

Sen Judiciary 2/4 To Pass 3/21 (p. 456)

FEB 28 1984

HOUSE FILE 2373

Please On Calendar

BY COMMITTEE ON JUDICIARY
AND LAW ENFORCEMENT

(Formerly House File 2179)

Passed House, Date 3-7-84 (p. 860) Passed Senate, Date 3-28-84 (p. 1112)

Vote: Ayes 98 Nays 1 Vote: Ayes 46 Nays 0

Approved May 7, 1984

Approved House 4-5-84 (p. 1034)
96-0

Approved Senate 4-11-84 (p. 1443)
46-0

A BILL FOR

1 An Act relating to attorney fees in proceedings to enforce
2 or modify orders or decrees relating to dissolution of
3 marriage.

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

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HF 2373

1 Section 1. NEW SECTION. 598.36 ATTORNEY FEES IN PRO-
2 CEEDING TO ENFORCE OR MODIFY ORDER OR DECREE. In a proceeding
3 for the enforcement or modification of an order or decree
4 under this chapter the court may award attorney fees to the
5 prevailing party in an amount deemed reasonable by the court.

6 EXPLANATION

7 This bill permits the court to allow reasonable attorney
8 fees to the prevailing party in any proceeding to enforce
9 or modify an order or decree relating to dissolution of
10 marriage. The bill takes effect July 1 following its
11 enactment.

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HOUSE FILE 2373

S-5572

Amend House File 2373 as passed by the House as follows:

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

"Section 1. Section 598.23, Code 1983, is amended to read as follows:

598.23 CONTEMPT PROCEEDINGS--ALTERNATIVE ALTERNATIVES TO JAIL SENTENCE.

1. If ~~any-party~~ a person against whom any a temporary order or final decree has been entered shall willfully ~~disobey-the-same,-or-secrete-his-property,~~ he disobeys the order or decree, the person may be cited and punished by the court for contempt and be committed to the county jail for a period of time not to exceed thirty days for each offense.

2. The court may, as an alternative to punishment for contempt, make an order directing which, according to the subject matter of the order or decree involved, does the following:

a. Directs 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. 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 payor may deduct a sum not exceeding one dollar as a reimbursement for costs. Compliance by a payor with the court's order shall operate as a discharge of ~~his-or-her~~ the employer's liability to the payee as to the affected portion of the payee's wages, or trust income. Any employer who dismisses an employee due to the entry of an assignment order commits a simple misdemeanor.

b. Modifying visitation to compensate for lost visitation time or establishing joint custody for the child or transferring custody.

Sec. 2. Section 598.24, Code 1983, is amended by striking the section and inserting in lieu thereof the following:

598.24 ENFORCEMENT OF DECREE. When an action for a modification, order to show cause, or contempt of a dissolution, annulment, or separate maintenance

SENATE 40
MARCH 28, 1984

S-5572
PAGE 2

1 decree is brought on the grounds that a party to the
2 decree is in default or contempt of the decree, and
3 the court determines that the party is in default
4 or contempt of the decree, the costs of the proceeding,
5 including reasonable attorney's fees, may be taxed
6 against that party."
7 2. Title page, by striking lines 1 through 3,
8 and inserting in lieu thereof the following: "An
9 Act relating to actions to enforce the terms of a
10 dissolution, annulment, or separate maintenance decree
11 and providing a penalty."

S-5572 FILED
MARCH 27, 1984

BY JULIA B. GENTLEMAN
TOM MANN, JR.

Adopted 3/28 (p. 1110)

HOUSE AMENDMENT TO SENATE AMENDMENT TO
HOUSE FILE 2373

S-5832

1 Amend the Senate amendment H-5958 to House File
2 2373 as passed by the House as follows:
3 1. Page 1, by striking lines 3 through 50 and
4 inserting in lieu thereof the following:
5 "1. By striking everything after the enacting
6 clause and inserting in lieu thereof the following:
7 "Section 1. NEW SECTION. 598.36 ATTORNEY FEES
8 IN PROCEEDING TO MODIFY ORDER OR DECREE. In a
9 proceeding for the modification of an order or decree
10 under this chapter the court may award attorney fees
11 to the prevailing party in an amount deemed reasonable
12 by the court."
13 2. Page 2, by striking lines 1 through 11.
14 3. Title page, lines 1 and 2, by striking the
15 words "enforce or".

