

FILED MAR 17 '03

SENATE FILE 414
BY COMMITTEE ON HUMAN RESOURCES

(SUCCESSOR TO SSB 1120)

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

A BILL FOR

1 An Act relating to requirements related to marriage and
2 dissolutions of marriage.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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SF 414

1 Section 1. Section 595.3, Code 2003, is amended by adding
2 the following new subsection:

3 NEW SUBSECTION. 6. Where the parties have not completed
4 and provided documentation of completion of a minimum of
5 twelve hours of premarital education.

6 Sec. 2. NEW SECTION. 595.3B APPLICATION -- PREMARITAL
7 EDUCATION.

8 1. An application form for a marriage license shall have
9 attached a certificate form to be used by the parties to
10 document completion of a minimum of twelve hours of premarital
11 education by the parties. The certificate shall be completed
12 by the parties and signed by the person who provided the
13 premarital education. The certificate shall require provision
14 of all of the following information:

15 a. The name of the person providing the premarital
16 education and the person's signature verifying completion of
17 the premarital education by the parties.

18 b. The number of hours of premarital education completed.

19 c. Whether the premarital education was provided by
20 personal instruction, videotaped instruction, instruction via
21 other electronic media, or a combination of these methods.

22 2. Only premarital education provided by the following
23 persons meets the requirement of provision of premarital
24 education under this section:

25 a. A person ordained or designated as a leader of a
26 party's religious faith or the person's designee.

27 b. A person licensed to practice psychology pursuant to
28 chapter 154B or a person who holds a license or certificate
29 from another state whose requirements are substantially
30 equivalent to those of chapter 154B.

31 c. A person licensed to practice social work pursuant to
32 chapter 154C or a person who holds a license or certificate
33 from another state whose requirements are substantially
34 equivalent to those of chapter 154C.

35 d. A person licensed to practice marital and family

1 therapy pursuant to chapter 154D or a person who holds a
2 license or certificate from another state whose requirements
3 are substantially equivalent to those of chapter 154D.

4 Sec. 3. Section 598.5, Code 2003, is amended by adding the
5 following new subsection:

6 NEW SUBSECTION. 11. If there is any minor child whose
7 welfare may be affected by the controversy, state that the
8 parties both agree to the dissolution.

9 Sec. 4. Section 598.7A, subsection 1, Code 2003, is
10 amended to read as follows:

11 1. The district court ~~may, on its own motion or on the~~
12 ~~motion of any party,~~ shall order the parties to participate in
13 mediation in any dissolution of marriage action ~~or and may, on~~
14 its own motion or on the motion of any party order the parties
15 to participate in mediation in any other domestic relations
16 action. Mediation performed under this section shall comply
17 with the provisions of chapter 679C. The provisions of this
18 section shall not apply if the action involves a child support
19 or medical support obligation enforced by the child support
20 recovery unit. The provisions of this section shall not apply
21 to actions which involve domestic abuse pursuant to chapter
22 236. The provisions of this section shall not affect a
23 judicial district's or court's authority to order settlement
24 conferences pursuant to rules of civil procedure. The court
25 shall, on application of a party, grant a waiver from any
26 court-ordered mediation under this section if the party
27 demonstrates that a history of domestic abuse exists as
28 specified in section 598.41, subsection 3, paragraph "j".

29 Sec. 5. Section 598.19, Code 2003, is amended to read as
30 follows:

31 598.19 ~~WAITING-PERIOD-BEFORE DECREE~~ -- WAITING PERIOD --
32 SPECIFIC PROHIBITIONS AGAINST GRANTING OF DECREE.

33 1. No A decree dissolving a marriage shall not be granted
34 in any proceeding before ninety three hundred sixty-five days
35 shall have elapsed from the day the original notice is served,

1 or from the last day of publication of notice, or from the
2 date that waiver or acceptance of original notice is filed or
3 until after conciliation is completed, whichever period ~~shall~~
4 be is longer. However, the court may in its discretion, on
5 written motion supported by affidavit setting forth grounds of
6 emergency or necessity and facts which satisfy the court that
7 immediate action is warranted or required to protect the
8 substantive rights or interests of any party or person who
9 might be affected by the decree, hold a hearing and grant a
10 decree dissolving the marriage prior to the expiration of the
11 applicable period, provided that the parties have complied
12 with the requirements of notice ~~have-been-complied-with~~. In
13 such case the grounds of emergency or necessity and the facts
14 with respect ~~thereto~~ to the emergency or necessity shall be
15 recited in the decree unless otherwise ordered by the court.
16 The court may enter an order finding the respondent in default
17 and waiving conciliation when the respondent has failed to
18 file an appearance within the time set forth in the original
19 notice.

