

MAR 15 1999

REPRINTED

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Place On Calendar

HOUSE FILE
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HF 297)

Passed House, ^(P. 989) Date 3/31/99 Passed Senate, ^(P. 742) Date 3-20-00
Vote: Ayes 84 Nays 12 Vote: Ayes 44 Nays 0
Approved May 3, 2000

Re-Passed 3/23/00
Vote 97-0
(P. 960)

A BILL FOR ^(P. 1045) Re-Passed 4-6-00
Vote 48-0

1 An Act relating to mediation services related to custody,
2 visitation, and support of a child.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 683

1 Section 1. INTENT AND FINDINGS OF THE GENERAL ASSEMBLY.

2 It is the intent of the general assembly that if issues
3 relating to custody, primary care, or visitation are before
4 the court, the best interest of the child should determine the
5 outcome. The best interest of the child is usually served
6 through the child maintaining maximum contact with both
7 parents and through the parents fulfilling their
8 responsibilities to the child, with a minimum of conflict
9 between the parents.

10 The general assembly finds that mediation of custody,
11 primary care, and visitation issues affords the parents an
12 opportunity to better resolve these disputes in light of the
13 child's best interest, and with less conflict. Since research
14 demonstrates that parental conflict may result in emotional
15 and psychological damage to a child, the general assembly
16 finds that mediation should be utilized to the greatest extent
17 possible in the resolution of domestic relations disputes in
18 the state.

19 Sec. 2. Section 598.7A, Code 1999, is amended by striking
20 the section and inserting in lieu thereof the following:

21 598.7A MEDIATION.

22 1. The court may, on its own motion or on the motion of
23 any party, order the parties to participate in mediation in
24 any dissolution of marriage action, domestic relations action,
25 or any other action in which an order relating to child
26 custody or visitation could be entered including any
27 modification of any such action. This provision shall not
28 apply to contempt of court actions pursuant to section 598.23
29 or actions which involve domestic abuse pursuant to chapter
30 236. Additionally, the court shall not order the parties to
31 participate in mediation if the court determines that a
32 history of domestic abuse exists as specified in section
33 598.41, subsection 3, paragraph "j", or if the court
34 determines that direct physical harm or significant emotional
35 harm to the child, other children, or a parent is likely to

1 result.

2 2. The court shall order participation in mediation in any
3 case in which the issues of custody, physical care, or
4 visitation are not resolved by a date which is not more than
5 one hundred twenty days following service of the original
6 notice on or execution of an acceptance of service by the
7 respondent.

8 3. The order entered by the court requiring mediation
9 shall name the mediator agreed to by the parties. If the
10 parties do not agree to a mediator, the court shall appoint a
11 mediator from a listing maintained by each district court
12 administrator. If the parties agree to a mediator, the
13 parties may select any individual as a mediator. However, if
14 the mediator is selected by the court, the mediator shall meet
15 the qualifications established under subsection 4, shall be
16 approved by the court, and shall be included in the listing
17 maintained by the district court administrator.

18 4. The supreme court shall prescribe rules which establish
19 the qualifications of a mediator for inclusion in the listing
20 maintained by a district court administrator. The supreme
21 court shall prescribe the rules no later than July 1, 2000.
22 Until such time as the supreme court prescribes such rules, a
23 mediator included in the listing shall meet all of the
24 following qualifications:

25 a. Shall have a bachelor's level degree or higher and
26 shall have completed a minimum of forty hours of dissolution
27 mediation training, or shall have completed a minimum of sixty
28 hours of dissolution mediation training and have conducted a
29 minimum of ten mediations as the sole mediator or twenty
30 mediations as a co-mediator within the twelve-month period
31 prior to application for inclusion in the listing.

32 b. Shall maintain malpractice insurance which specifically
33 provides coverage for mediation.

34 c. Shall agree to provide mediation on a pro bono or
35 sliding fee schedule basis to indigent parties as assigned by

1 the court. The supreme court shall establish a minimum number
2 of cases to be assigned to each mediator, annually, and shall
3 establish a sliding fee schedule for such cases.

4 d. Shall comply with the academy of family mediators
5 standards of practice for family and divorce mediation.
6 Mediators who are licensed attorneys shall also comply with
7 the rules governing standards of practice for lawyer mediators
8 in family disputes, and, if these rules conflict with rules of
9 the supreme court governing an attorney's conduct, the rules
10 of the supreme court shall supersede other conflicting rules.

11 5. Parties participating in mediation shall have the right
12 to the advice and presence of counsel at all times.

