

JAN 11 1989

HOUSE FILE 20

BY PETERSON of Carroll

Judiciary & Law Enforcement

Amended to pass per amend 3248 2-28-89 (p. 612)

Passed House, Date 3-7-89 (p. 678) Passed Senate, Date 4-11-89 (p. 1346)

Vote: Ayes 93 Nays 0 Vote: Ayes 44 Nays 5

Approved May 15, 1989

A BILL FOR

1 An Act relating to dissolution of marriage and related
2 proceedings by providing for a pilot program of mandatory
3 mediation of contested issues of child custody and visitation.

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

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HF 20

1 Section 1. LEGISLATIVE FINDINGS. The general assembly
2 finds that the determination of child custody and visitation
3 arrangements in a dissolution of a marriage is an issue of
4 great importance to the social and emotional welfare of the
5 children and parents involved; that mediation has proven to be
6 an effective means of decision-making regarding child custody
7 and visitation in a dissolution case; and that mediation has
8 proven to be a cost-effective means of settling disputes while
9 ensuring that the essential rights of the persons involved are
10 protected. The general assembly determines that a pilot
11 program of mandatory mediation relating to the issues of child
12 custody and visitation in dissolution cases should be
13 established under the supervision of the supreme court.

324814 Sec. 2. PILOT PROGRAM FOR MEDIATION OF CHILD CUSTODY AND
15 VISITATION ISSUES IN DISSOLUTION CASES -- CONFIDENTIALITY.

16 1. The supreme court shall implement a pilot program for
17 mandatory mediation of child custody and visitation issues in
18 dissolution cases as described in this Act. The pilot program
19 shall be established in a district court for which the
20 appropriate judicial officers have agreed that the district
21 court will serve as the pilot program site for a period of two
22 years beginning January 1, 1990, and ending December 31, 1991.
23 The supreme court shall make a preliminary report in January
24 1991, and a final report in January 1992, to the general
25 assembly. The report shall contain recommendations regarding
26 the adoption of mediation of child custody and visitation
27 issues in dissolution cases in courts throughout the state.

28 2. For the purposes of this Act, unless the context
29 otherwise requires:

30 a. "Administrator" means the state court administrator or
31 the administrator's designee.

32 b. "Court" means the district court in which the pilot
33 program for the mandatory mediation of child custody and
34 visitation issues is located.

35 c. "Order" means a court order or modification of a court

1 order for the dissolution of a marriage, a child custody
2 award, a visitation order, or a mediation order.

3 d. "Program" means the pilot program for the mandatory
4 mediation of child custody and visitation issues in
5 dissolution cases established by this Act.

6 3. The memoranda, work products, and case files of the
7 mediator and all other confidential communications in the
8 possession of the mediator in a mediation proceeding conducted
9 pursuant to this Act shall be kept confidential, unless
10 otherwise ordered by the court, the lawful custodian of the
11 records, or by another person duly authorized to release the
12 records.

13 Sec. 3. MEDIATION OF CONTESTED ISSUES IN DISSOLUTION
14 CASES. For the purposes of the program:

15 1. In a proceeding on a petition, or other application for
16 an order, or modification of an order for the dissolution of a
17 marriage where there is at issue the custody of or visitation
18 with a child, the court shall order mediation and the
19 procedures to be followed by the parties in mediation.

20 The purpose of the mediation is to reduce acrimony which
21 may exist between the parties in order to promote a workable
22 settlement of contested issues concerning the custody of or
23 visitation with a child. The primary purpose of the mediation
24 is the development of an agreement which is in the best
25 interests of the child.

26 2. The court shall assign a qualified mediator as
27 described in subsection 7. The court shall not designate a
28 mediator who represents one of the parties, who has one of the
29 parties as a patient or a client, or who otherwise has a
30 conflict of interest which might affect the proceedings. The
31 fact that the person designated as mediator was the
32 conciliator for the parties under section 598.16 is not in
33 itself a disqualification.

