

sion, or omission made in the process of mediation unless the act or omission by the mediator or mediation program is made in bad faith, with malicious purpose, or in a manner exhibiting willful or wanton disregard of human rights, safety, or property. This section shall apply to mediation conducted before the workers' compensation commissioner and mediation conducted pursuant to chapter 216.

Sec. 21. Chapter 679C, Code 2005, is repealed.

Approved April 28, 2005

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## CHAPTER 69

### DOMESTIC RELATIONS, RIGHTS, AND SUPPORT OBLIGATIONS

S.F. 330

**AN ACT** relating to family law provisions including dissolution of marriage and domestic relations and termination of parental rights provisions.

*Be It Enacted by the General Assembly of the State of Iowa:*

Section 1. Section 234.39, subsections 1 and 2, Code 2005, are amended to read as follows:

1. For an individual to whom section 234.35, subsection 1, is applicable, a dispositional order of the juvenile court requiring the provision of foster care, or an administrative order entered pursuant to chapter 252C, or any order establishing paternity and support for a child in foster care, shall establish, after notice and a reasonable opportunity to be heard is provided to a parent or guardian, the amount of the parent's or guardian's support obligation for the cost of foster care provided by the department. The amount of the parent's or guardian's support obligation and the amount of support debt accrued and accruing shall be established in accordance with the child support guidelines prescribed under section ~~598.21, subsection 4~~ 598.21B. However, the court, or the department of human services in establishing support by administrative order, may deviate from the prescribed obligation after considering a recommendation by the department for expenses related to goals and objectives of a case permanency plan as defined under section 237.15, and upon written findings of fact which specify the reason for deviation and the prescribed guidelines amount. Any order for support shall direct the payment of the support obligation to the collection services center for the use of the department's foster care recovery unit. The order shall be filed with the clerk of the district court in which the responsible parent or guardian resides and has the same force and effect as a judgment when entered in the judgment docket and lien index. The collection services center shall disburse the payments pursuant to the order and record the disbursements. If payments are not made as ordered, the child support recovery unit may certify a default to the court and the court may, on its own motion, proceed under section 598.22 or 598.23 or the child support recovery unit may enforce the judgment as allowed by law. An order entered under this subsection may be modified only in accordance with the guidelines prescribed under section ~~598.21, subsection 8~~ 598.21C, or under chapter 252H.

2. For an individual who is served by the department of human services under section 234.35, and is not subject to a dispositional order of the juvenile court requiring the provision of foster care, the department shall determine the obligation of the individual's parent or guardian pursuant to chapter 252C and in accordance with the child support guidelines pre-

scribed under section ~~598.21, subsection 4~~ 598.21B. However, the department may adjust the prescribed obligation for expenses related to goals and objectives of a case permanency plan as defined under section 237.15. An obligation determined under this subsection may be modified only in accordance with conditions under section ~~598.21, subsection 8~~ 598.21C, or under chapter 252H.

Sec. 2. Section 252A.3, subsections 1 and 2, Code 2005, are amended to read as follows:

1. A spouse is liable for the support of the other spouse and any child or children under eighteen years of age and any other dependent. The court shall establish the respondent's monthly support payment and the amount of the support debt accrued and accruing pursuant to section ~~598.21~~ 598.21A or 598.21B, as applicable.

2. A parent is liable for the support of the parent's child or children under eighteen years of age, whenever the other parent of such child or children is dead, or cannot be found, or is incapable of supporting the child or children, and, if the liable parent is possessed of sufficient means or able to earn the means. The court having jurisdiction of the respondent in a proceeding instituted under this chapter shall establish the respondent's monthly support payment and the amount of the support debt accrued and accruing pursuant to section ~~598.21, subsection 4~~ 598.21B. The support obligation shall include support of a parent's child between the ages of eighteen and nineteen years if the child is engaged full-time in completing high school graduation or equivalency requirements in a manner which is reasonably expected to result in completion of the requirements prior to the person reaching nineteen years of age.

Sec. 3. Section 252A.3, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 8A. If paternity of a child born out of wedlock is established as provided in subsection 8, the court shall establish the respondent's monthly support payment and the amount of the support debt accrued and accruing pursuant to section 598.21B. The support obligation shall include support of the child between the ages of eighteen and nineteen years if the child is engaged full-time in completing high school graduation or equivalency requirements in a manner which is reasonably expected to result in completion of the requirements prior to the person reaching nineteen years of age.

Sec. 4. Section 252A.6, subsection 4, Code 2005, is amended to read as follows:

4. If the respondent appears at the hearing and fails to answer the petition or admits the allegations of the petition, or if, after a hearing, the court has found and determined that the prayer of the petitioner, or any part of the prayer, is supported by the evidence adduced in the proceeding, and that the dependent is in need of and entitled to support from a party, the court shall make and enter an order directing a party to furnish support for the dependent and to pay a sum as the court determines pursuant to section ~~598.21~~ 598.21A or 598.21B, as applicable. Upon entry of an order for support or upon failure of a person to make payments pursuant to an order for support, the court may require a party to provide security, a bond, or other guarantee which the court determines is satisfactory to secure the payment of the support. Upon the party's failure to pay the support under the order, the court may declare the security, bond, or other guarantee forfeited.

Sec. 5. Section 252A.6A, subsection 1, paragraph b, Code 2005, is amended to read as follows:

b. If the respondent, after being served with notice as required under section 252A.6, fails to timely respond to the notice, or to appear for blood or genetic tests pursuant to a court or administrative order, or to appear at a scheduled hearing after being provided notice of the hearing, the court shall find the respondent in default, and shall enter an order establishing paternity and establishing the monthly child support payment and the amount of the support debt accrued and accruing pursuant to section ~~598.21, subsection 4~~ 598.21B, or medical support pursuant to chapter 252E, or both.

Sec. 6. Section 252A.6A, subsection 2, paragraph a, subparagraph (2), Code 2005, is amended to read as follows:

(2) If the court determines that the prior determination of paternity should not be overcome, pursuant to section 600B.41A, and that the party has a duty to provide support, the court shall enter an order establishing the monthly child support payment and the amount of the support debt accrued and accruing pursuant to section ~~598.21, subsection 4~~ 598.21B, or medical support pursuant to chapter 252E, or both.

Sec. 7. Section 252A.6A, subsection 3, Code 2005, is amended to read as follows:

3. If the expert analyzing the blood or genetic test concludes that the test results demonstrate that the putative father is not excluded and that the probability of the putative father's paternity is ninety-nine percent or higher and if the test results have not been challenged, the court, upon motion by a party, shall enter a temporary order for child support to be paid pursuant to section ~~598.21, subsection 4~~ 598.21B. The court shall require temporary support to be paid to the clerk of court or to the collection services center. If the court subsequently determines the putative father is not the father, the court shall terminate the temporary support order. All support obligations which came due prior to the order terminating temporary support are unaffected by this action and remain a judgment subject to enforcement.

Sec. 8. Section 252B.5, subsection 4, Code 2005, is amended to read as follows:

4. Assistance to set off against a debtor's income tax refund or rebate any support debt, which is assigned to the department of human services or which the child support recovery unit is attempting to collect on behalf of any individual not eligible as a public assistance recipient, which has accrued through written contract, subrogation, or court judgment, and which is in the form of a liquidated sum due and owing for the care, support, or maintenance of a child. Unless the periodic payment plan provisions for a retroactive modification pursuant to section ~~598.21, subsection 8,~~ 598.21C apply, the entire amount of a judgment for accrued support, notwithstanding compliance with a periodic payment plan or regardless of the date of entry of the judgment, is due and owing as of the date of entry of the judgment and is delinquent for the purposes of setoff, including for setoff against a debtor's federal income tax refund or other federal nontax payment. The department of human services shall adopt rules pursuant to chapter 17A necessary to assist the department of administrative services in the implementation of the child support setoff as established under section 8A.504.

