

# House Study Bill 632

## Conference Committee Text

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1 1 Section 1. Section [97A.1](#), subsection 17, Code 1995, is  
1 2 amended to read as follows:  
1 3 17. "Surviving spouse" shall mean the surviving spouse or  
1 4 former spouse of a marriage solemnized prior to retirement of  
1 5 a deceased member from active service. Surviving spouse shall  
1 6 include a former spouse only if the division of assets in the  
1 7

~~— dissolution of marriage~~

- divorce decree pursuant to section

1 8 598.17 grants the former spouse rights of a spouse under this  
1 9 chapter. If there is no surviving spouse of a marriage  
1 10 solemnized prior to retirement of a deceased member, surviving  
1 11 spouse includes a surviving spouse of a marriage of two years  
1 12 or more duration solemnized subsequent to retirement of the  
1 13 member.

1 14 Sec. 2. Section [144.37](#), Code 1995, is amended to read as  
1 15 follows:

1 16 144.37

~~— DISSOLUTION~~

- DIVORCE AND ANNULMENT RECORDS.

1 17 For each

~~— dissolution~~

- divorce or annulment of marriage

1 18 granted by any court in this state, a record shall be prepared  
1 19 by the clerk of court or by the petitioner or the petitioner's  
1 20 legal representative if directed by the clerk and filed by the  
1 21 clerk of court with the state registrar. The information  
1 22 necessary to prepare the report shall be furnished with the  
1 23 petition, to the clerk of court by the petitioner or the  
1 24 petitioner's legal representative, on forms supplied by the  
1 25 state registrar.

1 26 The clerk of the district court in each county shall keep a  
1 27 record book for

~~— dissolutions~~

- divorces. The form of

1 28

~~— dissolution~~

- divorce record books shall be uniform throughout

1 29 the state. A properly indexed record of

~~— dissolutions~~

- divorces

1 30 upon microfilm, electronic computer, or data processing  
1 31 equipment may be kept in lieu of

~~— dissolution~~

- divorce record

1 32 books.

1 33 On or before the tenth day of each calendar month, the  
1 34 clerk of court shall forward to the state registrar the record  
1 35 of each

~~dissolution~~

- divorce and annulment granted during the
  - 2 1 preceding calendar month and related reports required by
  - 2 2 regulations issued under this chapter.
  - 2 3 Sec. 3. Section [144.43](#), subsection 3, Code 1995, is
  - 2 4 amended to read as follows:
  - 2 5 3. A record of divorce

~~dissolution of marriage,~~

- or
  - 2 6 annulment of marriage.
  - 2 7 Sec. 4. Section [144.51](#), Code 1995, is amended to read as
  - 2 8 follows:
  - 2 9 144.51 INFORMATION BY OTHERS FURNISHED ON DEMAND.
  - 2 10 Any person having knowledge of the facts shall furnish
  - 2 11 information the person possesses regarding any birth, death,
  - 2 12 fetal death, adoption, marriage,

~~dissolution~~

- divorce, or
  - 2 13 annulment, upon demand of the state registrar or the state
  - 2 14 registrar's representative.
  - 2 15 Sec. 5. Section [252B.1](#), subsection 5, Code 1995, is
  - 2 16 amended to read as follows:
  - 2 17 5. "Obligor" means the person legally responsible for the
  - 2 18 support of a child as defined in section

~~598.1~~

- 598.1A under a
  - 2 19 support order issued in this state or a foreign jurisdiction.
  - 2 20 Sec. 6. Section [252B.6](#), subsection 2, Code 1995, is
  - 2 21 amended to read as follows:
  - 2 22 2. Appear as a friend of the court in

~~dissolution of~~

- - 2 23

~~marriage~~

- divorce and separate maintenance proceedings, or
  - 2 24 proceedings supplemental thereto, when either or both of the
  - 2 25 parties to the proceedings are receiving public assistance,
  - 2 26 for the purpose of advising the court of the financial
  - 2 27 interest of the state in the proceeding.
  - 2 28 Sec. 7. Section [252B.6](#), subsection 4, unnumbered paragraph
  - 2 29 1, Code 1995, is amended to read as follows:
  - 2 30 If public assistance has been applied for or granted on
  - 2 31 behalf of a child of parents who are legally separated or
  - 2 32

~~whose marriage has been legally dissolved~~

- divorced, the unit
  - 2 33 may apply to the district court for a court order directing
  - 2 34 either or both parents to show cause for the following:
  - 2 35 Sec. 8. Section [252B.13A](#), Code 1995, is amended to read as
  - 3 1 follows:
  - 3 2 252B.13A COLLECTION SERVICES CENTER.
  - 3 3 The department shall establish within the unit a collection
  - 3 4 services center for the receipt and disbursement of support
  - 3 5 payments as defined in section

~~598.1~~

- 598.1A as required for
  - 3 6 orders by section 252B.14. For purposes of this section,
  - 3 7 support payments do not include attorney fees, court costs, or
  - 3 8 property settlements.

3 9 Sec. 9. Section [252B.14](#), subsection 1, Code 1995, is  
3 10 amended to read as follows:  
3 11 1. For the purposes of this section, "support order"  
3 12 includes any order entered pursuant to chapter 234, 252A,  
3 13 252C, 598, 600B, or any other support chapter or proceeding  
3 14 which establishes support payments as defined in section

~~598.1~~

3 15 [598.1A](#).  
3 16 Sec. 10. Section [252D.1](#), subsection 1, Code 1995, is  
3 17 amended to read as follows:  
3 18 1. As used in this chapter, unless the context otherwise  
3 19 requires, "support" or "support payments" means any amount  
3 20 which the court may require a person to pay for the benefit of  
3 21 a child under a temporary order or a final judgment or decree,  
3 22 and may include child support, maintenance, medical support as  
3 23 defined in chapter 252E, and, if contained in a child support  
3 24 order, spousal support, and any other term used to describe  
3 25 these obligations. These obligations may include support for  
3 26 a child who is between the ages of eighteen and twenty-two  
3 27 years and who is regularly attending an accredited school in  
3 28 pursuance of a course of study leading to a high school  
3 29 diploma or its equivalent, or regularly attending a course of  
3 30 vocational technical training either as a part of a regular  
3 31 school program or under special arrangements adapted to the  
3 32 individual person's needs, or is, in good faith, a full-time  
3 33 student in a college, university, or community college, or has  
3 34 been accepted for admission to a college, university, or  
3 35 community college and the next regular term has not yet begun;  
4 1 and may include support for a child of any age who is  
4 2 dependent on the parties to the

~~dissolution~~

~~divorce~~

4 3 proceedings because of physical or mental disability.  
4 4 Sec. 11. Section [321.46](#), subsection 6, Code 1995, is  
4 5 amended to read as follows:  
4 6 6. An applicant for a new registration for a vehicle  
4 7 transferred to the applicant by a spouse, parent or child of  
4 8 the applicant, or by operation of law upon inheritance, devise  
4 9 or bequest, from the applicant's spouse, parent or child, or  
4 10 by a former spouse pursuant to a divorce decree

~~of dissolution~~

4 11

~~of marriage~~

-, is entitled to a credit to be applied to the  
4 12 registration fee for the transferred vehicle. A credit shall  
4 13 not be allowed unless the vehicle to which the credit applies  
4 14 is registered within the time specified under subsection 1.  
4 15 The credit shall be computed on the basis of the number of  
4 16 unexpired months remaining in the registration year of the  
4 17 former owner computed from the date the vehicle was  
4 18 transferred, computed to the nearest whole dollar. The credit  
4 19 may exceed the amount of the registration fee for the  
4 20 transferred vehicle. When the amount of the credit is  
4 21 computed to be an amount of less than ten dollars, the credit  
4 22 shall be disallowed. The credit shall not be sold,  
4 23 transferred, or assigned to any other person.  
4 24 Sec. 12. Section [410.10](#), subsection 3, unnumbered  
4 25 paragraph 3, Code 1995, is amended to read as follows:  
4 26 However, the benefits provided by this section are subject  
4 27 to the following definitions: The term "spouse" means a  
4 28 surviving spouse of a marriage contracted prior to retirement

4 29 of a deceased member from active service, or of a marriage of  
4 30 a retired member contracted prior to March 2, 1934. Surviving  
4 31 spouse includes a former spouse only if the division of assets  
4 32 in the

~~of dissolution of marriage~~

- divorce decree pursuant to

4 33 section 598.17 grants the former spouse rights of a spouse  
4 34 under this chapter. If there is no surviving spouse of a  
4 35 marriage contracted prior to retirement of a deceased member,  
5 1 or of a marriage of a retired member contracted prior to March  
5 2 2, 1934, surviving spouse includes a surviving spouse of a  
5 3 marriage of two years or more duration contracted subsequent  
5 4 to retirement of the member. The terms "child" and "children"  
5 5 mean only the surviving issue of a deceased active or retired  
5 6 member, or the child or children legally adopted by a deceased  
5 7 member prior to the member's retirement from active service.

5 8 Sec. 13. Section [411.1](#), subsection 19, Code 1995, is  
5 9 amended to read as follows:

5 10 19. "Surviving spouse" shall mean the surviving spouse of  
5 11 a marriage solemnized prior to retirement of a deceased member  
5 12 from active service. Surviving spouse shall include a former  
5 13 spouse only if the division of assets in the

~~of dissolution of~~

-  
5 14

~~marriage~~

- divorce decree pursuant to section 598.17 grants the

5 15 former spouse rights of a spouse under this chapter. If there  
5 16 is no surviving spouse of a marriage solemnized prior to  
5 17 retirement of a deceased member, surviving spouse includes a  
5 18 surviving spouse of a marriage of two years or more duration  
5 19 solemnized subsequent to retirement of the member.

5 20 Sec. 14. NEW SECTION. 422.12F PREMARITAL COUNSELING  
5 21 CREDIT.