13 6. Mediation performed under this section shall comply
14 with the provisions pursuant to chapter 679C relating to
15 confidentiality, mediator privilege, and mediator immunity.

16 7. The purpose of mediation ordered under this section is
17 to provide a process by which a mediator facilitates the
18 exchange of each party's view of the case. The decision-
19 making authority rests with the parties. Participation in
20 mediation does not require reaching an agreement between the
21 parties.

22 8. Any agreement reached by the parties in mediation shall
23 be presented to each party's respective attorney, if any, and
24 shall not be enforceable until approved by the court.

25 9. The costs of mediation shall be borne by the parties,
26 as established in the order, or as agreed by the parties
27 through the mediation, unless the parties are participating in
28 mediation on a pro bono basis. Costs of mediation may be
29 taxed as court costs. A mediator shall not be required to
30 perform mediation services prior to payment of the mediator's
31 fee. A party shall not be denied participation in mediation
32 solely on the basis of lack of financial resources.

33 Sec. 3. Section 598.21, subsection 4, Code 1999, is
34 amended by adding the following new paragraph:

35 NEW PARAGRAPH. f. Notwithstanding paragraph "a", if a

1 parent is awarded joint physical care of a child, the court
2 shall deviate from the guidelines in a manner so that the
3 amount of child support provided by each parent reflects the
4 physical care responsibility awarded the respective parent.
5 Additionally, the court may deviate from the guidelines if the
6 parent not awarded physical care is awarded visitation in
7 excess of four days per month. If the court deviates from the
8 guidelines under this paragraph, the court shall submit a
9 record or written finding, based on stated reasons, including
10 reference to this paragraph, that the guidelines would be
11 unjust or inappropriate under the circumstances.

12 Sec. 4. Section 598.41, subsection 2, paragraphs d and e,
13 Code 1999, are amended by striking the paragraphs.

14 EXPLANATION

15 This bill relates to child custody, visitation, and
16 support. The bill provides that it is the intent of the
17 general assembly that the best interests of the child
18 determine the outcome in awarding custody, primary care, and
19 visitation and that the best interests of the child are
20 usually served by providing the opportunity for maximum
21 contact with both parents and through the parents fulfilling
22 their responsibilities to the child with minimum conflict.

23 The bill provides that the general assembly finds that
24 mediation of these issues affords an opportunity to better
25 resolve disputes and that mediation should be used to the
26 maximum extent possible in resolving domestic relations
27 disputes.

28 The bill provides that the court may order mediation in
29 instances in which there are unresolved matters, including
30 custody and visitation rights, unless the action is a contempt
31 of court action, involves domestic abuse, or the court
32 determines that physical or emotional harm is likely to result
33 to the child, other children, or a parent.

34 The bill requires mediation in a case that involves
35 custody, physical care, or visitation that is not resolved

1 within 120 days from original notice or execution of
2 acceptance of service.

3 The bill specifies that the order requiring mediation is to
4 name the mediator agreed to by the parties, or if the parties
5 do not agree, that the court is to appoint a mediator,
6 approved by the court and listed by the court for the purposes
7 of use by the parties.

8 The bill specifies mediator qualifications applicable to
9 those mediators listed by the court. The qualifications in
10 the bill are to be used until the supreme court prescribes
11 qualifications by rule no later than July 1, 2000.

12 The bill provides that the parties to mediation are to have
13 the right to advice and presence of counsel, that existing law
14 relating to confidentiality, mediator privilege, and mediator
15 immunity applies, that decision making rests with the parties,
16 and that participation in mediation does not require reaching
17 an agreement, that any mediation agreement must be presented
18 to any attorneys of the parties and must be approved by the
19 court, and that costs of mediation may be charged as court
20 costs and paid by the parties as established in the order for
21 mediation or through agreement reached in mediation, unless
22 the mediation is provided on a pro bono basis. A mediator is
23 not required to provide mediation prior to payment and a
24 person is not to be denied participation in mediation solely
25 due to lack of financial resources.

26 The bill also provides that if joint physical care is
27 awarded to both parents, the court must deviate from the
28 uniform child support guidelines and order support in a manner
29 which reflects the physical care responsibilities of each
30 parent. The court may also deviate if a parent is awarded
31 visitation in excess of four days per month. If the court
32 deviates from the guidelines, the court must submit a record
33 or written finding, based upon stated reasons, including
34 reference to this provision, that the guidelines would be
35 unjust or inappropriate under the circumstances.

