Regulatory Analysis

Notice of Intended Action to be published: 441—Chapter 102
"Suspension and Reinstatement of Support"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 252B
State or federal law(s) implemented by the rulemaking: Iowa Code chapter 252B

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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Des Moines, Iowa 50319
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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 suspending and reinstating child support. This chapter was previously Division 6 of 441—Chapter 99 (additional Divisions, beyond Division 6, have been restructured into new chapters).

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 suspension and reinstatement of 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:**

Child support services suspends support orders for customers. Child support services obtained 560 orders suspending support in SFY 24.

- **Qualitative description of impact:**

These rules play an important role in providing clarity and consistency for the suspension and reinstatement of support obligations.

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:**

This chapter clarifies specific procedures, but only as defined by the Iowa Code and in accordance with Iowa Supreme Court guidelines.

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

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

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?

None were identified.

Text of Proposed Rulemaking

ITEM 1. Adopt the following **new** 441—Chapter 102:

CHAPTER 102
SUSPENSION AND REINSTATEMENT OF SUPPORT

441—102.1(252B) Definitions.

"Caretaker" means a natural person with whom a child is residing and who is not legally entitled to receive support for that child pursuant to the order that is the subject of the pending suspension request.

"Child" means the same as defined in Iowa Code section 252E.1.

"Obligee" means a custodial parent or other natural person legally entitled to receive a support payment on behalf of a child.

"Obligor" means a noncustodial parent or other natural person who is ordered to pay support pursuant to the order that is the subject of the pending suspension request.

"Public assistance" means the same as defined in Iowa Code section 252H.2.

"Spousal support" means either a set amount of monetary support, or medical support as defined in Iowa Code section 252E.1, for the benefit of a spouse or former spouse, including alimony, maintenance, or any other term used to describe these obligations.

"Step change" means a change designated in a support order that specifies the amount of the child support obligation as the number of children entitled to support under the order changes.

"Support" means the same as defined in Iowa Code section 252D.16 and will include support for a child.

"Support for a child" means either a set amount of monetary support (child support), or medical support as defined in Iowa Code section 252E.1, for the benefit of a child. This term does not include spousal support as defined in this rule.

"Support order" means the same as a "court order" as defined in Iowa Code section 252C.1.

441—102.2(252B) Availability of service—suspension by mutual consent. Child support services will provide suspension by mutual consent only with respect to support orders entered or registered in this state for which child support services is providing enforcement services in accordance with Iowa Code chapter 252B to collect current or accrued support.

102.2(1) Suspension by mutual consent will only be provided if a court in this state would have continuing, exclusive jurisdiction to suspend and reinstate the order under Iowa Code chapter 252K.

102.2(2) Suspension by mutual consent will be provided only if no prior request for suspension of all or part of a support order has been filed with child support services pursuant to Iowa Code section 252B.20 and no prior request for suspension of all or part of a support order has been served by child support services pursuant to Iowa Code section 252B.20A during the two-year period preceding the request.

441—102.3(252B) Basis for suspension of support by mutual consent.

102.3(1) *Reconciliation.* Child support services will assist an obligor and obligee in suspending support for a child and, if contained in a child support order, spousal support, when the obligor and obligee are reconciled and are residing together, with at least one child entitled to support under the order, in the same household.

102.3(2) *Change in residency.* Child support services will assist an obligor and obligee in suspending support for a child when the child is residing with the obligor; however, child support services will not assist in suspending any spousal support provisions of a support order on this basis. Child support services will also assist an obligor and obligee in suspending support for a child residing with a caretaker who has not requested services, if the child is not receiving public assistance.

102.3(3) *Affected children.* Child support services will assist an obligor and obligee in suspending by mutual consent all or part of a support order if the basis for suspension as described in this rule applies to the children entitled to support under the order to be suspended as follows:

a. If the basis for suspension applies to all of the children, child support services will assist in suspending support obligations for all of the children.

b. If the basis for suspension applies to at least one but not all of the children and if the support order includes a step change, child support services will assist in suspending the support obligations for children for whom the basis for suspension applies.

102.3(4) *Limited to current support.* The provisions for suspending support apply only toward ongoing or current support. Any support that has accrued prior to the entry of an order suspending support, including judgments for past periods of time, is unaffected by the suspension.