5 22 If a married couple participated in premarital counseling  
5 23 as provided in section 595.20, and demonstrates participation  
5 24 in the counseling by submission of a sworn affidavit by the  
5 25 counselor providing the services, the taxes imposed under this  
5 26 division for the year in which the marriage took place shall,  
5 27 in addition to any other reductions permitted under this  
5 28 division, be reduced by the actual cost of the counseling  
5 29 services not to exceed one hundred dollars. Individuals who  
5 30 are married but elect to file separate returns or who file  
5 31 separately on a combined return form must allocate the credit  
5 32 between the spouses in the ratio which each spouse's Iowa  
5 33 source net income bears to the combined Iowa source net income  
5 34 of both taxpayers. Any credit in excess of the tax liability  
5 35 shall be refunded. In lieu of claiming a refund, a taxpayer  
6 1 may elect to have the overpayment shown on the taxpayer's  
6 2 final, completed return credited to the tax liability for the  
6 3 following taxable year.

6 4 Sec. 15. Section 428A.2, subsection 16, Code Supplement  
6 5 1995, is amended to read as follows:

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

~~of dissolution of~~

-  
6 9

~~marriage~~

-  
6 10 Sec. 16. Section [509B.2](#), Code 1995, is amended to read as

6 11 follows:

6 12 509B.2 PERSONS INCLUDED IN THIS CHAPTER.

6 13 1. As used in this chapter, "termination of employment or  
6 14 membership" includes but is not limited to termination because  
6 15 of permanent or temporary layoff or approved leave of absence.  
6 16 A provision in this chapter which relates to termination of  
6 17 insurance under a group policy of an employee or member and  
6 18 the employee's or member's covered dependents includes  
6 19 termination of insurance with respect to the surviving or  
6 20 former spouse or children of an employee or member whose  
6 21 insurance would terminate because of

~~—dissolution~~

- divorce or

6 22 annulment of the marriage of the employee or member, or would  
6 23 terminate because of death of the employee or member.

6 24 2. A provision in this chapter which relates to an em-  
6 25 ployee or member includes the surviving or former spouse or  
6 26 children if termination occurs because of

~~—dissolution~~

- divorce

6 27 or annulment of a marriage or death of an employee or member.  
6 28 Sec. 17. Section [509B.3](#), subsection 8, Code 1995, is  
6 29 amended to read as follows:

6 30 8. The spouse of an employee or member, and any covered  
6 31 dependent children of the employee or member, whose coverage  
6 32 under the group policy would otherwise terminate because of  
6 33

~~—dissolution~~

- divorce or annulment of marriage or death of the

6 34 employee or member shall have the same contribution and notice  
6 35 responsibilities and privileges as provided under this chapter  
7 1 to the employee or member upon termination of employment or  
7 2 membership.

7 3 Sec. 18. Section [509B.4](#), subsection 15, Code 1995, is  
7 4 amended to read as follows:

7 5 15. Subject to any preceding conditions, conversion  
7 6 privileges are available to a surviving spouse at the death of  
7 7 the employee or member, with respect to the spouse and  
7 8 children whose coverage under the group policy terminates by  
7 9 reason of the death, or to each surviving child whose coverage  
7 10 under the group policy terminates by reason of death, or when  
7 11 continuation of dependent's coverage is accepted following the  
7 12 employee's or member's death, at the end of the continuation.  
7 13 Subject to any preceding conditions, the conversion privilege  
7 14 is available to the spouse of the employee or member upon  
7 15 termination of coverage of the spouse, by reason of  
7 16

~~—dissolution~~

- divorce or annulment of marriage or otherwise

7 17 ceasing to be a qualified family member under the group  
7 18 policy, while the employee or member remains insured under the  
7 19 policy, or when continuation of dependent's coverage is  
7 20 elected following the

~~—dissolution~~

- divorce or annulment of

7 21 marriage, at the end of continuation. This conversion  
7 22 privilege includes children whose coverage under the group  
7 23 policy terminates at the same time. Subject to any preceding  
7 24 conditions, the conversion privilege is also available to a  
7 25 child solely with respect to the child upon termination of  
7 26 coverage by reason of ceasing to be a qualified family member  
7 27 under the group policy, if a conversion privilege is not

7 28 otherwise provided within this section.  
7 29 Sec. 19. Section 558A.1, subsection 4, paragraph f, Code  
7 30 1995, is amended to read as follows:  
7 31 f. A transfer between spouses resulting from a divorce  
7 32 decree

~~of dissolution of marriage~~

-, a decree of legal  
7 33 separation, or a property settlement agreement which is  
7 34 incidental to the decree, including a decree ordered pursuant  
7 35 to chapter 598.

8 1 Sec. 20. NEW SECTION. 595.3A RIGHTS AND OBLIGATIONS -  
8 2 NOTIFICATION.

8 3 1. Upon the filing of an application for a license to  
8 4 marry and prior to the issuance of a license to marry, all of  
8 5 the following conditions shall be met:

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

8 9 b. The applicants shall attend a program designed to  
8 10 provide information regarding the legal rights and obligations  
8 11 incident to marriage and divorce or shall view a videotape  
8 12 covering these topics.

8 13 2. The judicial council shall make recommendations to the  
8 14 supreme court regarding the written information, the program,  
8 15 and the videotape for applicants for a license to marry. The  
8 16 supreme court shall prescribe rules based upon these  
8 17 recommendations for the implementation and administration of  
8 18 the written information, the program, and the videotape. The  
8 19 rules prescribed shall include, at a minimum, all of the  
8 20 following:

8 21 a. That the content of the information provided through  
8 22 the written document, the program, and the videotape shall  
8 23 include all of the following:

8 24 (1) The legal rights and obligations of each party to a  
8 25 marriage or divorce relative to agreements, arrangements, or  
8 26 transactions entered into by either party prior to or during  
8 27 the marriage including but not limited to insurance coverage  
8 28 and consumer credit transactions.

8 29 (2) Inheritance rights.

8 30 (3) Support obligations during the marriage.

8 31 (4) Ownership of property, both real and personal, whether  
8 32 existing prior to the marriage or acquired or received by  
8 33 either party during the marriage.

8 34 (5) The effect of a premarital agreement.

8 35 (6) Support obligations which may be imposed following a  
9 1 divorce.

9 2 (7) Distribution of property pursuant to a divorce decree.

9 3 (8) Arrangements for awarding of custody and provision of  
9 4 support for minor children pursuant to a divorce decree.

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

9 11 c. A provision that a judicial district may administer the  
9 12 program or the videotape through a contract with a private or  
9 13 public entity. The services provided under a contract shall  
9 14 meet all of the criteria specified in paragraph "a".

9 15 3. Each judicial district shall establish a process to  
9 16 provide applicants for a license to marry with the written  
9 17 notice of the legal rights and obligations incident to  
9 18 marriage and to divorce and with information regarding  
9 19 required participation in the program or required viewing of  
9 20 the videotape. The written notice and information regarding  
9 21 the program and videotape shall be provided through the office

9 22 of the clerk of the district court.

9 23 4. Each applicant for a license to marry shall be  
9 24 responsible for making arrangements to participate in the  
9 25 program or to view the videotape, and each applicant shall  
9 26 participate in the program or view the videotape at the  
9 27 applicant's own expense.

9 28 5. Each applicant shall be provided with a certificate  
9 29 following completion of the program or following the viewing  
9 30 of the videotape. The certificate constitutes evidence of  
9 31 participation or viewing and shall be submitted by an  
9 32 applicant to the clerk of the district court prior to the  
9 33 issuance of a license to marry.

9 34 Sec. 21. NEW SECTION. 595.20 PREMARITAL COUNSELING.

9 35 1. "Premarital counseling" means one or more meetings,  
10 1 totalling at least six hours, between two parties, who are  
10 2 eligible to enter into a marriage contract and have either  
10 3 made application for a marriage license or intend to apply for  
10 4 a marriage license, and one or more neutral parties for  
10 5 purposes of discussing the rights, expectations, needs,  
10 6 obligations, and other commitments incident to the marriage  
10 7 contract, including, but not limited to, discussion about  
10 8 children, finances, relationships with new family members,  
10 9 sex, religion, roles, and communication and conflict  
10 10 resolution skills.

10 11 2. In the course of premarital counseling, the parties and  
10 12 the counselor shall evaluate the parties' compatibility as a  
10 13 couple and their commitment to one another.

10 14 3. Premarital counseling may be provided by any or a  
10 15 combination of any of the following:

- 10 16 a. A member of the clergy.
- 10 17 b. Staff of a church or other religious organization.
- 10 18 c. A trained or certified counselor.

10 19 Sec. 22. Section 596.5, subsection 1, paragraph c, Code  
10 20 1995, is amended to read as follows:

10 21 c. The disposition of property upon separation,  
10 22

~~—dissolution of the marriage~~

— divorce, death, or the occurrence

10 23 or nonoccurrence of any other event.

10 24 Sec. 23. Section 598.1, Code 1995, is amended by striking  
10 25 the section and inserting in lieu thereof the following:

10 26 598.1 LEGISLATIVE FINDINGS AND INTENT.

10 27 The general assembly of the state of Iowa finds that the  
10 28 family is the unit of self-government best able to teach and  
10 29 practice the virtues that benefit not only the members of the  
10 30 family, but also all citizens of this state and of this  
10 31 country. The general assembly further finds that the  
10 32 institution of marriage embodies virtues which promote  
10 33 societal stability, including loyalty, commitment, trust,  
10 34 mutual support, faithfulness, self-sacrifice, adherence to  
10 35 duty, hope, and love. The general assembly also finds that  
11 1 the integrity and permanence of the marriage relationship is  
11 2 of vital importance to the welfare of society and of the  
11 3 people of the state of Iowa.

11 4 The general assembly finds that when the state has failed  
11 5 to apply and enforce the provisions of civil contracts of  
11 6 marriage vast social, financial, and human costs have been  
11 7 imposed upon all Iowans. Crime and disrespect for authority  
11 8 derive in large part from the breakdown of authority within  
11 9 the family unit which, in turn, is largely a result of divorce  
11 10 and births outside of wedlock and the separation of parents  
11 11 from their children. Police, courts, schools, social  
11 12 agencies, state government, and private volunteer groups can  
11 13 provide, at best, only secondary assistance in child rearing  
11 14 or the regulation of human relationships and then only at  
11 15 increasingly prohibitive costs. Furthermore, social science

11 16 demonstrates that divorced spouses and their children suffer  
11 17 severe declines in financial status and are much more  
11 18 susceptible to depression and other mental health problems  
11 19 than are persons involved in stable marriages. Additionally,  
11 20 incidents of child abuse occur in disproportionately great  
11 21 numbers at the hands of individuals living in households in  
11 22 which the individuals are not the parents of the abused child.