1 The bill also eliminates current law which relates to the
2 court ordering mediation in determinations of custody.

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**HOUSE FILE 683
FISCAL NOTE**

A fiscal note for House File 683 is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note is available from the Legislative Fiscal Bureau to members of the Legislature upon request.

House File 683 provides that the Court may order mediation where custody and visitation rights are unresolved unless the Court determines physical or emotional harm is likely to result to the child, other children, or a parent.

BACKGROUND

In August 1996, the Sixth Judicial District added a Family Mediation Program for families in divorce and custody cases. Parties retain their right to resolve issues among themselves or with their attorneys, or to request a hearing or trial. Mediation is currently used to resolve disputes in small claims cases, civil rights cases, neighborhood disputes, farmer-creditor cases, and victim-offender mediation.

ASSUMPTIONS

1. The cost for one part-time program coordinator including salary and support will be approximately \$28,000 per year. The annual cost for seven part-time program coordinators would be \$196,000.
2. The cost for one full-time program coordinator for the Fifth District including salary, benefits, and support will be approximately \$65,000.
3. Judicial Districts may be required to rent additional office space. The average cost for office rental space is \$8.50 per square foot. If 50.0% of the Districts rent space (400 square feet per office), the cost will be \$13,000 annually.
4. The one-time cost to equip a program coordinator will be approximately \$6,000 per district office (excluding the Sixth District). The total cost for seven Judicial Districts would be \$42,000.
5. The cost to connect any additional "off-site" offices to the Judicial Department's network will be approximately \$1,800 per office. If 50.0% of the offices are "off-site," the cost will be
6. The Program will be funded through the operating budget rather than the Court Technology Fund (as in the case of the Sixth District program).

FISCAL IMPACT

House File 683 will have a General Fund impact of approximately \$323,000 and 2.9 FTE positions in FY 2000, and \$281,000 and 2.9 FTE positions in FY 2001.

SOURCE

Judicial Department

(LSB 1167hv, CRS)

HOUSE FILE 683

H-1163

- 1 Amend House File 683 as follows:
- 2 1. Page 1, by striking lines 24 through 27, and
- 3 inserting the following: "any dissolution of marriage
- 4 action or other domestic relations action. This
- 5 provision shall not".
- 6 2. Page 2, line 17, by inserting after the word
- 7 "administrator." the following: "The qualifications
- 8 established pursuant to subsection 4 shall not require
- 9 that a mediator be licensed to practice any other
- 10 profession."
- 11 3. Page 2, by striking line 25.
- 12 4. Page 2, line 26, by striking the word "shall"
- 13 and inserting the following: "a. Shall".

By BODDICKER of Cedar
CHAPMAN of Linn

H-1163 FILED MARCH 23, 1999

Adopted
3/31/99 (P. 972)

HOUSE FILE 683

H-1162

- 1 Amend House File 683 as follows:
- 2 1. Page 1, line 27, by inserting after the word
- 3 "action." the following: "This provision shall not
- 4 apply if the action involves a child support or
- 5 medical support obligation enforced by the child
- 6 support recovery unit."

By BODDICKER of Cedar

H-1162 FILED MARCH 23, 1999

Withdrawn
3/31/99 (P. 972)

HOUSE FILE 683

H-1092

- 1 Amend House File 683 as follows:
- 2 1. By striking page 3, line 33, through page 4,
- 3 line 11.
- 4 2. By renumbering as necessary.

By KREIMAN of Davis

H-1092 FILED MARCH 16, 1999

Lost 3/31/99 (P. 974)

HOUSE FILE 683

H-1356

- 1 Amend House File 683 as follows:
- 2 1. Page 3, by inserting after line 32, by
- 3 following:
- 4 "10. The court administrators shall coordinate the
- 5 provision of mediation services under this section."
- 6 2. By renumbering as necessary.

By BODDICKER of Cedar
MILLAGE of Scott

H-1356 FILED MARCH 31, 1999
ADOPTED

(p. 989)

HOUSE FILE 683

H-1357

- 1 Amend House File 683 as follows:
 - 2 1. Page 4, by striking lines 12 and 13.
- By CHAPMAN of Linn

H-1357 FILED MARCH 31, 1999
ADOPTED

(p. 989)

HOUSE FILE 683

H-1245

- 1 Amend House File 683 as follows:
- 2 1. Page 1, line 28, by inserting after the word
- 3 "apply" the following: "if the action involves a
- 4 child support or medical support obligation enforced
- 5 by the child support recovery unit. This provision
- 6 shall not apply".

