Regulatory Analysis

Notice of Intended Action to be published: 441—Chapter 100
"Establishment of Paternity and Support"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 217.6
State or federal law(s) implemented by the rulemaking: Iowa Code section 217.6

Public Hearing

A public hearing at which persons may present their views orally or in writing will be held as follows:

November 19, 2024 2 to 3 p.m.	Microsoft Teams Meeting ID: 222 143 545 89 Passcode: Ythqof

Public Comment

Any interested person may submit written or oral comments concerning this Regulatory Analysis, which must be received by the Department of Health and Human Services no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

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Purpose and Summary

This proposed chapter sets process standards, some of which are not found in the Iowa Code, for Child Support Services when providing administrative or procedural services related to child support establishment. Previously titled "Child Support Promoting Opportunities for Parents Program," which was moved to 441—Chapter 94, this chapter now contains Division 2 and Division 3 of 441—Chapter 99, and was retitled.

Analysis of Impact

1. **Persons affected by the proposed rulemaking:**

- **Classes of persons that will bear the costs of the proposed rulemaking:**

Those undergoing the establishment of child support will bear the costs.

- **Classes of persons that will benefit from the proposed rulemaking:**

People receiving child support services will benefit.

2. **Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:**

- **Quantitative description of impact:**

These rules allow for Child Support Services to establish paternity and support for customers. Child Support Services obtained 1,316 orders for paternity and 3,408 orders for support in SFY 24.

- **Qualitative description of impact:**

These rules play an important role in providing clarity and consistency for the establishment of child support.

3. **Costs to the State:**

- **Implementation and enforcement costs borne by the agency or any other agency:**

The Department incurs personnel costs for team members to implement the program.

- **Anticipated effect on state revenues:**

None were identified.

4. **Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:**

Child Support Services would be unable to perform its essential functions and ensure families are supported.

5. **Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:**

None were identified.

6. **Alternative methods considered by the agency:**

- **Description of any alternative methods that were seriously considered by the agency:**

The rules in this chapter are mandated by the Iowa Code or are necessary to provide additional detail.

- **Reasons why alternative methods were rejected in favor of the proposed rulemaking:**

Some of the benefit can be achieved through manuals and standard operating procedures. However, paternity and administrative procedure can be legally contested, and a legal basis is needed for the actions and decisions of the Department.

Small Business Impact

If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?

There is no impact on small business.

Text of Proposed Rulemaking

ITEM 1. Rescind 441—Chapter 100 and adopt the following **new** chapter in lieu thereof:

CHAPTER 100
ESTABLISHMENT OF PATERNITY AND SUPPORT

441—100.1(598,600B) Definitions.

"Disestablishment" means paternity that is legally overcome under the conditions specified in Iowa Code section 600B.41A, 232.3A, or 598.21E.

"Nonrequesting parent" means a parent who is not filing a petition to overcome paternity.

"Requesting parent" means a parent who files a petition to overcome paternity.

441—100.2(252A) Temporary support. If a court ordered a putative father to pay temporary support before entering an order making a final determination of paternity under Iowa Code section 252A.6A, but then the court determines that the putative father is not the legal father and enters an order terminating the temporary support, all the following apply.

100.2(1) *Satisfaction of accrued support.* Upon receipt of a file-stamped copy of the order terminating the support order, child support services will take the following action concerning unpaid support assigned to the department:

a. Child support services will satisfy only unpaid support assigned to the department.

b. Child support services will ask the obligee to sign the satisfaction acknowledging the obligee has no right to support owed the department and waive notice of hearing on a subsequent satisfaction order. If the obligee does not sign the satisfaction and waiver or notice, Child Support Services is not prevented from satisfying amounts due the department.

c. Child support services will prepare the required documents to satisfy any amounts owed the department and will file them with the appropriate district court.

100.2(2) *Previously collected moneys.* Child support services will not return any moneys previously paid on the temporary support judgment.

441—100.3(252F) When paternity may be established administratively. Child support services may seek to administratively establish paternity and accrued or accruing child support and medical support obligations against an alleged father when the conditions specified in Iowa Code chapter 252F are met.