102.3(5) *Duration of conditions.* The basis for suspension of support as provided in subrule 102.3(2) and subrule 102.3(3) must reasonably be expected to continue for not less than six months from the date a request for assistance to suspend is received by child support services.

441—102.4(252B) Request for assistance to suspend by mutual consent.

102.4(1) *Submitting a request.* The obligor and obligee subject to a support order being enforced by child support services may request that child support services assist in having the ongoing support provisions suspended as follows:

a. A request for suspension must be submitted to child support services using a request and affidavit form prescribed by the department.

b. Child support services will provide the request and affidavit form prescribed by the department to the obligor and obligee upon request.

c. Both forms must be signed by both the obligor and the obligee affected by the order to be suspended. In the event that current support payments are assigned to an individual or entity other than the obligee named in the original order, but may revert to the original obligee at a future date without court action, both the original obligee and the current assignee must sign both forms.

d. The affidavit form prescribed by the department must be notarized.

e. The request must contain sufficient information to allow child support services to identify the court order and parties involved, and a statement that the obligor and obligee expect the basis for suspension to continue for not less than six months.

f. If the obligor and obligee are requesting suspension of more than one order at the same time, the obligor and obligee will be required to submit only one copy of the request form prescribed by the department, identifying each order the request involves; however, the obligor and obligee will be required to submit a separate, signed and notarized affidavit form prescribed by the department for each order.

102.4(2) *Denying a request.* Child support services will issue a written notice to the obligor and obligee indicating that a properly completed request is denied.

a. This notice will be sent by first-class regular mail to the last-known address of the obligor and obligee or, if applicable, to the last-known address of the obligor's or obligee's attorney.

b. If the basis for suspension is reconciliation, one notice will be sent to the address shared by the obligor and obligee. If the basis for suspension is a change in residency of the children entitled to support, a separate notice will be issued to the obligor and obligee at their respective last-known addresses.

c. The notice denying a request will indicate the reason for denial.

d. A request for suspension will be denied when the conditions specified in Iowa Code section 252B.20 or rule 441—102.2(252B) or 441—102.3(252B) are not met.

441—102.5(252B) Order suspending support by mutual consent. To approve a request to suspend support, child support services will prepare and present to the district court an order suspending support as provided in Iowa Code section 252B.20.

102.5(1) When the basis for suspension is reconciliation, the suspension will apply to any ongoing support provisions of the order, including medical support, with respect to any child residing with the parents and with respect to any spouse or former spouse entitled to support under the order to be suspended.

102.5(2) When the basis for suspension is a change in residency of one or more of the children entitled to support, the suspension will apply to ongoing support provisions, including medical support, with respect to only the children entitled to support under the order who are residing with the obligor. Any spousal support also ordered in the same support order will remain unaffected by this action.

102.5(3) A copy of the filed order will be sent by first-class regular mail to the last known address of the obligor and obligee, or, if applicable, to the last known address of the obligor's or obligee's attorney.

441—102.6(252B) Suspension of enforcement of current support—suspension by mutual consent. Child support services will suspend enforcement actions intended to collect or enforce any

current support obligation that would have accrued during the time the support obligation is suspended. Child support services will continue to provide all appropriate enforcement services to collect any support not suspended and any arrearages that accrued before the effective date of the suspension.

441—102.7(252B) Availability of service—suspension by payor's request. Child support services will provide suspension by payor's request only with respect to support orders entered pursuant to Iowa Code chapter 252A, 252C or 252F for which child support services is providing enforcement services in accordance with Iowa Code chapter 252B to collect current or accrued support.

102.7(1) Suspension by payor's request will only be provided if a court in this state would have continuing, exclusive jurisdiction to suspend and reinstate the order pursuant to Iowa Code chapter 252K.

102.7(2) Suspension by payor's request will be provided only if no prior request for suspension of all or part of a support order has been filed with child support services pursuant to Iowa Code section 252B.20 and no prior request for suspension of all or part of a support order has been served by child support services pursuant to Iowa Code section 252B.20A during the two-year period preceding the request.

441—102.8(252B) Basis for suspension of support by payor's request.

