

CHAPTER 115**CHILD SUPPORT COLLECTION - LICENSING SANCTIONS AND OTHER
MISCELLANEOUS PROVISIONS***S.F. 431*

AN ACT relating to child support collection, including alternative measures for payment of costs for nonpublic assistance services, the establishment of the amount of child support required by certain parents who are nineteen years of age or younger, payment of a child support obligation under a modified order, provisions relating to the suspension, revocation, nonissuance, and nonrenewal of certain licenses for failure to pay support, and implementation provisions.

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

Section 1. NEW SECTION. 252J.1 DEFINITIONS.

As used in this chapter, unless the context otherwise requires:

1. "Certificate of noncompliance" means a document provided by the child support recovery unit certifying that the named obligor is not in compliance with a support order or with a written agreement for payment of support entered into by the unit and the obligor.

2. "License" means a license, certification, registration, permit, approval, renewal, or other similar authorization issued to an obligor by a licensing authority which evidences the admission to, or granting of authority to engage in, a profession, occupation, business, or industry, or to operate or register a motor vehicle. "License" does not mean or include licenses for hunting, fishing, boating, or other recreational activity.

3. "Licensee" means an obligor to whom a license has been issued, or who is seeking the issuance of a license.

4. "Licensing authority" means a county treasurer, the supreme court, or an instrumentality, agency, board, commission, department, officer, organization, or any other entity of the state, which has authority within this state to suspend or revoke a license or to deny the renewal or issuance of a license authorizing an obligor to register or operate a motor vehicle or to engage in a business, occupation, profession, or industry.

5. "Obligor" means a natural person as defined in section 252G.1 who has been ordered by a court or administrative authority to pay support.

6. "Support" means support or support payments as defined in section 252D.1, whether established through court or administrative order.

7. "Support order" means an order for support issued pursuant to chapter 232, 234, 252A, 252C, 252D, 252E, 252F, 252H, 598, 600B, or any other applicable chapter, or under a comparable statute of a foreign jurisdiction as registered with the clerk of the district court or certified to the child support recovery unit.

8. "Unit" means the child support recovery unit created in section 252B.2.

9. "Withdrawal of a certificate of noncompliance" means a document provided by the unit certifying that the certificate of noncompliance is withdrawn and that the licensing authority may proceed with issuance, reinstatement, or renewal of an obligor's license.

Sec. 2. NEW SECTION. 252J.2 PURPOSE AND USE.

1. Notwithstanding other statutory provisions to the contrary, and if an obligor has not been cited for contempt and enjoined from engaging in the activity governed by a license pursuant to section 598.23A, the unit may utilize the process established in this chapter to collect support.

2. An obligor is subject to the provisions of this chapter if the obligor's support obligation is being enforced by the unit, if the support payments required by a support order to be paid to the clerk of the district court or the collection services center pursuant to section 598.22 are not paid and become delinquent in an amount equal to the support payment for

ninety days, and if the obligor's situation meets other criteria specified under rules adopted by the department pursuant to chapter 17A. The criteria specified by rule shall include consideration of the length of time since the obligor's last support payment and the total amount of support owed by the obligor.

3. Actions initiated by the unit under this chapter shall not be subject to contested case proceedings or further review pursuant to chapter 17A and any resulting court hearing shall be an original hearing before the district court.

4. Notwithstanding the confidentiality provisions of chapter 252B or 422, or any other statutory provision pertaining to the confidentiality of records, a licensing authority shall exchange information with the unit through manual or automated means. Information exchanged under this chapter for the purposes of this chapter or chapter 598 shall be used solely for the purpose of identifying licensees subject to enforcement pursuant to this chapter or chapter 598.

Sec. 3. NEW SECTION. 252J.3 NOTICE TO OBLIGOR OF POTENTIAL SANCTION OF LICENSE.

The unit shall proceed in accordance with this chapter only if notice is served on the obligor in accordance with R.C.P. 56.1 or notice is sent by certified mail addressed to the obligor's last known address and served upon any person who may accept service under R.C.P. 56.1. Return acknowledgment is required to prove service by certified mail. The notice shall include all of the following:

1. The address and telephone number of the unit and the unit case number.
2. A statement that the obligor is not in compliance with a support order.
3. A statement that the obligor may request a conference with the unit to contest the action.
4. A statement that if, within twenty days of service of notice on the obligor, the obligor fails to contact the unit to schedule a conference, the unit shall issue a certificate of non-compliance, bearing the obligor's name, social security number, unit case number, and the docket number of a support order requiring the obligor to pay support, to any appropriate licensing authority, certifying that the obligor is not in compliance with a support order.
5. A statement that in order to stay the issuance of a certificate of noncompliance the request for a conference shall be in writing and shall be received by the unit within twenty days of service of notice on the obligor.
6. The names of the licensing authorities to which the unit intends to issue a certificate of noncompliance.
7. A statement that if the unit issues a certificate of noncompliance to an appropriate licensing authority, the licensing authority shall initiate proceedings to refuse to issue or renew, or to suspend or revoke the obligor's license, unless the unit provides the licensing authority with a withdrawal of a certificate of noncompliance.

