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H. 3/21/96 Human Res
FILED FEB 28 1996

SENATE FILE 2344
BY COMMITTEE ON HUMAN RESOURCES

(SUCCESSOR TO SSB 2234)

Passed Senate, (p.947) Date 3-21-96 Passed House, (p.1530) Date 4/10/96
Vote: Ayes 48 Nays 0 Vote: Ayes 92 Nays 0
Approved 4-18-96

A BILL FOR

1 An Act relating to child support enforcement.
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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S.F. 2344

DIVISION I

ATTACHMENT OF RETIREMENT AND DISABILITY BENEFITS

Section 1. Section 97A.12, Code 1995, is amended to read as follows:

97A.12 EXEMPTION FROM EXECUTION AND OTHER PROCESS OR ASSIGNMENT.

The right of any person to a pension, annuity, or retirement allowance, to the return of contributions, the pension, annuity, or retirement allowance itself, any optional benefit or death benefit, any other right accrued or accruing to any person under this chapter, and the moneys in the various funds created under this chapter, are not subject to execution, garnishment, attachment, or any other process whatsoever, and are unassignable except for the purposes of enforcing child, spousal, or medical support obligations or as in-this-chapter otherwise specifically provided in this chapter. For the purposes of enforcing child, spousal, or medical support obligations, the garnishment or attachment of or the execution against compensation due a person under this chapter shall not exceed the amount specified in 15 U.S.C. § 1673(b).

Sec. 2. Section 411.13, Code 1995, is amended to read as follows:

411.13 EXEMPTION FROM EXECUTION AND OTHER PROCESS, OR ASSIGNMENT.

The right of any person to a pension, annuity, or retirement allowance, to the return of contributions, the pension, annuity, or retirement allowance itself, any optional benefit or death benefit, any other right accrued or accruing to any person under this chapter, and the moneys in the fire and police retirement fund created under this chapter, are not subject to execution, garnishment, attachment, or any other process whatsoever, and are unassignable except for the purposes of enforcing child, spousal, or medical support obligations or as in-this-chapter otherwise specifically

1 provided in this chapter. For the purposes of enforcing
2 child, spousal, or medical support obligations, the
3 garnishment or attachment of or the execution against
4 compensation due a person under this chapter shall not exceed
5 the amount specified in 15 U.S.C. § 1673(b).

6 DIVISION II

7 REVIEW AND ADJUSTMENT OF SUPPORT ORDERS

8 Sec. 3. Section 252H.8, subsection 1, paragraphs a and b,
9 Code 1995, are amended by striking the paragraphs.

10 Sec. 4. Section 252H.8, subsection 4, unnumbered paragraph
11 1, Code 1995, is amended to read as follows:

12 If a timely written request for a hearing is received by
13 the unit ~~and the granting of the request is not precluded~~
14 ~~pursuant to subsection 1,~~ a hearing shall be held in district
15 court, and the unit shall certify the matter to the district
16 court in the county in which the order subject to adjustment
17 or modification is filed. The certification shall include the
18 following, as applicable:

19 Sec. 5. Section 252H.17, subsection 2, Code 1995, is
20 amended to read as follows:

21 2. A challenge shall be submitted, in writing, to the
22 local child support office that issued the notice of decision,
23 within ~~the following time frames:~~

24 ~~a. If the notice of decision indicates that an adjustment~~
25 ~~is not appropriate, a challenge shall be submitted within~~
26 ~~thirty days of the date of issuance of the notice.~~

27 ~~b. If the notice of decision indicates that an adjustment~~
28 ~~is appropriate, a challenge shall be submitted within ten days~~
29 of the issuance of the notice.

30 DIVISION III

31 SUSPENSION AND REINSTATEMENT OF ORDERS

32 Sec. 6. Section 252B.20, subsections 4 and 8, Code 1995,
33 are amended to read as follows:

34 4. An order suspending an accruing support obligation
35 entered by the court pursuant to this section shall be

1 considered a temporary order for the period of six months from
2 the date of filing of the suspension order. However, the six-
3 month period shall not include any time during which an
4 application for reinstatement is pending before the court.

5 8. If the order suspending a support obligation has been
6 on file with the court for a period exceeding six months as
7 computed pursuant to subsection 4, the order becomes final by
8 operation of law and terminates the support obligation, and
9 thereafter, a party seeking to establish a support obligation
10 against either party shall bring a new action for support as
11 provided by law.

12 DIVISION IV

13 GENETIC TESTING

14 Sec. 7. Section 252F.3, subsection 4, paragraph b, Code
15 1995, is amended to read as follows:

16 b. If paternity establishment was contested and paternity
17 tests conducted, a court hearing on the issue of paternity
18 shall be scheduled no earlier than fifty days from the date
19 paternity test results are issued to all parties by the unit,
20 unless the parties mutually agree to waive the time frame
21 pursuant to section ~~255F-8~~ 252F.8.

22 Sec. 8. Section 252F.3, subsection 6, paragraph d, Code
23 1995, is amended to read as follows:

24 d. If a paternity test is ordered under this section, the
25 administrator shall direct that inherited characteristics,
26 ~~including-but-not-limited-to-blood-types,~~ be analyzed and
27 interpreted, and shall appoint an expert qualified as an
28 examiner of genetic markers to analyze and interpret the
29 results.

30 DIVISION V

31 DISESTABLISHMENT/REESTABLISHMENT OF PATERNITY

32 Sec. 9. Section 598.21, subsection 4A, paragraph c,
33 subparagraph (2), unnumbered paragraph 2, Code Supplement
34 1995, is amended to read as follows:

35 If the court overcomes a prior determination of paternity,

1 the previously established father shall be relieved of support
2 obligations as specified in section 600B.41A, subsection 4.
3 In any action to overcome paternity other than through a
4 pending dissolution action, the provisions of section 600B.41A
5 apply. Overcoming paternity under this paragraph does not bar
6 subsequent actions to establish paternity. A subsequent
7 action to establish paternity against the previously
8 established father is not barred if it is subsequently
9 determined that the written statement attesting that the
10 established father is not the biological father of the child
11 may have been submitted erroneously, and that the person
12 previously determined not to be the child's father during the
13 dissolution action may actually be the child's biological
14 father.

15 DIVISION VI

16 INCOME WITHHOLDING

17 Sec. 10. Section 252D.2, subsection 2, Code 1995, is
18 amended to read as follows:

19 2. The payor shall withhold and transmit the amount
20 specified in the order or in the child support recovery unit's
21 notice of the order of assignment to the clerk of the district
22 court until the notice that the motion to quash has been
23 granted is received.

24 Sec. 11. Section 252D.11, subsection 3, Code 1995, is
25 amended to read as follows:

26 3. The payor shall withhold and transmit the amount
27 specified in the order or in the child support recovery unit's
28 notice of the order of assignment to the clerk of the district
29 court or the collection services center, as appropriate, until
30 the notice that a motion to quash has been granted is
31 received.

32 Sec. 12. Section 252D.17, unnumbered paragraph 1, Code
33 Supplement 1995, is amended to read as follows:

34 The ~~child-support-recovery-unit-or-the~~ district court shall
35 provide notice by sending a copy of the order for income

1 withholding to the obligor's employer, trustee, or other payor
2 of income by regular mail, with proof of service completed
3 according to rule of civil procedure 82. The child support
4 recovery unit shall provide notice of the income withholding
5 order by sending a notice of the order to the obligor's
6 employer, trustee, or other payor of income by regular mail.
7 Proof of service may be completed according to rule of civil
8 procedure 82. The order or the child support recovery unit's
9 notice of the order may be sent to the employer, trustee, or
10 other payor of income on the same date that the order is sent
11 to the clerk of court for filing. In addition to the amount
12 to be withheld for payment of support, the order or the child
13 support recovery unit's notice of the order shall include all
14 of the following information regarding the duties of the payor
15 in implementing the withholding order:

16 Sec. 13. Section 252D.17, subsections 4, 7, 9, and 11,
17 Code Supplement 1995, are amended to read as follows:

18 4. The income withholding order is binding on an existing
19 or future employer, trustee, or other payor ten days after
20 receipt of the copy of the order or the child support recovery
21 unit's notice of the order, and is binding whether or not the
22 copy of the order received is file-stamped.

23 7. The payor shall deliver or send a copy of the order or
24 the child support recovery unit's notice of the order to the
25 ~~person-named-in-the-order~~ obligor within one business day
26 after receipt of the order or the child support recovery
27 unit's notice of the order.

28 9. If the payor fails to withhold income in accordance
29 with the provisions of the order or the child support recovery
30 unit's notice of the order, the payor is liable for the
31 accumulated amount which should have been withheld, together
32 with costs, interest, and reasonable attorney fees related to
33 the collection of the amounts due from the payor.

34 11. Any payor who discharges an obligor, refuses to employ
35 an obligor, or takes disciplinary action against an obligor

1 based upon income withholding is guilty of a simple
2 misdemeanor. A withholding order or the child support
3 recovery unit's notice of the order has the same force and
4 effect as any other district court order, including, but not
5 limited to, contempt of court proceedings for noncompliance.

6 Sec. 14. Section 252D.18A, unnumbered paragraph 1, Code
7 1995, is amended to read as follows:

8 When the obligor is responsible for paying more than one
9 support obligation and the employer or the income payor has
10 received more than one income withholding order or the child
11 support recovery unit's notice of an order for the obligor,
12 the payor shall withhold amounts in accordance with all of the
13 following:

14 Sec. 15. Section 252D.18A, subsection 3, paragraph a, Code
15 1995, is amended to read as follows:

16 a. To arrive at the amount to be withheld for each
17 obligee, the payor shall total the amounts due for current
18 support under the income withholding orders and the child
19 support recovery unit's notices of orders and determine the
20 proportionate share for each obligee. The proportionate share
21 shall be determined by dividing the amount due for current
22 support for each order or child support recovery unit's notice
23 of order by the total due for current support for all orders
24 and child support recovery unit's notices of orders. The
25 results are the percentages of the obligor's net income which
26 shall be withheld for each obligee.

27 Sec. 16. Section 252D.23, Code Supplement 1995, is amended
28 to read as follows:

29 252D.23 FILING OF WITHHOLDING ORDER -- ORDER EFFECTIVE AS
30 DISTRICT COURT ORDER.

31 An income withholding order entered by the child support
32 recovery unit pursuant to this chapter shall be filed with the
33 clerk of the district court. For the purposes of
34 demonstrating compliance by the employer, trustee, or other
35 payor, the copy of the withholding order or the child support

1 recovery unit's notice of the order received, whether or not
2 the copy of the order is file-stamped, shall have all the
3 force, effect, and attributes of a docketed order of the
4 district court including, but not limited to, availability of
5 contempt of court proceedings against an employer, trustee, or
6 other payor for noncompliance. However, any information
7 contained in the income withholding order or the child support
8 recovery unit's notice of the order related to the amount of
9 the accruing or accrued support obligation which does not
10 reflect the correct amount of support due does not modify the
11 underlying support judgment.

12 Sec. 17. Section 252G.3, subsection 1, paragraph d, Code
13 1995, is amended to read as follows:

14 d. The address to which income withholding orders or the
15 child support recovery unit's notices of orders and
16 garnishments should be sent.

17 DIVISION VII

18 FULL FAITH AND CREDIT OF CHILD SUPPORT ORDERS

19 Sec. 18. Section 252A.3, subsection 8, Code 1995, is
20 amended by striking the subsection.

21 Sec. 19. NEW SECTION. 252A.4A CHOICE OF LAW.

22 In a proceeding to establish, modify, or enforce a child
23 support order the forum state's law shall apply except as
24 follows:

25 1. In interpreting a child support order, a court shall
26 apply the law of the state of the court or administrative
27 agency that issued the order.

28 2. In an action to enforce a child support order, a court
29 shall apply the statute of limitations of the forum state or
30 the state of the court or administrative agency that issued
31 the order, whichever statute provides the longer period of
32 limitations.

