

FILED MAR 10 2005

SENATE FILE 330  
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 1070)

Passed Senate, Date 3-14-05 Passed House, Date 3-29-05  
Vote: Ayes 50 Nays 0 Vote: Ayes 92 Nays 8  
*Re-passed* Approved 4-28-05 *Re-passed*  
4-19-05 49-0 4-21-05 100-0

**A BILL FOR**

1 An Act relating to family law provisions including dissolution of  
2 marriage and domestic relations and termination of parental  
3 rights provisions.

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

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SF 330

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

3 1. For an individual to whom section 234.35, subsection 1,  
4 is applicable, a dispositional order of the juvenile court  
5 requiring the provision of foster care, or an administrative  
6 order entered pursuant to chapter 252C, or any order  
7 establishing paternity and support for a child in foster care,  
8 shall establish, after notice and a reasonable opportunity to  
9 be heard is provided to a parent or guardian, the amount of  
10 the parent's or guardian's support obligation for the cost of  
11 foster care provided by the department. The amount of the  
12 parent's or guardian's support obligation and the amount of  
13 support debt accrued and accruing shall be established in  
14 accordance with the child support guidelines prescribed under  
15 section ~~598.217-subsection-4~~ 598.21B. However, the court, or  
16 the department of human services in establishing support by  
17 administrative order, may deviate from the prescribed  
18 obligation after considering a recommendation by the  
19 department for expenses related to goals and objectives of a  
20 case permanency plan as defined under section 237.15, and upon  
21 written findings of fact which specify the reason for  
22 deviation and the prescribed guidelines amount. Any order for  
23 support shall direct the payment of the support obligation to  
24 the collection services center for the use of the department's  
25 foster care recovery unit. The order shall be filed with the  
26 clerk of the district court in which the responsible parent or  
27 guardian resides and has the same force and effect as a  
28 judgment when entered in the judgment docket and lien index.  
29 The collection services center shall disburse the payments  
30 pursuant to the order and record the disbursements. If  
31 payments are not made as ordered, the child support recovery  
32 unit may certify a default to the court and the court may, on  
33 its own motion, proceed under section 598.22 or 598.23 or the  
34 child support recovery unit may enforce the judgment as  
35 allowed by law. An order entered under this subsection may be

1 modified only in accordance with the guidelines prescribed  
2 under section ~~598-217-subsection-8~~ 598.21C, or under chapter  
3 252H.

4 2. For an individual who is served by the department of  
5 human services under section 234.35, and is not subject to a  
6 dispositional order of the juvenile court requiring the  
7 provision of foster care, the department shall determine the  
8 obligation of the individual's parent or guardian pursuant to  
9 chapter 252C and in accordance with the child support  
10 guidelines prescribed under section ~~598-217-subsection-4~~  
11 598.21B. However, the department may adjust the prescribed  
12 obligation for expenses related to goals and objectives of a  
13 case permanency plan as defined under section 237.15. An  
14 obligation determined under this subsection may be modified  
15 only in accordance with conditions under section ~~598-217~~  
16 ~~subsection-8~~ 598.21C, or under chapter 252H.

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

19 1. A spouse is liable for the support of the other spouse  
20 and any child or children under eighteen years of age and any  
21 other dependent. The court shall establish the respondent's  
22 monthly support payment and the amount of the support debt  
23 accrued and accruing pursuant to section ~~598-21~~ 598.21A or  
24 598.21B, as applicable.

25 2. A parent is liable for the support of the parent's  
26 child or children under eighteen years of age, whenever the  
27 other parent of such child or children is dead, or cannot be  
28 found, or is incapable of supporting the child or children,  
29 and, if the liable parent is possessed of sufficient means or  
30 able to earn the means. The court having jurisdiction of the  
31 respondent in a proceeding instituted under this chapter shall  
32 establish the respondent's monthly support payment and the  
33 amount of the support debt accrued and accruing pursuant to  
34 section ~~598-217-subsection-4~~ 598.21B. The support obligation  
35 shall include support of a parent's child between the ages of

1 eighteen and nineteen years if the child is engaged full-time  
2 in completing high school graduation or equivalency  
3 requirements in a manner which is reasonably expected to  
4 result in completion of the requirements prior to the person  
5 reaching nineteen years of age.

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

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

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

21 4. If the respondent appears at the hearing and fails to  
22 answer the petition or admits the allegations of the petition,  
23 or if, after a hearing, the court has found and determined  
24 that the prayer of the petitioner, or any part of the prayer,  
25 is supported by the evidence adduced in the proceeding, and  
26 that the dependent is in need of and entitled to support from  
27 a party, the court shall make and enter an order directing a  
28 party to furnish support for the dependent and to pay a sum as  
29 the court determines pursuant to section ~~598.21~~ 598.21A or  
30 598.21B, as applicable. Upon entry of an order for support or  
31 upon failure of a person to make payments pursuant to an order  
32 for support, the court may require a party to provide  
33 security, a bond, or other guarantee which the court  
34 determines is satisfactory to secure the payment of the  
35 support. Upon the party's failure to pay the support under

1 the order, the court may declare the security, bond, or other  
2 guarantee forfeited.

3 Sec. 5. Section 252A.6A, subsection 1, paragraph b, Code  
4 2005, is amended to read as follows:

5 b. If the respondent, after being served with notice as  
6 required under section 252A.6, fails to timely respond to the  
7 notice, or to appear for blood or genetic tests pursuant to a  
8 court or administrative order, or to appear at a scheduled  
9 hearing after being provided notice of the hearing, the court  
10 shall find the respondent in default, and shall enter an order  
11 establishing paternity and establishing the monthly child  
12 support payment and the amount of the support debt accrued and  
13 accruing pursuant to section ~~598.217-subsection-4~~ 598.21B, or  
14 medical support pursuant to chapter 252E, or both.

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

17 (2) If the court determines that the prior determination  
18 of paternity should not be overcome, pursuant to section  
19 600B.41A, and that the party has a duty to provide support,  
20 the court shall enter an order establishing the monthly child  
21 support payment and the amount of the support debt accrued and  
22 accruing pursuant to section ~~598.217-subsection-4~~ 598.21B, or  
23 medical support pursuant to chapter 252E, or both.

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

26 3. If the expert analyzing the blood or genetic test  
27 concludes that the test results demonstrate that the putative  
28 father is not excluded and that the probability of the  
29 putative father's paternity is ninety-nine percent or higher  
30 and if the test results have not been challenged, the court,  
31 upon motion by a party, shall enter a temporary order for  
32 child support to be paid pursuant to section ~~598.217~~  
33 ~~subsection-4~~ 598.21B. The court shall require temporary  
34 support to be paid to the clerk of court or to the collection  
35 services center. If the court subsequently determines the

1 putative father is not the father, the court shall terminate  
2 the temporary support order. All support obligations which  
3 came due prior to the order terminating temporary support are  
4 unaffected by this action and remain a judgment subject to  
5 enforcement.

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

8 4. Assistance to set off against a debtor's income tax  
9 refund or rebate any support debt, which is assigned to the  
10 department of human services or which the child support  
11 recovery unit is attempting to collect on behalf of any  
12 individual not eligible as a public assistance recipient,  
13 which has accrued through written contract, subrogation, or  
14 court judgment, and which is in the form of a liquidated sum  
15 due and owing for the care, support, or maintenance of a  
16 child. Unless the periodic payment plan provisions for a  
17 retroactive modification pursuant to section ~~598-217~~  
18 ~~subsection-87~~ 598.21C apply, the entire amount of a judgment  
19 for accrued support, notwithstanding compliance with a  
20 periodic payment plan or regardless of the date of entry of  
21 the judgment, is due and owing as of the date of entry of the  
22 judgment and is delinquent for the purposes of setoff,  
23 including for setoff against a debtor's federal income tax  
24 refund or other federal nontax payment. The department of  
25 human services shall adopt rules pursuant to chapter 17A  
26 necessary to assist the department of administrative services  
27 in the implementation of the child support setoff as  
28 established under section 8A.504.

29 Sec. 9. Section 252B.5, subsection 7, unnumbered paragraph  
30 1, Code 2005, is amended to read as follows:

31 At the request of either parent who is subject to the order  
32 of support or upon its own initiation, review the amount of  
33 the support award in accordance with the guidelines  
34 established pursuant to section ~~598-217~~-~~subsection-4~~ 598.21B,  
35 and Title IV-D of the federal Social Security Act, as amended,

1 and take action to initiate modification proceedings if the  
2 criteria established pursuant to this section are met.  
3 However, a review of a support award is not required if the  
4 child support recovery unit determines that such a review  
5 would not be in the best interest of the child and neither  
6 parent has requested such review.

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

9 3. Appear on behalf of the state for the purpose of  
10 facilitating the modification of support awards consistent  
11 with guidelines established pursuant to section 598-217,  
12 ~~subsection-4~~ 598.21B, and Title IV-D of the federal Social  
13 Security Act. The unit shall not otherwise participate in the  
14 proceeding.

15 Sec. 11. Section 252B.9, subsection 1, paragraph b, Code  
16 2005, is amended to read as follows:

17 b. Parents of a child on whose behalf support enforcement  
18 services are provided shall provide information regarding  
19 income, resources, financial circumstances, and property  
20 holdings to the department for the purpose of establishment,  
21 modification, or enforcement of a support obligation. The  
22 department may provide the information to parents of a child  
23 as needed to implement the requirements of section 598-217,  
24 ~~subsection-4~~ 598.21B, notwithstanding any provisions of law  
25 making this information confidential.

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

28 The payment of public assistance to or for the benefit of a  
29 dependent child or a dependent child's caretaker creates a  
30 support debt due and owing to the department by the  
31 responsible person in an amount equal to the public assistance  
32 payment, except that the support debt is limited to the amount  
33 of a support obligation established by court order or by the  
34 administrator. The administrator may establish a support debt  
35 as to amounts accrued and accruing pursuant to section 598-217

1 ~~subsection-4~~ 598.21B. However, when establishing a support  
2 obligation against a responsible person, no debt shall be  
3 created for the period during which the responsible person is  
4 a recipient on the person's own behalf of public assistance  
5 for the benefit of the dependent child or the dependent  
6 child's caretaker, if any of the following conditions exist:

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

9 3. The provision of child support collection or paternity  
10 determination services under chapter 252B to an individual,  
11 even though the individual is ineligible for public  
12 assistance, creates a support debt due and owing to the  
13 individual or the individual's child or ward by the  
14 responsible person in the amount of a support obligation  
15 established by court order or by the administrator. The  
16 administrator may establish a support debt in favor of the  
17 individual or the individual's child or ward and against the  
18 responsible person, both as to amounts accrued and accruing,  
19 pursuant to section ~~598-217-~~subsection-4 598.21B.

20 Sec. 14. Section 252C.3, subsection 1, paragraph a, Code  
21 2005, is amended to read as follows:

22 a. A statement that the support obligation will be set  
23 pursuant to the child support guidelines established pursuant  
24 to section ~~598-217-~~subsection-4 598.21B, and the criteria  
25 established pursuant to section 252B.7A, and that the  
26 responsible person is required to provide medical support in  
27 accordance with chapter 252E.

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

30 4. The court shall establish the monthly child support  
31 payment and the amount of the support debt accrued and  
32 accruing pursuant to section ~~598-217-~~subsection-4 598.21B, or  
33 medical support pursuant to chapter 252E, or both.

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

1 (2) If the court determines that the prior determination  
2 of paternity should not be overcome pursuant to section  
3 600B.41A, and that the responsible person has a duty to  
4 provide support, the court shall enter an order establishing  
5 the monthly child support payment and the amount of the  
6 support debt accrued and accruing pursuant to section ~~598.217~~,  
7 ~~subsection-4~~ 598.21B, or medical support pursuant to chapter  
8 252E, or both.

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

11 c. A statement that if paternity is established, the  
12 amount of the putative father's monthly support obligation and  
13 the amount of the support debt accrued and accruing will be  
14 established in accordance with the guidelines established in  
15 section ~~598.217-subsection-4~~ 598.21B, and the criteria  
16 established pursuant to section 252B.7A.

17 e. A written explanation of the procedures for determining  
18 the child support obligation and a request for financial or  
19 income information as necessary for application of the child  
20 support guidelines established pursuant to section ~~598.217~~  
21 ~~subsection-4~~ 598.21B.

22 Sec. 18. Section 252F.4, subsections 1 through 4, Code  
23 2005, are amended to read as follows:

24 1. If the putative father fails to respond to the initial  
25 notice within twenty days after the date of service of the  
26 notice or fails to appear at a conference pursuant to section  
27 252F.3 on the scheduled date of the conference, and paternity  
28 has not been contested and the putative father fails to timely  
29 request a court hearing on the issue of support, the  
30 administrator shall enter an order against the putative  
31 father, declaring the putative father to be the legal father  
32 of the child or children involved and assessing any accrued  
33 and accruing child support obligation pursuant to the  
34 guidelines established under section ~~598.217-subsection-4~~  
35 598.21B, and medical support pursuant to chapter 252E, against

1 the father.