Sec. 9. Section 252B.5, subsection 7, unnumbered paragraph 1, Code 2005, is amended to read as follows:

At the request of either parent who is subject to the order of support or upon its own initiation, review the amount of the support award in accordance with the guidelines established pursuant to section ~~598.21, subsection 4~~ 598.21B, and Title IV-D of the federal Social Security Act, as amended, and take action to initiate modification proceedings if the criteria established pursuant to this section are met. However, a review of a support award is not required if the child support recovery unit determines that such a review would not be in the best interest of the child and neither parent has requested such review.

Sec. 10. Section 252B.6, subsection 3, Code 2005, is amended to read as follows:

3. Appear on behalf of the state for the purpose of facilitating the modification of support awards consistent with guidelines established pursuant to section ~~598.21, subsection 4~~ 598.21B, and Title IV-D of the federal Social Security Act. The unit shall not otherwise participate in the proceeding.

Sec. 11. Section 252B.9, subsection 1, paragraph b, Code 2005, is amended to read as follows:

b. Parents of a child on whose behalf support enforcement services are provided shall provide information regarding income, resources, financial circumstances, and property holdings to the department for the purpose of establishment, modification, or enforcement of a support

obligation. The department may provide the information to parents of a child as needed to implement the requirements of section ~~598.21, subsection 4~~ 598.21B, notwithstanding any provisions of law making this information confidential.

Sec. 12. Section 252C.2, subsection 2, unnumbered paragraph 1, Code 2005, is amended to read as follows:

The payment of public assistance to or for the benefit of a dependent child or a dependent child's caretaker creates a support debt due and owing to the department by the responsible person in an amount equal to the public assistance payment, except that the support debt is limited to the amount of a support obligation established by court order or by the administrator. The administrator may establish a support debt as to amounts accrued and accruing pursuant to section ~~598.21, subsection 4~~ 598.21B. However, when establishing a support obligation against a responsible person, no debt shall be created for the period during which the responsible person is a recipient on the person's own behalf of public assistance for the benefit of the dependent child or the dependent child's caretaker, if any of the following conditions exist:

Sec. 13. Section 252C.2, subsection 3, Code 2005, is amended to read as follows:

3. The provision of child support collection or paternity determination services under chapter 252B to an individual, even though the individual is ineligible for public assistance, creates a support debt due and owing to the individual or the individual's child or ward by the responsible person in the amount of a support obligation established by court order or by the administrator. The administrator may establish a support debt in favor of the individual or the individual's child or ward and against the responsible person, both as to amounts accrued and accruing, pursuant to section ~~598.21, subsection 4~~ 598.21B.

Sec. 14. Section 252C.3, subsection 1, paragraph a, Code 2005, is amended to read as follows:

a. A statement that the support obligation will be set pursuant to the child support guidelines established pursuant to section ~~598.21, subsection 4~~ 598.21B, and the criteria established pursuant to section 252B.7A, and that the responsible person is required to provide medical support in accordance with chapter 252E.

Sec. 15. Section 252C.4, subsection 4, Code 2005, is amended to read as follows:

4. The court shall establish the monthly child support payment and the amount of the support debt accrued and accruing pursuant to section ~~598.21, subsection 4~~ 598.21B, or medical support pursuant to chapter 252E, or both.

Sec. 16. Section 252C.4, subsection 7, paragraph a, subparagraph (2), Code 2005, is amended to read as follows:

(2) If the court determines that the prior determination of paternity should not be overcome pursuant to section 600B.41A, and that the responsible person has a duty to provide support, the court shall enter an order establishing the monthly child support payment and the amount of the support debt accrued and accruing pursuant to section ~~598.21, subsection 4~~ 598.21B, or medical support pursuant to chapter 252E, or both.

Sec. 17. Section 252F.3, subsection 1, paragraphs c and e, Code 2005, are amended to read as follows:

c. A statement that if paternity is established, the amount of the putative father's monthly support obligation and the amount of the support debt accrued and accruing will be established in accordance with the guidelines established in section ~~598.21, subsection 4~~ 598.21B, and the criteria established pursuant to section 252B.7A.

e. A written explanation of the procedures for determining the child support obligation and a request for financial or income information as necessary for application of the child support guidelines established pursuant to section ~~598.21, subsection 4~~ 598.21B.

Sec. 18. Section 252F.4, subsections 1 through 4, Code 2005, are amended to read as follows:

1. If the putative father fails to respond to the initial notice within twenty days after the date of service of the notice or fails to appear at a conference pursuant to section 252F.3 on the scheduled date of the conference, and paternity has not been contested and the putative father fails to timely request a court hearing on the issue of support, the administrator shall enter an order against the putative father, declaring the putative father to be the legal father of the child or children involved and assessing any accrued and accruing child support obligation pursuant to the guidelines established under section ~~598.21, subsection 4~~ 598.21B, and medical support pursuant to chapter 252E, against the father.

2. If paternity is contested pursuant to section 252F.3, subsection 6, and the party contesting paternity fails to appear for a paternity test and fails to request a rescheduling pursuant to section 252F.3, or fails to appear for both the initial and the rescheduled paternity tests and the putative father fails to timely request a court hearing on the issue of support, the administrator shall enter an order against the putative father declaring the putative father to be the legal father of the child or children involved and assessing any accrued and accruing child support obligation pursuant to the guidelines established under section ~~598.21, subsection 4~~ 598.21B, and medical support pursuant to chapter 252E, against the father.

3. If the putative father appears at a conference pursuant to section 252F.3, and paternity is not contested, and the putative father fails to timely request a court hearing on the issue of support, the administrator shall enter an order against the putative father after the second notice has been sent declaring the putative father to be the legal father of the child or children involved and assessing any accrued and accruing child support obligation pursuant to the guidelines established under section ~~598.21, subsection 4~~ 598.21B, and medical support pursuant to chapter 252E against the father.

4. If paternity was contested and paternity testing was performed and the putative father was not excluded, if the test results indicate that the probability of the putative father's paternity is ninety-five percent or greater, if the test results are not timely challenged, and if the putative father fails to timely request a court hearing on the issue of support, the administrator shall enter an order against the putative father declaring the putative father to be the legal father of the child or children involved and assessing any accrued and accruing child support obligation pursuant to the guidelines established under section ~~598.21, subsection 4~~ 598.21B, and medical support pursuant to chapter 252E, against the father.

Sec. 19. Section 252F.5, subsection 6, Code 2005, is amended to read as follows:

6. If the court determines that the putative father is the legal father, the court shall establish the amount of the accrued and accruing child support pursuant to the guidelines established under section ~~598.21, subsection 4~~ 598.21B, and shall establish medical support pursuant to chapter 252E.

Sec. 20. Section 252H.2, subsection 2, paragraph a, Code 2005, is amended to read as follows:

a. A change in the amount of child support based upon an application of the child support guidelines established pursuant to section ~~598.21, subsection 4~~ 598.21B.

Sec. 21. Section 252H.6, Code 2005, is amended to read as follows:

252H.6 COLLECTION OF INFORMATION.

