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SENATE FILE 260

BY BROWN

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

A BILL FOR

1 An Act requiring the child support recovery unit within the
 2 department of human services to function as the statewide
 3 child support collection agency for the receipt and dis-
 4 tribution of all temporary and permanent child and
 5 spousal support payments.

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

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SF 260

1 Section 1. Section 234.39, unnumbered paragraph 2, Code
2 1985, is amended to read as follows:

3 A dispositional order of the juvenile court requiring the
4 provision of foster care shall establish, after notice and a
5 reasonable opportunity to be heard is provided to a parent or
6 guardian, the amount of the parent's or guardian's liability
7 for the cost of foster care provided by the department. In
8 establishing the amount of the liability, the court shall take
9 into consideration the department's schedule of charges, and
10 if the amount established deviates from the schedule of
11 charges, the court shall explain the deviation in its order.
12 The order shall direct the payment of the liability to the
13 ~~clerk-of-the-district-court~~ child support recovery unit for
14 the use of the department's foster care recovery unit. The
15 order shall be filed with the clerk of the district court and
16 shall have the same force and effect as a judgment when
17 entered in the judgment docket and lien index. The ~~clerk~~
18 child support recovery unit shall disburse the payments
19 pursuant to the order and enter record the disbursements in-a
20 ~~record-book~~. If payments are not made as ordered, the ~~clerk~~
21 child support recovery unit shall certify a default to the
22 court and the court may, on its own motion, proceed under
23 section 598.22 or 598.23. A dispositional order establishing
24 the amount of a parent's or guardian's liability for the cost
25 of foster care shall not vacate a prior court order which
26 establishes the parent's or guardian's child support
27 obligation.

28 Sec. 2. Section 252A.13, Code 1985, is amended to read as
29 follows:

30 252A.13 RECIPIENTS OF PUBLIC ASSISTANCE -- ASSIGNMENT OF
31 SUPPORT PAYMENTS.

32 A person entitled to periodic support payments pursuant to
33 an order or judgment entered in a uniform support action under
34 this chapter, who is also a recipient of public assistance, is
35 deemed to have assigned the person's rights to the support

1 payments, to the extent of public assistance received by the
2 person, to the department of human services. The department
3 shall immediately notify the ~~clerk-of-court-by-mail~~ child
4 support recovery unit when a person entitled to support
5 payments has been determined to be eligible for public
6 assistance. ~~Upon notification by the department that a person~~
7 ~~entitled to periodic support payments pursuant to this chapter~~
8 ~~is receiving public assistance, the clerk of court shall make~~
9 ~~a notation of the automatic assignment in the judgment docket~~
10 ~~and lien index. -- The notation constitutes constructive notice~~
11 ~~of the assignment.~~ The clerk of court child support recovery
12 unit shall forward support payments received pursuant to
13 section 252A.6, to which the department is entitled, to the
14 department, unless the court has ordered the payments made
15 directly to the department under subsection 12 of that
16 section. The department may secure support payments in
17 default through proceedings prescribed in this chapter. The
18 clerk of the district court shall furnish the department with
19 copies of all orders or decrees awarding support to parties
20 having custody of minor children when the parties are
21 receiving public assistance.

22 Sec. 3. Section 252B.5, Code 1985, is amended by adding
23 the following new subsection:

24 NEW SUBSECTION. 6. Function as the statewide child
25 support collection agency for the receipt and distribution of
26 all temporary or permanent support payments ordered under
27 chapter 252A, chapter 598, or chapter 675, or under a
28 comparable statute of a foreign jurisdiction, or received
29 through setoff of a state or federal income tax refund or
30 rebate.

31 Sec. 4. Section 252D.1, Code 1985, is amended to read as
32 follows:

33 252D.1 DELINQUENT SUPPORT PAYMENTS -- ASSIGNMENT OF
34 INCOME.

35 1. All orders of support shall direct the payment of the

1 support to the ~~clerk-of-the-district-court~~ child support
2 recovery unit pursuant to section 598.22.