33 Sec. 20. Section 252A.5, unnumbered paragraph 1, Code
34 1995, is amended to read as follows:

35 A Unless prohibited pursuant to section 252A.20, a

1 proceeding to compel support of a dependent may be maintained
2 under this chapter in any of the following cases:

3 Sec. 21. Section 252A.6, subsection 15, Code 1995, is
4 amended to read as follows:

5 15. Any Except as provided in section 252A.20, any order
6 of support issued by a court of the state acting as a
7 responding state shall not supersede any previous order of
8 support issued in a divorce or separate maintenance action,
9 but the amounts for a particular period paid pursuant to
10 either order shall be credited against amounts accruing or
11 accrued for the same period under both. This subsection also
12 applies to orders entered following an administrative process
13 including, but not limited to, the administrative processes
14 provided pursuant to chapters 252C and 252F.

15 Sec. 22. Section 252A.6, Code 1995, is amended by adding
16 the following new subsection:

17 NEW SUBSECTION. 17. A court or administrative agency of a
18 state that has issued a child support order consistent with 28
19 U.S.C. § 1738B has continuing, exclusive jurisdiction over the
20 order if the state is the state in which the child is residing
21 or the state is the residence of the petitioner or respondent
22 unless the court or administrative agency of another state,
23 acting in accordance with 28 U.S.C. § 1738B, has modified the
24 order.

25 Sec. 23. Section 252A.8, Code 1995, is amended to read as
26 follows:

27 252A.8 ADDITIONAL REMEDIES.

28 This Unless otherwise provided pursuant to 28 U.S.C. §
29 1738B, this chapter shall be construed to furnish an
30 additional or alternative civil remedy and shall in no way
31 affect or impair any other remedy, civil or criminal, provided
32 in any other statute and available to the petitioner in
33 relation to the same subject matter.

34 Sec. 24. Section 252A.19, subsection 1, Code 1995, is
35 amended to read as follows:

1 1. Upon registration of the registered foreign support
2 ~~order shall be treated in the same manner as a support order~~
3 ~~issued by a court of this state. -- The order shall have the~~
4 ~~same effect and shall be subject to the same procedures,~~
5 ~~defenses, and proceedings for reopening, vacating, or staying~~
6 ~~as a support order of this state and may be enforced and~~
7 ~~satisfied in like manner.~~ both of the following shall apply:

8 a. The order is enforceable in the same manner and is
9 subject to the same enforcement procedures as a support order
10 issued by a court of this state.

11 b. The order may be modified only as provided in section
12 252A.20.

13 Sec. 25. Section 252A.20, Code 1995, is amended to read as
14 follows:

15 252A.20 MODIFICATION OR ADJUSTMENT OF A REGISTERED FOREIGN
16 SUPPORT ORDER AND OF AN IOWA ORDER REGISTERED IN A FOREIGN
17 JURISDICTION.

18 1. An order which has been registered in a court of this
19 state pursuant to section 252A.18 may be modified or adjusted
20 following registration, ~~subject to all~~ if one of the following
21 applies:

22 a. ~~The modification or adjustment of the order does not~~
23 ~~affect the underlying judgment in the foreign jurisdiction,~~
24 ~~unless provided pursuant to the statute of the foreign~~
25 ~~jurisdiction.~~ The court of the rendering state no longer has
26 continuing, exclusive jurisdiction of the order because that
27 state no longer is the residence of the child or the
28 petitioner or respondent.

29 b. ~~The modification or adjustment of the underlying~~
30 ~~judgment by a foreign jurisdiction does not affect the~~
31 ~~registered order in this state unless confirmed by a court of~~
32 ~~this state.~~ The petitioner and respondent have filed a
33 written statement with the court where the order is registered
34 consenting to that court determining the modification and
35 assuming continuing, exclusive jurisdiction over the order.

1 2. A support order issued in a court of this state may be
2 registered in a foreign jurisdiction and, following
3 registration, may be modified or adjusted ~~subject-to-the~~
4 following if either of the following applies:

5 a. ~~The-modification-or-adjustment-of-the-registered-order~~
6 ~~by-a-foreign-jurisdiction-does-not-affect-the-underlying~~
7 ~~judgment-in-this-state-unless-confirmed-by-a-court-of-this~~
8 ~~state.~~ The court of this state no longer has continuing,
9 exclusive jurisdiction of the order because this state no
10 longer is the residence of the child, or of the petitioner or
11 respondent.

12 b. ~~The-modification-or-adjustment-of-the-underlying~~
13 ~~judgment-by-a-court-of-this-state-following-registration-in-a~~
14 ~~foreign-jurisdiction-does-not-affect-the-registered-order~~
15 ~~unless-provided-by-the-statute-of-the-foreign-jurisdiction.~~
16 The petitioner and respondent have filed a written statement
17 with the court where the order is registered consenting to
18 that court determining the modification and assuming
19 continuing, exclusive jurisdiction over the order.

20 3. A court or administrative agency of a state that no
21 longer has continuing, exclusive jurisdiction of a child
22 support order may enforce the order with respect to non-
23 modifiable obligations and unsatisfied obligations that
24 accrued before the date on which a modification of the order
25 is made under this section.

26 4. Issues related to visitation, custody, or other
27 provisions not related to the support provisions of a support
28 order shall not be grounds for a hearing, modification,
29 adjustment, or other action under this chapter.

30 Sec. 26. Section 252E.4, subsection 1, Code 1995, is
31 amended to read as follows:

32 1. When a support order requires an obligor to provide
33 coverage under a health benefit plan, the district court or
34 the department may enter an ex parte order directing an
35 employer to take all actions necessary to enroll an obligor's

1 dependent for coverage under a health benefit plan. The
2 department may amend the information in the ex parte order
3 regarding health insurance provisions if necessary to comply
4 with health insurance requirements including but not limited
5 to the provisions of section 252E.2, subsection 2.

6 Sec. 27. Section 252E.13, subsections 1 and 3, Code 1995,
7 are amended to read as follows:

8 1. When Subject to 28 U.S.C. § 1738B, when high potential
9 for obtaining medical support exists, the obligee or the
10 department may petition for a modification of the obligor's
11 support order to include medical support or a monetary amount
12 for medical support pursuant to this chapter.

13 3. The Subject to 28 U.S.C. § 1738B, the department may
14 amend information concerning the provisions regarding health
15 benefits in a court or administrative order,~~if necessary to~~
16 ~~comply with section 252E.2, subsection 2,~~ if notice of the
17 amendment is provided to the court and to the parties to the
18 order and if the amendment is filed with the clerk of court.

19 Sec. 28. NEW SECTION. 598.2A CHOICE OF LAW.

20 In a proceeding to establish, modify, or enforce a child
21 support order the forum state's law shall apply except as
22 follows:

23 1. In interpreting a child support order, a court shall
24 apply the law of the state of the court or administrative
25 agency that issued the order.

26 2. In an action to enforce a child support order, a court
27 shall apply the statute of limitations of the forum state or
28 the state of the court or administrative agency that issued
29 the order, whichever statute provides the longer period of
30 limitations.

31 Sec. 29. Section 598.14, unnumbered paragraph 2, Code
32 1995, is amended to read as follows:

33 After Subject to 28 U.S.C. § 1738B, after notice and
34 hearing subsequent changes in temporary orders may be made by
35 the court on application of either party demonstrating a

1 substantial change in the circumstances occurring subsequent
2 to the issuance of such order. If the order is not so
3 modified it shall continue in force and effect until the
4 action is dismissed or a decree is entered dissolving the
5 marriage.

6 Sec. 30. Section 598.21, subsection 8, unnumbered
7 paragraph 1, Code Supplement 1995, is amended to read as
8 follows:

9 The Subject to 28 U.S.C. § 1738B, the court may
10 subsequently modify orders made under this section when there
11 is a substantial change in circumstances. In determining
12 whether there is a substantial change in circumstances, the
13 court shall consider the following:

14 Sec. 31. Section 598.21, subsection 9, unnumbered
15 paragraph 1, Code Supplement 1995, is amended to read as
16 follows:

17 Notwithstanding Subject to 28 U.S.C. § 1738B, but
18 notwithstanding subsection 8, a substantial change of
19 circumstances exists when the court order for child support
20 varies by ten percent or more from the amount which would be
21 due pursuant to the most current child support guidelines
22 established pursuant to subsection 4 or the obligor has access
23 to a health benefit plan, the current order for support does
24 not contain provisions for medical support, and the dependents
25 are not covered by a health benefit plan provided by the
26 obligee, excluding coverage pursuant to chapter 249A or a
27 comparable statute of a foreign jurisdiction.

28 Sec. 32. Section 600B.31, Code 1995, is amended to read as
29 follows:

30 600B.31 CONTINUING JURISDICTION.

31 The Subject to 28 U.S.C. § 1738B, the court has continuing
32 jurisdiction over proceedings brought to compel support and to
33 increase or decrease the amount thereof until the judgment of
34 the court has been completely satisfied, and also has
35 continuing jurisdiction to determine the custody in accordance

1 with the interests of the child.

2 Sec. 33. Section 600B.34, Code 1995, is amended to read as
3 follows:

4 600B.34 FOREIGN JUDGMENTS.

5 The Subject to 28 U.S.C. § 1738B, the judgment of the court
6 of another state rendered in proceedings to compel support of
7 a child born out of wedlock, and directing payment either of a
8 fixed sum or of sums payable from time to time, may be sued
9 upon in this state and made a domestic judgment so far as not
10 inconsistent with the laws of this state, and the same
11 remedies may thereupon be had upon such judgment as if it had
12 been recovered originally in this state.

13 Sec. 34. Section 626A.2, Code 1995, is amended to read as
14 follows:

15 626A.2 FILING AND STATUS OF FOREIGN JUDGMENTS.

16 1. A copy of a foreign judgment authenticated in
17 accordance with an Act of Congress or the statutes of this
18 state may be filed in the office of the clerk of the district
19 court of a county of this state which would have venue if the
20 original action was being commenced in this state. The clerk
21 shall treat the foreign judgment in the same manner as a
22 judgment of the district court of this state. A judgment so
23 filed has the same effect and is subject to the same
24 procedures, defenses and proceedings for reopening, vacating,
25 or staying as a judgment of the district court of this state
26 and may be enforced or satisfied in like manner.

27 2. In a proceeding to enforce a child support order, the
28 law of this state shall apply except as follows:

29 a. In interpreting a child support order, a court shall
30 apply the law of the state of the court that issued the order.

31 b. In an action to enforce a child support order, a court
32 shall apply the statute of limitations of this state or the
33 state of the court that issued the order, whichever statute
34 provides the longer period of limitations.

35

DIVISION VIII

1 INTEREST ACCRUAL

2 Sec. 35. Section 535.3, Code 1995, is amended to read as
3 follows:

4 535.3 INTEREST ON JUDGMENTS AND DECREES.

5 1. Interest shall be allowed on all money due on judgments
6 and decrees of courts at the rate of ten percent per year,
7 unless a different rate is fixed by the contract on which the
8 judgment or decree is rendered, in which case the judgment or
9 decree shall draw interest at the rate expressed in the
10 contract, not exceeding the maximum applicable rate permitted
11 by the provisions of section 535.2, which rate must be
12 expressed in the judgment or decree. The interest shall
13 accrue from the date of the commencement of the action, except
14 as otherwise provided in subsection 3.

15 2. This section does not apply to the award of interest
16 for judgments and decrees subject to section 668.13.

17 3. Interest on periodic payments for child, spousal, or
18 medical support shall not accrue until thirty days after the
19 payment becomes due and owing.

20 EXPLANATION

21 This bill includes a number of provisions relating to child
22 support enforcement.

23 Division I of the bill provides that retirement and
24 disability benefits provided for public safety peace officers,
25 police officers, and fire fighters pursuant to chapters 97A
26 and 411 are subject to execution, garnishment, attachment, or
27 other process for the purposes of enforcement of a child,
28 spousal, or medical support obligation. A similar provision
29 currently applies to the Iowa public employees' retirement
30 system (IPERS) pursuant to section 97B.39, unemployment
31 compensation pursuant to section 96.3, and workers'
32 compensation pursuant to section 627.13.