By BODDICKER of Cedar

H-1245 FILED MARCH 25, 1999

adopted 3/31/99 (p. 972)

S-4/1/17 Judiciary
S-4/12/00 Amend/Do Pass
w/s. 5139

HOUSE FILE 683
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HF 297)

(As Amended and Passed by the House, March 31, 1999)

Re Passed House, ^(P.960) Date 3/23/00 Passed Senate, ^(P.741) Date 3-20-00
Vote: Ayes 97 Nays 0 Vote: Ayes 44 Nays 0
Approved March 3, 2000

^(P.1045) Re Passed 4-6-00
vote 48-0

A BILL FOR

1 An Act relating to mediation services related to custody,
2 visitation, and support of a child.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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House Amendments _____

Deleted Language *

1 Section 1. INTENT AND FINDINGS OF THE GENERAL ASSEMBLY.

2 It is the intent of the general assembly that if issues
3 relating to custody, primary care, or visitation are before
4 the court, the best interest of the child should determine the
5 outcome. The best interest of the child is usually served
6 through the child maintaining maximum contact with both
7 parents and through the parents fulfilling their
8 responsibilities to the child, with a minimum of conflict
9 between the parents.

10 The general assembly finds that mediation of custody,
11 primary care, and visitation issues affords the parents an
12 opportunity to better resolve these disputes in light of the
13 child's best interest, and with less conflict. Since research
14 demonstrates that parental conflict may result in emotional
15 and psychological damage to a child, the general assembly
16 finds that mediation should be utilized to the greatest extent
17 possible in the resolution of domestic relations disputes in
18 the state.

19 Sec. 2. Section 598.7A, Code 1999, is amended by striking
20 the section and inserting in lieu thereof the following:

21 598.7A MEDIATION.

22 1. The court may, on its own motion or on the motion of
23 any party, order the parties to participate in mediation in
24 any dissolution of marriage action or other domestic relations
25 action. This provision shall not apply if the action involves
26 a child support or medical support obligation enforced by the
27 child support recovery unit. This provision shall not apply
28 to contempt of court actions pursuant to section 598.23 or
29 actions which involve domestic abuse pursuant to chapter 236.
30 Additionally, the court shall not order the parties to
31 participate in mediation if the court determines that a
32 history of domestic abuse exists as specified in section
33 598.41, subsection 3, paragraph "j", or if the court
34 determines that direct physical harm or significant emotional
35 harm to the child, other children, or a parent is likely to

1 result.

2 2. The court shall order participation in mediation in any
3 case in which the issues of custody, physical care, or
4 visitation are not resolved by a date which is not more than
5 one hundred twenty days following service of the original
6 notice on or execution of an acceptance of service by the
7 respondent.

8 3. The order entered by the court requiring mediation
9 shall name the mediator agreed to by the parties. If the
10 parties do not agree to a mediator, the court shall appoint a
11 mediator from a listing maintained by each district court
12 administrator. If the parties agree to a mediator, the
13 parties may select any individual as a mediator. However, if
14 the mediator is selected by the court, the mediator shall meet
15 the qualifications established under subsection 4, shall be
16 approved by the court, and shall be included in the listing
17 maintained by the district court administrator. The
18 qualifications established pursuant to subsection 4 shall not
19 require that a mediator be licensed to practice any other
20 profession.

21 4. The supreme court shall prescribe rules which establish
22 the qualifications of a mediator for inclusion in the listing
23 maintained by a district court administrator. The supreme
24 court shall prescribe the rules no later than July 1, 2000.
25 Until such time as the supreme court prescribes such rules, a
26 mediator included in the listing shall meet all of the
27 following qualifications:

* 28 a. Shall have completed a minimum of forty hours of
29 dissolution mediation training, or shall have completed a
30 minimum of sixty hours of dissolution mediation training and
31 have conducted a minimum of ten mediations as the sole
32 mediator or twenty mediations as a co-mediator within the
33 twelve-month period prior to application for inclusion in the
34 listing.

35 b. Shall maintain malpractice insurance which specifically

1 provides coverage for mediation.

2 c. Shall agree to provide mediation on a pro bono or
3 sliding fee schedule basis to indigent parties as assigned by
4 the court. The supreme court shall establish a minimum number
5 of cases to be assigned to each mediator, annually, and shall
6 establish a sliding fee schedule for such cases.

7 d. Shall comply with the academy of family mediators
8 standards of practice for family and divorce mediation.
9 Mediators who are licensed attorneys shall also comply with
10 the rules governing standards of practice for lawyer mediators
11 in family disputes, and, if these rules conflict with rules of
12 the supreme court governing an attorney's conduct, the rules
13 of the supreme court shall supersede other conflicting rules.

