DIVORCE LAW IN IOWA

WORKING FOR FAIRNESS
IOWA LEGAL AID
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IMPORTANT NOTICE: READ THIS INFORMATION BEFORE USING ANY PART OF THIS PUBLICATION

This booklet is a general summary of the law. It is not meant to completely explain the subjects in this booklet. IT IS NOT A SUBSTITUTE FOR LEGAL ADVICE.

The information in this booklet was correct as of the date it was printed (see the back cover). The laws may have changed. DO NOT ASSUME THAT THE INFORMATION IN THIS BOOKLET IS NOW CORRECT.

You should see a lawyer to get complete, correct, and up-to-date legal advice. Do not rely on the general information in this booklet for your specific case.

If you need a lawyer but can’t afford one, contact Iowa Legal Aid. You may be able to get free legal help. Call or write Iowa Legal Aid. The address and phone numbers are on the back cover.

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**Words Commonly Used in Divorce Proceedings**

**ACCEPTANCE OF SERVICE:** Respondent tells the Clerk of Court in writing the Petition has been received.

**ANNULMENT:** Legal proceeding which declared the marriage void and of no effect.

**ANSWER:** Written response of Respondent to Petitioner's Petition. Respondent admits or denies the separate paragraphs of the Petition.

**APPEARANCE:** Respondent tells the Court in writing he or she will appear and submit to the jurisdiction of the court.

**DECREE:** Legal document signed by the judge permanently determining all of the rights and responsibilities of the parties and dissolving the marriage.

**DEFAULT:** Failure of one party to respond to a pleading of the other. Generally it results in granting all requests not answered.

**DISSOLUTION OF MARRIAGE:** The legal end of the marriage, referred to in common usage as “divorce.”

**DOMESTIC ABUSE:** An assault committed between spouses - married, separated, or divorced.

**DOMICILE:** A permanent residence through one may live elsewhere some of the time. A person can have only one domicile.

“**EXTRAORDINARY VISITATION**”: Court-ordered visitation in excess of 127 overnights per year.

**LEGAL SEPARATION:** A proceeding where the couple stays married but all the other issues settled in a divorce are addressed (custody, visitation, division of debts, etc.)

**MODIFICATION:** A change in the decree or order from the court.

**ORIGINAL NOTICE:** A notice served with the Petition stating that an action has been filed against the Respondent. It says a judgment will be taken if she/he fails to answer.

**PETITION:** The first set of papers filed in the action. The Petitioner requests the dissolution of marriage and other relief such as custody, support, attorney fees, etc.

**PETITIONER:** The one who starts the dissolution proceedings.

**RESIDENCE:** Any place where one actually lives. A person can have several residences.

**RESPONDENT:** The person against whom the action is brought.

**IN FORMA PAUPERIS:** A way for poor people to file for divorce without having to pay a filing fee. The fee is charged to one of the parties at the end of the divorce.

**SERVICE:** Delivering the Petition to Respondent. This can be done by the Sheriff’s office or a private process server. It can be done by the petitioner or Petitioner's Attorney if the Respondent will voluntarily accept service. Service of other court papers after this initial service are usually done as directed by the court. (by mail, by Sheriff, etc.)

**SPECIAL APPEARANCE:** Legal document filed by a lawyer challenging the power of the Court to hear the case.

**STIPULATION:** The written agreement made by the parties resolving all issues in dispute. There can be temporary stipulations on custody, support, or attorney fees to protect one or both parties while the dissolution action is pending. A final stipulation can resolve all issues arising out of the divorce action so the case can be finalized without a trial.
**Introduction**

Sometimes a marriage no longer works. One or both people may think about filing for divorce. It is not hard to get a divorce. But it does take some time. You must plan and make some decisions. This booklet may help people thinking about divorce to better prepare for the dissolution of their marriage. If you are divorced and hope to change a term in your original decree, the part on “modification” may be useful.

Iowa is a “no-fault” state. This means you no longer must prove one spouse was at fault in the breakdown of the marriage. Courts will grant a divorce where one or both parties say there has been a breakdown of the marriage relationship with no reasonable hope of making it work.

Iowa’s law on divorce is in Chapter 598 of the Iowa Code. Chapter 598B covers custody of minor children. You can find the Code of Iowa at most local libraries or courthouses. Booklets with recent changes in the law are usually kept with the Code itself. Talk to a librarian about using these books but *when in doubt, see a lawyer.* On the Web, the Code of Iowa is on the Iowa Legislature’s website: [www.legis.state.ia.us/Code.html](http://www.legis.state.ia.us/Code.html)

This guide explains the process of divorce. It covers what the court often looks at in making final decisions about support, custody, and how property is split up.

**What is the Difference Between “Divorce” and “Annulment?”**

“Divorce” ends a valid marriage. “Annulment” means the marriage was never valid and should never have happened. The reasons to annul a marriage are very limited. They include marriages prohibited by law and where either person was already married to someone else.

**What is the Difference Between a Divorce and a Legal Separation?**

They are very similar. The main difference is the couple stays married. They simply ask the court to decide how to handle things like custody, support, property, and debts while they are separated. This is because they plan to be separated a long time. Legal separations are quite rare. The person whose spouse files for a legal separation can ask the court to grant a divorce instead. In both actions, the court looks at the topics this booklet covers.

**Do I Need to Have a Lawyer?**

It is best to have a lawyer. But there are times when parties are able to work out a settlement that satisfies both of them. No law says people must have a lawyer in order to get a divorce. However, in these cases you should talk to a lawyer:

- When there are children from this marriage; or
- When either of you own real estate; or
- When you don’t agree about how to divide what you own; or
- When one party thinks he or she may be entitled to support from the other party; or
- When there is any dispute.

If you decide not to hire a lawyer, you may want to get the “Pro Se Dissolution of Marriage Packet.” “Pro Se” means “do it yourself.” You can get the packet from the Women’s Resource and Action Center (WRAC) in Iowa City. It tells you step-by-step how to file for a divorce. The packet costs around $10.00 if you can afford to pay. They mail it to you. First, you should call or write WRAC. They will explain who should and who should not use the pro se packet. For details about the “Pro Se Dissolution of Marriage Packet,” call (319) 335-1486 or write to:

The Women’s Resource and Action Center  
130 North Madison  
Iowa City, Iowa 52240

**How Much Does it Cost to Get a Divorce?**

A fee of $100.00 must be paid to the Clerk of Court when the divorce Petition is filed. There are also service fees to the Sheriff if service must be made by the Sheriff. Service fees are usually $20 to $30. If you are unable to pay the fees, you can apply to proceed “in forma pauperis” and ask the Court to waive your fees. You must provide specific details about your income and expenses. A petitioner who proceeds in forma pauperis can file without paying a fee. The fee will still be charged to a party at the end of the divorce. Also, a $50 fee must be paid when the final decree is filed.

Many lawyers require “retainers” or money up front to start a divorce action. Fees vary from city to city and from law firm to law firm. Lawyers often want at least a $500.00 retainer. Discuss fees and payment options with your lawyer. Be
sure you know how much your lawyer charges per hour. If he or she charges a flat rate, find out what it will be. Ask if that flat rate goes up if the case gets more difficult than it seemed at first.

A contested divorce is when the parties cannot agree on the issues. Most of the time this costs more than an uncontested one. The reason is because a trial is often involved. Courts may require the party in the best financial position to pay part or all of the legal fees. This may include some of the other side's fees.

If you can get a lawyer through Iowa Legal Aid, no attorney fees are charged.

**What If I Can’t Afford a Lawyer?**
Cost is a major concern to many people in deciding whether or not to have a lawyer. If you do not have a lawyer, your rights may not be addressed in your divorce petition and decree. This may end up costing more in the long run. It can happen since you must pay later to try to get changes in the initial decree. Courts are reluctant to make any changes later unless there has been a major change of circumstances. Property decisions cannot be changed later by the Court in any event. Consider, too, the negative feelings you will have if you feel that your rights were not considered in the initial petition and decree.

In some parts of the state, special programs help reduce the expenses involved, such as attorneys fees. Talk to the Clerk of Court in the county the divorce is filed to find out if there is such a program in your area.

The Court may order your spouse to pay attorney's fees. This will not occur until after a hearing on temporary support and fees or the decree is final. In the meantime, most lawyers will want payment in order to start the divorce.