34 3. Upon designation or selection of the mediator, the
35 court shall issue a mediation order setting forth the

1 procedures to be followed and the date for filing a written
2 mediation report. The administrator shall adopt rules for
3 these purposes.

4 4. The mediator shall be in charge of the mediation
5 proceedings subject to court supervision. The mediator shall
6 be impartial and shall use the mediator's best efforts to
7 effect a settlement of the contested issues. The mediator
8 shall inform the parties of the factors the court must
9 consider under sections 598.21 and 598.41 and chapter 598A.

10 5. The mediator shall not require mediation if one or more
11 of the following conditions exist:

12 a. The mediator determines there is no reasonable
13 possibility that mediation will promote settlement of the
14 issues in a custody dispute.

15 b. The mediator determines there is a substantial
16 allegation of direct physical or significant emotional harm to
17 a party or to a child.

18 c. The mediator determines that mediation will otherwise
19 fail to serve the best interests of the child.

3248 20 6. If a mediator determines, pursuant to subsection 5,
21 that a mediation is not required, then the mediator shall
22 request in writing to the court that the mediation be waived.

3248 23 7. The court shall develop and maintain a list of
24 qualified mediators available to conduct mediation proceedings
25 under this Act. Persons listed may be, but are not required
26 to be, members of the staff of the court. Persons listed may
27 be, but are not required to be, members of the staff of a
28 dispute resolution center under chapter 679, that is under
29 contract to the court to provide mediation services pursuant
30 to this Act.

3248 31 To qualify as a mediator, a person must have twenty-five
32 hours of training in mediation techniques and mediation
33 procedures as they apply to the Iowa court system and must
34 meet one of the following requirements:

35 a. Be a licensed attorney.

1 b. Have a master's degree from an accredited institution
2 in psychology, social work, marriage and family counseling, or
3 another behavioral science substantially related to marriage
4 and family interpersonal relationships, and have two years of
5 experience in counseling or psychotherapy, preferably related
6 to marriage and family problems. The court may substitute
7 additional experience for a portion of the education, or
8 additional education for a portion of the experience,
9 otherwise required by this paragraph.

10 8. Mediation proceedings under this Act shall be held in
11 private. Except for the contents of an agreement signed by
12 the parties and the mediator, all verbal and written
13 communications relating to the subject matter of the mediation
14 and transmitted between any party and the mediator or any
15 other person present during any stage of the proceeding are
16 confidential communications. The mediator or a party or other
17 person shall not be examined in any judicial or administrative
18 proceeding regarding the contents of the agreement or any
19 communications made confidential by this Act or subject to
20 judicial or administrative process requiring the disclosure of
21 these confidential communications without the consent of the
22 parties. However, this Act does not prohibit the mediator's
23 reporting of information concerning abuse if the mediator is
24 otherwise required by law to report the information.

25 9. Except as otherwise provided in the mediation order
26 issued pursuant to this Act, the mediator shall exclude
27 counsel from participation in the mediation proceeding unless
28 the mediator determines that including counsel is appropriate
29 or necessary.

30 10. The mediator shall consider the needs and interests of
31 the child. The mediator may interview the child and may
32 require the child's participation in the proceeding if the
33 mediator determines the child's participation is appropriate
34 or necessary.

35 11. Any agreement reached by the parties as a result of

1 mediation shall be reported to the court on or before the
2 reporting date established by the court. The agreement may
3 include supporting factual information.

4 12. If the parties have not reached agreement as a result
5 of mediation, the mediator shall report that fact to the court
6 on or before the reporting date established by the court. The
7 report shall state the mediation procedures undertaken and
8 other nonconfidential matters that the court requires. This
9 report shall be a part of the record unless otherwise ordered
10 by the court.

11 13. The costs of mediation procedures shall be paid by the
12 parties, pursuant to rules prescribed by the administrator.