11 23 Consequently, the general assembly concludes that divorce  
11 24 should be discouraged and that the institution of marriage  
11 25 requires strengthening, by enforcement of its obligations,  
11 26 through legal recognition of the permanence of the  
11 27 relationship, and by application of sanctions against those  
11 28 who would violate the contract of marriage. The general  
11 29 assembly further concludes that, as a matter of state policy  
11 30 and legal presumption, the laws of this state should be  
11 31 construed to strongly support the formation, existence,  
11 32 continuation, and permanency of marital relationships, and  
11 33 should be construed to discourage the dissolution,  
11 34 infringement, or inhibition of marriages.

11 35 It is therefore the intent of the general assembly that  
12 1 this chapter be construed to effectuate the following  
12 2 purposes:

12 3 1. To promote the best interests of children by assuring  
12 4 that as many children as possible are under the direct care,  
12 5 parental supervision, and custody of both their mothers and  
12 6 their fathers.

12 7 2. To promote the best interests of Iowa taxpayers and  
12 8 citizens, by reducing the burden of social and human costs  
12 9 generated by the breaking up of families and homes which  
12 10 results from no-fault divorce.

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

12 16 Sec. 24. NEW SECTION. 598.1A DEFINITIONS.

12 17 As used in this chapter, unless the context otherwise  
12 18 requires:

12 19 1. "Adultery" means the voluntary commission of one or  
12 20 more sex acts, as defined under section 702.17, by a married  
12 21 person with another person who is not the person's spouse.

12 22 2. "Best interest of the child" includes, but is not  
12 23 limited to, the opportunity for maximum continuous physical  
12 24 and emotional contact possible with both parents, unless  
12 25 direct physical or significant emotional harm to the child may  
12 26 result from this contact. Refusal by one parent to provide  
12 27 this opportunity without just cause shall be considered  
12 28 harmful to the best interest of the child.

12 29 3. "Desertion" means an abdication by one party to the  
12 30 marriage of the party's marital duties and consequent  
12 31 abandonment of the legitimate objects of matrimony including  
12 32 all of the following:

12 33 a. The willful and continuous absence of a party to a  
12 34 marriage from the marital home, without reasonable cause and  
12 35 without consent of the other party to the marriage, for a  
13 1 period of at least two years, together with the consistent  
13 2 failure to provide substantial monetary or other necessary  
13 3 support for other members of the family. These absences may  
13 4 include absences resulting from incarceration.

13 5 b. The willful and consistent failure of a party to a  
13 6 marriage to provide substantial monetary or other necessary  
13 7 support for the other members of the family, which failure to  
13 8 provide occurs without the consent of the other party to the  
13 9 marriage, and for a period of at least one year while claiming  
13 10 residence in the marital home.

13 11 4. "Divorce" means the dissolving of a marriage  
13 12 relationship by an order or decree of a court of competent



13 13 jurisdiction and is synonymous with the term "dissolution of  
13 14 marriage".

13 15 5. "Emotional abuse" means a consistent and malicious  
13 16 course of outrageous conduct by one party to the marriage  
13 17 beyond all bounds of decency and utterly intolerable to any  
13 18 reasonable person, which is intended to cause, and actually  
13 19 and proximately causes, extreme emotional distress to the  
13 20 other party to the marriage. The distress must be clearly and  
13 21 directly demonstrated by either physical symptoms or by a  
13 22 notable and observable distressful mental reaction. Any  
13 23 instance relied upon to demonstrate the course of conduct must  
13 24 have occurred within a one-year period and must constitute  
13 25 sufficient evidence to prove intentional infliction of severe  
13 26 emotional distress.

13 27 6. "Family" means the social unit comprising a husband,  
13 28 wife, and any dependent children, including stepchildren and  
13 29 adoptive children.

13 30 7. "Fault" means an act or acts which constitute adultery,  
13 31 desertion, domestic abuse or any other type of physical or  
13 32 emotional abuse perpetrated against the petitioner or child  
13 33 abuse perpetrated against a child of the household by the  
13 34 respondent, or habitual use and abuse of alcohol or a  
13 35 controlled substance by the respondent.

14 1 8. "Household" means the social unit comprising an  
14 2 individual or individuals exercising legal authority together  
14 3 with others related by consanguinity or affinity, living  
14 4 together in the same home under authority of a designated  
14 5 head.

14 6 9. "In-kind support" means care of any minor children and  
14 7 maintenance of the marital home.

14 8 10. "Joint custody" or "joint legal custody" means an  
14 9 award of custody of a minor child to both parents under which  
14 10 both parents have rights and responsibilities toward the child  
14 11 and under which neither parent has rights superior to those of  
14 12 the other parent. The court may award physical care to one  
14 13 parent only.

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

14 17 a. Procreation and the raising of children.

14 18 b. Protection of the other spouse and any children from  
14 19 harm.

14 20 c. Providing for the needs of the other spouse and any  
14 21 children.

14 22 d. Establishment of a marital home.

14 23 e. The advancement of the best interests of both spouses  
14 24 and any children.

14 25 f. Love, companionship, comfort, physical care and  
14 26 assistance, and other forms of consortium between the spouses  
14 27 and any children.

14 28 g. Sexual relations between spouses.

14 29 12. "Marital home" means the residence established by a  
14 30 husband and wife which is, or is intended to be, the residence  
14 31 for both spouses and any children of the marriage.

14 32 13. "Marriage" is the legal relationship between a man and  
14 33 a woman and excluding all others, which is established by a  
14 34 civil contract between them as a voluntary social, legal,  
14 35 physical, familial, and economic unit for life, for the  
15 1 discharge of the duties imposed by the marriage contract and  
15 2 for the joint pursuit of the legitimate objects of matrimony.

15 3 14. "Mediation" means a process for adjustment and  
15 4 settlement of marital disputes in a friendly manner in which a  
15 5 third party facilitates communication between and counsels the  
15 6 husband and wife with the objectives of restoring harmony to  
15 7 the marriage and family relations, promotes the legitimate  
15 8 objects of matrimony, and promotes mutually acceptable  
15 9 settlements of disputes. "Mediation" is synonymous with

15 10 conciliation, the subject matter of mediation shall  
15 11 specifically include, but is not limited to, presentation and  
15 12 discussion of problems which will be faced by both spouses and  
15 13 any children of the marriage in the event of divorce.

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

15 19 16. "Minor child" means any person under legal age.

15 20 17. "Physical care" means the right and responsibility to  
15 21 maintain the principal home of the minor child and provide for  
15 22 the routine care of the child.

15 23 18. "Residence" means a fixed or permanent abode in which  
15 24 a person lives and to which the person, after being absent,  
15 25 returns or intends to return.

15 26 19. "Separate maintenance" means an allowance granted to  
15 27 one spouse for support during the period in which the spouses  
15 28 are living apart, in separate households.

15 29 20. "Support" means the duty owed by a spouse to another,  
15 30 or by a parent to a child, to advance the general welfare of  
15 31 the support recipient and includes, but is not limited to,  
15 32 provision of food, clothing, shelter, and other necessities of  
15 33 life. Support may be fixed by court order in the form of  
15 34 periodic cash support payments. The obligations may include  
15 35 support for a child who is between the ages of eighteen and  
16 1 twenty-two years who is regularly attending an accredited  
16 2 school in pursuance of a course of study leading to a high  
16 3 school diploma or its equivalent, or regularly attending a  
16 4 course of vocational-technical training either as a part of a  
16 5 regular school program or under special arrangements adapted  
16 6 to the individual person's needs; or is, in good faith, a  
16 7 full-time student in a college, university, or community  
16 8 college; or has been accepted for admission to a college,  
16 9 university, or community college and the next regular term has  
16 10 not yet begun; or a child of any age who is dependent on the  
16 11 parties to the divorce proceedings because of physical or  
16 12 mental disability.

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

16 18 Sec. 25. Section [598.3](#), Code 1995, is amended to read as  
16 19 follows:

16 20 598.3 KIND OF ACTION - JOINDER.

16 21 An action for

~~16 22 dissolution of marriage~~

~~16 23 divorce shall be by~~

~~16 24 equitable proceedings, and no cause of action, save for~~

~~16 25 alimony, shall be joined~~

~~16 26 therewith~~

~~16 27 with the action.~~

~~16 28 Such~~

~~16 29~~

~~16 30 actions shall not be subject to counterclaim or cross petition~~

~~16 31~~

~~16 32 by the respondent. After the appearance of the respondent, no~~

~~16 33~~

~~dismissal of the cause of action shall be allowed unless both~~

16 27

~~the petitioner and the respondent sign the dismissal.~~

16 28 Sec. 26. Section 598.5, unnumbered paragraph 1, and  
16 29 subsections 5, 7, and 10, Code 1995, are amended to read as  
16 30 follows:

16 31 The petition for

~~dissolution of marriage~~

~~divorce shall:~~

16 32 5. State whether or not a separate action for

~~dissolution~~

16 33

~~of marriage~~

~~divorce has been commenced by the respondent and~~

16 34 whether such action is pending in any court in this state or  
16 35 elsewhere.

17 1 7.

~~Allege that there has been a breakdown of the marriage~~

17 2

~~relationship to the extent that the legitimate objects of~~

17 3

~~matrimony have been destroyed and there remains no reasonable~~

17 4

~~likelihood that the marriage can be preserved.~~

~~Be verified by~~

17 5 the petitioner and shall allege one or more of the following  
17 6 grounds for divorce:

17 7 a. If both parties mutually agree to the divorce, that  
17 8 there has been a breakdown of the marriage relationship to the  
17 9 extent that the legitimate objects of matrimony have been  
17 10 destroyed and there is no reasonable likelihood that the  
17 11 marriage can be preserved.

17 12 b. If a party objects to the divorce, that at least one of  
17 13 the following applies:

17 14 (1) The respondent has committed adultery subsequent to  
17 15 the date of the marriage in question and not in collusion with  
17 16 the petitioner for the purposes of procuring a divorce.

17 17 (2) The respondent has deserted the petitioner.

17 18 (3) That the petitioner is a victim of domestic abuse as  
17 19 defined in section 236.2 or any other physical or emotional  
17 20 abuse, or any child of the household is a victim of child  
17 21 abuse as defined in section 232.68, and that the respondent is  
17 22 the perpetrator of the abuse.