102.8(1) *Child residing with obligor or caretaker.* Child support services will assist an obligor in suspending support for a child residing with the obligor or with a caretaker who has not requested unit services, if the child has been residing with the obligor or caretaker for more than 60 consecutive days.

102.8(2) *Orders eligible for suspension.*

a. Child support services will assist an obligor in suspending support for a child only when there is no order in effect regarding legal custody, physical care, visitation, or parenting time for the child.

b. If an order exists that contains language regarding legal custody, physical care, visitation, or parenting time for the child, child support services will deny the suspension request.

102.8(3) *Children on public assistance.* The children for whom ongoing support is being suspended must not be receiving public assistance pursuant to Iowa Code chapter 239B or 249A or a comparable law of another state or foreign country, or if the children are receiving public assistance, the obligor must be considered to be a member of the same household as the children for the purposes of public assistance eligibility.

102.8(4) *Duration of conditions.* The basis for suspension of support must reasonably be expected to continue for not less than six months from the date a request for assistance to suspend is received by child support services.

102.8(5) *Affected children.* Child support services will assist an obligor in suspending by payor's request all or part of a support order if the basis for suspension as described in this rule applies to the children entitled to support under the order to be suspended as follows:

a. If the basis for suspension applies to all of the children, child support services will assist in suspending support obligations for all of the children.

b. If the basis for suspension applies to at least one but not all of the children and if the support order includes a step change, child support services will assist in suspending the support obligations for children for whom the basis for suspension applies.

102.8(6) *Limited to current support.* The provisions for suspending support apply only toward ongoing or current support. Any support that has accrued prior to the entry of an order suspending support, including judgments for past periods of time, is unaffected by the suspension.

441—102.9(252B) Request for assistance to suspend by payor's request. The obligor subject to a support order being enforced by child support services may request that child support services assist in having the ongoing support provisions suspended as follows:

102.9(1) *Submitting a request.*

a. A request for suspension must be submitted to child support services using a form prescribed by the department.

b. Child support services will provide the request form prescribed by the department to the obligor upon request.

c. The request form must be signed by the obligor affected by the order to be suspended.

d. The request must contain sufficient information to allow child support services to identify the court order and parties involved and must attest that the children have lived in the obligor's household or the caretaker's household for more than 60 consecutive days and are expected to live there for at least six months.

102.9(2) *Submitting an affidavit.* After receiving a valid request for suspension, child support services will provide the requestor with an affidavit form prescribed by the department.

a. The obligor must submit the affidavit for suspension to child support services. If the request for suspension is made pursuant to Iowa Code section 252B.20A(17), the caretaker must also submit an affidavit form prescribed by the department.

b. The affidavit prescribed by the department must be signed, attesting to the existence of the conditions under subrules 102.8(1) through 102.8(4). The affidavit must be notarized.

c. If the obligor is requesting suspension of more than one order at the same time, the obligor will be required to submit only one copy of the request form prescribed by the department, identifying each order the request involves; however, the obligor will be required to submit a separate, signed and notarized affidavit form prescribed by the department for each order.

441—102.10(252B) Determining eligibility for suspension by payor's request. Upon receipt of the request for suspension and the properly executed and notarized affidavit, child support services will review the request and the affidavit to determine that the criteria have been met.

102.10(1) *If the criteria are not met.* If the criteria have not been met, child support services will issue a written notice to the obligor indicating that the request is denied.

a. The notice will be sent by first-class regular mail to the last-known address of the obligor or, if applicable, to the last-known address of the obligor's attorney.

b. The notice will indicate the reason for denial and notify the obligor of the right to proceed through private counsel.

102.10(2) *If the criteria are met.* If the criteria are met, child support services will proceed as follows:

a. Child support services will serve forms prescribed by the department and supporting documents on the obligee by any means provided in Iowa Code section 252B.26. The notice to the obligee will include all of the following:

(1) Information sufficient to identify the parties and the support order affected.

(2) An explanation of the procedure for suspension and reinstatement of support in this chapter.

(3) An explanation of the rights and responsibilities of the obligee to respond to the action.