2 2. If paternity is contested pursuant to section 252F.3,  
3 subsection 6, and the party contesting paternity fails to  
4 appear for a paternity test and fails to request a  
5 rescheduling pursuant to section 252F.3, or fails to appear  
6 for both the initial and the rescheduled paternity tests and  
7 the putative father fails to timely request a court hearing on  
8 the issue of support, the administrator shall enter an order  
9 against the putative father declaring the putative father to  
10 be the legal father of the child or children involved and  
11 assessing any accrued and accruing child support obligation  
12 pursuant to the guidelines established under section 598-217  
13 ~~subsection-4~~ 598.21B, and medical support pursuant to chapter  
14 252E, against the father.

15 3. If the putative father appears at a conference pursuant  
16 to section 252F.3, and paternity is not contested, and the  
17 putative father fails to timely request a court hearing on the  
18 issue of support, the administrator shall enter an order  
19 against the putative father after the second notice has been  
20 sent declaring the putative father to be the legal father of  
21 the child or children involved and assessing any accrued and  
22 accruing child support obligation pursuant to the guidelines  
23 established under section 598-217-~~subsection-4~~ 598.21B, and  
24 medical support pursuant to chapter 252E against the father.

25 4. If paternity was contested and paternity testing was  
26 performed and the putative father was not excluded, if the  
27 test results indicate that the probability of the putative  
28 father's paternity is ninety-five percent or greater, if the  
29 test results are not timely challenged, and if the putative  
30 father fails to timely request a court hearing on the issue of  
31 support, the administrator shall enter an order against the  
32 putative father declaring the putative father to be the legal  
33 father of the child or children involved and assessing any  
34 accrued and accruing child support obligation pursuant to the  
35 guidelines established under section 598-217-~~subsection-4~~

1 598.21B, and medical support pursuant to chapter 252E, against  
2 the father.

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

5 6. If the court determines that the putative father is the  
6 legal father, the court shall establish the amount of the  
7 accrued and accruing child support pursuant to the guidelines  
8 established under section ~~598.217-subsection-4~~ 598.21B, and  
9 shall establish medical support pursuant to chapter 252E.

10 Sec. 20. Section 252H.2, subsection 2, paragraph a, Code  
11 2005, is amended to read as follows:

12 a. A change in the amount of child support based upon an  
13 application of the child support guidelines established  
14 pursuant to section ~~598.217-subsection-4~~ 598.21B.

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

17 252H.6 COLLECTION OF INFORMATION.

18 The unit may request, obtain, and validate information  
19 concerning the financial circumstances of the parents of a  
20 child as necessary to determine the appropriate amount of  
21 support pursuant to the guidelines established in section  
22 ~~598.217-subsection-4~~ 598.21B, including but not limited to  
23 those sources and procedures described in sections 252B.7A and  
24 252B.9. The collection of information does not constitute a  
25 review conducted pursuant to section 252H.16.

26 Sec. 22. Section 252H.8, subsection 4, paragraph g, Code  
27 2005, is amended to read as follows:

28 g. Copies of any computation worksheet prepared by the  
29 unit to determine the amount of support calculated using the  
30 mandatory child support guidelines established under section  
31 ~~598.217-subsection-4~~ 598.21B, and, if appropriate and the  
32 social security disability provisions of sections 598.22 and  
33 598.22C apply, a determination of the amount of delinquent  
34 support due.

35 Sec. 23. Section 252H.8, subsection 10, Code 2005, is

1 amended to read as follows:

2 10. The court shall establish the amount of child support  
3 pursuant to section ~~598.217-subsection-4~~ 598.21B, or medical  
4 support pursuant to chapter 252E, or both.

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

7 2. For orders to which subchapter II or III is applicable,  
8 the unit shall determine the appropriate amount of the child  
9 support obligation using the current child support guidelines  
10 established pursuant to section ~~598.217-subsection-4~~ 598.21B,  
11 and the criteria established pursuant to section 252B.7A and  
12 shall determine the provisions for medical support pursuant to  
13 chapter 252E.

14 Sec. 25. Section 252H.10, unnumbered paragraph 1, Code  
15 2005, is amended to read as follows:

16 Pursuant to section ~~598.217-subsection-8~~ 598.21C, any  
17 administrative or court order resulting from an action  
18 initiated under this chapter may be made retroactive only to  
19 the date that all parties were successfully served the notice  
20 required under section 252H.15 or section 252H.19, as  
21 applicable.

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

24 c. An explanation of the procedures for determining child  
25 support and a request for financial or income information as  
26 necessary for application of the child support guidelines  
27 established pursuant to section ~~598.217-subsection-4~~ 598.21B.

28 e. Criteria for determining appropriateness of an  
29 adjustment and a statement that the unit will use the child  
30 support guidelines established pursuant to section ~~598.217~~  
31 ~~subsection-4~~ 598.21B, and the provisions for medical support  
32 pursuant to chapter 252E to adjust the order.

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

35 3. Notwithstanding section ~~598.217-subsections-8-and-9~~

1 598.21C, for purposes of this section, a substantial change in  
2 circumstances means there has been a change of fifty percent  
3 or more in the income of a parent, and the change is due to  
4 financial circumstances which have existed for a minimum  
5 period of three months and can reasonably be expected to exist  
6 for an additional three months.

7 Sec. 28. Section 252H.19, subsection 2, paragraph c, Code  
8 2005, is amended to read as follows:

9 c. An explanation of the procedures for determining child  
10 support and a request for financial or income information as  
11 necessary for application of the child support guidelines  
12 established pursuant to section ~~598.217-subsection-4~~ 598.21B.

13 Sec. 29. Section 252H.21, subsection 2, paragraph a, Code  
14 2005, is amended to read as follows:

15 a. To the extent permitted under 42 U.S.C. §  
16 666(a)(10)(A)(i)(II), the cost-of-living alteration shall be  
17 an exception to any requirement under law for the application  
18 of the child support guidelines established pursuant to  
19 section ~~598.217-subsection-4~~ 598.21B, including but not  
20 limited to any requirement in this chapter or chapter 234,  
21 252A, 252B, 252C, 252F, 598, or 600B.

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

24 598.5 CONTENTS OF PETITION -- VERIFICATION -- EVIDENCE.

25 1. The petition for dissolution of marriage shall:

26 ~~1-~~ a. State the name, birth date, address and county of  
27 residence of the petitioner and the name and address of the  
28 petitioner's attorney.

29 ~~2-~~ b. State the place and date of marriage of the  
30 parties.

31 ~~3-~~ c. State the name, birth date, address and county of  
32 residence, if known, of the respondent.

33 ~~4-~~ d. State the name and age of each minor child by date  
34 of birth whose welfare may be affected by the controversy.

35 ~~5-~~ e. State whether or not a separate action for

1 dissolution of marriage or child support has been commenced  
2 and whether such action is pending in any court in this state  
3 or elsewhere. State whether the entry of an order would  
4 violate 28 U.S.C. § 1738B. If there is an existing child  
5 support order, the party shall disclose identifying  
6 information regarding the order.

7 6- f. Allege that the petition has been filed in good  
8 faith and for the purposes set forth therein.

9 7- g. Allege that there has been a breakdown of the  
10 marriage relationship to the extent that the legitimate  
11 objects of matrimony have been destroyed and there remains no  
12 reasonable likelihood that the marriage can be preserved.

13 8- h. Set forth any application for temporary support of  
14 the petitioner and any children without enumerating the  
15 amounts thereof.

16 9- i. Set forth any application for permanent alimony or  
17 support, child custody, or disposition of property, as well as  
18 attorneys' fees and suit money, without enumerating the  
19 amounts thereof.

20 10- j. State whether the appointment of a conciliator  
21 pursuant to section 598.16 may preserve the marriage.

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

30 2. The petition shall be verified by the petitioner.

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

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

35 598.7 MEDIATION.

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

18 2. The supreme court shall establish a dispute resolution  
19 program in family law cases that includes the opportunities  
20 for mediation and settlement conferences. Any judicial  
21 district may implement such a dispute resolution program,  
22 subject to the rules prescribed by the supreme court.

23 3. The supreme court shall prescribe rules for the  
24 mediation program, including the circumstances under which the  
25 district court may order participation in mediation.

26 4. Any dispute resolution program shall comply with all of  
27 the following standards:

28 a. Participation in mediation shall include attendance at  
29 a mediation session with the mediator and the parties to the  
30 action, listening to the mediator's explanation of the  
31 mediation process, presentation of one party's view of the  
32 case, and listening to the response of the other party.  
33 Participation in mediation does not require that the parties  
34 reach an agreement.

35 b. The parties may choose the mediator, or the court shall

1 appoint a mediator. A court-appointed mediator shall meet the  
2 qualifications established by the supreme court.

3 c. Parties to the mediation have the right to advice and  
4 presence of counsel at all times.

5 d. The parties to the mediation shall present any  
6 agreement reached through the mediation to their attorneys, if  
7 any. A mediation agreement reached by the parties shall not  
8 be enforceable until approved by the court.

9 e. The costs of mediation shall be borne by the parties,  
10 as agreed to by the parties, or as ordered by the court, and  
11 may be taxed as court costs. Mediation shall be provided on a  
12 sliding fee scale for parties who are determined to be  
13 indigent pursuant to section 815.9.

14 5. The supreme court shall prescribe qualifications for  
15 mediators under this section. The qualifications shall include  
16 but are not limited to the ethical standards to be observed by  
17 mediators. The qualifications shall not include a requirement  
18 that the mediator be licensed to practice any particular  
19 profession.

20 Sec. 32. NEW SECTION. 598.10 TEMPORARY ORDERS.

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

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

35 2. The court may make such an order when a claim for

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

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

14 598.11 HOW TEMPORARY ORDER MADE -- CHANGES -- RETROACTIVE  
15 MODIFICATION.

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

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

34 3. An order for temporary support may be retroactively  
35 modified only from three months after notice of hearing for

1 temporary support pursuant to section 598.10 or from three  
2 months after notice of hearing for modification of a temporary  
3 order for support pursuant to this section. The three-month  
4 limitation applies to modification actions pending on or after  
5 July 1, 1997.

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

8 598.12 ATTORNEY OR GUARDIAN AD LITEM FOR MINOR CHILD --  
9 INVESTIGATIONS.

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

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

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

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

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

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

35 (4) Interviewing any person providing medical, mental

1 health, social, educational, or other services to the child,  
2 prior to any court-ordered hearing.

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

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

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

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

26 2- 4. The court may require that an appropriate agency  
27 make an investigation of both parties regarding the home  
28 conditions, parenting capabilities, and other matters  
29 pertinent to the best interests of the child or children in a  
30 dispute concerning custody of the child or children. The  
31 investigation report completed by the appropriate agency shall  
32 be submitted to the court and available to both parties. The  
33 investigation report completed by the appropriate agency shall  
34 be a part of the record unless otherwise ordered by the court.

35 3- 5. The court shall enter an order in favor of the

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

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

8 598.14 ATTACHMENT.

9 The petition may be presented to the court for the  
10 allowance of an order of attachment, which, by endorsement  
11 thereon, may direct such attachment and fix the amount for  
12 which it may issue, and the amount of the bond, if any, that  
13 shall be given. Any property taken by virtue thereof shall be  
14 held to satisfy the judgment or decree of the court, but may  
15 be discharged or released as in other cases.

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

18 598.15 MANDATORY COURSE -- PARTIES TO CERTAIN PROCEEDINGS.

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

1 cause or is otherwise not required under this subsection.

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

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

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

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

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

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

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

1 598.20 FORFEITURE OF MARITAL RIGHTS.

2 When a dissolution of marriage is decreed the parties shall  
3 forfeit all rights acquired by marriage which are not  
4 specifically preserved in the decree. This provision shall  
5 not obviate any of the provisions of section ~~598.21~~ 598.21,  
6 598.21A, 598.21B, 598.21C, 598.21D, 598.21E, or 598.21F.

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

9 598.21 ORDERS FOR DISPOSITION OF PROPERTY.

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

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

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

32 4. PROPERTY FOR CHILDREN. The court may protect and  
33 promote the best interests of children of the parties by  
34 setting aside a portion of the property of the parties in a  
35 separate fund or conservatorship for the support, maintenance,

1 education, and general welfare of the minor children.

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

6 a. The length of the marriage.

7 b. The property brought to the marriage by each party.

8 c. The contribution of each party to the marriage, giving  
9 appropriate economic value to each party's contribution in  
10 homemaking and child care services.

11 d. The age and physical and emotional health of the  
12 parties.

13 e. The contribution by one party to the education,  
14 training, or increased earning power of the other.

15 f. The earning capacity of each party, including  
16 educational background, training, employment skills, work  
17 experience, length of absence from the job market, custodial  
18 responsibilities for children, and the time and expense  
19 necessary to acquire sufficient education or training to  
20 enable the party to become self-supporting at a standard of  
21 living reasonably comparable to that enjoyed during the  
22 marriage.

23 g. The desirability of awarding the family home or the  
24 right to live in the family home for a reasonable period to  
25 the party having custody of the children, or if the parties  
26 have joint legal custody, to the party having physical care of  
27 the children.

