

**House File 338 - Introduced**

HOUSE FILE 338

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and SALMON

**A BILL FOR**

1 An Act relating to the grounds for dissolution of marriage when  
2 minor children are involved.

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

1 Section 1. NEW SECTION. 598.4A Dissolution of marriage —  
2 grounds when minor children involved.

3 A party may petition for dissolution of marriage only upon  
4 proof of any of the following when the welfare of any minor  
5 child may be affected by the controversy:

6 1. The other party has committed adultery.

7 2. The other party has committed a felony and has been  
8 sentenced to imprisonment.

9 3. The other party has abandoned the matrimonial domicile  
10 for a period of one year or more and refuses to return.

11 4. The other party has physically or sexually abused the  
12 party seeking the order or dissolution or a child of one of the  
13 parties.

14 5. The parties have been living separate and apart  
15 continuously without reconciliation for a period of two years  
16 or more.

17 Sec. 2. Section 598.5, subsection 1, paragraph g, Code 2013,  
18 is amended to read as follows:

19 g. (1) Allege If there are not minor children whose welfare  
20 may be affected by the controversy, allege that there has been  
21 a breakdown of the marriage relationship to the extent that  
22 the legitimate objects of matrimony have been destroyed and  
23 there remains no reasonable likelihood that the marriage can  
24 be preserved.

25 (2) If there are minor children whose welfare may be  
26 affected by the controversy, allege one or more grounds for the  
27 dissolution specified in section 598.4A.

28 Sec. 3. Section 598.8, subsection 2, paragraph a,  
29 subparagraph (1), Code 2013, is amended to read as follows:

30 (1) The parties have certified in writing one of the  
31 following:

32 (a) If there are not minor children whose welfare may be  
33 affected by the controversy, that there has been a breakdown  
34 of the marriage relationship to the extent that the legitimate  
35 objects of matrimony have been destroyed and there remains no

1 reasonable likelihood that the marriage can be preserved.

2 (b) If there are minor children whose welfare may be  
3 affected by the controversy, proof of one or more of the  
4 grounds alleged in the petition as specified in section 598.4A.

5 Sec. 4. Section 598.8, subsection 2, paragraph b,  
6 subparagraph (1), Code 2013, is amended to read as follows:

7 (1) The petitioner has certified in writing one of the  
8 following:

9 (a) If there are not minor children whose welfare may be  
10 affected by the controversy, that there has been a breakdown  
11 of the marriage relationship to the extent that the legitimate  
12 objects of matrimony have been destroyed and there remains no  
13 reasonable likelihood that the marriage can be preserved.

14 (b) If there are minor children whose welfare may be  
15 affected by the controversy, proof of one or more of the  
16 grounds alleged in the petition as specified in section 598.4A.

17 Sec. 5. Section 598.17, Code 2013, is amended to read as  
18 follows:

19 **598.17 Dissolution of marriage — evidence.**

20 1. A decree dissolving the marriage may be entered when the  
21 court is satisfied from the evidence presented of one of the  
22 following:

23 a. If there are not minor children whose welfare may be  
24 affected by the controversy, that there has been a breakdown  
25 of the marriage relationship to the extent that the legitimate  
26 objects of matrimony have been destroyed and there remains no  
27 reasonable likelihood that the marriage can be preserved.

28 b. If there are minor children whose welfare may be affected  
29 by the controversy, that there is satisfactory evidence of one  
30 or more of the grounds alleged in the petition as specified in  
31 section 598.4A.

32 2. The decree shall state that the dissolution is granted  
33 to the parties, and shall not state that it is granted to only  
34 one party.

35 3. If at the time of trial petitioner fails to present

1 satisfactory evidence that there has been a breakdown of  
2 the marriage relationship to the extent that the legitimate  
3 objects of matrimony have been destroyed and there remains no  
4 reasonable likelihood that the marriage can be preserved, or of  
5 one or more of the grounds alleged in the petition as specified  
6 in section 598.4A, the respondent may then proceed to present  
7 such evidence as though the respondent had filed the original  
8 petition.

9 4. A dissolution of marriage granted when one of the spouses  
10 has mental illness shall not relieve the other spouse of any  
11 obligation imposed by law as a result of the marriage for the  
12 support of the spouse with mental illness. The court may  
13 make issue an order for the support or may waive the support  
14 obligation when satisfied from the evidence that it would  
15 create an undue hardship on the obliged spouse or that spouse's  
16 other dependents.

17 EXPLANATION

18 This bill relates to the grounds that must be alleged in  
19 a petition for dissolution of marriage. The bill retains  
20 the present grounds of an allegation that there has been a  
21 breakdown of the marriage relationship to the extent that  
22 the legitimate objects of matrimony have been destroyed and  
23 there remains no reasonable likelihood that the marriage can  
24 be preserved in circumstances in which there is no minor child  
25 affected. However, when a minor child may be affected by the  
26 controversy, the bill establishes five grounds that may be  
27 alleged in the petition for dissolution:

- 28 1. The other party has committed adultery.
- 29 2. The other party has committed a felony and has been  
30 sentenced to imprisonment.
- 31 3. The other party has abandoned the matrimonial domicile  
32 for a period of one year or more and refuses to return.
- 33 4. The other party has physically or sexually abused the  
34 party seeking the order or dissolution or a child of one of the  
35 parties.

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1     5. The parties have been living separate and apart  
2 continuously without reconciliation for a period of two years  
3 or more.

4     The bill also makes conforming changes in Code chapter 598  
5 (dissolution of marriage and domestic relations) to reflect the  
6 difference in applicable grounds contingent upon whether or not  
7 a minor child may be affected.