33 Division II provides that in administrative review and
34 adjustment proceedings, whether or not a review of a child
35 support order results in a determination that the order should

1 be adjusted, a party may challenge the determination and
2 request a court hearing within 30 days of the issuance of the
3 notice of decision or within 10 days of the second notice of
4 decision, and if a court hearing is requested, it will be
5 granted, notwithstanding that the determination was that the
6 order should not be adjusted.

7 Division III provides that if a child support order which
8 is being enforced by the child support recovery unit (CSRU) is
9 suspended due to reconciliation of the parents, or due to
10 other criteria established in section 252B.20, the six-month
11 period required before the suspension becomes final shall not
12 include any time during which an application to reinstate the
13 order is pending.

14 Division IV eliminates the requirement that blood types be
15 tested in administrative paternity determinations in which
16 paternity tests are ordered, and corrects an internal
17 reference.

18 Division V provides that if, during a dissolution of
19 marriage proceeding, a father is disestablished as the father
20 of a child of the marriage, a subsequent action to establish
21 the previously disestablished father as the father of the
22 child is not precluded if it is subsequently determined that
23 the statement of the father attesting to nonpaternity was
24 submitted erroneously and that the father may be the
25 biological father.

26 Division VI provides that the CSRU may send a notice of the
27 order for income withholding, and not a copy of the order
28 itself, to a payor of income by regular mail.

29 Division VII provides changes which effect full faith and
30 credit of child support orders in compliance with the federal
31 requirements established in 28 U.S.C. § 1738B. The new
32 language specifies which state law applies when orders from
33 other states are enforced and precludes intervention by Iowa
34 courts and administrative agencies in modifying orders
35 established in other states under specific conditions.

1 Division VIII amends the date on which interest accrues on
2 payments for child, spousal, or medical support from the
3 general date of the commencement of the action, which applies
4 to money due on judgments and decrees of courts, to 30 days
5 after the payment becomes due and owing.

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SENATE FILE 2344

S-5210

1 Amend Senate File 2344 as follows:

2 1. Page 14, by inserting after line 19, the
3 following:

4 "DIVISION IX
5 LIEN RELEASE
6 Sec. ____ . NEW SECTION. 252B.5A LIEN -- RELEASE
7 -- CASE CLOSURE.

8 At the time of closure of a case for which the
9 child support recovery unit is providing enforcement
10 services pursuant to this chapter, and no later than
11 thirty days following receipt of a written request by
12 an obligor, the child support recovery unit shall
13 acknowledge the closure of the case upon the record of
14 the judgment or by execution of an instrument
15 referring to the judgment, duly acknowledged and filed
16 in the office of the clerk of the district court, in
17 every county where the judgment is a lien."

18 2. By renumbering as necessary.

WITHDRAWN

By JIM LIND

3-21-96 (P. 947)
S-5210 FILED MARCH 5, 1996

SENATE FILE 2344

S-5289

1 Amend Senate File 2344 as follows:

2 1. By striking page 1, line 1, through page 2,
3 line 5.

4 2. By renumbering as necessary.

By MICHAEL E. GRONSTAL

S-5289 FILED MARCH 12, 1996

Adopted

3-21-96

(P. 947)

SENATE FILE 2344

S-5431

1 Amend Senate File 2344 as follows:

2 1. Page 14, by inserting after line 19 the
3 following:

4 "FEES FOR SERVICES

5 Sec. 100. Section 252B.4, subsection 6, unnumbered
6 paragraph 1, Code 1995, is amended to read as follows:

7 An application fee paid by a recipient of services
8 pursuant to subsection 1 and other fees established
9 pursuant to this section which are paid by a recipient
10 of services, may be recovered by the unit from the
11 person responsible for payment of support and if
12 recovered, shall be used to reimburse the recipient of
13 services.

14 Sec. 101. Section 252B.4, subsection 6, paragraph
15 e, Code 1995, is amended to read as follows:

16 e. Support payments collected shall not be applied
17 to the recovery of the fee until all other support
18 obligations under the support order being enforced,
19 which have accrued through the end of the current
20 calendar month, have been paid or satisfied in full.
21 Fee payments collected shall not be considered support
22 payments.

23 Sec. 102. 1995 Iowa Acts, chapter 115, section 13,
24 is repealed.

25 Sec. 103. Section 102 of this Act, which repeals
26 1995 Iowa Acts, chapter 115, section 13, being deemed
27 of immediate importance, takes effect upon enactment."

28 2. Title page, line 1, by inserting after the
29 word "enforcement" the following: ", providing an
30 effective date, and providing a repeal".

31 3. By renumbering as necessary.

By MARY NEUHAUSER

S-5431 FILED MARCH 20, 1996

H. 3/21/96 Human Resources
H. 3/25/96 Do Pass

SENATE FILE 2344
BY COMMITTEE ON HUMAN RESOURCES

(SUCCESSOR TO SSB 2234)

(AS AMENDED AND PASSED BY THE SENATE MARCH 21, 1996)

* - Language Stricken by the Senate

Passed Senate, Date _____ Passed House, Date ^(P.1530) 4-10-96
Vote: Ayes _____ Nays _____ Vote: Ayes 92 Nays 0
Approved 4/18/96

A BILL FOR

1 An Act relating to child support enforcement.
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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S.F. 2344

*1

DIVISION I

REVIEW AND ADJUSTMENT OF SUPPORT ORDERS

Section 1. Section 252H.8, subsection 1, paragraphs a and b, Code 1995, are amended by striking the paragraphs.

Sec. 2. Section 252H.8, subsection 4, unnumbered paragraph 1, Code 1995, is amended to read as follows:

If a timely written request for a hearing is received by the unit ~~and the granting of the request is not precluded pursuant to subsection 1,~~ a hearing shall be held in district court, and the unit shall certify the matter to the district court in the county in which the order subject to adjustment or modification is filed. The certification shall include the following, as applicable:

Sec. 3. Section 252H.17, subsection 2, Code 1995, is amended to read as follows:

2. A challenge shall be submitted, in writing, to the local child support office that issued the notice of decision, within ~~the following time frames:~~

~~a. If the notice of decision indicates that an adjustment is not appropriate, a challenge shall be submitted within thirty days of the date of issuance of the notice.~~

~~b. If the notice of decision indicates that an adjustment is appropriate, a challenge shall be submitted within ten days of the issuance of the notice.~~

DIVISION II

SUSPENSION AND REINSTATEMENT OF ORDERS

Sec. 4. Section 252B.20, subsections 4 and 8, Code 1995, are amended to read as follows:

4. An order suspending an accruing support obligation entered by the court pursuant to this section shall be considered a temporary order for the period of six months from the date of filing of the suspension order. However, the six-month period shall not include any time during which an application for reinstatement is pending before the court.

8. If the order suspending a support obligation has been

1 on file with the court for a period exceeding six months as
2 computed pursuant to subsection 4, the order becomes final by
3 operation of law and terminates the support obligation, and
4 thereafter, a party seeking to establish a support obligation
5 against either party shall bring a new action for support as
6 provided by law.

7

DIVISION III

8

GENETIC TESTING

9 Sec. 5. Section 252F.3, subsection 4, paragraph b, Code
10 1995, is amended to read as follows:

11 b. If paternity establishment was contested and paternity
12 tests conducted, a court hearing on the issue of paternity
13 shall be scheduled no earlier than fifty days from the date
14 paternity test results are issued to all parties by the unit,
15 unless the parties mutually agree to waive the time frame
16 pursuant to section ~~255F-8~~ 252F.8.

17 Sec. 6. Section 252F.3, subsection 6, paragraph d, Code
18 1995, is amended to read as follows:

19 d. If a paternity test is ordered under this section, the
20 administrator shall direct that inherited characteristics,
21 ~~including-but-not-limited-to-blood-types,~~ be analyzed and
22 interpreted, and shall appoint an expert qualified as an
23 examiner of genetic markers to analyze and interpret the
24 results.

25

DIVISION IV

26

DISESTABLISHMENT/REESTABLISHMENT OF PATERNITY

27 Sec. 7. Section 598.21, subsection 4A, paragraph c,
28 subparagraph (2), unnumbered paragraph 2, Code Supplement
29 1995, is amended to read as follows:

30 If the court overcomes a prior determination of paternity,
31 the previously established father shall be relieved of support
32 obligations as specified in section 600B.41A, subsection 4.
33 In any action to overcome paternity other than through a
34 pending dissolution action, the provisions of section 600B.41A
35 apply. Overcoming paternity under this paragraph does not bar

1 subsequent actions to establish paternity. A subsequent
2 action to establish paternity against the previously
3 established father is not barred if it is subsequently
4 determined that the written statement attesting that the
5 established father is not the biological father of the child
6 may have been submitted erroneously, and that the person
7 previously determined not to be the child's father during the
8 dissolution action may actually be the child's biological
9 father.

10 DIVISION V

11 INCOME WITHHOLDING

12 Sec. 8. Section 252D.2, subsection 2, Code 1995, is
13 amended to read as follows:

14 2. The payor shall withhold and transmit the amount
15 specified in the order or in the child support recovery unit's
16 notice of the order of assignment to the clerk of the district
17 court until the notice that the motion to quash has been
18 granted is received.

19 Sec. 9. Section 252D.11, subsection 3, Code 1995, is
20 amended to read as follows:

21 3. The payor shall withhold and transmit the amount
22 specified in the order or in the child support recovery unit's
23 notice of the order of assignment to the clerk of the district
24 court or the collection services center, as appropriate, until
25 the notice that a motion to quash has been granted is
26 received.

27 Sec. 10. Section 252D.17, unnumbered paragraph 1, Code
28 Supplement 1995, is amended to read as follows:

29 ~~The child-support-recovery-unit-or-the~~ district court shall
30 provide notice by sending a copy of the order for income
31 withholding to the obligor's employer, trustee, or other payor
32 of income by regular mail, with proof of service completed
33 according to rule of civil procedure 82. The child support
34 recovery unit shall provide notice of the income withholding
35 order by sending a notice of the order to the obligor's

1 employer, trustee, or other payor of income by regular mail.
2 Proof of service may be completed according to rule of civil
3 procedure 82. The order or the child support recovery unit's
4 notice of the order may be sent to the employer, trustee, or
5 other payor of income on the same date that the order is sent
6 to the clerk of court for filing. In addition to the amount
7 to be withheld for payment of support, the order or the child
8 support recovery unit's notice of the order shall include all
9 of the following information regarding the duties of the payor
10 in implementing the withholding order:

11 Sec. 11. Section 252D.17, subsections 4, 7, 9, and 11,
12 Code Supplement 1995, are amended to read as follows:

13 4. The income withholding order is binding on an existing
14 or future employer, trustee, or other payor ten days after
15 receipt of the copy of the order or the child support recovery
16 unit's notice of the order, and is binding whether or not the
17 copy of the order received is file-stamped.

18 7. The payor shall deliver or send a copy of the order or
19 the child support recovery unit's notice of the order to the
20 person-named-in-the-order obligor within one business day
21 after receipt of the order or the child support recovery
22 unit's notice of the order.

23 9. If the payor fails to withhold income in accordance
24 with the provisions of the order or the child support recovery
25 unit's notice of the order, the payor is liable for the
26 accumulated amount which should have been withheld, together
27 with costs, interest, and reasonable attorney fees related to
28 the collection of the amounts due from the payor.

29 11. Any payor who discharges an obligor, refuses to employ
30 an obligor, or takes disciplinary action against an obligor
31 based upon income withholding is guilty of a simple
32 misdemeanor. A withholding order or the child support
33 recovery unit's notice of the order has the same force and
34 effect as any other district court order, including, but not
35 limited to, contempt of court proceedings for noncompliance.

