

MAR 7 1996

WAYS AND MEANS

HOUSE FILE **2473**
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HSB 632)

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to marriage and divorce and providing for a tax
2 credit for premarital counseling and early marriage
3 counseling, and providing for repeals.

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

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HOUSE FILE 2473

H-5245

1 Amend House File 2473 as follows:
2 1. Page 16, by striking lines 2 through 4, and
3 inserting the following: "~~becoming self-supporting at~~
4 ~~a standard of living reasonably-comparable-to-that~~
5 ~~enjoyed-during-the-marriage, -and-the-length-of-time~~
6 ~~necessary-to-achieve-this-goal~~ that is equitable under
7 the circumstances of the case."

By FALLON of Polk

H-5245 FILED MARCH 7, 1996

HF 2473

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1 DIVISION I

2 SUBSTANTIVE CHANGES

3 Section 1. NEW SECTION. 422.12F PREMARITAL COUNSELING
4 CREDIT.

5 If a married couple participated in premarital counseling
6 as provided in section 595.20, and demonstrates participation
7 in the counseling by submission of a sworn affidavit by the
8 counselor providing the services, the taxes imposed under this
9 division for the year in which the marriage took place shall,
10 in addition to any other reductions permitted under this
11 division, be reduced by the actual cost of the counseling
12 services not to exceed one hundred dollars. Individuals who
13 are married but elect to file separate returns or who file
14 separately on a combined return form must allocate the credit
15 between the spouses in the ratio which each spouse's Iowa
16 source net income bears to the combined Iowa source net income
17 of both taxpayers. Any credit in excess of the tax liability
18 shall be refunded. In lieu of claiming a refund, a taxpayer
19 may elect to have the overpayment shown on the taxpayer's
20 final, completed return credited to the tax liability for the
21 following taxable year.

22 Sec. 2. NEW SECTION. 422.12G EARLY MARRIAGE COUNSELING
23 CREDIT.

24 If a married couple participated in early marriage
25 counseling as provided in section 595.21, and demonstrates
26 participation in the counseling by submission of a sworn
27 affidavit by the counselor providing the services, the taxes
28 imposed under this division shall, in addition to any other
29 reductions permitted under this division, be reduced by the
30 actual cost of the counseling services not to exceed five
31 hundred dollars over the course of the five-year period. The
32 credit may be taken in one year or may be taken over the
33 course of a five-year period. Individuals who are married but
34 elect to file separate returns or who file separately on a
35 combined return form must allocate the credit between the

1 following completion of the program or following the viewing
2 of the videotape. The certificate constitutes evidence of
3 participation or viewing and shall be submitted by an
4 applicant to the clerk of the district court prior to the
5 issuance of a license to marry.

6 Sec. 4. NEW SECTION. 595.20 PREMARITAL COUNSELING.

7 1. "Premarital counseling" means one or more meetings,
8 totalling at least six hours, between two parties, who are
9 eligible to enter into a marriage contract and have either
10 made application for a marriage license or intend to apply for
11 a marriage license, and one or more neutral parties for
12 purposes of discussing the rights, expectations, needs,
13 obligations, and other commitments incident to the marriage
14 contract, including, but not limited to, discussion about
15 children, finances, relationships with new family members,
16 sex, religion, roles, and communication and conflict
17 resolution skills.

18 2. In the course of premarital counseling, the parties and
19 the counselor shall evaluate the parties' compatibility as a
20 couple and their commitment to one another.

21 3. Premarital counseling may be provided by any or a
22 combination of any of the following:

23 a. A member of the clergy.

24 b. Staff of a church or other religious organization with
25 training in premarital counseling.

26 c. A trained or certified counselor.

27 Sec. 5. NEW SECTION. 595.21 EARLY MARRIAGE COUNSELING.

28 1. "Early marriage counseling" means one or more meetings,
29 during the first five years of a marriage, between the two
30 married parties, and one or more neutral parties for purposes
31 of discussing the rights, expectations, needs, obligations,
32 and other commitments incident to the marriage contract,
33 including, but not limited to, discussion about children,
34 finances, relationships with family members, sex, religion,
35 roles, and communication and conflict resolution skills.

1 2. Early marriage counseling may be provided by any or a
2 combination of any of the following:

3 a. A member of the clergy.

4 b. Staff of a church or other religious organization
5 trained in marriage counseling.

6 c. A trained or certified counselor.

7 Sec. 6. Section 598.1, Code 1995, is amended by striking
8 the section and inserting in lieu thereof the following:

9 598.1 LEGISLATIVE FINDINGS AND INTENT.

10 The general assembly of the state of Iowa finds that the
11 family is the unit of self-government best able to teach and
12 practice the virtues that benefit not only the members of the
13 family, but also all citizens of this state and of this
14 country. The general assembly further finds that the
15 institution of marriage embodies virtues which promote
16 societal stability, including loyalty, commitment, trust,
17 mutual support, faithfulness, self-sacrifice, adherence to
18 duty, hope, and love. The general assembly also finds that
19 the integrity and permanence of the marriage relationship is
20 of vital importance to the welfare of society and of the
21 people of the state of Iowa.

22 The general assembly finds that vast social, financial, and
23 human costs have resulted from the breakup of families. Crime
24 and disrespect for authority derive in large part from the
25 breakdown of authority within the family unit which, in turn,
26 is largely a result of divorce and births outside of wedlock
27 and the separation of parents from their children. Police,
28 courts, schools, social agencies, state government, and
29 private volunteer groups can provide, at best, only secondary
30 assistance in child rearing or the regulation of human
31 relationships and then only at increasingly prohibitive costs.
32 Furthermore, social science demonstrates that divorced spouses
33 and their children suffer severe declines in financial status
34 and are much more susceptible to depression and other mental
35 health problems than are persons involved in stable marriages.

1 spouses in the ratio which each spouse's Iowa source net
2 income bears to the combined Iowa source net income of both
3 taxpayers. Any credit in excess of the tax liability shall be
4 refunded. In lieu of claiming a refund, a taxpayer may elect
5 to have the overpayment shown on the taxpayer's final,
6 completed return credited to the tax liability for the
7 following taxable year.

8 Sec. 3. NEW SECTION. 595.3A RIGHTS AND OBLIGATIONS --
9 NOTIFICATION.

10 1. Upon the filing of an application for a license to
11 marry and prior to the issuance of a license to marry, all of
12 the following conditions shall be met:

13 a. The clerk of the district court shall provide the
14 applicants with written notice of the legal rights and
15 obligations incident to marriage and divorce.

16 b. The applicants shall attend a program designed to
17 provide information regarding the legal rights and obligations
18 incident to marriage and divorce or shall view a videotape
19 covering these topics.

20 2. The judicial council shall make recommendations to the
21 supreme court regarding the written information, the program,
22 and the videotape for applicants for a license to marry. The
23 supreme court shall prescribe rules based upon these
24 recommendations for the implementation and administration of
25 the written information, the program, and the videotape. The
26 rules prescribed shall include, at a minimum, all of the
27 following:

28 a. That the content of the information provided through
29 the written document, the program, and the videotape shall
30 include all of the following:

31 (1) The legal rights and obligations of each party to a
32 marriage or divorce relative to agreements, arrangements, or
33 transactions entered into by either party prior to or during
34 the marriage including but not limited to insurance coverage
35 and consumer credit transactions.

- 1 (2) Inheritance rights.
- 2 (3) Support obligations during the marriage.
- 3 (4) Ownership of property, both real and personal, whether
4 existing prior to the marriage or acquired or received by
5 either party during the marriage.
- 6 (5) The effect of a premarital agreement.
- 7 (6) Support obligations which may be imposed following a
8 divorce.
- 9 (7) Distribution of property pursuant to a divorce decree.
- 10 (8) Arrangements for awarding of custody and provision of
11 support for minor children pursuant to a divorce decree.
- 12 b. A requirement that the written document, the program,
13 and the videotape provide a means for evaluation by the
14 recipients or participants. Each judicial district shall
15 submit an annual evaluation report to the judicial council
16 based upon the responses received from the recipients or
17 participants.
- 18 c. A provision that a judicial district may administer the
19 program or the videotape through a contract with a private or
20 public entity. The services provided under a contract shall
21 meet all of the criteria specified in paragraph "a".
- 22 3. Each judicial district shall establish a process to
23 provide applicants for a license to marry with the written
24 notice of the legal rights and obligations incident to
25 marriage and to divorce and with information regarding
26 required participation in the program or required viewing of
27 the videotape. The written notice and information regarding
28 the program and videotape shall be provided through the office
29 of the clerk of the district court.
- 30 4. Each applicant for a license to marry shall be
31 responsible for making arrangements to participate in the
32 program or to view the videotape, and each applicant shall
33 participate in the program or view the videotape at the
34 applicant's own expense.
- 35 5. Each applicant shall be provided with a certificate

1 Additionally, incidents of child abuse occur in
2 disproportionately great numbers at the hands of individuals
3 living in households in which the individuals are not the
4 parents of the abused child.

5 Consequently, the general assembly concludes that divorce
6 should be discouraged and that the institution of marriage
7 requires strengthening and that, as a matter of state policy
8 and legal presumption, the laws of this state should be
9 construed to strongly support the formation, existence,
10 continuation, and permanency of marital relationships, and
11 should be construed to discourage the dissolution,
12 infringement, or inhibition of marriages.

13 It is therefore the intent of the general assembly that
14 this chapter be construed to effectuate the following
15 purposes:

16 1. To promote the best interests of children by assuring
17 that as many children as possible are under the direct care,
18 parental supervision, and custody of both their mothers and
19 their fathers.

20 2. To promote the best interests of Iowa taxpayers and
21 citizens, by reducing the burden of social and human costs
22 generated by the breaking up of families and homes which
23 results from divorce.

24 3. To promote the best interests of men and women, both as
25 individuals owing legal and moral duties to one another and as
26 participants in the institution of marriage, by furthering
27 policies which support the parties' marital vows, mental and
28 financial well-being, and social responsibility.

29 Sec. 7. NEW SECTION. 598.1A DEFINITIONS.

30 As used in this chapter, unless the context otherwise
31 requires:

32 1. "Best interest of the child" includes, but is not
33 limited to, the opportunity for maximum continuous physical
34 and emotional contact possible with both parents, unless
35 direct physical or significant emotional harm to the child may

1 result from this contact. Refusal by one parent to provide
2 this opportunity without just cause shall be considered
3 harmful to the best interest of the child.

4 2. "Divorce" means the dissolving of a marriage
5 relationship by an order or decree of a court of competent
6 jurisdiction.

7 3. "Family" means the social unit comprising a husband,
8 wife, and any dependent children, including stepchildren and
9 adoptive children.

10 4. "Household" means the social unit comprising an
11 individual or individuals exercising legal authority together
12 with others related by consanguinity or affinity, living
13 together in the same home under authority of a designated
14 head.

15 5. "In-kind support" means care of any minor children and
16 maintenance of the marital home.

17 6. "Joint custody" or "joint legal custody" means an award
18 of custody of a minor child to both parents under which both
19 parents have rights and responsibilities toward the child and
20 under which neither parent has rights superior to those of the
21 other parent. The court may award physical care to one parent
22 only.

23 7. "Legitimate objects of matrimony" means fundamental
24 reasons and purposes for entering and continuing in a marriage
25 relationship, including, but not limited to, the following:

26 a. Procreation and the raising of children.

27 b. Protection of the other spouse and any children from
28 harm.

29 c. Providing for the needs of the other spouse and any
30 children.

31 d. Establishment of a marital home.

32 e. The advancement of the best interests of both spouses
33 and any children.

34 f. Love, companionship, comfort, physical care and
35 assistance, and other forms of consortium between the spouses

1 and any children.

2 g. Sexual relations between spouses.

3 8. "Marital home" means the residence established by a
4 husband and wife which is, or is intended to be, the residence
5 for both spouses and any children of the marriage.

6 9. "Marriage" is the legal relationship between a man and
7 a woman and excluding all others, which is established by a
8 civil contract between them as a voluntary social, legal,
9 physical, familial, and economic unit for life, for the
10 discharge of the duties imposed by the marriage contract and
11 for the joint pursuit of the legitimate objects of matrimony.

12 10. "Minor child" means any person under legal age.

13 11. "Physical care" means the right and responsibility to
14 maintain the principal home of the minor child and provide for
15 the routine care of the child.

16 12. "Residence" means a fixed or permanent abode in which
17 a person lives and to which the person, after being absent,
18 returns or intends to return.

19 13. "Separate maintenance" means an allowance granted to
20 one spouse for support during the period in which the spouses
21 are living apart, in separate households.

22 14. "Support" means the duty owed by a spouse to another,
23 or by a parent to a child, to advance the general welfare of
24 the support recipient and includes, but is not limited to,
25 provision of food, clothing, shelter, and other necessities of
26 life. Support may be fixed by court order in the form of
27 periodic cash support payments. The obligations may include
28 support for a child who is between the ages of eighteen and
29 twenty-two years who is regularly attending an accredited
30 school in pursuance of a course of study leading to a high
31 school diploma or its equivalent, or regularly attending a
32 course of vocational-technical training either as a part of a
33 regular school program or under special arrangements adapted
34 to the individual person's needs; or is, in good faith, a
35 full-time student in a college, university, or community

1 college; or has been accepted for admission to a college,
2 university, or community college and the next regular term has
3 not yet begun; or a child of any age who is dependent on the
4 parties to the divorce proceedings because of physical or
5 mental disability.

6 15. "Support payments" means an amount which the court may
7 require either of the parties to pay under a temporary order
8 or a final judgment or decree, and may include alimony, child
9 support, maintenance, medical payments, and any other term
10 used to describe these support obligations.

11 Sec. 8. Section 598.5, Code 1995, is amended by adding the
12 following new subsections:

13 NEW SUBSECTION. 11. Except where the respondent is a
14 resident of this state and is served by personal service,
15 state that the petitioner has been a resident of the state for
16 the last year, specifying the county in which the petitioner
17 has resided, and the length of the residence in the state
18 after deducting all absences from the state; and that the
19 maintenance of the residence has been in good faith and not
20 for the purpose of obtaining a divorce only.

21 NEW SUBSECTION. 12. Make any necessary averments as to
22 child custody required pursuant to section 598A.9.

23 Sec. 9. Section 598.7A, Code Supplement 1995, is amended
24 to read as follows:

25 598.7A ~~DISSOLUTION-OF-MARRIAGE~~ DOMESTIC RELATIONS
26 PROCEEDING -- MEDIATION.

27 In addition to the custody mediation provided pursuant to
28 section 598.41, unless the court determines that a history of
29 domestic abuse exists as specified in section 598.41,
30 subsection 3, paragraph "j", or unless the court determines
31 that direct physical harm or significant emotional harm to the
32 child, other children, or a parent is likely to result, on the
33 application of either party, or on the court's own motion, the
34 court ~~may-require~~ shall determine in each domestic relations
35 proceeding or modification of any order relating to those

1 proceedings whether the parties to the proceeding shall
2 participate in mediation to attempt to resolve differences
3 between the parties ~~relative-to-the-granting-of-a-marriage~~
4 ~~dissolution-decree,-if-the-court-determines-that-mediation-may~~
5 ~~effectuate-a-resolution-of-the-differences~~ without court
6 intervention.

7 The costs of mediation shall be paid in full or in part by
8 the parties, as determined by the court and taxed as court
9 costs.

10 Sec. 10. Section 598.11, Code 1995, is amended to read as
11 follows:

12 598.11 TEMPORARY ORDERS.

13 1. The court may order either party to pay the clerk a sum
14 of money for the separate support and maintenance of the other
15 party and the children and to enable such party to prosecute
16 or defend the action. The order may be made whether the
17 action is original or is a modification of a preexisting
18 divorce decree. The court may on its own motion and shall
19 upon application of either party or an attorney appointed
20 under section 598.12 determine the temporary custody of any
21 minor child whose welfare may be affected by the filing of the
22 petition for dissolution divorce.

23 2. The court may make such an order when a claim for
24 temporary support is made by the petitioner in the petition,
25 or upon application of either party, after service of the
26 original notice and when no application is made in the
27 petition; however, no such order shall be entered until at
28 least five days' notice of hearing, and opportunity to be
29 heard, is given the other party. ~~Appearance-by-an-attorney-or~~
30 ~~the-respondent-for-such-hearing-shall-be-deemed-a-special~~
31 ~~appearance-for-the-purpose-of-such-hearing-only-and-not-a~~
32 ~~general-appearance.~~ An order entered pursuant to this section
33 shall contain the names, birth dates, addresses, and counties
34 of residence of the petitioner and respondent.

35 3. In making temporary orders, the court shall take into

1 consideration the age of the applicant, the physical and
2 pecuniary condition of the parties, and other matters as are
3 pertinent, which may be shown by affidavits, as the court may
4 direct.

5 4. After notice and hearing, subsequent changes in
6 temporary orders may be made by the court on application of
7 either party demonstrating a substantial change in the
8 circumstances occurring subsequent to the issuance of such
9 order. If the order is not so modified it shall continue in
10 force and effect until the action is dismissed or a divorce
11 decree is entered.

12 Sec. 11. Section 598.17, Code 1995, is amended to read as
13 follows:

14 598.17 DISSOLUTION-OF-MARRIAGE DIVORCE -- HEARINGS --
15 EVIDENCE.

16 1. Except as otherwise provided in subsection 6, hearings
17 for divorce shall be held in open court upon the oral
18 testimony of witnesses, or upon the depositions of such
19 witnesses taken as in other equitable actions or taken by a
20 commissioner appointed by the court. However, the court may
21 in its discretion close the hearing. Hearings held for the
22 purpose of determining child custody may be limited in
23 attendance by the court. Upon the request of either party,
24 the court may provide security in the courtroom during the
25 divorce or custody hearings if a history of domestic abuse
26 relating to either party exists.

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

35 3. If the averments as to residence are not fully proved,

1 the hearing shall proceed no further, and the action shall be
2 dismissed by the court. A divorce shall not be granted on the
3 testimony of either party alone, and a divorce shall not be
4 granted if the court reasonably believes the parties have
5 conspired to obtain a divorce, or that one or more of the
6 parties has committed perjury or any other criminal act in
7 order to obtain a divorce.

8 4. If at the time of trial petitioner fails to present
9 satisfactory evidence that there has been a breakdown of the
10 marriage relationship to the extent that the legitimate
11 objects of matrimony have been destroyed and there remains no
12 reasonable likelihood that the marriage can be preserved, the
13 respondent may then proceed to present such evidence as though
14 the respondent had filed the original petition.

15 5. No-marriage-dissolution A divorce granted due to the
16 mental illness of one of the spouses shall not relieve the
17 other spouse of any obligation imposed by law as a result of
18 the marriage for the support of the mentally ill spouse. The
19 court may make an order for such support or may waive the
20 support obligation when satisfied from the evidence that it
21 would create an undue hardship on the obliged spouse or that
22 spouse's other dependents.