441—100.4(252F) Mother's certified statement. Before initiating an action under Iowa Code chapter 252F, child support services may obtain a form prescribed by the department or a similar document from the child's caretaker. Child support services will obtain a form prescribed by the department from the child's mother certifying, in accordance with Iowa Code section 622.1, that the man named is or may be the child's biological father. Government records, including but not limited to an application for public assistance, that substantially meet the requirements of Iowa Code section 622.1 may also be used. In signing a form prescribed by the department, the mother acknowledges that child support services may initiate a paternity action against the alleged father. The mother must sign and return the form prescribed by the department to child support services within ten days of the date of child support services' request.

441—100.5(252F) Notice of alleged paternity and support debt. Following receipt of a form prescribed by the department or government records, including but not limited to an application for public assistance, that substantially meet the requirements of Iowa Code section 622.1, child support services will serve a notice of alleged paternity and support debt as provided in Iowa Code section 252F.3.

441—100.6(252F) Conference to discuss paternity and support issues. A party may request a conference as provided in Iowa Code section 252F.3(1) with the office that issued the notice to discuss paternity establishment and the amount of support the father may be required to pay.

441—100.7(252F) Amount of support obligation. Child Support Services will determine the amount of the child support obligation accrued and accruing using the child support guidelines established by the Iowa Supreme Court, and pursuant to the provisions of Iowa Code section 252B.7A.

441—100.8(252F) Paternity contested. The alleged father may contest the paternity establishment by submitting, within 20 calendar days after service of the notice upon him, as provided in rule 441—100.5(252F), a written statement contesting paternity to the address of Child Support Services as set forth in the notice. The mother may contest paternity establishment by submitting, within 20 calendar days after child support services mailed her notice of the action or within 20 calendar days

after the alleged father is served with the original notice, whichever is later, a written statement contesting paternity to the address of child support services as set forth in the notice. When paternity is contested, or at child support services' initiative, child support services will issue ex parte administrative orders requiring the alleged father, the mother and the child to submit to paternity testing. If the mother and child or children previously submitted blood or genetic specimens in a prior action to establish paternity against a different alleged father, the previously submitted specimens and prior results, if available, may be used for testing in this action.

441—100.9(252F) Paternity test results challenge. Either party or child support services may challenge the results of the paternity test by filing a written notice with the district court within 20 calendar days after child support services issues or mails the paternity test results to the parties. When a party challenges the paternity test results, and requests an additional paternity test, child support services will order an additional blood or genetic test, if the party requesting the additional test pays for the additional testing in advance. If the party challenges the first paternity test results, but does not request additional tests, child support services may order additional blood or genetic tests.

441—100.10(252F) Agreement to entry of paternity and support order. If the alleged father admits paternity and reaches agreement with child support services on the entry of an order for support, the father may acknowledge his consent on a form prescribed by the department . If the mother does not contest paternity within the allowed time period or if the mother waives the time period for contesting paternity, child support services may file the form, if applicable, and Administrative Paternity Order with the court in accordance with Iowa Code section 252F.6.

441—100.11(252F) Entry of order establishing paternity only. If a party requests a court hearing on support issues and paternity is not contested, or if paternity was contested but neither party filed a timely challenge of the paternity test results, child support services will prepare an order establishing paternity and reserving the support issues for determination by the court. Child support services will present the order and other documents supporting the entry of the ex parte paternity-only order to the court for review and approval prior to the hearing on the support issues.

441—100.12(252F) Exception to time limit. Child Support Services may accept and respond to written requests for court hearings beyond the time limits allowed in this part.

441—100.13(252F) Genetic test costs assessed.

100.13(1) *Paternity established.* If genetic testing of an alleged father is conducted and that man is established as the child's father, child support services will assess the costs of the genetic testing to the father who denied paternity and enter an order for repayment of these costs.

100.13(2) *Paternity not established.* If genetic testing of an alleged father is conducted and that man is not established as the child's father, the costs of the genetic testing will not be assessed to any of the parties.

100.13(3) *Results contested.* If the results of the genetic testing are timely challenged and the challenging party requests additional testing, the party contesting the results must advance the cost of the additional testing. If the challenging party does not advance payment for the additional testing, child support services will certify the case to district court.