1 Sec. 12. Section 252D.18A, unnumbered paragraph 1, Code
2 1995, is amended to read as follows:

3 When the obligor is responsible for paying more than one
4 support obligation and the employer or the income payor has
5 received more than one income withholding order or the child
6 support recovery unit's notice of an order for the obligor,
7 the payor shall withhold amounts in accordance with all of the
8 following:

9 Sec. 13. Section 252D.18A, subsection 3, paragraph a, Code
10 1995, is amended to read as follows:

11 a. To arrive at the amount to be withheld for each
12 obligee, the payor shall total the amounts due for current
13 support under the income withholding orders and the child
14 support recovery unit's notices of orders and determine the
15 proportionate share for each obligee. The proportionate share
16 shall be determined by dividing the amount due for current
17 support for each order or child support recovery unit's notice
18 of order by the total due for current support for all orders
19 and child support recovery unit's notices of orders. The
20 results are the percentages of the obligor's net income which
21 shall be withheld for each obligee.

22 Sec. 14. Section 252D.23, Code Supplement 1995, is amended
23 to read as follows:

24 252D.23 FILING OF WITHHOLDING ORDER -- ORDER EFFECTIVE AS
25 DISTRICT COURT ORDER.

26 An income withholding order entered by the child support
27 recovery unit pursuant to this chapter shall be filed with the
28 clerk of the district court. For the purposes of
29 demonstrating compliance by the employer, trustee, or other
30 payor, the copy of the withholding order or the child support
31 recovery unit's notice of the order received, whether or not
32 the copy of the order is file-stamped, shall have all the
33 force, effect, and attributes of a docketed order of the
34 district court including, but not limited to, availability of
35 contempt of court proceedings against an employer, trustee, or

1 other payor for noncompliance. However, any information
2 contained in the income withholding order or the child support
3 recovery unit's notice of the order related to the amount of
4 the accruing or accrued support obligation which does not
5 reflect the correct amount of support due does not modify the
6 underlying support judgment.

7 Sec. 15. Section 252G.3, subsection 1, paragraph d, Code
8 1995, is amended to read as follows:

9 d. The address to which income withholding orders or the
10 child support recovery unit's notices of orders and
11 garnishments should be sent.

12 DIVISION VI

13 FULL FAITH AND CREDIT OF CHILD SUPPORT ORDERS

14 Sec. 16. Section 252A.3, subsection 8, Code 1995, is
15 amended by striking the subsection.

16 Sec. 17. NEW SECTION. 252A.4A CHOICE OF LAW.

17 In a proceeding to establish, modify, or enforce a child
18 support order the forum state's law shall apply except as
19 follows:

20 1. In interpreting a child support order, a court shall
21 apply the law of the state of the court or administrative
22 agency that issued the order.

23 2. In an action to enforce a child support order, a court
24 shall apply the statute of limitations of the forum state or
25 the state of the court or administrative agency that issued
26 the order, whichever statute provides the longer period of
27 limitations.

28 Sec. 18. Section 252A.5, unnumbered paragraph 1, Code
29 1995, is amended to read as follows:

30 A Unless prohibited pursuant to section 252A.20, a
31 proceeding to compel support of a dependent may be maintained
32 under this chapter in any of the following cases:

33 Sec. 19. Section 252A.6, subsection 15, Code 1995, is
34 amended to read as follows:

35 15. Any Except as provided in section 252A.20, any order

1 of support issued by a court of the state acting as a
2 responding state shall not supersede any previous order of
3 support issued in a divorce or separate maintenance action,
4 but the amounts for a particular period paid pursuant to
5 either order shall be credited against amounts accruing or
6 accrued for the same period under both. This subsection also
7 applies to orders entered following an administrative process
8 including, but not limited to, the administrative processes
9 provided pursuant to chapters 252C and 252F.

10 Sec. 20. Section 252A.6, Code 1995, is amended by adding
11 the following new subsection:

12 NEW SUBSECTION. 17. A court or administrative agency of a
13 state that has issued a child support order consistent with 28
14 U.S.C. § 1738B has continuing, exclusive jurisdiction over the
15 order if the state is the state in which the child is residing
16 or the state is the residence of the petitioner or respondent
17 unless the court or administrative agency of another state,
18 acting in accordance with 28 U.S.C. § 1738B, has modified the
19 order.

20 Sec. 21. Section 252A.8, Code 1995, is amended to read as
21 follows:

22 252A.8 ADDITIONAL REMEDIES.

23 ~~This~~ Unless otherwise provided pursuant to 28 U.S.C. §
24 1738B, this chapter shall be construed to furnish an
25 additional or alternative civil remedy and shall in no way
26 affect or impair any other remedy, civil or criminal, provided
27 in any other statute and available to the petitioner in
28 relation to the same subject matter.

29 Sec. 22. Section 252A.19, subsection 1, Code 1995, is
30 amended to read as follows:

31 1. Upon registration of the registered foreign support
32 order ~~shall be treated in the same manner as a support order~~
33 ~~issued by a court of this state. -- The order shall have the~~
34 ~~same effect and shall be subject to the same procedures,~~
35 ~~defenses, and proceedings for reopening, vacating, or staying~~

1 ~~as-a-support-order-of-this-state-and-may-be-enforced-and~~
2 ~~satisfied-in-like-manner-~~, both of the following shall apply:

3 a. The order is enforceable in the same manner and is
4 subject to the same enforcement procedures as a support order
5 issued by a court of this state.

6 b. The order may be modified only as provided in section
7 252A.20.

8 Sec. 23. Section 252A.20, Code 1995, is amended to read as
9 follows:

10 252A.20 MODIFICATION OR ADJUSTMENT OF A REGISTERED FOREIGN
11 SUPPORT ORDER AND OF AN IOWA ORDER REGISTERED IN A FOREIGN
12 JURISDICTION.

13 1. An order which has been registered in a court of this
14 state pursuant to section 252A.18 may be modified or adjusted
15 following registration, ~~subject-to-all~~ if one of the following
16 applies:

17 a. ~~The-modification-or-adjustment-of-the-order-does-not~~
18 ~~affect-the-underlying-judgment-in-the-foreign-jurisdiction,~~
19 ~~unless-provided-pursuant-to-the-statute-of-the-foreign~~
20 ~~jurisdiction-~~ The court of the rendering state no longer has
21 continuing, exclusive jurisdiction of the order because that
22 state no longer is the residence of the child or the
23 petitioner or respondent.

24 b. ~~The-modification-or-adjustment-of-the-underlying~~
25 ~~judgment-by-a-foreign-jurisdiction-does-not-affect-the~~
26 ~~registered-order-in-this-state-unless-confirmed-by-a-court-of~~
27 ~~this-state-~~ The petitioner and respondent have filed a
28 written statement with the court where the order is registered
29 consenting to that court determining the modification and
30 assuming continuing, exclusive jurisdiction over the order.

31 2. A support order issued in a court of this state may be
32 registered in a foreign jurisdiction and, following
33 registration, may be modified or adjusted ~~subject-to-the~~
34 following if either of the following applies:

35 a. ~~The-modification-or-adjustment-of-the-registered-order~~

1 ~~by a foreign jurisdiction does not affect the underlying~~
2 ~~judgment in this state unless confirmed by a court of this~~
3 ~~state. The court of this state no longer has continuing,~~
4 ~~exclusive jurisdiction of the order because this state no~~
5 ~~longer is the residence of the child, or of the petitioner or~~
6 ~~respondent.~~

7 b. ~~The modification or adjustment of the underlying~~
8 ~~judgment by a court of this state following registration in a~~
9 ~~foreign jurisdiction does not affect the registered order~~
10 ~~unless provided by the statute of the foreign jurisdiction.~~
11 The petitioner and respondent have filed a written statement
12 with the court where the order is registered consenting to
13 that court determining the modification and assuming
14 continuing, exclusive jurisdiction over the order.

15 3. A court or administrative agency of a state that no
16 longer has continuing, exclusive jurisdiction of a child
17 support order may enforce the order with respect to non-
18 modifiable obligations and unsatisfied obligations that
19 accrued before the date on which a modification of the order
20 is made under this section.

21 4. Issues related to visitation, custody, or other
22 provisions not related to the support provisions of a support
23 order shall not be grounds for a hearing, modification,
24 adjustment, or other action under this chapter.

25 Sec. 24. Section 252E.4, subsection 1, Code 1995, is
26 amended to read as follows:

27 1. When a support order requires an obligor to provide
28 coverage under a health benefit plan, the district court or
29 the department may enter an ex parte order directing an
30 employer to take all actions necessary to enroll an obligor's
31 dependent for coverage under a health benefit plan. The
32 department may amend the information in the ex parte order
33 regarding health insurance provisions if necessary to comply
34 with health insurance requirements including but not limited
35 to the provisions of section 252E.2, subsection 2.

1 Sec. 25. Section 252E.13, subsections 1 and 3, Code 1995,
2 are amended to read as follows:

3 1. When Subject to 28 U.S.C. § 1738B, when high potential
4 for obtaining medical support exists, the obligee or the
5 department may petition for a modification of the obligor's
6 support order to include medical support or a monetary amount
7 for medical support pursuant to this chapter.

8 3. The Subject to 28 U.S.C. § 1738B, the department may
9 amend information concerning the provisions regarding health
10 benefits in a court or administrative order, ~~if necessary to~~
11 ~~comply with section 252E.27 subsection 27~~, if notice of the
12 amendment is provided to the court and to the parties to the
13 order and if the amendment is filed with the clerk of court.

14 Sec. 26. NEW SECTION. 598.2A CHOICE OF LAW.

15 In a proceeding to establish, modify, or enforce a child
16 support order the forum state's law shall apply except as
17 follows:

18 1. In interpreting a child support order, a court shall
19 apply the law of the state of the court or administrative
20 agency that issued the order.

21 2. In an action to enforce a child support order, a court
22 shall apply the statute of limitations of the forum state or
23 the state of the court or administrative agency that issued
24 the order, whichever statute provides the longer period of
25 limitations.

26 Sec. 27. Section 598.14, unnumbered paragraph 2, Code
27 1995, is amended to read as follows:

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

1 Sec. 28. Section 598.21, subsection 8, unnumbered
2 paragraph 1, Code Supplement 1995, is amended to read as
3 follows:

4 The Subject to 28 U.S.C. § 1738B, the court may
5 subsequently modify orders made under this section when there
6 is a substantial change in circumstances. In determining
7 whether there is a substantial change in circumstances, the
8 court shall consider the following:

9 Sec. 29. Section 598.21, subsection 9, unnumbered
10 paragraph 1, Code Supplement 1995, is amended to read as
11 follows:

12 Notwithstanding Subject to 28 U.S.C. § 1738B, but
13 notwit standing subsection 8, a substantial change of
14 circumstances exists when the court order for child support
15 varies by ten percent or more from the amount which would be
16 due pursuant to the most current child support guidelines
17 established pursuant to subsection 4 or the obligor has access
18 to a health benefit plan, the current order for support does
19 not contain provisions for medical support, and the dependents
20 are not covered by a health benefit plan provided by the
21 obligee, excluding coverage pursuant to chapter 249A or a
22 comparable statute of a foreign jurisdiction.

23 Sec. 30. Section 600B.31, Code 1995, is amended to read as
24 follows:

25 600B.31 CONTINUING JURISDICTION.

26 The Subject to 28 U.S.C. § 1738B, the court has continuing
27 jurisdiction over proceedings brought to compel support and to
28 increase or decrease the amount thereof until the judgment of
29 the court has been completely satisfied, and also has
30 continuing jurisdiction to determine the custody in accordance
31 with the interests of the child.

32 Sec. 31. Section 600B.34, Code 1995, is amended to read as
33 follows:

34 600B.34 FOREIGN JUDGMENTS.

35 The Subject to 28 U.S.C. § 1738B, the judgment of the court

1 of another state rendered in proceedings to compel support of
2 a child born out of wedlock, and directing payment either of a
3 fixed sum or of sums payable from time to time, may be sued
4 upon in this state and made a domestic judgment so far as not
5 inconsistent with the laws of this state, and the same
6 remedies may thereupon be had upon such judgment as if it had
7 been recovered originally in this state.

8 Sec. 32. Section 626A.2, Code 1995, is amended to read as
9 follows:

10 626A.2 FILING AND STATUS OF FOREIGN JUDGMENTS.