14 5. Parties participating in mediation shall have the right
15 to the advice and presence of counsel at all times.

16 6. Mediation performed under this section shall comply
17 with the provisions pursuant to chapter 679C relating to
18 confidentiality, mediator privilege, and mediator immunity.

19 7. The purpose of mediation ordered under this section is
20 to provide a process by which a mediator facilitates the
21 exchange of each party's view of the case. The decision-
22 making authority rests with the parties. Participation in
23 mediation does not require reaching an agreement between the
24 parties.

25 8. Any agreement reached by the parties in mediation shall
26 be presented to each party's respective attorney, if any, and
27 shall not be enforceable until approved by the court.

28 9. The costs of mediation shall be borne by the parties,
29 as established in the order, or as agreed by the parties
30 through the mediation, unless the parties are participating in
31 mediation on a pro bono basis. Costs of mediation may be
32 taxed as court costs. A mediator shall not be required to
33 perform mediation services prior to payment of the mediator's
34 fee. A party shall not be denied participation in mediation
35 solely on the basis of lack of financial resources.

1 10. The court administrators shall coordinate the
2 provision of mediation services under this section.

3 Sec. 3. Section 598.21, subsection 4, Code 1999, is
4 amended by adding the following new paragraph:

5 NEW PARAGRAPH. f. Notwithstanding paragraph "a", if a
6 parent is awarded joint physical care of a child, the court
7 shall deviate from the guidelines in a manner so that the
8 amount of child support provided by each parent reflects the
9 physical care responsibility awarded the respective parent.
10 Additionally, the court may deviate from the guidelines if the
11 parent not awarded physical care is awarded visitation in
12 excess of four days per month. If the court deviates from the
13 guidelines under this paragraph, the court shall submit a
14 record or written finding, based on stated reasons, including
15 reference to this paragraph, that the guidelines would be
16 unjust or inappropriate under the circumstances.

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HOUSE FILE 683

H-8442

1 Amend the Senate amendment, H-8415, to House File
2 683, as amended, passed, and reprinted by the House,
3 as follows:
4 1. Page 1, line 29, by inserting after the figure
5 "679C." the following: "The provisions of this
6 section shall not apply if the action involves a child
7 support or medical support obligation enforced by the
8 child support recovery unit."

By BODDICKER of Cedar

H-8442 FILED MARCH 21, 2000

Adopted 3/23/00 (P. 959)

HOUSE AMENDMENT TO SENATE AMENDMENT TO
HOUSE FILE 683

S-5237

1 Amend the Senate amendment, H-8415, to House File
2 683, as amended, passed, and reprinted by the House,
3 as follows:
4 1. Page 1, line 29, by inserting after the figure
5 "679C." the following: "The provisions of this
6 section shall not apply if the action involves a child
7 support or medical support obligation enforced by the
8 child support recovery unit."

RECEIVED FROM THE HOUSE

Senate Concurred 4/6/00
S-5237 FILED MARCH 23, 2000 (P. 1044)

HOUSE FILE 683

S-5139

1 Amend House File 683 as amended, passed, and
2 reprinted by the House as follows:

3 1. By striking page 1, line 1, through page 4,
4 line 16, and inserting the following:

5 "Section 1. INTENT OF THE GENERAL ASSEMBLY. It is
6 the intent of the general assembly that parties to
7 family law actions maintain responsibility for their
8 decision making, improve their communications
9 concerning their children, and commit themselves to
10 the decisions they reach. The best interests of
11 children are normally served through maintenance of
12 maximum contact with both parents, with a minimum of
13 parental conflict.

14 Because research demonstrates that parental
15 conflict may result in emotional and psychological
16 damage to parties and their children, the general
17 assembly finds that mediation should be utilized to
18 the greatest extent possible in the resolution of
19 domestic relations disputes in this state.

20 Sec. 2. Section 598.7A, Code 1999, is amended by
21 striking the section and inserting in lieu thereof the
22 following:

23 598.7A MEDIATION.

24 1. The district court may, on its own motion or on
25 the motion of any party, order the parties to
26 participate in mediation in any dissolution of
27 marriage action or other domestic relations action.
28 Mediation performed under this section shall comply
29 with the provisions of chapter 679C. The provisions
30 of this section shall not apply to actions which
31 involve domestic abuse pursuant to chapter 236. The
32 provisions of this section shall not affect a judicial
33 district's or court's authority to order settlement
34 conferences pursuant to rules of civil procedure. The
35 court shall, on application of a party, grant a waiver
36 from any court-ordered mediation under this section if
37 the party demonstrates that a history of domestic
38 abuse exists as specified in section 598.41,
39 subsection 3, paragraph "j".