Sec. 4. NEW SECTION. 252J.4 CONFERENCE.

1. The obligor may schedule a conference with the unit following service of notice pursuant to section 252J.3, or at any time after service of notice of suspension, revocation, denial of issuance, or nonrenewal of a license from a licensing authority, to challenge the unit's actions under this chapter.

2. The request for a conference shall be made to the unit, in writing, and, if requested after service of a notice pursuant to section 252J.3, shall be received by the unit within twenty days following service of notice.

3. The unit shall notify the obligor of the date, time, and location of the conference by regular mail, with the date of the conference to be no earlier than ten days following issuance of notice of the conference by the unit. If the obligor fails to appear at the conference, the unit shall issue a certificate of noncompliance.

4. Following the conference, the unit shall issue a certificate of noncompliance unless any of the following applies:

- a. The unit finds a mistake in the identity of the obligor.
 - b. The unit finds a mistake in determining that the amount of delinquent support is equal to or greater than one month.
 - c. The obligor enters a written agreement with the unit to comply with a support order, the obligor complies with an existing written agreement to comply with a support order, or the obligor pays the total amount of delinquent support due.
 - d. Issuance of a certificate of noncompliance is not appropriate under other criteria established in accordance with rules adopted by the department pursuant to chapter 17A.
5. The unit shall grant the obligor a stay of the issuance of a certificate of noncompliance upon receiving a timely written request for a conference, and if a certificate of noncompliance has previously been issued, shall issue a withdrawal of a certificate of noncompliance if the obligor enters into a written agreement with the unit to comply with a support order.
6. If the obligor does not timely request a conference or pay the total amount of delinquent support owed within twenty days of service of the notice pursuant to section 252J.3, the unit shall issue a certificate of noncompliance.

Sec. 5. NEW SECTION. 252J.5 WRITTEN AGREEMENT.

1. If an obligor is subject to this chapter as established in section 252J.2, the obligor and the unit may enter into a written agreement for payment of support and compliance which takes into consideration the obligor's ability to pay and other criteria established by rule of the department. The written agreement shall include all of the following:
- a. The method, amount, and dates of support payments by the obligor.
 - b. A statement that upon breach of the written agreement by the obligor, the unit shall issue a certificate of noncompliance to any appropriate licensing authority.
2. A written agreement entered into pursuant to this section does not preclude any other remedy provided by law and shall not modify or affect an existing support order.
3. Following issuance of a certificate of noncompliance, if the obligor enters into a written agreement with the unit, the unit shall issue a withdrawal of the certificate of noncompliance and shall forward a copy of the withdrawal by regular mail to the obligor and any appropriate licensing authority.

Sec. 6. NEW SECTION. 252J.6 DECISION OF THE UNIT.

1. If an obligor is not in compliance with a support order pursuant to section 252J.2, the unit notifies the obligor pursuant to section 252J.3, and the obligor requests a conference pursuant to section 252J.4, the unit shall issue a written decision if any of the following conditions exists:
- a. The obligor fails to appear at a scheduled conference under section 252J.4.
 - b. A conference is held under section 252J.4.
 - c. The obligor fails to comply with a written agreement entered into by the obligor and the unit under section 252J.5.
2. The unit shall send a copy of the written decision to the obligor by regular mail at the obligor's most recent address of record. If the decision is made to issue a certificate of noncompliance or to withdraw the certificate of noncompliance, a copy of the certificate of noncompliance or of the withdrawal of the certificate of noncompliance shall be attached to the written decision. The written decision shall state all of the following:
- a. That a copy of the certificate of noncompliance or withdrawal of the certificate of noncompliance has been provided to the licensing authorities named in the notice provided pursuant to section 252J.3.
 - b. That upon receipt of a certificate of noncompliance, the licensing authority shall initiate proceedings to suspend, revoke, deny issuance, or deny renewal of a license, unless the licensing authority is provided with a withdrawal of a certificate of noncompliance from the unit.
 - c. That in order to obtain a withdrawal of a certificate of noncompliance from the unit, the obligor shall enter into a written agreement with the unit, comply with an existing

written agreement with the unit, or pay the total amount of delinquent support owed.

d. That if the unit issues a written decision, which includes a certificate of noncompliance that all of the following apply:

(1) The obligor may request a hearing as provided in section 252J.9, before the district court in the county in which the underlying support order is filed, by filing a written application to the court challenging the issuance of the certificate of noncompliance by the unit and sending a copy of the application to the unit within the time period specified in section 252J.9.

