

House File 544 - Introduced

HOUSE FILE 544

BY HITE

A BILL FOR

1 An Act relating to participation in conciliation related to a
2 dissolution of marriage.

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

1 Section 1. Section 598.16, Code 2019, is amended to read as
2 follows:

3 **598.16 Conciliation — domestic relations divisions.**

4 1. A majority of the judges in any judicial district, with
5 the cooperation of any county board of supervisors in the
6 district, may establish a domestic relations division of the
7 district court of the county where the board is located. The
8 division shall offer counseling and related services to persons
9 before the court.

10 2. ~~Except as provided in subsection 7, upon the application~~
11 ~~of the petitioner in the petition or by the respondent in the~~
12 ~~responsive pleading to the petition, or within twenty days of~~
13 ~~appointment of an attorney appointed under section 598.12A, the~~
14 The court shall may on its own motion require the parties to
15 participate in conciliation efforts for a period of sixty days
16 ~~from~~ or less following the issuance of an order setting forth
17 the conciliation procedure and the conciliator. In making a
18 determination under this section, the court shall consider all
19 relevant factors including but not limited to whether a history
20 of abuse or violence exists.

21 3. ~~At any time upon its own motion or upon the application~~
22 ~~of a party the court may require the parties to participate~~
23 ~~in conciliation efforts for sixty days or less following the~~
24 ~~issuance of such an order.~~

25 4. 3. Every order for conciliation shall require the
26 conciliator to file a written report by a date certain which
27 shall state the conciliation procedures undertaken and such
28 other matters as may have been required by the court. The
29 report shall be a part of the record unless otherwise ordered
30 by the court. Such conciliation procedure may include but is
31 not limited to referrals to the domestic relations division
32 of the court, if established, public or private marriage
33 counselors, family service agencies, community health centers,
34 physicians and clergy.

35 5. 4. The costs of conciliation procedures shall be paid

1 in full or in part by the parties and taxed as court costs;
2 however, if the court determines that the parties will be
3 unable to pay the costs without prejudicing their financial
4 ability to provide themselves and any minor children with
5 economic necessities, the costs may be paid in full or in part
6 by the county.

7 ~~6.~~ 5. Persons providing counseling and other services
8 pursuant to [this section](#) are not court employees, but are
9 subject to court supervision.

10 ~~7.~~ Upon application, the court shall grant a waiver from
11 the requirements of [this section](#) if a party demonstrates that
12 a history of elder abuse, as defined in [section 235F.1](#), or
13 domestic abuse, as defined in [section 236.2](#), exists.

14 ~~a.~~ In determining whether a history of elder abuse exists,
15 the court's consideration shall include but is not limited
16 to commencement of an action pursuant to [section 235F.2](#), the
17 issuance of a court order or consent agreement pursuant to
18 [section 235F.6](#), the issuance of an emergency order pursuant to
19 [section 235F.7](#), the holding of a party in contempt pursuant to
20 [section 664A.7](#), the response of a peace officer to the scene
21 of alleged elder abuse, or the arrest of a party following
22 response to a report of alleged elder abuse.

23 ~~b.~~ In determining whether a history of domestic abuse
24 exists, the court's consideration shall include but is not
25 limited to commencement of an action pursuant to [section 236.3](#),
26 the issuance of a protective order against a party or the
27 issuance of a court order or consent agreement pursuant to
28 [section 236.5](#), the issuance of an emergency order pursuant to
29 [section 236.6](#), the holding of a party in contempt pursuant to
30 [section 664A.7](#), the response of a peace officer to the scene
31 of alleged domestic abuse or the arrest of a party following
32 response to a report of alleged domestic abuse, or a conviction
33 for domestic abuse assault pursuant to [section 708.2A](#).

34 Sec. 2. Section 598.19, Code 2019, is amended to read as
35 follows:

1 **598.19 Waiting period before decree.**

2 No decree dissolving a marriage shall be granted in any
3 proceeding before ninety days shall have elapsed from the
4 day the original notice is served, or from the last day
5 of publication of notice, or from the date that waiver or
6 acceptance of original notice is filed or until after any
7 court-ordered conciliation is completed, whichever period
8 shall be longer. However, the court may in its discretion, on
9 written motion supported by affidavit setting forth grounds
10 of emergency or necessity and facts which satisfy the court
11 that immediate action is warranted or required to protect the
12 substantive rights or interests of any party or person who
13 might be affected by the decree, hold a hearing and grant a
14 decree dissolving the marriage prior to the expiration of the
15 applicable period, provided that requirements of notice have
16 been complied with. In such case the grounds of emergency or
17 necessity and the facts with respect thereto shall be recited
18 in the decree unless otherwise ordered by the court. The
19 court may enter an order finding the respondent in default and
20 waiving any court-ordered conciliation when the respondent has
21 failed to file an appearance within the time set forth in the
22 original notice.

23

EXPLANATION

24 The inclusion of this explanation does not constitute agreement with
25 the explanation's substance by the members of the general assembly.

26 This bill provides that the court, on its own motion, may
27 require the parties to a dissolution of marriage participate in
28 conciliation efforts for a period of 60 days or less following
29 the issuance of an order setting forth the conciliation
30 procedure and the conciliator. Current law requires the
31 court to order the parties to participate in conciliation
32 upon the application of the petitioner in the petition or by
33 the respondent in the responsive pleading to the petition, or
34 within 20 days of appointment of an attorney. The bill also
35 eliminates the specific provisions requiring the court to grant

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1 a waiver of mandatory participation in conciliation based on a
2 history of elder abuse or domestic abuse since participation
3 in conciliation is no longer mandatory. Instead, the bill
4 requires that the court, in making its determination whether to
5 require participation in conciliation efforts, shall consider
6 all relevant factors including but not limited to whether a
7 history of abuse or violence exists.