441—100.14(598,600B) Communication between parents. When a parent who has filed a petition to disestablish paternity requests assistance from child support services in contacting the other parent, child support services will take the following actions if services are being provided by child support services, the location of the nonrequesting party is known, and child support services has been provided a copy of the petition to disestablish paternity.

100.14(1) *Written contact.* Child support services will send written notification to the nonrequesting parent of the requesting parent's desire to disestablish paternity and of the requesting

parent's whereabouts. The notice will state that the nonrequesting parent may cooperate in this action by filing a statement of the nonrequesting parent's current address or the name and address of the nonrequesting parent's attorney in the court file, or may contact the requesting parent with this information.

100.14(2) *Notification of requesting parent.* Child support services will provide notification to the requesting party that contact was made with the nonrequesting party and that the nonrequesting parent may file a statement in the court file or may contact the requesting parent directly.

441—100.15(598,600B) Continuation of enforcement. Child support services will continue all enforcement actions to collect current and accrued support as ordered until child support services receives a file-stamped copy of the order disestablishing paternity.

441—100.16(598,600B) Satisfaction of accrued support.

100.16(1) *Disestablishment orders entered before May 21, 1997.* Upon receipt of a file-stamped copy of an order disestablishing paternity that was entered before May 21, 1997, child support services will take the following action concerning unpaid support assigned to the department.

a. Child support services will satisfy only unpaid support assigned to the department and only if:

(1) For actions under Iowa Code section 600B.41A or 232.3A, blood or genetic testing was done and a guardian ad litem was appointed for the child.

(2) For actions under Iowa Code section 598.21E, the written statement was filed and a guardian ad litem was appointed for the child.

b. Child support services will ask the obligee to sign the satisfaction acknowledging the obligee has no right to support owed the department and waive notice of hearing on a subsequent satisfaction order. If the obligee does not sign the satisfaction and waiver of notice, child support services is not prevented from satisfying amounts due the department.

c. Child support services will prepare the required documents to satisfy any amounts owed the department and will file them with the appropriate district court. If the court later determines that paternity was incorrectly disestablished, child support services may attempt to reinstate and enforce the prior judgment.

100.16(2) *Disestablishment orders entered on or after May 21, 1997.* Upon receipt of a file-stamped copy of an order disestablishing paternity that was entered on or after May 21, 1997, child support services will take the following action concerning unpaid support:

a. If the order also contains a provision satisfying unpaid support, child support services will adjust its records to show unpaid support is paid.

b. If the order does not contain a provision satisfying unpaid support, child support services will satisfy only unpaid support assigned to the department. Child support services will notify the party who petitioned the court for disestablishment that this is the only support child support services can satisfy.

(1) Child support services will ask the obligee to sign the satisfaction acknowledging the obligee has no right to support owed the department and waive notice of hearing on a subsequent satisfaction order. If the obligee does not sign the satisfaction and waiver notice, child support services is not prevented from satisfying amounts due the department.

(2) Child support services will prepare the required documents to satisfy any amounts owed the department and will file them with the appropriate court. If the court later determines that paternity was incorrectly disestablished, child support services may attempt to reinstate and enforce the prior judgment.

100.16(3) *Termination of paternity.* If the court entered an order dismissing a disestablishment of paternity action on or before May 21, 1997, this subrule applies. Upon receipt of a file-stamped copy of an order terminating paternity under the requirements of Iowa Code section 600B.41A, child support services will take the following action concerning unpaid support assigned to the department:

a. Child support services will satisfy only unpaid support assigned to the department.

b. Child support services will ask the obligee to sign the satisfaction acknowledging the obligee has no right to support owed the department and waive notice of hearing on a subsequent satisfaction order. If the obligee does not sign the satisfaction and waiver of notice, child support services is not prevented from satisfying amounts due the department.

c. Child support services will prepare the required documents to satisfy any amounts owed the department and will file them with the appropriate district court. If the court later determines that paternity was incorrectly terminated, child support services may attempt to reinstate and enforce the prior judgment.