(2) The obligor may retain an attorney at the obligor's own expense to represent the obligor at the hearing.

(3) The scope of review of the district court shall be limited to demonstration of a mistake of fact related to the delinquency of the obligor.

3. If the unit issues a certificate of noncompliance, the unit shall only issue a withdrawal of the certificate of noncompliance if any of the following applies:

a. The unit or the court finds a mistake in the identity of the obligor.

b. The unit or the court finds a mistake in determining that the amount of delinquent support due is equal to or greater than one month.

c. The obligor enters a written agreement with the unit to comply with a support order, the obligor complies with an existing written agreement to comply with a support order, or the obligor pays the total amount of delinquent support owed.

d. Issuance of a withdrawal of the certificate of noncompliance is appropriate under other criteria in accordance with rules adopted by the department pursuant to chapter 17A.

Sec. 7. NEW SECTION. 252J.7 CERTIFICATE OF NONCOMPLIANCE – CERTIFICATION TO LICENSING AUTHORITY.

1. If the obligor fails to respond to the notice of potential license sanction provided pursuant to section 252J.3 or the unit issues a written decision under section 252J.6 which states that the obligor is not in compliance, the unit shall certify, in writing, to any appropriate licensing authority that the support obligor is not in compliance with a support order and shall include a copy of the certificate of noncompliance.

2. The certificate of noncompliance shall contain the obligor's name, social security number, and the docket number of the applicable support order.

3. The certificate of noncompliance shall require all of the following:

a. That the licensing authority initiate procedures for the revocation or suspension of the obligor's license, or for the denial of the issuance or renewal of a license using the licensing authority's procedures.

b. That the licensing authority provide notice to the obligor, as provided in section 252J.8, of the intent to suspend, revoke, deny issuance, or deny renewal of a license including the effective date of the action. The suspension, revocation, or denial shall be effective no sooner than thirty days following provision of notice to the obligor.

Sec. 8. NEW SECTION. 252J.8 REQUIREMENTS AND PROCEDURES OF LICENSING AUTHORITY.

1. A licensing authority shall maintain records of licensees by name, current known address, and social security number.

2. In addition to other grounds for suspension, revocation or denial of issuance or renewal of a license, a licensing authority shall include in rules adopted by the licensing authority as grounds for suspension, revocation, or denial of issuance or renewal of a license, the receipt of a certificate of noncompliance from the unit.

3. The supreme court shall prescribe rules for admission of persons to practice as attorneys and counselors pursuant to chapter 602, article 10, which include provisions, as specified in this chapter, for the denial, suspension, or revocation of the admission for failure to comply with a child support order.

4. A licensing authority that is issued a certificate of noncompliance shall initiate procedures for the suspension, revocation, or denial of issuance or renewal of licensure to an obligor. The licensing authority shall utilize existing rules and procedures for suspension, revocation, or denial of the issuance or renewal of a license.

In addition, the licensing authority shall provide notice to the obligor of the licensing authority's intent to suspend, revoke, or deny issuance or renewal of a license under this chapter. The suspension, revocation, or denial shall be effective no sooner than thirty days following provision of notice to the obligor. The notice shall state all of the following:

a. The licensing authority intends to suspend, revoke, or deny issuance or renewal of an obligor's license due to the receipt of a certificate of noncompliance from the unit.

b. The obligor must contact the unit to schedule a conference or to otherwise obtain a withdrawal of a certificate of noncompliance.

c. Unless the unit furnishes a withdrawal of a certificate of noncompliance to the licensing authority within thirty days of the issuance of the notice under this section, the obligor's license will be revoked, suspended, or denied.

d. If the licensing authority's rules and procedures conflict with the additional requirements of this section, the requirements of this section shall apply. Notwithstanding section 17A.18, the obligor does not have a right to a hearing before the licensing authority to contest the authority's actions under this chapter but may request a court hearing pursuant to section 252J.9 within thirty days of the provision of notice under this section.

5. If the licensing authority receives a withdrawal of a certificate of noncompliance from the unit, the licensing authority shall immediately reinstate, renew, or issue a license if the obligor is otherwise in compliance with licensing requirements established by the licensing authority.

Sec. 9. NEW SECTION. 252J.9 DISTRICT COURT HEARING.