The unit may request, obtain, and validate information concerning the financial circumstances of the parents of a child as necessary to determine the appropriate amount of support pursuant to the guidelines established in section ~~598.21, subsection 4~~ 598.21B, including but not limited to those sources and procedures described in sections 252B.7A and 252B.9. The collection of information does not constitute a review conducted pursuant to section 252H.16.

Sec. 22. Section 252H.8, subsection 4, paragraph g, Code 2005, is amended to read as follows:

g. Copies of any computation worksheet prepared by the unit to determine the amount of support calculated using the mandatory child support guidelines established under section ~~598.21, subsection 4~~ 598.21B, and, if appropriate and the social security disability provisions of sections 598.22 and 598.22C apply, a determination of the amount of delinquent support due.

Sec. 23. Section 252H.8, subsection 10, Code 2005, is amended to read as follows:

10. The court shall establish the amount of child support pursuant to section ~~598.21, subsection 4~~ 598.21B, or medical support pursuant to chapter 252E, or both.

Sec. 24. Section 252H.9, subsection 2, Code 2005, is amended to read as follows:

2. For orders to which subchapter II or III is applicable, the unit shall determine the appropriate amount of the child support obligation using the current child support guidelines established pursuant to section ~~598.21, subsection 4~~ 598.21B, and the criteria established pursuant to section 252B.7A and shall determine the provisions for medical support pursuant to chapter 252E.

Sec. 25. Section 252H.10, unnumbered paragraph 1, Code 2005, is amended to read as follows:

Pursuant to section ~~598.21, subsection 8~~ 598.21C, any administrative or court order resulting from an action initiated under this chapter may be made retroactive only to the date that all parties were successfully served the notice required under section 252H.15 or section 252H.19, as applicable.

Sec. 26. Section 252H.15, subsection 3, paragraphs c and e, Code 2005, are amended to read as follows:

c. An explanation of the procedures for determining child support and a request for financial or income information as necessary for application of the child support guidelines established pursuant to section ~~598.21, subsection 4~~ 598.21B.

e. Criteria for determining appropriateness of an adjustment and a statement that the unit will use the child support guidelines established pursuant to section ~~598.21, subsection 4~~ 598.21B, and the provisions for medical support pursuant to chapter 252E to adjust the order.

Sec. 27. Section 252H.18A, subsection 3, Code 2005, is amended to read as follows:

3. Notwithstanding section ~~598.21, subsections 8 and 9~~ 598.21C, for purposes of this section, a substantial change in circumstances means there has been a change of fifty percent or more in the income of a parent, and the change is due to financial circumstances which have existed for a minimum period of three months and can reasonably be expected to exist for an additional three months.

Sec. 28. Section 252H.19, subsection 2, paragraph c, Code 2005, is amended to read as follows:

c. An explanation of the procedures for determining child support and a request for financial or income information as necessary for application of the child support guidelines established pursuant to section ~~598.21, subsection 4~~ 598.21B.

Sec. 29. Section 252H.21, subsection 2, paragraph a, Code 2005, is amended to read as follows:

a. To the extent permitted under 42 U.S.C. § 666(a)(10)(A)(i)(II), the cost-of-living alteration shall be an exception to any requirement under law for the application of the child support guidelines established pursuant to section ~~598.21, subsection 4~~ 598.21B, including but not limited to any requirement in this chapter or chapter 234, 252A, 252B, 252C, 252F, 598, or 600B.

Sec. 30. Section 598.5, Code 2005, is amended to read as follows:

598.5 CONTENTS OF PETITION — VERIFICATION — EVIDENCE.

1. The petition for dissolution of marriage shall:

1. a. State the name, birth date, address and county of residence of the petitioner and the name and address of the petitioner's attorney.

2. b. State the place and date of marriage of the parties.

3. c. State the name, birth date, address and county of residence, if known, of the respondent.

4. d. State the name and age of each minor child by date of birth whose welfare may be affected by the controversy.

5. e. State whether or not a separate action for dissolution of marriage or child support has been commenced and whether such action is pending in any court in this state or elsewhere. State whether the entry of an order would violate 28 U.S.C. § 1738B. If there is an existing child support order, the party shall disclose identifying information regarding the order.

6. f. Allege that the petition has been filed in good faith and for the purposes set forth therein.

7. g. Allege that there has been a breakdown of the marriage relationship to the extent that the legitimate objects of matrimony have been destroyed and there remains no reasonable likelihood that the marriage can be preserved.

8. h. Set forth any application for temporary support of the petitioner and any children without enumerating the amounts thereof.

9. i. Set forth any application for permanent alimony or support, child custody, or disposition of property, as well as attorneys' fees and suit money, without enumerating the amounts thereof.

10. j. State whether the appointment of a conciliator pursuant to section 598.16 may preserve the marriage.

k. Except where the respondent is a resident of this state and is served by personal service, state that the petitioner has been for the last year a resident of the state, specifying the county in which the petitioner has resided and the length of such residence in the state after deducting all absences from the state, and that the maintenance of the residence has been in good faith and not for the purpose of obtaining a dissolution of marriage only.

2. The petition shall be verified by the petitioner.

3. The allegations of the petition shall be established by competent evidence.

Sec. 31. Section 598.7, Code 2005, is amended by striking the section and inserting in lieu thereof the following:

598.7 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 815.9.

5. The supreme court shall prescribe qualifications for mediators under this section. 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. 32. NEW SECTION. 598.10 TEMPORARY ORDERS.

1. a. The court may order either party to pay the clerk a sum of money for the separate support and maintenance of the other party and the children and to enable such party to prosecute or defend the action. The court may on its own motion and shall upon application of either party or an attorney or guardian ad litem appointed under section 598.12 determine the temporary custody of any minor child whose welfare may be affected by the filing of the petition for dissolution.

b. In order to encourage compliance with a visitation order, a temporary order for custody shall provide for a minimum visitation schedule with the noncustodial parent, unless the court determines that such visitation is not in the best interest of the child.

2. The court may make such an order when a claim for temporary support is made by the petitioner in the petition, or upon application of either party, after service of the original notice and when no application is made in the petition; however, no such order shall be entered until at least five days' notice of hearing, and opportunity to be heard, is given the other party. Appearance by an attorney or the respondent for such hearing shall be deemed a special appearance for the purpose of such hearing only and not a general appearance. An order entered pursuant to this section shall contain the names, birth dates, addresses, and counties of residence of the petitioner and respondent.

Sec. 33. Section 598.11, Code 2005, is amended by striking the section and inserting in lieu thereof the following:

598.11 HOW TEMPORARY ORDER MADE — CHANGES — RETROACTIVE MODIFICATION.

1. In making temporary orders, the court shall take into consideration the age of the applicant, the physical and pecuniary condition of the parties, and other matters as are pertinent, which may be shown by affidavits, as the court may direct. The hearing on the application shall be limited to matters set forth in the application, the affidavits of the parties, and the required statements of income. The court shall not hear any other matter relating to the petition, respondent's answer, or any pleadings connected with the petition or answer.

2. Subject to 28 U.S.C. § 1738B, after notice and hearing subsequent changes in temporary orders may be made by the court on application of either party demonstrating a substantial change in the circumstances occurring subsequent to the issuance of such order. If the order is not so modified it shall continue in force and effect until the action is dismissed or a decree is entered dissolving the marriage.

3. An order for temporary support may be retroactively modified only from three months after notice of hearing for temporary support pursuant to section 598.10 or from three months after notice of hearing for modification of a temporary order for support pursuant to this sec-



tion. The three-month limitation applies to modification actions pending on or after July 1, 1997.