3 2. If support payments ordered under section 252A.6,
4 subsection 12, section 598.21, or section 675.25, or under a
5 comparable statute of a foreign jurisdiction, as certified to
6 the child support recovery unit, are not paid to the ~~clerk-of~~
7 ~~the-district-court~~ child support recovery unit pursuant to
8 section 598.22 and become delinquent in an amount equal to the
9 payment for one month, ~~the-clerk-or~~ the child support recovery
10 unit ~~established-under-section-252B.2-may-certify-a-default-to~~
11 ~~the-court.--The-court-shall-order-the-defaulting-person-to~~
12 ~~assign-to-the-clerk-that-portion-of-the~~ shall order an
13 assignment of income and notify an employer, trustee, or other
14 payor by certified mail of the order of the assignment of
15 income requiring the withholding of specified sums to be
16 deducted from the delinquent person's periodic earnings, trust
17 income, or other income sufficient to pay the support
18 obligation and the payment of such sums to the child support
19 recovery unit. The assignment of income is binding on an
20 existing or future employer, trustee, or other payor ten days
21 after the receipt of the order by certified mail. The amount
22 of an assignment of income shall not exceed the amount
23 specified in 15 U.S.C. ~~sec-~~ § 1673b. The assignment of income
24 has priority over a garnishment or an assignment for a purpose
25 other than the support of the dependents in the court order
26 being enforced. The ~~court~~ child support recovery unit may
27 modify or revoke the ~~order-upon-the-request-of-the-child~~
28 ~~support-recovery-unit-and-may-modify-or-revoke-the-order~~
29 assignment of income at any other time in circumstances
30 including but not limited to full payment of all delinquencies
31 or the attainment of majority by or emancipation of a child.

32 3. A person entitled by court order to receive support
33 payments or a person responsible for enforcing such a court
34 order may petition the ~~court~~ child support recovery unit for
35 an assignment of income. If the petition is verified and

1 establishes that support payments are delinquent in an amount
2 equal to the payment for one month and if the court child
3 support recovery unit determines, ~~after providing an~~
4 ~~opportunity for a hearing,~~ that notice of the mandatory
5 assignment of income as provided in section 252D.3 has been
6 given, the court child support recovery unit shall ~~declare a~~
7 ~~default and~~ order an assignment of income under subsection 2.

8 Sec. 5. Section 252D.2, subsection 2, Code 1985, is
9 amended to read as follows:

10 2. The payor shall withhold and transmit the amount
11 specified in the order of assignment to the ~~clerk of the~~
12 district court child support recovery unit until the notice
13 that the motion to quash has been granted is received.

14 Sec. 6. Section 252D.3, Code 1985, is amended to read as
15 follows:

16 252D.3 NOTICE OF ASSIGNMENT.

17 All court orders for support entered on or after July 1,
18 1984 shall notify the person ordered to pay support of the
19 mandatory assignment of income required under section 252D.1
20 ~~upon the person's default.~~ However, for court orders for
21 support entered before July 1, 1984, ~~the clerk of the district~~
22 ~~court,~~ the child support recovery unit, or the person entitled
23 by the court order to receive the support payments, shall
24 notify each person ordered to pay support under such orders of
25 the mandatory assignment of income required under section
26 252D.1 ~~upon the person's default.~~ The notice shall be sent by
27 certified mail to the person's last known address or the
28 person shall be personally served with the notice in the
29 manner provided for service of an original notice at least
30 fifteen days prior to the filing of a petition under section
31 252D.1, subsection 3 or the entering ordering of a default an
32 assignment of income under section 252D.1, subsection 2 or 3.
33 A person ordered to pay support may waive the right to receive
34 the notice at any time.

35 Sec. 7. Section 252D.4, subsection 1, Code 1985, is

1 amended to read as follows:

2 1. The employer, trustee, or other payor who receives an
3 order of assignment by certified mail pursuant to section
4 252D.1, subsection 2 shall deliver, on the next working day, a
5 copy of the order to the person named in the order. The payor
6 may deduct not more than one dollar from each payment as a
7 reimbursement for the payor's costs relating to the
8 assignment. The payor's compliance with the order of
9 assignment satisfies the payor's obligation to the person for
10 the amount of income withheld and transmitted to the clerk-of
11 ~~the-district-court~~ child support recovery unit.