13 EXPLANATION

14 This bill establishes a pilot program of mediation in
15 disputed issues of child custody and visitation in dissolution
16 cases. The program shall be administered by the state court
17 administrator and implemented in a district court which has
18 agreed to serve as the project site.

19 The court is required to order parties to participate in
20 mediation on the issues of child custody and visitation.
21 However, mediation cannot be mandatory in a case where there
22 is a substantial allegation of direct physical or significant
23 emotional harm to a party or to a child.

24 The court would designate a mediator from a list of
25 qualified mediators. Mediators may be court employees or
26 employees of a dispute resolution center under contract to the
27 court. To qualify as a mediator, a person must have training
28 in mediation techniques and either be an attorney or have a
29 master's degree and experience in psychology, social work, or
30 counseling. The mediator must be impartial.

31 The court shall provide an evaluation of the program and
32 recommendations as to the feasibility of adopting mediation
33 statewide. The dates of the pilot program are specified.

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HOUSE FILE 20

H-3248

1 Amend House File 20 as follows:

2 1. Page 1, by striking lines 23 through 27 and
3 inserting the following: "The supreme court shall
4 cause a preliminary report to be submitted to the
5 general assembly in January 1991, with a final report
6 to be submitted in January 1992. The final report
7 shall contain recommendations regarding the adoption
8 of mediation of child custody and visitation issues in
9 dissolution cases in courts throughout the state. The
10 final report shall include, but not be limited to, all
11 of the following:

12 a. The average length of time for cases to proceed
13 from commencement to final settlement in the mediation
14 process.

15 b. The degree of party compliance with the terms
16 of a settlement.

17 c. The frequency of modifications of mediated
18 settlements.

19 d. The satisfaction of the parties with respect to
20 access to mediation, participation in mediation, and
21 fairness of the mediation process.

22 e. The amount of time and money saved by the
23 parties and court as a result of proceeding through
24 mediation rather than litigation."

25 2. Page 3, by inserting after line 19 the
26 following:

27 "d. The mediator determines that a verified
28 petition alleging domestic abuse has been filed by a
29 party pursuant to chapter 236."

30 3. Page 3, by striking lines 25 and 26 and
31 inserting the following: "under this Act. Persons
32 listed may".

33 4. By striking page 3, line 33 through page 4,
34 line 9 and inserting the following: "procedures as
35 they apply to the Iowa court system."

By COMMITTEE ON JUDICIARY AND
LAW ENFORCEMENT
JAY of Appanoose, Chairperson

H-3248 FILED FEBRUARY 28, 1989

adopted 3-7-89 (p. 678)

Judiciary Amend + Depress per amend 3601 4-6-89 (p. 1258)

HOUSE FILE 20
BY PETERSON of Carroll

(As Amended and Passed by the House March 7, 1989)

Passed House, Date 4-24-89 (p. 1803) Passed Senate, Date 4-1-89 (p. 1346)
Vote: Ayes 95 Nays 0 Vote: Ayes 44 Nays 5
Approved May 15, 1989

A BILL FOR

1 An Act relating to dissolution of marriage and related
2 proceedings by providing for a pilot program of mandatory
3 mediation of contested issues of child custody and visitation.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

House Amendments _____

HOUSE FILE 20

S-3601

1 Amend House File 20 as amended, passed, and
2 reprinted by the House as follows:
3 1. Page 2, line 31, by striking the words "there
4 is at issue".
5 2. Page 2, line 32, by inserting after the word
6 "child" the following: "is contested".
7 3. Page 5, line 16, by inserting after the word
8 "parties" the following: "unless one or both of the
9 parties are indigent".

