

FEB 23 2005
HUMAN RESOURCES

HOUSE FILE 397
BY FORD

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

A BILL FOR

1 An Act requiring participation in mediation in certain
2 proceedings related to child custody.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF-397

1 Section 1. Section 598.7A, subsection 3, Code 2005, is
2 amended to read as follows:

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

7 Sec. 2. Section 598.7A, Code 2005, is amended by adding
8 the following new subsection:

9 NEW SUBSECTION. 6. Notwithstanding the provision of this
10 section providing discretion to the court in ordering
11 mediation, unless a party demonstrates that a history of
12 domestic abuse exists as specified in section 598.41,
13 subsection 3, paragraph "j", or unless the court determines
14 that direct physical harm or significant emotional harm to the
15 child, other children, or a parent is likely to result, the
16 court shall require the parties to participate in mediation in
17 any dissolution of marriage action or other domestic relations
18 action which involves custody of a child.

19 Sec. 3. Section 598.41, subsection 2, paragraph d, Code
20 2005, is amended to read as follows:

21 d. Before ruling upon the joint custody petition in these
22 cases, unless the court determines that a history of domestic
23 abuse exists as specified in subsection 3, paragraph "j", or
24 unless the court determines that direct physical harm or
25 significant emotional harm to the child, other children, or a
26 parent is likely to result, the court may shall require the
27 parties to participate in custody mediation to determine
28 whether joint custody is in the best interest of the child.
29 The court may require the child's participation in the
30 mediation insofar as the court determines the child's
31 participation is advisable.

32 Sec. 4. Section 598.41, subsection 8, Code 2005, is
33 amended to read as follows:

34 8. If an application for modification of a decree or a
35 petition for modification of an order is filed, based upon

1 differences between the parents regarding the custody
2 arrangement established under the decree or order, unless the
3 court determines that a history of domestic abuse exists as
4 specified in subsection 3, paragraph "j", or unless the court
5 determines that direct physical harm or significant emotional
6 harm to the child, other children, or a parent is likely to
7 result, the court ~~may~~ shall require the parents to participate
8 in mediation to attempt to resolve the differences between the
9 parents.

EXPLANATION

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11 This bill provides for mandatory participation in mediation
12 in proceedings relating to custody of a child. The bill
13 requires mediation in dissolution of marriage and other
14 domestic relations actions which involve custody of a child.
15 The bill also provides that in the determination of a custody
16 arrangement, whether initially or at the time of modification
17 of a decree or order, if the parents do not agree, the court
18 is required to order the parents to participate in mediation
19 to resolve their differences. The requirement does not apply
20 if the court determines that a history of domestic abuse
21 exists or if the court determines that direct physical harm or
22 significant emotional harm to the child, other children, or a
23 parent is likely to result.

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