1. Following the issuance of a written decision by the unit under section 252J.6 which includes the issuance of a certificate of noncompliance, or following provision of notice to the obligor by a licensing authority pursuant to section 252J.8, an obligor may seek review of the decision and request a hearing before the district court in the county in which the underlying support order is filed, by filing an application with the district court, and sending a copy of the application to the unit by regular mail. An application shall be filed to seek review of the decision by the unit or following issuance of notice by the licensing authority no later than within thirty days after the issuance of the notice pursuant to section 252J.8. The clerk of the district court shall schedule a hearing and mail a copy of the order scheduling the hearing to the obligor and the unit and shall also mail a copy of the order to the licensing authority, if applicable. The unit shall certify a copy of its written decision and certificate of noncompliance, indicating the date of issuance, and the licensing authority shall certify a copy of a notice issued pursuant to section 252J.8, to the court prior to the hearing.

2. The filing of an application pursuant to this section shall automatically stay the actions of a licensing authority pursuant to section 252J.8. The hearing on the application shall be scheduled and held within thirty days of the filing of the application. However, if the obligor fails to appear at the scheduled hearing, the stay shall be lifted and the licensing authority shall continue procedures pursuant to section 252J.8.

3. The scope of review by the district court shall be limited to demonstration of a mistake of fact relating to the delinquency of the obligor. Issues related to visitation, custody, or other provisions not related to the support provisions of a support order are not grounds for a hearing under this chapter.

4. Support orders shall not be modified by the court in a hearing under this chapter.

5. If the court finds that the unit was in error in issuing a certificate of noncompliance, or in failing to issue a withdrawal of a certificate of noncompliance, the unit shall issue a withdrawal of a certificate of noncompliance to the appropriate licensing authority.

Sec. 10. Section 252H.10, Code 1995, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The periodic due date established under a prior order for payment of child support shall not be changed in any order modified as a result of an action initiated under this chapter, unless the child support recovery unit or the court determines that good cause exists to change the periodic due date. If the unit or the court determines that good cause exists, the unit or 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.

Sec. 11. Section 598.21, subsection 4, Code 1995, is amended by adding the following new paragraph:

NEW PARAGRAPH. e. 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 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.

Sec. 12. Section 598.21, subsection 8, Code 1995, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. 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.

Sec. 13. **NONPUBLIC ASSISTANCE RECIPIENTS CHILD SUPPORT RECOVERY COSTS – EVALUATION AND RECOMMENDATIONS.** The child support recovery unit shall evaluate the costs of services provided by the unit to nonpublic assistance recipients of services and shall submit a report to the general assembly on or before January 1, 1996, which includes recommendations and budget requests for coverage of these costs which are alternatives to payment of any fees by nonpublic assistance recipients of child support. An alternative to payment of fees by nonpublic assistance recipients of child support shall be implemented on or before July 1, 1996.

Sec. 14. IMPLEMENTATION. Sections 1 through 9 of this Act may be implemented by the child support recovery unit and any applicable licensing authority prior to adoption of rules by the licensing authority as required pursuant to section 252J.8. However, a licensing authority shall adopt rules as required by section 252J.8 on or before January 1, 1996.

Approved April 27, 1995

CHAPTER 116
FAMILY INVESTMENT AND RELATED HUMAN SERVICES
PROGRAMS - LIMITED BENEFIT PLANS
S.F. 433

AN ACT relating to the family investment program and related human services programs by requiring the department of human services to apply for a federal waiver regarding limited benefit plans and providing applicability provisions.

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

Section 1. WELFARE REFORM. The purpose of this section is to place greater emphasis under the family investment program on participant responsibility by enumerating the consequences of noncompliance and by making the consequences easier to understand. To achieve this purpose the department shall amend the limited benefit plan process for participants as provided in this Act.

1. The department of human services shall submit a waiver request to the United States department of health and human services as necessary to implement the changes in the family investment program under chapter 239 and the job opportunities and basic skills program under chapter 249C, as provided by this section. In addition, the department may submit additional waiver requests to the United States department of agriculture to make changes in the federal food stamp program and to the United States department of health and human services to make changes to the medical assistance program under chapter 249A, as necessary to revise these programs in accordance with any waiver provision implemented pursuant to this section. However, implementation of the additional waiver requests to change the food stamp and medical assistance programs is subject to enactment of legislative approval of the changes.

2. For the purposes of this section unless the context otherwise requires:

a. "Eligible group" means a group of individuals receiving a family investment program grant under chapter 239 and includes individuals whose income is considered by the department under the family investment program.

b. "Jobs opportunities and basic skills program" or "JOBS program" means the job opportunities and basic skills program under chapter 249C.

c. "Limited benefit plan" means a period of time specified in this section in which a participant or members of a participant's eligible group are either eligible for reduced benefits or ineligible for any benefits under the family investment program.

d. "Participant" means a participant in the family investment program under chapter 239 and includes individuals whose income is considered by the department under the family investment program.

3. If a participant responsible for signing and meeting the terms of a family investment agreement, as defined by the director of human services, chooses not to sign or fulfill the