical and emotional health of
33 the parties.

34 e. The contribution by one party to the education,
35 training or increased earning power of the other.

36 f. The earning capacity of each party, including
37 educational background, training, employment skills,
38 work experience, length of absence from the job market,
39 custodial responsibilities for children and the time
40 and expense necessary to acquire sufficient education
41 or training to enable the party to become self-
42 supporting at a standard of living reasonably
43 comparable to that enjoyed during the marriage.

44 g. The desirability of awarding the family home
45 or the right to live in the family home for a
46 reasonable period to the party having custody of any
47 children.

48 h. The amount and duration of an order granting
49 support payments to either party pursuant to subsection
50 two (2) of this section and whether the property

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- 1 division should be in lieu of such payments.
- 2 i. Other economic circumstances of each party,
- 3 including pension benefits, vested or unvested, and
- 4 future interests.
- 5 j. The tax consequences to each party.
- 6 k. Any written agreement made by the parties
- 7 concerning property distribution.
- 8 l. The provisions of an antenuptial agreement.
- 9 m. Other factors the court may determine to be
- 10 relevant in an individual case.
- 11 2. Property inherited by either party or gifts
- 12 received by either party prior to or during the course
- 13 of the marriage is the property of that party and
- 14 is not subject to a property division under this
- 15 section except upon a finding that refusal to divide
- 16 the property is inequitable to the other party or
- 17 to the children of the marriage.
- 18 3. Upon every judgment of annulment, dissolution
- 19 or separate maintenance, the court may grant an order
- 20 requiring support payments to either party for a
- 21 limited or indefinite length of time after considering
- 22 all of the following:
- 23 a. The length of the marriage.
- 24 b. The age and physical and emotional health of
- 25 the parties.
- 26 c. The distribution of property made pursuant
- 27 to subsection one (1) of this section.
- 28 d. The educational level of each party at the
- 29 time of marriage and at the time the action is
- 30 commenced.
- 31 e. The earning capacity of the party seeking
- 32 maintenance, including educational background,
- 33 training, employment skills, work experience, length
- 34 of absence from the job market, custodial responsibili-
- 35 ties for children and the time and expense necessary
- 36 to acquire sufficient education or training to enable
- 37 the party to find appropriate employment.
- 38 f. The feasibility of the party seeking maintenance
- 39 becoming self-supporting at a standard of living
- 40 reasonably comparable to that enjoyed during the
- 41 marriage, and the length of time necessary to achieve
- 42 this goal.
- 43 g. The tax consequences to each party.
- 44 h. Any mutual agreement made by the parties
- 45 concerning financial or service contributions by one
- 46 party with the expectation of future reciprocation
- 47 or compensation by the other party.
- 48 i. The provisions of an antenuptial agreement.
- 49 j. Other factors the court may determine to be
- 50 relevant in an individual case.

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1 4. Upon every judgment of annulment, dissolution
2 or separate maintenance, the court may order either
3 parent or both parents to pay an amount reasonable
4 and necessary for support of a child. Consideration
5 shall be given to the child's need for close contact
6 with both parents and recognition of joint parental
7 responsibility for the welfare of a minor child.
8 In any order requiring payments for support of a minor
9 child the court shall consider the following:
10 a. The financial resources of the child.
11 b. The financial resources of both parents.
12 c. The standard of living the child would have
13 enjoyed had there not been an annulment, dissolution
14 or separate maintenance.
15 d. The desirability that the custodian remain
16 in the home as a full-time parent.
17 e. The cost of day care if the custodian works
18 outside the home, or the value of custodial services
19 performed by the custodian if the custodian remains
20 in the home.
21 f. The physical and emotional health needs of
22 the child.
23 g. The child's educational needs.
24 h. The tax consequences to each party.
25 i. Other factors the court may determine to be
26 relevant in an individual case.
27 5. The court may protect and promote the best
28 interests of a minor child by setting aside a portion
29 of the child support which either party is ordered
30 to pay in a separate fund or conservatorship for the
31 support, education and welfare of the child.
32 6. The court may provide for joint custody of
33 the children by the parties. Orders relating to
34 custody of a child are subject to the provisions of
35 chapter five hundred ninety-eight A (598A) of the
36 Code.
37 7. Orders made pursuant to this section need
38 mention only those factors relevant to the particular
39 case for which the orders are made.
40 8. The court may subsequently modify orders made
41 under this section when there is a substantial change
42 in circumstances. Any change in child support because
43 of alleged change in circumstances shall take into
44 consideration each parent's earning capacity, economic
45 circumstances and cost of living. Modifications of
46 orders pertaining to child custody shall be made
47 pursuant to chapter five hundred ninety-eight A (598A)
48 of the Code.
49 Sec. 4. Section five hundred ninety-eight point
50 twenty-two (598.22), unnumbered paragraphs one (1)