By COMMITTEE ON JUDICIARY
DONALD V. DOYLE, Chairperson

S-3601 FILED APRIL 7, 1989 Adopted 4-11-89 (p. 1346)

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1 Section 1. LEGISLATIVE FINDINGS. The general assembly
2 finds that the determination of child custody and visitation
3 arrangements in a dissolution of a marriage is an issue of
4 great importance to the social and emotional welfare of the
5 children and parents involved; that mediation has proven to be
6 an effective means of decision-making regarding child custody
7 and visitation in a dissolution case; and that mediation has
8 proven to be a cost-effective means of settling disputes while
9 ensuring that the essential rights of the persons involved are
10 protected. The general assembly determines that a pilot
11 program of mandatory mediation relating to the issues of child
12 custody and visitation in dissolution cases should be
13 established under the supervision of the supreme court.

14 Sec. 2. PILOT PROGRAM FOR MEDIATION OF CHILD CUSTODY AND
15 VISITATION ISSUES IN DISSOLUTION CASES -- CONFIDENTIALITY.

16 1. The supreme court shall implement a pilot program for
17 mandatory mediation of child custody and visitation issues in
18 dissolution cases as described in this Act. The pilot program
19 shall be established in a district court for which the
20 appropriate judicial officers have agreed that the district
21 court will serve as the pilot program site for a period of two
22 years beginning January 1, 1990, and ending December 31, 1991.
23 The supreme court shall cause a preliminary report to be
24 submitted to the general assembly in January 1991, with a
25 final report to be submitted in January 1992. The final
26 report shall contain recommendations regarding the adoption of
27 mediation of child custody and visitation issues in
28 dissolution cases in courts throughout the state. The final
29 report shall include, but not be limited to, all of the
30 following:

31 a. The average length of time for cases to proceed from
32 commencement to final settlement in the mediation process.

33 b. The degree of party compliance with the terms of a
34 settlement.

35 c. The frequency of modifications of mediated settlements.

1 d. The satisfaction of the parties with respect to access
2 to mediation, participation in mediation, and fairness of the
3 mediation process.

4 e. The amount of time and money saved by the parties and
5 court as a result of proceeding through mediation rather than
6 litigation.

7 2. For the purposes of this Act, unless the context
8 otherwise requires:

9 a. "Administrator" means the state court administrator or
10 the administrator's designee.

11 b. "Court" means the district court in which the pilot
12 program for the mandatory mediation of child custody and
13 visitation issues is located.

14 c. "Order" means a court order or modification of a court
15 order for the dissolution of a marriage, a child custody
16 award, a visitation order, or a mediation order.

17 d. "Program" means the pilot program for the mandatory
18 mediation of child custody and visitation issues in
19 dissolution cases established by this Act.

20 3. The memoranda, work products, and case files of the
21 mediator and all other confidential communications in the
22 possession of the mediator in a mediation proceeding conducted
23 pursuant to this Act shall be kept confidential, unless
24 otherwise ordered by the court, the lawful custodian of the
25 records, or by another person duly authorized to release the
26 records.

27 Sec. 3. MEDIATION OF CONTESTED ISSUES IN DISSOLUTION
28 CASES. For the purposes of the program:

409, 3001- 29 1. In a proceeding on a petition, or other application for
30 an order, or modification of an order for the dissolution of a
31 marriage where there is at issue the custody of or visitation
32 with a child, the court shall order mediation and the
33 procedures to be followed by the parties in mediation.

34 The purpose of the mediation is to reduce acrimony which
35 may exist between the parties in order to promote a workable

1 settlement of contested issues concerning the custody of or
2 visitation with a child. The primary purpose of the mediation
3 is the development of an agreement which is in the best
4 interests of the child.

5 2. The court shall assign a qualified mediator as
6 described in subsection 7. The court shall not designate a
7 mediator who represents one of the parties, who has one of the
8 parties as a patient or a client, or who otherwise has a
9 conflict of interest which might affect the proceedings. The
10 fact that the person designated as mediator was the
11 conciliator for the parties under section 598.16 is not in
12 itself a disqualification.

13 3. Upon designation or selection of the mediator, the
14 court shall issue a mediation order setting forth the
15 procedures to be followed and the date for filing a written
16 mediation report. The administrator shall adopt rules for
17 these purposes.