S-5832 FILED
APRIL 9, 1984

RECEIVED FROM THE HOUSE

Senate concurred 4/11 (p. 1443)

SENATE AMENDMENT TO HOUSE FILE 2373

H-5958

1 Amend House File 2373 as passed by the House as
2 follows:

60093
Amended
all
3 1. By striking everything after the enacting
4 clause and inserting in lieu thereof the following:
5 "Section 1. Section 598.23, Code 1983, is amended
6 to read as follows:

7 598.23 CONTEMPT PROCEEDINGS--~~ALTERNATIVE~~
8 ALTERNATIVES TO JAIL SENTENCE.

9 1. If any-party a person against whom any a
10 temporary order or final decree has been entered shall
11 willfully disobey-the-same,--or-secrete-his-property,
12 he disobeys the order or decree, the person may be
13 cited and punished by the court for contempt and be
14 committed to the county jail for a period of time
15 not to exceed thirty days for each offense.

16 2. The court may, as an alternative to punishment
17 for contempt, make an order directing which, according
18 to the subject matter of the order or decree involved,
19 does the following:

20 a. Directs the defaulting party to assign, trust
21 income or a sufficient amount in salary or wages due,
22 or to become due in the future, from an employer or
23 successor employers, to the clerk of the court where
24 the order or judgment was granted for the purpose
25 of paying the sums in default as well as those to
26 be made in the future. Where the assignment is of
27 salary or wages due, the amount assigned shall not
28 exceed the amount set forth in 15 U.S.C. s. 1673b
29 (Supp. 1979) and the assignment order shall be binding
30 upon the employer only for those amounts that represent
31 child support and only upon receipt by the employer
32 of a copy of the order, signed by the employee. For
33 each payment deducted in compliance with such request,
34 the payor may deduct a sum not exceeding one dollar
35 as a reimbursement for costs. Compliance by a payor
36 with the court's order shall operate as a discharge
37 of ~~his-or-her~~ the employer's liability to the payee
38 as to the affected portion of the payee's wages, or
39 trust income. Any employer who dismisses an employee
40 due to the entry of an assignment order commits a
41 simple misdemeanor.

42 b. Modifying visitation to compensate for lost
43 visitation time or establishing joint custody for
44 the child or transferring custody.

45 Sec. 2. Section 598.24, Code 1983, is amended
46 by striking the section and inserting in lieu thereof
47 the following:

48 598.24 ENFORCEMENT OF DECREE. When an action
49 for a modification, order to show cause, or contempt
50 of a dissolution, annulment, or separate maintenance

H-5958
Page Two

1 decree is brought on the grounds that a party to the
2 decree is in default or contempt of the decree, and
3 the court determines that the party is in default
4 or contempt of the decree, the costs of the proceeding,
5 including reasonable attorney's fees, may be taxed
6 against that party."

7 2. Title page, by striking lines 1 through 3,
8 and inserting in lieu thereof the following: "An
9 Act relating to actions to enforce the terms of a
10 dissolution, annulment, or separate maintenance decree
11 and providing a penalty."

H-5958 FILED MARCH 30, 1984 RECEIVED FROM THE SENATE
HOUSE FILE 2373

House amended (6009) & concurred 4/5 (p. 1689)

H-6009

1 Amend the Senate amendment H-5958 to House File
2 2373 as passed by the House as follows:

3 1. Page 1, by striking lines 3 through 50 and
4 inserting in lieu thereof the following:

5 "1. By striking everything after the enacting
6 clause and inserting in lieu thereof the following:

7 "Section 1. NEW SECTION. 598.36 ATTORNEY FEES
8 IN PROCEEDING TO MODIFY ORDER OR DECREE. In a
9 proceeding for the modification of an order or decree
10 under this chapter the court may award attorney fees
11 to the prevailing party in an amount deemed reasonable
12 by the court."

13 2. Title page, lines 1 and 2, by striking the
14 words "enforce or".

15 2. Page 2, by striking lines 1 through 11.

H-6009 FILED MARCH 30, 1984 BY LLOYD-JONES of Johnson

Adopted 4/5 (p. 1689)

AN ACT
RELATING TO ATTORNEY FEES IN PROCEEDINGS TO MODIFY ORDERS
OR DECREES RELATING TO DISSOLUTION OF MARRIAGE.

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

Section 1. NEW SECTION. 598.36 ATTORNEY FEES IN
PROCEEDING TO MODIFY ORDER OR DECREE. In a proceeding for
the modification of an order or decree under this chapter
the court may award attorney fees to the prevailing party
in an amount deemed reasonable by the court.

DONALD D. AVENSON
Speaker of the House

CHARLES P. MILLER
President Pro Tempore of the
Senate

I hereby certify that this bill originated in the House and
is known as House File 2373, Seventieth General Assembly.

JOSEPH O'HERN
Chief Clerk of the House

Approved May 7, 1984

TERRY E. BRANSTAD
Governor

H.F. 2373