Talk to your lawyer to see if you can pay in installments.

If you are a victim of domestic abuse and are low-income, Iowa Legal Aid may be able to help. Call the toll-free number on the back of this booklet or go to iowalegalaid.org on the Web to find out which office serves your county.

**What If I’m Not Sure I’m Married?**
Common law marriage is generally an informal marriage. There is no ceremony. It is an agreement between a man and woman who are legally capable of marrying. It must also be the case that:
1) Both parties must intend to be married and agree to it;
2) There must be some degree of living together, though no set length of time is required. The simple act of living together, without more, is not enough to establish a common-law marriage;
3) There must be public declaration or “holding out” as husband and wife. While there is no formula to determine if the parties have been “holding out” as husband and wife, the following activities have been convincing:
   - introducing one another as “Mr. and Mrs.”
   - exchanging wedding rings
   - mail arrives and is sent as “Mr. and Mrs.”
   - going to social events as a married couple
   - naming as spouse in an insurance policy
   - joint checking account
   - introduction as spouse
   - marital status on employment application

A party cannot be married to more than one person at a time. A married person who knowingly marries before dissolving the first marriage could be guilty of bigamy. The innocent “spouse” in such a case can seek to have the marriage annulled.

If you are not sure if you are married, it is safest to ask the court to decide. You can ask in a divorce or just ask the court to declare the rights of the parties, whether you are married at common law or not. Remember that while you can be married at common law, there is no common law divorce. If there is a common law marriage, you must get a formal divorce from the court before you can marry again, either by common law or by formal, licensed means.

You can find out more on common law marriage from Iowa Legal Aid or on the website iowalegalaid.org.

**PLEASE NOTE:** Iowa is one of only about 13 states recognizing common law marriage. In most states, the couple has to sign a marriage certificate or they are not married, no matter whether all the above elements are met or not.
Can Anyone File for Divorce in Iowa?
You must meet certain requirements before bringing a divorce action in Iowa. Some concern the parties’ residency. Iowa Code Chapter 598 lists these guidelines and states:
1) the person filing a petition for divorce (Petitioner) must live in Iowa for at least one year before bringing a divorce action, unless
2) the person’s spouse (Respondent) is a resident of Iowa and is personally served (notified in person).
The petition must contain a statement showing that Petitioner’s residence in Iowa has been in good faith and not just to get a divorce.

What If You Don’t Know Where Your Spouse Is?
You can still file for divorce, but the spouse must be served by publication. In such a case, the court is limited in what it can do. For example, custody of children can be decided but the court can’t order child support.

How Long Does it Take to Get a Divorce?

<table>
<thead>
<tr>
<th>Action Is Filed</th>
<th>20 Days To Respond</th>
<th>90-day Waiting Period</th>
<th>Final Decree</th>
</tr>
</thead>
<tbody>
<tr>
<td>The spouse bringing the divorce action provides information to the lawyer.</td>
<td>The other party is notified and has 20 days to answer.</td>
<td>A 90-day waiting period begins. (If the court orders marriage counseling, the waiting period will not start until counseling is done.)</td>
<td>Final Decree</td>
</tr>
</tbody>
</table>

First, a spouse who brings a divorce action will visit with the lawyer and provide necessary information. Then the lawyer prepares and files the usual papers with the Clerk of Court. The other party is notified and has 20 days to answer.

Once the other party has been served, a ninety-day waiting period begins. During this time, the parties might get counseling or work out the terms of their agreement. No decree can be entered until this 90-day period is over. During this 90-day waiting period, the court may enter temporary orders on child support, custody, and visitation. (See the next page.)

If the court orders conciliation (marriage counseling), the 90-day period will not start until the conciliation is done. Couples are usually ordered to take part in the counseling for 60 days.

The court may shorten the 90-day waiting period in cases of emergency or necessity.

If the parties can work out the terms of their agreement, a hearing date is scheduled. Most hearings can be scheduled soon after the ninety-day waiting period has ended. It may take more than ninety days to work out the agreement.

If the parties are unable to work out an agreement, their divorce is contested. This means a trial must be scheduled. Depending on the number of issues and how difficult they are, a trial date may be months away. Once a judge hears the case, it may be weeks or even months before getting a final decision and decree.

In certain cases, it is possible to get the divorce without a court hearing. Among other requirements, all the necessary documents must be on file. The parties must also have entered into a written agreement settling all the issues involved.

What Is the Petition and What Information Does it Contain?
In a divorce action, the petition is a formal, written request to the Court. It asks the Court to dissolve the marriage.

The petition must say there has been a breakdown in the marriage relationship to the extent that the “legitimate objects of matrimony” have been destroyed. It must also state there remains no reasonable likelihood the marriage can be preserved. In addition, the petition should have:
1) Names of the parties. If a spouse decides to use her maiden name or any other last name once the divorce is final, the petition can say so.
2) Unless the Respondent is a resident of the state and is to be personally served, the petition must state that the Petitioner has been for the last year a resident of Iowa. The petition must state the county in which the Petitioner has lived. It must say how long he/she has lived there minus all absences from the state. It must say the Petitioner has lived there in good faith, and not just to get a divorce.
3) The name and date of birth of each minor child affected by the divorce.
4) Whether the Petitioner wants temporary and/or permanent child support and alimony.
5) Who should have custody of the children.
6) If there is an existing child support order in place.

A sample Petition and Original Notice are on pages 11 and 13.

**Temporary Orders (for Support, Custody, Etc.)**

Certain issues may need to be dealt with between the time a Petition is filed and the Divorce is granted. For example, one spouse may have concerns about finances or the welfare of the children. If so, a spouse may request temporary orders from the court for attorneys fees, temporary custody of the children, child support, visitation, or alimony. The right to sole occupancy of the family home can be ordered, but only if there has been domestic violence. Before the Court will rule on temporary matters, the need to have a hearing is likely. Such hearings are not automatically scheduled. A sample Application for Hearing is on page 14.

The courts follow guidelines to decide how much temporary child support should be ordered. To make a prompt decision, the guidelines determine temporary child support based on three things:

- the number of children
- the income of the parent with custody
- the income of the parent who does not have custody.

A copy of the child support guidelines is located in the back of this booklet. The Iowa Supreme Court reviews these Guidelines every few years. The most recent review took place in 2004. Another review will take place in 2008.

**What If Domestic Abuse Is Involved?**

You may be filing for divorce because your spouse has harassed or physically abused you. It is important that you tell this to your lawyer. This is important because it may be possible to waive the 90-day waiting period. If you have reason to believe that your spouse intends to harm you again, your lawyer can file a temporary restraining order. The restraining order forbids your spouse from contacting you.

An abusive spouse tends to say he or she is sorry and promises not to repeat the abusive behavior. However, the abuse usually continues. It often becomes more violent in time, especially when the abuser believes he/she is “losing” the other spouse. Domestic violence intervention programs offer temporary housing and counseling for victims of violence and their children.

Also, evidence of abuse has an effect on decisions about visitation, custody, and mediation. The court should do what is necessary to protect a victim of abuse when deciding these issues. Again, tell your lawyer of the abuse. Contact Iowa Legal Aid and ask for the booklet *Domestic Abuse and the Law*. Call the 24-hour statewide, this toll-free number to find out about the local Domestic Abuse Program that can help you.

**Statewide Domestic Abuse Hotline:**
1-800-942-0333

**What Happens after the Answer Is Filed?**

After the petition has been filed, and the other spouse is served with (gets a copy of) the petition, a waiting period of 90 days is required. See page 3. After the waiting period, the final hearing takes place and the divorce decree is granted.
Please note that the court does not automatically enter a decree after 90 days have passed. The decree is entered only after the parties have filed their stipulation setting all issues arising out of the divorce. A short hearing may be needed to finalize the divorce. In certain cases, a decree can be entered without a hearing (see the top of this page). If no settlement can be reached, the Court enters a decree after a trial takes place before the Court. The trial allows the Court to hear all the testimony and to review the evidence.

**What If One Party Wants Marriage Counseling?**
Either spouse or the Court may request counseling. The Court may require the parties to take part in these efforts for a period of 60 days or less.