28 h. The amount and duration of an order granting support  
29 payments to either party pursuant to section 598.21A and  
30 whether the property division should be in lieu of such  
31 payments.

32 i. Other economic circumstances of each party, including  
33 pension benefits, vested or unvested, and future interests.

34 j. The tax consequences to each party.

35 k. Any written agreement made by the parties concerning

1 property distribution.

2 1. The provisions of an antenuptial agreement.

3 m. Other factors the court may determine to be relevant in  
4 an individual case.

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

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

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

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

22 598.21A ORDERS FOR SPOUSAL SUPPORT.

23 1. CRITERIA FOR DETERMINING SUPPORT. Upon every judgment  
24 of annulment, dissolution, or separate maintenance, the court  
25 may grant an order requiring support payments to either party  
26 for a limited or indefinite length of time after considering  
27 all of the following:

28 a. The length of the marriage.

29 b. The age and physical and emotional health of the  
30 parties.

31 c. The distribution of property made pursuant to section  
32 598.21.

33 d. The educational level of each party at the time of  
34 marriage and at the time the action is commenced.

35 e. The earning capacity of the party seeking maintenance,

1 including educational background, training, employment skills,  
2 work experience, length of absence from the job market,  
3 responsibilities for children under either an award of custody  
4 or physical care, and the time and expense necessary to  
5 acquire sufficient education or training to enable the party  
6 to find appropriate employment.

7 f. The feasibility of the party seeking maintenance  
8 becoming self-supporting at a standard of living reasonably  
9 comparable to that enjoyed during the marriage, and the length  
10 of time necessary to achieve this goal.

11 g. The tax consequences to each party.

12 h. Any mutual agreement made by the parties concerning  
13 financial or service contributions by one party with the  
14 expectation of future reciprocation or compensation by the  
15 other party.

16 i. The provisions of an antenuptial agreement.

17 j. Other factors the court may determine to be relevant in  
18 an individual case.

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

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

26 1. CHILD SUPPORT GUIDELINES.

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

34 b. The guidelines prescribed by the supreme court shall  
35 incorporate provisions for medical support as defined in

1 chapter 252E to be effective on or before January 1, 1991.

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

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

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

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

26 2. CHILD SUPPORT ORDERS.

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

32 b. CALCULATING AMOUNT OF SUPPORT.

33 (1) In establishing the amount of support, consideration  
34 shall be given to the responsibility of both parents to  
35 support and provide for the welfare of the minor child and of

1 a child's need, whenever practicable, for a close relationship  
2 with both parents.

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

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

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

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

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

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

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

35 (b) The parent is attending an instructional program

1 leading to a high school equivalency diploma.

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

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

7 (2) The parent provides proof of compliance with the  
8 requirements of subparagraph (1) to the child support recovery  
9 unit, if the unit is providing services under chapter 252B, or  
10 if the unit is not providing services pursuant to chapter  
11 252B, to the court as the court may direct. Failure to  
12 provide proof of compliance under this subparagraph or proof  
13 of compliance under section 598.21G is grounds for  
14 modification of the support order using the uniform child  
15 support guidelines and imputing an income to the parent equal  
16 to a forty-hour work week at the state minimum wage, unless  
17 the parent's education, experience, or actual earnings justify  
18 a higher income.

19 3. MEDICAL SUPPORT. The court shall order as child  
20 medical support a health benefit plan as defined in chapter  
21 252E if available to either parent at a reasonable cost. A  
22 health benefit plan is considered reasonable in cost if it is  
23 employment-related or other group health insurance, regardless  
24 of the service delivery mechanism. The premium cost of the  
25 health benefit plan may be considered by the court as a reason  
26 for varying from the child support guidelines. If a health  
27 benefit plan is not available at a reasonable cost, the court  
28 may order any other provisions for medical support as defined  
29 in chapter 252E.

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

35 Sec. 41. NEW SECTION. 598.21C MODIFICATION OF CHILD,

1 SPOUSAL, OR MEDICAL SUPPORT ORDERS.

2 1. CRITERIA FOR MODIFICATION. Subject to 28 U.S.C. §  
3 1738B, the court may subsequently modify child, spousal, or  
4 medical support orders when there is a substantial change in  
5 circumstances. In determining whether there is a substantial  
6 change in circumstances, the court shall consider the  
7 following:

- 8 a. Changes in the employment, earning capacity, income, or  
9 resources of a party.
- 10 b. Receipt by a party of an inheritance, pension, or other  
11 gift.
- 12 c. Changes in the medical expenses of a party.
- 13 d. Changes in the number or needs of dependents of a  
14 party.
- 15 e. Changes in the physical, mental, or emotional health of  
16 a party.
- 17 f. Changes in the residence of a party.
- 18 g. Remarriage of a party.
- 19 h. Possible support of a party by another person.
- 20 i. Changes in the physical, emotional, or educational  
21 needs of a child whose support is governed by the order.
- 22 j. Contempt by a party of existing orders of court.
- 23 k. Entry of a dispositional order in juvenile court  
24 pursuant to chapter 232 placing custody or physical care of a  
25 child with a party who is obligated to pay support for a  
26 child.
- 27 1. Other factors the court determines to be relevant in an  
28 individual case.

29 2. ADDITIONAL CRITERIA FOR MODIFICATION OF CHILD SUPPORT  
30 ORDERS.

- 31 a. Subject to 28 U.S.C. § 1738B, but notwithstanding  
32 subsection 1, a substantial change of circumstances exists  
33 when the court order for child support varies by ten percent  
34 or more from the amount which would be due pursuant to the  
35 most current child support guidelines established pursuant to

1 section 598.21B or the obligor has access to a health benefit  
2 plan, the current order for support does not contain  
3 provisions for medical support, and the dependents are not  
4 covered by a health benefit plan provided by the obligee,  
5 excluding coverage pursuant to chapter 249A or a comparable  
6 statute of a foreign jurisdiction.

7 b. This basis for modification is applicable to petitions  
8 filed on or after July 1, 1992, notwithstanding whether the  
9 guidelines prescribed by section 598.21B were used in  
10 establishing the current amount of support. Upon application  
11 for a modification of an order for child support for which  
12 services are being received pursuant to chapter 252B, the  
13 court shall set the amount of child support based upon the  
14 most current child support guidelines established pursuant to  
15 section 598.21B, including provisions for medical support  
16 pursuant to chapter 252E. The child support recovery unit  
17 shall, in submitting an application for modification,  
18 adjustment, or alteration of an order for support, employ  
19 additional criteria and procedures as provided in chapter 252H  
20 and as established by rule.

21 3. APPLICABLE LAW. Unless otherwise provided pursuant to  
22 28 U.S.C. § 1738B, a modification of a support order entered  
23 under chapter 234, 252A, 252C, 600B, this chapter, or any  
24 other support chapter or proceeding between parties to the  
25 order is void unless the modification is approved by the  
26 court, after proper notice and opportunity to be heard is  
27 given to all parties to the order, and entered as an order of  
28 the court. If support payments have been assigned to the  
29 department of human services pursuant to section 234.39,  
30 239B.6, or 252E.11, or if services are being provided pursuant  
31 to chapter 252B, the department is a party to the support  
32 order. Modifications of orders pertaining to child custody  
33 shall be made pursuant to chapter 598B. If the petition for a  
34 modification of an order pertaining to child custody asks  
35 either for joint custody or that joint custody be modified to

1 an award of sole custody, the modification, if any, shall be  
2 made pursuant to section 598.41.

3 4. RETROACTIVITY OF MODIFICATION. Judgments for child  
4 support or child support awards entered pursuant to this  
5 chapter, chapter 234, 252A, 252C, 252F, 600B, or any other  
6 chapter of the Code which are subject to a modification  
7 proceeding may be retroactively modified only from three  
8 months after the date the notice of the pending petition for  
9 modification is served on the opposing party. The three-month  
10 limitation applies to a modification action pending on or  
11 after July 1, 1997. The prohibition of retroactive  
12 modification does not bar the child support recovery unit from  
13 obtaining orders for accrued support for previous time  
14 periods. Any retroactive modification which increases the  
15 amount of child support or any order for accrued support under  
16 this paragraph shall include a periodic payment plan. A  
17 retroactive modification shall not be regarded as a  
18 delinquency unless there are subsequent failures to make  
19 payments in accordance with the periodic payment plan.

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

30 6. MODIFICATION BY CHILD SUPPORT RECOVERY UNIT.  
31 Notwithstanding any other provision of law to the contrary,  
32 when an application for modification or adjustment of support  
33 is submitted by the child support recovery unit, the sole  
34 issues which may be considered by the court in that action are  
35 the application of the guidelines in establishing the amount

1 of support pursuant to section 598.21B, and provision for  
2 medical support under chapter 252E. When an application for a  
3 cost-of-living alteration of support is submitted by the child  
4 support recovery unit pursuant to section 252H.24, the sole  
5 issue which may be considered by the court in the action is  
6 the application of the cost-of-living alteration in  
7 establishing the amount of child support. Issues related to  
8 custody, visitation, or other provisions unrelated to support  
9 shall be considered only under a separate application for  
10 modification.

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

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

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

24 If a parent awarded joint legal custody and physical care  
25 or sole legal custody is relocating the residence of the minor  
26 child to a location which is one hundred fifty miles or more  
27 from the residence of the minor child at the time that custody  
28 was awarded, the court may consider the relocation a  
29 substantial change in circumstances. If the court determines  
30 that the relocation is a substantial change in circumstances,  
31 the court shall modify the custody order to, at a minimum,  
32 preserve, as nearly as possible, the existing relationship  
33 between the minor child and the nonrelocating parent. If  
34 modified, the order may include a provision for extended  
35 visitation during summer vacations and school breaks and

1 scheduled telephone contact between the nonrelocating parent  
2 and the minor child. The modification may include a provision  
3 assigning the responsibility for transportation of the minor  
4 child for visitation purposes to either or both parents. If  
5 the court makes a finding of past interference by the parent  
6 awarded joint legal custody and physical care or sole legal  
7 custody with the minor child's access to the other parent, the  
8 court may order the posting of a cash bond to assure future  
9 compliance with the visitation provisions of the decree. The  
10 supreme court shall prescribe guidelines for the forfeiting of  
11 the bond and restoration of the bond following forfeiting of  
12 the bond.

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

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

20 a. (1) If the prior determination of paternity is based  
21 on an affidavit of paternity filed pursuant to section  
22 252A.3A, or a court or administrative order entered in this  
23 state, or by operation of law when the mother and established  
24 father are or were married to each other, the provisions of  
25 section 600B.41A apply.

26 (2) If following the proceedings under section 600B.41A  
27 the court determines that the prior determination of paternity  
28 should not be overcome, and that the established father has a  
29 duty to provide support, the court shall enter an order  
30 establishing the monthly child support payment and the amount  
31 of the support debt accrued and accruing pursuant to section  
32 598.21B, or the medical support obligation pursuant to chapter  
33 252E, or both.

34 b. If a determination of paternity is based on an  
35 administrative or court order or other means pursuant to the

1 laws of a foreign jurisdiction, any action to overcome the  
2 prior determination of paternity shall be filed in that  
3 jurisdiction. Unless a stay of the action initiated in this  
4 state to establish child or medical support is requested and  
5 granted by the court, pending a resolution of the contested  
6 paternity issue by the foreign jurisdiction, the action shall  
7 proceed.

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

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

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

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

1 SUBSIDY.

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

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

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

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

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

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

33 4. REPUDIATION BY CHILD. A postsecondary education  
34 subsidy shall not be awarded if the child has repudiated the  
35 parent by publicly disowning the parent, refusing to

1 acknowledge the parent, or by acting in a similar manner.

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

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

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

21 Sec. 45. NEW SECTION. 598.21G MINOR PARENT -- PARENTING  
22 CLASSES.

23 In any order or judgment entered under chapter 234, 252A,  
24 252C, 252F, 598, or 600B, or under any other chapter which  
25 provides for temporary or permanent support payments, if the  
26 parent ordered to pay support is less than eighteen years of  
27 age, one of the following shall apply:

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

33 2. If the child support recovery unit is not providing  
34 services pursuant to chapter 252B, the court may order the  
35 parent ordered to pay support to attend parenting classes

1 which are approved by the court.

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

4 598.22 SUPPORT PAYMENTS -- CLERK OF COURT -- COLLECTION  
5 SERVICES CENTER -- DEFAULTS -- SECURITY.