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1 and two (2), Code 1979, are amended to read as follows:

2 All orders or judgments providing for temporary
3 or permanent support payments shall direct the payment
4 of such sums to the clerk of the court for the use
5 of the person for whom the same payments have been
6 awarded.

7 Upon a finding of previous failure to pay child
8 support, the court may order the person obligated
9 for permanent child support to make an assignment
10 of periodic earnings, or trust income to the clerk
11 of court for the use of the person for whom the
12 assignment is ordered. The assignment of earnings
13 ordered by the court shall not exceed the amounts
14 set forth in 15 U.S.C. s. 1673b (Supp. 1979). The
15 assignment is binding on the employer, trustee, or
16 other payor of the funds two weeks after service upon
17 that person of notice that the assignment has been
18 made. The payor shall withhold from the earnings,
19 or trust income payable to the person obligated the
20 amount specified in the assignment and shall transmit
21 the payments to the clerk. The payor may deduct from
22 each payment a sum not exceeding one dollar as a
23 reimbursement for costs. An employer who dismisses
24 an employee due to the entry of an assignment order
25 commits a simple misdemeanor.

26 PARAGRAPH DIVIDED. An order or judgment entered
27 by the court for temporary or permanent support or
28 for an assignment shall be filed with the court clerk.
29 Such orders shall have the same force and effect as
30 judgments when entered in the judgment docket and
31 lien index and shall be a record open to the public.
32 The clerk shall disburse the payments received pursuant
33 to such orders or judgments. All moneys received
34 or disbursed under this section shall be entered in
35 a record book kept by the clerk, which shall be open
36 to inspection by the parties to the action and their
37 attorneys.

38 If the sums ordered to be paid in a support payment
39 order are not paid to the clerk at the time provided
40 in said the order or judgment, the clerk shall certify
41 a default to the court which may, on its own motion,
42 proceed as provided in section 598.23.

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

46 The court may, as an alternative to punishment
47 for contempt, make an order directing the defaulting
48 party to assign, trust income or a sufficient amount
49 in salary or wages due, or to become due in the future,
50 from an employer or successor employers, to the clerk

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Page Five

1 of the court where the order or judgment was granted
2 for the purpose of paying the sums in default as well
3 as those to be made in the future. ~~The~~ Where the
4 assignment is of salary or wages due, the amount
5 assigned shall not exceed the amount set forth in
6 15 U.S.C. s. 1673b (Supp. 1979) and the assignment
7 order shall be binding upon the employer only for
8 those amounts that represent child support and only
9 upon receipt by the employer of a copy of the order,
10 signed by the employee. For each payment deducted
11 in compliance with such request, the employer shall
12 ~~receive one dollar to cover the expense created by~~
13 ~~the deduction, which amount shall be deducted from~~
14 ~~the money due the employee~~ payor may deduct a sum
15 not exceeding one dollar as a reimbursement for costs.
16 Compliance by an employer a payor with the court's
17 request order shall operate as a discharge of his
18 or her liability to the employee payee as to the
19 affected portion of the employee's payee's wages,
20 or trust income."
21 2. By renumbering and correcting internal
22 references as made necessary by this amendment.