40 2. The supreme court shall establish a dispute
41 resolution program in family law cases that includes
42 the opportunities for mediation and settlement
43 conferences. Any judicial district may implement such
44 a dispute resolution program, subject to the rules
45 prescribed by the supreme court.

46 3. The supreme court shall prescribe rules for the
47 mediation program, including the circumstances under
48 which the district court may order participation in
49 mediation.

50 4. Any dispute resolution program shall comply

S-5139

S-5139

Page 2

1 with all of the following standards:

2 a. Participation in mediation shall include
3 attendance at a mediation session with the mediator
4 and the parties to the action, listening to the
5 mediator's explanation of the mediation process,
6 presentation of one party's view of the case, and
7 listening to the response of the other party.

8 Participation in mediation does not require that the
9 parties reach an agreement.

10 b. The parties may choose the mediator, or the
11 court shall appoint a mediator. A court-appointed
12 mediator shall meet the qualifications established by
13 the supreme court.

14 c. Parties to the mediation have the right to
15 advice and presence of counsel at all times.

16 d. The parties to the mediation shall present any
17 agreement reached through the mediation to their
18 attorneys, if any. A mediation agreement reached by
19 the parties shall not be enforceable until approved by
20 the court.

21 e. The costs of mediation shall be borne by the
22 parties, as agreed to by the parties, or as ordered by
23 the court, and may be taxed as court costs. Mediation
24 shall be provided on a sliding fee scale for parties
25 who are determined to be indigent pursuant to section
26 815.9.

27 5. The supreme court shall prescribe
28 qualifications for mediators under this section on or
29 before January 1, 2001. The qualifications shall
30 include but are not limited to the ethical standards
31 to be observed by mediators. The qualifications shall
32 not include a requirement that the mediator be
33 licensed to practice any particular profession.

34 Sec. 3. SUPREME COURT REPORT. The supreme court
35 shall submit a report to the general assembly by
36 January 1, 2001, which shall include any
37 recommendations for implementing, modifying, and
38 funding this Act.

39 Sec. 4. EFFECTIVE DATE. This Act takes effect
40 July 1, 2001, except that section 3 of this Act takes
41 effect upon enactment."

42 2. Title Page, line 2, by inserting after the
43 word "child" the following: ", and providing
44 effective dates".

45 3. By renumbering as necessary.

By COMMITTEE ON JUDICIARY
ANDY MCKEAN, Chairperson

S-5139 FILED MARCH 14, 2000

a dopted
3/20/00
(P. 634)

SENATE AMENDMENT TO HOUSE FILE 683

H-8415

1 Amend House File 683 as amended, passed, and
2 reprinted by the House as follows:

3 1. By striking page 1, line 1, through page 4,
4 line 16, and inserting the following:

5 "Section 1. INTENT OF THE GENERAL ASSEMBLY. It is
6 the intent of the general assembly that parties to
7 family law actions maintain responsibility for their
8 decision making, improve their communications
9 concerning their children, and commit themselves to
10 the decisions they reach. The best interests of
11 children are normally served through maintenance of
12 maximum contact with both parents, with a minimum of
13 parental conflict.

14 Because research demonstrates that parental
15 conflict may result in emotional and psychological
16 damage to parties and their children, the general
17 assembly finds that mediation should be utilized to
18 the greatest extent possible in the resolution of
19 domestic relations disputes in this state.

20 Sec. 2. Section 598.7A, Code 1999, is amended by
21 striking the section and inserting in lieu thereof the
22 following:

23 598.7A MEDIATION.

24 1. The district court may, on its own motion or on
25 the motion of any party, order the parties to
26 participate in mediation in any dissolution of
27 marriage action or other domestic relations action.
28 Mediation performed under this section shall comply
29 with the provisions of chapter 679C. The provisions
30 of this section shall not apply to actions which
31 involve domestic abuse pursuant to chapter 236. The
32 provisions of this section shall not affect a judicial
33 district's or court's authority to order settlement
34 conferences pursuant to rules of civil procedure. The
35 court shall, on application of a party, grant a waiver
36 from any court-ordered mediation under this section if
37 the party demonstrates that a history of domestic
38 abuse exists as specified in section 598.41,
39 subsection 3, paragraph "j".