Sec. 34. Section 598.12, Code 2005, is amended to read as follows:

598.12 ATTORNEY OR GUARDIAN AD LITEM FOR MINOR CHILD — INVESTIGATIONS.

1. The court may appoint an attorney to represent the legal interests of the minor child or children of the parties. The attorney shall be empowered to make independent investigations and to cause witnesses to appear and testify before the court on matters pertinent to the legal interests of the children.

2. The court may appoint a guardian ad litem to represent the best interests of the minor child or children of the parties.

a. Unless otherwise enlarged or circumscribed by a court or juvenile court having jurisdiction over the child or by operation of law, the duties of a guardian ad litem with respect to a child shall include all of the following:

(1) Conducting general in-person interviews with the child, if the child's age is appropriate for the interview, and interviewing each parent, guardian, or other person having custody of the child, if authorized by the person's legal counsel.

(2) Conducting interviews with the child, if the child's age is appropriate for the interview, prior to any court-ordered hearing.

(3) Visiting the home, residence, or both home and residence of the child and any prospective home or residence of the child, including visiting the home or residence or prospective home or residence each time placement is changed.

(4) Interviewing any person providing medical, mental health, social, educational, or other services to the child, prior to any court-ordered hearing.

(5) Obtaining firsthand knowledge, if possible, of facts, circumstances, and parties involved in the matter in which the person is appointed guardian ad litem.

(6) Attending any hearings in the matter in which the person is appointed guardian ad litem.

b. The order appointing the guardian ad litem shall grant authorization to the guardian ad litem to interview any relevant person and inspect and copy any records relevant to the proceedings, if not prohibited by federal law. The order shall specify that the guardian ad litem may interview any person providing medical, mental health, social, educational, or other services to the child; may attend any meeting with the medical or mental health providers, service providers, organizations, or educational institutions regarding the child, if deemed necessary by the guardian ad litem; and may inspect and copy any records relevant to the proceedings.

3. The same person may serve both as the child's legal counsel and as guardian ad litem. However, the court may appoint a separate guardian ad litem, if the same person cannot properly represent the legal interests of the child as legal counsel and also represent the best interests of the child as guardian ad litem, or a separate guardian ad litem is required to fulfill the requirements of subsection 2.

2. ~~4.~~ The court may require that an appropriate agency make an investigation of both parties regarding the home conditions, parenting capabilities, and other matters pertinent to the best interests of the child or children in a dispute concerning custody of the child or children. The investigation report completed by the appropriate agency shall be submitted to the court and available to both parties. The investigation report completed by the appropriate agency shall be a part of the record unless otherwise ordered by the court.

3. ~~5.~~ The court shall enter an order in favor of the attorney, the guardian ad litem, or an appropriate agency for fees and disbursements, and the amount shall be charged against the party responsible for court costs unless the court determines that the party responsible for costs is indigent, in which event the fees shall be borne by the county.

Sec. 35. Section 598.14, Code 2005, is amended by striking the section and inserting in lieu thereof the following:

598.14 ATTACHMENT.

The petition may be presented to the court for the allowance of an order of attachment,

which, by endorsement thereon, may direct such attachment and fix the amount for which it may issue, and the amount of the bond, if any, that shall be given. Any property taken by virtue thereof shall be held to satisfy the judgment or decree of the court, but may be discharged or released as in other cases.

Sec. 36. Section 598.15, Code 2005, is amended by striking the section and inserting in lieu thereof the following:

598.15 MANDATORY COURSE — PARTIES TO CERTAIN PROCEEDINGS.

1. The court shall order the parties to any action which involves the issues of child custody or visitation to participate in a court-approved course to educate and sensitize the parties to the needs of any child or party during and subsequent to the proceeding within forty-five days of the service of notice and petition for the action or within forty-five days of the service of notice and application for modification of an order. Participation in the course may be waived or delayed by the court for good cause including, but not limited to, a default by any of the parties or a showing that the parties have previously participated in a court-approved course or its equivalent. Participation in the course is not required if the proceeding involves termination of parental rights of any of the parties. A final decree shall not be granted or a final order shall not be entered until the parties have complied with this section, unless participation in the course is waived or delayed for good cause or is otherwise not required under this subsection.

2. Each party shall be responsible for arranging for participation in the course and for payment of the costs of participation in the course.

3. Each party shall submit certification of completion of the course to the court prior to the granting of a final decree or the entry of an order, unless participation in the course is waived or delayed for good cause or is otherwise not required under subsection 1.

4. If participation in the court-approved course is waived or delayed for good cause or is otherwise not required under this section, the court may order that the parties receive the information described in subsection 5 through an alternative format.

5. Each judicial district shall certify approved courses for parties required to participate in a course under this section. Approved courses may include those provided by a public or private entity. At a minimum and as appropriate, an approved course shall include information relating to the parents regarding divorce and its impact on the children and family relationship, parenting skills for divorcing parents, children's needs and coping techniques, and the financial responsibilities of parents following divorce.

6. In addition to the provisions of this section relating to the required participation in a court-approved course by the parties to an action as described in subsection 1, the court may require age-appropriate counseling for children who are involved in a dissolution of marriage action. The counseling may be provided by a public or private entity approved by the court. The costs of the counseling shall be taxed as court costs.

7. The supreme court may prescribe rules to implement this section.

Sec. 37. Section 598.20, Code 2005, is amended to read as follows:

598.20 FORFEITURE OF MARITAL RIGHTS.

When a dissolution of marriage is decreed the parties shall forfeit all rights acquired by marriage which are not specifically preserved in the decree. This provision shall not obviate any of the provisions of section ~~598.21~~ 598.21, 598.21A, 598.21B, 598.21C, 598.21D, 598.21E, or 598.21F.

Sec. 38. Section 598.21, Code 2005, is amended by striking the section and inserting in lieu thereof the following:

598.21 ORDERS FOR DISPOSITION OF PROPERTY.

1. GENERAL PRINCIPLES. Upon every judgment of annulment, dissolution, or separate maintenance, the court shall divide the property of the parties and transfer the title of the property accordingly, including ordering the parties to execute a quitclaim deed or ordering a change of title for tax purposes and delivery of the deed or change of title to the county recorder of the county in which each parcel of real estate is located.

2. **DUTIES OF COUNTY RECORDER.** The county recorder shall record each quitclaim deed or change of title and shall collect the fee specified in section 331.507, subsection 2, paragraph "a", and the fee specified in section 331.604, subsection 1.

3. **DUTIES OF CLERK OF COURT.** If the court orders a transfer of title to real property, the clerk of court shall issue a certificate under chapter 558 relative to each parcel of real estate affected by the order and immediately deliver the certificate for recording to the county recorder of the county in which the real estate is located. Any fees assessed shall be included as part of the court costs. The county recorder shall deliver the certificates to the county auditor as provided in section 558.58, subsection 1.

4. **PROPERTY FOR CHILDREN.** The court may protect and promote the best interests of children of the parties by setting aside a portion of the property of the parties in a separate fund or conservatorship for the support, maintenance, education, and general welfare of the minor children.