BY POPE of Polk
LONERGAN of Boone
RITSEMA of Sioux
RAPP of Black Hawk
BRUNER of Story

CRAWFORD of Story
SCHROEDER of Pottawattamie
HUMMEL of Benton
SHIMANEK of Jones
CLARK of Lee

H-6235 FILED
APRIL 18, 1980

Adopted 4/23/80

SENATE CLIP SHEET

APRIL 25, 1980

House Amendment to Senate Amendment

S 5879 to House File 2562

1 Amend the Senate amendment H-6079 to House File
2 2562 as follows:

3 1. Page 1, by striking lines 22 through 38 and
4 inserting in lieu thereof the following:

5 "Sec. 2. Section five hundred ninety-eight point
6 seventeen (598.17), unnumbered paragraph three (3),
7 Code 1979, is amended by striking the unnumbered
8 paragraph.

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

13 598.21 ORDERS FOR DISPOSITION AND SUPPORT.

14 1. Upon every judgment of annulment, dissolution
15 or separate maintenance the court shall divide the
16 property of the parties and transfer the title of
17 the property accordingly. The court may protect and
18 promote the best interests of children of the parties
19 by setting aside a portion of the property of the
20 parties in a separate fund or conservatorship for
21 the support, maintenance, education and general welfare
22 of the minor children. The court shall divide all
23 property, except inherited property or gifts received
24 by one party, equitably between the parties after
25 considering all of the following:

26 a. The length of the marriage.

27 b. The property brought to the marriage by each
28 party.

29 c. The contribution of each party to the marriage,
30 giving appropriate economic value to each party's
31 contribution in homemaking and child care services.

32 d. The age and physical and emotional health of
33 the parties.

34 e. The contribution by one party to the education,
35 training or increased earning power of the other.

36 f. The earning capacity of each party, including
37 educational background, training, employment skills,
38 work experience, length of absence from the job market,
39 custodial responsibilities for children and the time
40 and expense necessary to acquire sufficient education
41 or training to enable the party to become self-
42 supporting at a standard of living reasonably
43 comparable to that enjoyed during the marriage.

44 g. The desirability of awarding the family home
45 or the right to live in the family home for a
46 reasonable period to the party having custody of any
47 children.

48 h. The amount and duration of an order granting
49 support payments to either party pursuant to subsection
50 two (2) of this section and whether the property

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- 1 division should be in lieu of such payments.
- 2 i. Other economic circumstances of each party,
3 including pension benefits, vested or unvested, and
4 future interests.
- 5 j. The tax consequences to each party.
- 6 k. Any written agreement made by the parties
7 concerning property distribution.
- 8 l. The provisions of an antenuptial agreement.
- 9 m. Other factors the court may determine to be
10 relevant in an individual case.
- 11 2. Property inherited by either party or gifts
12 received by either party prior to or during the course
13 of the marriage is the property of that party and
14 is not subject to a property division under this
15 section except upon a finding that refusal to divide
16 the property is inequitable to the other party or
17 to the children of the marriage.
- 18 3. Upon every judgment of annulment, dissolution
19 or separate maintenance, the court may grant an order
20 requiring support payments to either party for a
21 limited or indefinite length of time after considering
22 all of the following:
- 23 a. The length of the marriage.
- 24 b. The age and physical and emotional health of
25 the parties.
- 26 c. The distribution of property made pursuant
27 to subsection one (1) of this section.
- 28 d. The educational level of each party at the
29 time of marriage and at the time the action is
30 commenced.
- 31 e. The earning capacity of the party seeking
32 maintenance, including educational background,
33 training, employment skills, work experience, length
34 of absence from the job market, custodial responsibili-
35 ties for children and the time and expense necessary
36 to acquire sufficient education or training to enable
37 the party to find appropriate employment.
- 38 f. The feasibility of the party seeking maintenance
39 becoming self-supporting at a standard of living
40 reasonably comparable to that enjoyed during the
41 marriage, and the length of time necessary to achieve
42 this goal.
- 43 g. The tax consequences to each party.
- 44 h. Any mutual agreement made by the parties
45 concerning financial or service contributions by one
46 party with the expectation of future reciprocation
47 or compensation by the other party.
- 48 i. The provisions of an antenuptial agreement.
- 49 j. Other factors the court may determine to be
50 relevant in an individual case.