6 1. Except as otherwise provided in section 598.22A, this  
7 section applies to all initial or modified orders for support  
8 entered under this chapter, chapter 234, 252A, 252C, 252F,  
9 600B, or any other chapter of the Code. All orders or  
10 judgments entered under chapter 234, 252A, 252C, 252F, or  
11 600B, or under this chapter or any other chapter which provide  
12 for temporary or permanent support payments shall direct the  
13 payment of those sums to the clerk of the district court or  
14 the collection services center in accordance with section  
15 252B.14 for the use of the person for whom the payments have  
16 been awarded. Beginning October 1, 1999, all income  
17 withholding payments shall be directed to the collection  
18 services center. Payments to persons other than the clerk of  
19 the district court and the collection services center do not  
20 satisfy the support obligations created by the orders or  
21 judgments, except as provided for trusts governed by the  
22 federal Retirement Equity Act of 1984, Pub. L. No. 98-397, for  
23 tax refunds or rebates in section 602.8102, subsection 47, or  
24 for dependent benefits paid to the child support obligee as  
25 the result of disability benefits awarded to the child support  
26 obligor under the federal Social Security Act. For trusts  
27 governed by the federal Retirement Equity Act of 1984, Pub. L.  
28 No. 98-397, the order for income withholding or notice of the  
29 order for income withholding shall require the payment of such  
30 sums to the alternate payee in accordance with the federal  
31 Act. For dependent benefits paid to the child support obligee  
32 as a result of disability benefits awarded to the child  
33 support obligor under the federal Social Security Act, the  
34 provisions of section 598.22C shall apply.

35 2. An income withholding order or notice of the order for

1 income withholding shall be entered under the terms and  
2 conditions of chapter 252D. However, for trusts governed by  
3 the federal Retirement Equity Act of 1984, Pub. L. No. 98-  
4 397, the payor shall transmit the payments to the alternate  
5 payee in accordance with the federal Act.

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

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

32 5. Prompt payment of sums required to be paid under  
33 sections ~~598.11 and 598.21~~ 598.10, 598.21A, 598.21B, 598.21C,  
34 598.21E, and 598.21F is the essence of such orders or  
35 judgments and the court may act pursuant to section 598.23

1 regardless of whether the amounts in default are paid prior to  
2 the contempt hearing.

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

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

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

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

22 2. For the purposes of calculating a support obligation  
23 under section ~~598.217-subsection-4~~ 598.21B, the dependent  
24 benefits paid for any child shall be included as income to the  
25 disabled parent.

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

28 (1) The dollar amount of the child support obligation as  
29 calculated by application of the guidelines under section  
30 ~~598.217-subsection-4~~ 598.21B, and a statement that the social  
31 security dependent benefits are included as income to the  
32 obligor in that calculation.

33 Sec. 49. Section 598.22C, subsection 3, paragraph b, Code  
34 2005, is amended to read as follows:

35 b. The amount of the child support obligation stated in

1 the order, and the amount the obligor shall pay after  
2 application of the social security disability dependent  
3 benefit credit or satisfaction stated in the order, shall  
4 continue until modified, as provided in section 598-21  
5 598.21C.

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

8 The court may protect and promote the best interests of a  
9 minor child by setting aside a portion of the child support  
10 which either party is ordered to pay in a separate fund or  
11 conservatorship for the support, education, and welfare of the  
12 child.

13 Sec. 51. Section 598.41, subsection 1, paragraph a, Code  
14 2005, is amended to read as follows:

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

27 Sec. 52. Section 598.41, Code 2005, is amended by adding  
28 the following new subsection:

29 NEW SUBSECTION. 9. All orders relating to custody of a  
30 child are subject to chapter 598B.

31 Sec. 53. Section 600.11, subsection 2, paragraph f, Code  
32 2005, is amended to read as follows:

33 f. A person who is ordered to pay support or a  
34 postsecondary education subsidy pursuant to section 598-217  
35 ~~subsection-5A~~ 598.21F, or chapter 234, 252A, 252C, 252F, 598,

1 600B, or any other chapter of the Code, for a person eighteen  
2 years of age or older who is being adopted by a stepparent,  
3 and the support order or order requires payment of support or  
4 postsecondary education subsidy for any period of time after  
5 the child reaches eighteen years of age.

6 Sec. 54. Section 600A.8, Code 2005, is amended by adding  
7 the following new subsection:

8 NEW SUBSECTION. 9. The parent has been imprisoned for a  
9 crime against the child, the child's sibling, or another child  
10 in the household, or the parent has been imprisoned and it is  
11 unlikely that the parent will be released from prison for a  
12 period of five or more years.

13 Sec. 55. Section 600B.25, subsection 1, Code 2005, is  
14 amended to read as follows:

15 1. Upon a finding of paternity pursuant to section  
16 600B.24, the court shall establish the father's monthly  
17 support payment and the amount of the support debt accrued or  
18 accruing pursuant to section ~~598-217-subsection-47-until-the~~  
19 ~~child-reaches-majority-or-until-the-child-finishes-high~~  
20 ~~school-if-after-majority~~ 598.21B. The support obligation  
21 shall include support of the child between the ages of  
22 eighteen and nineteen years if the child is engaged full-time  
23 in completing high school graduation or equivalency  
24 requirements in a manner which is reasonably expected to  
25 result in completion of the requirements prior to the person  
26 reaching nineteen years of age. The court may order the  
27 father to pay amounts the court deems appropriate for the past  
28 support and maintenance of the child and for the reasonable  
29 and necessary expenses incurred by or for the mother in  
30 connection with prenatal care, the birth of the child, and  
31 postnatal care of the child and the mother, and other medical  
32 support as defined in section 252E.1. The court may award the  
33 prevailing party the reasonable costs of suit, including but  
34 not limited to reasonable attorney fees.

35 Sec. 56. Section 600B.41A, subsection 6, paragraph b, Code

1 2005, is amended to read as follows:

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

9 Sec. 57. Sections 598.6, 598.7A, 598.14A, 598.14B, and  
10 598.19A, Code 2005, are repealed.

11 EXPLANATION

12 This bill amends portions of the Code relating to  
13 dissolution of marriage and domestic relations, termination of  
14 parental rights, and child support. The bill also  
15 restructures Code chapter 598, relating to dissolution of  
16 marriage and domestic relations by reordering sections and  
17 providing subsection headings.

18 The bill authorizes the court to appoint a guardian ad  
19 litem in a dissolution proceeding to represent the best  
20 interests of the child. The bill specifies the duties of the  
21 guardian ad litem and provides that the same person may serve  
22 both as the child's legal counsel and as the child's guardian  
23 ad litem. The bill also provides that the court may appoint a  
24 separate guardian ad litem, if the same person cannot properly  
25 represent the legal interests of the child as legal counsel  
26 and also represent the best interests of the child as guardian  
27 ad litem, or a separate guardian ad litem is required to  
28 fulfill the requirements specified for a guardian ad litem.

29 The bill also adds as a ground for termination of parental  
30 rights under Code chapter 600A, the same provision that is  
31 included as a ground for termination of parental rights under  
32 Code chapter 232. The ground for termination is that the  
33 parent of the child has been imprisoned for a crime against  
34 the child, the child's sibling, or another child in the  
35 household, or the parent has been imprisoned and it is

1 unlikely that the parent will be released from prison for a  
2 period of five or more years.

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SENATE FILE 330

H-1190

- 1 Amend Senate File 330 as follows:
- 2 1. Page 39, line 28, by striking the word
- 3 "subsection" and inserting the following:
- 4 "subsections".
- 5 2. Page 39, by inserting after line 30, the
- 6 following:
- 7 "NEW SUBSECTION. 10. The court shall include a
- 8 developmentally appropriate parenting time plan in all
- 9 decrees and custody orders. A developmentally
- 10 appropriate parenting time plan shall take into
- 11 consideration the child's age, developmental needs,
- 12 personal characteristics which may include temperament
- 13 and activity level, and other circumstances which may
- 14 affect the scheduling of parenting time."
- 15 3. By renumbering as necessary.

By CARROLL of Poweshiek

H-1190 FILED MARCH 28, 2005

HOUSE AMENDMENT TO  
SENATE FILE 330

S-3072

- 1 Amend Senate File 330 as follows:
- 2 1. Page 39, line 28, by striking the word
- 3 "subsection" and inserting the following:
- 4 "subsections".
- 5 2. Page 39, by inserting after line 30, the
- 6 following:
- 7 "NEW SUBSECTION. 10. The court shall include a
- 8 developmentally appropriate parenting time plan in all
- 9 decrees and custody orders. A developmentally
- 10 appropriate parenting time plan shall take into
- 11 consideration the child's age, developmental needs,
- 12 personal characteristics which may include temperament
- 13 and activity level, and other circumstances which may
- 14 affect the scheduling of parenting time."
- 15 3. By renumbering as necessary.

RECEIVED FROM THE HOUSE

S-3072 FILED MARCH 30, 2005

**Fiscal Services Division**  
**Legislative Services Agency**  
**Fiscal Note**

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SF 330 - Family Law Proposal (LSB 1075 SV)

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

Fiscal Note Version – As amended by S-3072

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**Description**

Senate File 330, as amended by S-3072, relates to family law provisions including dissolution of marriage and domestic relations, termination of parental rights, and child support provisions. The Bill also requires the inclusion of a developmentally appropriate parenting time plan in all decrees and custody orders.

**Background**

1. In calendar year 2004, the Judicial Branch handled 10,058 dissolution of marriages and 2,123 applications for modification of a dissolution decree.
2. The average time the Judicial Branch spends on a family law case is 103 minutes or \$240 per case.
3. The Department of Human Services has approximately \$400 in one-time costs for changes to employee's manuals, forms, and rules.
4. The Department of Human Services (DHS), Child Support Recovery Unit (CSRU) will enforce the order for child support for a fee of \$25. If there is no order for child support, there is no child support to collect.
5. The CSRU collects \$2,143 per child support order annually in nonpublic assistance cases. The CSRU collects \$1,977 per order annually in public assistance cases.

**Assumptions**

1. A six month lag is assumed from the time of implementation to the time the first cases are heard by the Judicial Branch.
2. The overall Judicial Branch planning costs for developmentally appropriation parenting time plans are estimated to be \$14,000, which includes the creation of a 12-member special task force, a consultant, and Supreme Court review of the rules.
3. Approximately 60.0% (7,200) of the cases for dissolution of marriage and modification of a dissolution decree involve children.
4. Senate File 330, as amended by S-3072, is estimated to increase the amount of time the Judicial Branch spends per case by approximately five minutes per case for each additional parenting time plan filed for the Judge to review for compliance.
5. If the parenting time plans or any element of the time plans are contested by one of the parties, this will add an additional 15 minutes of court time. It is estimated that 10.0% of the 7,200 cases will be contested in some fashion.
6. The DHS would have a one-time programming cost for adding developmentally appropriate parenting time plans to the Statewide Integrated Child Support Recovery computer system.
7. Senate File 330, as amended by S-3072, requires that the Judicial Branch include a developmentally appropriate parenting time plan in all decrees and custody orders.

## **Fiscal Impact**

The total fiscal impact of SF 330, as amended by S-3072, on the General Fund is \$82,800 in FY 2006 and \$107,600 in FY 2007 as shown below:

	<u>FY 2006</u>	<u>FY 2007</u>
<b>Judicial Branch</b>		
Clerk Processing Time	\$ 8,800	\$ 17,600
Court Time	45,000	90,000
* Court Planning Costs	14,000	0
Total	<u>\$ 67,800</u>	<u>\$ 107,600</u>
<b>Department of Human Services</b>		
* Computer Programming	<u>\$ 15,000</u>	<u>\$ 0</u>
<b>Overall Impact of SF 330 as amended by S-3072</b>	<u>\$ 82,800</u>	<u>\$ 107,600</u>

\* One-time costs

## **Sources**

Department of Human Services  
Judicial Branch

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April 4, 2005

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The fiscal note and correctional impact statement for this bill was prepared pursuant to Joint Rule 17 and pursuant to Section 2.56, Code of Iowa. Data used in developing this fiscal note and correctional impact statement are available from the Fiscal Services Division, Legislative Services Agency to members of the Legislature upon request.

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SENATE FILE 330

S-3141

1 Amend the House amendment, S-3072, to Senate File  
2 330, as passed by the Senate, as follows:  
3 1. Page 1, by striking lines 2 through 14, and  
4 inserting the following:  
5 "\_\_\_\_. Page 39, by inserting after line 26 the  
6 following:  
7 "Sec. \_\_\_\_\_. Section 598.41, subsection 5, paragraph  
8 a, Code 2005, is amended to read as follows:  
9 a. If joint legal custody is awarded to both  
10 parents, the court may award joint physical care to  
11 both joint custodial parents upon the request of  
12 either parent. Prior to ruling on the request for the  
13 award of joint physical care, the court may require  
14 the parents to submit, either individually or jointly,  
15 a proposed joint physical care parenting plan. A  
16 proposed joint physical care parenting plan shall  
17 address how the parents will make decisions affecting  
18 the child, how the parents will provide a home for the  
19 child, how the child's time will be divided between  
20 the parents and how each parent will facilitate the  
21 child's time with the other parent, arrangements in  
22 addition to court-ordered child support for the  
23 child's expenses, how the parents will resolve major  
24 changes or disagreements affecting the child including  
25 changes that arise due to the child's age and  
26 developmental needs, and any other issues the court  
27 may require. If the court denies the request for  
28 joint physical care, the determination shall be  
29 accompanied by specific findings of fact and  
30 conclusions of law that the awarding of joint physical  
31 care is not in the best interest of the child."  
32 2. By renumbering as necessary.