17 23 (4) That the respondent habitually uses and abuses alcohol  
17 24 or a controlled substance.

17 25 10.

~~State whether the appointment of a conciliator~~

17 26

~~pursuant to section 598.16 may~~

- If the residence of both

17 27 parties to the marriage is known, state that mediation  
17 28 pursuant to section 598.16A has been attempted but has failed  
17 29 to preserve the marriage.

17 30 Sec. 27. Section [598.5](#), Code 1995, is amended by adding  
17 31 the following new subsections:

17 32 NEW SUBSECTION. 11. Except where the respondent is a  
17 33 resident of this state and is served by personal service,  
17 34 state that the petitioner has been a resident of the state for  
17 35 the last year, specifying the county in which the petitioner  
18 1 has resided, and the length of the residence in the state  
18 2 after deducting all absences from the state; and that the  
18 3 maintenance of the residence has been in good faith and not  
18 4 for the purpose of obtaining a divorce only.

18 5 NEW SUBSECTION. 12. Make any necessary averments as to  
18 6 child custody required pursuant to section 598A.9.

18 7 Sec. 28. Section [598.5](#), subsections 6 and 7, Code 1995,  
18 8 are amended by striking the subsections.

18 9 Sec. 29. Section [598.9](#), Code 1995, is amended to read as  
18 10 follows:

18 11 598.9

~~RESIDENCE~~

- FAILURE OF PROOF.

18 12 If the

~~averments as to residence~~

- allegations of the

18 13 petition, including the grounds for divorce, are not fully  
18 14 proved by clear and convincing evidence, the hearing shall  
18 15 proceed no further, and the action shall be dismissed by the  
18 16 court.

18 17 Sec. 30. Section [598.11](#), Code 1995, is amended to read as  
18 18 follows:

18 19 598.11 TEMPORARY ORDERS.

18 20 1. The court may order either party to pay the clerk a sum  
18 21 of money for the separate support and maintenance of the other  
18 22 party and the children and to enable such party to prosecute  
18 23 or defend the action. The order may be made whether the  
18 24 action is original or is a modification of a preexisting  
18 25 divorce decree. The court may on its own motion and shall  
18 26 upon application of either party or an attorney appointed  
18 27 under section 598.12 determine the temporary custody of any  
18 28 minor child whose welfare may be affected by the filing of the  
18 29 petition for

~~dissolution~~

- divorce.

18 30 2. The court may make such an order when a claim for  
18 31 temporary support is made by the petitioner in the petition,  
18 32 or upon application of either party, after service of the  
18 33 original notice and when no application is made in the  
18 34 petition; however, no such order shall be entered until at  
18 35 least five days' notice of hearing, and opportunity to be  
19 1 heard, is given the other party.

~~Appearance by an attorney or~~

19 2

~~the respondent for such hearing shall be deemed a special~~

19 3

~~appearance for the purpose of such hearing only and not a~~

19 4

~~general appearance.~~

- An order entered pursuant to this section

19 5 shall contain the names, birth dates, addresses, and counties  
19 6 of residence of the petitioner and respondent.

19 7 3. In making temporary orders, the court shall take into  
19 8 consideration the age of the applicant, the physical and  
19 9 pecuniary condition of the parties, and other matters as are  
19 10 pertinent, which may be shown by affidavits, as the court may  
19 11 direct.

19 12 4. After notice and hearing, subsequent changes in  
19 13 temporary orders may be made by the court on application of  
19 14 either party demonstrating a substantial change in the  
19 15 circumstances occurring subsequent to the issuance of such  
19 16 order. If the order is not so modified it shall continue in  
19 17 force and effect until the action is dismissed or a divorce  
19 18 decree is entered.

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

19 21 Both parties shall disclose their financial status. A  
19 22 showing of special circumstances shall not be required before  
19 23 the disclosure is ordered. A statement of net worth set forth  
19 24 by affidavit on a form prescribed by the supreme court and  
19 25 furnished without charge by the clerk of the district court  
19 26 shall be filed by each party prior to the

~~dissolution~~

- divorce

19 27 hearing. However, the parties may waive this requirement upon  
19 28 application of both parties and approval by the court.

19 29 Sec. 32. NEW SECTION. 598.16A MEDIATION.

19 30 1. A petition for divorce shall not be heard until the  
19 31 parties have participated in at least twelve hours of  
19 32 prehearing mediation with a mediator. Following mediation,  
19 33 the petitioner shall file a petition within thirty days or  
19 34 shall, within thirty days, file an affidavit with the court  
19 35 that the mediation has been unsuccessful in restoring the  
20 1 relationship. Upon the request of either party, the court may  
20 2 provide security during the mediation sessions if a history of  
20 3 domestic violence relating to either party exists.

20 4 2. Following the filing of a petition for divorce with the  
20 5 court, a mediator shall be selected by the parties within  
20 6 fifteen days of the service of the petition. The method of  
20 7 selection and qualification criteria shall be determined by  
20 8 the parties. If the parties are unable to agree to the  
20 9 selection of a mediator within the fifteen-day period, the  
20 10 court may, upon the request of the petitioner, select a  
20 11 mediator based upon standards developed by the judicial  
20 12 council.

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

20 27 4. Any statements made by the parties during mediation are  
20 28 subject to the Iowa rule of evidence regarding compromise and  
20 29 offers to compromise. A party who participates in mediation  
20 30 shall retain the right to discovery to the extent available in

20 31 divorce proceedings.

20 32 5. The judicial council shall develop the procedure to be  
20 33 followed in submitting actions for mediation under this  
20 34 section.

20 35 6. In addition to the provisions pursuant to subsection 3,  
21 1 mediation requirements pursuant to this section may be waived  
21 2 by the court after a hearing or upon a demonstration that the  
21 3 petitioner is a victim of domestic abuse, as defined in  
21 4 section 236.2, and the mediation would expose the petitioner  
21 5 to additional abuse, or that participation in mediation is  
21 6 physically impossible due to specific situations including the  
21 7 absence of a party.

21 8 7. If the parties do not participate in mediation, the  
21 9 petition shall state the reasons for the nonparticipation.

21 10 8. Costs of mediation shall be paid by the parties, or as  
21 11 the court directs.

21 12 Sec. 33. Section [598.17](#), Code 1995, is amended to read as  
21 13 follows:

21 14 598.17

~~DISSOLUTION OF MARRIAGE~~

~~DIVORCE - HEARINGS -~~

21 15 EVIDENCE.

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

21 27 2. A divorce decree

~~dissolving the marriage~~

~~may be entered~~

21 28 when the court is satisfied

~~from the~~

~~by clear and convincing~~

21 29 evidence presented that

~~there has been a breakdown of the~~

~~-~~

21 30

~~marriage relationship to the extent that the legitimate~~

~~-~~

21 31

~~objects of matrimony have been destroyed and there remains no~~

~~-~~

21 32

~~reasonable likelihood that the marriage can be preserved~~

~~the~~

21 33 allegations of fault raised in the petition or the response,

21 34 or any counterclaims to either the petition or the response

21 35 have been established.

~~The decree shall state that the~~

~~-~~

22 1

~~dissolution is granted to the parties, and shall not state~~

22 2

~~that it is granted to only one party.~~

~~If the averments as to~~

~~22 3 residence are not fully proved, the hearing shall proceed no  
22 4 further, and the action shall be dismissed by the court. All  
22 5 evidence offered by the petitioner shall be corroborated. A  
22 6 divorce shall not be granted on the testimony of either party  
22 7 alone, and a divorce shall not be granted if the court  
22 8 reasonably believes the parties have conspired to obtain a  
22 9 divorce, or that one or more of the parties has committed  
22 10 perjury or any other criminal act in order to obtain a  
22 11 divorce.~~

22 12

~~If at the time of trial petitioner fails to present~~

22 13

~~satisfactory evidence that there has been a breakdown of the~~

22 14

~~marriage relationship to the extent that the legitimate~~

22 15

~~objects of matrimony have been destroyed and there remains no~~

22 16

~~reasonable likelihood that the marriage can be preserved, the~~

22 17

~~respondent may then proceed to present such evidence as though~~

22 18

~~the respondent had filed the original petition.~~

22 19

~~No marriage dissolution granted due to the mental illness~~

22 20

~~of one of the spouses shall relieve the other spouse of any~~

22 21

~~obligation imposed by law as a result of the marriage for the~~

22 22

~~support of the mentally ill spouse. The court may make an~~

22 23

~~order for such support or may waive the support obligation~~

22 24

~~when satisfied from the evidence that it would create an undue~~

22 25

~~hardship on the obliged spouse or that spouse's other~~

22 26

~~dependents.~~

22 27 3. The decree shall state that the divorce is granted to  
22 28 the parties, and shall not state that it is granted to only  
22 29 one party.

22 30 4. Notwithstanding any other provision to the contrary,  
22 31 the court may enter a divorce decree without a hearing under  
22 32 either of the following circumstances:

22 33 a. All of the following circumstances have been met:

22 34 (1) The parties have certified in writing under oath that  
22 35 there has been a breakdown of the marriage relationship to the  
23 1 extent that the legitimate objects of matrimony have been  
23 2 destroyed and there remains no reasonable likelihood that the  
23 3 marriage can be preserved.

23 4 (2) All documents required by the court and by statute  
23 5 have been filed including the mediator's affidavit pursuant to  
23 6 section 598.16A.

23 7 (3) The parties have entered into a written agreement  
23 8 settling all of the issues involved in the divorce.

23 9 (4) There are no children of the marriage for whom  
23 10 support, as defined under section 598.1A, may be ordered.

23 11 b. The respondent has not entered an appearance or filed a  
23 12 motion or pleading in the case, the waiting period provided  
23 13 under section 598.19 has expired, and all of the following  
23 14 circumstances have been met:

23 15 (1) The petitioner has certified in writing either that  
23 16 fault exists or that there has been a breakdown of the  
23 17 marriage relationship to the extent that the legitimate  
23 18 objects of matrimony have been destroyed and there remains no  
23 19 reasonable likelihood that the marriage can be preserved.

23 20 (2) All documents required by the court and by statute  
23 21 have been filed including the mediator's affidavit pursuant to  
23 22 section 598.16A.