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1 and two (2), Code 1979, are amended to read as follows:
2 All orders or judgments providing for temporary
3 or permanent support payments shall direct the payment
4 of such sums to the clerk of the court for the use
5 of the person for whom the same payments have been
6 awarded

7 Upon a finding of previous failure to pay child
8 support, the court may order the person obligated
9 for permanent child support to make an assignment
10 of periodic earnings, or trust income to the clerk
11 of court for the use of the person for whom the
12 assignment is ordered. The assignment of earnings
13 ordered by the court shall not exceed the amounts
14 set forth in 15 U.S.C. s. 1673b (Supp. 1979). The
15 assignment is binding on the employer, trustee, or
16 other payor of the funds two weeks after service upon
17 that person of notice that the assignment has been
18 made. The payor shall withhold from the earnings,
19 or trust income payable to the person obligated the
20 amount specified in the assignment and shall transmit
21 the payments to the clerk. The payor may deduct from
22 each payment a sum not exceeding one dollar as a
23 reimbursement for costs. An employer who dismisses
24 an employee due to the entry of an assignment order
25 commits a simple misdemeanor.

26 PARAGRAPH DEFINED. An order or judgment entered
27 by the court for temporary or permanent support or
28 for an assignment shall be filed with the court clerk.
29 Such orders shall have the same force and effect as
30 judgments when entered in the judgment docket and
31 lien index and shall be a record open to the public.
32 The clerk shall disburse the payments received pursuant
33 to such orders or judgments. All moneys received
34 or disbursed under this section shall be entered in
35 a record book kept by the clerk, which shall be open
36 to inspection by the parties to the action and their
37 attorneys.

38 If the sums ordered to be paid in a support payment
39 order are not paid to the clerk at the time provided
40 in said the order or judgment, the clerk shall certify
41 a default to the court which may, on its own motion,
42 proceed as provided in section 598.23.

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

46 The court may, as an alternative to punishment
47 for contempt, make an order directing the defaulting
48 party to assign, trust income or a sufficient amount
49 in salary or wages due, or to become due in the future,
50 from an employer or successor employers, to the clerk

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1 4. Upon every judgment of annulment, dissolution
2 or separate maintenance, the court may order either
3 parent or both parents to pay an amount reasonable
4 and necessary for support of a child. Consideration
5 shall be given to the child's need for close contact
6 with both parents and recognition of joint parental
7 responsibility for the welfare of a minor child.
8 In any order requiring payments for support of a minor
9 child the court shall consider the following:
10 a. The financial resources of the child.
11 b. The financial resources of both parents.
12 c. The standard of living the child would have
13 enjoyed had there not been an annulment, dissolution
14 or separate maintenance.
15 d. The desirability that the custodian remain
16 in the home as a full-time parent.
17 e. The cost of day care if the custodian works
18 outside the home, or the value of custodial services
19 performed by the custodian if the custodian remains
20 in the home.
21 f. The physical and emotional health needs of
22 the child.
23 g. The child's educational needs.
24 h. The tax consequences to each party.
25 i. Other factors the court may determine to be
26 relevant in an individual case.
27 5. The court may protect and promote the best
28 interests of a minor child by setting aside a portion
29 of the child support which either party is ordered
30 to pay in a separate fund or conservatorship for the
31 support, education and welfare of the child.
32 6. The court may provide for joint custody of
33 the children by the parties. Orders relating to
34 custody of a child are subject to the provisions of
35 chapter five hundred ninety-eight A (598A) of the
36 Code.
37 7. Orders made pursuant to this section need
38 mention only those factors relevant to the particular
39 case for which the orders are made.
40 8. The court may subsequently modify orders made
41 under this section when there is a substantial change
42 in circumstances. Any change in child support because
43 of alleged change in circumstances shall take into
44 consideration each parent's earning capacity, economic
45 circumstances and cost of living. Modifications of
46 orders pertaining to child custody shall be made
47 pursuant to chapter five hundred ninety-eight A (598A)
48 of the Code.
49 Sec. 4. Section five hundred ninety-eight point
50 twenty-two (598.22), unnumbered paragraphs one (1)