5. **DIVISION OF PROPERTY.** The court shall divide all property, except inherited property or gifts received by one party, equitably between the parties after considering all of the following:

- a. The length of the marriage.
- b. The property brought to the marriage by each party.
- c. The contribution of each party to the marriage, giving appropriate economic value to each party's contribution in homemaking and child care services.
- d. The age and physical and emotional health of the parties.
- e. The contribution by one party to the education, training, or increased earning power of the other.
- f. The earning capacity of each party, including educational background, training, employment skills, work experience, length of absence from the job market, custodial responsibilities for children, and the time and expense necessary to acquire sufficient education or training to enable the party to become self-supporting at a standard of living reasonably comparable to that enjoyed during the marriage.
- g. The desirability of awarding the family home or the right to live in the family home for a reasonable period to the party having custody of the children, or if the parties have joint legal custody, to the party having physical care of the children.
- h. The amount and duration of an order granting support payments to either party pursuant to section 598.21A and whether the property division should be in lieu of such payments.
- i. Other economic circumstances of each party, including pension benefits, vested or unvested, and future interests.
- j. The tax consequences to each party.
- k. Any written agreement made by the parties concerning property distribution.
- l. The provisions of an antenuptial agreement.
- m. Other factors the court may determine to be relevant in an individual case.

6. **INHERITED AND GIFTED PROPERTY.** Property inherited by either party or gifts received by either party prior to or during the course of the marriage is the property of that party and is not subject to a property division under this section except upon a finding that refusal to divide the property is inequitable to the other party or to the children of the marriage.

7. **NOT SUBJECT TO MODIFICATION.** Property divisions made under this chapter are not subject to modification.

8. **NECESSARY CONTENT OF ORDER.** Orders made pursuant to this section need mention only those factors relevant to the particular case for which the orders are made but shall contain the names, birth dates, addresses, and counties of residence of the petitioner and respondent.

Sec. 39. Section 598.21A, Code 2005, is amended by striking the section and inserting in lieu thereof the following:

**598.21A ORDERS FOR SPOUSAL SUPPORT.**

1. **CRITERIA FOR DETERMINING SUPPORT.** Upon every judgment of annulment, dissolution, or separate maintenance, the court may grant an order requiring support pay-

ments to either party for a limited or indefinite length of time after considering all of the following:

- a. The length of the marriage.
- b. The age and physical and emotional health of the parties.
- c. The distribution of property made pursuant to section 598.21.
- d. The educational level of each party at the time of marriage and at the time the action is commenced.
- e. The earning capacity of the party seeking maintenance, including educational background, training, employment skills, work experience, length of absence from the job market, responsibilities for children under either an award of custody or physical care, and the time and expense necessary to acquire sufficient education or training to enable the party to find appropriate employment.
- f. The feasibility of the party seeking maintenance becoming self-supporting at a standard of living reasonably comparable to that enjoyed during the marriage, and the length of time necessary to achieve this goal.
- g. The tax consequences to each party.
- h. Any mutual agreement made by the parties concerning financial or service contributions by one party with the expectation of future reciprocation or compensation by the other party.
- i. The provisions of an antenuptial agreement.
- j. Other factors the court may determine to be relevant in an individual case.

2. NECESSARY CONTENT OF ORDER. Orders made pursuant to this section need mention only those factors relevant to the particular case for which the orders are made but shall contain the names, birth dates, addresses, and counties of residence of the petitioner and respondent.

Sec. 40. NEW SECTION. 598.21B ORDERS FOR CHILD SUPPORT AND MEDICAL SUPPORT.

1. CHILD SUPPORT GUIDELINES.

a. The supreme court shall maintain uniform child support guidelines and criteria and review the guidelines and criteria at least once every four years, pursuant to the federal Family Support Act of 1988, Pub. L. No. 100-485. The initial review shall be performed within four years of October 12, 1989, and subsequently within the four-year period of the most recent review.

b. The guidelines prescribed by the supreme court shall incorporate provisions for medical support as defined in chapter 252E to be effective on or before January 1, 1991.

c. It is the intent of the general assembly that, to the extent possible within the requirements of federal law, the court and the child support recovery unit consider the individual facts of each judgment or case in the application of the guidelines and determine the support obligation accordingly. It is also the intent of the general assembly that in the supreme court's review of the guidelines, the supreme court shall do both of the following:

(1) Emphasize the ability of a court to apply the guidelines in a just and appropriate manner based upon the individual facts of a judgment or case.

(2) In determining monthly child support payments, consider other children for whom either parent is legally responsible for support and other child support obligations actually paid by either party pursuant to a court or administrative order.

d. The guidelines prescribed by the supreme court shall be used by the department of human services in determining child support payments under sections 252C.2 and 252C.4. A variation from the guidelines shall not be considered by the department without a record or written finding, based on stated reasons, that the guidelines would be unjust or inappropriate as determined under criteria prescribed by the supreme court.

2. CHILD SUPPORT ORDERS.

a. COURT'S AUTHORITY. Unless prohibited pursuant to 28 U.S.C. § 1738B, upon every judgment of annulment, dissolution, or separate maintenance, the court may order either parent or both parents to pay an amount reasonable and necessary for supporting a child.

b. CALCULATING AMOUNT OF SUPPORT.

(1) In establishing the amount of support, consideration shall be given to the responsibility of both parents to support and provide for the welfare of the minor child and of a child's need, whenever practicable, for a close relationship with both parents.

(2) For purposes of calculating a support obligation under this section, the income of the parent from whom support is sought shall be used as the noncustodial parent income for purposes of application of the guidelines, regardless of the legal custody of the child.

(3) For the purposes of including a child's dependent benefit in calculating a support obligation under this section for a child whose parent has been awarded disability benefits under the federal Social Security Act, the provisions of section 598.22C shall apply.

c. **REBUTTABLE PRESUMPTION IN FAVOR OF GUIDELINES.** There shall be a rebuttable presumption that the amount of child support which would result from the application of the guidelines prescribed by the supreme court is the correct amount of child support to be awarded.

d. **VARIATION FROM GUIDELINES.** A variation from the guidelines shall not be considered by a court without a record or written finding, based on stated reasons, that the guidelines would be unjust or inappropriate as determined under the criteria prescribed by the supreme court.

e. **SPECIAL CIRCUMSTANCES JUSTIFYING VARIATION FROM GUIDELINES.** Unless the special circumstances of the case justify a deviation, the court or the child support recovery unit shall establish a monthly child support payment of twenty-five dollars for a parent who is nineteen years of age or younger, who has not received a high school or high school equivalency diploma, and to whom each of the following apply:

(1) The parent is attending a school or program described as follows or has been identified as one of the following:

(a) The parent is in full-time attendance at an accredited school and is pursuing a course of study leading to a high school diploma.

(b) The parent is attending an instructional program leading to a high school equivalency diploma.

(c) The parent is attending a vocational education program approved pursuant to chapter 258.

(d) The parent has been identified by the director of special education of the area education agency as a child requiring special education as defined in section 256B.2.

(2) The parent provides proof of compliance with the requirements of subparagraph (1) to the child support recovery unit, if the unit is providing services under chapter 252B, or if the unit is not providing services pursuant to chapter 252B, to the court as the court may direct. Failure to provide proof of compliance under this subparagraph or proof of compliance under section 598.21G is grounds for modification of the support order using the uniform child support guidelines and imputing an income to the parent equal to a forty-hour work week at the state minimum wage, unless the parent's education, experience, or actual earnings justify a higher income.

3. **MEDICAL SUPPORT.** The court shall order as child medical support a health benefit plan as defined in chapter 252E if available to either parent at a reasonable cost. A health benefit plan is considered reasonable in cost if it is employment-related or other group health insurance, regardless of the service delivery mechanism. The premium cost of the health benefit plan may be considered by the court as a reason for varying from the child support guidelines. If a health benefit plan is not available at a reasonable cost, the court may order any other provisions for medical support as defined in chapter 252E.