23 6. Notwithstanding any other provision to the contrary,
24 the court may enter a divorce decree without a hearing under
25 either of the following circumstances:

26 a. All of the following circumstances have been met:

27 (1) The parties have certified in writing under oath that
28 there has been a breakdown of the marriage relationship to the
29 extent that the legitimate objects of matrimony have been
30 destroyed and there remains no reasonable likelihood that the
31 marriage can be preserved.

32 (2) All documents required by the court and by statute
33 have been filed.

34 (3) The parties have entered into a written agreement
35 settling all of the issues involved in the divorce.

1 (4) There are no children of the marriage for whom
2 support, as defined under section 598.1A, may be ordered.

3 b. The respondent has not entered an appearance or filed a
4 motion or pleading in the case, the waiting period provided
5 under section 598.19 has expired, and all of the following
6 circumstances have been met:

7 (1) The petitioner has certified in writing that there has
8 been a breakdown of the marriage relationship to the extent
9 that the legitimate objects of matrimony have been destroyed
10 and there remains no reasonable likelihood that the marriage
11 can be preserved.

12 (2) All documents required by the court and by statute
13 have been filed.

14 (3) There are no children of the marriage for whom
15 support, as defined under section 598.1A, may be ordered.

16 Sec. 12. Section 598.19, Code 1995, is amended to read as
17 follows:

18 598.19 WAITING PERIOD BEFORE DECREE.

19 No A divorce decree dissolving-a-marriage shall not be
20 granted in any proceeding before ninety one hundred twenty
21 days shall have elapsed from the day the original notice is
22 served, or from the last day of publication of notice, or from
23 the date that waiver or acceptance of original notice is filed
24 or until after conciliation is completed, whichever period
25 shall be longer. However, the court may in its discretion, on
26 written motion supported by affidavit setting forth grounds of
27 emergency or necessity and facts which satisfy the court that
28 immediate action is warranted or required to protect the
29 substantive rights or interests of any party or person who
30 might be affected by the decree, hold a hearing and grant a
31 divorce decree dissolving-the-marriage prior to the expiration
32 of the applicable period, provided that requirements of notice
33 have been complied with. In such case the grounds of
34 emergency or necessity and the facts with respect thereto
35 shall be recited in the decree unless otherwise ordered by the

1 court. The court may enter an order finding the respondent in
2 default and waiving conciliation when the respondent has
3 failed to file an appearance within the time set forth in the
4 original notice.

5 Sec. 13. Section 598.21, subsections 1, 3, 4, and 4A, Code
6 Supplement 1995, are amended to read as follows:

7 1. Upon every judgment of annulment, ~~disseolition~~ divorce
8 or separate maintenance the court shall divide the property of
9 the parties and transfer the title of the property
10 accordingly. The court may protect and promote the best
11 interests of children of the parties by setting aside a
12 portion of the property of the parties in a separate fund or
13 conservatorship for the support, maintenance, education and
14 general welfare of the minor children. The court shall divide
15 all property, except inherited property or gifts received by
16 one party, equitably between the parties after considering all
17 of the following:

18 a. The length of the marriage.

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

20 c. The contribution of each party to the marriage, giving
21 appropriate economic value to each party's contribution in
22 homemaking and child care services.

23 d. The age and physical and emotional health of the
24 parties.

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

27 f. The earning capacity of each party, including
28 educational background, training, employment skills, work
29 experience, length of absence from the job market, custodial
30 responsibilities for children and the time and expense
31 necessary to acquire sufficient education or training to
32 enable the party to become self-supporting at a standard of
33 living reasonably comparable to that enjoyed during the
34 marriage.

35 ~~g.--The-desirability-of-awarding-the-family-home-or-the~~

1 ~~right-to-live-in-the-family-home-for-a-reasonable-period-to~~
2 ~~the-party-having-custody-of-the-children,-or-if-the-parties~~
3 ~~have-joint-legal-custody,-to-the-party-having-physical-care-of~~
4 ~~the-children.~~

5 ~~h. g.~~ The amount and duration of an order granting support
6 payments to either party pursuant to subsection 3 and whether
7 the property division should be in lieu of such payments.

8 ~~i. h.~~ Other economic circumstances of each party,
9 including pension benefits, vested or unvested, and future
10 interests.

11 ~~j. i.~~ The tax consequences to each party.

12 ~~k. j.~~ Any written agreement made by the parties concerning
13 property distribution.

14 ~~l. k.~~ The provisions of an antenuptial agreement.

15 ~~m. l.~~ Other factors the court may determine to be relevant
16 in an individual case.

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

22 a. The length of the marriage.

23 b. The age and physical and emotional health of the
24 parties.

25 c. The distribution of property made pursuant to
26 subsection 1.

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

29 e. The earning capacity of the party seeking maintenance,
30 including educational background, training, employment skills,
31 work experience, length of absence from the job market,
32 responsibilities for children under either an award of custody
33 or physical care, and the time and expense necessary to
34 acquire sufficient education or training to enable the party
35 to find appropriate employment.

1 f. The feasibility of the party seeking maintenance
2 becoming self-supporting at a standard of living reasonably
3 comparable to that enjoyed during the marriage, and the length
4 of time necessary to achieve this goal.

5 g. The tax consequences to each party.

6 h. Any mutual agreement made by the parties concerning
7 financial or service contributions by one party with the
8 expectation of future reciprocation or compensation by the
9 other party.

10 i. The provisions of an antenuptial agreement.

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

13 4. The supreme court shall maintain uniform child support
14 guidelines and criteria and review the guidelines and criteria
15 at least once every four years, pursuant to the federal Family
16 Support Act of 1988, Pub. L. No. 100-485. The initial review
17 shall be performed within four years of October 12, 1989, and
18 subsequently within the four-year period of the most recent
19 review. It is the intent of the general assembly that, to the
20 extent possible within the requirements of federal law, the
21 court and the child support recovery unit consider the
22 individual facts of each judgment or case in the application
23 of the guidelines and determine the support obligation, ac-
24 cordingly. It is also the intent of the general assembly that
25 in the supreme court's review of the guidelines, the supreme
26 court shall do both of the following: emphasize the ability
27 of a court to apply the guidelines in a just and appropriate
28 manner based upon the individual facts of a judgment or case;
29 and in determining monthly child support payments, consider
30 other children for whom either parent is legally responsible
31 for support and other child support obligations actually paid
32 by either party pursuant to a court or administrative order.

33 a. Upon every judgment of annulment, ~~dissolution~~ divorce,
34 or separate maintenance, the court may order either parent or
35 both parents to pay make support payments in an amount

1 reasonable and necessary for supporting a child. In
2 establishing the amount of support, consideration shall be
3 given to the responsibility of both parents to support and
4 provide for the welfare of the minor child and of a child's
5 need, whenever practicable, for a close relationship with both
6 parents. There shall be a rebuttable presumption that the
7 amount of child support which would result from the
8 application of the guidelines prescribed by the supreme court
9 is the correct amount of child support to be awarded. A
10 variation from the guidelines shall not be considered by a
11 court without a record or written finding, based on stated
12 reasons, that the guidelines would be unjust or inappropriate
13 as determined under the criteria prescribed by the supreme
14 court.

15 The court shall order as child medical support a health
16 benefit plan as defined in chapter 252E if available to either
17 parent at a reasonable cost. A health benefit plan is
18 considered reasonable in cost if it is employment-related or
19 other group health insurance, regardless of the service
20 delivery mechanism. The premium cost of the health benefit
21 plan may be considered by the court as a reason for varying
22 from the child support guidelines. If a health benefit plan
23 is not available at a reasonable cost, the court may order any
24 other provisions for medical support as defined in chapter
25 252E.

26 b. The guidelines prescribed by the supreme court shall be
27 used by the department of human services in determining child
28 support payments under sections 252C.2 and 252C.4. A
29 variation from the guidelines shall not be considered by the
30 department without a record or written finding, based on
31 stated reasons, that the guidelines would be unjust or
32 inappropriate as determined under criteria prescribed by the
33 supreme court.

34 c. The guidelines prescribed by the supreme court shall
35 incorporate provisions for medical support as defined in

1 chapter 252E ~~to be effective on or before January 17, 1991.~~

2 d. For purposes of calculating a support obligation under
3 this section, the income of the parent from whom support is
4 sought shall be used as the noncustodial parent income for
5 purposes of application of the guidelines, regardless of the
6 legal custody of the child.

7 e. Unless the special circumstances of the case justify a
8 deviation, the court or the child support recovery unit shall
9 establish a monthly child support payment of twenty-five
10 dollars for a parent who is nineteen years of age or younger,
11 who has not received a high school or high school equivalency
12 diploma, and to whom each of the following apply:

13 (1) The parent is attending a school or program described
14 as follows or has been identified as one of the following:

15 (a) The parent is in full-time attendance at an accredited
16 school and is pursuing a course of study leading to a high
17 school diploma.

18 (b) The parent is attending an instructional program
19 leading to a high school equivalency diploma.

20 (c) The parent is attending a vocational education program
21 approved pursuant to chapter 258.

22 (d) The parent has been identified by the director of
23 special education of the area education agency as a child
24 requiring special education as defined in section 256B.2.

25 (2) The parent provides proof of compliance with the
26 requirements of subparagraph (1) to the child support recovery
27 unit, if the unit is providing services under chapter 252B, or
28 if the unit is not providing services pursuant to chapter
29 252B, to the court as the court may direct.

30 Failure to provide proof of compliance under this
31 subparagraph is grounds for modification of the support order
32 using the uniform child support guidelines and imputing an
33 income to the parent equal to a forty-hour work week at the
34 state minimum wage, unless the parent's education, experience,
35 or actual earnings justify a higher income.

1 4A. If, during an action initiated under this chapter or
2 any other chapter in which a child or medical support
3 obligation may be established based upon a prior determination
4 of paternity, a party wishes to contest the paternity of the
5 child or children involved, all of the following apply:

6 a. (1) If the prior determination of paternity is based
7 on an affidavit of paternity filed pursuant to section
8 252A.3A, or a court or administrative order entered in this
9 state, or by operation of law when the mother and established
10 father are or were married to each other, the provisions of
11 section 600B.41A apply.

12 (2) If following the proceedings under section 600B.41A
13 the court determines that the prior determination of paternity
14 should not be overcome, and that the established father has a
15 duty to provide support, the court shall enter an order
16 establishing the monthly child support payment and the amount
17 of the support debt accrued and accruing pursuant to
18 subsection 4, or the medical support obligation pursuant to
19 chapter 252E, or both.

20 b. If a determination of paternity is based on an
21 administrative or court order or other means pursuant to the
22 laws of a foreign jurisdiction, any action to overcome the
23 prior determination of paternity shall be filed in that
24 jurisdiction. Unless a stay of the action initiated in this
25 state to establish child or medical support is requested and
26 granted by the court, pending a resolution of the contested
27 paternity issue by the foreign jurisdiction, the action shall
28 proceed.

29 c. Notwithstanding paragraph "a", in a pending dissolution
30 divorce action under this chapter, a prior determination of
31 paternity by operation of law through the marriage of the
32 established father and mother of the child may be overcome
33 under this chapter if the following conditions are met:

34 (1) The established father and mother of the child file a
35 written statement with the court that both parties agree that

1 the established father is not the biological father of the
2 child.

3 (2) The court finds that it is in the best interest of the
4 child to overcome the established paternity. In determining
5 the best interest of the child, the court shall consider the
6 criteria provided in section 600B.41A, subsection 3, paragraph
7 "g".

8 If the court overcomes a prior determination of paternity,
9 the previously established father shall be relieved of support
10 obligations as specified in section 600B.41A, subsection 4.

11 In any action to overcome paternity other than through a
12 pending ~~disseultion~~ divorce action, the provisions of section
13 600B.41A apply. Overcoming paternity under this paragraph
14 does not bar subsequent actions to establish paternity if it
15 is subsequently determined that the written statement
16 attesting that the established father is not the biological
17 father of the child may have been submitted erroneously, and
18 that the person previously determined not to be the child's
19 father during the ~~disseultion~~ divorce action may actually be
20 the child's biological father.

21 Sec. 14. Section 598.21, Code Supplement 1995, is amended
22 by adding the following new subsection:

23 NEW SUBSECTION. 1A. There shall be a presumption that the
24 family home or at a minimum the right to live in the family
25 home for a reasonable period shall be awarded to the party
26 having custody of the children, or if the parties have joint
27 legal custody, to the party having primary physical care of
28 the children, absent a showing that this award is not in the
29 best interest of the child. The award shall be independent of
30 the property award entered pursuant to subsection 1.

31 Sec. 15. Section 598.26, subsections 1 and 3, Code 1995,
32 are amended to read as follows:

33 1. Until a divorce decree ~~of-disseultion~~ has been entered,
34 the record and evidence shall be closed to all but the court,
35 its officers, and the child support recovery unit of the

1 department of human services pursuant to section 252B.9. No
2 other person shall permit a copy of any of the testimony, or
3 pleading, or the substance thereof, to be made available to
4 any person other than a party to the action or a party's
5 attorney. When a final decree is entered, the clerk of court
6 shall enter, as a public record, with the final decree, any
7 order for payment of temporary support. Nothing in this
8 subsection shall be construed to prohibit publication of the
9 original notice as provided by the rules of civil procedure.

10 3. If the action is dismissed, judgment for costs shall be
11 entered in the judgment docket and lien index. The clerk
12 shall maintain a separate docket for ~~dissolution-of-marriage~~
13 divorce actions.

14 Sec. 16. Section 598.41, Code Supplement 1995, is amended
15 by adding the following new subsection:

16 NEW SUBSECTION. 8. If at any time during the divorce
17 proceedings the court determines that the granting of a
18 divorce decree is not in the best interest of a child, the
19 court may stay the proceedings for a period of time
20 established at the discretion of the court or may dismiss the
21 proceedings. If the court dismisses the proceedings, the
22 parties shall not file a new petition for divorce for a
23 minimum period of one hundred eighty days.

24 DIVISION II

25 TECHNICAL CHANGES

26 Sec. 17. Section 97A.1, subsection 17, Code 1995, is
27 amended to read as follows:

28 17. "Surviving spouse" shall mean the surviving spouse or
29 former spouse of a marriage solemnized prior to retirement of
30 a deceased member from active service. Surviving spouse shall
31 include a former spouse only if the division of assets in the
32 ~~dissolution-of-marriage~~ divorce decree pursuant to section
33 598.17 grants the former spouse rights of a spouse under this
34 chapter. If there is no surviving spouse of a marriage
35 solemnized prior to retirement of a deceased member, surviving

1 spouse includes a surviving spouse of a marriage of two years
2 or more duration solemnized subsequent to retirement of the
3 member.

4 Sec. 18. Section 144.37, Code 1995, is amended to read as
5 follows:

6 144.37 DISSOLUTION DIVORCE AND ANNULMENT RECORDS.

7 For each dissolution divorce or annulment of marriage
8 granted by any court in this state, a record shall be prepared
9 by the clerk of court or by the petitioner or the petitioner's
10 legal representative if directed by the clerk and filed by the
11 clerk of court with the state registrar. The information
12 necessary to prepare the report shall be furnished with the
13 petition, to the clerk of court by the petitioner or the
14 petitioner's legal representative, on forms supplied by the
15 state registrar.

16 The clerk of the district court in each county shall keep a
17 record book for dissolutions divorces. The form of
18 dissolution divorce record books shall be uniform throughout
19 the state. A properly indexed record of dissolutions divorces
20 upon microfilm, electronic computer, or data processing
21 equipment may be kept in lieu of dissolution divorce record
22 books.

23 On or before the tenth day of each calendar month, the
24 clerk of court shall forward to the state registrar the record
25 of each dissolution divorce and annulment granted during the
26 preceding calendar month and related reports required by
27 regulations issued under this chapter.

28 Sec. 19. Section 144.43, subsection 3, Code 1995, is
29 amended to read as follows:

30 3. A record of ~~divorce, dissolution-of-marriage,~~ or
31 annulment of marriage.

32 Sec. 20. Section 144.51, Code 1995, is amended to read as
33 follows:

34 144.51 INFORMATION BY OTHERS FURNISHED ON DEMAND.

35 Any person having knowledge of the facts shall furnish

1 information the person possesses regarding any birth, death,
2 fetal death, adoption, marriage, ~~dissolution~~ divorce, or
3 annulment, upon demand of the state registrar or the state
4 registrar's representative.

5 Sec. 21. Section 252B.1, subsection 5, Code 1995, is
6 amended to read as follows:

7 5. "Obligor" means the person legally responsible for the
8 support of a child as defined in section 598-~~1~~ 598.1A under a
9 support order issued in this state or a foreign jurisdiction.

10 Sec. 22. Section 252B.6, subsection 2, Code 1995, is
11 amended to read as follows:

12 2. Appear as a friend of the court in ~~dissolution-of~~
13 marriage divorce and separate maintenance proceedings, or
14 proceedings supplemental thereto, when either or both of the
15 parties to the proceedings are receiving public assistance,
16 for the purpose of advising the court of the financial
17 interest of the state in the proceeding.

18 Sec. 23. Section 252B.6, subsection 4, unnumbered
19 paragraph 1, Code 1995, is amended to read as follows:

20 If public assistance has been applied for or granted on
21 behalf of a child of parents who are legally separated or
22 ~~whose marriage has been legally dissolved~~ divorced, the unit
23 may apply to the district court for a court order directing
24 either or both parents to show cause for the following:

25 Sec. 24. Section 252B.13A, Code 1995, is amended to read
26 as follows:

27 252B.13A COLLECTION SERVICES CENTER.

28 The department shall establish within the unit a collection
29 services center for the receipt and disbursement of support
30 payments as defined in section 598-~~1~~ 598.1A as required for
31 orders by section 252B.14. For purposes of this section,
32 support payments do not include attorney fees, court costs, or
33 property settlements.

34 Sec. 25. Section 252B.14, subsection 1, Code 1995, is
35 amended to read as follows:

1 1. For the purposes of this section, "support order"
2 includes any order entered pursuant to chapter 234, 252A,
3 252C, 598, 600B, or any other support chapter or proceeding
4 which establishes support payments as defined in section 598-1
5 598.1A.

6 Sec. 26. Section 252D.1, subsection 1, Code 1995, is
7 amended to read as follows:

8 1. As used in this chapter, unless the context otherwise
9 requires, "support" or "support payments" means any amount
10 which the court may require a person to pay for the benefit of
11 a child under a temporary order or a final judgment or decree,
12 and may include child support, maintenance, medical support as
13 defined in chapter 252E, and, if contained in a child support
14 order, spousal support, and any other term used to describe
15 these obligations. These obligations may include support for
16 a child who is between the ages of eighteen and twenty-two
17 years and who is regularly attending an accredited school in
18 pursuance of a course of study leading to a high school
19 diploma or its equivalent, or regularly attending a course of
20 vocational technical training either as a part of a regular
21 school program or under special arrangements adapted to the
22 individual person's needs, or is, in good faith, a full-time
23 student in a college, university, or community college, or has
24 been accepted for admission to a college, university, or
25 community college and the next regular term has not yet begun;
26 and may include support for a child of any age who is
27 dependent on the parties to the dissolution divorce
28 proceedings because of physical or mental disability.