18 4. The mediator shall be in charge of the mediation
19 proceedings subject to court supervision. The mediator shall
20 be impartial and shall use the mediator's best efforts to
21 effect a settlement of the contested issues. The mediator
22 shall inform the parties of the factors the court must
23 consider under sections 598.21 and 598.41 and chapter 598A.

24 5. The mediator shall not require mediation if one or more
25 of the following conditions exist:

26 a. The mediator determines there is no reasonable
27 possibility that mediation will promote settlement of the
28 issues in a custody dispute.

29 b. The mediator determines there is a substantial
30 allegation of direct physical or significant emotional harm to
31 a party or to a child.

32 c. The mediator determines that mediation will otherwise
33 fail to serve the best interests of the child.

34 d. The mediator determines that a verified petition
35 alleging domestic abuse has been filed by a party pursuant to

1 chapter 236.

2 6. If a mediator determines, pursuant to subsection 5,
3 that a mediation is not required, then the mediator shall
4 request in writing to the court that the mediation be waived.

5 7. The court shall develop and maintain a list of
6 qualified mediators available to conduct mediation proceedings
7 under this Act. Persons listed may be, but are not required
8 to be, members of the staff of a dispute resolution center
9 under chapter 679, that is under contract to the court to
10 provide mediation services pursuant to this Act.

11 To qualify as a mediator, a person must have twenty-five
12 hours of training in mediation techniques and mediation
13 procedures as they apply to the Iowa court system.

14 8. Mediation proceedings under this Act shall be held in
15 private. Except for the contents of an agreement signed by
16 the parties and the mediator, all verbal and written
17 communications relating to the subject matter of the mediation
18 and transmitted between any party and the mediator or any
19 other person present during any stage of the proceeding are
20 confidential communications. The mediator or a party or other
21 person shall not be examined in any judicial or administrative
22 proceeding regarding the contents of the agreement or any
23 communications made confidential by this Act or subject to
24 judicial or administrative process requiring the disclosure of
25 these confidential communications without the consent of the
26 parties. However, this Act does not prohibit the mediator's
27 reporting of information concerning abuse if the mediator is
28 otherwise required by law to report the information.

29 9. Except as otherwise provided in the mediation order
30 issued pursuant to this Act, the mediator shall exclude
31 counsel from participation in the mediation proceeding unless
32 the mediator determines that including counsel is appropriate
33 or necessary.

34 10. The mediator shall consider the needs and interests of
35 the child. The mediator may interview the child and may

1 require the child's participation in the proceeding if the
2 mediator determines the child's participation is appropriate
3 or necessary.

4 11. Any agreement reached by the parties as a result of
5 mediation shall be reported to the court on or before the
6 reporting date established by the court. The agreement may
7 include supporting factual information.

8 12. If the parties have not reached agreement as a result
9 of mediation, the mediator shall report that fact to the court
10 on or before the reporting date established by the court. The
11 report shall state the mediation procedures undertaken and
12 other nonconfidential matters that the court requires. This
13 report shall be a part of the record unless otherwise ordered
14 by the court.

15 13. The costs of mediation procedures shall be paid by the
16 parties, pursuant to rules prescribed by the administrator.

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HOUSE FILE 20
FISCAL NOTE

A fiscal note for HOUSE FILE 20 is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note is available from the Legislative Fiscal Bureau to members of the Legislature upon request.

House File 20 establishes a pilot program of mediation in disputed issues of child custody and visitation in dissolution cases.

Assumptions:

1. The pilot program would be conducted in a moderate to high volume district court.
2. The program would run for two years.
3. The program would be administered by the State Court Administrator or designee.
4. Since the program would be on a trial basis, it is assumed that it could be administered by existing court personnel. This would not be the case if the program went statewide.
5. The costs of mediation procedures would be paid by the parties.
6. An evaluation of the project would be done by an independent outside source.