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

23 25 Sec. 34. Section 598.18, Code 1995, is amended to read as  
23 26 follows:

23 27 598.18 RECRIMINATION

~~NOT A BAR TO DISSOLUTION OF MARRIAGE~~

23 28 If, upon the trial of an action for

~~dissolution of marriage~~

23 29 divorce, both of the parties are found to have committed an  
23 30 act or acts which would support or justify a divorce decree

~~of~~

23 31

~~dissolution of marriage~~

~~such dissolution~~

~~the divorce~~ may be

23 32 decreed, and the acts of one party shall not automatically  
23 33 negate the acts of the other,

~~nor serve to bar the dissolution~~



~~decree in any way~~

- but the court may consider the acts of

23 35 either party when determining whether a divorce should be  
24 1 granted.

24 2 Sec. 35. Section 598.19, Code 1995, is amended to read as  
24 3 follows:

24 4 598.19 WAITING PERIOD BEFORE DECREE.

24 5

~~No~~

- A divorce decree

~~dissolving a marriage~~

- shall not be

24 6 granted in any proceeding before

~~ninety~~

- one hundred twenty

24 7 days shall have elapsed from the day the original notice is  
24 8 served, or from the last day of publication of notice, or from  
24 9 the date that waiver or acceptance of original notice is filed  
24 10 or until after

~~conciliation~~

- mediation is completed, whichever

24 11 period shall be longer. However, the court may in its  
24 12 discretion, on written motion supported by affidavit setting  
24 13 forth grounds of emergency or necessity and facts which  
24 14 satisfy the court that immediate action is warranted or  
24 15 required to protect the substantive rights or interests of any  
24 16 party or person who might be affected by the decree, hold a  
24 17 hearing and grant a divorce decree

~~dissolving the marriage~~

-  
24 18 prior to the expiration of the applicable period, provided  
24 19 that requirements of notice have been complied with. In such  
24 20 case the grounds of emergency or necessity and the facts with  
24 21 respect thereto shall be recited in the decree unless  
24 22 otherwise ordered by the court. The court may enter an order  
24 23 finding the respondent in default and waiving

~~conciliation~~

-  
24 24 mediation when the respondent has failed to file an appearance  
24 25 within the time set forth in the original notice.

24 26 Sec. 36. Section 598.20, Code 1995, is amended to read as  
24 27 follows:

24 28 598.20 FORFEITURE OF MARITAL RIGHTS.

24 29 When a

~~dissolution of marriage~~

- divorce is decreed the

24 30 parties shall forfeit all rights acquired by marriage which  
24 31 are not specifically preserved in the decree. This provision  
24 32 shall not obviate any of the provisions of section 598.21.

24 33 Sec. 37. Section 598.21, Code Supplement 1995, is amended  
24 34 to read as follows:

24 35 598.21 ORDERS FOR DISPOSITION AND SUPPORT.

25 1 1. Upon every judgment of annulment,

~~dissolution~~

- divorce

25 2 or separate maintenance the court shall divide the property of  
25 3 the parties and transfer the title of the property

25 4 accordingly. The court may protect and promote the best  
25 5 interests of children of the parties by setting aside a  
25 6 portion of the property of the parties in a separate fund or  
25 7 conservatorship for the support, maintenance, education and  
25 8 general welfare of the minor children. The court shall divide  
25 9 all property, except inherited property or gifts received by  
25 10 one party, equitably between the parties after considering all  
25 11 of the following:

25 12 a. The length of the marriage.

25 13 b. The property brought to the marriage by each party.

25 14 c. The contribution of each party to the marriage, giving  
25 15 appropriate economic value to each party's contribution in  
25 16 homemaking and child care services.

25 17 d. The age and physical and emotional health of the  
25 18 parties.

25 19 e. The contribution by one party to the education,  
25 20 training or increased earning power of the other.

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

25 29

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

25 30

~~right to live in the family home for a reasonable period to~~

25 31

~~the party having custody of the children, or if the parties~~

25 32

~~have joint legal custody, to the party having physical care of~~

25 33

~~the children.~~

25 34

~~h.~~

~~g.~~ The amount and duration of an order granting support  
25 35 payments to either party pursuant to subsection 3 and whether  
26 1 the property division should be in lieu of such payments.

26 2

~~i.~~

~~h.~~ Other economic circumstances of each party,  
26 3 including pension benefits, vested or unvested, and future  
26 4 interests.

26 5

~~j.~~

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

26 6

~~k.~~

~~j.~~ Any written agreement made by the parties concerning  
26 7 property distribution.

26 8

~~l.~~

- k. The provisions of an antenuptial agreement.

26 9 l. The fault attributable to a party.

26 10 m. Other factors the court may determine to be relevant in  
26 11 an individual case.

26 12 1A. The court shall award the family home or at a minimum  
26 13 the right to live in the family home for a reasonable period  
26 14 to the party having custody of the children, or if the parties  
26 15 have joint legal custody, to the party having physical care of  
26 16 the children, absent a showing that this award is not in the  
26 17 best interests of the child. The award shall be independent  
26 18 of the property award entered pursuant to subsection 1.

26 19 2. Property inherited by either party or gifts received by  
26 20 either party prior to or during the course of the marriage is  
26 21 the property of that party and is not subject to a property  
26 22 division under this section except upon a finding that refusal  
26 23 to divide the property is inequitable to the other party or to  
26 24 the children of the marriage.

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

26 30 3. Upon every judgment of annulment,

~~—dissolution~~

- divorce.

26 31 or separate maintenance, the court may grant an order  
26 32 requiring support payments to either party for a limited or  
26 33 indefinite length of time after considering all of the  
26 34 following:

26 35 a. The length of the marriage.

27 1 b. The age and physical and emotional health of the  
27 2 parties.

27 3 c. The distribution of property made pursuant to  
27 4 subsection 1.

27 5 d. The educational level of each party at the time of  
27 6 marriage and at the time the action is commenced.

27 7 e. The earning capacity of the party seeking maintenance,  
27 8 including educational background, training, employment skills,  
27 9 work experience, length of absence from the job market,  
27 10 responsibilities for children under either an award of custody  
27 11 or physical care, and the time and expense necessary to  
27 12 acquire sufficient education or training to enable the party  
27 13 to find appropriate employment.

27 14 f. The feasibility of the party seeking maintenance  
27 15 becoming self-supporting at a standard of living reasonably  
27 16 comparable to that enjoyed during the marriage, and the length  
27 17 of time necessary to achieve this goal.

27 18 g. The tax consequences to each party.

27 19 h. Any mutual agreement made by the parties concerning  
27 20 financial or service contributions by one party with the  
27 21 expectation of future reciprocation or compensation by the  
27 22 other party.

27 23 i. The provisions of an antenuptial agreement.

27 24 j. The fault attributable to a party.

27 25

~~—j.~~

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

27 27 3A. The court shall not grant support payments with the  
27 28 exception of child support payments to any party found to be  
27 29 at fault. The court may grant support to the party not found  
27 30 to be at fault as the court deems appropriate as compensation  
27 31 for breach of the marital contract, and the support amount

27 32 shall enable the party to maintain to the extent possible the  
27 33 standard of living enjoyed during the marriage.

27 34 4. The supreme court shall maintain uniform child support  
27 35 guidelines and criteria and review the guidelines and criteria  
28 1 at least once every four years, pursuant to the federal Family  
28 2 Support Act of 1988, Pub. L. No. 100-485. The initial review  
28 3 shall be performed within four years of October 12, 1989, and  
28 4 subsequently within the four-year period of the most recent  
28 5 review. It is the intent of the general assembly that, to the  
28 6 extent possible within the requirements of federal law, the  
28 7 court and the child support recovery unit consider the  
28 8 individual facts of each judgment or case in the application  
28 9 of the guidelines and determine the support obligation, ac-  
28 10 cordingly. It is also the intent of the general assembly that  
28 11 in the supreme court's review of the guidelines, the supreme  
28 12 court shall do both of the following: emphasize the ability  
28 13 of a court to apply the guidelines in a just and appropriate  
28 14 manner based upon the individual facts of a judgment or case;  
28 15 and in determining monthly child support payments, consider  
28 16 other children for whom either parent is legally responsible  
28 17 for support and other child support obligations actually paid  
28 18 by either party pursuant to a court or administrative order.  
28 19 a. Upon every judgment of annulment,

~~—dissolution~~

~~—divorce,~~

28 20 or separate maintenance, the court may order either parent or  
28 21 both parents to

~~—pay~~

~~—make support payments in an amount~~

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

29 1 The court shall order as child medical support a health  
29 2 benefit plan as defined in chapter 252E if available to either  
29 3 parent at a reasonable cost. A health benefit plan is  
29 4 considered reasonable in cost if it is employment-related or  
29 5 other group health insurance, regardless of the service  
29 6 delivery mechanism. The premium cost of the health benefit  
29 7 plan may be considered by the court as a reason for varying  
29 8 from the child support guidelines. If a health benefit plan  
29 9 is not available at a reasonable cost, the court may order any  
29 10 other provisions for medical support as defined in chapter  
29 11 252E.

29 12 b. The guidelines prescribed by the supreme court shall be  
29 13 used by the department of human services in determining child  
29 14 support payments under sections 252C.2 and 252C.4. A  
29 15 variation from the guidelines shall not be considered by the  
29 16 department without a record or written finding, based on  
29 17 stated reasons, that the guidelines would be unjust or  
29 18 inappropriate as determined under criteria prescribed by the  
29 19 supreme court.

29 20 c. The guidelines prescribed by the supreme court shall  
29 21 incorporate provisions for medical support as defined in  
29 22 chapter 252E

~~to be effective on or before January 1, 1991~~

29 23 d. For purposes of calculating a support obligation under  
29 24 this section, the income of the parent from whom support is  
29 25 sought shall be used as the noncustodial parent income for  
29 26 purposes of application of the guidelines, regardless of the  
29 27 legal custody of the child.

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

29 34 (1) The parent is attending a school or program described  
29 35 as follows or has been identified as one of the following:

30 1 (a) The parent is in full-time attendance at an accredited  
30 2 school and is pursuing a course of study leading to a high  
30 3 school diploma.

30 4 (b) The parent is attending an instructional program  
30 5 leading to a high school equivalency diploma.