29 Sec. 27. Section 321.46, subsection 6, Code 1995, is
30 amended to read as follows:

31 6. An applicant for a new registration for a vehicle
32 transferred to the applicant by a spouse, parent or child of
33 the applicant, or by operation of law upon inheritance, devise
34 or bequest, from the applicant's spouse, parent or child, or
35 by a former spouse pursuant to a divorce decree ~~of-dissolution~~

1 of-marriage, is entitled to a credit to be applied to the
2 registration fee for the transferred vehicle. A credit shall
3 not be allowed unless the vehicle to which the credit applies
4 is registered within the time specified under subsection 1.
5 The credit shall be computed on the basis of the number of
6 unexpired months remaining in the registration year of the
7 former owner computed from the date the vehicle was
8 transferred, computed to the nearest whole dollar. The credit
9 may exceed the amount of the registration fee for the
10 transferred vehicle. When the amount of the credit is
11 computed to be an amount of less than ten dollars, the credit
12 shall be disallowed. The credit shall not be sold,
13 transferred, or assigned to any other person.

14 Sec. 28. Section 410.10, subsection 3, unnumbered
15 paragraph 3, Code 1995, is amended to read as follows:

16 However, the benefits provided by this section are subject
17 to the following definitions: The term "spouse" means a
18 surviving spouse of a marriage contracted prior to retirement
19 of a deceased member from active service, or of a marriage of
20 a retired member contracted prior to March 2, 1934. Surviving
21 spouse includes a former spouse only if the division of assets
22 in the ~~dissolution-of-marriage~~ divorce decree pursuant to
23 section 598.17 grants the former spouse rights of a spouse
24 under this chapter. If there is no surviving spouse of a
25 marriage contracted prior to retirement of a deceased member,
26 or of a marriage of a retired member contracted prior to March
27 2, 1934, surviving spouse includes a surviving spouse of a
28 marriage of two years or more duration contracted subsequent
29 to retirement of the member. The terms "child" and "children"
30 mean only the surviving issue of a deceased active or retired
31 member, or the child or children legally adopted by a deceased
32 member prior to the member's retirement from active service.

33 Sec. 29. Section 411.1, subsection 19, Code 1995, is
34 amended to read as follows:

35 19. "Surviving spouse" shall mean the surviving spouse of

1 a marriage solemnized prior to retirement of a deceased member
2 from active service. Surviving spouse shall include a former
3 spouse only if the division of assets in the ~~dissolution-of~~
4 marriage divorce decree pursuant to section 598.17 grants the
5 former spouse rights of a spouse under this chapter. If there
6 is no surviving spouse of a marriage solemnized prior to
7 retirement of a deceased member, surviving spouse includes a
8 surviving spouse of a marriage of two years or more duration
9 solemnized subsequent to retirement of the member.

10 Sec. 30. Section 428A.2, subsection 16, Code Supplement
11 1995, is amended to read as follows:

12 16. Deeds for the transfer of property or the transfer of
13 an interest in property when the deed is executed between
14 former spouses pursuant to a divorce ~~of-dissolution-of~~
15 marriage.

16 Sec. 31. Section 509B.2, Code 1995, is amended to read as
17 follows:

18 509B.2 PERSONS INCLUDED IN THIS CHAPTER.

19 1. As used in this chapter, "termination of employment or
20 membership" includes but is not limited to termination because
21 of permanent or temporary layoff or approved leave of absence.
22 A provision in this chapter which relates to termination of
23 insurance under a group policy of an employee or member and
24 the employee's or member's covered dependents includes
25 termination of insurance with respect to the surviving or
26 former spouse or children of an employee or member whose
27 insurance would terminate because of ~~dissolution~~ divorce or
28 annulment of the marriage of the employee or member, or would
29 terminate because of death of the employee or member.

30 2. A provision in this chapter which relates to an em-
31 ployee or member includes the surviving or former spouse or
32 children if termination occurs because of ~~dissolution~~ divorce
33 or annulment of a marriage or death of an employee or member.

34 Sec. 32. Section 509B.3, subsection 8, Code 1995, is
35 amended to read as follows:

1 8. The spouse of an employee or member, and any covered
2 dependent children of the employee or member, whose coverage
3 under the group policy would otherwise terminate because of
4 ~~dissolution~~ divorce or annulment of marriage or death of the
5 employee or member shall have the same contribution and notice
6 responsibilities and privileges as provided under this chapter
7 to the employee or member upon termination of employment or
8 membership.

9 Sec. 33. Section 509B.4, subsection 15, Code 1995, is
10 amended to read as follows:

11 15. Subject to any preceding conditions, conversion
12 privileges are available to a surviving spouse at the death of
13 the employee or member, with respect to the spouse and
14 children whose coverage under the group policy terminates by
15 reason of the death, or to each surviving child whose coverage
16 under the group policy terminates by reason of death, or when
17 continuation of dependent's coverage is accepted following the
18 employee's or member's death, at the end of the continuation.
19 Subject to any preceding conditions, the conversion privilege
20 is available to the spouse of the employee or member upon
21 termination of coverage of the spouse, by reason of
22 ~~dissolution~~ divorce or annulment of marriage or otherwise
23 ceasing to be a qualified family member under the group
24 policy, while the employee or member remains insured under the
25 policy, or when continuation of dependent's coverage is
26 elected following the ~~dissolution~~ divorce or annulment of
27 marriage, at the end of continuation. This conversion
28 privilege includes children whose coverage under the group
29 policy terminates at the same time. Subject to any preceding
30 conditions, the conversion privilege is also available to a
31 child solely with respect to the child upon termination of
32 coverage by reason of ceasing to be a qualified family member
33 under the group policy, if a conversion privilege is not
34 otherwise provided within this section.

35 Sec. 34. Section 558A.1, subsection 4, paragraph f, Code

1 1995, is amended to read as follows:

2 f. A transfer between spouses resulting from a divorce
3 ~~decree of dissolution of marriage~~, a decree of legal
4 separation, or a property settlement agreement which is
5 incidental to the decree, including a decree ordered pursuant
6 to chapter 598.

7 Sec. 35. Section 596.5, subsection 1, paragraph c, Code
8 1995, is amended to read as follows:

9 c. The disposition of property upon separation,
10 ~~dissolution of the marriage~~ divorce, death, or the occurrence
11 or nonoccurrence of any other event.

12 Sec. 36. Section 598.3, Code 1995, is amended to read as
13 follows:

14 598.3 KIND OF ACTION -- JOINDER.

15 An action for ~~dissolution of marriage~~ divorce shall be by
16 equitable proceedings, and no cause of action, save for
17 alimony, shall be joined ~~therewith~~ with the action. Such
18 actions shall not be subject to counterclaim or cross petition
19 by the respondent. After the appearance of the respondent, no
20 dismissal of the cause of action shall be allowed unless both
21 the petitioner and the respondent sign the dismissal.

22 Sec. 37. Section 598.5, unnumbered paragraph 1, and
23 subsection 5, Code 1995, are amended to read as follows:

24 The petition for ~~dissolution of marriage~~ divorce shall:

25 5. State whether or not a separate action for ~~dissolution~~
26 ~~of marriage~~ divorce has been commenced by the respondent and
27 whether such action is pending in any court in this state or
28 elsewhere.

29 Sec. 38. Section 598.13, unnumbered paragraph 1, Code
30 1995, is amended to read as follows:

31 Both parties shall disclose their financial status. A
32 showing of special circumstances shall not be required before
33 the disclosure is ordered. A statement of net worth set forth
34 by affidavit on a form prescribed by the supreme court and
35 furnished without charge by the clerk of the district court

1 shall be filed by each party prior to the dissolution divorce
2 hearing. However, the parties may waive this requirement upon
3 application of both parties and approval by the court.

4 Sec. 39. Section 598.18, Code 1995, is amended to read as
5 follows:

6 598.18 RECRIMINATION ~~NOT-A-BAR-TO-DISSOLUTION-OF-MARRIAGE~~.

7 If, upon the trial of an action for dissolution-of-marriage
8 divorce, both of the parties are found to have committed an
9 act or acts which would support or justify a divorce decree of
10 dissolution-of-marriage, ~~such-dissolution~~ the divorce may be
11 decreed, and the acts of one party shall not negate the acts
12 of the other, nor serve to bar the dissolution divorce decree
13 in any way.

14 Sec. 40. Section 598.20, Code 1995, is amended to read as
15 follows:

16 598.20 FORFEITURE OF MARITAL RIGHTS.

17 When a dissolution-of-marriage divorce is decreed the
18 parties shall forfeit all rights acquired by marriage which
19 are not specifically preserved in the decree. This provision
20 shall not obviate any of the provisions of section 598.21.

21 Sec. 41. Section 598.24, Code 1995, is amended to read as
22 follows:

23 598.24 COSTS IF PARTY IS IN DEFAULT OR CONTEMPT.

24 When an action for a modification, order to show cause, or
25 contempt of a dissolution divorce, annulment, or separate
26 maintenance decree is brought on the grounds that a party to
27 the decree is in default or contempt of the decree, and the
28 court determines that the party is in default or contempt of
29 the decree, the costs of the proceeding, including reasonable
30 attorney's fees, may be taxed against that party.

31 Sec. 42. Section 598.25, Code 1995, is amended to read as
32 follows:

33 598.25 TERMINATION OF JURISDICTION OF COURT GRANTING
34 MARRIAGE-DISSOLUTION DIVORCE DECREE.

35 Whenever a proceeding is initiated in a court for adoption

1 involving the children of parents or guardians whose-marriage
2 ~~has-been-dissolved~~ who are divorced, or for modification of a
3 judgment of alimony, child support, or custody granted in an
4 action for ~~dissolution-of-marriage~~ divorce, the following
5 requirements must be met if such proceedings are initiated in
6 a court other than the court which granted the ~~dissolution~~
7 divorce decree.

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

13 2. The court in which the proceedings are initiated shall
14 cause notice of such proceedings to be served upon the parties
15 to the original action unless either or both parties are
16 deceased.

17 Such court, or either of the parties to the ~~dissolution~~
18 divorce decree, may request that a copy of the transcript of
19 the proceedings of the court which granted the ~~dissolution~~
20 divorce decree be made available for consideration in the new
21 proceedings.

22 Sec. 43. Section 598.26, unnumbered paragraph 1, Code
23 1995, is amended to read as follows:

24 The record and evidence in each case of ~~marriage~~
25 ~~dissolution~~ divorce shall be kept pursuant to the following
26 provisions:

27 Sec. 44. Section 598.26, subsections 1 and 3, Code 1995,
28 are amended to read as follows:

29 1. Until a divorce decree ~~of-dissolution~~ has been entered,
30 the record and evidence shall be closed to all but the court,
31 its officers, and the child support recovery unit of the
32 department of human services pursuant to section 252B.9. No
33 other person shall permit a copy of any of the testimony, or
34 pleading, or the substance thereof, to be made available to
35 any person other than a party to the action or a party's

1 attorney. Nothing in this subsection shall be construed to
2 prohibit publication of the original notice as provided by the
3 rules of civil procedure.

4 3. If the action is dismissed, judgment for costs shall be
5 entered in the judgment docket and lien index. The clerk
6 shall maintain a separate docket for ~~dissolution-of-marriage~~
7 divorce actions.

8 Sec. 45. Section 598.28, Code 1995, is amended to read as
9 follows:

10 598.28 SEPARATE MAINTENANCE AND ANNULMENT.

11 A petition shall be filed in separate maintenance and
12 annulment actions as in actions for ~~dissolution-of-marriage~~
13 divorce, and all applicable provisions of this chapter in
14 relation ~~thereto to the action~~, shall apply to separate
15 maintenance and annulment actions.

16 Sec. 46. Section 598.29, subsection 3, Code 1995, is
17 amended to read as follows:

18 3. Where either party had a husband or wife living at the
19 time of the marriage, provided they have not, with a knowledge
20 of such fact, lived and cohabited together after the death or
21 ~~marriage-dissolution~~ divorce of the former spouse of such
22 party.

23 Sec. 47. Section 598.32, Code 1995, is amended to read as
24 follows:

25 598.32 ANNULMENT -- COMPENSATION.

26 In case either party entered into the contract of marriage
27 in good faith, supposing the other to be capable of
28 contracting, and the marriage is declared a nullity, such fact
29 shall be entered in the decree, and the court may decree such
30 innocent party compensation as in case of ~~dissolution-of~~
31 marriage divorce.

32 Sec. 48. Section 598.33, Code 1995, is amended to read as
33 follows:

34 598.33 ORDER TO VACATE.

35 Notwithstanding section 561.15, the court may order either

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

5 Sec. 49. Section 598.34, unnumbered paragraph 1, Code
6 1995, is amended to read as follows:

7 A person entitled to periodic support payments pursuant to
8 an order or judgment entered in an action for ~~dissolution-of~~
9 marriage divorce, who is also a recipient of public
10 assistance, is deemed to have assigned the person's rights to
11 the support payments, to the extent of public assistance
12 received by the person, to the department of human services.
13 The department shall immediately notify the clerk of court by
14 mail when a person entitled to support payments has been
15 determined to be eligible for public assistance. Upon
16 notification by the department that a person entitled to
17 periodic support payments pursuant to this chapter is
18 receiving public assistance, the clerk of court shall make a
19 notation of the automatic assignment in the judgment docket
20 and lien index. The notation constitutes constructive notice
21 of the assignment. The clerk of court shall forward support
22 payments received pursuant to section 598.22, to which the
23 department is entitled, to the department, which may secure
24 support payments in default through proceedings provided for
25 in chapter 252A or section 598.24.

26 Sec. 50. Section 598.35, subsection 2, Code 1995, is
27 amended to read as follows:

28 2. A petition for ~~dissolution-of-marriage~~ divorce has been
29 filed by one of the parents of the child.

30 Sec. 51. Section 598.37, Code 1995, is amended to read as
31 follows:

32 598.37 NAME CHANGE.

33 Either party to a marriage may request as a part of the
34 divorce decree ~~of-dissolution~~ or decree of annulment a change
35 in the person's name to either the name appearing on the

1 person's birth certificate or to the name the person had
2 immediately prior to the marriage. If a party requests a name
3 change other than to the name appearing on the person's birth
4 certificate or to the name the person had immediately prior to
5 the marriage, the request shall be made under chapter 674.

6 Sec. 52. Section 598.41, subsection 1, paragraph a, Code
7 Supplement 1995, is amended to read as follows:

8 a. The court, insofar as is reasonable and in the best
9 interest of the child, shall order the custody award,
10 including liberal visitation rights where appropriate, which
11 will assure the child the opportunity for the maximum
12 continuing physical and emotional contact with both parents
13 after the parents have separated or ~~dissolved-the-marriage~~
14 divorced, and which will encourage parents to share the rights
15 and responsibilities of raising the child unless direct
16 physical harm or significant emotional harm to the child,
17 other children, or a parent is likely to result from such
18 contact with one parent.

19 Sec. 53. Section 602.8102, subsection 84, Code Supplement
20 1995, is amended to read as follows:

21 84. Carry out duties relating to the ~~dissolution-of-a~~
22 marriage divorce as provided in chapter 598.

23 Sec. 54. Section 602.8103, subsection 4, paragraph d, Code
24 1995, is amended to read as follows:

25 d. Original court files on ~~dissolutions-of-marriage~~
26 divorces, one year after dismissal by the parties or under
27 R.C.P. 215, Ia. Ct. Rules, 2nd ed.

28 Sec. 55. Section 602.8105, subsection 1, paragraphs a, b,
29 and c, Code Supplement 1995, are amended to read as follows:

30 a. For filing and docketing a petition, other than a
31 modification of a ~~dissolution~~ divorce decree to which a
32 written stipulation is attached at the time of filing
33 containing the agreement of the parties to the terms of
34 modification, eighty dollars. In counties having a population
35 of ninety-eight thousand or over, an additional five dollars

1 shall be charged and collected to be known as the journal
2 publication fee and used for the purposes provided for in
3 section 618.13.

4 b. For filing and docketing an application for
5 modification of a dissolution divorce decree to which a
6 written stipulation is attached at the time of filing
7 containing the agreement of the parties to the terms of
8 modification, twenty-five dollars.

9 c. For entering a final divorce decree ~~of-dissolution-of~~
10 ~~marriage~~, thirty dollars. It is the intent of the general
11 assembly that the funds generated from the dissolution divorce
12 fees be appropriated and used for sexual assault and domestic
13 violence centers.

14 Sec. 56. Section 633.271, Code 1995, is amended to read as
15 follows:

16 633.271 EFFECT OF DIVORCE ~~OR-DISSOLUTION~~.

17 If after making a will the testator is divorced ~~or-the~~
18 ~~marriage-is-dissolved~~, all provisions in the will in favor of
19 the testator's spouse are thereby revoked. In the event the
20 testator and spouse remarry each other, the provisions of the
21 will revoked by the divorce ~~or-dissolution-of-marriage~~ shall
22 be reinstated unless otherwise revoked by the testator.

23 Sec. 57. Section 633.425, subsection 9, Code 1995, is
24 amended to read as follows:

25 9. All unpaid support payments as defined in section 598.1
26 598.1A, subsection 6 15, and all additional unpaid awards and
27 judgments against the decedent in any dissolution divorce,
28 separate maintenance, uniform support, or paternity action to
29 the extent that the support, awards, and judgments have
30 accrued at the time of death of the decedent.

31 Sec. 58. Section 633.701, unnumbered paragraph 1, Code
32 1995, is amended to read as follows:

33 Upon the partial or total termination of a trust, or upon
34 the transfer of the trusteeship due to resignation, removal,
35 dissolution divorce, or other disqualification of the trustee

1 of any trust pending in court, the trustee shall make a final
2 report to the court, showing for the period since the filing
3 of the last report the facts required for an intermediate
4 report; provided, however, that unless specifically required
5 by the court to do so, the trustee shall not in any event, be
6 required to report such facts for any period of time as to
7 which the trustee has, under any of the provisions of section
8 633.700, been expressly relieved from reporting. In any
9 event, the final report of the trustee shall include the
10 following:

11 DIVISION III

12 MEDIATION PILOT PROJECT

13 Sec. 59. COURT-ANNEXED FAMILY MEDIATION PILOT PROJECT.

14 1. As used in this section, unless the context otherwise
15 requires:

16 a. "Court-annexed mediation" means mediation provided by
17 mediators employed by the district court.

18 b. "Court-annexed mediation services" includes court-
19 annexed mediation, marriage assessment, and any other services
20 provided through the court-annexed mediation pilot project to
21 parties involved in domestic relations matters.

22 c. "Court-annexed mediator" means a person employed by the
23 district court to provide mediation services.

24 d. "Court-ordered mediation" means mediation in which
25 participation is required by the court for any party to a
26 divorce proceeding before the court and for any party in any
27 other proceeding before the court for which the court
28 determines mediation is necessary.