**Working Out a Stipulation**
The 90-day waiting period and after is also used by the parties to negotiate a settlement. Matters such as property ownership, child support, spousal support (alimony), child custody and visitation, and division of debts should be decided. In most cases settlements are agreed upon through this negotiation process and approved by the Court at a final hearing.

If the parties cannot reach an agreement, a Pre-Trial Conference is scheduled. The parties and their lawyers meet with the court law clerk or judge to determine which issues the Court will resolve. A trial will be scheduled sometime after the conference and at least 90 days after the petition was filed. Divorce cases are heard by a judge without a jury. Most of the time these trials are closed to the public.

**Can Children Have Their Own Lawyer?**
If custody or visitation issues are hotly disputed, you can ask the court to appoint a lawyer to represent the legal interests of children or appoint a Guardian Ad Litem to represent the best interests of the children. This way the children's interests are better protected.

**What Is a Home Study Investigation?**
The court can order the Department of Human Services (DHS) or another agency to look into both parents’ home conditions, other parenting abilities, and other things that affect the children. The resulting report helps the court decide who should have custody or physical care of the children. These studies can be costly. The court will probably not order one until the parents agree as to how it will be paid for. Also, home studies do take time and it could take longer to finalize the divorce.

**What is Mediation?**
Mediation is when a neutral third person agrees to help the spouses work out an agreement. It is used when the spouses can't agree on custody or how to divide property, etc. The court can require the spouses to take part in mediation if the judge thinks it will help resolve their differences. A spouse can also request it. However, if there is a history of domestic abuse, the court can't order mediation. The law is starting to favor mediation more and more. Therefore, the Court will often require parties to go through mediation or some type of settlement conference before granting the divorce. They want to give the parents every chance to work differences out before they actually go to trial.

**What is the “Mandatory Child Education Course?”**
A divorce can be hard on children. The law says parents must take part in a special class. The purpose is to “educate and sensitize” parents on the needs of the children. A final decree will not be granted unless the parents attend the class. Agencies in various places offer the class on a regular basis for a small fee. The requirement may be waived only under limited circumstances, such as if the parties already took part in a similar class.

**What Financial Information Will the Court Want?**
Both parties are required by the Court to make a true and complete statement of their financial status. In addition to details on current income and expenses, each party must list his/her property. This includes cars, real estate, cash value of life insurance policies, cash and bank accounts, household contents, investments, pension or retirement plans, and other property.

This is called an “affidavit of financial status.” It must be filed before the divorce hearing, unless waived by both parties. Parties who will pay alimony or who have children cannot waive financial information. The Court must be aware of the parties’ finances to make an informed decision on child support and alimony. A sample financial affidavit is on page 17.
If child support is involved, both parties must also complete a form with details on their location and identity including address, driver’s license number, employer, etc. This information must be updated and will be kept confidential. A copy of the form is on page 20. It is very important to comply with this requirement so that the party is kept informed about what the Court may do in the future.

**How Will the Court Divide the Marital Property?**

The property settlement is final once a divorce decree is entered. A property settlement can be challenged within one year of the entry of the decree, but only where one party deceived the other, or threatened the other with harm to force an agreement, or where there was a mistake. (Support payments may be changed in the future, however.)

The standard for how to split up property in Iowa is that it must be divided “equitably.” This means it must be fair under the circumstances. Equitable does not always mean each party will get half of the property, unless giving each half is the fairest solution after considering all factors.

The Court will consider more than just income and expenses to create a fair division of property. Listed below are some of the areas the court considers when dividing the property:

1. The length of the marriage.
2. The age and physical and emotional health of the parties.
3. How much each party contributes to the marriage, including what each party pays towards homemaking and child care services.
4. The property brought to the marriage by each party.
5. How much one party contributes to the education, training or increased earning power of the other.
6. How much each party is able to earn.
7. How desirable it is for the party with custody to live in the family home.

The court will also consider other economic factors for each party. For example, a pension fund brought into the marriage may end up being an asset to be divided. Gifts received by either party should continue to be separate property unless it would be unfair to consider them as such. Gifts given to the parties jointly are subject to division, just like all of the other marital assets.

**Will the Court Have One Spouse Make Support Payments to the Other?**

After considering all of the factors listed in Section 598.21A of the Code of Iowa, the Court may order support payments (alimony) to either party. These factors include many of the same concerns mentioned earlier under property. Other factors include:

1. Whether or not the party asking for support can become self-supporting at a standard of living close to that enjoyed during the marriage.
2. What property has been awarded to the spouse asking for support.
3. Any tax consequences to each party.
4. Any agreement made by the parties on their finances or services.

The Court will take into account anything else that matters in this particular case. It is important to note that if alimony is not included in the original decree, it will not be possible to have it added later. See page 10.

Alimony can be ordered for a specific period of time (for example, three years) or until the recipient spouse dies or remarries. In some situations, living with someone else may be enough to stop alimony payments. Some people have argued that this is the same as being remarried.

**What Is a “COLA?”**

COLA stands for “cost-of-living adjustment.” In five years prices for basic necessities such as food and clothing will probably be higher. Your lawyer may decide to include terms for a cost-of-living increase. This is an automatic adjustment for child support or alimony payments as costs rise from year to year.

**How Does the Court Award Child Support?**

The Court will order child support to be paid by the person not receiving physical custody of the children. The Court must follow certain Guidelines (set up by the Iowa Supreme Court) to decide how much support should be paid. These Guidelines take into account each parents’ monthly net income. They also factor in the number of children and then state what percentage of the noncustodial parent’s net income should go for child support. This will be the amount ordered. For example, a couple getting a divorce has two children who will be living with Mom. Dad’s net income is $600 a month, and Mom’s is $400 a month. Applying the Guidelines, the Court will order that Dad pay 20% of his income or $120 per month. Net income is the money left after taxes, Social Security, child care expenses, prior child support
obligations being paid, dependent health insurance coverage, actual medical support paid pursuant to an order, unreimbursed individual health or medical expenses deductions not to exceed $25 a month, and actual child care expenses paid while the custodial parent is employed are deducted. It is also important to note that public assistance payments are specifically excluded from the definition of income under the Guidelines. Also, a reduction of up to 35% of the guidelines amount is made when extraordinary visitation is granted.

A copy of the Guidelines is in the back of this booklet. They are revised every four years, the last time in 2004. Details on current Guidelines are on Iowa Legal Aid’s website at iowalegalaid.org.

These Guidelines will be applied in every case unless the Court finds special circumstances which make it unfair to use them. The Court must make a written finding as to why the Guidelines are not being followed.

A party’s support obligation extends only to natural or adopted children until the children are no longer minors. In Iowa, children who turn 18 are no longer minors. However, support must continue to age 19 if a child is still in high school and can be expected to graduate before turning 19. Support can continue for a child of any age if they are dependent due to a physical or mental disability. In 1997, the law was changed to allow a “post secondary education subsidy” under certain circumstances. The subsidy is paid directly to the child or the school they attend. The child must earn good grades in order to keep getting the subsidy. The amount of the subsidy depends on the financial condition of the parents and the child.

If the parents have been separated for a while, there may already be a child support order in place through the Child Support Recovery Unit. It is important to notify CSRU of the divorce, especially if the decree sets a different amount for support. The divorce will not automatically change the CSRU order. CSRU will enforce the order which is highest. Legal Aid has a booklet Paternity and Child Support Law in Iowa if you have more questions.

**How Does the Court Decide Child Custody?**

Above all, the Court’s custody decision will consider what is best for the child or in the best interests of the child. The court wants to know which parent is best able to meet the needs of the child. It is also important which parent is best able to put the child’s interests above their own. Different types or kinds of custody are listed below.

**What is Joint Physical Care?**

Joint physical care means both parents have rights and responsibilities to maintain a home for the child. Neither parent will have physical care rights superior to those of the other parent. Some people call this “shared parenting” or “shared custody” because each parent tends to spend about the same amount of time with the child. The law says if joint legal custody is awarded to both parents, the court may award joint physical care to both parents if either parent requests it. Prior to ruling on the request, the court may require each parent to submit a proposed joint physical care parenting plan. The plan should tell how the parents will decide to divide time with the child. It should explain how the parents will resolve disputes. If the court denies the request for joint physical care, the court’s decision must include specific findings and conclusions showing why joint physical care is not in the best interests of the child.

**What is Split Custody?**

This is when each parent is awarded physical care of one or more of the children. It is rare. The court usually does not favor this type of arrangement.