12 Sec. 8. Section 598.22, Code 1985, is amended to read as
13 follows:

14 598.22 SUPPORT PAYMENTS -- CLERK OF COURT -- DEFAULTS.

15 All orders or judgments providing entered under chapter
16 252A, chapter 675, or this chapter which provide for temporary
17 or permanent support payments shall direct the payment of such
18 sums to the ~~clerk-of-the-court~~ child support recovery unit
19 established in section 252B.2 for the use of the person for
20 whom the payments have been awarded. Payments to persons
21 other than the child support recovery unit do not satisfy the
22 support obligations created by such orders or judgments.

23 Upon a finding of previous failure to pay child support,
24 the court may order the person obligated for permanent child
25 support to make an assignment of periodic earnings, or trust
26 income to the ~~clerk-of-court~~ child support recovery unit for
27 the use of the person for whom the assignment is ordered. The
28 assignment of earnings ordered by the court shall not exceed
29 the amounts set forth in 15 U.S.C. § 1673b (Supp.-1979).
30 The assignment is binding on the employer, trustee, or other
31 payor of the funds two weeks after service upon that person of
32 notice that the assignment has been made. The payor shall
33 withhold from the earnings, or trust income payable to the
34 person obligated the amount specified in the assignment and
35 shall transmit the payments to the ~~clerk~~ child support

1 recovery unit. The payor may deduct from each payment a sum
2 not exceeding one dollar as a reimbursement for costs. An
3 employer who dismisses an employee due to the entry of an
4 assignment order commits a simple misdemeanor.

5 An order or judgment entered by the court for temporary or
6 permanent support or for an assignment shall be filed with the
7 court clerk of the district court. The orders ~~shall~~ have the
8 same force and effect as judgments when entered in the
9 judgment docket and lien index and ~~shall-be-a-record~~ are
10 records open to the public. The ~~clerk~~ child support recovery
11 unit shall disburse the payments received pursuant to the
12 orders or judgments within five working days of the receipt of
13 the payments. All moneys received or disbursed under this
14 section shall be ~~entered-in-a-record-book-kept~~ recorded and
15 maintained by the ~~clerk~~ child support recovery unit, which and
16 the records shall be open to the public. The child support
17 recovery unit shall not record any moneys paid if not paid to
18 the child support recovery unit.

19 If the sums ordered to be paid in a support payment order
20 are not paid to the ~~clerk~~ child support recovery unit at the
21 time provided in the order or judgment, the clerk shall
22 certify a default to the court which may, on its own motion,
23 proceed as provided in section 598.23.

24 Prompt payment of sums required to be paid under sections
25 598.11 and 598.21 ~~shall-be~~ is the essence of such orders or
26 judgments and the court may act pursuant to section 598.23
27 regardless of whether the amounts in default are paid prior to
28 the contempt hearing.

29 Sec. 9. Section 598.23, subsection 2, paragraph a, Code
30 1985, is amended to read as follows:

31 a. Directs the defaulting party to assign, trust income or
32 a sufficient amount in salary or wages due, or to become due
33 in the future, from an employer or successor employers, to the
34 ~~clerk-of-the-court~~ child support recovery unit where the order
35 or judgment was granted for the purpose of paying the sums in

1 default as well as those to be made paid in the future. Where
2 If the assignment is of salary or wages due, the amount
3 assigned shall not exceed the amount set forth in 15 U.S.C. s=
4 § 1673b (~~Supp. - 1979~~) and the assignment order ~~shall be~~ is
5 binding upon the employer only for those amounts that
6 represent child support and only upon receipt by the employer
7 of a copy of the order, signed by the employee. For each
8 payment deducted in compliance with ~~such request~~ an order, the
9 payor may deduct a sum not exceeding one dollar as a
10 reimbursement for costs. Compliance by a payor with the
11 court's order ~~shall operate~~ operates as a discharge of the
12 employer's liability to the payee as to the affected portion
13 of the payee's wages, or trust income. Any An employer who
14 dismisses an employee due to the entry of an assignment order
15 commits a simple misdemeanor.