11 1. A copy of a foreign judgment authenticated in
12 accordance with an Act of Congress or the statutes of this
13 state may be filed in the office of the clerk of the district
14 court of a county of this state which would have venue if the
15 original action was being commenced in this state. The clerk
16 shall treat the foreign judgment in the same manner as a
17 judgment of the district court of this state. A judgment so
18 filed has the same effect and is subject to the same
19 procedures, defenses and proceedings for reopening, vacating,
20 or staying as a judgment of the district court of this state
21 and may be enforced or satisfied in like manner.

22 2. In a proceeding to enforce a child support order, the
23 law of this state shall apply except as follows:

24 a. In interpreting a child support order, a court shall
25 apply the law of the state of the court that issued the order.

26 b. In an action to enforce a child support order, a court
27 shall apply the statute of limitations of this state or the
28 state of the court that issued the order, whichever statute
29 provides the longer period of limitations.

30 DIVISION VII

31 INTEREST ACCRUAL

32 Sec. 33. Section 535.3, Code 1995, is amended to read as
33 follows:

34 535.3 INTEREST ON JUDGMENTS AND DECREES.

35 1. Interest shall be allowed on all money due on judgments

1 and decrees of courts at the rate of ten percent per year,
2 unless a different rate is fixed by the contract on which the
3 judgment or decree is rendered, in which case the judgment or
4 decree shall draw interest at the rate expressed in the
5 contract, not exceeding the maximum applicable rate permitted
6 by the provisions of section 535.2, which rate must be
7 expressed in the judgment or decree. The interest shall
8 accrue from the date of the commencement of the action, except
9 as otherwise provided in subsection 3.

10 2. This section does not apply to the award of interest
11 for judgments and decrees subject to section 668.13.

12 3. Interest on periodic payments for child, spousal, or
13 medical support shall not accrue until thirty days after the
14 payment becomes due and owing.

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SENATE FILE 2344

H-5876

1 Amend Senate File 2344, as amended, passed, and
2 reprinted by the Senate, as follows:
3 1. Page 4, by striking lines 24 and 25, and
4 inserting the following: "with the provisions of the
5 order this section, the payor is liable for the.
6 2. Page 13, line 14, by inserting after the word
7 "owing." the following: "If a payor of income fails
8 to withhold income in accordance with section 252D.17
9 and interest accrues after thirty days after the
10 payment becomes due and owing, the payor is liable for
11 payment of the interest accrued."
12 3. Page 13, by inserting after line 14, by
13 following:

"DIVISION VIII

DUTY OF CHILD SUPPORT RECOVERY UNIT

16 Sec. ____ . Section 252B.5, Code 1995, is amended by
17 adding the following new subsection:

18 NEW SUBSECTION. 10. Information in written or
19 visual form which advises the absent parent and the
20 resident parent of the services provided by the unit,
21 of each party's rights and responsibilities relative
22 to a child support obligation, and of the applicable
23 sanctions and penalties for noncompliance with a child
24 support obligation."

25 4. By renumbering as necessary.

By GIPP of Winneshiek

H-5876 FILED APRIL 8, 1996

WITHDRAWN

4/10/96

(p.1530)

Neuhauser
Bartz
Hammond

SSB-2234
Human Resources

Succeeded By
(SF) HF 2344

SENATE/HOUSE FILE _____
BY (PROPOSED DEPARTMENT
OF HUMAN SERVICES BILL)

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

A BILL FOR

1 An Act relating to child support enforcement.
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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DIVISION I

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2 ATTACHMENT OF RETIREMENT AND DISABILITY BENEFITS

2

3 Section 1. Section 97A.12, Code 1995, is amended to read
4 as follows:

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5 97A.12 EXEMPTION FROM EXECUTION AND OTHER PROCESS OR
6 ASSIGNMENT.

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7 The right of any person to a pension, annuity, or
8 retirement allowance, to the return of contributions, the
9 pension, annuity, or retirement allowance itself, any optional
10 benefit or death benefit, any other right accrued or accruing
11 to any person under this chapter, and the moneys in the
12 various funds created under this chapter, are not subject to
13 execution, garnishment, attachment, or any other process
14 whatsoever, and are unassignable except for the purposes of
15 enforcing child, spousal, or medical support obligations or as
16 in-this-chapter otherwise specifically provided in this
17 chapter. For the purposes of enforcing child, spousal, or
18 medical support obligations, the garnishment or attachment of
19 or the execution against compensation due a person under this
20 chapter shall not exceed the amount specified in 15 U.S.C. §
21 1673(b).

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22 Sec. 2. Section 411.13, Code 1995, is amended to read as
23 follows:

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24 411.13 EXEMPTION FROM EXECUTION AND OTHER PROCESS, OR
25 ASSIGNMENT.

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26 The right of any person to a pension, annuity, or
27 retirement allowance, to the return of contributions, the
28 pension, annuity, or retirement allowance itself, any optional
29 benefit or death benefit, any other right accrued or accruing
30 to any person under this chapter, and the moneys in the fire
31 and police retirement fund created under this chapter, are not
32 subject to execution, garnishment, attachment, or any other
33 process whatsoever, and are unassignable except for the
34 purposes of enforcing child, spousal, or medical support
35 obligations or as in-this-chapter otherwise specifically

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1 provided in this chapter. For the purposes of enforcing
2 child, spousal, or medical support obligations, the
3 garnishment or attachment of or the execution against
4 compensation due a person under this chapter shall not exceed
5 the amount specified in 15 U.S.C. § 1673(b).

6 DIVISION II

7 REVIEW AND ADJUSTMENT OF SUPPORT ORDERS

8 Sec. 3. Section 252H.8, subsection 1, paragraphs a and b,
9 Code 1995, are amended by striking the paragraphs.

10 Sec. 4. Section 252H.8, subsection 4, unnumbered paragraph
11 1, Code 1995, is amended to read as follows:

12 If a timely written request for a hearing is received by
13 the unit ~~and the granting of the request is not precluded~~
14 ~~pursuant to subsection 1~~, a hearing shall be held in district
15 court, and the unit shall certify the matter to the district
16 court in the county in which the order subject to adjustment
17 or modification is filed. The certification shall include the
18 following, as applicable:

19 Sec. 5. Section 252H.17, subsection 2, Code 1995, is
20 amended to read as follows:

21 2. A challenge shall be submitted, in writing, to the
22 local child support office that issued the notice of decision,
23 within ~~the following time frames:~~

24 ~~a. If the notice of decision indicates that an adjustment~~
25 ~~is not appropriate, a challenge shall be submitted within~~
26 ~~thirty days of the date of issuance of the notice.~~

27 ~~b. If the notice of decision indicates that an adjustment~~
28 ~~is appropriate, a challenge shall be submitted within ten days~~
29 of the issuance of the notice.

30 DIVISION III

31 SUSPENSION AND REINSTATEMENT OF ORDERS

32 Sec. 6. Section 252B.20, subsections 4 and 8, Code 1995,
33 are amended to read as follows:

34 4. An order suspending an accruing support obligation
35 entered by the court pursuant to this section shall be

1 considered a temporary order for the period of six months from
2 the date of filing of the suspension order. However, the six-
3 month period shall not include any time during which an
4 application for reinstatement is pending before the court.

5 8. If the order suspending a support obligation has been
6 on file with the court for a period exceeding six months as
7 computed pursuant to subsection 4, the order becomes final by
8 operation of law and terminates the support obligation, and
9 thereafter, a party seeking to establish a support obligation
10 against either party shall bring a new action for support as
11 provided by law.

12 DIVISION IV

13 GENETIC TESTING

14 Sec. 7. Section 252F.3, subsection 4, paragraph b, Code
15 1995, is amended to read as follows:

16 b. If paternity establishment was contested and paternity
17 tests conducted, a court hearing on the issue of paternity
18 shall be scheduled no earlier than fifty days from the date
19 paternity test results are issued to all parties by the unit,
20 unless the parties mutually agree to waive the time frame
21 pursuant to section 255F-8 252F.8.

22 Sec. 8. Section 252F.3, subsection 6, paragraph d, Code
23 1995, is amended to read as follows:

24 d. If a paternity test is ordered under this section, the
25 administrator shall direct that inherited characteristics,
26 ~~including-but-not-limited-to-blood-types~~, be analyzed and
27 interpreted, and shall appoint an expert qualified as an
28 examiner of genetic markers to analyze and interpret the
29 results.

30 DIVISION V

31 DISESTABLISHMENT/REESTABLISHMENT OF PATERNITY

32 Sec. 9. Section 598.21, subsection 4A, paragraph c,
33 subparagraph (2), unnumbered paragraph 2, Code Supplement
34 1995, is amended to read as follows:

35 If the court overcomes a prior determination of paternity,

1 the previously established father shall be relieved of support
2 obligations as specified in section 600B.41A, subsection 4.
3 In any action to overcome paternity other than through a
4 pending dissolution action, the provisions of section 600B.41A
5 apply. Overcoming paternity under this paragraph does not bar
6 subsequent actions to establish paternity against the
7 previously established father if it is subsequently determined
8 that the written statement attesting that the established
9 father is not the biological father of the child may have been
10 submitted erroneously, and that the person previously
11 determined not to be the child's father during the dissolution
12 action may actually be the child's biological father.

13 DIVISION VI

14 INCOME WITHHOLDING

15 Sec. 10. Section 252D.2, subsection 2, Code 1995, is
16 amended to read as follows:

17 2. The payor shall withhold and transmit the amount
18 specified in the order or in the child support recovery unit's
19 notice of the order of assignment to the clerk of the district
20 court until the notice that the motion to quash has been
21 granted is received.

22 Sec. 11. Section 252D.11, subsection 3, Code 1995, is
23 amended to read as follows:

24 3. The payor shall withhold and transmit the amount
25 specified in the order or in the child support recovery unit's
26 notice of the order of assignment to the clerk of the district
27 court or the collection services center, as appropriate, until
28 the notice that a motion to quash has been granted is
29 received.

30 Sec. 12. Section 252D.17, unnumbered paragraph 1, Code
31 Supplement 1995, is amended to read as follows:

32 The ~~child-support-recovery-unit-or-the~~ district court shall
33 provide notice by sending a copy of the order for income
34 withholding to the obligor's employer, trustee, or other payor
35 of income by regular mail, with proof of service completed

1 according to rule of civil procedure 82. The child support
2 recovery unit shall provide notice of the income withholding
3 order by sending a notice of the order to the obligor's
4 employer, trustee, or other payor of income by regular mail.
5 Proof of service may be completed according to rule of civil
6 procedure 82. The order or the child support recovery unit's
7 notice of the order may be sent to the employer, trustee, or
8 other payor of income on the same date that the order is sent
9 to the clerk of court for filing. In addition to the amount
10 to be withheld for payment of support, the order or the child
11 support recovery unit's notice of the order shall include all
12 of the following information regarding the duties of the payor
13 in implementing the withholding order:

14 Sec. 13. Section 252D.17, subsections 4, 7, 9, and 11,
15 Code Supplement 1995, are amended to read as follows:

16 4. The income withholding order is binding on an existing
17 or future employer, trustee, or other payor ten days after
18 receipt of the copy of the order or the child support recovery
19 unit's notice of the order, and is binding whether or not the
20 copy of the order received is file-stamped.

21 7. The payor shall deliver or send a copy of the order or
22 the child support recovery unit's notice of the order to the
23 ~~person-named-in-the-order~~ obligor within one business day
24 after receipt of the order or the child support recovery
25 unit's notice of the order.

26 9. If the payor fails to withhold income in accordance
27 with the provisions of the order or the child support recovery
28 unit's notice of the order, the payor is liable for the
29 accumulated amount which should have been withheld, together
30 with costs, interest, and reasonable attorney fees related to
31 the collection of the amounts due from the payor.

32 11. Any payor who discharges an obligor, refuses to employ
33 an obligor, or takes disciplinary action against an obligor
34 based upon income withholding is guilty of a simple
35 misdemeanor. A withholding order or the child support

1 recovery unit's notice of the order has the same force and
2 effect as any other district court order, including, but not
3 limited to, contempt of court proceedings for noncompliance.