**What Is Joint Legal Custody?**

In Iowa, the laws on custody favor joint custody unless there is a history of domestic abuse. Joint legal custody does not require joint physical care. One parent may be awarded physical care while the other has visitation rights. Joint legal custody means that both parents take equal part in decisions affecting the child’s legal status, medical care, education, school, activities, and religious instruction. The idea is to give the children maximum physical and emotional contact with both parents. It also encourages both parents to continue to share the rights and responsibilities that go along with raising children.

Joint legal custody will almost always be ordered even if the parents don’t want it. (See “What is Sole Custody?” below.)

**What Is Sole Custody?**

If a court believes it will be better for the child to have one parent making the decisions about the children, then the court will award that parent sole custody. When this happens, the court must cite clear and convincing evidence that joint custody is unreasonable and not in the best interest of the child.
Also, if there has been a history of domestic abuse, the court cannot automatically award joint custody. The law assumes joint custody is not best in these situations. “History of domestic abuse” can mean any of the following:
- Starting an action under the Domestic Abuse Act to obtain a protective order.
- The issuance of a protective order.
- The police have been called to the scene of alleged domestic abuse.
- An arrest or conviction for domestic assault.

Unless the presumption against joint custody is overcome (shown not to be valid), sole custody will be awarded.

A parent who has sole custody of the children has complete responsibility for their physical care and for decisions affecting the child’s welfare. This includes such matters as medical care, education, activities, and religious instruction.

**What Factors Might Be Considered by the Court In Awarding Sole Custody?**
- Whether each parent is suited to raise the child.
- Whether the child will suffer emotionally/psychologically due to lack of contact with both parents.
- Whether the parents can communicate with each other regarding the needs of the child.
- Whether both parents have actively cared for the child before and after they separated.
- Whether each parent can support and foster the other parent’s relationship with the child.
- The child’s wishes about custody.
- Whether one or both parents agree or disagree about joint custody.
- How far apart the parents live.
- Whether the child or the other parent will be safe if joint custody is awarded.
- Whether there is a history of domestic abuse in the relationship.

**How Does the Court Decide Who the Child Will Live With or Who Will Have Primary Physical Care?**

The court looks at many factors in deciding who will have primary physical care. It is hard to say which factors are most important to the court. The factors the court looks at are:
1. Characteristics of the child such as the child’s age, maturity, mental and physical health.
2. Emotional, social, moral, material and educational needs of the child.
3. Characteristics of each parent including age, stability, mental and physical health, and character.
4. The interest and ability of each parent to provide for the emotional, social, material and educational needs of the child.
5. The relationship between each parent and the child.
6. Relationship between the child and any brothers or sisters of the family.
7. What effect there will be on the child if the court continues or changes current custody arrangement.
8. The home environment that the child will be living in. For example, the court may look at whether one party moves frequently from one home to another, while the other party has lived at the same place for a longer period of time.
9. Where the child wants to live. How much weight the court gives this factor depends on how old and mature the child is.
10. The report and recommendation of either an independent person who investigated both parties concerning who should get primary physical care, or a lawyer representing the child’s interests.
11. Any other options available for physical care.
12. Whether awarding custody to one parent would separate siblings.
13. A parent’s immoral behavior that is shown to adversely affect the child.
14. A parent’s substance abuse or if the parent is inclined to be violent or abusive.
15. Any other important information that was given to the court.

**What If the Children Have Strong Feelings about Who They Want to Live With?**

A court may consider the wishes of a child who is quite mature. But the Court, not the child, makes the final decision.

**Are Children Ever Placed with Someone Other Than Their Parents?**

A court can award custody to a third party if that arrangement is in the child’s best interest. When this happens, the third party must prove to the Court that the parents are unsuitable.

**What if There are Doubts About Whether the Husband is the Biological Father of the Children?**

Husbands are automatically presumed to be the father of any child born or conceived while married to the child’s mother. This is true even if the spouses have been separated for a long time or if the mother admits having an “affair.” In a divorce, the husband can then be ordered to pay child support or be awarded custody/visitation rights for the child. If
a spouse believes the husband is not the father, they should tell the court this right away. The divorce law provides a specific procedure to “overcome paternity” during a divorce. It is much easier to take care of this problem during a divorce than to wait until later. For more information on how to overcome paternity, see Iowa Legal Aid’s booklet *Paternity and Child Support Law in Iowa*.

### Does the Non-custodial Parent Always Have Visitation Rights?

Not always but almost always. While the one parent may be awarded physical care of the child, the other (noncustodial) parent is almost always awarded visitation rights. The reason for this is it generally benefits a child to have an ongoing relationship with both parents. If the court believes that such visitation will not be in the child’s best interest, then a party’s right of access to a child may be denied, but is rare. Even parents who have physically or sexually abused their children may get supervised visits. The law does say that the Court shall consider the criminal history of the parent if the parent has been convicted of a criminal offense against a minor. Also, if a parent has been convicted of murdering the other parent, they will probably not have visitation.

A party who is awarded visitation can expect a number of safeguards from the court. The custodial parent cannot simply cut off visitation rights if the noncustodial parent fails to pay support. Also, courts will not approve or enforce arrangements between parties whereby one surrenders visitation rights in order to waive child support payments. It is fairly common for decrees to state a parent is entitled to “reasonable visitation.” If this happens, the parent with physical custody usually has a lot of say over what is “reasonable.” While it is best that the divorce decree be specific in regard to visitation, a noncustodial parent may still arrange for visitation even where there is no mention of visitation in the decree. If “extraordinary visitation” is agreed to, or ordered, this will impact the amount of child support.

A typical visitation schedule would be every other weekend, every other holiday, and 2-4 weeks in the summer.

It is assumed that children benefit from frequent contact with both parents. Therefore, unless children are in danger while with the other parent, it is best for the custodial parent to not interfere with visitation. It is better to be flexible and to work out visitation whenever possible.

Finally, in a split custody arrangement (one child lives with mom; one lives with dad), the court may order visitation between the children.

### What If a Noncustodial Parent Has More Than Ordinary Visitation?

A noncustodial parent who has “extraordinary visitation” (more than 127 overnights per year) may have his or her child support lowered. This type of visitation must be court ordered if it is to change child support.

### Can Grandparents or Great Grandparents Get Visitation Rights?

Iowa law still let grandparents or great grandparents petition the court for visitation rights. However, in 2001 and in 2003, large parts of this law were declared unconstitutional by the Iowa Supreme Court. The Court said a parent’s choices about grandparent visitation are very important. The Court ruled that a parent who is divorced, as well as one in an intact relationship, now has the legal right to decide if a grandparent can have visitation with their grandchildren. The Court will not interfere and force visits unless the parent is “unfit.” Certain other requirements must also be met, such as the grandparent(s) and the child already have a substantial relationship.

### ENFORCEMENT

### What If a Party Simply Ignores an Order or the Final Decree?

Sometimes a party fails to pay support, fails to uphold visitation rights, or disobeys another order within the decree. When this happens, the other party may bring a contempt action to try and get the uncooperative party to obey the Court’s orders. If you are concerned only about child support, the Child Support Recovery Unit, a state agency, may be able to help you. Also, parties who fail to comply with court orders may be given a jail sentence, or be deprived of some right that was awarded in the divorce decree.

If visitation was denied, the offending party may be ordered to allow initial or additional visits to make up for what was lost. Generally, it is unwise to deny visitation because the court likes the children to have as much contact with both parents as possible. A sample Application for Finding of Contempt and for Hearing is on page 22.

If a parent refuses to return a child following visitation, law enforcement may be contacted. However, they may not be able to help without a court order. It will probably be necessary to file something in court if this happens.
CHANGES IN A DIVORCE DECREE

What the Court Considers “A Substantial Change in Circumstances”
Certain terms within a divorce decree (alimony, child support, child custody, visitation) can change in the future if the party who asks the court to modify the orders can show a substantial change in circumstances. The court foresees that reasonable and ordinary changes are likely to occur. So this change must be one that the trial court had no knowledge of at the time of the original decree. Also the change must be permanent and not temporary.