40 2. The supreme court shall establish a dispute
41 resolution program in family law cases that includes
42 the opportunities for mediation and settlement
43 conferences. Any judicial district may implement such
44 a dispute resolution program, subject to the rules
45 prescribed by the supreme court.

46 3. The supreme court shall prescribe rules for the
47 mediation program, including the circumstances under
48 which the district court may order participation in
49 mediation.

50 4. Any dispute resolution program shall comply

H-8415

H-8415

Page 2

1 with all of the following standards:

2 a. Participation in mediation shall include
3 attendance at a mediation session with the mediator
4 and the parties to the action, listening to the
5 mediator's explanation of the mediation process,
6 presentation of one party's view of the case, and
7 listening to the response of the other party.
8 Participation in mediation does not require that the
9 parties reach an agreement.

10 b. The parties may choose the mediator, or the
11 court shall appoint a mediator. A court-appointed
12 mediator shall meet the qualifications established by
13 the supreme court.

14 c. Parties to the mediation have the right to
15 advice and presence of counsel at all times.

16 d. The parties to the mediation shall present any
17 agreement reached through the mediation to their
18 attorneys, if any. A mediation agreement reached by
19 the parties shall not be enforceable until approved by
20 the court.

21 e. The costs of mediation shall be borne by the
22 parties, as agreed to by the parties, or as ordered by
23 the court, and may be taxed as court costs. Mediation
24 shall be provided on a sliding fee scale for parties
25 who are determined to be indigent pursuant to section
26 815.9.

27 5. The supreme court shall prescribe
28 qualifications for mediators under this section on or
29 before January 1, 2001. The qualifications shall
30 include but are not limited to the ethical standards
31 to be observed by mediators. The qualifications shall
32 not include a requirement that the mediator be
33 licensed to practice any particular profession.

34 Sec. 3. SUPREME COURT REPORT. The supreme court
35 shall submit a report to the general assembly by
36 January 1, 2001, which shall include any
37 recommendations for implementing, modifying, and
38 funding this Act.

39 Sec. 4. EFFECTIVE DATE. This Act takes effect
40 July 1, 2001, except that section 3 of this Act takes
41 effect upon enactment."

42 2. Title Page, line 2, by inserting after the
43 word "child" the following: ", and providing
44 effective dates".

45 3. By renumbering as necessary.

RECEIVED FROM THE SENATE

H-8415 FILED MARCH 20, 2000

House Concurred

3/23/00

(p. 959)

**HOUSE FILE 683
FISCAL NOTE**

A fiscal note for **House File 683 as passed by the House** is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note is available from the Legislative Fiscal Bureau to members of the Legislature upon request.

House File 683 as passed by the House provides that the Court may order mediation where custody and visitation rights are unresolved unless domestic abuse, child support, or medical support are involved.

BACKGROUND

In August 1996, the Sixth Judicial District added a Family Mediation Program for families in divorce and custody cases. Parties retain their right to resolve issues among themselves or with their attorneys, or to request a hearing or trial. Mediation is currently used to resolve disputes in small claims cases, civil rights cases, neighborhood disputes, farmer-creditor cases, and victim-offender mediation.

ASSUMPTIONS

1. The Bill provides discretion for judges to order mediation. The number of cases which will be mediated is not known.
2. The Bill requires the Supreme Court to establish a mediation program which a district court may implement. The number of mediation programs that will be implemented is unknown.
3. The Bill requires the Supreme Court to prescribe rules for the mediation program. This will require meetings and travel costs of \$1,200.
4. The Supreme Court is required to submit a report to the General Assembly by January 1, 2001. The report is required to include recommendations for implementing, modifying, and funding this Act. The Bill takes effect July 1, 2001 (FY 2002), except for the reporting requirement, which takes effect upon enactment.
5. Judicial districts may be required to rent additional office space. The average cost for office rental space is \$8.50 per square foot. If 50.0% of the districts' space is rented (400 square feet per office), the cost will be \$13,000 annually.
6. The one-time cost for equipment will be approximately \$7,000 per district office (excluding the Sixth District). The total cost for seven judicial districts would be \$49,000.
7. The cost to connect any additional "off-site" offices to the Judicial Branch's network will be approximately \$1,800 per office. If 50.0% of the

-2-

offices are "off-site," the cost will be \$7,200.

8. The Program will be funded by the General Fund rather than the Court Technology and Modernization Fund (as in the case of the Sixth District program).