(4) A statement that, within 20 days of service, the obligee must submit a signed and notarized response to child support services objecting to at least one of the assertions in subrules 102.8(1) through 102.8(4). The statement will inform the obligee that if, within 20 days of service, the obligee fails to submit a response as specified in this subparagraph, notwithstanding Rules of Civil Procedure 1.972(2) and 1.972(3), child support services will prepare and submit an order.

b. No sooner than 30 days after service on the obligee, child support services will do one of the following:

(1) If the obligee submits a signed and notarized objection to at least one of the assertions in subrules 102.8(1) through 102.8(4), deny the request and notify the parties in writing that the request is denied, providing reasons for the denial, and notifying the parties of the right to proceed through private counsel.

(2) If the obligee cannot be served, child support services will issue a written notice to the obligor indicating the request is denied, following the procedure described in subrule 102.10(2).

(3) If the obligee does not timely submit a signed and notarized objection to child support services, prepare an order following the procedure described in rule 441—102.11(252B).

441—102.11(252B) Order suspending support by payor's request. After approving a request to suspend support and properly serving the obligee, child support services will prepare and present to the district court an order suspending support as provided in Iowa Code section 252B.20A.

102.11(1) The suspension will apply to ongoing support provisions, including medical support, with respect to only the children entitled to support under the order who are residing with the obligor or caretaker.

102.11(2) A copy of the filed order will be sent by first-class regular mail to the last-known address of the obligor and obligee or, if applicable, to the last-known address of the obligor's or obligee's attorney.

441—102.12(252B) Suspension of enforcement of current support—suspension by payor's request. Child support services will suspend enforcement actions intended to collect or enforce any current support obligation that would have accrued during the time the support obligation is suspended. Child support services will continue to provide all appropriate enforcement services to collect any support not suspended and any arrearages that accrued before the effective date of the suspension.

441—102.13(252B) Request for reinstatement. Child support services may request that the court reinstate the suspended support obligation in accordance with the procedures found in Iowa Code sections 252B.20 and 252B.20A.

102.13(1) Either the obligor or the obligee affected by the suspended order may request reinstatement by submitting a written request for reinstatement to child support services. The request must indicate that reinstatement is being requested and the reason for reinstatement and must contain sufficient information to identify the court order and parties involved. The request must also be signed by the requesting party.

102.13(2) Child support services may, at its own initiative, request that the court reinstate a support obligation when it is determined that a child for whom the obligation was suspended is receiving public assistance benefits.

102.13(3) Child support services will issue a written notice approving or denying the request to any obligor or obligee requesting reinstatement. This notice will be sent by first-class regular mail to the last-known address of the requesting party and will indicate any reason for denial.

102.13(4) A properly completed request for reinstatement will be denied when any of the following conditions exist:

a. The request is made by someone other than the obligor, the obligee, or the obligor's or obligee's attorney.

b. Child support services is no longer providing enforcement services for the suspended order.

c. The request is received more than six months after the date of the filing of the order suspending support.

d. The request is for partial reinstatement of the suspended support order for some but not all of the children, and the order does not contain a step change.

e. A court in this state would not have continuing, exclusive jurisdiction to reinstate the order under Iowa Code chapter 252K.

441—102.14(252B) Reinstatement. Child support services will follow the procedures in Iowa Code sections 252B.20 and 252B.20A in seeking to have the court reinstate a support order.

102.14(1) Child support services will request that the court reinstate a spousal support provision previously suspended if the provision was included in the suspension in accordance with subrule 102.5(1) and if child support services receives a properly completed request from the obligor or the obligee.

102.14(2) Child support services will seek to have the previously suspended support for a child reinstated when the conditions in paragraph 102.14(2)*"a"* or *"b"* are met. This provision will not prohibit any party, including child support services, from taking other action to establish support as provided for by law.

a. The basis for suspension no longer applies to any of the children for whom support was suspended; or

b. The basis for suspension continues to apply to some but not all of the children for whom support was suspended, and there is a step change in the order.

441—102.15(252B) Reinstatement of enforcement of support. If a suspended support obligation is reinstated, child support services will also reinstate all appropriate enforcement measures to enforce all reinstated ongoing support provisions of the support order.

441—102.16(252B) Temporary suspension becomes final. The temporary suspension of a support order under this chapter will become final if not reinstated in accordance with Iowa Code sections 252B.20 and 252B.20A.

441—102.17(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 sections 252B.20 and 252B.20A.