By KEITH A. KREIMAN

S-3141 FILED APRIL 19, 2005  
ADOPTED

**SENATE AMENDMENT TO HOUSE AMENDMENT TO  
SENATE FILE 330**

**H-1422**

1 Amend the House amendment, S-3072, to Senate File  
2 330, as passed by the Senate, as follows:

3 1. Page 1, by striking lines 2 through 14, and  
4 inserting the following:

5 "\_\_\_\_. Page 39, by inserting after line 26 the  
6 following:

7 "Sec. \_\_\_\_\_. Section 598.41, subsection 5, paragraph  
8 a, Code 2005, is amended to read as follows:

9 a. If joint legal custody is awarded to both  
10 parents, the court may award joint physical care to  
11 both joint custodial parents upon the request of  
12 either parent. Prior to ruling on the request for the  
13 award of joint physical care, the court may require  
14 the parents to submit, either individually or jointly,  
15 a proposed joint physical care parenting plan. A  
16 proposed joint physical care parenting plan shall  
17 address how the parents will make decisions affecting  
18 the child, how the parents will provide a home for the  
19 child, how the child's time will be divided between  
20 the parents and how each parent will facilitate the  
21 child's time with the other parent, arrangements in  
22 addition to court-ordered child support for the  
23 child's expenses, how the parents will resolve major  
24 changes or disagreements affecting the child including  
25 changes that arise due to the child's age and  
26 developmental needs, and any other issues the court  
27 may require. If the court denies the request for  
28 joint physical care, the determination shall be  
29 accompanied by specific findings of fact and  
30 conclusions of law that the awarding of joint physical  
31 care is not in the best interest of the child."  
32 2. By renumbering as necessary.

RECEIVED FROM THE SENATE

**H-1422** FILED APRIL 19, 2005

Larson co-chair  
Kreiman co-chair  
McKibben  
Hancock

Succeeded By  
HF 330

SSB# 1070  
Judiciary

SENATE FILE \_\_\_\_\_  
BY (PROPOSED COMMITTEE ON  
JUDICIARY BILL BY  
CO-CHAIRPERSON KREIMAN)

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

**A BILL FOR**

1 An Act relating to family law provisions including dissolution of  
2 marriage and domestic relations, termination of parental  
3 rights proceedings, and postsecondary education subsidy  
4 provisions, providing an effective date, and providing for  
5 retroactive applicability.

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

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

3 1. For an individual to whom section 234.35, subsection 1,  
4 is applicable, a dispositional order of the juvenile court  
5 requiring the provision of foster care, or an administrative  
6 order entered pursuant to chapter 252C, or any order  
7 establishing paternity and support for a child in foster care,  
8 shall establish, after notice and a reasonable opportunity to  
9 be heard is provided to a parent or guardian, the amount of  
10 the parent's or guardian's support obligation for the cost of  
11 foster care provided by the department. The amount of the  
12 parent's or guardian's support obligation and the amount of  
13 support debt accrued and accruing shall be established in  
14 accordance with the child support guidelines prescribed under  
15 section ~~598.217-subsection-4~~ 598.21B. However, the court, or  
16 the department of human services in establishing support by  
17 administrative order, may deviate from the prescribed  
18 obligation after considering a recommendation by the  
19 department for expenses related to goals and objectives of a  
20 case permanency plan as defined under section 237.15, and upon  
21 written findings of fact which specify the reason for  
22 deviation and the prescribed guidelines amount. Any order for  
23 support shall direct the payment of the support obligation to  
24 the collection services center for the use of the department's  
25 foster care recovery unit. The order shall be filed with the  
26 clerk of the district court in which the responsible parent or  
27 guardian resides and has the same force and effect as a  
28 judgment when entered in the judgment docket and lien index.  
29 The collection services center shall disburse the payments  
30 pursuant to the order and record the disbursements. If  
31 payments are not made as ordered, the child support recovery  
32 unit may certify a default to the court and the court may, on  
33 its own motion, proceed under section 598.22 or 598.23 or the  
34 child support recovery unit may enforce the judgment as  
35 allowed by law. An order entered under this subsection may be

1 modified only in accordance with the guidelines prescribed  
2 under section ~~598-217-subsection-8~~ 598.21C, or under chapter  
3 252H.

4 2. For an individual who is served by the department of  
5 human services under section 234.35, and is not subject to a  
6 dispositional order of the juvenile court requiring the  
7 provision of foster care, the department shall determine the  
8 obligation of the individual's parent or guardian pursuant to  
9 chapter 252C and in accordance with the child support  
10 guidelines prescribed under section ~~598-217-subsection-4~~  
11 598.21B. However, the department may adjust the prescribed  
12 obligation for expenses related to goals and objectives of a  
13 case permanency plan as defined under section 237.15. An  
14 obligation determined under this subsection may be modified  
15 only in accordance with conditions under section ~~598-217~~  
16 subsection-8 598.21C, or under chapter 252H.

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

19 1. A spouse is liable for the support of the other spouse  
20 and any child or children under eighteen years of age and any  
21 other dependent. The court shall establish the respondent's  
22 monthly support payment and the amount of the support debt  
23 accrued and accruing pursuant to section ~~598-21~~ 598.21A,  
24 598.21B, or 598.21F, as applicable.

25 2. A parent is liable for the support of the parent's  
26 child or children under eighteen years of age, whenever the  
27 other parent of such child or children is dead, or cannot be  
28 found, or is incapable of supporting the child or children,  
29 and, if the liable parent is possessed of sufficient means or  
30 able to earn the means. The court having jurisdiction of the  
31 respondent in a proceeding instituted under this chapter shall  
32 establish the respondent's monthly support payment and the  
33 amount of the support debt accrued and accruing pursuant to  
34 section ~~598-217-subsection-4~~ 598.21B. The support obligation  
35 shall include support of a parent's child between the ages of

1 eighteen and nineteen years if the child is engaged full-time  
2 in completing high school graduation or equivalency  
3 requirements in a manner which is reasonably expected to  
4 result in completion of the requirements prior to the person  
5 reaching nineteen years of age. The court may also order a  
6 postsecondary education subsidy pursuant to section 598.21F.

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

9 NEW SUBSECTION. 8A. If paternity of a child born out of  
10 wedlock is established as provided in subsection 8, the court  
11 shall establish the respondent's monthly support payment and  
12 the amount of the support debt accrued and accruing pursuant  
13 to section 598.21B. The support obligation shall include  
14 support of the child between the ages of eighteen and nineteen  
15 years if the child is engaged full-time in completing high  
16 school graduation or equivalency requirements in a manner  
17 which is reasonably expected to result in completion of the  
18 requirements prior to the person reaching nineteen years of  
19 age. The court may also order a postsecondary education  
20 subsidy pursuant to section 598.21F.

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

23 4. If the respondent appears at the hearing and fails to  
24 answer the petition or admits the allegations of the petition,  
25 or if, after a hearing, the court has found and determined  
26 that the prayer of the petitioner, or any part of the prayer,  
27 is supported by the evidence adduced in the proceeding, and  
28 that the dependent is in need of and entitled to support from  
29 a party, the court shall make and enter an order directing a  
30 party to furnish support for the dependent and to pay a sum as  
31 the court determines pursuant to section ~~598.21~~ 598.21A,  
32 598.21B, or 598.21F, as applicable. Upon entry of an order  
33 for support or upon failure of a person to make payments  
34 pursuant to an order for support, the court may require a  
35 party to provide security, a bond, or other guarantee which

1 the court determines is satisfactory to secure the payment of  
2 the support. Upon the party's failure to pay the support  
3 under the order, the court may declare the security, bond, or  
4 other guarantee forfeited.

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

7 b. If the respondent, after being served with notice as  
8 required under section 252A.6, fails to timely respond to the  
9 notice, or to appear for blood or genetic tests pursuant to a  
10 court or administrative order, or to appear at a scheduled  
11 hearing after being provided notice of the hearing, the court  
12 shall find the respondent in default, and shall enter an order  
13 establishing paternity and establishing the monthly child  
14 support payment and the amount of the support debt accrued and  
15 accruing pursuant to section ~~598-217-subsection-4~~ 598.21B, or  
16 medical support pursuant to chapter 252E, or both.

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

19 (2) If the court determines that the prior determination  
20 of paternity should not be overcome, pursuant to section  
21 600B.41A, and that the party has a duty to provide support,  
22 the court shall enter an order establishing the monthly child  
23 support payment and the amount of the support debt accrued and  
24 accruing pursuant to section ~~598-217-subsection-4~~ 598.21B, or  
25 medical support pursuant to chapter 252E, or both.

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

28 3. If the expert analyzing the blood or genetic test  
29 concludes that the test results demonstrate that the putative  
30 father is not excluded and that the probability of the  
31 putative father's paternity is ninety-nine percent or higher  
32 and if the test results have not been challenged, the court,  
33 upon motion by a party, shall enter a temporary order for  
34 child support to be paid pursuant to section ~~598-217~~  
35 ~~subsection-4~~ 598.21B. The court shall require temporary

1 support to be paid to the clerk of court or to the collection  
2 services center. If the court subsequently determines the  
3 putative father is not the father, the court shall terminate  
4 the temporary support order. All support obligations which  
5 came due prior to the order terminating temporary support are  
6 unaffected by this action and remain a judgment subject to  
7 enforcement.

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

10 4. Assistance to set off against a debtor's income tax  
11 refund or rebate any support debt, which is assigned to the  
12 department of human services or which the child support  
13 recovery unit is attempting to collect on behalf of any  
14 individual not eligible as a public assistance recipient,  
15 which has accrued through written contract, subrogation, or  
16 court judgment, and which is in the form of a liquidated sum  
17 due and owing for the care, support, or maintenance of a  
18 child. Unless the periodic payment plan provisions for a  
19 retroactive modification pursuant to section 598-217  
20 ~~subsection-87~~ 598.21C apply, the entire amount of a judgment  
21 for accrued support, notwithstanding compliance with a  
22 periodic payment plan or regardless of the date of entry of  
23 the judgment, is due and owing as of the date of entry of the  
24 judgment and is delinquent for the purposes of setoff,  
25 including for setoff against a debtor's federal income tax  
26 refund or other federal nontax payment. The department of  
27 human services shall adopt rules pursuant to chapter 17A  
28 necessary to assist the department of administrative services  
29 in the implementation of the child support setoff as  
30 established under section 8A.504.

31 Sec. 9. Section 252B.5, subsection 7, unnumbered paragraph  
32 1, Code 2005, is amended to read as follows:

33 At the request of either parent who is subject to the order  
34 of support or upon its own initiation, review the amount of  
35 the support award in accordance with the guidelines

1 established pursuant to section ~~598.217~~-~~subsection-4~~ 598.21B,  
2 and Title IV-D of the federal Social Security Act, as amended,  
3 and take action to initiate modification proceedings if the  
4 criteria established pursuant to this section are met.  
5 However, a review of a support award is not required if the  
6 child support recovery unit determines that such a review  
7 would not be in the best interest of the child and neither  
8 parent has requested such review.

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

11 3. Appear on behalf of the state for the purpose of  
12 facilitating the modification of support awards consistent  
13 with guidelines established pursuant to section ~~598.217~~  
14 ~~subsection-4~~ 598.21B, and Title IV-D of the federal Social  
15 Security Act. The unit shall not otherwise participate in the  
16 proceeding.

17 Sec. 11. Section 252B.9, subsection 1, paragraph b, Code  
18 2005, is amended to read as follows:

19 b. Parents of a child on whose behalf support enforcement  
20 services are provided shall provide information regarding  
21 income, resources, financial circumstances, and property  
22 holdings to the department for the purpose of establishment,  
23 modification, or enforcement of a support obligation. The  
24 department may provide the information to parents of a child  
25 as needed to implement the requirements of section ~~598.217~~  
26 ~~subsection-4~~ 598.21B, notwithstanding any provisions of law  
27 making this information confidential.

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

30 The payment of public assistance to or for the benefit of a  
31 dependent child or a dependent child's caretaker creates a  
32 support debt due and owing to the department by the  
33 responsible person in an amount equal to the public assistance  
34 payment, except that the support debt is limited to the amount  
35 of a support obligation established by court order or by the

1 administrator. The administrator may establish a support debt  
2 as to amounts accrued and accruing pursuant to section 598-217  
3 ~~subsection-4~~ 598.21B. However, when establishing a support  
4 obligation against a responsible person, no debt shall be  
5 created for the period during which the responsible person is  
6 a recipient on the person's own behalf of public assistance  
7 for the benefit of the dependent child or the dependent  
8 child's caretaker, if any of the following conditions exist:

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

11 3. The provision of child support collection or paternity  
12 determination services under chapter 252B to an individual,  
13 even though the individual is ineligible for public  
14 assistance, creates a support debt due and owing to the  
15 individual or the individual's child or ward by the  
16 responsible person in the amount of a support obligation  
17 established by court order or by the administrator. The  
18 administrator may establish a support debt in favor of the  
19 individual or the individual's child or ward and against the  
20 responsible person, both as to amounts accrued and accruing,  
21 pursuant to section 598-217-~~subsection-4~~ 598.21B.