30 6 (c) The parent is attending a vocational education program  
30 7 approved pursuant to chapter 258.

30 8 (d) The parent has been identified by the director of  
30 9 special education of the area education agency as a child  
30 10 requiring special education as defined in section 256B.2.

30 11 (2) The parent provides proof of compliance with the  
30 12 requirements of subparagraph (1) to the child support recovery  
30 13 unit, if the unit is providing services under chapter 252B, or  
30 14 if the unit is not providing services pursuant to chapter  
30 15 252B, to the court as the court may direct.

30 16 Failure to provide proof of compliance under this  
30 17 subparagraph is grounds for modification of the support order  
30 18 using the uniform child support guidelines and imputing an  
30 19 income to the parent equal to a forty-hour work week at the  
30 20 state minimum wage, unless the parent's education, experience,  
30 21 or actual earnings justify a higher income.

30 22 4A. If, during an action initiated under this chapter or  
30 23 any other chapter in which a child or medical support  
30 24 obligation may be established based upon a prior determination  
30 25 of paternity, a party wishes to contest the paternity of the  
30 26 child or children involved, all of the following apply:

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

30 33 (2) If following the proceedings under section 600B.41A  
30 34 the court determines that the prior determination of paternity  
30 35 should not be overcome, and that the established father has a  
31 1 duty to provide support, the court shall enter an order  
31 2 establishing the monthly child support payment and the amount  
31 3 of the support debt accrued and accruing pursuant to  
31 4 subsection 4, or the medical support obligation pursuant to  
31 5 chapter 252E, or both.

31 6 b. If a determination of paternity is based on an  
31 7 administrative or court order or other means pursuant to the  
31 8 laws of a foreign jurisdiction, any action to overcome the  
31 9 prior determination of paternity shall be filed in that  
31 10 jurisdiction. Unless a stay of the action initiated in this  
31 11 state to establish child or medical support is requested and  
31 12 granted by the court, pending a resolution of the contested  
31 13 paternity issue by the foreign jurisdiction, the action shall  
31 14 proceed.

31 15 c. Notwithstanding paragraph "a", in a pending

~~—dissolution~~

31 16 divorce action under this chapter, a prior determination of  
31 17 paternity by operation of law through the marriage of the  
31 18 established father and mother of the child may be overcome  
31 19 under this chapter if the following conditions are met:  
31 20 (1) The established father and mother of the child file a  
31 21 written statement with the court that both parties agree that  
31 22 the established father is not the biological father of the  
31 23 child.  
31 24 (2) The court finds that it is in the best interest of the  
31 25 child to overcome the established paternity. In determining  
31 26 the best interest of the child, the court shall consider the  
31 27 criteria provided in section 600B.41A, subsection 3, paragraph  
31 28 "g".  
31 29 If the court overcomes a prior determination of paternity,  
31 30 the previously established father shall be relieved of support  
31 31 obligations as specified in section 600B.41A, subsection 4.  
31 32 In any action to overcome paternity other than through a  
31 33 pending

~~—dissolution~~

- divorce action, the provisions of section  
31 34 600B.41A apply. Overcoming paternity under this paragraph  
31 35 does not bar subsequent actions to establish paternity if it  
32 1 is subsequently determined that the written statement  
32 2 attesting that the established father is not the biological  
32 3 father of the child may have been submitted erroneously, and  
32 4 that the person previously determined not to be the child's  
32 5 father during the

~~—dissolution~~

- divorce action may actually be  
32 6 the child's biological father.  
32 7 4B. If an action to overcome paternity is brought pursuant  
32 8 to subsection 4A, paragraph "c", the court shall appoint a  
32 9 guardian ad litem for the child for the pendency of the  
32 10 proceedings.  
32 11 5. The court may protect and promote the best interests of  
32 12 a minor child by setting aside a portion of the child support  
32 13 which either party is ordered to pay in a separate fund or  
32 14 conservatorship for the support, education and welfare of the  
32 15 child.  
32 16 6. The court may provide for joint custody of the children  
32 17 by the parties pursuant to section 598.41. All orders  
32 18 relating to custody of a child are subject to chapter 598A.  
32 19 7. Orders made pursuant to this section need mention only  
32 20 those factors relevant to the particular case for which the  
32 21 orders are made but shall contain the names, birth dates,  
32 22 addresses, and counties of residence of the petitioner and  
32 23 respondent.  
32 24 8. The court may subsequently modify orders made under  
32 25 this section when there is a substantial change in  
32 26 circumstances. In determining whether there is a substantial  
32 27 change in circumstances, the court shall consider the  
32 28 following:  
32 29 a. Changes in the employment, earning capacity, income or  
32 30 resources of a party.  
32 31 b. Receipt by a party of an inheritance, pension or other  
32 32 gift.  
32 33 c. Changes in the medical expenses of a party.  
32 34 d. Changes in the number or needs of dependents of a  
32 35 party.  
33 1 e. Changes in the physical, mental, or emotional health of  
33 2 a party.  
33 3 f. Changes in the residence of a party.  
33 4 g. Remarriage of a party.

33 5 h. Possible support of a party by another person.  
33 6 i. Changes in the physical, emotional or educational needs  
33 7 of a child whose support is governed by the order.  
33 8 j. Contempt by a party of existing orders of court.  
33 9 k. Other factors the court determines to be relevant in an  
33 10 individual case.

33 11 A modification of a support order entered under chapter  
33 12 234, 252A, 252C, 600B, this chapter, or any other support  
33 13 chapter or proceeding between parties to the order is void  
33 14 unless the modification is approved by the court, after proper  
33 15 notice and opportunity to be heard is given to all parties to  
33 16 the order, and entered as an order of the court. If support  
33 17 payments have been assigned to the department of human  
33 18 services pursuant to section 234.39, 239.3, or 252E.11, the  
33 19 department shall be considered a party to the support order.  
33 20 Modifications of orders pertaining to child custody shall be  
33 21 made pursuant to chapter 598A. If the petition for a  
33 22 modification of an order pertaining to child custody asks  
33 23 either for joint custody or that joint custody be modified to  
33 24 an award of sole custody, the modification, if any, shall be  
33 25 made pursuant to section 598.41.

33 26 Judgments for child support or child support awards entered  
33 27 pursuant to this chapter, chapter 234, 252A, 252C, 252F, 600B,  
33 28 or any other chapter of the Code which are subject to a  
33 29 modification proceeding may be retroactively modified only  
33 30 from the date the notice of the pending petition for  
33 31 modification is served on the opposing party.

33 32 The periodic due date established under a prior order for  
33 33 payment of child support shall not be changed in any modified  
33 34 order under this section, unless the court determines that  
33 35 good cause exists to change the periodic due date. If the  
34 1 court determines that good cause exists, the court shall  
34 2 include the rationale for the change in the modified order and  
34 3 shall address the issue of reconciliation of any payments due  
34 4 or made under a prior order which would result in payment of  
34 5 the child support obligation under both the prior and the  
34 6 modified orders.

34 7 9. Notwithstanding subsection 8, a substantial change of  
34 8 circumstances exists when the court order for child support  
34 9 varies by ten percent or more from the amount which would be  
34 10 due pursuant to the most current child support guidelines  
34 11 established pursuant to subsection 4 or the obligor has access  
34 12 to a health benefit plan, the current order for support does  
34 13 not contain provisions for medical support, and the dependents  
34 14 are not covered by a health benefit plan provided by the  
34 15 obligee, excluding coverage pursuant to chapter 249A or a  
34 16 comparable statute of a foreign jurisdiction.

34 17 This basis for modification is applicable to petitions  
34 18 filed on or after July 1, 1992, notwithstanding whether the  
34 19 guidelines prescribed by subsection 4 were used in  
34 20 establishing the current amount of support. Upon application  
34 21 for a modification of an order for child support for which  
34 22 services are being received pursuant to chapter 252B, the  
34 23 court shall set the amount of child support based upon the  
34 24 most current child support guidelines established pursuant to  
34 25 subsection 4, including provisions for medical support  
34 26 pursuant to chapter 252E. The child support recovery unit  
34 27 shall, in submitting an application for modification or  
34 28 adjustment of an order for support, employ additional criteria  
34 29 and procedures as provided in chapter 252H and as established  
34 30 by rule.

34 31 10. Notwithstanding any other provision of law to the  
34 32 contrary, when an application for modification or adjustment  
34 33 of support is submitted by the child support recovery unit,  
34 34 the sole issues which may be considered by the court in that  
34 35 action are the application of the guidelines in establishing  
35 1 the amount of support pursuant to section 598.21, subsection

35 2 4, and provision for medical support under chapter 252E.  
35 3 Issues related to custody, visitation, or other provisions  
35 4 unrelated to support shall be considered only under a separate  
35 5 application for modification.  
35 6 11. If the court orders a transfer of title to real  
35 7 property, the clerk of court shall issue a certificate under  
35 8 chapter 558 relative to each parcel of real estate affected by  
35 9 the order and immediately deliver the certificate for  
35 10 recording to the county recorder of the county in which the  
35 11 real estate is located. Any fees assessed shall be included  
35 12 as part of the court costs. The county recorder shall deliver  
35 13 the certificates to the county auditor as provided in section  
35 14 558.58, subsection 1.

35 15 Property divisions made under this chapter are not subject  
35 16 to modification.

35 17 Sec. 38. NEW SECTION. 598.21A SEPARATE MAINTENANCE WHERE  
35 18 GROUNDS FOR DIVORCE ARE ABSENT.

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

36 1 Sec. 39. Section 598.24, Code 1995, is amended to read as  
36 2 follows:

36 3 598.24 COSTS IF PARTY IS IN DEFAULT OR CONTEMPT.

36 4 When an action for a modification, order to show cause, or  
36 5 contempt of a

~~—dissolution~~

~~— divorce~~, annulment, or separate

36 6 maintenance decree is brought on the grounds that a party to  
36 7 the decree is in default or contempt of the decree, and the  
36 8 court determines that the party is in default or contempt of  
36 9 the decree, the costs of the proceeding, including reasonable  
36 10 attorney's fees, may be taxed against that party.