CHANGES IN CHILD SUPPORT
If a party asks the court to change the child support order, the court will look at each parent’s earning capacity, economic circumstances, and the cost of living. Most of the time remarriage alone is not a good enough reason for the court to change child support payments. The reason is that at the time of the original decree, the court knows remarriage could happen. Also, reductions in income must be involuntary. A parent will usually not be allowed to lower their support payments if they quit a high-paying job and took one that pays less in order to lower his or her support obligation.

For example, in one case, the trial court had no knowledge of a father’s poor health at the time of the decree ordering child support payment. The father then tried to use his poor health as a “substantial change in circumstances” to lower his support payments. The court refused his request, noting that his poor health had in no way affected his earning capacity. In fact, his income had increased. The state of his health did not cause a major change in his ability to earn money and to pay support.

Sometimes, the party paying child support wants to reduce the payments while the children are visiting him/her. The courts do not allow this because the custodial parent has household costs even while the children are away.

CHANGES IN SPOUSAL SUPPORT
In most cases, if the spouse who gets alimony remarries, a court will end that person’s right to alimony. Also, spousal support can only be increased if the original decree awards alimony. If the original decree does not mention alimony, or if it states that no alimony will be awarded, then alimony cannot be ordered later. For this reason, some decrees will order alimony of $1.00 per month, just so that the right to it isn’t lost and the amount can be increased later. Generally, if the spouse getting alimony payments remarries, these payments will end. Sometimes a spouse does not remarry but has a long-term relationship with someone. This may be enough to stop alimony if it is like a marriage relationship.

CHANGES IN CHILD CUSTODY
A court will not change the custody of a child unless convincing reasons for such change can be shown. The reason for this is because children benefit from stability. They get used to their surroundings, come to expect certain routines, and become attached to their primary caretaker. Again, in a modification action, the basis of the Court’s decision is what is best for the child.

So long as a custodial parent is caring for the child’s social, moral, and educational needs, a court will be reluctant to change custody. The requesting party would have to make a superior claim based on his/her ability to more effectively care for the needs of the child.

The Court believes children should maintain meaningful relations with both parents, providing both are fit to have contact with their child. If a custodial parent interferes with the visitation rights of the noncustodial parent and prevents a child from having a relationship with the noncustodial parent, the noncustodial parent could have a claim for modification of custody.

A move by a custodial parent to another city could constitute grounds to modify provisions of a divorce decree. For example, if a custodial parent moves to a place 150 miles or more away, this relocation may be considered a substantial change in circumstances. The custody order will be changed to preserve, as much as it can, the child’s existing relationship with the other parent. The court can also order one of the parents to pay for transportation. Also, if no a specific visitation schedule was established, the court can be asked to set one. This is useful if the parents have had a lot of trouble agreeing when and how visits should happen.

SAMPLE FORMS USED IN DIVORCES
Copies of sample forms used in Divorce proceedings are in the next section.
IN THE IOWA DISTRICT COURT FOR _____________ COUNTY

In Re: The Marriage of _____________ and _____________

UPON THE PETITION OF ) No. _____________
____________________ )
Petitioner, )
AND CONCERNING ) PETITION FOR DISSOLUTION OF MARRIAGE
____________________ )
Defendant. )

COMES NOW the Petitioner and for this cause of action states as follows:

1. The Petitioner’s full name is _________________ and her address is _________________, __________ County, Iowa, _____; her Social Security Number is _________________. The attorney for the Petitioner _________________, whose address is______________________________.

2. The Respondent’s full name is _________________ and his address is __________________________, __________. County, Iowa, _____; his Social Security Number is _________________.

3. The parties to this action were married on __________, 19___, in _________________, Iowa.

4. The Petitioner has been a resident of the State of Iowa and of _____________ County for more than the past year, and said residence has been maintained in good faith and not for the sole purpose of obtaining a dissolution of marriage.

5. No children whose welfare may be affected by this controversy have been born of this marriage.

6. No separate action for dissolution of marriage or child support has been commenced, and no such action is pending in any Court in this State or elsewhere. Entry of an order in this action will not violate 28 U.S.C. §1738B.
7. This petition has been filed in good faith and for the purpose set forth herein.

8. 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.

9. The Petitioner hereby makes application to the Court for the equitable disposition of all assets and liabilities of the parties to this action.

10. The appointment of a conciliator pursuant to Section 598.16 of the 1997 Code of Iowa would not preserve this marriage.

WHEREFORE, the Petitioner prays for a dissolution of the marriage of these parties and for an equitable disposition of the property of these parties, for the costs of this action, and for such relief as the Court may deem equitable and just.

_____________________________________, Petitioner
STATE OF IOWA )
COUNTY OF _____________ ) ss:

I, ________________________, being first duly sworn, do upon oath depose and state that I am the Petitioner in the above-entitled action; that I have read the foregoing Petition and know the contents thereof and the statements contained therein are true as I verily believe.

_____________________________________, Petitioner

Subscribed and sworn to before me by ________________ this _____ day of _____________, 19___.

12
APPENDIX OF FORMS

Rule 1.1901 — Form 1:  *Form of Original Notice for Personal Service.*

IN RE THE MARRIAGE OF

<table>
<thead>
<tr>
<th>Petitioner</th>
<th>'EQUITY' No. ____________________________</th>
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</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td>vs.</td>
<td></td>
</tr>
<tr>
<td>Respondent</td>
<td>ORIGINAL NOTICE</td>
</tr>
</tbody>
</table>

TO THE ABOVE-NAMED RESPONDENT:

You are notified that a petition has been filed in the office of the clerk of this court naming you as the Respondent in this action. A copy of the petition (and any documents filed with it) is attached to this notice. The attorney for the Petitioner is ____________________________, whose address is _________________, Iowa _______________. That attorney's telephone number is ____________________________; facsimile number ____________________________.

You must serve a motion or answer within 20 days after service of this original notice upon you and, within a reasonable time thereafter, file your motion or answer with the Clerk of Court for _______________ County, at the county courthouse in ____________________________, Iowa. If you do not, judgment by default may be rendered against you for the relief demanded in the petition.

If you require the assistance of auxiliary aids or services to participate in court because of a disability, immediately call your district ADA coordinator at ____________________________. (If you are hearing impaired, call Relay Iowa TTY at 1-800-735-2942).

(SEAL)

CLERK OF COURT

_____________________________ County Courthouse

_____________________________, Iowa ________________

IMPORTANT

YOU ARE ADVISED TO SEEK LEGAL ADVICE AT ONCE TO PROTECT YOUR INTERESTS.

IN THE IOWA DISTRICT COURT FOR __________ COUNTY

IN RE: THE MARRIAGE OF ____________ AND ____________

UPON THE PETITION OF ____________,

Petitioner,

AND CONCERNING ____________,

Respondent.

APPLICATION FOR HEARING

Civil No. ______

COMES NOW the ____________ and requests that the Petitioner or Respondent

Court schedule a hearing to decide temporary ____________ custody and/or support

and/or visitation.

The hearing is needed because: (briefly explain why you need a hearing such as visitation is being denied, you are worried about the safety of the children living with the spouse, etc.)

Date: ________________

Respectfully submitted,

________________________
Name
Address
Phone number

Original filed with Clerk

Copy to:
Spouse or their Attorney
IN THE IOWA DISTRICT COURT IN AND FOR _______ COUNTY
IN RE THE MARRIAGE OF

AND

Upon the Petition of                                        )
                         ) Equity No. ___
Petitioner,                                                   
And Concerning                                                  
Respondent.                                                  

                             )          )
                             )          ) ANSWER TO PETITION FOR
                             )          ) DISSOLUTION OF MARRIAGE

COMES NOW respondent, and for answer to the petitioner's petition for dissolution of marriage, respectfully states:

1. Respondent admits the allegations set in Paragraphs 1, 2, 3 and 4 of the petition.
2. Respondent denies the allegations set in Paragraphs 8, 6 and 7 of the Petition and affirmatively states that she should have custody of the children.
3. Respondent denies the allegations contained in Paragraphs 9 and 10 of the Petition for lack of information.
4. With regard to Paragraph 8 of the petition, respondent admits the allegations set out in that paragraph, but does state that he would like to see the marriage preserved.

WHEREFORE, respondent asks the court that in the event a dissolution is entered, the court make an equitable disposition of the property and obligations that the parties accumulated during the marriage and make an appropriate award with regard to court costs, award custody of the children to respondent as well as any other appropriate provisions and orders.