Fiscal Effect:

The Judicial Department estimates a cost of \$20,000 to administer this pilot project. This cost is derived from the evaluation of the program. Because the program is mandated to start in January, 1990, the expenditure for the evaluation is anticipated to begin in early FY 1991 and continue partially through FY 1992.

The costs of mediation, in this legislation, are to be paid by the participating parties. There is no provision, however, covering such circumstances wherein the parties involved are unable to pay the mediation expenses.

(LSB 1298h, VYW)

FILED MARCH 10, 1989

BY DENNIS PROUTY, FISCAL DIRECTOR

SENATE AMENDMENT TO HOUSE FILE 20

H-4009

1 Amend House File 20 as amended, passed, and
2 reprinted by the House as follows:

3 1. Page 2, line 31, by striking the words "there
4 is at issue".

5 2. Page 2, line 32, by inserting after the word
6 "child" the following: "is contested".

7 3. Page 5, line 16, by inserting after the word
8 "parties" the following: "unless one or both of the
9 parties are indigent".

RECEIVED FROM THE SENATE

H-4009 FILED APRIL 13, 1989

House concurred 4-24-89 (p1803)

HOUSE FILE 20

AN ACT

RELATING TO DISSOLUTION OF MARRIAGE AND RELATED PROCEEDINGS
BY PROVIDING FOR A PILOT PROGRAM OF MANDATORY MEDIATION
OF CONTESTED ISSUES OF CHILD CUSTODY AND VISITATION.

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

Section 1. LEGISLATIVE FINDINGS. The general assembly finds that the determination of child custody and visitation arrangements in a dissolution of a marriage is an issue of great importance to the social and emotional welfare of the children and parents involved; that mediation has proven to be an effective means of decision-making regarding child custody and visitation in a dissolution case; and that mediation has proven to be a cost-effective means of settling disputes while ensuring that the essential rights of the persons involved are

protected. The general assembly determines that a pilot program of mandatory mediation relating to the issues of child custody and visitation in dissolution cases should be established under the supervision of the supreme court.

Sec. 2. PILOT PROGRAM FOR MEDIATION OF CHILD CUSTODY AND VISITATION ISSUES IN DISSOLUTION CASES -- CONFIDENTIALITY.

1. The supreme court shall implement a pilot program for mandatory mediation of child custody and visitation issues in dissolution cases as described in this Act. The pilot program shall be established in a district court for which the appropriate judicial officers have agreed that the district court will serve as the pilot program site for a period of two years beginning January 1, 1990, and ending December 31, 1991. The supreme court shall cause a preliminary report to be submitted to the general assembly in January 1991, with a final report to be submitted in January 1992. The final report shall contain recommendations regarding the adoption of mediation of child custody and visitation issues in dissolution cases in courts throughout the state. The final report shall include, but not be limited to, all of the following:

- a. The average length of time for cases to proceed from commencement to final settlement in the mediation process.
- b. The degree of party compliance with the terms of a settlement.
- c. The frequency of modifications of mediated settlements.
- d. The satisfaction of the parties with respect to access to mediation, participation in mediation, and fairness of the mediation process.
- e. The amount of time and money saved by the parties and court as a result of proceeding through mediation rather than litigation.

2. For the purposes of this Act, unless the context otherwise requires:

- a. "Administrator" means the state court administrator or the administrator's designee.

b. "Court" means the district court in which the pilot program for the mandatory mediation of child custody and visitation issues is located.

c. "Order" means a court order or modification of a court order for the dissolution of a marriage, a child custody award, a visitation order, or a mediation order.

d. "Program" means the pilot program for the mandatory mediation of child custody and visitation issues in dissolution cases established by this Act.

3. The memoranda, work products, and case files of the mediator and all other confidential communications in the possession of the mediator in a mediation proceeding conducted pursuant to this Act shall be kept confidential, unless otherwise ordered by the court, the lawful custodian of the records, or by another person duly authorized to release the records.