22 Sec. 14. Section 252C.3, subsection 1, paragraph a, Code  
23 2005, is amended to read as follows:

24 a. A statement that the support obligation will be set  
25 pursuant to the child support guidelines established pursuant  
26 to section 598-217-~~subsection-4~~ 598.21B, and the criteria  
27 established pursuant to section 252B.7A, and that the  
28 responsible person is required to provide medical support in  
29 accordance with chapter 252E.

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

32 4. The court shall establish the monthly child support  
33 payment and the amount of the support debt accrued and  
34 accruing pursuant to section 598-217-~~subsection-4~~ 598.21B, or  
35 medical support pursuant to chapter 252E, or both.

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

3     (2) If the court determines that the prior determination  
4 of paternity should not be overcome pursuant to section  
5 600B.41A, and that the responsible person has a duty to  
6 provide support, the court shall enter an order establishing  
7 the monthly child support payment and the amount of the  
8 support debt accrued and accruing pursuant to section ~~598-217~~  
9 ~~subsection-4~~ 598.21B, or medical support pursuant to chapter  
10 252E, or both.

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

13     c. A statement that if paternity is established, the  
14 amount of the putative father's monthly support obligation and  
15 the amount of the support debt accrued and accruing will be  
16 established in accordance with the guidelines established in  
17 section ~~598-217~~-~~subsection-4~~ 598.21B, and the criteria  
18 established pursuant to section 252B.7A.

19     e. A written explanation of the procedures for determining  
20 the child support obligation and a request for financial or  
21 income information as necessary for application of the child  
22 support guidelines established pursuant to section ~~598-217~~  
23 ~~subsection-4~~ 598.21B.

24     Sec. 18. Section 252F.4, subsections 1 through 4, Code  
25 2005, are amended to read as follows:

26     1. If the putative father fails to respond to the initial  
27 notice within twenty days after the date of service of the  
28 notice or fails to appear at a conference pursuant to section  
29 252F.3 on the scheduled date of the conference, and paternity  
30 has not been contested and the putative father fails to timely  
31 request a court hearing on the issue of support, the  
32 administrator shall enter an order against the putative  
33 father, declaring the putative father to be the legal father  
34 of the child or children involved and assessing any accrued  
35 and accruing child support obligation pursuant to the

1 guidelines established under section ~~598-217-subsection-4~~  
2 598.21B, and medical support pursuant to chapter 252E, against  
3 the father.

4     2. If paternity is contested pursuant to section 252F.3,  
5 subsection 6, and the party contesting paternity fails to  
6 appear for a paternity test and fails to request a  
7 rescheduling pursuant to section 252F.3, or fails to appear  
8 for both the initial and the rescheduled paternity tests and  
9 the putative father fails to timely request a court hearing on  
10 the issue of support, the administrator shall enter an order  
11 against the putative father declaring the putative father to  
12 be the legal father of the child or children involved and  
13 assessing any accrued and accruing child support obligation  
14 pursuant to the guidelines established under section ~~598-217~~  
15 subsection-4 598.21B, and medical support pursuant to chapter  
16 252E, against the father.

17     3. If the putative father appears at a conference pursuant  
18 to section 252F.3, and paternity is not contested, and the  
19 putative father fails to timely request a court hearing on the  
20 issue of support, the administrator shall enter an order  
21 against the putative father after the second notice has been  
22 sent declaring the putative father to be the legal father of  
23 the child or children involved and assessing any accrued and  
24 accruing child support obligation pursuant to the guidelines  
25 established under section ~~598-217-subsection-4~~ 598.21B, and  
26 medical support pursuant to chapter 252E against the father.

27     4. If paternity was contested and paternity testing was  
28 performed and the putative father was not excluded, if the  
29 test results indicate that the probability of the putative  
30 father's paternity is ninety-five percent or greater, if the  
31 test results are not timely challenged, and if the putative  
32 father fails to timely request a court hearing on the issue of  
33 support, the administrator shall enter an order against the  
34 putative father declaring the putative father to be the legal  
35 father of the child or children involved and assessing any

1 accrued and accruing child support obligation pursuant to the  
2 guidelines established under section ~~598-217-subsection-4~~  
3 598.21B, and medical support pursuant to chapter 252E, against  
4 the father.

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

7 6. If the court determines that the putative father is the  
8 legal father, the court shall establish the amount of the  
9 accrued and accruing child support pursuant to the guidelines  
10 established under section ~~598-217-subsection-4~~ 598.21B, and  
11 shall establish medical support pursuant to chapter 252E.

12 Sec. 20. Section 252H.2, subsection 2, paragraph a, Code  
13 2005, is amended to read as follows:

14 a. A change in the amount of child support based upon an  
15 application of the child support guidelines established  
16 pursuant to section ~~598-217-subsection-4~~ 598.21B.

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

19 252H.6 COLLECTION OF INFORMATION.

20 The unit may request, obtain, and validate information  
21 concerning the financial circumstances of the parents of a  
22 child as necessary to determine the appropriate amount of  
23 support pursuant to the guidelines established in section  
24 ~~598-217-subsection-4~~ 598.21B, including but not limited to  
25 those sources and procedures described in sections 252B.7A and  
26 252B.9. The collection of information does not constitute a  
27 review conducted pursuant to section 252H.16.

28 Sec. 22. Section 252H.8, subsection 4, paragraph g, Code  
29 2005, is amended to read as follows:

30 g. Copies of any computation worksheet prepared by the  
31 unit to determine the amount of support calculated using the  
32 mandatory child support guidelines established under section  
33 ~~598-217-subsection-4~~ 598.21B, and, if appropriate and the  
34 social security disability provisions of sections 598.22 and  
35 598.22C apply, a determination of the amount of delinquent

1 support due.

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

4 10. The court shall establish the amount of child support  
5 pursuant to section ~~598-217-subsection-4~~ 598.21B, or medical  
6 support pursuant to chapter 252E, or both.

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

9 2. For orders to which subchapter II or III is applicable,  
10 the unit shall determine the appropriate amount of the child  
11 support obligation using the current child support guidelines  
12 established pursuant to section ~~598-217-subsection-4~~ 598.21B,  
13 and the criteria established pursuant to section 252B.7A and  
14 shall determine the provisions for medical support pursuant to  
15 chapter 252E.

16 Sec. 25. Section 252H.10, unnumbered paragraph 1, Code  
17 2005, is amended to read as follows:

18 Pursuant to section ~~598-217-subsection-8~~ 598.21C, any  
19 administrative or court order resulting from an action  
20 initiated under this chapter may be made retroactive only to  
21 the date that all parties were successfully served the notice  
22 required under section 252H.15 or section 252H.19, as  
23 applicable.

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

26 c. An explanation of the procedures for determining child  
27 support and a request for financial or income information as  
28 necessary for application of the child support guidelines  
29 established pursuant to section ~~598-217-subsection-4~~ 598.21B.

30 e. Criteria for determining appropriateness of an  
31 adjustment and a statement that the unit will use the child  
32 support guidelines established pursuant to section ~~598-217~~  
33 ~~subsection-4~~ 598.21B, and the provisions for medical support  
34 pursuant to chapter 252E to adjust the order.

35 Sec. 27. Section 252H.18A, subsection 3, Code 2005, is

1 amended to read as follows:

2 3. Notwithstanding section ~~598.217-subsections-8-and-9~~  
3 598.21C, for purposes of this section, a substantial change in  
4 circumstances means there has been a change of fifty percent  
5 or more in the income of a parent, and the change is due to  
6 financial circumstances which have existed for a minimum  
7 period of three months and can reasonably be expected to exist  
8 for an additional three months.

9 Sec. 28. Section 252H.19, subsection 2, paragraph c, Code  
10 2005, is amended to read as follows:

11 c. An explanation of the procedures for determining child  
12 support and a request for financial or income information as  
13 necessary for application of the child support guidelines  
14 established pursuant to section ~~598.217-subsection-4~~ 598.21B.

15 Sec. 29. Section 252H.21, subsection 2, paragraph a, Code  
16 2005, is amended to read as follows:

17 a. To the extent permitted under 42 U.S.C. §  
18 666(a)(10)(A)(i)(II), the cost-of-living alteration shall be  
19 an exception to any requirement under law for the application  
20 of the child support guidelines established pursuant to  
21 section ~~598.217-subsection-4~~ 598.21B, including but not  
22 limited to any requirement in this chapter or chapter 234,  
23 252A, 252B, 252C, 252F, 598, or 600B.

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

26 598.5 CONTENTS OF PETITION -- VERIFICATION -- EVIDENCE.

27 1. The petition for dissolution of marriage shall:

28 ~~1-~~ a. State the name, birth date, address and county of  
29 residence of the petitioner and the name and address of the  
30 petitioner's attorney.

31 ~~2-~~ b. State the place and date of marriage of the  
32 parties.

33 ~~3-~~ c. State the name, birth date, address and county of  
34 residence, if known, of the respondent.

35 ~~4-~~ d. State the name and age of each minor child by date

1 of birth whose welfare may be affected by the controversy.

2 5- e. State whether or not a separate action for  
3 dissolution of marriage or child support has been commenced  
4 and whether such action is pending in any court in this state  
5 or elsewhere. State whether the entry of an order would  
6 violate 28 U.S.C. § 1738B. If there is an existing child  
7 support order, the party shall disclose identifying  
8 information regarding the order.

9 6- f. Allege that the petition has been filed in good  
10 faith and for the purposes set forth therein.

11 7- g. Allege that there has been a breakdown of the  
12 marriage relationship to the extent that the legitimate  
13 objects of matrimony have been destroyed and there remains no  
14 reasonable likelihood that the marriage can be preserved.

15 8- h. Set forth any application for temporary support of  
16 the petitioner and any children without enumerating the  
17 amounts thereof.

18 9- i. Set forth any application for permanent alimony or  
19 support, child custody, or disposition of property, as well as  
20 attorneys' fees and suit money, without enumerating the  
21 amounts thereof.

22 10- j. State whether the appointment of a conciliator  
23 pursuant to section 598.16 may preserve the marriage.

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

32 2. The petition shall be verified by the petitioner.

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

35 Sec. 31. Section 598.7, Code 2005, is amended by striking

1 the section and inserting in lieu thereof the following:

2 598.7 MEDIATION.

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

20 2. The supreme court shall establish a dispute resolution  
21 program in family law cases that includes the opportunities  
22 for mediation and settlement conferences. Any judicial  
23 district may implement such a dispute resolution program,  
24 subject to the rules prescribed by the supreme court.

25 3. The supreme court shall prescribe rules for the  
26 mediation program, including the circumstances under which the  
27 district court may order participation in mediation.

28 4. Any dispute resolution program shall comply with all of  
29 the following standards:

30 a. Participation in mediation shall include attendance at  
31 a mediation session with the mediator and the parties to the  
32 action, listening to the mediator's explanation of the  
33 mediation process, presentation of one party's view of the  
34 case, and listening to the response of the other party.

35 Participation in mediation does not require that the parties

1 reach an agreement.

2 b. The parties may choose the mediator, or the court shall  
3 appoint a mediator. A court-appointed mediator shall meet the  
4 qualifications established by the supreme court.

5 c. Parties to the mediation have the right to advice and  
6 presence of counsel at all times.

7 d. The parties to the mediation shall present any  
8 agreement reached through the mediation to their attorneys, if  
9 any. A mediation agreement reached by the parties shall not  
10 be enforceable until approved by the court.

11 e. The costs of mediation shall be borne by the parties,  
12 as agreed to by the parties, or as ordered by the court, and  
13 may be taxed as court costs. Mediation shall be provided on a  
14 sliding fee scale for parties who are determined to be  
15 indigent pursuant to section 815.9.

16 5. The supreme court shall prescribe qualifications for  
17 mediators under this section. The qualifications shall include  
18 but are not limited to the ethical standards to be observed by  
19 mediators. The qualifications shall not include a requirement  
20 that the mediator be licensed to practice any particular  
21 profession.

22 Sec. 32. NEW SECTION. 598.10 TEMPORARY ORDERS.

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

32 b. In order to encourage compliance with a visitation  
33 order, a temporary order for custody shall provide for a  
34 minimum visitation schedule with the noncustodial parent,  
35 unless the court determines that such visitation is not in the

1 best interest of the child.

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

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

16 598.11 HOW TEMPORARY ORDER MADE -- CHANGES -- RETROACTIVE  
17 MODIFICATION.

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

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

1 3. An order for temporary support may be retroactively  
2 modified only from three months after notice of hearing for  
3 temporary support pursuant to section 598.10 or from three  
4 months after notice of hearing for modification of a temporary  
5 order for support pursuant to this section. The three-month  
6 limitation applies to modification actions pending on or after  
7 July 1, 1997.

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

10 598.12 ATTORNEY OR GUARDIAN AD LITEM FOR MINOR CHILD --  
11 INVESTIGATIONS.