DATE

SIGNATURE OF RESPONDENT

Original: filed with Clerk

Copy to: (Spouse or spouse's attorney)

CERTIFICATE OF SERVICE
The undersigned, a member of the bar of this state, hereby certifies that a true copy of the foregoing instrument was served upon each of the attorneys of record of all parties to the above-entitled cause by enclosing the same in an envelope addressed to each such attorney at his or her respective address as disclosed by the pleadings of record herein, with postage fully paid, and by depositing said envelope in a United States Post office depository in Iowa City, Iowa, on the ___ day of _____, ______.
IN THE IOWA DISTRICT COURT FOR _____ COUNTY

IN THE MARRIAGE OF ____________________________________________________________

PETITIONER, ________________________________________________________________

AND CONCERNING ____________________________________________________________

CASE NO. ________________________________________________________________

RESPONDENT ________________________________________________________________

AFFIDAVIT OF FINANCIAL STATUS

I, ___________________________________________________________, the Petitioner/Respondent in the above entitled matter, being first duly sworn, state that the following is a true and complete statement of my assets and liabilities, under Division I (and my present income under Division II, if applicable) as of the _____ day of ______________________, 200__. (To be signed on page (2)).

DIVISION I - NET WORTH STATEMENT

(Required in all dissolution cases § 598.13)

(Attach additional sheets if necessary)

<table>
<thead>
<tr>
<th>Description</th>
<th>Ownership (H) (W) (J)</th>
<th>Market Value</th>
<th>Encumbrance</th>
<th>Net Value</th>
</tr>
</thead>
<tbody>
<tr>
<td>Real Estate</td>
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<td></td>
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</tr>
<tr>
<td>(a) Homestead</td>
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<tr>
<td>(b) Other (describe)</td>
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<tr>
<td>Vehicles (make, year)</td>
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<td>(c)</td>
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<tr>
<td>Life Insurance (Cash Value)</td>
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<td>Securities</td>
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<tr>
<td>Cash &amp; Bank Accounts</td>
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<td></td>
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<td>(a)</td>
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<tr>
<td>(c)</td>
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<tr>
<td>Household Contents</td>
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<td></td>
</tr>
<tr>
<td>(a) Furniture</td>
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<td></td>
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<tr>
<td>(b) Appliances</td>
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<tr>
<td>(c) Other:</td>
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<tr>
<td>Other Assets - Itemize</td>
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<td>(a)</td>
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<td>(c)</td>
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<tr>
<td>Totals</td>
<td></td>
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</tr>
</tbody>
</table>

Less other debts - itemized on next page $________

NET WORTH $________

(over)
Other debts:

<table>
<thead>
<tr>
<th>Gross</th>
<th>Deduction(s)</th>
<th>Net Income</th>
</tr>
</thead>
<tbody>
<tr>
<td>$</td>
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<td>$</td>
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<tr>
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</table>

Total $  

DIVISION II - CURRENT INCOME AND EXPENSE INFORMATION
(To be completed by all parties seeking or resisting alimony or support allowances)

A. Income Source (Including ADC & other support payments)

<table>
<thead>
<tr>
<th>Income Source</th>
<th>Gross</th>
<th>Deduction(s)</th>
<th>Net Income</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a)</td>
<td>$</td>
<td>per</td>
<td>$</td>
</tr>
<tr>
<td>(b)</td>
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<td>(c)</td>
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<td>(d)</td>
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<td>$</td>
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</tbody>
</table>

Deductions Explained (specify Income Source (a), (b), (c), etc.)

<table>
<thead>
<tr>
<th>Income Source</th>
<th>Gross</th>
<th>Deduction(s)</th>
<th>Net Income</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a)</td>
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<td>(c)</td>
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<td>(d)</td>
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</tbody>
</table>

B. Affiant’s estimate of the other spouse’s income (including ADC & other support payments)

<table>
<thead>
<tr>
<th>Income Source</th>
<th>Gross</th>
<th>Deduction(s)</th>
<th>Net Income</th>
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</thead>
<tbody>
<tr>
<td>(a)</td>
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<td>(b)</td>
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</tbody>
</table>

Deductions Explained (specify Income Source (a), (b), (c), etc.)

<table>
<thead>
<tr>
<th>Income Source</th>
<th>Gross</th>
<th>Deduction(s)</th>
<th>Net Income</th>
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<tbody>
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<td>(a)</td>
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<td>(d)</td>
<td>$</td>
<td>per</td>
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</tbody>
</table>

C. Residential Arrangements: Are both spouses living in the same dwelling?
If there are children, which spouse or other person has physical care of the children?
Do the children reside in the family dwelling or elsewhere?

D. Personal Expenses For Support of Affiant (and children)
(Note: Report all expenses uniformly either weekly or monthly):

<table>
<thead>
<tr>
<th>Description</th>
<th>Gross</th>
<th>Deduction(s)</th>
<th>Net Income</th>
</tr>
</thead>
<tbody>
<tr>
<td>House payment or rent</td>
<td>$</td>
<td>per</td>
<td>$</td>
</tr>
<tr>
<td>Meals or food</td>
<td>$</td>
<td>per</td>
<td>$</td>
</tr>
<tr>
<td>Clothing</td>
<td>$</td>
<td>per</td>
<td>$</td>
</tr>
<tr>
<td>Car expense, transportation</td>
<td>$</td>
<td>per</td>
<td>$</td>
</tr>
<tr>
<td>Medical, dental</td>
<td>$</td>
<td>per</td>
<td>$</td>
</tr>
<tr>
<td>Utilities &amp; telephone</td>
<td>$</td>
<td>per</td>
<td>$</td>
</tr>
<tr>
<td>Other expenses</td>
<td>$</td>
<td>per</td>
<td>$</td>
</tr>
</tbody>
</table>

Installment Payments and Other Debts Payable to:

<table>
<thead>
<tr>
<th>Description</th>
<th>Gross</th>
<th>Deduction(s)</th>
<th>Net Income</th>
</tr>
</thead>
<tbody>
<tr>
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<td>$</td>
<td>per</td>
<td>$</td>
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<tr>
<td></td>
<td>$</td>
<td>per</td>
<td>$</td>
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</tbody>
</table>

Total of Division B: $  

Affiant Requests: $ per as child support
$________________ per __________________ as temporary alimony
$________________ per __________________ as temporary attorneys fees

PETITIONER/RESPONDENT

Subscribed and Sworn to before me this __________ day of ________________, 200_

NOTARY PUBLIC IN AND FOR THE STATE OF IOWA
IN THE IOWA DISTRICT COURT IN AND FOR __________________________ COUNTY

___________________________________________  Case No. _________________

v.  

___________________________________________  INFORMATION PURSUANT TO

___________________________________________  § 598.22B & 602.6111

___________________________________________  CONFIDENTIAL

___________________________________________  COMES NOW the above party/parties and as directed by §598.22B and 602.6111, provides the following information.

Petitioner/Plaintiff

Name: ___________________________  Last  ____________  First  ____________  Middle

Address: ___________________________  Street Number  ____________  Street

___________________________________________  City  ____________  State  ____________  Zip Code

Social Security No: ___________________________  Driver's License No.: ___________________________

DOB: ___________________________  Telephone No: (____) ___________________________

Employer: ___________________________

Employer's Address: ____________________________  Street Number  ____________  Street

___________________________________________  City  ____________  State  ____________  Zip Code

Employer's Telephone No: (____) ___________________________

Respondent/Defendant

Name: ___________________________  Last  ____________  First  ____________  Middle

Address: ___________________________  Street Number  ____________  Street

___________________________________________  City  ____________  State  ____________  Zip Code

Social Security No: ___________________________  Driver's License No.: ___________________________

DOB: ___________________________  Telephone No: (____) ___________________________

Employer: ___________________________

Employer's Address: ____________________________  Street Number  ____________  Street

___________________________________________  City  ____________  State  ____________  Zip Code

Employer's Telephone No: (____) ___________________________

(COMPLETE ADDITIONAL INFORMATION ON REVERSE SIDE)
Child/Children

<table>
<thead>
<tr>
<th>Name:</th>
<th>Last</th>
<th>Middle</th>
<th>First</th>
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<tbody>
<tr>
<td>Social Security No.:</td>
<td>DOB:</td>
<td></td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>Name:</th>
<th>Last</th>
<th>Middle</th>
<th>First</th>
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</thead>
<tbody>
<tr>
<td>Social Security No.:</td>
<td>DOB:</td>
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<tr>
<th>Name:</th>
<th>Last</th>
<th>Middle</th>
<th>First</th>
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</thead>
<tbody>
<tr>
<td>Social Security No.:</td>
<td>DOB:</td>
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<table>
<thead>
<tr>
<th>Name:</th>
<th>Last</th>
<th>Middle</th>
<th>First</th>
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</thead>
<tbody>
<tr>
<td>Social Security No.:</td>
<td>DOB:</td>
<td></td>
<td></td>
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</tbody>
</table>

The party/parties submit the above information in compliance with the Court's Order and with the knowledge the information will be used to enforce any support Order under Chapters 23A, 252A, 252C, 252F, 252H, 252K, 600B, as provided for in Sections 598, The code, and 602.6111, The Code, and agree to update the information as appropriate.