SENATE 5
APRIL 25, 1980

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1 of the court where the order or judgment was granted
2 for the purpose of paying the sums in default as well
3 as those to be made in the future. ~~The~~ Where the
4 assignment is of salary or wages due, the amount
5 assigned shall not exceed the amount set forth in
6 15 U.S.C. s. 1673b (Supp. 1979) and the assignment
7 order shall be binding upon the employer only for
8 those amounts that represent child support and only
9 upon receipt by the employer of a copy of the order,
10 signed by the employee. For each payment deducted
11 in compliance with such request, the employer shall
12 receive one dollar to cover the expense created by
13 the deduction, which amount shall be deducted from
14 the money due the employee payor may deduct a sum
15 not exceeding one dollar as a reimbursement for costs.
16 Compliance by an employer a payor with the court's
17 request order shall operate as a discharge of his
18 or her liability to the employee payee as to the
19 affected portion of the employee's payee's wages,
20 or trust income."

- 21 2. Page 1, by striking lines 49 and 50.
22 3. By renumbering and correcting internal
23 references as made necessary by this amendment.

S-5879 FILED
APRIL 24, 1980

RECEIVED FROM THE HOUSE
Senate Concurred 4/25 (p. 1750)

HOUSE FILE 2562

AN ACT

RELATING TO DISSOLUTION OF MARRIAGE, ANNULMENT AND SEPARATE
MAINTENANCE ACTIONS AND PROVIDING A PENALTY.

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

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

598.13 FINANCIAL STATEMENTS FILED. Both parties shall disclose their financial status. A showing of special circumstances shall not be required before the disclosure is ordered. A statement of net worth set forth by affidavit on a form prescribed by the supreme court and furnished without charge by the clerk of the district court shall be filed by each party prior to the dissolution hearing, unless waived by both parties.

Failure to comply with the requirements of this section constitutes failure to make discovery as provided in rule of civil procedure one hundred thirty-four (134) of the Code.

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

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

598.21 ORDERS FOR DISPOSITION AND SUPPORT.

1. Upon every judgment of annulment, dissolution or separate maintenance the court shall divide the property of the parties and transfer the title of the property accordingly. The court may protect and promote the best interests of children of the parties by setting aside a portion of the property of the parties in a separate fund or conservatorship

for the support, maintenance, education and general welfare of the minor children. The court shall divide all property, except inherited property or gifts received by one party, equitably between the parties after considering all of the following:

- a. The length of the marriage.
- b. The property brought to the marriage by each party.
- c. The contribution of each party to the marriage, giving appropriate economic value to each party's contribution in homemaking and child care services.
- d. The age and physical and emotional health of the parties.
- e. The contribution by one party to the education, training or increased earning power of the other.
- f. The earning capacity of each party, including educational background, training, employment skills, work experience, length of absence from the job market, custodial responsibilities for children and the time and expense necessary to acquire sufficient education or training to enable the party to become self-supporting at a standard of living reasonably comparable to that enjoyed during the marriage.
- g. The desirability of awarding the family home or the right to live in the family home for a reasonable period to the party having custody of any children.
- h. The amount and duration of an order granting support payments to either party pursuant to subsection two (2) of this section and whether the property division should be in lieu of such payments.
- i. Other economic circumstances of each party, including pension benefits, vested or unvested, and future interests.
- j. The tax consequences to each party.
- k. Any written agreement made by the parties concerning property distribution.
- l. The provisions of an antenuptial agreement.

m. Other factors the court may determine to be relevant in an individual case.

2. Property inherited by either party or gifts received by either party prior to or during the course of the marriage is the property of that party and is not subject to a property division under this section except upon a finding that refusal to divide the property is inequitable to the other party or to the children of the marriage.

3. Upon every judgment of annulment, dissolution or separate maintenance, the court may grant an order requiring support payments to either party for a limited or indefinite length of time after considering all of the following:

- a. The length of the marriage.
- b. The age and physical and emotional health of the parties.
- c. The distribution of property made pursuant to subsection one (1) of this section.
- d. The educational level of each party at the time of marriage and at the time the action is commenced.
- e. The earning capacity of the party seeking maintenance, including educational background, training, employment skills, work experience, length of absence from the job market, custodial responsibilities for children and the time and expense necessary to acquire sufficient education or training to enable the party to find appropriate employment.
- f. The feasibility of the party seeking maintenance becoming self-supporting at a standard of living reasonably comparable to that enjoyed during the marriage, and the length of time necessary to achieve this goal.
- g. The tax consequences to each party.
- h. Any mutual agreement made by the parties concerning financial or service contributions by one party with the expectation of future reciprocation or compensation by the other party.

i. The provisions of an antenuptial agreement.

j. Other factors the court may determine to be relevant in an individual case.