36 11 Sec. 40. Section 598.25, Code 1995, is amended to read as  
36 12 follows:

36 13 598.25 TERMINATION OF JURISDICTION OF COURT GRANTING

36 14

~~—MARRIAGE DISSOLUTION~~

~~— DIVORCE DECREE.~~

36 15 Whenever a proceeding is initiated in a court for adoption  
36 16 involving the children of parents or guardians

~~—whose marriage~~

~~—~~

36 17

~~—has been dissolved~~

~~— who are divorced~~, or for modification of a

36 18 judgment of alimony, child support, or custody granted in an  
36 19 action for

~~—dissolution of marriage~~



- divorce, the following

36 20 requirements must be met if such proceedings are initiated in  
36 21 a court other than the court which granted the

~~—dissolution~~

-

36 22 divorce decree.

36 23 1. The party initiating such proceedings must present to  
36 24 the court the names and addresses of the parties to the  
36 25

~~—dissolution~~

- divorce decree if known, as well as the name and  
36 26 place of the court which granted the

~~—dissolution~~

- divorce

36 27 decree and the date of the decree.

36 28 2. The court in which the proceedings are initiated shall  
36 29 cause notice of such proceedings to be served upon the parties  
36 30 to the original action unless either or both parties are  
36 31 deceased.

36 32 Such court, or either of the parties to the

~~—dissolution~~

-

36 33 divorce decree, may request that a copy of the transcript of  
36 34 the proceedings of the court which granted the

~~—dissolution~~

-

36 35 divorce decree be made available for consideration in the new  
37 1 proceedings.

37 2 Sec. 41. Section 598.26, unnumbered paragraph 1, Code  
37 3 1995, is amended to read as follows:

37 4 The record and evidence in each case of

~~—marriage~~

-

37 5

~~—dissolution~~

- divorce shall be kept pursuant to the following  
37 6 provisions:

37 7 Sec. 42. Section [598.26](#), subsections 1 and 3, Code 1995,  
37 8 are amended to read as follows:

37 9 1. Until a divorce decree

~~—of dissolution~~

- has been entered,

37 10 the record and evidence shall be closed to all but the court,  
37 11 its officers, and the child support recovery unit of the  
37 12 department of human services pursuant to section 252B.9. No  
37 13 other person shall permit a copy of any of the testimony, or  
37 14 pleading, or the substance thereof, to be made available to  
37 15 any person other than a party to the action or a party's  
37 16 attorney. When a final decree is entered, the clerk of court  
37 17 shall enter, as a public record, with the final decree, any  
37 18 order for payment of temporary support. Nothing in this  
37 19 subsection shall be construed to prohibit publication of the  
37 20 original notice as provided by the rules of civil procedure.

37 21 3. If the action is dismissed, judgment for costs shall be  
37 22 entered in the judgment docket and lien index. The clerk  
37 23 shall maintain a separate docket for

~~—dissolution of marriage~~

-

37 24 divorce actions.

37 25 Sec. 43. Section [598.28](#), Code 1995, is amended to read as  
37 26 follows:

37 27 598.28 SEPARATE MAINTENANCE AND ANNULMENT.

37 28 A petition shall be filed in separate maintenance and  
37 29 annulment actions as in actions for

~~—dissolution of marriage~~

37 30 divorce, and all applicable provisions of this chapter in  
37 31 relation

~~—thereto~~

~~— to the action, including but not limited to~~

37 32 mediation pursuant to section 598.16A in the case of a  
37 33 separate maintenance action shall apply to separate  
37 34 maintenance and annulment actions.

37 35 Sec. 44. Section [598.29](#), subsection 3, Code 1995, is  
38 1 amended to read as follows:

38 2 3. Where either party had a husband or wife living at the  
38 3 time of the marriage, provided they have not, with a knowledge  
38 4 of such fact, lived and cohabited together after the death or  
38 5

~~—marriage dissolution~~

~~— divorce of the former spouse of such~~  
38 6 party.

38 7 Sec. 45. Section [598.32](#), Code 1995, is amended to read as  
38 8 follows:

38 9 598.32 ANNULMENT - COMPENSATION.

38 10 In case either party entered into the contract of marriage  
38 11 in good faith, supposing the other to be capable of  
38 12 contracting, and the marriage is declared a nullity, such fact  
38 13 shall be entered in the decree, and the court may decree such  
38 14 innocent party compensation as in case of

~~—dissolution of~~

38 15

~~—marriage~~

~~— divorce.~~

38 16 Sec. 46. Section [598.33](#), Code 1995, is amended to read as  
38 17 follows:

38 18 598.33 ORDER TO VACATE.

38 19 Notwithstanding section 561.15, the court may order either  
38 20 party to vacate the homestead pending entry of a divorce  
38 21 decree

~~—of dissolution~~

~~— upon a showing that the other party or~~

38 22 the children are in imminent danger of physical harm if the  
38 23 order is not issued.

38 24 Sec. 47. Section 598.34, unnumbered paragraph 1, Code  
38 25 1995, is amended to read as follows:

38 26 A person entitled to periodic support payments pursuant to  
38 27 an order or judgment entered in an action for

~~—dissolution of~~

38 28

~~—marriage~~

~~— divorce, who is also a recipient of public~~

38 29 assistance, is deemed to have assigned the person's rights to  
38 30 the support payments, to the extent of public assistance  
38 31 received by the person, to the department of human services.

38 32 The department shall immediately notify the clerk of court by  
38 33 mail when a person entitled to support payments has been  
38 34 determined to be eligible for public assistance. Upon  
38 35 notification by the department that a person entitled to  
39 1 periodic support payments pursuant to this chapter is  
39 2 receiving public assistance, the clerk of court shall make a  
39 3 notation of the automatic assignment in the judgment docket  
39 4 and lien index. The notation constitutes constructive notice  
39 5 of the assignment. The clerk of court shall forward support  
39 6 payments received pursuant to section 598.22, to which the  
39 7 department is entitled, to the department, which may secure  
39 8 support payments in default through proceedings provided for  
39 9 in chapter 252A or section 598.24.

39 10 Sec. 48. Section [598.35](#), subsection 2, Code 1995, is  
39 11 amended to read as follows:

39 12 2. A petition for

~~— dissolution of marriage~~

— divorce has been

39 13 filed by one of the parents of the child.

39 14 Sec. 49. Section [598.37](#), Code 1995, is amended to read as  
39 15 follows:

39 16 598.37 NAME CHANGE.

39 17 Either party to a marriage may request as a part of the  
39 18 divorce decree

~~— of dissolution~~

— or decree of annulment a change

39 19 in the person's name to either the name appearing on the  
39 20 person's birth certificate or to the name the person had  
39 21 immediately prior to the marriage. If a party requests a name  
39 22 change other than to the name appearing on the person's birth  
39 23 certificate or to the name the person had immediately prior to  
39 24 the marriage, the request shall be made under chapter 674.

39 25 Sec. 50. Section 598.41, subsection 1, paragraph a, Code  
39 26 Supplement 1995, is amended to read as follows:

39 27 a. The court, insofar as is reasonable and in the best  
39 28 interest of the child, shall order the custody award,  
39 29 including liberal visitation rights where appropriate, which  
39 30 will assure the child the opportunity for the maximum  
39 31 continuing physical and emotional contact with both parents  
39 32 after the parents have separated or

~~— dissolved the marriage~~

—  
39 33 divorced, and which will encourage parents to share the rights  
39 34 and responsibilities of raising the child unless direct  
39 35 physical harm or significant emotional harm to the child,  
40 1 other children, or a parent is likely to result from such  
40 2 contact with one parent.

40 3 Sec. 51. Section 598.41, subsection 1, Code Supplement  
40 4 1995, is amended by adding the following new paragraph:

40 5 NEW PARAGRAPH. bb. Notwithstanding paragraph "a", there  
40 6 shall be a presumption in favor of the awarding of sole  
40 7 custody to the parent not found at fault in a divorce  
40 8 proceeding.

40 9 Sec. 52. Section 598.41, subsection 3, Code Supplement  
40 10 1995, is amended by adding the following new paragraph:

40 11 NEW PARAGRAPH. k. The fault attributable to a parent in a  
40 12 divorce.

40 13 Sec. 53. Section 602.8102, subsection 84, Code Supplement  
40 14 1995, is amended to read as follows:

40 15 84. Carry out duties relating to the

~~— dissolution of a~~

~~marriage~~

- divorce as provided in chapter 598.

40 17 Sec. 54. Section 602.8103, subsection 4, paragraph d, Code  
40 18 1995, is amended to read as follows:  
40 19 d. Original court files on

~~—dissolutions of marriage~~

40 20 divorces, one year after dismissal by the parties or under  
40 21 R.C.P. 215, Ia. Ct. Rules, 2nd ed.  
40 22 Sec. 55. Section [602.8105](#), subsection 1, paragraphs a, b,  
40 23 and c, Code Supplement 1995, are amended to read as follows:  
40 24 a. For filing and docketing a petition, other than a  
40 25 modification of a

~~—dissolution~~

- divorce decree to which a  
40 26 written stipulation is attached at the time of filing  
40 27 containing the agreement of the parties to the terms of  
40 28 modification, eighty dollars. In counties having a population  
40 29 of ninety-eight thousand or over, an additional five dollars  
40 30 shall be charged and collected to be known as the journal  
40 31 publication fee and used for the purposes provided for in  
40 32 section 618.13.  
40 33 b. For filing and docketing an application for  
40 34 modification of a

~~—dissolution~~

- divorce decree to which a  
40 35 written stipulation is attached at the time of filing  
41 1 containing the agreement of the parties to the terms of  
41 2 modification, twenty-five dollars.  
41 3 c. For entering a final divorce decree

~~—of dissolution of~~

41 4

~~—marriage~~

-, thirty dollars. It is the intent of the general  
41 5 assembly that the funds generated from the

~~—dissolution~~

- divorce  
41 6 fees be appropriated and used for sexual assault and domestic  
41 7 violence centers.  
41 8 Sec. 56. Section [633.271](#), Code 1995, is amended to read as  
41 9 follows:  
41 10 633.271 EFFECT OF DIVORCE

~~—OR DISSOLUTION~~

41 11 If after making a will the testator is divorced

~~—or the~~

41 12

~~—marriage is dissolved~~

-, all provisions in the will in favor of  
41 13 the testator's spouse are thereby revoked. In the event the  
41 14 testator and spouse remarry each other, the provisions of the  
41 15 will revoked by the divorce

~~—or dissolution of marriage~~

- shall

41 16 be reinstated unless otherwise revoked by the testator.  
41 17 Sec. 57. Section [633.425](#), subsection 9, Code 1995, is  
41 18 amended to read as follows:  
41 19 9. All unpaid support payments as defined in section

~~598.1~~

41 20 [598.1A](#), subsection 6, and all additional unpaid awards and  
41 21 judgments against the decedent in any

~~dissolution~~

~~divorce,~~

41 22 separate maintenance, uniform support, or paternity action to  
41 23 the extent that the support, awards, and judgments have  
41 24 accrued at the time of death of the decedent.