4. **NECESSARY CONTENT OF ORDER.** Orders made pursuant to this section need mention only those factors relevant to the particular case for which the orders are made but shall contain the names, birth dates, addresses, and counties of residence of the petitioner and respondent.

Sec. 41. **NEW SECTION.** 598.21C MODIFICATION OF CHILD, SPOUSAL, OR MEDICAL SUPPORT ORDERS.

1. **CRITERIA FOR MODIFICATION.** Subject to 28 U.S.C. § 1738B, the court may subse-

quently modify child, spousal, or medical support orders when there is a substantial change in circumstances. In determining whether there is a substantial change in circumstances, the court shall consider the following:

- a. Changes in the employment, earning capacity, income, or resources of a party.
- b. Receipt by a party of an inheritance, pension, or other gift.
- c. Changes in the medical expenses of a party.
- d. Changes in the number or needs of dependents of a party.
- e. Changes in the physical, mental, or emotional health of a party.
- f. Changes in the residence of a party.
- g. Remarriage of a party.
- h. Possible support of a party by another person.
- i. Changes in the physical, emotional, or educational needs of a child whose support is governed by the order.
- j. Contempt by a party of existing orders of court.
- k. Entry of a dispositional order in juvenile court pursuant to chapter 232 placing custody or physical care of a child with a party who is obligated to pay support for a child.
  1. Other factors the court determines to be relevant in an individual case.
  2. **ADDITIONAL CRITERIA FOR MODIFICATION OF CHILD SUPPORT ORDERS.**
    - a. Subject to 28 U.S.C. § 1738B, but notwithstanding subsection 1, a substantial change of circumstances exists when the court order for child support varies by ten percent or more from the amount which would be due pursuant to the most current child support guidelines established pursuant to section 598.21B or the obligor has access to a health benefit plan, the current order for support does not contain provisions for medical support, and the dependents are not covered by a health benefit plan provided by the obligee, excluding coverage pursuant to chapter 249A or a comparable statute of a foreign jurisdiction.
    - b. This basis for modification is applicable to petitions filed on or after July 1, 1992, notwithstanding whether the guidelines prescribed by section 598.21B were used in establishing the current amount of support. Upon application for a modification of an order for child support for which services are being received pursuant to chapter 252B, the court shall set the amount of child support based upon the most current child support guidelines established pursuant to section 598.21B, including provisions for medical support pursuant to chapter 252E. The child support recovery unit shall, in submitting an application for modification, adjustment, or alteration of an order for support, employ additional criteria and procedures as provided in chapter 252H and as established by rule.
  3. **APPLICABLE LAW.** Unless otherwise provided pursuant to 28 U.S.C. § 1738B, a modification of a support order entered under chapter 234, 252A, 252C, 600B, this chapter, or any other support chapter or proceeding between parties to the order is void unless the modification is approved by the court, after proper notice and opportunity to be heard is given to all parties to the order, and entered as an order of the court. If support payments have been assigned to the department of human services pursuant to section 234.39, 239B.6, or 252E.11, or if services are being provided pursuant to chapter 252B, the department is a party to the support order. Modifications of orders pertaining to child custody shall be made pursuant to chapter 598B. If the petition for a modification of an order pertaining to child custody asks either for joint custody or that joint custody be modified to an award of sole custody, the modification, if any, shall be made pursuant to section 598.41.
  4. **RETROACTIVITY OF MODIFICATION.** Judgments for child support or child support awards entered pursuant to this chapter, chapter 234, 252A, 252C, 252F, 600B, or any other chapter of the Code which are subject to a modification proceeding may be retroactively modified only from three months after the date the notice of the pending petition for modification is served on the opposing party. The three-month limitation applies to a modification action pending on or after July 1, 1997. The prohibition of retroactive modification does not bar the child support recovery unit from obtaining orders for accrued support for previous time periods. Any retroactive modification which increases the amount of child support or any order for accrued support under this paragraph shall include a periodic payment plan. A retroactive

modification shall not be regarded as a delinquency unless there are subsequent failures to make payments in accordance with the periodic payment plan.

5. **MODIFICATION OF PERIODIC DUE DATE.** The periodic due date established under a prior order for payment of child support shall not be changed in any modified order under this section, unless the court determines that good cause exists to change the periodic due date. If the court determines that good cause exists, the court shall include the rationale for the change in the modified order and shall address the issue of reconciliation of any payments due or made under a prior order which would result in payment of the child support obligation under both the prior and the modified orders.

6. **MODIFICATION BY CHILD SUPPORT RECOVERY UNIT.** Notwithstanding any other provision of law to the contrary, when an application for modification or adjustment of support is submitted by the child support recovery unit, the sole issues which may be considered by the court in that action are the application of the guidelines in establishing the amount of support pursuant to section 598.21B, and provision for medical support under chapter 252E. When an application for a cost-of-living alteration of support is submitted by the child support recovery unit pursuant to section 252H.24, the sole issue which may be considered by the court in the action is the application of the cost-of-living alteration in establishing the amount of child support. Issues related to custody, visitation, or other provisions unrelated to support shall be considered only under a separate application for modification.

7. **NECESSARY CONTENT OF ORDER.** Orders made pursuant to this section need mention only those factors relevant to the particular case for which the orders are made but shall contain the names, birth dates, addresses, and counties of residence of the petitioner and respondent.

8. **DUTY OF CLERK OF COURT.** If the court modifies an order, and the original decree was entered in another county in Iowa, the clerk of court shall send a copy of the modification by regular mail, electronic transmission, or facsimile to the clerk of court for the county where the original decree was entered.

Sec. 42. **NEW SECTION.** 598.21D RELOCATION OF PARENT AS GROUNDS TO MODIFY ORDER OF CHILD CUSTODY.

If a parent awarded joint legal custody and physical care or sole legal custody is relocating the residence of the minor child to a location which is one hundred fifty miles or more from the residence of the minor child at the time that custody was awarded, the court may consider the relocation a substantial change in circumstances. If the court determines that the relocation is a substantial change in circumstances, the court shall modify the custody order to, at a minimum, preserve, as nearly as possible, the existing relationship between the minor child and the nonrelocating parent. If modified, the order may include a provision for extended visitation during summer vacations and school breaks and scheduled telephone contact between the nonrelocating parent and the minor child. The modification may include a provision assigning the responsibility for transportation of the minor child for visitation purposes to either or both parents. If the court makes a finding of past interference by the parent awarded joint legal custody and physical care or sole legal custody with the minor child's access to the other parent, the court may order the posting of a cash bond to assure future compliance with the visitation provisions of the decree. The supreme court shall prescribe guidelines for the forfeiting of the bond and restoration of the bond following forfeiting of the bond.

Sec. 43. **NEW SECTION.** 598.21E CONTESTING PATERNITY TO CHALLENGE CHILD SUPPORT ORDER.

1. If, during an action initiated under this chapter or any other chapter in which a child or medical support obligation may be established based upon a prior determination of paternity, a party wishes to contest the paternity of the child or children involved, all of the following apply:

a. (1) If the prior determination of paternity is based on an affidavit of paternity filed pursuant to section 252A.3A, or a court or administrative order entered in this state, or by opera-

tion of law when the mother and established father are or were married to each other, the provisions of section 600B.41A apply.