Sec. 3. MEDIATION OF CONTESTED ISSUES IN DISSOLUTION CASES. For the purposes of the program:

1. In a proceeding on a petition, or other application for an order, or modification of an order for the dissolution of a marriage where the custody of or visitation with a child is contested, the court shall order mediation and the procedures to be followed by the parties in mediation.

The purpose of the mediation is to reduce acrimony which may exist between the parties in order to promote a workable settlement of contested issues concerning the custody of or visitation with a child. The primary purpose of the mediation is the development of an agreement which is in the best interests of the child.

2. The court shall assign a qualified mediator as described in subsection 1. The court shall not designate a mediator who represents one of the parties, who has one of the parties as a patient or a client, or who otherwise has a conflict of interest which might affect the proceedings. The fact that the person designated as mediator was the conciliator for the parties under section 598.16 is not in itself a disqualification.

3. Upon designation or selection of the mediator, the court shall issue a mediation order setting forth the procedures to be followed and the date for filing a written mediation report. The administrator shall adopt rules for these purposes.

4. The mediator shall be in charge of the mediation proceedings subject to court supervision. The mediator shall be impartial and shall use the mediator's best efforts to effect a settlement of the contested issues. The mediator shall inform the parties of the factors the court must consider under sections 598.21 and 598.41 and chapter 598A.

5. The mediator shall not require mediation if one or more of the following conditions exist:

a. The mediator determines there is no reasonable possibility that mediation will promote settlement of the issues in a custody dispute.

b. The mediator determines there is a substantial allegation of direct physical or significant emotional harm to a party or to a child.

c. The mediator determines that mediation will otherwise fail to serve the best interests of the child.

d. The mediator determines that a verified petition alleging domestic abuse has been filed by a party pursuant to chapter 236.

6. If a mediator determines, pursuant to subsection 5, that a mediation is not required, then the mediator shall request in writing to the court that the mediation be waived.

7. The court shall develop and maintain a list of qualified mediators available to conduct mediation proceedings under this Act. Persons listed may be, but are not required to be, members of the staff of a dispute resolution center under chapter 679, that is under contract to the court to provide mediation services pursuant to this Act.

To qualify as a mediator, a person must have twenty-five hours of training in mediation techniques and mediation procedures as they apply to the Iowa court system.

8. Mediation proceedings under this Act shall be held in private. Except for the contents of an agreement signed by the parties and the mediator, all verbal and written communications relating to the subject matter of the mediation and transmitted between any party and the mediator or any other person present during any stage of the proceeding are confidential communications. The mediator or a party or other person shall not be examined in any judicial or administrative proceeding regarding the contents of the agreement or any communications made confidential by this Act or subject to judicial or administrative process requiring the disclosure of these confidential communications without the consent of the parties. However, this Act does not prohibit the mediator's reporting of information concerning abuse if the mediator is otherwise required by law to report the information.

9. Except as otherwise provided in the mediation order issued pursuant to this Act, the mediator shall exclude counsel from participation in the mediation proceeding unless the mediator determines that including counsel is appropriate or necessary.

10. The mediator shall consider the needs and interests of the child. The mediator may interview the child and may require the child's participation in the proceeding if the mediator determines the child's participation is appropriate or necessary.

11. Any agreement reached by the parties as a result of mediation shall be reported to the court on or before the reporting date established by the court. The agreement may include supporting factual information.

12. If the parties have not reached agreement as a result of mediation, the mediator shall report that fact to the court on or before the reporting date established by the court. The report shall state the mediation procedures undertaken and other nonconfidential matters that the court requires. This report shall be a part of the record unless otherwise ordered by the court.

13. The costs of mediation procedures shall be paid by the parties unless one or both of the parties are indigent, pursuant to rules prescribed by the administrator.

DONALD D. AVENSON
Speaker of the House

JO ANN ZIMMERRAN
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 20, Seventy-third General Assembly.

JOSEPH O'HERN
Chief Clerk of the House

Approved May 15, 1989

TERRY E. BRANSTAD
Governor