

Judiciary
Mann, Chair
Gentleman
Horn

FILED JAN 9 1984

SENATE FILE 2005

BY MANN

Passed Senate, Date 2-1-84 (p 288) Passed House, Date 3-29-84 p. 1488
Vote: Ayes 47 Nays 2 Vote: Ayes 95 Nays 0
Approved April 24, 1984

A BILL FOR

1 An Act relating to the taxing of costs in an action to en-
2 force the terms of a dissolution, annulment, or separate
3 maintenance decree.

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

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S. 2005

2005
2005

1 Section 1. Chapter 598, Code 1983, is amended by adding
2 the following new section:

3 NEW SECTION. 598.42 ENFORCEMENT OF DECREE. When an ac-
4 tion for a modification, order to show cause, or contempt
5 of a dissolution, annulment, or separate maintenance decree
6 is brought on the grounds that a party to the decree is in
7 default or contempt of the decree, and the court determines
8 that the party is in default or contempt of the decree, the
9 costs of the proceeding, including reasonable attorney's fees,
10 may be taxed against that party. This section does not apply
11 to actions brought under sections 598.23 or 598.24.

12 EXPLANATION

13 This bill provides for the taxing of costs and reasonable
14 attorney's fees against a party found to be in default or
15 contempt of a dissolution, annulment, or separate maintenance
16 decree.

17 This Act becomes effective July 1 following its enactment.
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SENATE FILE 2005
FISCAL NOTE

REQUESTED BY SENATOR MANN

In compliance with a written request there is hereby submitted a
Fiscal Note for Senate File 2005 pursuant to Joint Rule 17.

Senate File 2005 provides for the taxing of costs and reasonable
attorney's fees against a party found to be in default or contempt
of a dissolution of marriage, annulment, or separate maintenance
decree.

Fiscal Impact: There is no fiscal impact. The bill requires that
the cost of court proceedings, including reasonable attorney's
fees, must be borne by the party found in default or contempt of
the decree.

(3030S, 84-017, HML)

SOURCE: JUDICIAL DEPARTMENT

RECEIVED BY THE SECRETARY OF THE SENATE, JANUARY 27, 1984
FILED: BY DENNIS C. PROUTY, DIRECTOR
JANUARY 31, 1984 LEGISLATIVE FISCAL BUREAU

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S-5056

Amend Senate File 2005 as follows:

1. Page 1, by inserting before line 1 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-er-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."

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

"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 ac-".

3. Page 1, by striking lines 10 and 11, and

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S-5056
PAGE 2

1 inserting in lieu thereof the following: "may be
2 taxed against that party."
3 4. Title page, line 1, by striking the words "the
4 taxing of costs in an action" and inserting in lieu
5 thereof the word "actions".
6 5. Title page, line 3, by inserting after the
7 word "decree" the words "and providing a penalty".

S-5056 FILED
JANUARY 30, 1984

BY TOM MANN, JR.
JULIA GENTLEMAN

(Adopted 2/1 (p. 288))

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

3 598.23 CONTEMPT PROCEEDINGS--~~ALTERNATIVE~~ ALTERNATIVES
4 TO JAIL SENTENCE.

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

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

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

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

1 transferring custody.

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

4 598.24 ENFORCEMENT OF DECREE. When an action for a
5 modification, order to show cause, or contempt of a
6 dissolution, annulment, or separate maintenance decree is
7 brought on the grounds that a party to the decree is in default
8 or contempt of the decree, and the court determines that the
9 party is in default or contempt of the decree, the costs of
10 the proceeding, including reasonable attorney's fees, may
11 be taxed against that party.

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SENATE FILE 2005

AN ACT

RELATING TO ACTIONS TO ENFORCE THE TERMS OF A DISSOLUTION,
ANNULMENT, OR SEPARATE MAINTENANCE DECREE AND PROVIDING
A PENALTY.

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

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 decree is
brought on the grounds that a party to the decree is in default
or contempt of the decree, and the court determines that the

party is in default or contempt of the decree, the costs of the proceeding, including reasonable attorney's fees, may be taxed against that party.

ROBERT T. ANDERSON
President of the Senate

DONALD D. AVENSON
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 2005, Seventieth General Assembly.

K. MARIE THAYER
Secretary of the Senate

Approved April 24, 1984

TERRY E. BRANSTAD
Governor