(2) If following the proceedings under section 600B.41A the court determines that the prior determination of paternity should not be overcome, and that the established father has a duty to provide support, the court shall enter an order establishing the monthly child support payment and the amount of the support debt accrued and accruing pursuant to section 598.21B, or the medical support obligation pursuant to chapter 252E, or both.

b. If a determination of paternity is based on an administrative or court order or other means pursuant to the laws of a foreign jurisdiction, any action to overcome the prior determination of paternity shall be filed in that jurisdiction. Unless a stay of the action initiated in this state to establish child or medical support is requested and granted by the court, pending a resolution of the contested paternity issue by the foreign jurisdiction, the action shall proceed.

c. Notwithstanding paragraph "a", in a pending dissolution action under this chapter, a prior determination of paternity by operation of law through the marriage of the established father and mother of the child may be overcome under this chapter if the established father and mother of the child file a written statement with the court that both parties agree that the established father is not the biological father of the child.

2. If the court overcomes a prior determination of paternity, the previously established father shall be relieved of support obligations as specified in section 600B.41A, subsection 4. In any action to overcome paternity other than through a pending dissolution action, the provisions of section 600B.41A apply. Overcoming paternity under this paragraph does not bar subsequent actions to establish paternity. A subsequent action to establish paternity against the previously established father is not barred if it is subsequently determined that the written statement attesting that the established father is not the biological father of the child may have been submitted erroneously, and that the person previously determined not to be the child's father during the dissolution action may actually be the child's biological father.

3. If an action to overcome paternity is brought pursuant to subsection 1, paragraph "c", the court shall appoint a guardian ad litem for the child for the pendency of the proceedings.

Sec. 44. NEW SECTION. 598.21F POSTSECONDARY EDUCATION SUBSIDY.

1. ORDER OF SUBSIDY. The court may order a postsecondary education subsidy if good cause is shown.

2. CRITERIA FOR GOOD CAUSE. In determining whether good cause exists for ordering a postsecondary education subsidy, the court shall consider the age of the child, the ability of the child relative to postsecondary education, the child's financial resources, whether the child is self-sustaining, and the financial condition of each parent. If the court determines that good cause is shown for ordering a postsecondary education subsidy, the court shall determine the amount of subsidy as follows:

a. The court shall determine the cost of postsecondary education based upon the cost of attending an in-state public institution for a course of instruction leading to an undergraduate degree and shall include the reasonable costs for only necessary postsecondary education expenses.

b. The court shall then determine the amount, if any, which the child may reasonably be expected to contribute, considering the child's financial resources, including but not limited to the availability of financial aid whether in the form of scholarships, grants, or student loans, and the ability of the child to earn income while attending school.

c. The child's expected contribution shall be deducted from the cost of postsecondary education and the court shall apportion responsibility for the remaining cost of postsecondary education to each parent. The amount paid by each parent shall not exceed thirty-three and one-third percent of the total cost of postsecondary education.

3. SUBSIDY PAYABLE. A postsecondary education subsidy shall be payable to the child, to the educational institution, or to both, but shall not be payable to the custodial parent.

4. REPUDIATION BY CHILD. A postsecondary education subsidy shall not be awarded if



the child has repudiated the parent by publicly disowning the parent, refusing to acknowledge the parent, or by acting in a similar manner.

5. OBLIGATIONS OF CHILD. The child shall forward, to each parent, reports of grades awarded at the completion of each academic session within ten days of receipt of the reports. Unless otherwise specified by the parties, a postsecondary education subsidy awarded by the court shall be terminated upon the child's completion of the first calendar year of course instruction if the child fails to maintain a cumulative grade point average in the median range or above during that first calendar year.

6. APPLICATION. A support order, decree, or judgment entered or pending before July 1, 1997, that provides for support of a child for college, university, or community college expenses may be modified in accordance with this subsection.

7. NECESSARY CONTENT OF ORDER. Orders made pursuant to this section need mention only those factors relevant to the particular case for which the orders are made but shall contain the names, birth dates, addresses, and counties of residence of the petitioner and respondent.

Sec. 45. NEW SECTION. 598.21G MINOR PARENT — PARENTING CLASSES.

In any order or judgment entered under chapter 234, 252A, 252C, 252F, 598, or 600B, or under any other chapter which provides for temporary or permanent support payments, if the parent ordered to pay support is less than eighteen years of age, one of the following shall apply:

1. If the child support recovery unit is providing services pursuant to chapter 252B, the court, or the administrator as defined in section 252C.1, shall order the parent ordered to pay support to attend parenting classes which are approved by the department of human services.

2. If the child support recovery unit is not providing services pursuant to chapter 252B, the court may order the parent ordered to pay support to attend parenting classes which are approved by the court.

Sec. 46. Section 598.22, Code 2005, is amended to read as follows:

598.22 SUPPORT PAYMENTS — CLERK OF COURT — COLLECTION SERVICES CENTER — DEFAULTS — SECURITY.

1. Except as otherwise provided in section 598.22A, this section applies to all initial or modified orders for support entered under this chapter, chapter 234, 252A, 252C, 252F, 600B, or any other chapter of the Code. All orders or judgments entered under chapter 234, 252A, 252C, 252F, or 600B, or under this chapter or any other chapter which provide for temporary or permanent support payments shall direct the payment of those sums to the clerk of the district court or the collection services center in accordance with section 252B.14 for the use of the person for whom the payments have been awarded. Beginning October 1, 1999, all income withholding payments shall be directed to the collection services center. Payments to persons other than the clerk of the district court and the collection services center do not satisfy the support obligations created by the orders or judgments, except as provided for trusts governed by the federal Retirement Equity Act of 1984, Pub. L. No. 98-397, for tax refunds or rebates in section 602.8102, subsection 47, or for dependent benefits paid to the child support obligee as the result of disability benefits awarded to the child support obligor under the federal Social Security Act. For trusts governed by the federal Retirement Equity Act of 1984, Pub. L. No. 98-397, the order for income withholding or notice of the order for income withholding shall require the payment of such sums to the alternate payee in accordance with the federal Act. For dependent benefits paid to the child support obligee as a result of disability benefits awarded to the child support obligor under the federal Social Security Act, the provisions of section 598.22C shall apply.

2. An income withholding order or notice of the order for income withholding shall be entered under the terms and conditions of chapter 252D. However, for trusts governed by the federal Retirement Equity Act of 1984, Pub. L. No. 98-397, the payor shall transmit the payments to the alternate payee in accordance with the federal Act.

3. An order or judgment entered by the court for temporary or permanent support or for income withholding shall be filed with the clerk. The orders have the same force and effect as judgments when entered in the judgment docket and lien index and are records open to the public. Unless otherwise provided by federal law, if it is possible to identify the support order to which a payment is to be applied, and if sufficient information identifying the obligee is provided, the clerk or the collection services center, as appropriate, shall disburse the payments received pursuant to the orders or judgments within two working days of the receipt of the payments. All moneys received or disbursed under this section shall be entered in records kept by the clerk, or the collection services center, as appropriate, which shall be available to the public. The clerk or the collection services center shall not enter any moneys paid in the record book if not paid directly to the clerk or the center, as appropriate, except as provided for trusts and federal social security disability payments in this section, and for tax refunds or rebates in section 602.8102, subsection 47.

4. If the sums ordered to be paid in a support payment order are not paid to the clerk or the collection services center, as appropriate, at the time provided in the order or judgment, the clerk or the collection services center, as appropriate, shall certify a default to the court which may, on its own motion, proceed as provided in section 598.23.

5. Prompt payment of sums required to be paid under sections ~~598.11 and 598.21~~ 598.10, 598.21A, 598.21B, 598.21C, 598.21E, and 598.21F is the essence of such orders or judgments and the court may act pursuant to section 598.23 regardless of whether the amounts in default are paid prior to the contempt hearing.