4 Sec. 14. Section 252D.18A, unnumbered paragraph 1, Code
5 1995, is amended to read as follows:

6 When the obligor is responsible for paying more than one
7 support obligation and the employer or the income payor has
8 received more than one income withholding order or the child
9 support recovery unit's notice of an order for the obligor,
10 the payor shall withhold amounts in accordance with all of the
11 following:

12 Sec. 15. Section 252D.18A, subsection 3, paragraph a, Code
13 1995, is amended to read as follows:

14 a. To arrive at the amount to be withheld for each
15 obligee, the payor shall total the amounts due for current
16 support under the income withholding orders and the child
17 support recovery unit's notices of orders and determine the
18 proportionate share for each obligee. The proportionate share
19 shall be determined by dividing the amount due for current
20 support for each order and the child support recovery unit's
21 notice of order by the total due for current support for all
22 orders. The results are the percentages of the obligor's net
23 income which shall be withheld for each obligee.

24 Sec. 16. Section 252D.23, Code Supplement 1995, is amended
25 to read as follows:

26 252D.23 FILING OF WITHHOLDING ORDER -- ORDER EFFECTIVE AS
27 DISTRICT COURT ORDER.

28 An income withholding order entered by the child support
29 recovery unit pursuant to this chapter shall be filed with the
30 clerk of the district court. For the purposes of
31 demonstrating compliance by the employer, trustee, or other
32 payor, the copy of the withholding order or the child support
33 recovery unit's notice of the order received, whether or not
34 the copy of the order is file-stamped, shall have all the
35 force, effect, and attributes of a docketed order of the

1 district court including, but not limited to, availability of
2 contempt of court proceedings against an employer, trustee, or
3 other payor for noncompliance. However, any information
4 contained in the income withholding order or the child support
5 recovery unit's notice of the order related to the amount of
6 the accruing or accrued support obligation which does not
7 reflect the correct amount of support due does not modify the
8 underlying support judgment.

9 Sec. 17. Section 252G.3, subsection 1, paragraph d, Code
10 1995, is amended to read as follows:

11 d. The address to which income withholding orders or the
12 child support recovery unit's notices of orders and
13 garnishments should be sent.

14 DIVISION VII

15 FULL FAITH AND CREDIT OF CHILD SUPPORT ORDERS

16 Sec. 18. Section 252A.3, subsection 8, Code 1995, is
17 amended by striking the subsection.

18 Sec. 19. NEW SECTION. 252A.4A CHOICE OF LAW.

19 In a proceeding to establish, modify, or enforce a child
20 support order the forum state's law shall apply except as
21 follows:

22 1. In interpreting a child support order, a court shall
23 apply the law of the state of the court or administrative
24 agency that issued the order.

25 2. In an action to enforce a child support order, a court
26 shall apply the statute of limitations of the forum state or
27 the state of the court or administrative agency that issued
28 the order, whichever statute provides the longer period of
29 limitations.

30 Sec. 20. Section 252A.5, unnumbered paragraph 1, Code
31 1995, is amended to read as follows:

32 A Unless prohibited pursuant to section 252A.20, a
33 proceeding to compel support of a dependent may be maintained
34 under this chapter in any of the following cases:

35 Sec. 21. Section 252A.6, subsection 15, Code 1995, is

1 amended to read as follows:

2 15. Any Except as provided in section 252A.20, any order
3 of support issued by a court of the state acting as a
4 responding state shall not supersede any previous order of
5 support issued in a divorce or separate maintenance action,
6 but the amounts for a particular period paid pursuant to
7 either order shall be credited against amounts accruing or
8 accrued for the same period under both. This subsection also
9 applies to orders entered following an administrative process
10 including, but not limited to, the administrative processes
11 provided pursuant to chapters 252C and 252F.

12 Sec. 22. Section 252A.6, Code 1995, is amended by adding
13 the following new subsection:

14 NEW SUBSECTION. 17. A court or administrative agency of a
15 state that has issued a child support order consistent with 28
16 U.S.C. § 1738B has continuing, exclusive jurisdiction over the
17 order if the state is the state in which the child is residing
18 or the state is the residence of the petitioner or respondent
19 unless the court or administrative agency of another state,
20 acting in accordance with 28 U.S.C. § 1738B, has modified the
21 order.

22 Sec. 23. Section 252A.8, Code 1995, is amended to read as
23 follows:

24 252A.8 ADDITIONAL REMEDIES.

25 This Unless otherwise provided pursuant to 28 U.S.C. §
26 1738B, this chapter shall be construed to furnish an
27 additional or alternative civil remedy and shall in no way
28 affect or impair any other remedy, civil or criminal, provided
29 in any other statute and available to the petitioner in
30 relation to the same subject matter.

31 Sec. 24. Section 252A.19, subsection 1, Code 1995, is
32 amended to read as follows:

33 1. Upon registration of the registered foreign support
34 order ~~shall be treated in the same manner as a support order~~
35 ~~issued by a court of this state. -- The order shall have the~~

1 ~~same-effect-and-shall-be-subject-to-the-same-procedures,~~
2 ~~defenses,-and-proceedings-for-reopening,-vacating,-or-staying~~
3 ~~as-a-support-order-of-this-state-and-may-be-enforced-and~~
4 ~~satisfied-in-like-manner-.~~ both of the following shall apply:

5 a. The order is enforceable in the same manner and is
6 subject to the same enforcement procedures as a support order
7 issued by a court of this state.

8 b. The order may be modified only as provided in section
9 252A.20.

10 Sec. 25. Section 252A.20, Code 1995, is amended to read as
11 follows:

12 252A.20 MODIFICATION OR ADJUSTMENT OF A REGISTERED FOREIGN
13 SUPPORT ORDER AND OF AN IOWA ORDER REGISTERED IN A FOREIGN
14 JURISDICTION.

15 1. An order which has been registered in a court of this
16 state pursuant to section 252A.18 may be modified or adjusted
17 following registration, ~~subject-to-ait~~ if one of the following
18 applies:

19 ~~a. The-modification-or-adjustment-of-the-order-does-not~~
20 ~~affect-the-underlying-judgment-in-the-foreign-jurisdiction,~~
21 ~~unless-provided-pursuant-to-the-statute-of-the-foreign~~
22 ~~jurisdiction-.~~ The court of the rendering state no longer has
23 continuing, exclusive jurisdiction of the order because that
24 state no longer is the residence of the child or the
25 petitioner or respondent.

26 ~~b. The-modification-or-adjustment-of-the-underlying~~
27 ~~judgment-by-a-foreign-jurisdiction-does-not-affect-the~~
28 ~~registered-order-in-this-state-unless-confirmed-by-a-court-of~~
29 ~~this-state-.~~ The petitioner and respondent have filed a
30 written statement with a court of the state in which the order
31 is registered consenting to the court's determination of the
32 modification and assumption of continuing, exclusive
33 jurisdiction over the order.

34 2. A support order issued in a court of this state may be
35 registered in a foreign jurisdiction and, following

1 registration, may be modified or adjusted subject-to-the
2 following if either of the following applies:

3 a. The modification or adjustment of the registered order
4 by a foreign jurisdiction does not affect the underlying
5 judgment in this state unless confirmed by a court of this
6 state. The court of this state no longer has continuing,
7 exclusive jurisdiction of the order because this state no
8 longer is the residence of the child, or of the petitioner or
9 respondent.

10 b. The modification or adjustment of the underlying
11 judgment by a court of this state following registration in a
12 foreign jurisdiction does not affect the registered order
13 unless provided by the statute of the foreign jurisdiction.
14 The petitioner and respondent have filed a written statement
15 with a court of the state in which the order is registered
16 consenting to that court's determination of modification and
17 assumption of continuing, exclusive jurisdiction over the
18 order.

19 3. A court or administrative agency of a state that no
20 longer has continuing, exclusive jurisdiction of a child
21 support order may enforce the order with respect to non-
22 modifiable obligations and unsatisfied obligations that
23 accrued before the date on which a modification of the order
24 is made under this section.

25 4. Issues related to visitation, custody, or other
26 provisions not related to the support provisions of a support
27 order shall not be grounds for a hearing, modification,
28 adjustment, or other action under this chapter.

29 Sec. 26. Section 252E.4, subsection 1, Code 1995, is
30 amended to read as follows:

31 1. When a support order requires an obligor to provide
32 coverage under a health benefit plan, the district court or
33 the department may enter an ex parte order directing an
34 employer to take all actions necessary to enroll an obligor's
35 dependent for coverage under a health benefit plan. The

1 department may amend the information in the ex parte order
2 regarding health insurance provisions if necessary to comply
3 with health insurance requirements including but not limited
4 to the provisions of section 252E.2, subsection 2.

5 Sec. 27. Section 252E.13, subsections 1 and 3, Code 1995,
6 are amended to read as follows:

7 1. When Subject to 28 U.S.C. § 1738B, when high potential
8 for obtaining medical support exists, the obligee or the
9 department may petition for a modification of the obligor's
10 support order to include medical support or a monetary amount
11 for medical support pursuant to this chapter.

12 3. The Subject to 28 U.S.C. § 1738B, the department may
13 amend information concerning the provisions regarding health
14 benefits in a court or administrative order, ~~if necessary to~~
15 ~~comply with section 252E.2, subsection 2,~~ if notice of the
16 amendment is provided to the court and to the parties to the
17 order and if the amendment is filed with the clerk of court.

18 Sec. 28. NEW SECTION. 598.2A CHOICE OF LAW.

19 In a proceeding to establish, modify, or enforce a child
20 support order the forum state's law shall apply except as
21 follows:

22 1. In interpreting a child support order, a court shall
23 apply the law of the state of the court or administrative
24 agency that issued the order.

25 2. In an action to enforce a child support order, a court
26 shall apply the statute of limitations of the forum state or
27 the state of the court or administrative agency that issued
28 the order, whichever statute provides the longer period of
29 limitations.

30 Sec. 29. Section 598.14, unnumbered paragraph 2, Code
31 1995, is amended to read as follows:

32 After Subject to 28 U.S.C. § 1738B, after notice and
33 hearing subsequent changes in temporary orders may be made by
34 the court on application of either party demonstrating a
35 substantial change in the circumstances occurring subsequent

1 to the issuance of such order. If the order is not so
2 modified it shall continue in force and effect until the
3 action is dismissed or a decree is entered dissolving the
4 marriage.

5 Sec. 30. Section 598.21, subsection 8, unnumbered
6 paragraph 1, Code Supplement 1995, is amended to read as
7 follows:

8 The Subject to 28 U.S.C. § 1738B, the court may
9 subsequently modify orders made under this section when there
10 is a substantial change in circumstances. In determining
11 whether there is a substantial change in circumstances, the
12 court shall consider the following:

13 Sec. 31. Section 598.21, subsection 9, unnumbered
14 paragraph 1, Code Supplement 1995, is amended to read as
15 follows:

16 Notwithstanding Subject to 28 U.S.C. § 1738B, but
17 notwithstanding subsection 8, a substantial change of
18 circumstances exists when the court order for child support
19 varies by ten percent or more from the amount which would be
20 due pursuant to the most current child support guidelines
21 established pursuant to subsection 4 or the obligor has access
22 to a health benefit plan, the current order for support does
23 not contain provisions for medical support, and the dependents
24 are not covered by a health benefit plan provided by the
25 obligee, excluding coverage pursuant to chapter 249A or a
26 comparable statute of a foreign jurisdiction.

27 Sec. 32. Section 600B.31, Code 1995, is amended to read as
28 follows:

29 600B.31 CONTINUING JURISDICTION.

30 The Subject to 28 U.S.C. § 1738B, the court has continuing
31 jurisdiction over proceedings brought to compel support and to
32 increase or decrease the amount thereof until the judgment of
33 the court has been completely satisfied, and also has
34 continuing jurisdiction to determine the custody in accordance
35 with the interests of the child.

1 Sec. 33. Section 600B.34, Code 1995, is amended to read as
2 follows:

3 600B.34 FOREIGN JUDGMENTS.