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

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

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

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

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

33 (3) Visiting the home, residence, or both home and  
34 residence of the child and any prospective home or residence  
35 of the child, including visiting the home or residence or

1 prospective home or residence each time placement is changed.

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

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

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

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

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

28 2- 4. The court may require that an appropriate agency  
29 make an investigation of both parties regarding the home  
30 conditions, parenting capabilities, and other matters  
31 pertinent to the best interests of the child or children in a  
32 dispute concerning custody of the child or children. The  
33 investigation report completed by the appropriate agency shall  
34 be submitted to the court and available to both parties. The  
35 investigation report completed by the appropriate agency shall

1 be a part of the record unless otherwise ordered by the court.  
2 ~~3-~~ 5. The court shall enter an order in favor of the  
3 attorney, the guardian ad litem, or an appropriate agency for  
4 fees and disbursements, and the amount shall be charged  
5 against the party responsible for court costs unless the court  
6 determines that the party responsible for costs is indigent,  
7 in which event the fees shall be borne by the county.

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

10 598.14 ATTACHMENT.

11 The petition may be presented to the court for the  
12 allowance of an order of attachment, which, by endorsement  
13 thereon, may direct such attachment and fix the amount for  
14 which it may issue, and the amount of the bond, if any, that  
15 shall be given. Any property taken by virtue thereof shall be  
16 held to satisfy the judgment or decree of the court, but may  
17 be discharged or released as in other cases.

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

20 598.15 MANDATORY COURSE -- PARTIES TO CERTAIN PROCEEDINGS.

21 1. The court shall order the parties to any action which  
22 involves the issues of child custody or visitation to  
23 participate in a court-approved course to educate and  
24 sensitize the parties to the needs of any child or party  
25 during and subsequent to the proceeding within forty-five days  
26 of the service of notice and petition for the action or within  
27 forty-five days of the service of notice and application for  
28 modification of an order. Participation in the course may be  
29 waived or delayed by the court for good cause including, but  
30 not limited to, a default by any of the parties or a showing  
31 that the parties have previously participated in a court-  
32 approved course or its equivalent. Participation in the  
33 course is not required if the proceeding involves termination  
34 of parental rights of any of the parties. A final decree  
35 shall not be granted or a final order shall not be entered

1 until the parties have complied with this section, unless  
2 participation in the course is waived or delayed for good  
3 cause or is otherwise not required under this subsection.

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

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

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

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

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

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

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

3     598.20 FORFEITURE OF MARITAL RIGHTS.

4     When a dissolution of marriage is decreed the parties shall  
5 forfeit all rights acquired by marriage which are not  
6 specifically preserved in the decree. This provision shall  
7 not obviate any of the provisions of section ~~598.21~~ 598.21,  
8 598.21A, 598.21B, 598.21C, 598.21D, 598.21E, or 598.21F.

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

11     598.21 ORDERS FOR DISPOSITION OF PROPERTY.

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

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

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

34     4. PROPERTY FOR CHILDREN. The court may protect and  
35 promote the best interests of children of the parties by

1 setting aside a portion of the property of the parties in a  
2 separate fund or conservatorship for the support, maintenance,  
3 education, and general welfare of the minor children.

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

8 a. The length of the marriage.

9 b. The property brought to the marriage by each party.

10 c. The contribution of each party to the marriage, giving  
11 appropriate economic value to each party's contribution in  
12 homemaking and child care services.

13 d. The age and physical and emotional health of the  
14 parties.

15 e. The contribution by one party to the education,  
16 training, or increased earning power of the other.

17 f. The earning capacity of each party, including  
18 educational background, training, employment skills, work  
19 experience, length of absence from the job market, custodial  
20 responsibilities for children, and the time and expense  
21 necessary to acquire sufficient education or training to  
22 enable the party to become self-supporting at a standard of  
23 living reasonably comparable to that enjoyed during the  
24 marriage.

25 g. The desirability of awarding the family home or the  
26 right to live in the family home for a reasonable period to  
27 the party having custody of the children, or if the parties  
28 have joint legal custody, to the party having physical care of  
29 the children.

30 h. The amount and duration of an order granting support  
31 payments to either party pursuant to section 598.21A and  
32 whether the property division should be in lieu of such  
33 payments.

34 i. Other economic circumstances of each party, including  
35 pension benefits, vested or unvested, and future interests.

1 j. The tax consequences to each party.

2 k. Any written agreement made by the parties concerning  
3 property distribution.

4 l. The provisions of an antenuptial agreement.

5 m. Other factors the court may determine to be relevant in  
6 an individual case.

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

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

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

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

24 598.21A ORDERS FOR SPOUSAL SUPPORT.

25 1. CRITERIA FOR DETERMINING SUPPORT. Upon every judgment  
26 of annulment, dissolution, or separate maintenance, the court  
27 may grant an order requiring support payments to either party  
28 for a limited or indefinite length of time after considering  
29 all of the following:

30 a. The length of the marriage.

31 b. The age and physical and emotional health of the  
32 parties.

33 c. The distribution of property made pursuant to section  
34 598.21.

35 d. The educational level of each party at the time of

1 marriage and at the time the action is commenced.

2 e. The earning capacity of the party seeking maintenance,  
3 including educational background, training, employment skills,  
4 work experience, length of absence from the job market,  
5 responsibilities for children under either an award of custody  
6 or physical care, and the time and expense necessary to  
7 acquire sufficient education or training to enable the party  
8 to find appropriate employment.

9 f. The feasibility of the party seeking maintenance  
10 becoming self-supporting at a standard of living reasonably  
11 comparable to that enjoyed during the marriage, and the length  
12 of time necessary to achieve this goal.

13 g. The tax consequences to each party.

14 h. Any mutual agreement made by the parties concerning  
15 financial or service contributions by one party with the  
16 expectation of future reciprocation or compensation by the  
17 other party.

18 i. The provisions of an antenuptial agreement.

19 j. Other factors the court may determine to be relevant in  
20 an individual case.

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

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

28 1. CUSTODY. The court may provide for joint custody of  
29 the children by the parties pursuant to section 598.41. All  
30 orders relating to custody of a child are subject to chapter  
31 598B.

32 2. CHILD SUPPORT GUIDELINES.

33 a. The supreme court shall maintain uniform child support  
34 guidelines and criteria and review the guidelines and criteria  
35 at least once every four years, pursuant to the federal Family

1 Support Act of 1988, Pub. L. No. 100-485. The initial review  
2 shall be performed within four years of October 12, 1989, and  
3 subsequently within the four-year period of the most recent  
4 review.

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

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

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

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

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

32 3. CHILD SUPPORT ORDERS.

33 a. COURT'S AUTHORITY. Unless prohibited pursuant to 28  
34 U.S.C. § 1738B, upon every judgment of annulment, dissolution,  
35 or separate maintenance, the court may order either parent or

1 both parents to pay an amount reasonable and necessary for  
2 supporting a child.

3 b. CALCULATING AMOUNT OF SUPPORT.

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

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

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

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

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

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

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

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

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

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

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

13 (2) The parent provides proof of compliance with the  
14 requirements of subparagraph (1) to the child support recovery  
15 unit, if the unit is providing services under chapter 252B, or  
16 if the unit is not providing services pursuant to chapter  
17 252B, to the court as the court may direct. Failure to  
18 provide proof of compliance under this subparagraph or proof  
19 of compliance under section 598.21G is grounds for  
20 modification of the support order using the uniform child  
21 support guidelines and imputing an income to the parent equal  
22 to a forty-hour work week at the state minimum wage, unless  
23 the parent's education, experience, or actual earnings justify  
24 a higher income.

25 f. SEPARATE FUND OR CONSERVATORSHIP FOR SUPPORT. The  
26 court may protect and promote the best interests of a minor  
27 child by setting aside a portion of the child support which  
28 either party is ordered to pay in a separate fund or  
29 conservatorship for the support, education, and welfare of the  
30 child.

31 4. MEDICAL SUPPORT. The court shall order as child  
32 medical support a health benefit plan as defined in chapter  
33 252E if available to either parent at a reasonable cost. A  
34 health benefit plan is considered reasonable in cost if it is  
35 employment-related or other group health insurance, regardless

1 of the service delivery mechanism. The premium cost of the  
2 health benefit plan may be considered by the court as a reason  
3 for varying from the child support guidelines. If a health  
4 benefit plan is not available at a reasonable cost, the court  
5 may order any other provisions for medical support as defined  
6 in chapter 252E.

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

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

14 1. CRITERIA FOR MODIFICATION. Subject to 28 U.S.C. §  
15 1738B, the court may subsequently modify child, spousal, or  
16 medical support orders when there is a substantial change in  
17 circumstances. In determining whether there is a substantial  
18 change in circumstances, the court shall consider the  
19 following:

20 a. Changes in the employment, earning capacity, income, or  
21 resources of a party.

22 b. Receipt by a party of an inheritance, pension, or other  
23 gift.

24 c. Changes in the medical expenses of a party.

25 d. Changes in the number or needs of dependents of a  
26 party.

27 e. Changes in the physical, mental, or emotional health of  
28 a party.

29 f. Changes in the residence of a party.

30 g. Remarriage of a party.

31 h. Possible support of a party by another person.

32 i. Changes in the physical, emotional, or educational  
33 needs of a child whose support is governed by the order.

34 j. Contempt by a party of existing orders of court.

35 k. Other factors the court determines to be relevant in an

1 individual case.

2 2. ADDITIONAL CRITERIA FOR MODIFICATION OF CHILD SUPPORT  
3 ORDERS.

4 a. Subject to 28 U.S.C. § 1738B, but notwithstanding  
5 subsection 1, a substantial change of circumstances exists  
6 when the court order for child support varies by ten percent  
7 or more from the amount which would be due pursuant to the  
8 most current child support guidelines established pursuant to  
9 section 598.21B or the obligor has access to a health benefit  
10 plan, the current order for support does not contain  
11 provisions for medical support, and the dependents are not  
12 covered by a health benefit plan provided by the obligee,  
13 excluding coverage pursuant to chapter 249A or a comparable  
14 statute of a foreign jurisdiction.

15 b. This basis for modification is applicable to petitions  
16 filed on or after July 1, 1992, notwithstanding whether the  
17 guidelines prescribed by section 598.21B were used in  
18 establishing the current amount of support. Upon application  
19 for a modification of an order for child support for which  
20 services are being received pursuant to chapter 252B, the  
21 court shall set the amount of child support based upon the  
22 most current child support guidelines established pursuant to  
23 section 598.21B, including provisions for medical support  
24 pursuant to chapter 252E. The child support recovery unit  
25 shall, in submitting an application for modification,  
26 adjustment, or alteration of an order for support, employ  
27 additional criteria and procedures as provided in chapter 252H  
28 and as established by rule.

29 3. APPLICABLE LAW. Unless otherwise provided pursuant to  
30 28 U.S.C. § 1738B, a modification of a support order entered  
31 under chapter 234, 252A, 252C, 600B, this chapter, or any  
32 other support chapter or proceeding between parties to the  
33 order is void unless the modification is approved by the  
34 court, after proper notice and opportunity to be heard is  
35 given to all parties to the order, and entered as an order of

1 the court. If support payments have been assigned to the  
2 department of human services pursuant to section 234.39,  
3 239B.6, or 252E.11, or if services are being provided pursuant  
4 to chapter 252B, the department is a party to the support  
5 order. Modifications of orders pertaining to child custody  
6 shall be made pursuant to chapter 598B. If the petition for a  
7 modification of an order pertaining to child custody asks  
8 either for joint custody or that joint custody be modified to  
9 an award of sole custody, the modification, if any, shall be  
10 made pursuant to section 598.41.

11 4. RETROACTIVITY OF MODIFICATION. Judgments for child  
12 support or child support awards entered pursuant to this  
13 chapter, chapter 234, 252A, 252C, 252F, 600B, or any other  
14 chapter of the Code which are subject to a modification  
15 proceeding may be retroactively modified only from three  
16 months after the date the notice of the pending petition for  
17 modification is served on the opposing party. The three-month  
18 limitation applies to a modification action pending on or  
19 after July 1, 1997. The prohibition of retroactive  
20 modification does not bar the child support recovery unit from  
21 obtaining orders for accrued support for previous time  
22 periods. Any retroactive modification which increases the  
23 amount of child support or any order for accrued support under  
24 this paragraph shall include a periodic payment plan. A  
25 retroactive modification shall not be regarded as a  
26 delinquency unless there are subsequent failures to make  
27 payments in accordance with the periodic payment plan.

28 5. MODIFICATION OF PERIODIC DUE DATE. The periodic due  
29 date established under a prior order for payment of child  
30 support shall not be changed in any modified order under this  
31 section, unless the court determines that good cause exists to  
32 change the periodic due date. If the court determines that  
33 good cause exists, the court shall include the rationale for  
34 the change in the modified order and shall address the issue  
35 of reconciliation of any payments due or made under a prior

1 order which would result in payment of the child support  
2 obligation under both the prior and the modified orders.

3 6. MODIFICATION BY CHILD SUPPORT RECOVERY UNIT.