6. Upon entry of an order for support or upon the failure of a person to make payments pursuant to an order for support, the court may require the person to provide security, a bond, or other guarantee which the court determines is satisfactory to secure the payment of the support. Upon the person's failure to pay the support under the order, the court may declare the security, bond, or other guarantee forfeited.

7. For the purpose of enforcement, medical support is additional support which, upon being reduced to a dollar amount, may be collected through the same remedies available for the collection and enforcement of child support.

8. The clerk of the district court in the county in which the order for support is filed and to whom support payments are made pursuant to the order may require the person obligated to pay support to submit payments by bank draft or money order if the obligor submits an insufficient funds support payment to the clerk of the district court.

Sec. 47. Section 598.22C, subsection 2, Code 2005, is amended to read as follows:

2. For the purposes of calculating a support obligation under section ~~598.21, subsection 4~~ 598.21B, the dependent benefits paid for any child shall be included as income to the disabled parent.

Sec. 48. Section 598.22C, subsection 3, paragraph a, subparagraph (1), Code 2005, is amended to read as follows:

(1) The dollar amount of the child support obligation as calculated by application of the guidelines under section ~~598.21, subsection 4~~ 598.21B, and a statement that the social security dependent benefits are included as income to the obligor in that calculation.

Sec. 49. Section 598.22C, subsection 3, paragraph b, Code 2005, is amended to read as follows:

b. The amount of the child support obligation stated in the order, and the amount the obligor shall pay after application of the social security disability dependent benefit credit or satisfaction stated in the order, shall continue until modified, as provided in section ~~598.21~~ 598.21C.

Sec. 50. NEW SECTION. 598.22D SEPARATE FUND OR CONSERVATORSHIP FOR SUPPORT.

The court may protect and promote the best interests of a minor child by setting aside a por-

tion of the child support which either party is ordered to pay in a separate fund or conservatorship for the support, education, and welfare of the child.

Sec. 51. Section 598.41, subsection 1, paragraph a, Code 2005, is amended to read as follows:

a. ~~The court may provide for joint custody of the child by the parties.~~ The court, insofar as is reasonable and in the best interest of the child, shall order the custody award, including liberal visitation rights where appropriate, which will assure the child the opportunity for the maximum continuing physical and emotional contact with both parents after the parents have separated or dissolved the marriage, and which will encourage parents to share the rights and responsibilities of raising the child unless direct physical harm or significant emotional harm to the child, other children, or a parent is likely to result from such contact with one parent.

Sec. 52. Section 598.41, subsection 5, paragraph a, Code 2005, is amended to read as follows:

a. If joint legal custody is awarded to both parents, the court may award joint physical care to both joint custodial parents upon the request of either parent. Prior to ruling on the request for the award of joint physical care, the court may require the parents to submit, either individually or jointly, a proposed joint physical care parenting plan. A proposed joint physical care parenting plan shall address how the parents will make decisions affecting the child, how the parents will provide a home for the child, how the child's time will be divided between the parents and how each parent will facilitate the child's time with the other parent, arrangements in addition to court-ordered child support for the child's expenses, how the parents will resolve major changes or disagreements affecting the child including changes that arise due to the child's age and developmental needs, and any other issues the court may require. If the court denies the request for joint physical care, the determination shall be accompanied by specific findings of fact and conclusions of law that the awarding of joint physical care is not in the best interest of the child.

Sec. 53. Section 598.41, Code 2005, is amended by adding the following new subsection: NEW SUBSECTION. 9. All orders relating to custody of a child are subject to chapter 598B.

Sec. 54. Section 600.11, subsection 2, paragraph f, Code 2005, is amended to read as follows:

f. A person who is ordered to pay support or a postsecondary education subsidy pursuant to section 598.21, ~~subsection 5A 598.21E,~~ or chapter 234, 252A, 252C, 252F, 598, 600B, or any other chapter of the Code, for a person eighteen years of age or older who is being adopted by a stepparent, and the support order or order requires payment of support or postsecondary education subsidy for any period of time after the child reaches eighteen years of age.

Sec. 55. Section 600A.8, Code 2005, is amended by adding the following new subsection: NEW SUBSECTION. 9. The parent has been imprisoned for a crime against the child, the child's sibling, or another child in the household, or the parent has been imprisoned and it is unlikely that the parent will be released from prison for a period of five or more years.

Sec. 56. Section 600B.25, subsection 1, Code 2005, is amended to read as follows:

1. Upon a finding of paternity pursuant to section 600B.24, the court shall establish the father's monthly support payment and the amount of the support debt accrued or accruing pursuant to section 598.21, ~~subsection 4,~~ until the child reaches majority or until the child finishes high school, if after majority 598.21B. The support obligation shall include support of the child between the ages of eighteen and nineteen years if the child is engaged full-time in completing high school graduation or equivalency requirements in a manner which is reasonably expected to result in completion of the requirements prior to the person reaching nineteen years of age. The court may order the father to pay amounts the court deems appropriate for the past

support and maintenance of the child and for the reasonable and necessary expenses incurred by or for the mother in connection with prenatal care, the birth of the child, and postnatal care of the child and the mother, and other medical support as defined in section 252E.1. The court may award the prevailing party the reasonable costs of suit, including but not limited to reasonable attorney fees.

Sec. 57. Section 600B.41A, subsection 6, paragraph b, Code 2005, is amended to read as follows:

b. If the court dismisses the action to overcome paternity and preserves the paternity determination under this subsection, the court shall enter an order establishing that the parent-child relationship exists between the established father and the child, and including establishment of a support obligation pursuant to section ~~598.21~~ 598.21B and provision of custody and visitation pursuant to section 598.41.

Sec. 58. Sections 598.6, 598.7A, 598.14A, 598.14B, and 598.19A, Code 2005, are repealed.

Approved April 28, 2005

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## CHAPTER 70

### ENTITIES AND TRANSACTIONS SUBJECT TO INSURANCE DIVISION REGULATION — MISCELLANEOUS REVISIONS

*S.F. 360*

**AN ACT** relating to various provisions administered by the insurance division of the department of commerce concerning premium tax refunds, the interstate insurance compact, insurer insolvency proceedings, individual health insurance, the small employer carrier reinsurance program, insurance applications, the Iowa comprehensive health association, fire insurance policies, the Iowa insurance guaranty association, the FAIR plan, motor vehicle service contracts, investments by county and state mutual associations, reciprocal or interinsurance contract premium rates, unauthorized activity of insurance producers, and annuity contracts for cemetery and funeral merchandise and funeral services, and making fees and penalties applicable and providing effective and retroactive applicability dates.

*Be It Enacted by the General Assembly of the State of Iowa:*

Section 1. Section 322.19, subsection 2, paragraph a, Code 2005, is amended to read as follows:

a. A ~~motor vehicle~~ service contract as defined in section 516E.1.

Sec. 2. Section 432.1, subsection 6, paragraph d, Code 2005, is amended to read as follows:

d. The sums prepaid by a company or association under this subsection shall be allowed as credits against its premium tax liability for the calendar year during which the payments are made. If a prepayment made under this subsection exceeds the annual premium tax liability, the excess shall be allowed as a credit against subsequent prepayment or tax liabilities. The commissioner of insurance shall authorize the department of revenue to make a cash refund to an insurer, in lieu of a credit against subsequent prepayment or tax liabilities, if the insurer demonstrates the inability to recoup the funds paid via a credit. The commissioner shall adopt