100.16(4) *Previously collected moneys.* Child support services will not return any moneys previously paid on the judgment.

441—100.17(252C) Establishment of an administrative order.

100.17(1) *When order may be established.* The department may establish a child or medical support obligation against a responsible person through the administrative process. This does not preclude child support services from pursuing the establishment of an ongoing support obligation through other available legal proceedings. When gathering information to establish a support order, child support services may obtain a form prescribed by the department or a similar document from the child's caretaker.

100.17(2) *Support debt.* When public assistance is paid to or Medicaid is received by a child of the responsible person, or the dependent child's caretaker, a support debt is created and assigned to the department. When no public assistance is paid or Medicaid is received, the debt is owed to the individual caretaker.

100.17(3) *Notice to responsible person.* When the department establishes a support debt against a responsible person, a notice of child support debt will be served in accordance with the Iowa Rules of Civil Procedure or Iowa Code section 252B.26. The notice will include all of the rights and responsibilities shown in Iowa Code section 252C.3. The notice will also inform the responsible person that these rights may be waived pursuant to Iowa Code section 252C.12, and the procedures for and effect of waiving these rights. The notice will include a statement that failure to respond within the time limits given and to provide information and verification of financial circumstances will result in the entry of a default judgment for support.

100.17(4) *Negotiation conference.* The responsible person may, within ten calendar days after being served the notice of child support debt, request a negotiation conference with the office of child support services that sent the notice.

100.17(5) *Amount of support obligation.* Child support services will determine the amount of the child support obligation accrued and accruing using the child support guidelines established by the Iowa Supreme Court, and pursuant to the provisions of Iowa Code section 252B.7A.

a. Any deviation from the guidelines will require a written finding by the department.

b. Reserved.

100.17(6) *Court hearing.* Either the responsible person or child support services may request a court hearing regarding the establishment of a support obligation through the administrative process.

a. The request for a hearing by the responsible person must be in writing and sent to the office of child support services that sent the original notice of the support debt by the latest of the following:

(1) Thirty days from the date of service of the first notice of support debt.

(2) Ten days from the date of the negotiation conference.

(3) Thirty days from the date the second notice and finding of financial responsibility is issued.

(4) Ten days from the date of issuance of the conference report if the department does not issue a second notice and finding of financial responsibility after a conference was requested.

b. When a request for a court hearing is received from the responsible person, within the time limits allowed, or is made by child support services, the department will schedule or request that the hearing be scheduled in the district court in the county:

(1) Where the dependent child resides if the child resides in Iowa.

(2) Where the responsible person resides if the child for whom support is sought resides in another state or the sole purpose of the administrative order is to secure a judgment for the time period that public assistance was expended by the state on behalf of the family or child.

100.17(7) *Exception to time limit.* The department may accept and respond to written requests for a court hearing beyond the time limits allowed in this rule.

100.17(8) *Entry of order.* If no request for a hearing is received from the responsible person at the local office of child support services, or made by child support services, the department may prepare an order for support and have it presented ex parte to the court for approval.

a. The attorney for child support services will present the order and other documents supporting the entry of the ex parte order to the court for review and approval. Pursuant to Iowa Code chapter 252C, the court will approve the order unless defects appear in the order or supporting documents.

b. The department will file a copy of the approved order with the clerk of the district court.

c. The department will send a copy of the filed order by regular mail, to the caretaker's last-known address, to the responsible person's last-known address or the caretaker's or the responsible person's attorney pursuant to the provisions of Iowa Code chapter 252C within 14 days after approval and issuance of the order by the court.

100.17(9) *Force and effect.* Once the order has been signed by the judge and filed, it will have all the force and effect of an order or decree entered by the court. Unless otherwise specified, the effective date of the support obligation will be the twentieth day following the date the order is prepared by child support services.

100.17(10) *Modification by department.* The department may petition an appropriate court for modification of a court order on the same grounds as a party to the court order can petition the court for modification.

441—100.18(17A) Right of appeal. Department actions under this chapter are not subject to administrative appeal under 441—Chapter 7.

These rules are intended to implement Iowa Code chapters 252C and 252F and sections 252A.6A, 598.21, and 600B.41A.