4 The Subject to 28 U.S.C. § 1738B, the judgment of the court
5 of another state rendered in proceedings to compel support of
6 a child born out of wedlock, and directing payment either of a
7 fixed sum or of sums payable from time to time, may be sued
8 upon in this state and made a domestic judgment so far as not
9 inconsistent with the laws of this state, and the same
10 remedies may thereupon be had upon such judgment as if it had
11 been recovered originally in this state.

12 Sec. 34. Section 626A.2, Code 1995, is amended to read as
13 follows:

14 626A.2 FILING AND STATUS OF FOREIGN JUDGMENTS.

15 1. A copy of a foreign judgment authenticated in
16 accordance with an Act of Congress or the statutes of this
17 state may be filed in the office of the clerk of the district
18 court of a county of this state which would have venue if the
19 original action was being commenced in this state. The clerk
20 shall treat the foreign judgment in the same manner as a
21 judgment of the district court of this state. A judgment so
22 filed has the same effect and is subject to the same
23 procedures, defenses and proceedings for reopening, vacating,
24 or staying as a judgment of the district court of this state
25 and may be enforced or satisfied in like manner.

26 2. In a proceeding to enforce a child support order, the
27 law of this state shall apply except as follows:

28 a. In interpreting a child support order, a court shall
29 apply the law of the state of the court that issued the order.

30 b. In an action to enforce a child support order, a court
31 shall apply the statute of limitations of this state or the
32 state of the court that issued the order, whichever statute
33 provides the longer period of limitations.

34 EXPLANATION

35 This bill includes a number of provisions relating to child

1 support enforcement.

2 Division I of the bill provides that retirement and
3 disability benefits provided for public safety peace officers,
4 police officers, and fire fighters pursuant to chapters 97A
5 and 411 are subject to execution, garnishment, attachment, or
6 other process for the purposes of enforcement of a child,
7 spousal, or medical support obligation. A similar provision
8 currently applies to the Iowa public employees' retirement
9 system (IPERS) pursuant to section 97B.39, unemployment
10 compensation pursuant to section 96.3, and workers'
11 compensation pursuant to section 627.13.

12 Division II provides that in administrative review and
13 adjustment proceedings, whether or not a review of a child
14 support order results in a determination that the order should
15 be adjusted, a party may challenge the determination and
16 request a court hearing within 30 days of the issuance of the
17 notice of decision or within 10 days of the second notice of
18 decision, and if a court hearing is requested, it will be
19 granted, notwithstanding that the determination was that the
20 order should not be adjusted.

21 Division III provides that if a child support order which
22 is being enforced by the child support recovery unit (CSRU) is
23 suspended due to reconciliation of the parents, or due to
24 other criteria established in section 252B.20, the six-month
25 period required before the suspension becomes final shall not
26 include any time during which an application to reinstate the
27 order is pending.

28 Division IV eliminates the requirement that blood types be
29 tested in administrative paternity determinations in which
30 paternity tests are ordered, and corrects an internal
31 reference.

32 Division V provides that if, during a dissolution of
33 marriage proceeding, a father is disestablished as the father
34 of a child of the marriage, a subsequent action to establish
35 the previously disestablished father as the father of the

1 child is not precluded if it is subsequently determined that
2 the statement of the father attesting to nonpaternity was
3 submitted erroneously and that the father may be the
4 biological father.

5 Division VI provides that the CSRU may send a notice of the
6 order for income withholding, and not a copy of the order
7 itself, to a payor of income by regular mail.

8 Division VII provides changes which effect full faith and
9 credit of child support orders in compliance with the federal
10 requirements established in 28 U.S.C. § 1738B. The new
11 language specifies which state law applies when orders from
12 other states are enforced and precludes intervention by Iowa
13 courts and administrative agencies in modifying orders
14 established in other states under specific conditions.

15 BACKGROUND STATEMENT

16 SUBMITTED BY THE AGENCY

17 This bill includes changes in seven areas related to child
18 support. The bill will have no measurable impact on costs or
19 revenues because these changes involve clarifications of
20 existing law, corrections to Iowa Code due to federal law
21 changes, and minor changes to enable the child support
22 recovery unit (CSRU) to operate more efficiently with the
23 growing caseload.

24 The department of human services is not proposing major
25 program enhancements at this time because of the welfare
26 reform legislation pending before congress. The department of
27 human services anticipates that if congress and the president
28 act on welfare reform during Iowa's 1996 legislative session,
29 the department of human services will have to prepare
30 additional proposals during the session, depending on the
31 child support provisions contained in newly enacted federal
32 law.

33 This limited package involves four proposals dealing with
34 the establishment or modification of paternity and child
35 support, two proposals pertaining to the enforcement of those

1 orders, and one proposal including amendments to child support
2 establishment, modification, and enforcement provisions
3 because of a comprehensive change in federal law.

4 DIVISION I

5 This division makes changes to current law to specify that
6 the retirement and disability benefits of public safety peace
7 officers, police officers, and fire fighters are subject to
8 attachment for child, medical, and spousal support orders in
9 the same way as IPERS benefits are subject to attachment.
10 Iowa case law provides that fire fighters' pensions are
11 subject to legal process for support, but this is not
12 currently reflected in statute.

13 DIVISION II

14 This division provides that in administrative review and
15 adjustment proceedings, regardless of whether a review of a
16 child support order indicates that an adjustment is
17 appropriate, a party may challenge the determination of the
18 local child support unit within 10 days of the issuance of the
19 notice of decision. Currently, different time frames for
20 challenging a decision are based upon whether an adjustment is
21 indicated or not. If a court hearing is requested, the
22 hearing will be granted, notwithstanding a determination that
23 the order not be adjusted.

24 DIVISION III

25 This division provides that the six-month period following
26 the entry of a suspension order, which is required before the
27 order becomes final, is stayed during the time an application
28 for reinstatement filed by the CSRU is pending before the
29 court. Current law provides that if a support order is
30 suspended because the parents have reconciled or the child
31 lives with the obligor, the suspension becomes permanent if
32 not reinstated within six months and the CSRU must go through
33 the entire process to reestablish an order. This division
34 provides the court and CSRU adequate time to obtain a
35 reinstatement order once the application for reinstatement has

1 been filed.

2

DIVISION IV

3 This division provides that genetic tests can be used in an
4 administrative establishment of paternity process in lieu of
5 blood tests. In 1995 the general assembly amended section
6 600B.41, allowing the use of nonblood tissue for genetic
7 testing to determine paternity in court proceedings. This
8 division allows the same procedures for administrative
9 establishment of paternity.

10

DIVISION V

11 This division provides that if a husband is disestablished
12 as the father of a child in a dissolution action, an action
13 may be brought subsequently to establish the previously
14 disestablished father as the father.

15

DIVISION VI

16 This division provides that when the CSRU notifies an
17 employer to implement income withholding, the CSRU shall send
18 a notice by regular mail containing all required information
19 regarding withholding, but shall no longer include a photocopy
20 of the order. This change will reduce the amount of paperwork
21 employers receive and allow the CSRU to implement income
22 withholding more quickly.

23

DIVISION VII

24 Current Iowa Code sections contain provisions which have
25 been superseded by federal law and, therefore, no longer
26 accurately state the controlling law.

27 The bill repeals or amends language which has been super-
28 seded by 28 U.S.C. § 1738B, prohibits Iowa from modifying
29 another state's order unless certain requirements are met,
30 prohibits prospective enforcement of Iowa orders if they have
31 been modified by another state in conformance with the federal
32 law, prohibits Iowa courts and administrative agencies from
33 modifying Iowa orders once all contestants have left Iowa, and
34 specifies which state's law applies in dealing with the other
35 state's orders.

SENATE FILE 2344

AN ACT
RELATING TO CHILD SUPPORT ENFORCEMENT.

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

DIVISION I

REVIEW AND ADJUSTMENT OF SUPPORT ORDERS

Section 1. Section 252H.8, subsection 1, paragraphs a and b, Code 1995, are amended by striking the paragraphs.

Sec. 2. Section 252H.8, subsection 4, unnumbered paragraph 1, Code 1995, is amended to read as follows:

If a timely written request for a hearing is received by the unit ~~and the granting of the request is not precluded pursuant to subsection 1~~, a hearing shall be held in district court, and the unit shall certify the matter to the district court in the county in which the order subject to adjustment or modification is filed. The certification shall include the following, as applicable:

Sec. 3. Section 252H.17, subsection 2, Code 1995, is amended to read as follows:

2. A challenge shall be submitted, in writing, to the local child support office that issued the notice of decision, ~~within the following time frames:~~

~~a. If the notice of decision indicates that an adjustment is not appropriate, a challenge shall be submitted within thirty days of the date of issuance of the notice.~~

~~b. If the notice of decision indicates that an adjustment is appropriate, a challenge shall be submitted within ten days of the issuance of the notice.~~

DIVISION II

SUSPENSION AND REINSTATEMENT OF ORDERS

Sec. 4. Section 252B.20, subsections 4 and 8, Code 1995, are amended to read as follows:

4. An order suspending an accruing support obligation entered by the court pursuant to this section shall be considered a temporary order for the period of six months from the date of filing of the suspension order. However, the six-month period shall not include any time during which an application for reinstatement is pending before the court.

8. If the order suspending a support obligation has been on file with the court for a period exceeding six months as computed pursuant to subsection 4, the order becomes final by operation of law and terminates the support obligation, and thereafter, a party seeking to establish a support obligation against either party shall bring a new action for support as provided by law.

DIVISION III

GENETIC TESTING

Sec. 5. Section 252F.3, subsection 4, paragraph b, Code 1995, is amended to read as follows:

b. If paternity establishment was contested and paternity tests conducted, a court hearing on the issue of paternity shall be scheduled no earlier than fifty days from the date paternity test results are issued to all parties by the unit, unless the parties mutually agree to waive the time frame pursuant to section ~~255F.8~~ 252F.8.

Sec. 6. Section 252F.3, subsection 6, paragraph d, Code 1995, is amended to read as follows:

d. If a paternity test is ordered under this section, the administrator shall direct that inherited characteristics, ~~including but not limited to blood types~~, be analyzed and interpreted, and shall appoint an expert qualified as an examiner of genetic markers to analyze and interpret the results.

DIVISION IV

DIESTABLISHMENT/REESTABLISHMENT OF PATERNITY

Sec. 7. Section 598.21, subsection 4A, paragraph c, subparagraph (2), unnumbered paragraph 2, Code Supplement 1995, is amended to read as follows:

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

DIVISION V
INCOME WITHHOLDING

Sec. 8. Section 252D.2, subsection 2, Code 1995, is amended to read as follows:

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

Sec. 9. Section 252D.11, subsection 3, Code 1995, is amended to read as follows:

3. The payor shall withhold and transmit the amount specified in the order or in the child support recovery unit's notice of the order of assignment to the clerk of the district court or the collection services center, as appropriate, until the notice that a motion to quash has been granted is received.

Sec. 10. Section 252D.17, unnumbered paragraph 1, Code Supplement 1995, is amended to read as follows:

The ~~child-support-recovery-unit-or-the~~ district court shall provide notice by sending a copy of the order for income

withholding to the obligor's employer, trustee, or other payor of income by regular mail, with proof of service completed according to rule of civil procedure 82. The child support recovery unit shall provide notice of the income withholding order by sending a notice of the order to the obligor's employer, trustee, or other payor of income by regular mail. Proof of service may be completed according to rule of civil procedure 82. The order or the child support recovery unit's notice of the order may be sent to the employer, trustee, or other payor of income on the same date that the order is sent to the clerk of court for filing. In addition to the amount to be withheld for payment of support, the order or the child support recovery unit's notice of the order shall include all of the following information regarding the duties of the payor in implementing the withholding order:

Sec. 11. Section 252D.17, subsections 4, 7, 9, and 11, Code Supplement 1995, are amended to read as follows:

4. The income withholding order is binding on an existing or future employer, trustee, or other payor ten days after receipt of the copy of the order or the child support recovery unit's notice of the order, and is binding whether or not the copy of the order received is file-stamped.

7. The payor shall deliver or send a copy of the order or the child support recovery unit's notice of the order to the ~~person-named-in-the-order~~ obligor within one business day after receipt of the order or the child support recovery unit's notice of the order.