29 e. "Intake fact sheet" means the form developed by the
30 chief judge of the judicial district to be completed by any
31 party requesting participation in or ordered by the court to
32 participate in mediation services, to determine the necessity
33 for and types of services needed by a party in resolving an
34 issue in dispute.

35 f. "Marriage assessment" means an evaluation of the

1 possibility of reconciliation of the parties to a marriage,
2 which is performed by a mediator.

3 g. "Mediation" means the process in which a neutral third
4 party acts to encourage and facilitate the resolution of any
5 dispute between two or more parties, in an informal and
6 nonadversarial manner, with the objective of assisting the
7 disputing parties in reaching a mutually acceptable and
8 voluntary agreement regarding the issue in dispute. Mediation
9 may include but is not limited to assisting parties to the
10 mediation in identifying issues, fostering joint problem-
11 solving, and exploring settlement alternatives.

12 h. "Mediator" means a person providing mediation services.
13 If a person is providing court-annexed or court-ordered
14 mediation services, the person shall meet the qualifications
15 established by the chief judge of the judicial district.

16 2. The state court administrator, in consultation with the
17 judicial council, shall develop and implement a court-annexed
18 mediation pilot project in the third and sixth judicial
19 districts. The pilot project shall be implemented by January
20 1, 1997. The judicial council shall submit a report to the
21 governor and to the general assembly which provides an
22 evaluation of the pilot projects by January 15, 1998.

23 3. The pilot projects shall be based upon all of the
24 following:

25 a. Court-annexed mediation services are to be used for the
26 mediation of family matters, marriage assessment and related
27 domestic relations issues. All domestic relations matters
28 which come before the court, with the exception of child
29 support recovery, shall be directed to court-annexed mediation
30 services. Additionally, any party wishing assistance in
31 resolution of a domestic relations matter may request
32 participation in court-annexed mediation services. The
33 services shall include assistance and mediation that are
34 specific to the individual family situation, with a focus on
35 primary interventions that promote family unity and parental

1 decision-making, to the extent possible. The purposes of
2 mediation are to reduce acrimony between the parties and to
3 develop parental responsibility.

4 b. Court-annexed mediation services shall be accessible to
5 all parties to a domestic relations matter regardless of
6 financial or marital status. Parties who do not have a
7 domestic relations matter pending before the court for which
8 the court orders mediation services, may request and be
9 provided court-annexed mediation services at a cost which is
10 based on a sliding-fee schedule.

11 c. Following the filing of a petition for divorce all of
12 the following shall apply:

13 (1) All parties shall complete an intake fact sheet and a
14 marriage assessment. The court-annexed mediator shall review
15 the intake fact sheet to schedule a marriage assessment,
16 mediation of temporary matters, and mediation of permanent
17 residential arrangements and parenting responsibilities. The
18 mediator who reviews the intake fact sheet shall not mediate
19 the matters of the parties identified in the intake fact
20 sheet.

21 (2) A joint marriage assessment shall be conducted to
22 determine if the marriage is reconcilable and the mediator
23 shall recommend community resources that the parties may
24 utilize to reconcile the marriage. The joint marriage
25 assessment shall be completed within thirty days of the filing
26 of the answer to the petition. The parties may request that
27 the marriage assessment be performed by a private mediator in
28 lieu of provision of services by a court-annexed mediator. If
29 an assessment has not been scheduled by the parties within
30 thirty days of the filing of the answer to the petition, the
31 court shall schedule an assessment with a court-annexed
32 mediator.

33 (3) A certificate of completion of the marriage assessment
34 shall be filed with the clerk of district court. Following
35 filing of the certificate, the court shall determine whether a

1 stay of the proceedings or mediation shall be ordered.

2 Additionally, a stay of the proceedings may be requested by
3 the parties at any time. If a stay is requested, a schedule
4 shall be established to allow for utilization of community
5 resources and mediation services. The court may also stay the
6 proceedings at any time until a date certain.

7 (4) A joint marriage assessment may be waived by the court
8 for good cause, if the court identifies a history of domestic
9 abuse between the parties, or if a party requests waiver of
10 the joint marriage assessment.

11 (5) Prior to a hearing on the petition and following
12 completion of the joint marriage assessment, unless mediation
13 is waived by the court, the parties shall participate in
14 mediation. The parties may request, within forty days of the
15 filing of the answer to the petition, that mediation be
16 provided by a private mediator at the expense of the parties,
17 in lieu of provision of mediation by the court-annexed
18 mediator. However, if private mediation services are
19 provided, the court may also require participation of the
20 parties in additional mediation provided by a court-annexed
21 mediator.

22 (6) Court-ordered mediation may be waived by the court for
23 good cause, if the court determines that a history of domestic
24 abuse exists between the parties, if a party requests waiver
25 of court-ordered mediation, or if the court-annexed mediator
26 determines that the case is inappropriate for mediation. The
27 court order for mediation may include a schedule for
28 participation in mediation and may require the mediator to
29 file reports with the court. Additionally, if the court or
30 the mediator determines that joint sessions are not in the
31 best interest of the parties, the parties may participate in
32 mediation separately until such time as the mediator
33 determines that joint sessions are in the best interest of the
34 parties. Failure to participate in court-ordered mediation
35 may result in dismissal or stay of the proceedings.

1 (7) The costs of court-ordered mediation including the
2 costs of the services of the mediator shall be taxed as court
3 costs. If the court determines that the parties are unable to
4 pay all or a portion of the costs of court-ordered mediation,
5 the court may waive or reduce the costs of the mediation
6 proceedings. The parties may resolve the issue of payment of
7 mediation costs during mediation. The costs of court-ordered
8 mediation shall not exceed one hundred dollars per party.

9 (8) During court-ordered mediation, the parties shall
10 disclose all relevant information. However, evidence of the
11 conduct or statements made in the course of court-ordered
12 mediation shall be inadmissible in court to the extent that
13 such conduct or statements are inadmissible pursuant to the
14 Iowa rule of evidence regarding compromise and offers to
15 compromise.

16 (9) A mediator shall maintain the confidentiality of the
17 court-ordered mediation proceedings unless otherwise required
18 by law including but not limited to section 622.10, to
19 disclose the information. A party participating in court-
20 ordered mediation may refuse to disclose and may prevent any
21 other person present at the proceeding from disclosing
22 communications made during the proceedings. Any oral or
23 written communications resulting from court-ordered mediation
24 proceedings with the exception of any settlement agreement,
25 shall remain confidential and are inadmissible as evidence in
26 any subsequent legal proceeding. A mediator shall not be
27 called upon to testify or to make recommendations during the
28 court proceedings. However, confidential information may be
29 disclosed in a disciplinary proceeding involving the mediator
30 for the internal use of the examining board investigating any
31 complaint against a mediator, and any information relating to
32 the disciplinary action shall not be released to the public
33 until all references to otherwise privileged information are
34 removed.

35 (10) Any attorney of a party may appear with the party

1 during the court-ordered mediation proceedings. However, at
2 the discretion of the mediator, and with the agreement of the
3 parties, court-ordered mediation proceedings may take place in
4 the absence of the attorneys.

5 (11) Court-ordered mediation shall be completed within
6 seventy-five days of the initial mediation conference unless
7 otherwise ordered by the court.

8 (12) Following court-ordered mediation, if an agreement is
9 reached on any issue or matter, the mediator shall reduce the
10 agreement to writing and shall provide a copy of the agreement
11 to the clerk of the district court. The clerk shall forward a
12 copy of the agreement to any attorneys of record or to any
13 party appearing pro se. If no written objections or suggested
14 alternatives to the agreement are received by the clerk within
15 twenty days of the mailing of the agreement, the document
16 shall be forwarded to the court by the clerk for review. The
17 court shall enter the agreement as proposed or shall schedule
18 a hearing. The agreement shall be made part of the final
19 judgment or order in the case. A copy of the final judgment
20 or order shall be sent by the clerk to any attorney of record
21 or to any party appearing pro se.

22 (13) If the parties fail to reach an agreement on any
23 issue or matter of court-ordered mediation, the mediator shall
24 report the lack of agreement to the court. The mediator's
25 report shall identify any unresolved issues and any
26 outstanding issues which might facilitate settlement, if
27 resolved. Any issue or matter unresolved through court-
28 ordered mediation shall be presumed to require court
29 intervention and shall be addressed through a hearing before
30 the court. The mediator's report shall also indicate whether
31 both parties attended any mediation sessions, whether the
32 issues were completely or partially settled, and any
33 recommendations for review by the court.

34 (14) During the period of court-ordered mediation, the
35 court may appoint an attorney, guardian ad litem, or court-

1 appointed special advocate to represent the interests of any
2 minor child or to perform investigations as provided pursuant
3 to section 598.12.

4 (15) Unless stipulated by the parties or ordered by the
5 court, discovery shall not be suspended during the court-
6 ordered mediation process.

7 d. Parties who do not have a matter pending before the
8 court who wish to participate in court-annexed mediation
9 services, may request participation in these services.
10 Services shall be provided to the parties based upon a
11 sliding-fee schedule. Any agreements reached by the parties
12 shall be reduced to writing by the mediator and copies of any
13 written agreement shall be provided to the parties.

14 e. The court may also order participation in court-annexed
15 mediation services for parties to proceedings before the court
16 in addition to divorce proceedings.

17 f. The chief judge of the third or sixth judicial
18 district, respectively, shall do all of the following:

19 (1) Establish the qualifications for mediators who are to
20 provide court-annexed or court-ordered mediation.

21 (2) Establish a sliding fee schedule for the provision of
22 court-annexed mediation services to parties who do not have
23 domestic relations matters pending before the court.

24 (3) Employ court-annexed mediators as follows:

25 (a) The chief judge of the third judicial district shall
26 employ three court-annexed mediators.

27 (b) The chief judge of the sixth judicial district shall
28 employ five court-annexed mediators.

29 (4) Develop an intake fact sheet to be completed by the
30 parties who may subject to participation in court-ordered
31 services and parties who request participation in court-
32 annexed mediation services.

33 DIVISION IV

34 REPEALS

35 Sec. 60. Sections 598.4, 598.6, 598.9, and 598.14, Code

1 1995, are repealed.

2 Sec. 61. Section 598.8, Code Supplement 1995, is repealed.

3

EXPLANATION

4 This bill makes various changes in the portions of the Code
5 relating to marriage and divorce. The bill is divided into
6 four divisions.

7 Division I. Division I of the bill includes substantive
8 Code changes relating to marriage and divorce. New section
9 422.12F provides for a premarital counseling income tax
10 credit. If a married couple participates in premarital
11 counseling and demonstrates participation in the counseling,
12 the personal income taxes of the couple are to be reduced in
13 an amount which is the actual cost of the counseling, not to
14 exceed \$100. Additionally, the bill provides for a similar
15 early marriage counseling credit which provides that if a
16 married couple participates in counseling during the first
17 five years of their marriage, the personal income taxes of the
18 couple are to be reduced in an amount which is not to exceed
19 \$500 over the course of the five-year period. The credit may
20 be taken in one year or may be taken over the course of a
21 five-year period.

22 New Code section 595.3A provides for the notification of
23 applicants for a license to marry of the rights and
24 obligations incident to marriage and divorce and requires
25 participation of the applicants in a program or the viewing of
26 a videotape which provides information regarding the rights
27 and obligations incident to marriage and divorce. The bill
28 provides for the required content of the notification,
29 program, and videotape and requires completion of the program
30 or viewing of the videotape prior to the issuance of the
31 license to marry by the clerk of the district court.

32 New Code sections 598.20 and 598.21 relate to premarital
33 counseling and early marriage counseling for the purposes of
34 the income tax credit created pursuant to new Code sections
35 422.12F and 422.12G. These sections establish the

1 requirements for premarital and early marriage counseling,
2 define premarital and early marriage counseling, and prescribe
3 who may provide premarital and early marriage counseling.

4 Section 598.1 is amended to provide legislative findings
5 and intent for the divorce chapter of the Code. Section
6 598.1A provides definitions for use in the chapter including
7 new definitions for "divorce," "family," "household," "in-kind
8 support," "legitimate objects of matrimony," "marital home,"
9 "marriage," "physical care," "residence," "separate
10 maintenance," and "support payments."

11 Section 598.7A of the Code is amended to provide that in
12 every domestic relations proceeding or modification of any
13 order to come before the court, the court is to determine
14 whether the parties should participate in mediation to attempt
15 to resolve the differences between the parties.

16 Section 598.19 of the Code is amended to extend the waiting
17 period for the granting of a divorce decree from 90 to 120
18 days from the day the original notice is served or from the
19 last day of publication of notice or from the date that waiver
20 or acceptance of original notice is filed or until after
21 conciliation is completed, whichever is longer.

22 Section 598.21 of the Code is amended to provide that there
23 is a presumption that the family home or at a minimum the
24 right to live in the family home for a reasonable period shall
25 be awarded to the party having custody of the children or to
26 the party with primary physical care of the children unless it
27 is not in the best interest of the child. The award of the
28 family home is to be independent of the property award
29 entered.

30 Section 598.41 of the Code is amended to provide that if
31 the court determines that the granting of a divorce decree is
32 not in the best interest of a child, the court may stay the
33 proceedings for a time determined by the court or may dismiss
34 the proceedings. If the court dismisses the proceedings, the
35 parties are prohibited from filing a new petition for divorce

1 for a minimum period of 180 days.

2 Division II of the bill provides technical changes to the
3 Code relating to divorce and marriage, the majority of which
4 change references to "dissolution of marriage" to "divorce".

5 Division III of the bill establishes a court-annexed family
6 mediation pilot project to be established in the third and
7 sixth judicial districts. The project provides for mediation
8 and other services to parties involved in domestic relations
9 matters. Participation in mediation and other services is
10 required for parties to a divorce proceeding. Following the
11 filing of a petition for divorce, the parties are required to
12 complete an intake fact sheet and a marriage assessment. The
13 parties then participate in a joint marriage assessment with a
14 mediator to determine if the marriage is reconcilable.

15 Following these steps, the parties are required to participate
16 in mediation. The costs of mediation are to be paid by the
17 parties and the cost of court-ordered mediation is not to
18 exceed \$100 per party. Confidentiality provisions apply to
19 information provided during mediation. Following mediation,
20 any agreements between the parties are to be submitted in
21 writing to the court, following a period for review by the
22 parties and attorneys of the parties. The marriage assessment
23 and mediation may be waived for several reasons including good
24 cause or if a history of domestic abuse exists. The bill also
25 directs the chief judge of each of the two judicial districts
26 involved to establish certain requirements for the projects.

27 Division IV of the bill repeals certain sections of the
28 Code. The language repealed remains in the Code as additions
29 to other sections of the Code.

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HOUSE FILE 2473

H-5285

1 Amend House File 2473 as follows:

2 1. By striking everything after the enacting
3 clause and inserting the following:

4 "Section 1. NEW SECTION. 595.3A RIGHTS AND
5 OBLIGATIONS -- NOTIFICATION.

6 Upon the filing of an application for a license to
7 marry and prior to the issuance of a license to marry,
8 the clerk of the district court shall provide the
9 applicants with a listing of resources to provide the
10 applicants with information which sets forth the legal
11 rights and obligations incident to marriage and
12 divorce. The chief judge of each judicial district
13 shall develop the listing of resources to be provided
14 to the applicants under this section.

15 Sec. 2. Section 598.7A, Code Supplement 1995, is
16 amended to read as follows:

17 598.7A ~~DISSOLUTION-OF-MARRIAGE~~ DOMESTIC RELATIONS
18 PROCEEDING -- MEDIATION.

19 In addition to the custody mediation provided
20 pursuant to section 598.41, unless the court
21 determines that a history of domestic abuse exists as
22 specified in section 598.41, subsection 3, paragraph
23 "j", or unless the court determines that direct
24 physical harm or significant emotional harm to the
25 child, other children, or a parent is likely to
26 result, on the application of either party, or on the
27 court's own motion, the court ~~may-require~~ shall
28 determine in each domestic relations proceeding or
29 modification of any order relating to those
30 proceedings whether the parties to the proceeding
31 shall participate in mediation to attempt to resolve
32 differences between the parties relative-to-the
33 granting-of-a-marriage-dissolution-decree,-if-the
34 court-determines-that-mediation-may-effectuate-a
35 resolution-of-the-differences without court
36 intervention.

37 The costs of mediation shall be paid in full or in
38 part by the parties, as determined by the court and
39 taxed as court costs.

40 Sec. 3. NEW SECTION. 598.7B MEDIATION AND
41 CONCILIATION SERVICES -- REQUIREMENTS, QUALIFICATIONS,
42 AND FEES.

43 1. The supreme court shall prescribe rules to
44 establish the minimum qualifications for persons who
45 provide professional mediation and conciliation
46 services through the domestic relations division of a
47 district court relating to domestic relations
48 proceedings including but not limited to dissolution
49 of marriage, custody, support, or separate maintenance
50 proceedings and including modifications of any orders

H-5285

-1-

H-5285

Page 2

1 relating to these proceedings. The supreme court may
2 seek assistance in the drafting of the rules from
3 national mediation associations and other entities
4 with expertise in mediation and reconciliation
5 services. The rules shall provide for the
6 establishment of a sliding fee schedule for the
7 provision of services and shall require that in order
8 to provide mediation or conciliation services through
9 the domestic relations division of a district court,
10 the person is subject to the sliding fee schedule
11 established by the supreme court.

12 2. In addition to the provisions for conciliation
13 services pursuant to section 598.16, a district court
14 may recommend or require reconciliation services to
15 parties involved in domestic relations proceedings
16 including but not limited to dissolution of marriage,
17 custody, support, or separate maintenance proceedings
18 and including modification of any orders relating to
19 these proceedings.

20 Sec. 4. NEW SECTION. 598.19A MANDATORY SEMINARS
21 -- PARENTS OF MINOR CHILDREN.

22 1. A decree dissolving the marriage of the parents
23 of a minor child shall not be granted until the
24 parents have participated in a seminar regarding the
25 effects of dissolution of marriage on a minor child.
26 Additionally, parties to a contested modification of
27 custody proceeding, who have not previously
28 participated in the seminar, shall participate in the
29 seminar prior to the granting of a modification of
30 custody order. The court shall require the parties to
31 participate in a seminar for a period of four hours.

32 2. A majority of the judges in a judicial district
33 shall establish the seminars, in cooperation with the
34 department of human services. The seminars shall be
35 scheduled at not more than two-week intervals, at
36 locations which are convenient for and accessible to
37 the parties to the dissolution or contested
38 modification of custody proceeding. The seminar shall
39 include, but is not limited to, information regarding
40 the effects of dissolution, including custodial
41 relationships, on a minor child and instructions for
42 coping with the effects.

43 3. The court shall establish a fee for the seminar
44 which reflects the actual cost of the seminar. The
45 fee shall be paid in full or in part by the parties as
46 directed by the court and shall be taxed as a court
47 cost.