4 Notwithstanding any other provision of law to the contrary,  
5 when an application for modification or adjustment of support  
6 is submitted by the child support recovery unit, the sole  
7 issues which may be considered by the court in that action are  
8 the application of the guidelines in establishing the amount  
9 of support pursuant to section 598.21B, and provision for  
10 medical support under chapter 252E. When an application for a  
11 cost-of-living alteration of support is submitted by the child  
12 support recovery unit pursuant to section 252H.24, the sole  
13 issue which may be considered by the court in the action is  
14 the application of the cost-of-living alteration in  
15 establishing the amount of child support. Issues related to  
16 custody, visitation, or other provisions unrelated to support  
17 shall be considered only under a separate application for  
18 modification.

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

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

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

32 If a parent awarded joint legal custody and physical care  
33 or sole legal custody is relocating the residence of the minor  
34 child to a location which is one hundred fifty miles or more  
35 from the residence of the minor child at the time that custody

1 was awarded, the court may consider the relocation a  
2 substantial change in circumstances. If the court determines  
3 that the relocation is a substantial change in circumstances,  
4 the court shall modify the custody order to, at a minimum,  
5 preserve, as nearly as possible, the existing relationship  
6 between the minor child and the nonrelocating parent. If  
7 modified, the order may include a provision for extended  
8 visitation during summer vacations and school breaks and  
9 scheduled telephone contact between the nonrelocating parent  
10 and the minor child. The modification may include a provision  
11 assigning the responsibility for transportation of the minor  
12 child for visitation purposes to either or both parents. If  
13 the court makes a finding of past interference by the parent  
14 awarded joint legal custody and physical care or sole legal  
15 custody with the minor child's access to the other parent, the  
16 court may order the posting of a cash bond to assure future  
17 compliance with the visitation provisions of the decree. The  
18 supreme court shall prescribe guidelines for the forfeiting of  
19 the bond and restoration of the bond following forfeiting of  
20 the bond.

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

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

28 a. (1) If the prior determination of paternity is based  
29 on an affidavit of paternity filed pursuant to section  
30 252A.3A, or a court or administrative order entered in this  
31 state, or by operation of law when the mother and established  
32 father are or were married to each other, the provisions of  
33 section 600B.41A apply.

34 (2) If following the proceedings under section 600B.41A  
35 the court determines that the prior determination of paternity

1 should not be overcome, and that the established father has a  
2 duty to provide support, the court shall enter an order  
3 establishing the monthly child support payment and the amount  
4 of the support debt accrued and accruing pursuant to section  
5 598.21B, or the medical support obligation pursuant to chapter  
6 252E, or both.

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

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

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

1 person previously determined not to be the child's father  
2 during the dissolution action may actually be the child's  
3 biological father.

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

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

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

12 2. CONSISTENTLY APPLIED. A parent may be ordered to  
13 provide a postsecondary education subsidy for the parent's  
14 child under this subsection, whether the parents of the child  
15 were married to one another. This subsection shall be applied  
16 consistently to all children notwithstanding whether the  
17 parents of the child were married to one another or under  
18 which chapter a support obligation is established.

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

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

33 b. The court shall then determine the amount, if any,  
34 which the child may reasonably be expected to contribute,  
35 considering the child's financial resources, including but not

1 limited to the availability of financial aid whether in the  
2 form of scholarships, grants, or student loans, and the  
3 ability of the child to earn income while attending school.

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

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

13 5. REPUDIATION BY CHILD. A postsecondary education  
14 subsidy shall not be awarded if the child has repudiated the  
15 parent by publicly disowning the parent, refusing to  
16 acknowledge the parent, or by acting in a similar manner.

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

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

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

1     Sec. 45. NEW SECTION. 598.21G MINOR PARENT -- PARENTING  
2 CLASSES.

3     In any order or judgment entered under chapter 234, 252A,  
4 252C, 252F, 598, or 600B, or under any other chapter which  
5 provides for temporary or permanent support payments, if the  
6 parent ordered to pay support is less than eighteen years of  
7 age, one of the following shall apply:

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

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

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

19     598.22 SUPPORT PAYMENTS -- CLERK OF COURT -- COLLECTION  
20 SERVICES CENTER -- DEFAULTS -- SECURITY.

21     1. Except as otherwise provided in section 598.22A, this  
22 section applies to all initial or modified orders for support  
23 entered under this chapter, chapter 234, 252A, 252C, 252F,  
24 600B, or any other chapter of the Code. All orders or  
25 judgments entered under chapter 234, 252A, 252C, 252F, or  
26 600B, or under this chapter or any other chapter which provide  
27 for temporary or permanent support payments shall direct the  
28 payment of those sums to the clerk of the district court or  
29 the collection services center in accordance with section  
30 252B.14 for the use of the person for whom the payments have  
31 been awarded. Beginning October 1, 1999, all income  
32 withholding payments shall be directed to the collection  
33 services center. Payments to persons other than the clerk of  
34 the district court and the collection services center do not  
35 satisfy the support obligations created by the orders or

1 judgments, except as provided for trusts governed by the  
2 federal Retirement Equity Act of 1984, Pub. L. No. 98-397, for  
3 tax refunds or rebates in section 602.8102, subsection 47, or  
4 for dependent benefits paid to the child support obligee as  
5 the result of disability benefits awarded to the child support  
6 obligor under the federal Social Security Act. For trusts  
7 governed by the federal Retirement Equity Act of 1984, Pub. L.  
8 No. 98-397, the order for income withholding or notice of the  
9 order for income withholding shall require the payment of such  
10 sums to the alternate payee in accordance with the federal  
11 Act. For dependent benefits paid to the child support obligee  
12 as a result of disability benefits awarded to the child  
13 support obligor under the federal Social Security Act, the  
14 provisions of section 598.22C shall apply.

15 2. An income withholding order or notice of the order for  
16 income withholding shall be entered under the terms and  
17 conditions of chapter 252D. However, for trusts governed by  
18 the federal Retirement Equity Act of 1984, Pub. L. No. 98-  
19 397, the payor shall transmit the payments to the alternate  
20 payee in accordance with the federal Act.

21 3. An order or judgment entered by the court for temporary  
22 or permanent support or for income withholding shall be filed  
23 with the clerk. The orders have the same force and effect as  
24 judgments when entered in the judgment docket and lien index  
25 and are records open to the public. Unless otherwise provided  
26 by federal law, if it is possible to identify the support  
27 order to which a payment is to be applied, and if sufficient  
28 information identifying the obligee is provided, the clerk or  
29 the collection services center, as appropriate, shall disburse  
30 the payments received pursuant to the orders or judgments  
31 within two working days of the receipt of the payments. All  
32 moneys received or disbursed under this section shall be  
33 entered in records kept by the clerk, or the collection  
34 services center, as appropriate, which shall be available to  
35 the public. The clerk or the collection services center shall

1 not enter any moneys paid in the record book if not paid  
2 directly to the clerk or the center, as appropriate, except as  
3 provided for trusts and federal social security disability  
4 payments in this section, and for tax refunds or rebates in  
5 section 602.8102, subsection 47.

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

12 5. Prompt payment of sums required to be paid under  
13 sections ~~598.11 and 598.21~~ 598.10, 598.21A, 598.21B, 598.21C,  
14 598.21E, and 598.21F is the essence of such orders or  
15 judgments and the court may act pursuant to section 598.23  
16 regardless of whether the amounts in default are paid prior to  
17 the contempt hearing.

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

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

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

35 Sec. 47. Section 598.22C, subsection 2, Code 2005, is

1 amended to read as follows:

2 2. For the purposes of calculating a support obligation  
3 under section ~~598-217-subsection-4~~ 598.21B, the dependent  
4 benefits paid for any child shall be included as income to the  
5 disabled parent.

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

8 (1) The dollar amount of the child support obligation as  
9 calculated by application of the guidelines under section  
10 ~~598-217-subsection-4~~ 598.21B, and a statement that the social  
11 security dependent benefits are included as income to the  
12 obligor in that calculation.

13 Sec. 49. Section 598.22C, subsection 3, paragraph b, Code  
14 2005, is amended to read as follows:

15 b. The amount of the child support obligation stated in  
16 the order, and the amount the obligor shall pay after  
17 application of the social security disability dependent  
18 benefit credit or satisfaction stated in the order, shall  
19 continue until modified, as provided in section ~~598-21~~  
20 598.21C.

21 Sec. 50. Section 600.11, subsection 2, paragraph f, Code  
22 2005, is amended to read as follows:

23 f. A person who is ordered to pay support or a  
24 postsecondary education subsidy pursuant to section ~~598-217~~  
25 ~~subsection-5A~~ 598.21F, or chapter 234, 252A, 252C, 252F, 598,  
26 600B, or any other chapter of the Code, for a person eighteen  
27 years of age or older who is being adopted by a stepparent,  
28 and the support order or order requires payment of support or  
29 postsecondary education subsidy for any period of time after  
30 the child reaches eighteen years of age.

31 Sec. 51. NEW SECTION. 600A.6A RIGHT TO AND APPOINTMENT  
32 OF COUNSEL.

33 Upon the filing of a petition for the involuntary  
34 termination of parental rights under this chapter, the parent  
35 identified in the petition shall have the right to counsel in

1 connection with all subsequent hearings on the proceedings.  
2 If the parent desires but is financially unable to employ  
3 counsel, the court shall appoint counsel.

4 Sec. 52. Section 600B.25, subsection 1, Code 2005, is  
5 amended to read as follows:

6 1. Upon a finding of paternity pursuant to section  
7 600B.24, the court shall establish the father's monthly  
8 support payment and the amount of the support debt accrued or  
9 accruing pursuant to section ~~598.217-subsection-4, until the~~  
10 ~~child-reaches-majority-or-until-the-child-finishes-high~~  
11 ~~school, if after majority~~ 598.21B. The support obligation  
12 shall include support of the child between the ages of  
13 eighteen and nineteen years if the child is engaged full-time  
14 in completing high school graduation or equivalency  
15 requirements in a manner which is reasonably expected to  
16 result in completion of the requirements prior to the person  
17 reaching nineteen years of age. The court may also order a  
18 postsecondary education subsidy pursuant to section 598.21F.  
19 The court may order the father to pay amounts the court deems  
20 appropriate for the past support and maintenance of the child  
21 and for the reasonable and necessary expenses incurred by or  
22 for the mother in connection with prenatal care, the birth of  
23 the child, and postnatal care of the child and the mother, and  
24 other medical support as defined in section 252E.1. The court  
25 may award the prevailing party the reasonable costs of suit,  
26 including but not limited to reasonable attorney fees.

27 Sec. 53. Section 600B.41A, subsection 6, paragraph b, Code  
28 2005, is amended to read as follows:

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



1 postsecondary education subsidy, consistent relative to  
2 children of married or unmarried parents.

3 The bill authorizes the court to appoint a guardian ad  
4 litem in a dissolution proceeding to represent the best  
5 interests of the child. The bill specifies the duties of the  
6 guardian ad litem and provides that the same person may serve  
7 both as the child's legal counsel and as the child's guardian  
8 ad litem. The bill also provides that the court may appoint a  
9 separate guardian ad litem, if the same person cannot properly  
10 represent the legal interests of the child as legal counsel  
11 and also represent the best interests of the child as guardian  
12 ad litem, or a separate guardian ad litem is required to  
13 fulfill the requirements specified for a guardian ad litem.

14 The bill also clarifies that the court is required to  
15 appoint counsel for indigent persons in termination of  
16 parental rights proceedings, whether the proceedings are  
17 brought under Code chapter 232 or Code chapter 600A, in the  
18 case of involuntary terminations. The bill also provides for  
19 payment of the costs of indigent defense under Code chapter  
20 600A from the funds appropriated to the office of the state  
21 public defender.

22 The bill also restructures Code chapter 598 by reordering  
23 sections and providing subsection headings.

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SENATE FILE 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 ~~598.217-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 ~~598.217-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 prescribed under section ~~598.217-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 ~~598.217-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 598.217-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 598.217~~ 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 598.217-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 598.217-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 ~~598.217~~ ~~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 ~~598.217~~ ~~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 ~~598.217~~ ~~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 ~~598.217~~ ~~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 ~~598.217~~ ~~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 ~~598.217~~ ~~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 ~~598.217~~ ~~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 ~~598.217-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 ~~598.217-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 ~~598.217-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 ~~598.217-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 ~~598.217-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 ~~598.217-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 ~~598.217-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 ~~598.217-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 ~~598.217-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 ~~598.217-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 ~~598.217-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 ~~598.217-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 ~~598.217-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 ~~598.217-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 ~~598.217-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 ~~598.217-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 section. 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.

1. 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 payments 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 subsequently 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 operation 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 ~~598.10 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 ~~598.217~~-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 portion 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 ~~598.217~~ subsection-5A 598.21F, 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 ~~and~~ 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.

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JOHN P. KIBBIE  
President of the Senate

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CHRISTOPHER C. RANTS  
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 330, Eighty-first General Assembly.

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MICHAEL E. MARSHALL  
Secretary of the Senate

Approved 4/28, 2005

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THOMAS J. VILSACK  
Governor