Dated this __________ day of __________________, __________.

Signature of Petitioner/Plaintiff __________________________ Signature of Respondent/Defendant __________________________

Printed Name of Petitioner/Plaintiff __________________________ Printed Name of Respondent/Defendant __________________________

Signature of Attorney for Petitioner/Plaintiff __________________________ Signature of Attorney for Respondent/Defendant __________________________

Signature of Child Support Recovery Unit Designee __________________________
IN THE IOWA DISTRICT COURT IN AND FOR __________ COUNTY

UPON THE PETITION, )
) EQUITY NO. ________________

Petitioner, )
) APPLICATION FOR FINDING
AND CONCERNING ) OF CONTEMPT AND
) FOR HEARING

Respondent.

COMES NOW the (Petitioner or Respondent) and applies to the Court to find (Petitioner or Respondent) in contempt of the Court's Decree and Order dated, and states as follows:

1. The Order and Decree provide that the Stipulation entered into by the parties is approved, confirmed and adopted by the court and made a part of the Decree of Dissolution of Marriage as though fully set forth therein.

2. Said Stipulation provides that the parties will be granted joint of their minor children, ___(name the children)______ with physical care resting with__________________________. Said Stipulation further provides that________________________ will be granted reasonable and liberal visitation rights to include___________________________________________________________.

3. ____________________________ was scheduled to visit her/his children ________________________________________.

4. ____________________________, in direct violation of the court order, has willfully refused to allow visit(s) on these dates: _________________________________________

5. Further, ____________________________ has intentionally failed to communicate with ____________________________ on numerous occasions; regarding visitation arrangements.

6. ____________________________ has intentionally and actively discouraged to have contact with his/her children and refused to support ____________________________'s relationship with his/her children.

WHEREFORE, ____________________________ asks that the Court enter an Order for Hearing and that after the hearing, that ____________________________
be found in Contempt of Court for violation of the Decree and Order and that he/she be punished accordingly and be ordered to permit said visitation and cooperate with ________________________________ in accomplishing visitation, and that the visitation schedule be modified to compensate for lost visitation in accord with 598.23(2)(b), Iowa Code, and that he/she be taxed costs of this proceeding, and for such other and further relief as the Court deems appropriate.

Respectfully submitted,

________________________________________

Name
Address
Phone Number

STATE OF IOWA  }  s s:
COUNTY OF_______________  )

I, ________________________________, being first duly sworn upon oath, depose and state that I have read the foregoing Application for Finding of Contempt, and that the statements and allegations contained therein are true and correct as I verily believe.

________________________________________

SUBSCRIBED AND SWORN TO before me this __________ day of ________________________, 20______, by ________________________________ .

________________________________________
Notary Public in and for the State of Iowa
IN THE IOWA DISTRICT COURT FOR ______________ COUNTY

IN RE THE MARRIAGE OF __________________________ AND __________________________

UPON THE PETITION OF __________________________ Equity No. __________

________________________________________________

Petitioner, __________________________

AND CONCERNING __________________________ PETITION FOR MODIFICATION

________________________________________________

Respondent, __________________________

COMES NOW, the __________________________ and states to the Court:

1. The Petitioner’s name is __________________________ and her address is __________________________,

_________________________________________ County, Iowa; her Social Security Number is __________________________. Petitioner is represented by __________________________.

2. The Respondent’s name is __________________________ and his address is __________________________,

_________________________________________ County, Iowa; his Social Security Number is __________________________.

3. The marriage of the parties was dissolved pursuant to a Dissolution of Marriage Decree entered in the above-captioned action on ________ (date of divorce decree) ________. According to the Decree, the parties were awarded joint legal custody of their minor child __________________________, born ________ (date of birth). Respondent was granted reasonable and liberal visitation and ordered to pay child support.

4. The places where the child has lived during the past five years, and the names and present addresses of the persons with whom the child has lived during that period are as follows:

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________

5. There are no other court actions or court proceedings concerning the custody and visitation of the child except:

________________________________________________________________________

6. There are no persons, not a party to this proceeding, who have physical custody of the child who
claim rights of legal custody or physical custody of, or visitation with, the minor child, except: 

7. There have been substantial and material changes in circumstances since the entry of the Dissolution Decree as set forth below:

WHEREFORE, Respondent requests that the Court set a time and place for hearing and thereafter Modify the terms of the Dissolution Decree as follows:

and for such relief as the Court may deem equitable and just.

STATE OF IOWA

COUNTY OF __________________________ )

I, __________________________, being first duly sworn, do upon oath depose and state that I am the Respondent in the above-entitled action, that I have read the foregoing Petition and know the contents thereof and the statements contained therein are true as I verify believe.

__________________________________________

, Respondent

Subscribed and sworn to before me by __________________________, this _______ day of

________________________, 20__

Notary Public in and for the State of Iowa
### Chart 1. Iowa Child Support Guidelines - One Child

#### Non-Custodial Parent's Net Monthly Income

<table>
<thead>
<tr>
<th>Non-Custodial Parent's Net Monthly Income</th>
<th>50 - 500</th>
<th>501 - 600</th>
<th>601 - 700</th>
<th>701 - 800</th>
<th>801 - 900</th>
<th>901 - 1000</th>
</tr>
</thead>
<tbody>
<tr>
<td>50 - 100</td>
<td>14.0</td>
<td>19.0</td>
<td>23.0</td>
<td>25.0</td>
<td>27.0</td>
<td>29.0</td>
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<tr>
<td>101 - 200</td>
<td>14.0</td>
<td>19.0</td>
<td>23.0</td>
<td>25.0</td>
<td>27.0</td>
<td>29.0</td>
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<tr>
<td>201 - 300</td>
<td>14.0</td>
<td>19.0</td>
<td>23.0</td>
<td>25.0</td>
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<tr>
<td>301 - 400</td>
<td>14.0</td>
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<td>23.0</td>
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<td>401 - 500</td>
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<td>23.0</td>
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<td>601 - 700</td>
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<td>701 - 800</td>
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<td>801 - 900</td>
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<td>901 - 1000</td>
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#### Custodial Parent's Net Monthly Income

<table>
<thead>
<tr>
<th>Custodial Parent's Net Monthly Income</th>
<th>101 - 200</th>
<th>201 - 300</th>
<th>301 - 400</th>
<th>401 - 500</th>
<th>501 - 600</th>
<th>601 - 700</th>
</tr>
</thead>
<tbody>
<tr>
<td>101 - 200</td>
<td>14.0</td>
<td>19.0</td>
<td>23.0</td>
<td>25.0</td>
<td>27.0</td>
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<td>201 - 300</td>
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<td>23.0</td>
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<tr>
<td>301 - 400</td>
<td>14.0</td>
<td>19.0</td>
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<td>401 - 500</td>
<td>14.0</td>
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<td>23.0</td>
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<td>501 - 600</td>
<td>14.0</td>
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<td>23.0</td>
<td>25.0</td>
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<td>29.0</td>
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<td><strong>Total</strong></td>
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<td>19.0</td>
<td>23.0</td>
<td>25.0</td>
<td>27.0</td>
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**To determine the monthly child support payments, multiply the non-custodial parent's net monthly income at the point where it intersects the custodial parent's net monthly income by the percentage shown on the chart.**

*It is the policy of this state that every parent contribute to the support of his or her children in accordance with the means available. In this range the appropriate figure is $50 per month for one child, $75 for two children, $100 for three children, or $125 for four or more children. However, the appropriate figure is zero if the noncustodial parent's only income is from Supplemental Security Income (SSI) paid pursuant to 42 U.S.C. §1381a.