48 4. Notwithstanding the requirement of
49 participation in the seminar established in this
50 section, a decree or order may be granted prior to

H-5285

-2-

H-5285

Page 3

1 fulfillment of the requirement if a party demonstrates
2 that the other party refuses to participate in the
3 seminar."

4 2. Title page, by striking lines 1 through 3 and
5 inserting the following: "An Act relating to domestic
6 relations."

By KREIMAN of Davis

H-5285 FILED MARCH 11, 1996

Hurley, Chair
Lamberti
Boddicker
Kreiman
Doderer

HSB632

JUDICIARY

Succeeded By

HOUSE FILE

CF

2473

BY (PROPOSED COMMITTEE ON
JUDICIARY BILL BY CHAIR-
PERSON HURLEY)

Passed House, Date _____

Passed Senate, Date _____

Vote: Ayes _____ Nays _____

Vote: Ayes _____ Nays _____

Approved _____

A BILL FOR

1 An Act relating to marriage and divorce and providing for a tax
2 credit for premarital counseling.

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

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2024/11/12
Succeeded By

1 Section 1. Section 97A.1, subsection 17, Code 1995, is
2 amended to read as follows:

3 17. "Surviving spouse" shall mean the surviving spouse or
4 former spouse of a marriage solemnized prior to retirement of
5 a deceased member from active service. Surviving spouse shall
6 include a former spouse only if the division of assets in the
7 ~~dissemination-of-marriage~~ divorce decree pursuant to section
8 598.17 grants the former spouse rights of a spouse under this
9 chapter. If there is no surviving spouse of a marriage
10 solemnized prior to retirement of a deceased member, surviving
11 spouse includes a surviving spouse of a marriage of two years
12 or more duration solemnized subsequent to retirement of the
13 member.

14 Sec. 2. Section 144.37, Code 1995, is amended to read as
15 follows:

16 144.37 ~~DISSOLUTION~~ DIVORCE AND ANNULMENT RECORDS.

17 For each ~~dissemination~~ divorce or annulment of marriage
18 granted by any court in this state, a record shall be prepared
19 by the clerk of court or by the petitioner or the petitioner's
20 legal representative if directed by the clerk and filed by the
21 clerk of court with the state registrar. The information
22 necessary to prepare the report shall be furnished with the
23 petition, to the clerk of court by the petitioner or the
24 petitioner's legal representative, on forms supplied by the
25 state registrar.

26 The clerk of the district court in each county shall keep a
27 record book for ~~disseminations~~ divorces. The form of
28 ~~dissemination~~ divorce record books shall be uniform throughout
29 the state. A properly indexed record of ~~disseminations~~ divorces
30 upon microfilm, electronic computer, or data processing
31 equipment may be kept in lieu of ~~dissemination~~ divorce record
32 books.

33 On or before the tenth day of each calendar month, the
34 clerk of court shall forward to the state registrar the record
35 of each ~~dissemination~~ divorce and annulment granted during the

1 preceding calendar month and related reports required by
2 regulations issued under this chapter.

3 Sec. 3. Section 144.43, subsection 3, Code 1995, is
4 amended to read as follows:

5 3. A record of divorce, ~~dissemination-of-marriage~~, or
6 annulment of marriage.

7 Sec. 4. Section 144.51, Code 1995, is amended to read as
8 follows:

9 144.51 INFORMATION BY OTHERS FURNISHED ON DEMAND.

10 Any person having knowledge of the facts shall furnish
11 information the person possesses regarding any birth, death,
12 fetal death, adoption, marriage, dissemination divorce, or
13 annulment, upon demand of the state registrar or the state
14 registrar's representative.

15 Sec. 5. Section 252B.1, subsection 5, Code 1995, is
16 amended to read as follows:

17 5. "Obligor" means the person legally responsible for the
18 support of a child as defined in section 598-~~1~~ 598.1A under a
19 support order issued in this state or a foreign jurisdiction.

20 Sec. 6. Section 252B.6, subsection 2, Code 1995, is
21 amended to read as follows:

22 2. Appear as a friend of the court in ~~dissemination-of~~
23 marriage divorce and separate maintenance proceedings, or
24 proceedings supplemental thereto, when either or both of the
25 parties to the proceedings are receiving public assistance,
26 for the purpose of advising the court of the financial
27 interest of the state in the proceeding.

28 Sec. 7. Section 252B.6, subsection 4, unnumbered paragraph
29 1, Code 1995, is amended to read as follows:

30 If public assistance has been applied for or granted on
31 behalf of a child of parents who are legally separated or
32 ~~whose-marriage-has-been-legally-dissolved~~ divorced, the unit
33 may apply to the district court for a court order directing
34 either or both parents to show cause for the following:

35 Sec. 8. Section 252B.13A, Code 1995, is amended to read as

1 follows:

2 252B.13A COLLECTION SERVICES CENTER.

3 The department shall establish within the unit a collection
4 services center for the receipt and disbursement of support
5 payments as defined in section 598-~~1~~ 598.1A as required for
6 orders by section 252B.14. For purposes of this section,
7 support payments do not include attorney fees, court costs, or
8 property settlements.

9 Sec. 9. Section 252B.14, subsection 1, Code 1995, is
10 amended to read as follows:

11 1. For the purposes of this section, "support order"
12 includes any order entered pursuant to chapter 234, 252A,
13 252C, 598, 600B, or any other support chapter or proceeding
14 which establishes support payments as defined in section 598-~~1~~
15 598.1A.

16 Sec. 10. Section 252D.1, subsection 1, Code 1995, is
17 amended to read as follows:

18 1. As used in this chapter, unless the context otherwise
19 requires, "support" or "support payments" means any amount
20 which the court may require a person to pay for the benefit of
21 a child under a temporary order or a final judgment or decree,
22 and may include child support, maintenance, medical support as
23 defined in chapter 252E, and, if contained in a child support
24 order, spousal support, and any other term used to describe
25 these obligations. These obligations may include support for
26 a child who is between the ages of eighteen and twenty-two
27 years and who is regularly attending an accredited school in
28 pursuance of a course of study leading to a high school
29 diploma or its equivalent, or regularly attending a course of
30 vocational technical training either as a part of a regular
31 school program or under special arrangements adapted to the
32 individual person's needs, or is, in good faith, a full-time
33 student in a college, university, or community college, or has
34 been accepted for admission to a college, university, or
35 community college and the next regular term has not yet begun;

1 and may include support for a child of any age who is.
2 dependent on the parties to the dissolution divorce
3 proceedings because of physical or mental disability.

4 Sec. 11. Section 321.46, subsection 6, Code 1995, is
5 amended to read as follows:

6 6. An applicant for a new registration for a vehicle
7 transferred to the applicant by a spouse, parent or child of
8 the applicant, or by operation of law upon inheritance, devise
9 or bequest, from the applicant's spouse, parent or child, or
10 by a former spouse pursuant to a divorce decree of ~~dissolution~~
11 ~~of-marriage~~, is entitled to a credit to be applied to the
12 registration fee for the transferred vehicle. A credit shall
13 not be allowed unless the vehicle to which the credit applies
14 is registered within the time specified under subsection 1.
15 The credit shall be computed on the basis of the number of
16 unexpired months remaining in the registration year of the
17 former owner computed from the date the vehicle was
18 transferred, computed to the nearest whole dollar. The credit
19 may exceed the amount of the registration fee for the
20 transferred vehicle. When the amount of the credit is
21 computed to be an amount of less than ten dollars, the credit
22 shall be disallowed. The credit shall not be sold,
23 transferred, or assigned to any other person.

24 Sec. 12. Section 410.10, subsection 3, unnumbered
25 paragraph 3, Code 1995, is amended to read as follows:

26 However, the benefits provided by this section are subject
27 to the following definitions: The term "spouse" means a
28 surviving spouse of a marriage contracted prior to retirement
29 of a deceased member from active service, or of a marriage of
30 a retired member contracted prior to March 2, 1934. Surviving
31 spouse includes a former spouse only if the division of assets
32 in the ~~dissolution-of-marriage~~ divorce decree pursuant to
33 section 598.17 grants the former spouse rights of a spouse
34 under this chapter. If there is no surviving spouse of a
35 marriage contracted prior to retirement of a deceased member,

S.F. _____ H.F. _____

1 or of a marriage of a retired member contracted prior, to March
2 2, 1934, surviving spouse includes a surviving spouse of a
3 marriage of two years or more duration contracted subsequent
4 to retirement of the member. The terms "child" and "children"
5 mean only the surviving issue of a deceased active or retired
6 member, or the child or children legally adopted by a deceased
7 member prior to the member's retirement from active service.

8 Sec. 13. Section 411.1, subsection 19, Code 1995, is
9 amended to read as follows:

10 19. "Surviving spouse" shall mean the surviving spouse of
11 a marriage solemnized prior to retirement of a deceased member
12 from active service. Surviving spouse shall include a former
13 spouse only if the division of assets in the ~~dissolution-of~~
14 marriage divorce decree pursuant to section 598.17 grants the
15 former spouse rights of a spouse under this chapter. If there
16 is no surviving spouse of a marriage solemnized prior to
17 retirement of a deceased member, surviving spouse includes a
18 surviving spouse of a marriage of two years or more duration
19 solemnized subsequent to retirement of the member.

20 Sec. 14. NEW SECTION. 422.12F PREMARITAL COUNSELING
21 CREDIT.

22 If a married couple participated in premarital counseling
23 as provided in section 595.20, and demonstrates participation
24 in the counseling by submission of a sworn affidavit by the
25 counselor providing the services, the taxes imposed under this
26 division for the year in which the marriage took place shall,
27 in addition to any other reductions permitted under this
28 division, be reduced by the actual cost of the counseling
29 services not to exceed one hundred dollars. Individuals who
30 are married but elect to file separate returns or who file
31 separately on a combined return form must allocate the credit
32 between the spouses in the ratio which each spouse's Iowa
33 source net income bears to the combined Iowa source net income
34 of both taxpayers. Any credit in excess of the tax liability
35 shall be refunded. In lieu of claiming a refund, a taxpayer

1 may elect to have the overpayment shown on the taxpayer's
2 final, completed return credited to the tax liability for the
3 following taxable year.

4 Sec. 15. Section 428A.2, subsection 16, Code Supplement
5 1995, is amended to read as follows:

6 16. Deeds for the transfer of property or the transfer of
7 an interest in property when the deed is executed between
8 former spouses pursuant to a divorce decree of-dissolution-of
9 marriage.

10 Sec. 16. Section 509B.2, Code 1995, is amended to read as
11 follows:

12 509B.2 PERSONS INCLUDED IN THIS CHAPTER.

13 1. As used in this chapter, "termination of employment or
14 membership" includes but is not limited to termination because
15 of permanent or temporary layoff or approved leave of absence.
16 A provision in this chapter which relates to termination of
17 insurance under a group policy of an employee or member and
18 the employee's or member's covered dependents includes
19 termination of insurance with respect to the surviving or
20 former spouse or children of an employee or member whose
21 insurance would terminate because of dissolution divorce or
22 annulment of the marriage of the employee or member, or would
23 terminate because of death of the employee or member.

24 2. A provision in this chapter which relates to an em-
25 ployee or member includes the surviving or former spouse or
26 children if termination occurs because of dissolution divorce
27 or annulment of a marriage or death of an employee or member.

28 Sec. 17. Section 509B.3, subsection 8, Code 1995, is
29 amended to read as follows:

30 8. The spouse of an employee or member, and any covered
31 dependent children of the employee or member, whose coverage
32 under the group policy would otherwise terminate because of
33 dissolution divorce or annulment of marriage or death of the
34 employee or member shall have the same contribution and notice
35 responsibilities and privileges as provided under this chapter

S.F. _____ H.F. _____

1 to the employee or member upon termination of employment or
2 membership.

3 Sec. 18. Section 509B.4, subsection 15, Code 1995, is
4 amended to read as follows:

5 15. Subject to any preceding conditions, conversion
6 privileges are available to a surviving spouse at the death of
7 the employee or member, with respect to the spouse and
8 children whose coverage under the group policy terminates by
9 reason of the death, or to each surviving child whose coverage
10 under the group policy terminates by reason of death, or when
11 continuation of dependent's coverage is accepted following the
12 employee's or member's death, at the end of the continuation.
13 Subject to any preceding conditions, the conversion privilege
14 is available to the spouse of the employee or member upon
15 termination of coverage of the spouse, by reason of
16 ~~dissolution~~ divorce or annulment of marriage or otherwise
17 ceasing to be a qualified family member under the group
18 policy, while the employee or member remains insured under the
19 policy, or when continuation of dependent's coverage is
20 elected following the ~~dissolution~~ divorce or annulment of
21 marriage, at the end of continuation. This conversion
22 privilege includes children whose coverage under the group
23 policy terminates at the same time. Subject to any preceding
24 conditions, the conversion privilege is also available to a
25 child solely with respect to the child upon termination of
26 coverage by reason of ceasing to be a qualified family member
27 under the group policy, if a conversion privilege is not
28 otherwise provided within this section.

29 Sec. 19. Section 558A.1, subsection 4, paragraph f, Code
30 1995, is amended to read as follows:

31 f. A transfer between spouses resulting from a divorce
32 ~~decree of dissolution of marriage~~, a decree of legal
33 separation, or a property settlement agreement which is
34 incidental to the decree, including a decree ordered pursuant
35 to chapter 598.

1 Sec. 20. NEW SECTION. 595.3A RIGHTS AND OBLIGATIONS --
2 NOTIFICATION.

3 1. Upon the filing of an application for a license to
4 marry and prior to the issuance of a license to marry, all of
5 the following conditions shall be met:

6 a. The clerk of the district court shall provide the
7 applicants with written notice of the legal rights and
8 obligations incident to marriage and divorce.

9 b. The applicants shall attend a program designed to
10 provide information regarding the legal rights and obligations
11 incident to marriage and divorce or shall view a videotape
12 covering these topics.

13 2. The judicial council shall make recommendations to the
14 supreme court regarding the written information, the program,
15 and the videotape for applicants for a license to marry. The
16 supreme court shall prescribe rules based upon these
17 recommendations for the implementation and administration of
18 the written information, the program, and the videotape. The
19 rules prescribed shall include, at a minimum, all of the
20 following:

21 a. That the content of the information provided through
22 the written document, the program, and the videotape shall
23 include all of the following:

24 (1) The legal rights and obligations of each party to a
25 marriage or divorce relative to agreements, arrangements, or
26 transactions entered into by either party prior to or during
27 the marriage including but not limited to insurance coverage
28 and consumer credit transactions.

29 (2) Inheritance rights.

30 (3) Support obligations during the marriage.

31 (4) Ownership of property, both real and personal, whether
32 existing prior to the marriage or acquired or received by
33 either party during the marriage.

34 (5) The effect of a premarital agreement.

35 (6) Support obligations which may be imposed following a

1 divorce.

2 (7) Distribution of property pursuant to a divorce decree.

3 (8) Arrangements for awarding of custody and provision of
4 support for minor children pursuant to a divorce decree.

5 b. A requirement that the written document, the program,
6 and the videotape provide a means for evaluation by the
7 recipients or participants. Each judicial district shall
8 submit an annual evaluation report to the judicial council
9 based upon the responses received from the recipients or
10 participants.

11 c. A provision that a judicial district may administer the
12 program or the videotape through a contract with a private or
13 public entity. The services provided under a contract shall
14 meet all of the criteria specified in paragraph "a".

15 3. Each judicial district shall establish a process to
16 provide applicants for a license to marry with the written
17 notice of the legal rights and obligations incident to
18 marriage and to divorce and with information regarding
19 required participation in the program or required viewing of
20 the videotape. The written notice and information regarding
21 the program and videotape shall be provided through the office
22 of the clerk of the district court.

23 4. Each applicant for a license to marry shall be
24 responsible for making arrangements to participate in the
25 program or to view the videotape, and each applicant shall
26 participate in the program or view the videotape at the
27 applicant's own expense.

28 5. Each applicant shall be provided with a certificate
29 following completion of the program or following the viewing
30 of the videotape. The certificate constitutes evidence of
31 participation or viewing and shall be submitted by an
32 applicant to the clerk of the district court prior to the
33 issuance of a license to marry.

34 Sec. 21. NEW SECTION. 595.20 PREMARITAL COUNSELING.

35 1. "Premarital counseling" means one or more meetings,

1 totalling at least six hours, between two parties, who are
2 eligible to enter into a marriage contract and have either
3 made application for a marriage license or intend to apply for
4 a marriage license, and one or more neutral parties for
5 purposes of discussing the rights, expectations, needs,
6 obligations, and other commitments incident to the marriage
7 contract, including, but not limited to, discussion about
8 children, finances, relationships with new family members,
9 sex, religion, roles, and communication and conflict
10 resolution skills.

11 2. In the course of premarital counseling, the parties and
12 the counselor shall evaluate the parties' compatibility as a
13 couple and their commitment to one another.

14 3. Premarital counseling may be provided by any or a
15 combination of any of the following:

- 16 a. A member of the clergy.
- 17 b. Staff of a church or other religious organization.
- 18 c. A trained or certified counselor.

19 Sec. 22. Section 596.5, subsection 1, paragraph c, Code
20 1995, is amended to read as follows:

21 c. The disposition of property upon separation,
22 ~~dissolution-of-the-marriage~~ divorce, death, or the occurrence
23 or nonoccurrence of any other event.

24 Sec. 23. Section 598.1, Code 1995, is amended by striking
25 the section and inserting in lieu thereof the following:

26 598.1 LEGISLATIVE FINDINGS AND INTENT.

27 The general assembly of the state of Iowa finds that the
28 family is the unit of self-government best able to teach and
29 practice the virtues that benefit not only the members of the
30 family, but also all citizens of this state and of this
31 country. The general assembly further finds that the
32 institution of marriage embodies virtues which promote
33 societal stability, including loyalty, commitment, trust,
34 mutual support, faithfulness, self-sacrifice, adherence to
35 duty, hope, and love. The general assembly also finds that

1 the integrity and permanence of the marriage relationship is
2 of vital importance to the welfare of society and of the
3 people of the state of Iowa.

4 The general assembly finds that when the state has failed
5 to apply and enforce the provisions of civil contracts of
6 marriage vast social, financial, and human costs have been
7 imposed upon all Iowans. Crime and disrespect for authority
8 derive in large part from the breakdown of authority within
9 the family unit which, in turn, is largely a result of divorce
10 and births outside of wedlock and the separation of parents
11 from their children. Police, courts, schools, social
12 agencies, state government, and private volunteer groups can
13 provide, at best, only secondary assistance in child rearing
14 or the regulation of human relationships and then only at
15 increasingly prohibitive costs. Furthermore, social science
16 demonstrates that divorced spouses and their children suffer
17 severe declines in financial status and are much more
18 susceptible to depression and other mental health problems
19 than are persons involved in stable marriages. Additionally,
20 incidents of child abuse occur in disproportionately great
21 numbers at the hands of individuals living in households in
22 which the individuals are not the parents of the abused child.