41 25 Sec. 58. Section 633.701, unnumbered paragraph 1, Code  
41 26 1995, is amended to read as follows:

41 27 Upon the partial or total termination of a trust, or upon  
41 28 the transfer of the trusteeship due to resignation, removal,  
41 29

~~dissolution~~

~~divorce,~~ or other disqualification of the trustee

41 30 of any trust pending in court, the trustee shall make a final  
41 31 report to the court, showing for the period since the filing  
41 32 of the last report the facts required for an intermediate  
41 33 report; provided, however, that unless specifically required  
41 34 by the court to do so, the trustee shall not in any event, be  
41 35 required to report such facts for any period of time as to  
42 1 which the trustee has, under any of the provisions of section  
42 2 633.700, been expressly relieved from reporting. In any  
42 3 event, the final report of the trustee shall include the  
42 4 following:

42 5 Sec. 59. Sections 598.4, 598.6, 598.7, 598.14, and 598.16,  
42 6 Code 1995, are repealed.

42 7 Sec. 60. Sections 598.7A and 598.8, Code Supplement 1995,  
42 8 are repealed.

42 9 EXPLANATION

42 10 This bill changes the grounds upon which a divorce may be  
42 11 obtained. The current system, described as a "no-fault"  
42 12 divorce system, is changed in Code sections 598.5 and 598.17  
42 13 to include "fault-based" components which apply unless the  
42 14 divorce is not contested or the parties mutually consent to  
42 15 the divorce. If the divorce is not contested or if the  
42 16 respondent has not entered an appearance or filed a motion,  
42 17 and there are no children of the marriage for whom support may  
42 18 be awarded, a divorce may be obtained by the filing of  
42 19 required documents with the court and no hearing is required.

42 20 Under the "fault-based" system established in Code sections  
42 21 598.5, 598.9, and 598.17 under the bill, the grounds upon  
42 22 which a divorce may be granted include adultery, desertion,  
42 23 abuse of a party or of a child of the household, or habitual  
42 24 use of alcohol or controlled substances by the respondent  
42 25 which must be alleged and proved by clear and convincing  
42 26 evidence by the petitioner.

42 27 Specific Code sections amended or added in the bill provide  
42 28 the following:

42 29 New Code section 422.12F provides for a premarital  
42 30 counseling credit. If a married couple participated in  
42 31 premarital counseling and demonstrates participation in the  
42 32 counseling, the personal income taxes of the couple are to be  
42 33 reduced in an amount which is the actual cost of the  
42 34 counseling, not to exceed \$100.

42 35 New Code section 595.3A provides for the notification of  
43 1 applicants for a license to marry of the rights and  
43 2 obligations of incident to marriage and divorce and requires  
43 3 participation of the applicants in a program or the viewing of

43 4 a videotape which provides information regarding the rights  
43 5 and obligations incident to marriage and divorce. The bill  
43 6 provides for the required content of the notification,  
43 7 program, and videotape and requires completion of the program  
43 8 or viewing of the videotape prior to the issuance of the  
43 9 license to marry by the clerk of the district court.

43 10 New Code section 595.20 relates to premarital counseling  
43 11 for the purposes of the income tax reduction created pursuant  
43 12 to new Code section 422.12F. This section establishes the  
43 13 requirements for premarital counseling and defines premarital  
43 14 counseling including prescribing who may provide premarital  
43 15 counseling.

43 16 Code section 598.1 is amended to provide legislative  
43 17 findings and intent for the divorce chapter of the Code.  
43 18 New Code section 598.1A provides definitions for use in the  
43 19 chapter, including new definitions for "adultery",  
43 20 "desertion", "divorce", "emotional abuse", "family", "fault",  
43 21 "household", "in-kind support", "legitimate objects of  
43 22 matrimony", "marital home", "marriage", "mediation",  
43 23 "mediator", "physical care", "residence", "separate  
43 24 maintenance", "support", and "support payments".

43 25 Code section 598.5, relating to the contents of the  
43 26 petition for divorce, is amended to include, among other  
43 27 information, the grounds for divorce. If both parties  
43 28 mutually agree to the divorce, the parties must allege that  
43 29 there has been a breakdown of the marriage relationship to the  
43 30 extent that the legitimate objects of matrimony have been  
43 31 destroyed and there is not reasonable likelihood that the  
43 32 marriage can be preserved. If a party objects to the divorce,  
43 33 at least one of the following grounds must be alleged: that  
43 34 the respondent has committed adultery, that the respondent  
43 35 deserted the petitioner, that the petitioner is a victim of  
44 1 domestic abuse or any other physical or emotional abuse or  
44 2 that a child of the household is a victim of child abuse and  
44 3 the respondent is the perpetrator of the abuse, or that the  
44 4 respondent habitually uses and abuses alcohol or a controlled  
44 5 substance.

44 6 Code section 598.9 is amended to provide that allegations  
44 7 of the petition including the grounds for divorce are to be  
44 8 proven by clear and convincing evidence or the action is to be  
44 9 dismissed.

44 10 New Code section 598.16A relates to mediation. This  
44 11 section requires participation by the parties to a petition  
44 12 for divorce in at least 12 hours of prehearing mediation with  
44 13 a mediator. Once a petition is filed, the parties are to  
44 14 select a mediator within 15 days after which time, if the  
44 15 parties fail to select a mediator, the court may, at the  
44 16 request of the petitioner, select a mediator. If the parties  
44 17 are unable to agree to restore the relationship following  
44 18 participation in mediation, or if at any time during the  
44 19 mediation process either of the parties requests termination  
44 20 of the mediation or the mediator determines that mediation  
44 21 will not result in restoration of the relationship, the  
44 22 mediator is to file a sworn statement of the nonagreement with  
44 23 the court. Upon filing of the statement the matter is to be  
44 24 set for hearing. Additionally, mediation may be waived if the  
44 25 petitioner is a victim of domestic abuse or if mediation is  
44 26 physically impossible due to circumstances including absence  
44 27 of a party.

44 28 Code section 598.17 is amended in part to provide that the  
44 29 court may grant a divorce decree without a hearing only if the  
44 30 parties certify that there has been a breakdown of the  
44 31 marriage relationship to the extent that the legitimate  
44 32 objects of matrimony have been destroyed and there remains no  
44 33 reasonable likelihood that the marriage can be preserved, that  
44 34 all documents required by the court have been filed, that the  
44 35 parties have entered into a written agreement settling all of

45 1 the issues involved in the divorce and that there are not  
45 2 children of the marriage for whom support may be ordered; or  
45 3 that the respondent has not entered an appearance or filed a  
45 4 motion or pleading in the case, the waiting period of 120 days  
45 5 has expired and the petitioner has certified that fault exists  
45 6 or that there has been a breakdown in the marriage  
45 7 relationship to the extent that the legitimate objects of  
45 8 matrimony have been destroyed and that there remains no  
45 9 reasonable likelihood that the marriage can be preserved, that  
45 10 all documents required have been filed with the court, and  
45 11 that there are not children of the marriage for whom support  
45 12 may be ordered.

45 13 Code section 598.18 is amended to provide that if both  
45 14 parties are found to have committed an act which would support  
45 15 or justify a divorce decree, that the divorce may be decreed  
45 16 but that the acts of one party do not automatically negate the  
45 17 acts of the other and the court may consider the acts of  
45 18 either party when making its determination regarding the  
45 19 decree.

45 20 Code section 598.19 is amended to extend the waiting period  
45 21 for the granting of a divorce decree from the current 90 days  
45 22 from the day of the service of the original notice, from the  
45 23 last day of publication of the notice or from the date that  
45 24 waiver or acceptance of original notice is filed or until  
45 25 after mediation is completed, whichever period is longer, to  
45 26 120 days from any of these dates.

45 27 Code section 598.21 is amended to provide in part that in  
45 28 the division of property, the court may consider the fault  
45 29 attributable to a party; provides that the court shall award  
45 30 the family home or at a minimum the right to live in the  
45 31 family home to the party having custody of the children or if  
45 32 joint legal custody is awarded, to the party awarded physical  
45 33 care of any child of the marriage, unless this is not in the  
45 34 best interests of the child; provides that the court shall  
45 35 reduce the share of property received by a party found to be  
46 1 at fault by an amount deemed appropriate under the specific  
46 2 circumstances but in no event by less than 20 percent of the  
46 3 total value of marital property; provides that in the awarding  
46 4 of support payments the court is to consider the fault  
46 5 attributable to a party, prohibits the court from awarding  
46 6 support other than child support to a party found to be at  
46 7 fault, and provides that the court may grant support to the  
46 8 party not found to be at fault as the court deems appropriate  
46 9 as compensation for breach of the marital contract and the  
46 10 support amount is to be in an amount that enables the party to  
46 11 maintain to the extent possible the standard of living enjoyed  
46 12 during the marriage.

46 13 New Code section 598.21A provides for the awarding of  
46 14 separate maintenance or child support when grounds for divorce  
46 15 are absent.

46 16 Code section 598.41, relating to the award of custody of  
46 17 children, is amended to provide that in the awarding of  
46 18 custody of children, there is a presumption in favor of the  
46 19 awarding of sole custody to the parent not found at fault in a  
46 20 divorce proceeding and that the fault attributable to a parent  
46 21 in a divorce is a factor to be considered in determining what  
46 22 custody arrangement is in the best interests of the child.

46 23 The majority of the remaining sections of the bill make  
46 24 conforming changes throughout the Code to reflect the  
46 25 terminology of "divorce" rather than "dissolution of  
46 26 marriage".

46 27 LSB 3014YC 76  
46 28 pf/sc/14.4