16 Sec. 10. Section 598.34, unnumbered paragraph 1, Code
17 1985, is amended to read as follows:

18 A person entitled to periodic support payments pursuant to
19 an order or judgment entered in an action for dissolution of
20 marriage, who is also a recipient of public assistance, is
21 deemed to have assigned the person's rights to the support
22 payments, to the extent of public assistance received by the
23 person, to the department of human services. The department
24 shall immediately notify the ~~clerk-of-court-by-mail~~ child
25 support recovery unit when a person entitled to support
26 payments has been determined to be eligible for public
27 assistance. ~~Upon notification by the department that a person~~
28 ~~entitled to periodic support payments pursuant to this chapter~~
29 ~~is receiving public assistance, the clerk of court shall make~~
30 ~~a notation of the automatic assignment in the judgment docket~~
31 ~~and lien index. The notation constitutes constructive notice~~
32 ~~of the assignment.~~ The clerk-of-court child support recovery
33 unit shall forward support payments received pursuant to
34 section 598.22, to which the department is entitled, to the
35 department, which may secure support payments in default

1 through proceedings provided for in chapter 252A or section
2 598.24.

3 Sec. 11. Section 602.8102, subsection 47, Code 1985, is
4 amended to read as follows:

5 47. ~~Forward-support-payments-received-under-section-252A-6~~
6 ~~to-the-department-of-human-services-and-furnish~~ Furnish to the
7 child support recovery unit and the department of human
8 services copies of orders and decrees awarding support to
9 parties receiving welfare assistance as provided in section
10 252A.13 and section 675.38.

11 Sec. 12. Section 675.38, Code 1985, is amended to read as
12 follows:

13 675.38 RECIPIENTS OF PUBLIC ASSISTANCE -- ASSIGNMENT OF
14 SUPPORT PAYMENTS.

15 A person entitled to periodic support payments pursuant to
16 an order or judgment entered in a paternity action under this
17 chapter, who is also a recipient of public assistance, is
18 deemed to have assigned the person's rights to the support
19 payments, to the extent of public assistance received by the
20 person, to the department of human services. The department
21 shall immediately notify the ~~clerk-of-court-by-mail~~ child
22 support recovery unit when a person entitled to support
23 payments has been determined to be eligible for public
24 assistance. ~~Upon-notification-by-the-department-that-a-person~~
25 ~~entitled-to-periodic-support-payments-pursuant-to-this-chapter~~
26 ~~is-receiving-public-assistance,-the-clerk-of-court-shall-make~~
27 ~~a-notation-of-the-automatic-assignment-in-the-judgment-docket~~
28 ~~and-lien-index.--The-notation-constitutes-constructive-notice~~
29 ~~of-the-assignment.~~ The clerk-of-court child support recovery
30 unit shall forward support payments received pursuant to
31 section 675.25, to which the department is entitled, to the
32 department, which may secure support payments in default
33 through proceedings prescribed in chapter 252A or section
34 675.37. The clerk of the district court shall furnish the
35 department with copies of all orders or decrees awarding

1 support to parties having custody of minor children when the
2 parties are receiving public assistance.

3 EXPLANATION

4 This bill requires the child support recovery unit within
5 the department of human services to function as the statewide
6 child support collection agency for the receipt and distribu-
7 tion of all temporary and permanent child and spousal support
8 payments. All such support payments are required under the
9 bill to be made to the child support recovery unit rather than
10 to the clerks of the district court. The recovery unit must
11 disburse moneys received within five working days of their
12 receipt.

13 The bill also authorizes the child support recovery unit,
14 rather than the court, to order a mandatory assignment of
15 income, payable to the recovery unit, and to modify or revoke
16 the assignment in appropriate circumstances, in order to
17 conform with a federal mandated change in the Iowa law.
18 Delinquent obligations are expanded to include nonpayment of
19 uniform support orders under chapter 252A and other comparable
20 orders of foreign jurisdictions.

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