23 Consequently, the general assembly concludes that divorce
24 should be discouraged and that the institution of marriage
25 requires strengthening, by enforcement of its obligations,
26 through legal recognition of the permanence of the
27 relationship, and by application of sanctions against those
28 who would violate the contract of marriage. The general
29 assembly further concludes that, as a matter of state policy
30 and legal presumption, the laws of this state should be
31 construed to strongly support the formation, existence,
32 continuation, and permanency of marital relationships, and
33 should be construed to discourage the dissolution,
34 infringement, or inhibition of marriages.

35 It is therefore the intent of the general assembly that

1 this chapter be construed to effectuate the following
2 purposes:

3 1. To promote the best interests of children by assuring
4 that as many children as possible are under the direct care,
5 parental supervision, and custody of both their mothers and
6 their fathers.

7 2. To promote the best interests of Iowa taxpayers and
8 citizens, by reducing the burden of social and human costs
9 generated by the breaking up of families and homes which
10 results from no-fault divorce.

11 3. To promote the best interests of men and women, both as
12 individuals owing legal and moral duties to one another and as
13 participants in the institution of marriage, by furthering
14 policies which support the parties' marital vows, mental and
15 financial well-being, and social responsibility.

16 Sec. 24. NEW SECTION. 598.1A DEFINITIONS.

17 As used in this chapter, unless the context otherwise
18 requires:

19 1. "Adultery" means the voluntary commission of one or
20 more sex acts, as defined under section 702.17, by a married
21 person with another person who is not the person's spouse.

22 2. "Best interest of the child" includes, but is not
23 limited to, the opportunity for maximum continuous physical
24 and emotional contact possible with both parents, unless
25 direct physical or significant emotional harm to the child may
26 result from this contact. Refusal by one parent to provide
27 this opportunity without just cause shall be considered
28 harmful to the best interest of the child.

29 3. "Desertion" means an abdication by one party to the
30 marriage of the party's marital duties and consequent
31 abandonment of the legitimate objects of matrimony including
32 all of the following:

33 a. The willful and continuous absence of a party to a
34 marriage from the marital home, without reasonable cause and
35 without consent of the other party to the marriage, for a

1 period of at least two years, together with the consistent
2 failure to provide substantial monetary or other necessary
3 support for other members of the family. These absences may
4 include absences resulting from incarceration.

5 b. The willful and consistent failure of a party to a
6 marriage to provide substantial monetary or other necessary
7 support for the other members of the family, which failure to
8 provide occurs without the consent of the other party to the
9 marriage, and for a period of at least one year while claiming
10 residence in the marital home.

11 4. "Divorce" means the dissolving of a marriage
12 relationship by an order or decree of a court of competent
13 jurisdiction and is synonymous with the term "dissolution of
14 marriage".

15 5. "Emotional abuse" means a consistent and malicious
16 course of outrageous conduct by one party to the marriage
17 beyond all bounds of decency and utterly intolerable to any
18 reasonable person, which is intended to cause, and actually
19 and proximately causes, extreme emotional distress to the
20 other party to the marriage. The distress must be clearly and
21 directly demonstrated by either physical symptoms or by a
22 notable and observable distressful mental reaction. Any
23 instance relied upon to demonstrate the course of conduct must
24 have occurred within a one-year period and must constitute
25 sufficient evidence to prove intentional infliction of severe
26 emotional distress.

27 6. "Family" means the social unit comprising a husband,
28 wife, and any dependent children, including stepchildren and
29 adoptive children.

30 7. "Fault" means an act or acts which constitute adultery,
31 desertion, domestic abuse or any other type of physical or
32 emotional abuse perpetrated against the petitioner or child
33 abuse perpetrated against a child of the household by the
34 respondent, or habitual use and abuse of alcohol or a
35 controlled substance by the respondent.

1 8. "Household" means the social unit comprising an
2 individual or individuals exercising legal authority together
3 with others related by consanguinity or affinity, living
4 together in the same home under authority of a designated
5 head.

6 9. "In-kind support" means care of any minor children and
7 maintenance of the marital home.

8 10. "Joint custody" or "joint legal custody" means an
9 award of custody of a minor child to both parents under which
10 both parents have rights and responsibilities toward the child
11 and under which neither parent has rights superior to those of
12 the other parent. The court may award physical care to one
13 parent only.

14 11. "Legitimate objects of matrimony" means fundamental
15 reasons and purposes for entering and continuing in a marriage
16 relationship, including, but not limited to, the following:

17 a. Procreation and the raising of children.

18 b. Protection of the other spouse and any children from
19 harm.

20 c. Providing for the needs of the other spouse and any
21 children.

22 d. Establishment of a marital home.

23 e. The advancement of the best interests of both spouses
24 and any children.

25 f. Love, companionship, comfort, physical care and
26 assistance, and other forms of consortium between the spouses
27 and any children.

28 g. Sexual relations between spouses.

29 12. "Marital home" means the residence established by a
30 husband and wife which is, or is intended to be, the residence
31 for both spouses and any children of the marriage.

32 13. "Marriage" is the legal relationship between a man and
33 a woman and excluding all others, which is established by a
34 civil contract between them as a voluntary social, legal,
35 physical, familial, and economic unit for life, for the

1 discharge of the duties imposed by the marriage contract and
2 for the joint pursuit of the legitimate objects of matrimony.

3 14. "Mediation" means a process for adjustment and
4 settlement of marital disputes in a friendly manner in which a
5 third party facilitates communication between and counsels the
6 husband and wife with the objectives of restoring harmony to
7 the marriage and family relations, promotes the legitimate
8 objects of matrimony, and promotes mutually acceptable
9 settlements of disputes. "Mediation" is synonymous with
10 conciliation, the subject matter of mediation shall
11 specifically include, but is not limited to, presentation and
12 discussion of problems which will be faced by both spouses and
13 any children of the marriage in the event of divorce.

14 15. "Mediator" means a person who provides mediation
15 services and may include pastors, priests, therapists,
16 psychologists, social workers, and other persons highly
17 trained or experienced in promoting family and marital
18 harmony, as authorized by court rule.

19 16. "Minor child" means any person under legal age.

20 17. "Physical care" means the right and responsibility to
21 maintain the principal home of the minor child and provide for
22 the routine care of the child.

23 18. "Residence" means a fixed or permanent abode in which
24 a person lives and to which the person, after being absent,
25 returns or intends to return.

26 19. "Separate maintenance" means an allowance granted to
27 one spouse for support during the period in which the spouses
28 are living apart, in separate households.

29 20. "Support" means the duty owed by a spouse to another,
30 or by a parent to a child, to advance the general welfare of
31 the support recipient and includes, but is not limited to,
32 provision of food, clothing, shelter, and other necessities of
33 life. Support may be fixed by court order in the form of
34 periodic cash support payments. The obligations may include
35 support for a child who is between the ages of eighteen and

1 twenty-two years who is regularly attending an accredited
 2 school in pursuance of a course of study leading to a high
 3 school diploma or its equivalent, or regularly attending a
 4 course of vocational-technical training either as a part of a
 5 regular school program or under special arrangements adapted
 6 to the individual person's needs; or is, in good faith, a
 7 full-time student in a college, university, or community
 8 college; or has been accepted for admission to a college,
 9 university, or community college and the next regular term has
 10 not yet begun; or a child of any age who is dependent on the
 11 parties to the divorce proceedings because of physical or
 12 mental disability.

13 21. "Support payments" means an amount which the court may
 14 require either of the parties to pay under a temporary order
 15 or a final judgment or decree, and may include alimony, child
 16 support, maintenance, medical payments, and any other term
 17 used to describe these support obligations.

18 Sec. 25. Section 598.3, Code 1995, is amended to read as
 19 follows:

20 598.3 KIND OF ACTION -- JOINDER.

21 An action for ~~dissolution-of-marriage~~ divorce shall be by
 22 equitable proceedings, and no cause of action, save for
 23 alimony, shall be joined ~~therewith~~ with the action. Such
 24 ~~actions-shall-not-be-subject-to-counterclaim-or-cross-petition~~
 25 ~~by-the-respondent.--After-the-appearance-of-the-respondent,-no~~
 26 ~~dismissal-of-the-cause-of-action-shall-be-allowed-unless-both~~
 27 ~~the-petitioner-and-the-respondent-sign-the-dismissal-~~

28 Sec. 26. Section 598.5, unnumbered paragraph 1, and
 29 subsections 5, 7, and 10, Code 1995, are amended to read as
 30 follows:

31 The petition for ~~dissolution-of-marriage~~ divorce shall:

32 5. State whether or not a separate action for ~~dissolution~~
 33 ~~of-marriage~~ divorce has been commenced by the respondent and
 34 whether such action is pending in any court in this state or
 35 elsewhere.

S.F. _____ H.F. _____

1 7. ~~Allege that there has been a breakdown of the marriage~~
2 ~~relationship to the extent that the legitimate objects of~~
3 ~~matrimony have been destroyed and there remains no reasonable~~
4 ~~likelihood that the marriage can be preserved. Be verified by~~
5 the petitioner and shall allege one or more of the following
6 grounds for divorce:

7 a. If both parties mutually agree to the divorce, that
8 there has been a breakdown of the marriage relationship to the
9 extent that the legitimate objects of matrimony have been
10 destroyed and there is no reasonable likelihood that the
11 marriage can be preserved.

12 b. If a party objects to the divorce, that at least one of
13 the following applies:

14 (1) The respondent has committed adultery subsequent to
15 the date of the marriage in question and not in collusion with
16 the petitioner for the purposes of procuring a divorce.

17 (2) The respondent has deserted the petitioner.

18 (3) That the petitioner is a victim of domestic abuse as
19 defined in section 236.2 or any other physical or emotional
20 abuse, or any child of the household is a victim of child
21 abuse as defined in section 232.68, and that the respondent is
22 the perpetrator of the abuse.

23 (4) That the respondent habitually uses and abuses alcohol
24 or a controlled substance.

25 10. ~~State whether the appointment of a conciliator~~
26 ~~pursuant to section 598.16 may~~ If the residence of both
27 parties to the marriage is known, state that mediation
28 pursuant to section 598.16A has been attempted but has failed
29 to preserve the marriage.

30 Sec. 27. Section 598.5, Code 1995, is amended by adding
31 the following new subsections:

32 NEW SUBSECTION. 11. Except where the respondent is a
33 resident of this state and is served by personal service,
34 state that the petitioner has been a resident of the state for
35 the last year, specifying the county in which the petitioner

1 has resided, and the length of the residence in the state
2 after deducting all absences from the state; and that the
3 maintenance of the residence has been in good faith and not
4 for the purpose of obtaining a divorce only.

5 NEW SUBSECTION. 12. Make any necessary averments as to
6 child custody required pursuant to section 598A.9.

7 Sec. 28. Section 598.5, subsections 6 and 7, Code 1995,
8 are amended by striking the subsections.

9 Sec. 29. Section 598.9, Code 1995, is amended to read as
10 follows:

11 598.9 RESIDENCE--- FAILURE OF PROOF.

12 If the averments-as-to-residence allegations of the
13 petition, including the grounds for divorce, are not fully
14 proved by clear and convincing evidence, the hearing shall
15 proceed no further, and the action shall be dismissed by the
16 court.

17 Sec. 30. Section 598.11, Code 1995, is amended to read as
18 follows:

19 598.11 TEMPORARY ORDERS.

20 1. The court may order either party to pay the clerk a sum
21 of money for the separate support and maintenance of the other
22 party and the children and to enable such party to prosecute
23 or defend the action. The order may be made whether the
24 action is original or is a modification of a preexisting
25 divorce decree. The court may on its own motion and shall
26 upon application of either party or an attorney appointed
27 under section 598.12 determine the temporary custody of any
28 minor child whose welfare may be affected by the filing of the
29 petition for dissolution divorce.

30 2. The court may make such an order when a claim for
31 temporary support is made by the petitioner in the petition,
32 or upon application of either party, after service of the
33 original notice and when no application is made in the
34 petition; however, no such order shall be entered until at
35 least five days' notice of hearing, and opportunity to be

1 heard, is given the other party. ~~Appearance-by-an-attorney-or~~
2 ~~the-respondent-for-such-hearing-shall-be-deemed-a-special~~
3 ~~appearance-for-the-purpose-of-such-hearing-only-and-not-a~~
4 ~~general-appearance.~~ An order entered pursuant to this section
5 shall contain the names, birth dates, addresses, and counties
6 of residence of the petitioner and respondent.

7 3. In making temporary orders, the court shall take into
8 consideration the age of the applicant, the physical and
9 pecuniary condition of the parties, and other matters as are
10 pertinent, which may be shown by affidavits, as the court may
11 direct.

12 4. After notice and hearing, subsequent changes in
13 temporary orders may be made by the court on application of
14 either party demonstrating a substantial change in the
15 circumstances occurring subsequent to the issuance of such
16 order. If the order is not so modified it shall continue in
17 force and effect until the action is dismissed or a divorce
18 decree is entered.

19 Sec. 31. Section 598.13, unnumbered paragraph 1, Code
20 1995, is amended to read as follows:

21 Both parties shall disclose their financial status. A
22 showing of special circumstances shall not be required before
23 the disclosure is ordered. A statement of net worth set forth
24 by affidavit on a form prescribed by the supreme court and
25 furnished without charge by the clerk of the district court
26 shall be filed by each party prior to the dissolution divorce
27 hearing. However, the parties may waive this requirement upon
28 application of both parties and approval by the court.

29 Sec. 32. NEW SECTION. 598.16A MEDIATION.

30 1. A petition for divorce shall not be heard until the
31 parties have participated in at least twelve hours of
32 prehearing mediation with a mediator. Following mediation,
33 the petitioner shall file a petition within thirty days or
34 shall, within thirty days, file an affidavit with the court
35 that the mediation has been unsuccessful in restoring the

1 relationship. Upon the request of either party, the court may
2 provide security during the mediation sessions if a history of
3 domestic violence relating to either party exists.

4 2. Following the filing of a petition for divorce with the
5 court, a mediator shall be selected by the parties within
6 fifteen days of the service of the petition. The method of
7 selection and qualification criteria shall be determined by
8 the parties. If the parties are unable to agree to the
9 selection of a mediator within the fifteen-day period, the
10 court may, upon the request of the petitioner, select a
11 mediator based upon standards developed by the judicial
12 council.

13 3. If the parties are unable to reach an agreement
14 regarding restoration of the relationship following
15 participation in mediation, or if at any time during the
16 mediation process either party requests termination of the
17 mediation or the mediator determines that mediation will be
18 unsuccessful in restoring the relationship, the mediator shall
19 file a sworn statement of nonagreement with the court. The
20 judicial council shall develop the nonagreement form to be
21 submitted. Upon the filing of the statement of nonagreement,
22 the matter shall be set for hearing so that the matter
23 receives priority. The hearing on the petition shall not be
24 held until the mediator's sworn statement is filed, unless the
25 matter constitutes an emergency or the hearing is held on
26 temporary matters only.

27 4. Any statements made by the parties during mediation are
28 subject to the Iowa rule of evidence regarding compromise and
29 offers to compromise. A party who participates in mediation
30 shall retain the right to discovery to the extent available in
31 divorce proceedings.

32 5. The judicial council shall develop the procedure to be
33 followed in submitting actions for mediation under this
34 section.

35 6. In addition to the provisions pursuant to subsection 3,

S.F. _____ H.F. _____

1 mediation requirements pursuant to this section may be waived
2 by the court after a hearing or upon a demonstration that the
3 petitioner is a victim of domestic abuse, as defined in
4 section 236.2, and the mediation would expose the petitioner
5 to additional abuse, or that participation in mediation is
6 physically impossible due to specific situations including the
7 absence of a party.

8 7. If the parties do not participate in mediation, the
9 petition shall state the reasons for the nonparticipation.

10 8. Costs of mediation shall be paid by the parties, or as
11 the court directs.

12 Sec. 33. Section 598.17, Code 1995, is amended to read as
13 follows:

14 598.17 DISSOLUTION-OF-MARRIAGE DIVORCE -- HEARINGS --
15 EVIDENCE.

16 1. Except as otherwise provided in subsection 4, hearings
17 for divorce shall be held in open court upon the oral
18 testimony of witnesses, or upon the depositions of such
19 witnesses taken as in other equitable actions or taken by a
20 commissioner appointed by the court. However, the court may
21 in its discretion close the hearing. Hearings held for the
22 purpose of determining child custody may be limited in
23 attendance by the court. Upon the request of either party,
24 the court may provide security in the courtroom during the
25 divorce or custody hearings if a history of domestic abuse
26 relating to either party exists.

27 2. A divorce decree dissolving-the-marriage may be entered
28 when the court is satisfied from-the by clear and convincing
29 evidence presented that there-has-been-a-breakdown-of-the
30 marriage-relationship-to-the-extent-that-the-legitimate
31 objects-of-matrimony-have-been-destroyed-and-there-remains-no
32 reasonable-likelihood-that-the-marriage-can-be-preserved the
33 allegations of fault raised in the petition or the response,
34 or any counterclaims to either the petition or the response
35 have been established. The-decree-shall-state-that-the

1 ~~dissolution-is-granted-to-the-parties,-and-shall-not-state~~
2 ~~that-it-is-granted-to-only-one-party. If the averments as to~~
3 ~~residence are not fully proved, the hearing shall proceed no~~
4 ~~further, and the action shall be dismissed by the court. All~~
5 ~~evidence offered by the petitioner shall be corroborated. A~~
6 ~~divorce shall not be granted on the testimony of either party~~
7 ~~alone, and a divorce shall not be granted if the court~~
8 ~~reasonably believes the parties have conspired to obtain a~~
9 ~~divorce, or that one or more of the parties has committed~~
10 ~~perjury or any other criminal act in order to obtain a~~
11 ~~divorce.~~

12 ~~If-at-the-time-of-trial-petitioner-fails-to-present~~
13 ~~satisfactory-evidence-that-there-has-been-a-breakdown-of-the~~
14 ~~marriage-relationship-to-the-extent-that-the-legitimate~~
15 ~~objects-of-matrimony-have-been-destroyed-and-there-remains-no~~
16 ~~reasonable-likelihood-that-the-marriage-can-be-preserved,-the~~
17 ~~respondent-may-then-proceed-to-present-such-evidence-as-though~~
18 ~~the-respondent-had-filed-the-original-petition.~~

19 ~~No-marriage-dissolution-granted-due-to-the-mental-illness~~
20 ~~of-one-of-the-spouses-shall-relieve-the-other-spouse-of-any~~
21 ~~obligation-imposed-by-law-as-a-result-of-the-marriage-for-the~~
22 ~~support-of-the-mentally-ill-spouse.--The-court-may-make-an~~
23 ~~order-for-such-support-or-may-waive-the-support-obligation~~
24 ~~when-satisfied-from-the-evidence-that-it-would-create-an-undue~~
25 ~~hardship-on-the-obliged-spouse-or-that-spouse's-other~~
26 ~~dependents.~~

27 3. The decree shall state that the divorce is granted to
28 the parties, and shall not state that it is granted to only
29 one party.

