

House File 719 - Introduced

HOUSE FILE 719
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HF 544)

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,~~
14 ~~the~~ The court shall may on its own motion or upon the motion
15 of a party require the parties to participate in conciliation
16 efforts for a period of sixty days ~~from~~ or less following
17 the issuance of an order setting forth the conciliation
18 procedure and the conciliator. In making a determination under
19 this section, the court shall consider all relevant factors
20 including but not limited to whether a history of abuse or
21 violence exists.

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

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

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

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

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

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

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

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

1 follows:

2 **598.19 Waiting period before decree.**

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

24 EXPLANATION

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

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

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