9. If the payor fails to withhold income in accordance with the provisions of the order or the child support recovery unit's notice of the order, the payor is liable for the accumulated amount which should have been withheld, together with costs, interest, and reasonable attorney fees related to the collection of the amounts due from the payor.

11. Any payor who discharges an obligor, refuses to employ an obligor, or takes disciplinary action against an obligor based upon income withholding is guilty of a simple

misdemeanor. A withholding order or the child support recovery unit's notice of the order has the same force and effect as any other district court order, including, but not limited to, contempt of court proceedings for noncompliance.

Sec. 12. Section 252D.18A, unnumbered paragraph 1, Code 1995, is amended to read as follows:

When the obligor is responsible for paying more than one support obligation and the employer or the income payor has received more than one income withholding order or the child support recovery unit's notice of an order for the obligor, the payor shall withhold amounts in accordance with all of the following:

Sec. 13. Section 252D.18A, subsection 3, paragraph a, Code 1995, is amended to read as follows:

a. To arrive at the amount to be withheld for each obligee, the payor shall total the amounts due for current support under the income withholding orders and the child support recovery unit's notices of orders and determine the proportionate share for each obligee. The proportionate share shall be determined by dividing the amount due for current support for each order or child support recovery unit's notice of order by the total due for current support for all orders and child support recovery unit's notices of orders. The results are the percentages of the obligor's net income which shall be withheld for each obligee.

Sec. 14. Section 252D.23, Code Supplement 1995, is amended to read as follows:

252D.23 FILING OF WITHHOLDING ORDER -- ORDER EFFECTIVE AS DISTRICT COURT ORDER.

An income withholding order entered by the child support recovery unit pursuant to this chapter shall be filed with the clerk of the district court. For the purposes of demonstrating compliance by the employer, trustee, or other payor, the copy of the withholding order or the child support recovery unit's notice of the order received, whether or not the copy of the order is file-stamped, shall have all the

force, effect, and attributes of a docketed order of the district court including, but not limited to, availability of contempt of court proceedings against an employer, trustee, or other payor for noncompliance. However, any information contained in the income withholding order or the child support recovery unit's notice of the order related to the amount of the accruing or accrued support obligation which does not reflect the correct amount of support due does not modify the underlying support judgment.

Sec. 15. Section 252G.3, subsection 1, paragraph d, Code 1995, is amended to read as follows:

d. The address to which income withholding orders or the child support recovery unit's notices of orders and garnishments should be sent.

DIVISION VI

FULL FAITH AND CREDIT OF CHILD SUPPORT ORDERS

Sec. 16. Section 252A.3, subsection 8, Code 1995, is amended by striking the subsection.

Sec. 17. **NEW SECTION.** 252A.4A CHOICE OF LAW.

In a proceeding to establish, modify, or enforce a child support order the forum state's law shall apply except as follows:

1. In interpreting a child support order, a court shall apply the law of the state of the court or administrative agency that issued the order.

2. In an action to enforce a child support order, a court shall apply the statute of limitations of the forum state or the state of the court or administrative agency that issued the order, whichever statute provides the longer period of limitations.

Sec. 18. Section 252A.5, unnumbered paragraph 1, Code 1995, is amended to read as follows:

A Unless prohibited pursuant to section 252A.20, a proceeding to compel support of a dependent may be maintained under this chapter in any of the following cases:

Sec. 19. Section 252A.6, subsection 15, Code 1995, is amended to read as follows:

15. Any Except as provided in section 252A.20, any order of support issued by a court of the state acting as a responding state shall not supersede any previous order of support issued in a divorce or separate maintenance action, but the amounts for a particular period paid pursuant to either order shall be credited against amounts accruing or accrued for the same period under both. This subsection also applies to orders entered following an administrative process including, but not limited to, the administrative processes provided pursuant to chapters 252C and 252F.

Sec. 20. Section 252A.6, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 17. A court or administrative agency of a state that has issued a child support order consistent with 28 U.S.C. § 1738B has continuing, exclusive jurisdiction over the order if the state is the state in which the child is residing or the state is the residence of the petitioner or respondent unless the court or administrative agency of another state, acting in accordance with 28 U.S.C. § 1738B, has modified the order.

Sec. 21. Section 252A.8, Code 1995, is amended to read as follows:

252A.8 ADDITIONAL REMEDIES.

This Unless otherwise provided pursuant to 28 U.S.C. § 1738B, this chapter shall be construed to furnish an additional or alternative civil remedy and shall in no way affect or impair any other remedy, civil or criminal, provided in any other statute and available to the petitioner in relation to the same subject matter.

Sec. 22. Section 252A.19, subsection 1, Code 1995, is amended to read as follows:

1. Upon registration of the registered foreign support order ~~shall be treated in the same manner as a support order issued by a court of this state. The order shall have the~~

~~same effect and shall be subject to the same procedures, defenses, and proceedings for reopening, vacating, or staying as a support order of this state and may be enforced and satisfied in like manner,~~ both of the following shall apply:

a. The order is enforceable in the same manner and is subject to the same enforcement procedures as a support order issued by a court of this state.

b. The order may be modified only as provided in section 252A.20.

Sec. 23. Section 252A.20, Code 1995, is amended to read as follows:

252A.20 MODIFICATION OR ADJUSTMENT OF A REGISTERED FOREIGN SUPPORT ORDER AND OF AN IOWA ORDER REGISTERED IN A FOREIGN JURISDICTION.

1. An order which has been registered in a court of this state pursuant to section 252A.18 may be modified or adjusted following registration, ~~subject to all~~ if one of the following applies:

a. ~~The modification or adjustment of the order does not affect the underlying judgment in the foreign jurisdiction, unless provided pursuant to the statute of the foreign jurisdiction. The court of the rendering state no longer has continuing, exclusive jurisdiction of the order because that state no longer is the residence of the child or the petitioner or respondent.~~

b. ~~The modification or adjustment of the underlying judgment by a foreign jurisdiction does not affect the registered order in this state unless confirmed by a court of this state. The petitioner and respondent have filed a written statement with the court where the order is registered consenting to that court determining the modification and assuming continuing, exclusive jurisdiction over the order.~~

2. A support order issued in a court of this state may be registered in a foreign jurisdiction and, following registration, may be modified or adjusted ~~subject to the following~~ if either of the following applies:

~~a. The modification or adjustment of the registered order by a foreign jurisdiction does not affect the underlying judgment in this state unless confirmed by a court of this state. The court of this state no longer has continuing, exclusive jurisdiction of the order because this state no longer is the residence of the child, or of the petitioner or respondent.~~

~~b. The modification or adjustment of the underlying judgment by a court of this state following registration in a foreign jurisdiction does not affect the registered order unless provided by the statute of the foreign jurisdiction. The petitioner and respondent have filed a written statement with the court where the order is registered consenting to that court determining the modification and assuming continuing, exclusive jurisdiction over the order.~~

3. A court or administrative agency of a state that no longer has continuing, exclusive jurisdiction of a child support order may enforce the order with respect to non-modifiable obligations and unsatisfied obligations that accrued before the date on which a modification of the order is made under this section.

4. Issues related to visitation, custody, or other provisions not related to the support provisions of a support order shall not be grounds for a hearing, modification, adjustment, or other action under this chapter.

Sec. 24. Section 252E.4, subsection 1, Code 1995, is amended to read as follows:

1. When a support order requires an obligor to provide coverage under a health benefit plan, the district court or the department may enter an ex parte order directing an employer to take all actions necessary to enroll an obligor's dependent for coverage under a health benefit plan. The department may amend the information in the ex parte order regarding health insurance provisions if necessary to comply with health insurance requirements including but not limited to the provisions of section 252E.2, subsection 2.

Sec. 25. Section 252E.13, subsections 1 and 3, Code 1995, are amended to read as follows:

1. When Subject to 28 U.S.C. § 1738B, when high potential for obtaining medical support exists, the obligee or the department may petition for a modification of the obligor's support order to include medical support or a monetary amount for medical support pursuant to this chapter.

3. The Subject to 28 U.S.C. § 1738B, the department may amend information concerning the provisions regarding health benefits in a court or administrative order, ~~if necessary to comply with section 252E.27, subsection 27,~~ if notice of the amendment is provided to the court and to the parties to the order and if the amendment is filed with the clerk of court.

Sec. 26. NEW SECTION. 598.2A CHOICE OF LAW.

In a proceeding to establish, modify, or enforce a child support order the forum state's law shall apply except as follows:

1. In interpreting a child support order, a court shall apply the law of the state of the court or administrative agency that issued the order.

2. In an action to enforce a child support order, a court shall apply the statute of limitations of the forum state or the state of the court or administrative agency that issued the order, whichever statute provides the longer period of limitations.

Sec. 27. Section 598.14, unnumbered paragraph 2, Code 1995, is amended to read as follows:

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

Sec. 28. Section 598.21, subsection 8, unnumbered paragraph 1, Code Supplement 1995, is amended to read as follows:

The Subject to 28 U.S.C. § 1738B, the court may subsequently modify orders made under this section when there is a substantial change in circumstances. In determining whether there is a substantial change in circumstances, the court shall consider the following:

Sec. 29. Section 598.21, subsection 9, unnumbered paragraph 1, Code Supplement 1995, is amended to read as follows:

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

Sec. 30. Section 600B.31, Code 1995, is amended to read as follows:

600B.31 CONTINUING JURISDICTION.

The Subject to 28 U.S.C. § 1738B, the court has continuing jurisdiction over proceedings brought to compel support and to increase or decrease the amount thereof until the judgment of the court has been completely satisfied, and also has continuing jurisdiction to determine the custody in accordance with the interests of the child.

Sec. 31. Section 600B.34, Code 1995, is amended to read as follows:

600B.34 FOREIGN JUDGMENTS.

The Subject to 28 U.S.C. § 1738B, the judgment of the court of another state rendered in proceedings to compel support of

a child born out of wedlock, and directing payment either of a fixed sum or of sums payable from time to time, may be sued upon in this state and made a domestic judgment so far as not inconsistent with the laws of this state, and the same remedies may thereupon be had upon such judgment as if it had been recovered originally in this state.

Sec. 32. Section 626A.2, Code 1995, is amended to read as follows:

626A.2 FILING AND STATUS OF FOREIGN JUDGMENTS.

1. A copy of a foreign judgment authenticated in accordance with an Act of Congress or the statutes of this state may be filed in the office of the clerk of the district court of a county of this state which would have venue if the original action was being commenced in this state. The clerk shall treat the foreign judgment in the same manner as a judgment of the district court of this state. A judgment so filed has the same effect and is subject to the same procedures, defenses and proceedings for reopening, vacating, or staying as a judgment of the district court of this state and may be enforced or satisfied in like manner.

2. In a proceeding to enforce a child support order, the law of this state shall apply except as follows:

a. In interpreting a child support order, a court shall apply the law of the state of the court that issued the order.

b. In an action to enforce a child support order, a court shall apply the statute of limitations of this state or the state of the court that issued the order, whichever statute provides the longer period of limitations.

DIVISION VII
INTEREST ACCRUAL

Sec. 33. Section 535.3, Code 1995, is amended to read as follows:

535.3 INTEREST ON JUDGMENTS AND DECREES.

1. Interest shall be allowed on all money due on judgments and decrees of courts at the rate of ten percent per year, unless a different rate is fixed by the contract on which the

judgment or decree is rendered, in which case the judgment or decree shall draw interest at the rate expressed in the contract, not exceeding the maximum applicable rate permitted by the provisions of section 535.2, which rate must be expressed in the judgment or decree. The interest shall accrue from the date of the commencement of the action, except as otherwise provided in subsection 3.

2. This section does not apply to the award of interest for judgments and decrees subject to section 668.13.

3. Interest on periodic payments for child, spousal, or medical support shall not accrue until thirty days after the payment becomes due and owing.

LEONARD L. BOSWELL
President of the Senate

RON J. CORBETT
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 2344, Seventy-sixth General Assembly.

JOHN F. DWYER
Secretary of the Senate

Approved 4/18, 1996

FERRY E. BRANSTAD
Governor

SF 2344