30 4. Notwithstanding any other provision to the contrary,
31 the court may enter a divorce decree without a hearing under
32 either of the following circumstances:

33 a. All of the following circumstances have been met:

34 (1) The parties have certified in writing under oath that
35 there has been a breakdown of the marriage relationship to the

S.F. _____ H.F. _____

1 extent that the legitimate objects of matrimony have been
2 destroyed and there remains no reasonable likelihood that the
3 marriage can be preserved.

4 (2) All documents required by the court and by statute
5 have been filed including the mediator's affidavit pursuant to
6 section 598.16A.

7 (3) The parties have entered into a written agreement
8 settling all of the issues involved in the divorce.

9 (4) There are no children of the marriage for whom
10 support, as defined under section 598.1A, may be ordered.

11 b. The respondent has not entered an appearance or filed a
12 motion or pleading in the case, the waiting period provided
13 under section 598.19 has expired, and all of the following
14 circumstances have been met:

15 (1) The petitioner has certified in writing either that
16 fault exists or that there has been a breakdown of the
17 marriage relationship to the extent that the legitimate
18 objects of matrimony have been destroyed and there remains no
19 reasonable likelihood that the marriage can be preserved.

20 (2) All documents required by the court and by statute
21 have been filed including the mediator's affidavit pursuant to
22 section 598.16A.

23 (3) There are no children of the marriage for whom
24 support, as defined under section 598.1A, may be ordered.

25 Sec. 34. Section 598.18, Code 1995, is amended to read as
26 follows:

27 598.18 RECRIMINATION ~~NOT-A-BAR-TO-DISSOLUTION-OF-MARRIAGE.~~

28 If, upon the trial of an action for ~~dissolution-of-marriage~~
29 divorce, both of the parties are found to have committed an
30 act or acts which would support or justify a divorce decree of
31 ~~dissolution-of-marriage~~, ~~such-dissolution~~ the divorce may be
32 decreed, and the acts of one party shall not automatically
33 negate the acts of the other, ~~nor-serve-to-bar-the-dissolution~~
34 ~~decree-in-any-way~~ but the court may consider the acts of
35 either party when determining whether a divorce should be

1 granted.

2 Sec. 35. Section 598.19, Code 1995, is amended to read as
3 follows:

4 598.19 WAITING PERIOD BEFORE DECREE.

5 No A divorce decree ~~disseiving-a-marriage~~ shall not be
6 granted in any proceeding before ninety one hundred twenty
7 days shall have elapsed from the day the original notice is
8 served, or from the last day of publication of notice, or from
9 the date that waiver or acceptance of original notice is filed
10 or until after ~~conciliation~~ mediation is completed, whichever
11 period shall be longer. However, the court may in its
12 discretion, on written motion supported by affidavit setting
13 forth grounds of emergency or necessity and facts which
14 satisfy the court that immediate action is warranted or
15 required to protect the substantive rights or interests of any
16 party or person who might be affected by the decree, hold a
17 hearing and grant a divorce decree ~~disseolving-the-marriage~~
18 prior to the expiration of the applicable period, provided
19 that requirements of notice have been complied with. In such
20 case the grounds of emergency or necessity and the facts with
21 respect thereto shall be recited in the decree unless
22 otherwise ordered by the court. The court may enter an order
23 finding the respondent in default and waiving ~~conciliation~~
24 mediation when the respondent has failed to file an appearance
25 within the time set forth in the original notice.

26 Sec. 36. Section 598.20, Code 1995, is amended to read as
27 follows:

28 598.20 FORFEITURE OF MARITAL RIGHTS.

29 When a ~~dissolution-of-marriage~~ divorce is decreed the
30 parties shall forfeit all rights acquired by marriage which
31 are not specifically preserved in the decree. This provision
32 shall not obviate any of the provisions of section 598.21.

33 Sec. 37. Section 598.21, Code Supplement 1995, is amended
34 to read as follows:

35 598.21 ORDERS FOR DISPOSITION AND SUPPORT.

S.F. _____ H.F. _____

1 1. Upon every judgment of annulment, ~~dissoletion~~ divorce
2 or separate maintenance the court shall divide the property of
3 the parties and transfer the title of the property
4 accordingly. The court may protect and promote the best
5 interests of children of the parties by setting aside a
6 portion of the property of the parties in a separate fund or
7 conservatorship for the support, maintenance, education and
8 general welfare of the minor children. The court shall divide
9 all property, except inherited property or gifts received by
10 one party, equitably between the parties after considering all
11 of the following:

12 a. The length of the marriage.

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

14 c. The contribution of each party to the marriage, giving
15 appropriate economic value to each party's contribution in
16 homemaking and child care services.

17 d. The age and physical and emotional health of the
18 parties.

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

21 f. The earning capacity of each party, including
22 educational background, training, employment skills, work
23 experience, length of absence from the job market, custodial
24 responsibilities for children and the time and expense
25 necessary to acquire sufficient education or training to
26 enable the party to become self-supporting at a standard of
27 living reasonably comparable to that enjoyed during the
28 marriage.

29 ~~g.--The-desirability-of-awarding-the-family-home-or-the~~
30 ~~right-to-live-in-the-family-home-for-a-reasonable-period-to~~
31 ~~the-party-having-custody-of-the-children,-or-if-the-parties~~
32 ~~have-joint-legal-custody,-to-the-party-having-physical-care-of~~
33 ~~the-children-~~

34 h. g. The amount and duration of an order granting support
35 payments to either party pursuant to subsection 3 and whether

1 the property division should be in lieu of such payments.

2 ~~i~~ h. Other economic circumstances of each party,
3 including pension benefits, vested or unvested, and future
4 interests.

5 ~~j~~ i. The tax consequences to each party.

6 ~~k~~ j. Any written agreement made by the parties concerning
7 property distribution.

8 ~~l~~ k. The provisions of an antenuptial agreement.

9 l. The fault attributable to a party.

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

12 1A. The court shall award the family home or at a minimum
13 the right to live in the family home for a reasonable period
14 to the party having custody of the children, or if the parties
15 have joint legal custody, to the party having physical care of
16 the children, absent a showing that this award is not in the
17 best interests of the child. The award shall be independent
18 of the property award entered pursuant to subsection 1.

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

25 2A. The court shall reduce the share of property received
26 by a party found to be at fault by an amount deemed
27 appropriate under the specific circumstances but in no event
28 by less than twenty percent of the total value of marital
29 property.

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

35 a. The length of the marriage.

- 1 b. The age and physical and emotional health of the
2 parties.
- 3 c. The distribution of property made pursuant to
4 subsection 1.
- 5 d. The educational level of each party at the time of
6 marriage and at the time the action is commenced.
- 7 e. The earning capacity of the party seeking maintenance,
8 including educational background, training, employment skills,
9 work experience, length of absence from the job market,
10 responsibilities for children under either an award of custody
11 or physical care, and the time and expense necessary to
12 acquire sufficient education or training to enable the party
13 to find appropriate employment.
- 14 f. The feasibility of the party seeking maintenance
15 becoming self-supporting at a standard of living reasonably
16 comparable to that enjoyed during the marriage, and the length
17 of time necessary to achieve this goal.
- 18 g. The tax consequences to each party.
- 19 h. Any mutual agreement made by the parties concerning
20 financial or service contributions by one party with the
21 expectation of future reciprocation or compensation by the
22 other party.
- 23 i. The provisions of an antenuptial agreement.
- 24 j. The fault attributable to a party.
- 25 ~~j~~- k. Other factors the court may determine to be relevant
26 in an individual case.
- 27 3A. The court shall not grant support payments with the
28 exception of child support payments to any party found to be
29 at fault. The court may grant support to the party not found
30 to be at fault as the court deems appropriate as compensation
31 for breach of the marital contract, and the support amount
32 shall enable the party to maintain to the extent possible the
33 standard of living enjoyed during the marriage.
- 34 4. The supreme court shall maintain uniform child support
35 guidelines and criteria and review the guidelines and criteria

S.F. _____ H.F. _____

1 at least once every four years, pursuant to the federal Family
2 Support Act of 1988, Pub. L. No. 100-485. The initial review
3 shall be performed within four years of October 12, 1989, and
4 subsequently within the four-year period of the most recent
5 review. It is the intent of the general assembly that, to the
6 extent possible within the requirements of federal law, the
7 court and the child support recovery unit consider the
8 individual facts of each judgment or case in the application
9 of the guidelines and determine the support obligation, ac-
10 cordingly. It is also the intent of the general assembly that
11 in the supreme court's review of the guidelines, the supreme
12 court shall do both of the following: emphasize the ability
13 of a court to apply the guidelines in a just and appropriate
14 manner based upon the individual facts of a judgment or case;
15 and in determining monthly child support payments, consider
16 other children for whom either parent is legally responsible
17 for support and other child support obligations actually paid
18 by either party pursuant to a court or administrative order.

19 a. Upon every judgment of annulment, ~~dissestion~~ divorce,
20 or separate maintenance, the court may order either parent or
21 both parents to pay make support payments in an amount
22 reasonable and necessary for supporting a child. In
23 establishing the amount of support, consideration shall be
24 given to the responsibility of both parents to support and
25 provide for the welfare of the minor child and of a child's
26 need, whenever practicable, for a close relationship with both
27 parents. There shall be a rebuttable presumption that the
28 amount of child support which would result from the
29 application of the guidelines prescribed by the supreme court
30 is the correct amount of child support to be awarded. A
31 variation from the guidelines shall not be considered by a
32 court without a record or written finding, based on stated
33 reasons, that the guidelines would be unjust or inappropriate
34 as determined under the criteria prescribed by the supreme
35 court.

1 The court shall order as child medical support a health
2 benefit plan as defined in chapter 252E if available to either
3 parent at a reasonable cost. A health benefit plan is
4 considered reasonable in cost if it is employment-related or
5 other group health insurance, regardless of the service
6 delivery mechanism. The premium cost of the health benefit
7 plan may be considered by the court as a reason for varying
8 from the child support guidelines. If a health benefit plan
9 is not available at a reasonable cost, the court may order any
10 other provisions for medical support as defined in chapter
11 252E.

12 b. The guidelines prescribed by the supreme court shall be
13 used by the department of human services in determining child
14 support payments under sections 252C.2 and 252C.4. A
15 variation from the guidelines shall not be considered by the
16 department without a record or written finding, based on
17 stated reasons, that the guidelines would be unjust or
18 inappropriate as determined under criteria prescribed by the
19 supreme court.

20 c. The guidelines prescribed by the supreme court shall
21 incorporate provisions for medical support as defined in
22 chapter 252E ~~to be effective on or before January 17, 1991.~~

23 d. For purposes of calculating a support obligation under
24 this section, the income of the parent from whom support is
25 sought shall be used as the noncustodial parent income for
26 purposes of application of the guidelines, regardless of the
27 legal custody of the child.

28 e. Unless the special circumstances of the case justify a
29 deviation, the court or the child support recovery unit shall
30 establish a monthly child support payment of twenty-five
31 dollars for a parent who is nineteen years of age or younger,
32 who has not received a high school or high school equivalency
33 diploma, and to whom each of the following apply:

34 (1) The parent is attending a school or program described
35 as follows or has been identified as one of the following:

1 (a) The parent is in full-time attendance at an accredited
2 school and is pursuing a course of study leading to a high
3 school diploma.

4 (b) The parent is attending an instructional program
5 leading to a high school equivalency diploma.

6 (c) The parent is attending a vocational education program
7 approved pursuant to chapter 258.

8 (d) The parent has been identified by the director of
9 special education of the area education agency as a child
10 requiring special education as defined in section 256B.2.

11 (2) The parent provides proof of compliance with the
12 requirements of subparagraph (1) to the child support recovery
13 unit, if the unit is providing services under chapter 252B, or
14 if the unit is not providing services pursuant to chapter
15 252B, to the court as the court may direct.

16 Failure to provide proof of compliance under this
17 subparagraph is grounds for modification of the support order
18 using the uniform child support guidelines and imputing an
19 income to the parent equal to a forty-hour work week at the
20 state minimum wage, unless the parent's education, experience,
21 or actual earnings justify a higher income.

22 4A. If, during an action initiated under this chapter or
23 any other chapter in which a child or medical support
24 obligation may be established based upon a prior determination
25 of paternity, a party wishes to contest the paternity of the
26 child or children involved, all of the following apply:

27 a. (1) If the prior determination of paternity is based
28 on an affidavit of paternity filed pursuant to section
29 252A.3A, or a court or administrative order entered in this
30 state, or by operation of law when the mother and established
31 father are or were married to each other, the provisions of
32 section 600B.41A apply.

33 (2) If following the proceedings under section 600B.41A
34 the court determines that the prior determination of paternity
35 should not be overcome, and that the established father has a

S.F. _____ H.F. _____

1 duty to provide support, the court shall enter an order
2 establishing the monthly child support payment and the amount
3 of the support debt accrued and accruing pursuant to
4 subsection 4, or the medical support obligation pursuant to
5 chapter 252E, or both.

6 b. If a determination of paternity is based on an
7 administrative or court order or other means pursuant to the
8 laws of a foreign jurisdiction, any action to overcome the
9 prior determination of paternity shall be filed in that
10 jurisdiction. Unless a stay of the action initiated in this
11 state to establish child or medical support is requested and
12 granted by the court, pending a resolution of the contested
13 paternity issue by the foreign jurisdiction, the action shall
14 proceed.

15 c. Notwithstanding paragraph "a", in a pending ~~dissolution~~
16 divorce action under this chapter, a prior determination of
17 paternity by operation of law through the marriage of the
18 established father and mother of the child may be overcome
19 under this chapter if the following conditions are met:

20 (1) The established father and mother of the child file a
21 written statement with the court that both parties agree that
22 the established father is not the biological father of the
23 child.

24 (2) The court finds that it is in the best interest of the
25 child to overcome the established paternity. In determining
26 the best interest of the child, the court shall consider the
27 criteria provided in section 600B.41A, subsection 3, paragraph
28 "g".

29 If the court overcomes a prior determination of paternity,
30 the previously established father shall be relieved of support
31 obligations as specified in section 600B.41A, subsection 4.
32 In any action to overcome paternity other than through a
33 pending ~~dissolution~~ divorce action, the provisions of section
34 600B.41A apply. Overcoming paternity under this paragraph
35 does not bar subsequent actions to establish paternity if it

1 is subsequently determined that the written statement
2 attesting that the established father is not the biological
3 father of the child may have been submitted erroneously, and
4 that the person previously determined not to be the child's
5 father during the ~~dissolution~~ divorce action may actually be
6 the child's biological father.

7 4B. If an action to overcome paternity is brought pursuant
8 to subsection 4A, paragraph "c", the court shall appoint a
9 guardian ad litem for the child for the pendency of the
10 proceedings.

11 5. The court may protect and promote the best interests of
12 a minor child by setting aside a portion of the child support
13 which either party is ordered to pay in a separate fund or
14 conservatorship for the support, education and welfare of the
15 child.

16 6. The court may provide for joint custody of the children
17 by the parties pursuant to section 598.41. All orders
18 relating to custody of a child are subject to chapter 598A.

19 7. Orders made pursuant to this section need mention only
20 those factors relevant to the particular case for which the
21 orders are made but shall contain the names, birth dates,
22 addresses, and counties of residence of the petitioner and
23 respondent.

24 8. The court may subsequently modify orders made under
25 this section when there is a substantial change in
26 circumstances. In determining whether there is a substantial
27 change in circumstances, the court shall consider the
28 following:

29 a. Changes in the employment, earning capacity, income or
30 resources of a party.

31 b. Receipt by a party of an inheritance, pension or other
32 gift.

33 c. Changes in the medical expenses of a party.

34 d. Changes in the number or needs of dependents of a
35 party.

1 e. Changes in the physical, mental, or emotional health of
2 a party.

3 f. Changes in the residence of a party.

4 g. Remarriage of a party.

5 h. Possible support of a party by another person.

6 i. Changes in the physical, emotional or educational needs
7 of a child whose support is governed by the order.

8 j. Contempt by a party of existing orders of court.

9 k. Other factors the court determines to be relevant in an
10 individual case.

11 A modification of a support order entered under chapter
12 234, 252A, 252C, 600B, this chapter, or any other support
13 chapter or proceeding between parties to the order is void
14 unless the modification is approved by the court, after proper
15 notice and opportunity to be heard is given to all parties to
16 the order, and entered as an order of the court. If support
17 payments have been assigned to the department of human
18 services pursuant to section 234.39, 239.3, or 252E.11, the
19 department shall be considered a party to the support order.
20 Modifications of orders pertaining to child custody shall be
21 made pursuant to chapter 598A. If the petition for a
22 modification of an order pertaining to child custody asks
23 either for joint custody or that joint custody be modified to
24 an award of sole custody, the modification, if any, shall be
25 made pursuant to section 598.41.

26 Judgments for child support or child support awards entered
27 pursuant to this chapter, chapter 234, 252A, 252C, 252F, 600B,
28 or any other chapter of the Code which are subject to a
29 modification proceeding may be retroactively modified only
30 from the date the notice of the pending petition for
31 modification is served on the opposing party.

32 The periodic due date established under a prior order for
33 payment of child support shall not be changed in any modified
34 order under this section, unless the court determines that
35 good cause exists to change the periodic due date. If the

1 court determines that good cause exists, the court shall
2 include the rationale for the change in the modified order and
3 shall address the issue of reconciliation of any payments due
4 or made under a prior order which would result in payment of
5 the child support obligation under both the prior and the
6 modified orders.

7 9. Notwithstanding subsection 8, a substantial change of
8 circumstances exists when the court order for child support
9 varies by ten percent or more from the amount which would be
10 due pursuant to the most current child support guidelines
11 established pursuant to subsection 4 or the obligor has access
12 to a health benefit plan, the current order for support does
13 not contain provisions for medical support, and the dependents
14 are not covered by a health benefit plan provided by the
15 obligee, excluding coverage pursuant to chapter 249A or a
16 comparable statute of a foreign jurisdiction.

17 This basis for modification is applicable to petitions
18 filed on or after July 1, 1992, notwithstanding whether the
19 guidelines prescribed by subsection 4 were used in
20 establishing the current amount of support. Upon application
21 for a modification of an order for child support for which
22 services are being received pursuant to chapter 252B, the
23 court shall set the amount of child support based upon the
24 most current child support guidelines established pursuant to
25 subsection 4, including provisions for medical support
26 pursuant to chapter 252E. The child support recovery unit
27 shall, in submitting an application for modification or
28 adjustment of an order for support, employ additional criteria
29 and procedures as provided in chapter 252H and as established
30 by rule.

31 10. Notwithstanding any other provision of law to the
32 contrary, when an application for modification or adjustment
33 of support is submitted by the child support recovery unit,
34 the sole issues which may be considered by the court in that
35 action are the application of the guidelines in establishing

1 the amount of support pursuant to section 598.21, subsection
2 4, and provision for medical support under chapter 252E.
3 Issues related to custody, visitation, or other provisions
4 unrelated to support shall be considered only under a separate
5 application for modification.

