

3/2/95 Judiciary  
3/15/95 Do Pass  
FILED MAR 2 1995  
H-3/22/95 Judiciary  
H-4-10-95 Amend/Do Pass  
W/H-3817

SENATE FILE **239**  
BY HANSEN H 4/13/95 Unfinished Business  
Colorado

Passed Senate, Date (p. 768) 3-21-95 Passed House, Date 4/27/95 (p. 1978)  
Vote: Ayes 50 Nays 0 Vote: Ayes 99 Nays 0  
Passed 5/1/95 Approved May 19, 1995 Passed 5/1/95  
Vote 49-0 Date 96-1  
(p. 1542) (p. 2142)

A BILL FOR

1 An Act relating to the provision of mediation in dissolution of  
2 marriage proceedings.

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

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S.F. 239

1 Section 1. NEW SECTION. 598.7A DISSOLUTION OF MARRIAGE  
2 -- MEDIATION.

3 In addition to the custody mediation provided pursuant to  
4 section 598.41, on the application of either party, or on the  
5 court's own motion, the court may require the parties to  
6 participate in mediation to attempt to resolve differences be-  
7 tween the parties relative to the granting of a marriage  
8 dissolution decree, if the court determines that mediation may  
9 effectuate a resolution of the differences without court  
10 intervention.

11 The costs of mediation shall be paid in full or in part by  
12 the parties, as determined by the court and taxed as court  
13 costs.

14 Sec. 2. Section 598.41, subsection 2, Code 1995, is  
15 amended to read as follows:

16 2. On the application of either parent, the court shall  
17 consider granting joint custody in cases where the parents do  
18 not agree to joint custody. If the court does not grant joint  
19 custody under this subsection, the court shall cite clear and  
20 convincing evidence, pursuant to the factors in subsection 3,  
21 that joint custody is unreasonable and not in the best  
22 interest of the child to the extent that the legal custodial  
23 relationship between the child and a parent should be severed.  
24 Before ruling upon the joint custody petition in these cases,  
25 the court may require the parties to participate in custody  
26 mediation ~~counseling~~ to determine whether joint custody is in  
27 the best interest of the child. The court may require the  
28 child's participation in the mediation ~~counseling~~ insofar as  
29 the court determines the child's participation is advisable.

30 The costs of custody mediation ~~counseling~~ shall be paid in  
31 full or in part by the parties and taxed as court costs.

32 EXPLANATION

33 This bill provides that in addition to existing mediation  
34 services involving the determination of custody of children in  
35 a dissolution proceeding, the court, upon the motion of either

1 party to the dissolution or upon the court's own motion, may  
2 require mediation to attempt to resolve any unresolved  
3 difference between the parties that the court determines  
4 participation in mediation may resolve without court  
5 intervention. The bill provides that the costs of mediation  
6 are to be paid in full or in part by the parties, as  
7 determined by the court and taxed as court costs. The bill  
8 also makes conforming changes in the child custody mediation  
9 portion of the dissolution chapter.

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SENATE FILE 239

H-3817

1 Amend Senate File 239, as passed by the Senate, as  
2 follows:

3 1. Page 1, line 10, by inserting after the word  
4 "intervention." the following: "The court may, in  
5 deciding whether to order the parties to participate  
6 in mediation, consider whether ordering mediation may  
7 place a party at risk of domestic abuse if there is a  
8 credible history of domestic abuse between the  
9 parties."

10 2. Page 1, line 29, by inserting after the word  
11 "advisable." the following: "The court may, in  
12 deciding whether to order the parties or a child to  
13 participate in mediation, consider whether ordering  
14 mediation may place a party or a child at risk of  
15 domestic or child abuse if there is a credible history  
16 of domestic or child abuse in the family."

By COMMITTEE ON JUDICIARY  
HURLEY of Fayette, Chairperson.

H-3817 FILED APRIL 10, 1995

*Adopted 4/27/95 (p. 1978)*

SENATE FILE 239

H-3962

1 Amend Senate File 239, as passed by the Senate, as  
2 follows:

3 1. Page 1, by inserting after line 31 the  
4 following:

5 "Sec. \_\_\_\_ . Section 598.41, Code 1995, is amended  
6 by adding the following new subsection:  
7 NEW SUBSECTION. 7. If an application for  
8 modification of a decree or a petition for  
9 modification of an order is filed, based upon  
10 differences between the parents regarding the custody  
11 arrangement established under the decree or order, the  
12 court may require the parents to participate in  
13 mediation to attempt to resolve the differences  
14 between the parents."

15 2. By renumbering as necessary.