**For net monthly incomes above $10,000, the appropriate figure is to be determined in the same manner as the appropriate figure for net monthly income of $10,001 or more, but shall be no less than $10,000 as provided for in the guidelines for a non-custodial parent with a net monthly income of $10,000.**
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*It is the policy of this state that every parent contribute to the support of his or her children in accordance with the means available. In this range the appropriate figure is $50 per month for one child, $75 for two children, $100 for three children, or $125 for four or more children. However, the appropriate figure is zero if the noncustodial parent's only income is from Supplemental Security Income (SSI) paid pursuant to 42 U.S.C. 1396a.

**For net monthly incomes above $10,000, the appropriate figure is deemed to be within the sound discretion of the court or the agency fixing support by administrative order. The amount of support payable by a non-custodial parent with a net monthly income of $10,001 or more shall be no less than the dollar amount as provided for in the guidelines for a non-custodial parent with a net monthly income of $10,000.
### CHART 3. IOWA CHILD SUPPORT GUIDELINES - THREE CHILDREN

| Non-Custodial Parent's Net Monthly Income | $25,001 - 50,000 | 50,001 - 75,000 | 75,001 - 100,000 | 100,001 - 125,000 | 125,001 - 150,000 | 150,001 - 200,000 | 200,001 - 250,000 | 250,001 - 500,000 | 500,001 - 1,000,000
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</thead>
<tbody>
<tr>
<td>$0 - 100</td>
<td>25.0 30.0 35.0 40.0 45.0 50.0 55.0 60.0 65.0 70.0 75.0 80.0 85.0 90.0 95.0 100.0</td>
<td>25.0 30.0 35.0 40.0 45.0 50.0 55.0 60.0 65.0 70.0 75.0 80.0 85.0 90.0 95.0 100.0</td>
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</table>

To determine the monthly child support payments, multiply the non-custodial parent's net monthly income at the point where it intersects with the custodial parent's net monthly income by the percentage shown on the chart.

*It is the policy of this state that every parent contribute to the support of his or her children in accordance with the means available. In this range the appropriate figure is $50 per month for one child, $75 for two children, $100 for three children, or $125 for four or more children. However, the appropriate figure is zero if the noncustodial parent's only income is from Supplemental Security Income (SSI) paid pursuant to 42 U.S.C. 1381a.

**For net monthly incomes above $10,000, the appropriate figure is deemed to be within the sound discretion of the court or the agency fixing support by administrative order. The amount of support payable by a non-custodial parent with a net monthly income of $10,001 or more shall be no less than the dollar amount as provided for in the guidelines for a non-custodial parent with a net monthly income of $10,000.

28
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<th>CHART 4. IOWA CHILD SUPPORT GUIDELINES - FOUR CHILDREN</th>
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</table>

To determine the monthly child support payments, multiply the non-custodial parent's net monthly income at the point where it intersects the custodial parent's net monthly income by the percentage shown on the chart.

**Note:**
- If the income is between two values, use the higher percentage.
- If the income is below $100, multiply the amount by 0.02.

**For more information,** see the source document for details on how to calculate child support payments.

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**Technical Details:**
- The table above outlines the child support guidelines for Iowa based on the non-custodial parent's net monthly income.
- The guidelines are applicable for four children.
- The table uses a chart to determine the child support payments.
- The income ranges are specified, and the corresponding child support percentages are provided.
- The guidelines are intended to provide a basis for calculating child support obligations.

---

**References:**
- Iowa Child Support Guidelines.
- Iowa Department of Human Services.
- **Source:** Iowa Code § 235C.201 et seq.

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**Additional Information:**
- Child support payments are determined based on the non-custodial parent's net monthly income.
- The guidelines are designed to ensure fair and consistent support contributions across the state.
- The information provided is subject to change and should be verified with current official sources.

---

**Questions or Concerns:**
- For any questions regarding the child support guidelines or how to apply the chart, contact the local child support agency or visit the official website of the Iowa Department of Human Services.
<table>
<thead>
<tr>
<th>Non-Custodial Parent's Net Monthly Income</th>
<th>30-100</th>
<th>101-200</th>
<th>201-300</th>
<th>301-400</th>
<th>401-500</th>
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To determine the monthly child support payments, multiply the non-custodial parent's net monthly income by the percentage shown on the chart.

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**For net monthly incomes above $10,000, the appropriate figure is deemed to be within the sound discretion of the court or the agency fixing support by administrative order. The amount of support payable by a non-custodial parent with a net monthly income of $10,001 or more shall be no less than the dollar amount as provided in the guidelines for a non-custodial parent with a net monthly income of $10,000.**
Iowa Legal Aid offices are normally open Monday through Friday from 8:30 a.m. to 5:00 p.m. They are closed on holidays. You should call in advance for an appointment. Numbers listed are Voice and TTY. To find out which regional office serves your county, call or write:

**IOWA LEGAL AID**  
1111 9th Street, Suite 230  
Des Moines, Iowa 50314-2527  
Toll-Free Phone: 1-800-532-1275 (Voice and TTY)  
or call (515) 243-2151 (Voice and TTY)  
**ESPAÑOL** (800) 272-0008

Information on Iowa Legal Aid Offices is also available at:  
http://www.iowalegalaid.org

CEDAR RAPIDS REGIONAL OFFICE  
210 Second Street SE, Suite 302  
Cedar Rapids, Iowa 52401-1407  
(319) 364-6108 or Toll-free (800) 332-0419  
**SERVING:** Benton, Iowa, Linn, Marshall, Poweshiek and Tama Counties

SOUTHWEST IOWA REGIONAL OFFICE  
532 1st Avenue, Suite 300  
Council Bluffs, Iowa 51503-0803  
(712) 328-3982 or Toll-free (800) 432-9229  
**SERVING:** Adair, Boone, Clarke, Dallas, Greene, Guthrie, Hamilton, Jasper, Madison, Polk, Story, Union, Warren and Webster Counties

CENTRAL IOWA REGIONAL OFFICE  
1111 9th Street, Suite 380  
Des Moines, Iowa 50314-2527  
(515) 243-1193 or Toll-free (800) 532-1503  
**SERVING:** Adair, Boone, Clarke, Dallas, Greene, Guthrie, Hamilton, Jasper, Madison, Polk, Story, Union, Warren and Webster Counties

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600 1st Street NW, Suite 103  
Mason City, Iowa 50401-2947  
(641) 423-4651 or Toll-free (800) 392-0021  
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Ottumwa, Iowa 52501-2903  
(641) 683-3166 or Toll-free (800) 452-0007  
**SERVING:** Appanoose, Davis, Decatur, Jefferson, Keokuk, Lee, Lucas, Mahaska, Marion, Monroe, Van Buren, Wapello and Wayne Counties

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Sioux City, Iowa 51101-1315  
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**SERVING:** Buena Vista, Cherokee, Clay, Dickinson, Ida, Lyon, Monona, O'Brien, Osceola, Plymouth, Sac, Sioux and Woodbury Counties

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Waterloo, Iowa 50703-4799  
(319) 235-7008 or Toll-free (800) 772-0039  
**SERVING:** Black Hawk, Bremer, Buchanan, Butler, Chickasaw, Grundy,Hardin and Howard Counties

HELP LEGAL ASSISTANCE  
736 Federal Street, Suite 401  
Davenport, Iowa 52803-5723  
(563) 322-6216  
**SERVING:** Scott and Clinton Counties

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Des Moines, IA 50314-2527
FAX: 515/246-6075

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___________________________________________________________________________________
City: ______________________   State: ________________________Zip: _______________________
Phone:   ________________________  Fax: _______________  E-mail: _________________________

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Click this tab to get a popup menu and select your county or enter your zip code. After you select the county, you will get a list of local offices providing free legal help. Click on any program for details.

Click here to go back to the “Topics” page and start over on a new subject.

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Click any description on this page to get to the resource. It may be a community legal education flyer, which you may print out and use. It may be a link to another website with more details.

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on the Web at iowalegalaid.org