6 11. If the court orders a transfer of title to real
7 property, the clerk of court shall issue a certificate under
8 chapter 558 relative to each parcel of real estate affected by
9 the order and immediately deliver the certificate for
10 recording to the county recorder of the county in which the
11 real estate is located. Any fees assessed shall be included
12 as part of the court costs. The county recorder shall deliver
13 the certificates to the county auditor as provided in section
14 558.58, subsection 1.

15 Property divisions made under this chapter are not subject
16 to modification.

17 Sec. 38. NEW SECTION. 598.21A SEPARATE MAINTENANCE WHERE
18 GROUNDS FOR DIVORCE ARE ABSENT.

19 Notwithstanding contrary provisions of this chapter, an
20 order for separate maintenance or child support may be ordered
21 by the court upon the petition of either party and upon a
22 determination by the court that such order is in the best
23 interests of the petitioning party or a minor child. An order
24 may be entered pursuant to this section whether or not a claim
25 is made by the petitioning party alleging sufficient grounds
26 for the entry of a decree of divorce. An order entered by the
27 court pursuant to this section shall be entered in the same
28 manner as provided for an order of separate maintenance
29 entered under section 598.21. A determination by the court to
30 not award child support under this section shall not prohibit
31 subsequent actions or orders entered pursuant to chapter 252A,
32 252C, 252F, 600B, or any other chapter or proceeding under
33 which support payments are established including any action
34 brought by the child support recovery unit to establish
35 support payments.

1 Sec. 39. Section 598.24, Code 1995, is amended to read as
2 follows:

3 598.24 COSTS IF PARTY IS IN DEFAULT OR CONTEMPT.

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

11 Sec. 40. Section 598.25, Code 1995, is amended to read as
12 follows:

13 598.25 TERMINATION OF JURISDICTION OF COURT GRANTING
14 MARRIAGE-DISSOLUTION DIVORCE DECREE.

15 Whenever a proceeding is initiated in a court for adoption
16 involving the children of parents or guardians whose-marriage
17 has-been-dissolved who are divorced, or for modification of a
18 judgment of alimony, child support, or custody granted in an
19 action for dissolution-of-marriage divorce, the following
20 requirements must be met if such proceedings are initiated in
21 a court other than the court which granted the dissolution
22 divorce decree.

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

28 2. The court in which the proceedings are initiated shall
29 cause notice of such proceedings to be served upon the parties
30 to the original action unless either or both parties are
31 deceased.

32 Such court, or either of the parties to the dissolution
33 divorce decree, may request that a copy of the transcript of
34 the proceedings of the court which granted the dissolution
35 divorce decree be made available for consideration in the new

1 proceedings.

2 Sec. 41. Section 598.26, unnumbered paragraph 1, Code
3 1995, is amended to read as follows:

4 The record and evidence in each case of ~~marriage~~
5 ~~dissolution~~ divorce shall be kept pursuant to the following
6 provisions:

7 Sec. 42. Section 598.26, subsections 1 and 3, Code 1995,
8 are amended to read as follows:

9 1. Until a divorce decree ~~of-dissolution~~ has been entered,
10 the record and evidence shall be closed to all but the court,
11 its officers, and the child support recovery unit of the
12 department of human services pursuant to section 252B.9. No
13 other person shall permit a copy of any of the testimony, or
14 pleading, or the substance thereof, to be made available to
15 any person other than a party to the action or a party's
16 attorney. When a final decree is entered, the clerk of court
17 shall enter, as a public record, with the final decree, any
18 order for payment of temporary support. Nothing in this
19 subsection shall be construed to prohibit publication of the
20 original notice as provided by the rules of civil procedure.

21 3. If the action is dismissed, judgment for costs shall be
22 entered in the judgment docket and lien index. The clerk
23 shall maintain a separate docket for ~~dissolution-of-marriage~~
24 divorce actions.

25 Sec. 43. Section 598.28, Code 1995, is amended to read as
26 follows:

27 598.28 SEPARATE MAINTENANCE AND ANNULMENT.

28 A petition shall be filed in separate maintenance and
29 annulment actions as in actions for ~~dissolution-of-marriage~~
30 divorce, and all applicable provisions of this chapter in
31 relation ~~thereto~~ to the action, including but not limited to
32 mediation pursuant to section 598.16A in the case of a
33 separate maintenance action shall apply to separate
34 maintenance and annulment actions.

35 Sec. 44. Section 598.29, subsection 3, Code 1995, is

1 amended to read as follows:

2 3. Where either party had a husband or wife living at the
3 time of the marriage, provided they have not, with a knowledge
4 of such fact, lived and cohabited together after the death or
5 ~~marriage-dissolution~~ divorce of the former spouse of such
6 party.

7 Sec. 45. Section 598.32, Code 1995, is amended to read as
8 follows:

9 598.32 ANNULMENT -- COMPENSATION.

10 In case either party entered into the contract of marriage
11 in good faith, supposing the other to be capable of
12 contracting, and the marriage is declared a nullity, such fact
13 shall be entered in the decree, and the court may decree such
14 innocent party compensation as in case of ~~dissolution-of~~
15 marriage divorce.

16 Sec. 46. Section 598.33, Code 1995, is amended to read as
17 follows:

18 598.33 ORDER TO VACATE.

19 Notwithstanding section 561.15, the court may order either
20 party to vacate the homestead pending entry of a divorce
21 ~~decree of-dissolution~~ upon a showing that the other party or
22 the children are in imminent danger of physical harm if the
23 order is not issued.

24 Sec. 47. Section 598.34, unnumbered paragraph 1, Code
25 1995, is amended to read as follows:

26 A person entitled to periodic support payments pursuant to
27 an order or judgment entered in an action for ~~dissolution-of~~
28 marriage divorce, who is also a recipient of public
29 assistance, is deemed to have assigned the person's rights to
30 the support payments, to the extent of public assistance
31 received by the person, to the department of human services.
32 The department shall immediately notify the clerk of court by
33 mail when a person entitled to support payments has been
34 determined to be eligible for public assistance. Upon
35 notification by the department that a person entitled to

1 periodic support payments pursuant to this chapter is
2 receiving public assistance, the clerk of court shall make a
3 notation of the automatic assignment in the judgment docket
4 and lien index. The notation constitutes constructive notice
5 of the assignment. The clerk of court shall forward support
6 payments received pursuant to section 598.22, to which the
7 department is entitled, to the department, which may secure
8 support payments in default through proceedings provided for
9 in chapter 252A or section 598.24.

10 Sec. 48. Section 598.35, subsection 2, Code 1995, is
11 amended to read as follows:

12 2. A petition for ~~disseultion-of-marriage~~ divorce has been
13 filed by one of the parents of the child.

14 Sec. 49. Section 598.37, Code 1995, is amended to read as
15 follows:

16 598.37 NAME CHANGE.

17 Either party to a marriage may request as a part of the
18 divorce ~~decree of-disseultion~~ or decree of annulment a change
19 in the person's name to either the name appearing on the
20 person's birth certificate or to the name the person had
21 immediately prior to the marriage. If a party requests a name
22 change other than to the name appearing on the person's birth
23 certificate or to the name the person had immediately prior to
24 the marriage, the request shall be made under chapter 674.

25 Sec. 50. Section 598.41, subsection 1, paragraph a, Code
26 Supplement 1995, is amended to read as follows:

27 a. The court, insofar as is reasonable and in the best
28 interest of the child, shall order the custody award,
29 including liberal visitation rights where appropriate, which
30 will assure the child the opportunity for the maximum
31 continuing physical and emotional contact with both parents
32 after the parents have separated or ~~disseulted-the-marriage~~
33 divorced, and which will encourage parents to share the rights
34 and responsibilities of raising the child unless direct
35 physical harm or significant emotional harm to the child,

1 other children, or a parent is likely to result from such
2 contact with one parent.

3 Sec. 51. Section 598.41, subsection 1, Code Supplement
4 1995, is amended by adding the following new paragraph:

5 NEW PARAGRAPH. bb. Notwithstanding paragraph "a", there
6 shall be a presumption in favor of the awarding of sole
7 custody to the parent not found at fault in a divorce
8 proceeding.

9 Sec. 52. Section 598.41, subsection 3, Code Supplement
10 1995, is amended by adding the following new paragraph:

11 NEW PARAGRAPH. k. The fault attributable to a parent in a
12 divorce.

13 Sec. 53. Section 602.8102, subsection 84, Code Supplement
14 1995, is amended to read as follows:

15 84. Carry out duties relating to the ~~dissolution-of-a~~
16 marriage divorce as provided in chapter 598.

17 Sec. 54. Section 602.8103, subsection 4, paragraph d, Code
18 1995, is amended to read as follows:

19 d. Original court files on ~~dissolutions-of-marriage~~
20 divorces, one year after dismissal by the parties or under
21 R.C.P. 215, Ia. Ct. Rules, 2nd ed.

22 Sec. 55. Section 602.8105, subsection 1, paragraphs a, b,
23 and c, Code Supplement 1995, are amended to read as follows:

24 a. For filing and docketing a petition, other than a
25 modification of a ~~dissolution~~ divorce decree to which a
26 written stipulation is attached at the time of filing
27 containing the agreement of the parties to the terms of
28 modification, eighty dollars. In counties having a population
29 of ninety-eight thousand or over, an additional five dollars
30 shall be charged and collected to be known as the journal
31 publication fee and used for the purposes provided for in
32 section 618.13.

33 b. For filing and docketing an application for
34 modification of a ~~dissolution~~ divorce decree to which a
35 written stipulation is attached at the time of filing

S.F. _____ H.F. _____

1 containing the agreement of the parties to the terms of
2 modification, twenty-five dollars.

3 c. For entering a final divorce decree ~~of-dissolution-of~~
4 ~~marriage~~, thirty dollars. It is the intent of the general
5 assembly that the funds generated from the dissolution divorce
6 fees be appropriated and used for sexual assault and domestic
7 violence centers.

8 Sec. 56. Section 633.271, Code 1995, is amended to read as
9 follows:

10 633.271 EFFECT OF DIVORCE OR-DISSOLUTION.

11 If after making a will the testator is divorced ~~or-the~~
12 ~~marriage-is-dissolved~~, all provisions in the will in favor of
13 the testator's spouse are thereby revoked. In the event the
14 testator and spouse remarry each other, the provisions of the
15 will revoked by the divorce ~~or-dissolution-of-marriage~~ shall
16 be reinstated unless otherwise revoked by the testator.

17 Sec. 57. Section 633.425, subsection 9, Code 1995, is
18 amended to read as follows:

19 9. All unpaid support payments as defined in section 598-
20 598.1A, subsection 6, and all additional unpaid awards and
21 judgments against the decedent in any dissolution divorce,
22 separate maintenance, uniform support, or paternity action to
23 the extent that the support, awards, and judgments have
24 accrued at the time of death of the decedent.

25 Sec. 58. Section 633.701, unnumbered paragraph 1, Code
26 1995, is amended to read as follows:

27 Upon the partial or total termination of a trust, or upon
28 the transfer of the trusteeship due to resignation, removal,
29 dissolution divorce, or other disqualification of the trustee
30 of any trust pending in court, the trustee shall make a final
31 report to the court, showing for the period since the filing
32 of the last report the facts required for an intermediate
33 report; provided, however, that unless specifically required
34 by the court to do so, the trustee shall not in any event, be
35 required to report such facts for any period of time as to

1 which the trustee has, under any of the provisions of section
2 633.700, been expressly relieved from reporting. In any
3 event, the final report of the trustee shall include the
4 following:

5 Sec. 59. Sections 598.4, 598.6, 598.7, 598.14, and 598.16,
6 Code 1995, are repealed.

7 Sec. 60. Sections 598.7A and 598.8, Code Supplement 1995,
8 are repealed.

9 EXPLANATION

10 This bill changes the grounds upon which a divorce may be
11 obtained. The current system, described as a "no-fault"
12 divorce system, is changed in Code sections 598.5 and 598.17
13 to include "fault-based" components which apply unless the
14 divorce is not contested or the parties mutually consent to
15 the divorce. If the divorce is not contested or if the
16 respondent has not entered an appearance or filed a motion,
17 and there are no children of the marriage for whom support may
18 be awarded, a divorce may be obtained by the filing of
19 required documents with the court and no hearing is required.

20 Under the "fault-based" system established in Code sections
21 598.5, 598.9, and 598.17 under the bill, the grounds upon
22 which a divorce may be granted include adultery, desertion,
23 abuse of a party or of a child of the household, or habitual
24 use of alcohol or controlled substances by the respondent
25 which must be alleged and proved by clear and convincing
26 evidence by the petitioner.

27 Specific Code sections amended or added in the bill provide
28 the following:

29 New Code section 422.12F provides for a premarital
30 counseling credit. If a married couple participated in
31 premarital counseling and demonstrates participation in the
32 counseling, the personal income taxes of the couple are to be
33 reduced in an amount which is the actual cost of the
34 counseling, not to exceed \$100.

35 New Code section 595.3A provides for the notification of

1 applicants for a license to marry of the rights and
2 obligations of incident to marriage and divorce and requires
3 participation of the applicants in a program or the viewing of
4 a videotape which provides information regarding the rights
5 and obligations incident to marriage and divorce. The bill
6 provides for the required content of the notification,
7 program, and videotape and requires completion of the program
8 or viewing of the videotape prior to the issuance of the
9 license to marry by the clerk of the district court.

10 New Code section 595.20 relates to premarital counseling
11 for the purposes of the income tax reduction created pursuant
12 to new Code section 422.12F. This section establishes the
13 requirements for premarital counseling and defines premarital
14 counseling including prescribing who may provide premarital
15 counseling.

16 Code section 598.1 is amended to provide legislative
17 findings and intent for the divorce chapter of the Code.

18 New Code section 598.1A provides definitions for use in the
19 chapter, including new definitions for "adultery",
20 "desertion", "divorce", "emotional abuse", "family", "fault",
21 "household", "in-kind support", "legitimate objects of
22 matrimony", "marital home", "marriage", "mediation",
23 "mediator", "physical care", "residence", "separate
24 maintenance", "support", and "support payments".

25 Code section 598.5, relating to the contents of the
26 petition for divorce, is amended to include, among other
27 information, the grounds for divorce. If both parties
28 mutually agree to the divorce, the parties must allege that
29 there has been a breakdown of the marriage relationship to the
30 extent that the legitimate objects of matrimony have been
31 destroyed and there is not reasonable likelihood that the
32 marriage can be preserved. If a party objects to the divorce,
33 at least one of the following grounds must be alleged: that
34 the respondent has committed adultery, that the respondent
35 deserted the petitioner, that the petitioner is a victim of

1 domestic abuse or any other physical or emotional abuse or
2 that a child of the household is a victim of child abuse and
3 the respondent is the perpetrator of the abuse, or that the
4 respondent habitually uses and abuses alcohol or a controlled
5 substance.

6 Code section 598.9 is amended to provide that allegations
7 of the petition including the grounds for divorce are to be
8 proven by clear and convincing evidence or the action is to be
9 dismissed.

10 New Code section 598.16A relates to mediation. This
11 section requires participation by the parties to a petition
12 for divorce in at least 12 hours of prehearing mediation with
13 a mediator. Once a petition is filed, the parties are to
14 select a mediator within 15 days after which time, if the
15 parties fail to select a mediator, the court may, at the
16 request of the petitioner, select a mediator. If the parties
17 are unable to agree to restore the relationship following
18 participation in mediation, or if at any time during the
19 mediation process either of the parties requests termination
20 of the mediation or the mediator determines that mediation
21 will not result in restoration of the relationship, the
22 mediator is to file a sworn statement of the nonagreement with
23 the court. Upon filing of the statement the matter is to be
24 set for hearing. Additionally, mediation may be waived if the
25 petitioner is a victim of domestic abuse or if mediation is
26 physically impossible due to circumstances including absence
27 of a party.

28 Code section 598.17 is amended in part to provide that the
29 court may grant a divorce decree without a hearing only if the
30 parties certify that there has been a breakdown of the
31 marriage relationship to the extent that the legitimate
32 objects of matrimony have been destroyed and there remains no
33 reasonable likelihood that the marriage can be preserved, that
34 all documents required by the court have been filed, that the
35 parties have entered into a written agreement settling all of

1 the issues involved in the divorce and that there are not
2 children of the marriage for whom support may be ordered; or
3 that the respondent has not entered an appearance or filed a
4 motion or pleading in the case, the waiting period of 120 days
5 has expired and the petitioner has certified that fault exists
6 or that there has been a breakdown in the marriage
7 relationship to the extent that the legitimate objects of
8 matrimony have been destroyed and that there remains no
9 reasonable likelihood that the marriage can be preserved, that
10 all documents required have been filed with the court, and
11 that there are not children of the marriage for whom support
12 may be ordered.

13 Code section 598.18 is amended to provide that if both
14 parties are found to have committed an act which would support
15 or justify a divorce decree, that the divorce may be decreed
16 but that the acts of one party do not automatically negate the
17 acts of the other and the court may consider the acts of
18 either party when making its determination regarding the
19 decree.

20 Code section 598.19 is amended to extend the waiting period
21 for the granting of a divorce decree from the current 90 days
22 from the day of the service of the original notice, from the
23 last day of publication of the notice or from the date that
24 waiver or acceptance of original notice is filed or until
25 after mediation is completed, whichever period is longer, to
26 120 days from any of these dates.

27 Code section 598.21 is amended to provide in part that in
28 the division of property, the court may consider the fault
29 attributable to a party; provides that the court shall award
30 the family home or at a minimum the right to live in the
31 family home to the party having custody of the children or if
32 joint legal custody is awarded, to the party awarded physical
33 care of any child of the marriage, unless this is not in the
34 best interests of the child; provides that the court shall
35 reduce the share of property received by a party found to be

1 at fault by an amount deemed appropriate under the specific
2 circumstances but in no event by less than 20 percent of the
3 total value of marital property; provides that in the awarding
4 of support payments the court is to consider the fault
5 attributable to a party, prohibits the court from awarding
6 support other than child support to a party found to be at
7 fault, and provides that the court may grant support to the
8 party not found to be at fault as the court deems appropriate
9 as compensation for breach of the marital contract and the
10 support amount is to be in an amount that enables the party to
11 maintain to the extent possible the standard of living enjoyed
12 during the marriage.

13 New Code section 598.21A provides for the awarding of
14 separate maintenance or child support when grounds for divorce
15 are absent.

16 Code section 598.41, relating to the award of custody of
17 children, is amended to provide that in the awarding of
18 custody of children, there is a presumption in favor of the
19 awarding of sole custody to the parent not found at fault in a
20 divorce proceeding and that the fault attributable to a parent
21 in a divorce is a factor to be considered in determining what
22 custody arrangement is in the best interests of the child.

23 The majority of the remaining sections of the bill make
24 conforming changes throughout the Code to reflect the
25 terminology of "divorce" rather than "dissolution of
26 marriage".

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