By McCOY of Polk

H-3962 FILED APRIL 17, 1995

*Adopted 4/27/95 (p. 1978)*

SENATE AMENDMENT TO HOUSE AMENDMENT TO SENATE FILE 239  
H-4186

- 1 Amend the House amendment, S-3601, to Senate File  
2 239, as passed by the Senate, as follows:  
3 1. Page 1, by striking lines 3 through 28 and  
4 inserting the following:  
5 "\_\_\_\_. Page 1, line 4, by inserting after the  
6 figure "598.41," the following: "unless the court  
7 determines that a history of domestic abuse exists as  
8 specified in section 598.41, subsection 3, paragraph  
9 "j", if enacted by 1995 Iowa Acts, Senate File 150, or  
10 unless the court determines that direct physical harm  
11 or significant emotional harm to the child, other  
12 children, or a parent is likely to result, "."  
13 2. By renumbering as necessary.

RECEIVED FROM THE SENATE

H-4186 FILED MAY 1, 1995

*House concurred (p. 2142)*

HOUSE AMENDMENT TO  
SENATE FILE 239

S-3601

1 Amend Senate File 239, as passed by the Senate, as  
2 follows:

3 1. Page 1, line 10, by inserting after the word  
4 "intervention." the following: "The court may, in  
5 deciding whether to order the parties to participate  
6 in mediation, consider whether ordering mediation may  
7 place a party at risk of domestic abuse if there is a  
8 credible history of domestic abuse between the  
9 parties."

10 2. Page 1, line 29, by inserting after the word  
11 "advisable." the following: "The court may, in  
12 deciding whether to order the parties or a child to  
13 participate in mediation, consider whether ordering  
14 mediation may place a party or a child at risk of  
15 domestic or child abuse if there is a credible history  
16 of domestic or child abuse in the family."

17 3. Page 1, by inserting after line 31 the  
18 following:

19 "Sec. \_\_\_\_ Section 598.41, Code 1995, is amended  
20 by adding the following new subsection:

21 NEW SUBSECTION. 7. If an application for  
22 modification of a decree or a petition for  
23 modification of an order is filed, based upon  
24 differences between the parents regarding the custody  
25 arrangement established under the decree or order, the  
26 court may require the parents to participate in  
27 mediation to attempt to resolve the differences  
28 between the parents."

29 4. By renumbering, relettering, or redesignating  
30 and correcting internal references as necessary.

RECEIVED FROM THE HOUSE

S-3601 FILED APRIL 27, 1995

*Senate concurred as amended 5/1/95 (p.1541)*

SENATE FILE 239

S-3652

1 Amend the House amendment, S-3601, to Senate File  
2 239, as passed by the Senate, as follows:

3 1. Page 1, by striking lines 3 through 28 and  
4 inserting the following:

5 "\_\_\_\_. Page 1, line 4, by inserting after the  
6 figure "598.41," the following: "unless the court  
7 determines that a history of domestic abuse exists as  
8 specified in section 598.41, subsection 3, paragraph  
9 "j", if enacted by 1995 Iowa Acts, Senate File 150, or  
10 unless the court determines that direct physical harm  
11 or significant emotional harm to the child, other  
12 children, or a parent is likely to result, "."

13 2. By renumbering as necessary.

By TOM VILSACK

S-3652 FILED APRIL 28, 1995

*Adopted 5/1/95 (p1541)*

SENATE FILE 239

AN ACT

RELATING TO THE PROVISION OF MEDIATION IN DISSOLUTION OF MARRIAGE PROCEEDINGS.

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

Section 1. NEW SECTION. 598.7A DISSOLUTION OF MARRIAGE -- MEDIATION.

In addition to the custody mediation provided pursuant to section 598.41, unless the court determines that a history of domestic abuse exists as specified in section 598.41, subsection 3, paragraph "j", if enacted by 1995 Iowa Acts, Senate File 150, or unless the court determines that direct physical harm or significant emotional harm to the child, other children, or a parent is likely to result, on the application of either party, or on the court's own motion, the court may require the parties to participate in mediation to attempt to resolve differences between the parties relative to the granting of a marriage dissolution decree, if the court determines that mediation may effectuate a resolution of the differences without court intervention.

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

Sec. 2. Section 598.41, subsection 2, Code 1995, is amended to read as follows:

2. On the application of either parent, the court shall consider granting joint custody in cases where the parents do not agree to joint custody. If the court does not grant joint custody under this subsection, the court shall cite clear and convincing evidence, pursuant to the factors in subsection 3, that joint custody is unreasonable and not in the best interest of the child to the extent that the legal custodial

relationship between the child and a parent should be severed. Before ruling upon the joint custody petition in these cases, the court may require the parties to participate in custody mediation ~~counseling~~ to determine whether joint custody is in the best interest of the child. The court may require the child's participation in the mediation ~~counseling~~ insofar as the court determines the child's participation is advisable.

The costs of custody mediation ~~counseling~~ shall be paid in full or in part by the parties and taxed as court costs.

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LEONARD L. BOSWELL  
President of the Senate

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RON J. CORBETT  
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 239, Seventy-sixth General Assembly.

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JOHN F. DWYER  
Secretary of the Senate

Approved  , 1995

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TERRY E. BRANSTAD  
Governor