20 2. A decree dissolving a marriage shall not be granted if
21 there is any minor child affected by the controversy and both
22 parties do not agree to the dissolution.

23 3. A decree dissolving a marriage shall not be granted if
24 the court determines that the dissolution is not in the best
25 interest of any minor child.

26 EXPLANATION

27 This bill relates to dissolution of marriage provisions.
28 The bill requires parties applying for a marriage license
29 to document completion of 12 hours of premarital education by
30 completing a certificate form attached to the marriage license
31 application. The bill prohibits issuance of a marriage
32 license to parties who have not completed the required 12
33 hours of premarital education. The bill also specifies
34 persons who may provide the required premarital education.
35 The bill requires that a petition for dissolution of

1 marriage shall, if there is any minor child whose welfare may
2 be affected by the controversy, state that the parties both
3 agree to the dissolution.

4 The bill requires the court to order parties to a
5 dissolution of marriage to participate in mediation.

6 The bill extends the waiting period before a dissolution of
7 marriage decree is granted to 365 days from the existing 90
8 days, prohibits the granting of a decree if there is any minor
9 child affected by the controversy and the parties do not agree
10 to the dissolution, and prohibits the granting of a decree if
11 the court determines that the dissolution is not in the best
12 interest of any minor child.

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SF 414 - No Fault Divorce Reform (LSB 2795 SV)

Analyst: Jennifer Dean (Phone: (515) 281-7846) (jennifer.dean@legis.state.ia.us)

Fiscal Note Version — New

Description

Senate File 414 relates to requirements related to marriage and dissolutions of marriage. A marriage license will not be granted if the parties have not completed and provided documentation of completion of a minimum of 12 hours of premarital education. If there is any minor child whose welfare may be affected by the controversy, both parties must agree to the dissolution. The District Court is required to order parties to participate in mediation in any dissolution of marriage action. A decree dissolving a marriage will not be granted before 365 days have elapsed from the original notice. A decree dissolving a marriage will not be granted if a minor child is affected by the divorce and both parties do not agree to a dissolution or if the court determines that the dissolution is not in the best interest of a minor child.

Assumptions

1. This law will become effective July 1, 2003. A lag effect of six months is assumed, from the law's effective date to the date of first entry of affected offenders into the correctional system.
2. There are approximately 23,000 applications for marriage annually.
3. Under current law, the cost for a marriage license is \$35.00. The current revenue the State receives for a marriage license is \$31.00 and the counties maintain \$4.00.
4. There are approximately 14,000 dissolutions granted per year. About half of these are handled with trials and half are handled without a trial. In calendar year 2002, there were 2,600 dissolutions and 425 modification hearings that involved child custody disputes.
5. The average time a District Court Judge, court reporter, and court attendant spends on domestic matters is 103 minutes per case. The average cost per case is \$170. Senate File 414 may add between several hours to several days of court time.
6. A decree dissolving a marriage will not be granted before 365 days have elapsed from the original notice.
7. A decree dissolving a marriage will not be granted if a minor child is affected by the divorce and both parties do not agree to a dissolution or if the court determines that the dissolution is not in the best interest of a minor child.

Correctional Impact

There is no readily available information with which to estimate the increased convictions that would occur under SF 414, therefore, the correctional impact cannot be determined. If a person continued in a marriage relationship where physical or sexual abuse is occurring (which would have otherwise been dissolved under current law), it would be reasonable to expect a correctional impact on court caseloads, prisons, jails and Community-Based Corrections resources due to increased criminal convictions for abuse-related offenses.

Fiscal Impact

Senate File 414 may increase costs to the Judicial Branch. However, due to insufficient information, the fiscal impact cannot be determined. The average time for the Judicial Branch to hear a trial on domestic matters is 103 minutes. The average cost for one case is \$170. If three additional hours were added for one case, the cost per case would be \$416. If three days were added for one case, the cost per case would be \$2,000.

A marriage license will not be granted if the parties have not completed and provided documentation of completion of a minimum of 12 hours of premarital education. The fiscal impact regarding the number of people who would choose to be married in another State cannot be determined. The State revenue for each marriage license is \$31.00.

Sources

Judicial Branch
Department of Human Rights, Criminal and Juvenile Justice Planning Division
Attorney General
State Public Defender

/s/ Dennis C Prouty

March 20, 2003

Veenstra
Schuervel
Ragan

Human Resources

SSB 1120
Succeeded By
SI/HF 414

SENATE FILE
BY (PROPOSED COMMITTEE ON
HUMAN RESOURCES BILL BY
CHAIRPERSON VEENSTRA)

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