4. Upon every judgment of annulment, dissolution or separate maintenance, the court may order either parent or both parents to pay an amount reasonable and necessary for support of a child. Consideration shall be given to the child's need for close contact with both parents and recognition of joint parental responsibility for the welfare of a minor child. In any order requiring payments for support of a minor child the court shall consider the following:

- a. The financial resources of the child.
 - b. The financial resources of both parents.
 - c. The standard of living the child would have enjoyed had there not been an annulment, dissolution or separate maintenance.
 - d. The desirability that the custodian remain in the home as a full-time parent.
 - e. The cost of day care if the custodian works outside the home, or the value of custodial services performed by the custodian if the custodian remains in the home.
 - f. The physical and emotional health needs of the child.
 - g. The child's educational needs.
 - h. The tax consequences to each party.
 - i. Other factors the court may determine to be relevant in an individual case.
5. The court may protect and promote the best interests of a minor child by setting aside a portion of the child support which either party is ordered to pay in a separate fund or conservatorship for the support, education and welfare of the child.
6. The court may provide for joint custody of the children by the parties. Orders relating to custody of a child are subject to the provisions of chapter five hundred ninety-eight A (598A) of the Code.

7. Orders made pursuant to this section need mention only those factors relevant to the particular case for which the orders are made.

8. The court may subsequently modify orders made under this section when there is a substantial change in circumstances. Any change in child support because of alleged change in circumstances shall take into consideration each parent's earning capacity, economic circumstances and cost of living. Modifications of orders pertaining to child custody shall be made pursuant to chapter five hundred ninety-eight A (598A) of the Code.

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

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

Upon a finding of previous failure to pay child support, the court may order the person obligated for permanent child support to make an assignment of periodic earnings, or trust income to the clerk of court for the use of the person for whom the assignment is ordered. The assignment of earnings ordered by the court shall not exceed the amounts set forth in 15 U.S.C. s. 1673b (Supp. 1979). The assignment is binding on the employer, trustee, or other payor of the funds two weeks after service upon that person of notice that the assignment has been made. The payor shall withhold from the earnings, or trust income payable to the person obligated the amount specified in the assignment and shall transmit the payments to the clerk. The payor may deduct from each payment a sum not exceeding one dollar as a reimbursement for costs. An employer who dismisses an employee due to the entry of an assignment order commits a simple misdemeanor.

PARAGRAPH DIVIDED. An order or judgment entered by the

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

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

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

The court may, as an alternative to punishment for contempt, make an order directing the defaulting party to assign, trust income or a sufficient amount in salary or wages due, or to become due in the future, from an employer or successor employers, to the clerk of the court where the order or judgment was granted for the purpose of paying the sums in default as well as those to be made in the future. The Where the assignment is of salary or wages due, the amount assigned shall not exceed the amount set forth in 15 U.S.C. s. 1673b (Supp. 1979) and the assignment order shall be binding upon the employer only for those amounts that represent child support and only upon receipt by the employer of a copy of the order, signed by the employee. For each payment deducted in compliance with such request, the employer shall receive one-dollar-to-cover-the-expense-created-by-the-deduction-which-amount-shall-be-deducted-from-the-money-due-the-employee payor may deduct a sum not exceeding one dollar as a reimbursement for costs. Compliance by an-employer a payor

with the court's request order shall operate as a discharge of his or her liability to the employee payee as to the affected portion of the employee's payee's wages, or trust income.

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

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

WILLIAM H. HARBOR
Speaker of the House

TERRY E. BRANSTAD
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2562, Sixty-eighth General Assembly.

BRUCE GRAHAM
Assistant Chief Clerk of the House

Approved May 14, 1980

ROBERT D. RAY
Governor