FISCAL IMPACT

The fiscal impact of House File 683 as passed by the House cannot be determined since it is not known if judges will order mediation. The following options are provided:

Option 1: A statewide program is implemented, to be available in all eight judicial districts. This option will cost approximately \$669,000 annually. This cost includes salary and benefits of a full-time coordinator and a part-time secretary for each judicial district, plus one-time costs (\$49,000), office rental space (\$13,000), and network connections (\$7,200).

Option 2: A statewide program is implemented, available in each judicial election district. This option will cost approximately \$1,044,200 annually. This cost includes salary and benefit costs of 13 full-time mediation coordinators and 13 part-time secretaries, plus one-time costs (\$49,000), office rental space (\$13,000), and network connections (\$7,200).

Option 3: The mediation program is phased in over four years. This option will cost approximately \$261,000 annually.

SOURCE

State Court Administrator's Office

(LSB 1167HV.2, BAL)

FILED MARCH 28, 2000

BY DENNIS PROUTY, FISCAL DIRECTOR

HOUSE FILE 683

AN ACT

RELATING TO MEDIATION SERVICES RELATED TO CUSTODY, VISITATION,
AND SUPPORT OF A CHILD, AND PROVIDING EFFECTIVE DATES.

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

Section 1. INTENT OF THE GENERAL ASSEMBLY. It is the intent of the general assembly that parties to family law actions maintain responsibility for their decision making, improve their communications concerning their children, and commit themselves to the decisions they reach. The best interests of children are normally served through maintenance of maximum contact with both parents, with a minimum of parental conflict.

Because research demonstrates that parental conflict may result in emotional and psychological damage to parties and their children, the general assembly finds that mediation should be utilized to the greatest extent possible in the resolution of domestic relations disputes in this state.

Sec. 2. Section 598.7A, Code 1999, is amended by striking the section and inserting in lieu thereof the following:
598.7A MEDIATION.

1. The district court may, on its own motion or on the motion of any party, order the parties to participate in mediation in any dissolution of marriage action or other domestic relations action. Mediation performed under this section shall comply with the provisions of chapter 679C. The provisions of this section shall not apply if the action involves a child support or medical support obligation enforced by the child support recovery unit. The provisions of this section shall not apply to actions which involve domestic abuse pursuant to chapter 236. The provisions of this section shall not affect a judicial district's or court's authority to order settlement conferences pursuant to rules of civil procedure. The court shall, on application of a party,

grant a waiver from any court-ordered mediation under this section if the party demonstrates that a history of domestic abuse exists as specified in section 598.41, subsection 3, paragraph "j".

2. The supreme court shall establish a dispute resolution program in family law cases that includes the opportunities for mediation and settlement conferences. Any judicial district may implement such a dispute resolution program, subject to the rules prescribed by the supreme court.

3. The supreme court shall prescribe rules for the mediation program, including the circumstances under which the district court may order participation in mediation.

4. Any dispute resolution program shall comply with all of the following standards:

a. Participation in mediation shall include attendance at a mediation session with the mediator and the parties to the action, listening to the mediator's explanation of the mediation process, presentation of one party's view of the case, and listening to the response of the other party. Participation in mediation does not require that the parties reach an agreement.

b. The parties may choose the mediator, or the court shall appoint a mediator. A court-appointed mediator shall meet the qualifications established by the supreme court.

c. Parties to the mediation have the right to advice and presence of counsel at all times.

d. The parties to the mediation shall present any agreement reached through the mediation to their attorneys, if any. A mediation agreement reached by the parties shall not be enforceable until approved by the court.

e. The costs of mediation shall be borne by the parties, as agreed to by the parties, or as ordered by the court, and may be taxed as court costs. Mediation shall be provided on a sliding fee scale for parties who are determined to be indigent pursuant to section 8i5.9.

5. The supreme court shall prescribe qualifications for mediators under this section on or before January 1, 2001.

The qualifications shall include but are not limited to the ethical standards to be observed by mediators. The qualifications shall not include a requirement that the mediator be licensed to practice any particular profession.

Sec. 3. SUPREME COURT REPORT. The supreme court shall submit a report to the general assembly by January 1, 2001, which shall include any recommendations for implementing, modifying, and funding this Act.

Sec. 4. EFFECTIVE DATE. This Act takes effect July 1, 2001, except that section 3 of this Act takes effect upon enactment.

BRENT SIEGRIST
Speaker of the House

MARY E. KRAMER
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 683, Seventy-eighth General Assembly.

ELIZABETH ISAACSON
Chief Clerk of the House

Approved May 3, 2000

THOMAS J. VILSACK
Governor